

ACCESSORY DWELLING UNIT POLICY TASK FORCE

January 16, 2024

Maryland Department of Planning Offices
301 W. Preston St. Suite 1101
Olmsted Conference Room

AGENDA

9:30 – 9:40

Welcome & Overview

9:40 – 10:00

Administrative Updates

10:00 – 10:45

Guest Speaker: Lisa Hodges

Executive Director, Westport Community Economic Development Corporation

10:45 – 11:00

Draft Lot Requirements Recommendations

11:00 – 11:30

Focus Group and Panel Summaries

11:30 – 12:00

Design and Building Codes

12:00 – 12:15

Public Comment

12:15 – 12:30

Summary and Final Thoughts

MEETING OBJECTIVES



Learn about the legacy of racist housing policies and discuss how they inform the Task Force's deliberations



Review and discuss input from 12/19 planning directors panel discussion and 1/5 ADU owners, residents, and accessibility and aging advocates focus group



Develop preliminary legislative and policy recommendations related to ADU design and building code requirements



Compile a list of best practices for local governments that address the practical issues associated with ADU design and building code requirements



Receive, review, and discuss public comment

PUBLIC COMMENT

The Task Force will be accepting public comments at the end of each meeting, but only responding to any clarifying questions to ensure adequate time for those present in the room to comment.

Members of the public are encouraged to submit comments for Task Force consideration using [this commenting form](#)

Members of the public joining online can submit comments via the chat function. The Task Force will not unmute those joining online.

ADMINISTRATIVE UPDATES


- Builder/Developer Survey (Open until 2/2)
- Focus Group and Panels Update
- Glossary of Terms
- Reoccurring Topics



GUEST SPEAKER

LISA HODGES

EXECUTIVE DIRECTOR, WESTPORT COMMUNITY ECONOMIC DEVELOPMENT CORPORATION



Detached New Construction

PROS:

- ✓ Most privacy for homeowners/tenants
- ✓ Most attractive for renters

CONS:

- ✗ Most expensive

AVERAGE COST:
\$100,000+

PRELIMINARY LOT REQUIREMENTS RECOMMENDATIONS

PRELIMINARY LOT REQUIREMENT RECOMMENDATIONS



[Meeting recordings and materials available on the ADU Task Force webpage.](#) [12/19/23 Meeting Notes](#)

Local Governments

Clear preference for using lot requirements of underlying zoning

- Zoning ordinances should...
 - apply the same lot requirements for ADUs as those for the principal dwelling unit, except for the conversion of accessory structures on the property, which should be governed by lot requirements for such structures.
 - treat ADUs as an accessory use to a dwelling, and not impose more restrictive lot requirement standards specific to ADU uses.
 - remove ADUs from density calculations.

State Government

Guidelines and examples

- Develop educational resources establishing appropriate maximum ADU unit size calculation guidelines and examples.
- Compile a checklist of lot requirement criteria and options which Maryland jurisdictions could use for local deliberations and decision making.

Best Practices

Context sensitive

- The creation of internal ADUs or the conversion of existing accessory structures into ADUs should not require consideration of lot requirements, as the building massing is not affected.
- Zoning ordinances should explicitly state that ADUs are not included in density calculations.
- When developing ADU lot requirements for zoning districts and/or neighborhoods, jurisdictions should consider existing minimum lot sizes, local objectives regarding lot coverage and stormwater management, and measures encouraging affordability for renters.



PANEL DISCUSSION AND FOCUS GROUP SUMMARIES

PLANNING DIRECTORS PANEL DISCUSSION: 12/19

Obstacles to ADU construction and housing product viability

- High up-front costs for the homeowner
- High utility connection and permitting fees
- Lengthy and confusing permit processes
- Homeowners association (HOA) covenant restrictions

Strategies to facilitate ADUs

- By-right permitting
- Streamlined local review processes
- Pre-approved design plans and staff assistance on design

Other Conclusions

- Zoning ordinance changes do not quickly lead to ADU proliferation
- Short term rental ADU allowances may make them more palatable in some communities, but they do not address long-term housing needs
- Consider housing tenure (owner vs renter-occupied) when developing an ADU ordinance
- Lot requirements not proven to be an issue in local ordinance development
- Parking an issue in some but not others, though not as big of one as anticipated
- Family occupancy requirements could lead to enforcement issues, becoming a liability issue for jurisdictions
- Owner occupancy requirements are popular
- Adequate Public Facilities testing for ADUs may be unnecessary

[Access full summary notes](#)

PLANNING DIRECTORS PANEL DISCUSSION: 12/19

Market Forces, Policy, and Ordinances

- Tourism market and short term rentals
- Waiving fees for capital facility connections
- Requirements for sprinkler systems vary
- Longer range studies and analysis of ADU ordinances and the housing market needed to determine the impact of each

Practical Issues the Task Force Should Address

- HOA covenant limitations
- Homeowner financing options
- Flexible standards for ADU construction
- Parking in relation to available public transit
- Aging infrastructure and its limitations when deciding where ADUs would be best located
- Need for owner occupancy disclosures relating to the sale of a property with an ADU

ADU OWNERS, RESIDENTS, AND ACCESSIBILITY AND AGING ADVOCATES FOCUS GROUP: 1/5

Education and Technical Assistance

- Governments must educate public about ADUs and zoning
- Dedicated local staff capacity to answer ADU questions early and often
- Start with “yes” rather than “no”

Zoning

- Larger lots facilitate accessible ADU design and neighborhood compatibility
- Owner occupancy requirements are a barrier
- Parking requirements should depend on community type, for which ADU ordinances should be flexible.

Accessibility and Aging

- Dearth of options for accessible rental units. Typically, only in apartment complexes
- ADUs should be included in housing search products, such as the [Maryland Housing Search Database](#)
- The lack of affordable, accessible housing is the number one issue for [Local Area Agencies on Aging](#)
- ADUs tend to be one story, accessible units
- If an ADU entrance is too high or the lot is not big enough, it cannot accommodate an ADA compliant ramp
- Truly accessible ADUs must be larger
- Residents with post-traumatic stress disorder benefit from soundproofed housing. This is hard to find in apartment buildings but could be more easily accommodated in ADUs.

[Access full summary notes](#)

ADU OWNERS, RESIDENTS, AND ACCESSIBILITY AND AGING ADVOCATES FOCUS GROUP: 1/5

Fair Housing

- Long wait times for accessible affordable housing
- ADUs also provide other options to, and help overcome, congregated and segregated living situations for those with disabilities
- Individuals with disabilities can stay in their communities
- The main fair housing complaint that HUD receives is for individuals with disabilities. Maryland has few fair housing enforcement organizations
- Registering ADUs as rental properties facilitates and strengthens fair housing enforcement

Design and Building

- Start with architects and designers, but this can be expensive
- High interest rates encourage short term rental ADUs
- Start with what you want and who you want to live in the ADU, then move on to ADU design
- Big picture questions first
- ADUs as rentals trigger certain requirements

Final Thoughts

- Jurisdictions often force a property owner into appeal processes
- Incentives such as tax breaks and funding resources would help add accessible housing products to the market
- There are many unpermitted, illegal ADUs. Amnesty programs can help avoid tragedies and dangers to public health and safety
- Develop a central place for ADU information and answers to questions
- Jurisdictions need to ensure that ADU owners who rent them are held to the same standards as landlords of traditional rental housing types
- ADUs are likely to serve multiple residential uses/needs over time, which should be addressed by jurisdictions



DESIGN AND BUILDING CODES

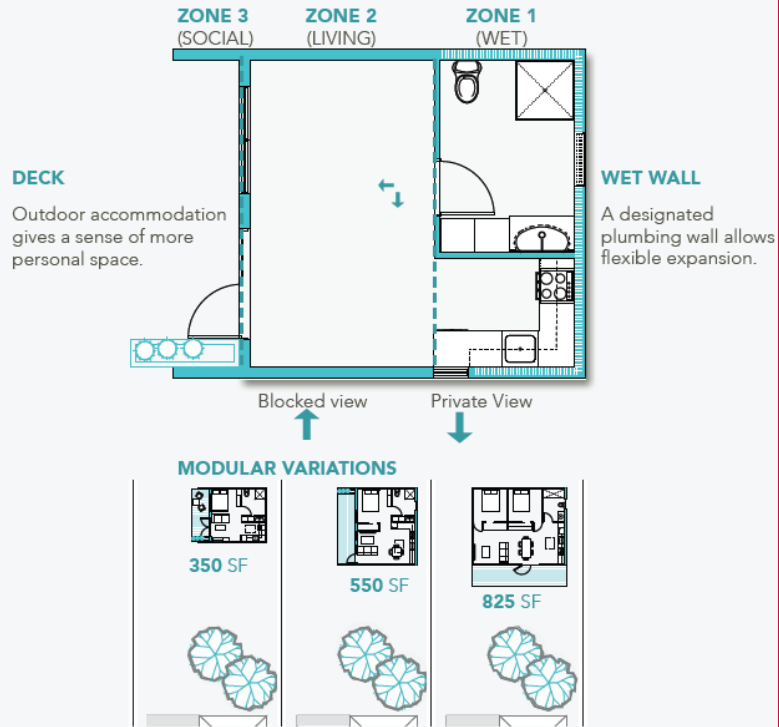
RESOURCES AND EXAMPLES

ONE MODEL, THREE DESIGNS

From 250 SF to 1,100 SF, ADUs vary in size depending on local regulations, intended use and available financing. One approach to design is to focus on flexible floor plans that are expandable or adaptable.

FLOOR PLAN INVENTORY

ROOM LIST & SIZES	
Sleeping Area	100 SF
Living Area	100
Bathroom	90
Kitchen	60
ADU Size	350
Deck (optional)	112
FURNISHINGS (as shown)	
Queen-Size Bed	Coffee Table
Clothes Closet	Bookshelves
Clothes Drawer	Wall-mounted TV
Sofa	Deck furnishings
APPLIANCES & EQUIPMENT	
Roll-in Shower	4-Burner Stove
Low-Flow Toilet	Oven
Bathroom Sink	Under-counter refrigerator
Wall-mounted Hot-Water	Waste Disposal Unit



Source: Accessory Dwelling Units, a Step by Step Guide to Design and Development, AARP

[AARP](#)

Design Guide

Expanding ADU Development and Occupancy

[International Building Code](#)

[Local Housing Solutions ADU Policy Brief](#)

[Accessory Dwellings.org](#)

Examples

[San Jose](#), [Seattle](#), [Los Angeles](#), [San Mateo](#)

MARYLAND SUMMARIZED



- Duplication across many ordinances
- Many do not have ADU design requirements other than those for principal use and district
- Entrances
 - separate entrances required
 - no evidence of second apartment from front of the building
 - those to internal ADUs typically not permitted on building fronts or sometimes even facing a public street
- Maintain appearance of single-family dwelling
- Meet International Building Code requirements
- Building scale and structure placement to allow sharing of common space, such as driveways and yards
- Maintain subordinate size and appearance
- Compatible/comparable building materials

[Access Inventory Here](#)

MARYLAND INVENTORY ANALYSIS

MARYLAND DESIGN EXAMPLES

Approval Conditions

- **Elkton and Charles Co:** When an accessory apartment is in the principal dwelling building, the entry to such unit and its design shall, to the degree reasonably feasible, **maintain the appearance of the building as a single-family residential structure** and not include an **added external entrance that faces a road**.
- **St. Mary's Co:** **Building materials and architectural features** used in constructing the accessory apartment **shall be compatible** with the principal dwelling or with the accessory structure within which the accessory apartment is located.
- **Dorchester Co:** Except for an exterior entrance and necessary parking area there **shall be no external evidence of the apartment**.
- **Chesapeake Beach:** Accessory dwellings must be **architecturally compatible** with the principal dwelling on the lot in terms of **similarity of building materials, roof type, and roofline**.
- **North Beach:** Must meet all requirements of the **Town Minimum Livability Code and the Internal Property Maintenance Code**. The exterior appearance of the accessory apartment must be compatible with the principal structure.

MARYLAND DESIGN EXAMPLES

Special Exception Approval Criteria

- **Rising Sun:** The architectural style of the infill building is **deemed to be compatible** with that of the principal residential structure and the adjoining neighborhood.
- **Cambridge:** Accessory dwelling units created **through the addition of floor area** must meet the following standards:
 - The **exterior finish material must be the same or visually match** in type, size, and placement, the exterior finish materials of the principal dwelling.
 - The **roof pitch must be the same as the predominant roof pitch of the principal dwelling.** The Planning Commission may permit a different roof pitch if needed due to the shape of the roof on the existing principal dwelling if it determines that the proposed roof pitch will maintain a compatible appearance.
 - **Trim on the edges of elements on the addition must visually match** the type, size and location as the trim used on the rest of the principal dwelling.
 - **Windows must match** those in the principal dwelling in proportion and orientation.
 - **Eaves must project** from the building walls the same distance as the eaves on the rest of the principal dwelling.

[Access Other State Legislation Table Here](#)

OTHER STATE LEGISLATION ANALYSIS

OTHER STATES SUMMARIZED



Preambles Addressing Aging, Accessibility, and Senior Housing

Some Don't Address Design

ADU Definitions

- Independent living facilities
- Complies with applicable building codes

Entrances/Doorways

Bedrooms

Prohibitions on

- Matching material requirements
- Stricter design requirements than principal unit
- Withholding permits based purely on design or correction of nonconformance

Covenant Overrides

LOWER-DEGREE DESIGN REQUIREMENTS STATE PRE-EMPTION



[SB 146 \(2016\)](#)

“An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but a municipality **shall not require that it remain unlocked.**”

“A municipality may establish standards for accessory dwelling units **for the purpose of maintaining the aesthetic continuity** with the principal dwelling unit as a single-family dwelling.”

A municipality cannot limit an ADU to one bedroom

LOWER-DEGREE DESIGN REQUIREMENTS STATE PRE-EMPTION

[HB 06107 \(2021\)](#)

Defines an Accessory Apartment as a separate dwelling unit that

- has cooking facilities, and
- **complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations”**

ADU ordinance provisions shall “provide for height, landscaping and **architectural design standards that do not exceed** any such standards as they are applied to single-family dwellings in the municipality;”

Prohibits requiring:

- passageway between ADU and principal dwelling
- **an exterior door for ADU except as required by building code**



MODERATE-DEGREE DESIGN REQUIREMENTS STATE PRE-EMPTION

[Rhode Island H 6082 \(2023\)](#). **Passed by the House and referred to the Senate*

ADUs cannot be restricted to lots with pre-existing dwellings and **must be permitted as part of new primary dwelling units or subdivisions.**

Jurisdictions cannot:

- limit the number of bedrooms in an ADU
- impose floor area requirements beyond what is required by state housing maintenance and occupancy code
- **revoke the permitted status or require the disassembly** of a legally established ADU upon transfer of title or occupancy.



MODERATE-DEGREE DESIGN REQUIREMENTS STATE PRE-EMPTION



[SB 528 \(2023\)](#)

A municipality **may not require that an ADU match the exterior design, roof pitch, or finishing materials** of the single-family dwelling.



[Arizona SB 1117 \(*Failed\)](#)

A municipality **may not withhold a building permit** or other approval that is necessary as a condition of construction **for failure to comply with** any ordinance, code, standard, regulation, guideline, stipulation or other legal requirement related to or regulating residential **housing design elements**.

HIGHER-DEGREE LOT REQUIREMENTS STATE PRE-EMPTION

[CA Govt Code § 65852.2 \(2022\)](#)

Local agencies **can impose objective design standards** on approval of ADUs



CALIFORNIA REPUBLIC

“The local agency **shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety** and are not affected by the construction of the accessory dwelling unit.”

“A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, **the correction of nonconforming zoning conditions.** “

PUBLIC COMMENT ON DESIGN AND BUILDING CODES

Charles County's Affordable Housing Workgroup is actively looking into revising our ADU requirements to be **less restrictive and give more flexibility in design.**

It is critical to the health of the planet and people that we **design any new home or addition to be all-electric, net zero, and use healthy materials! Doing this in a small ADU is so very easy.** It is very concerning to see people using big-box sheds, or un-insulated, plastic and foam filled pre-fab tiny homes. **I would love to see some incentive or requirement for keeping the environmental footprint of these units as low as possible.**

Please seek to establish rules with bright lines **that do not require a homeowner to hire an architect** to ask for variances for building characteristics that are intended to be allowed. Requiring special permission makes the planning phase much riskier and more expensive.

If ADUs are to be seen as a viable source of quality housing, the **local governments must have meaningful inspection programs.** Similarly, concerns about parking and infrastructure are real and have a real impact on the quality of residents' life. **There needs to be sufficient flexibility in any state policy/legislation of ADUs to allow the local governments to take into consideration their own unique set of circumstances.**

In discussing Montgomery County's ADU requirements, one commenter stated that **"new properties will be required to maintain the attractiveness of the home and surrounding neighborhood, a common complaint of adding ADU's."**

Compiled Public Comment as of 1/11/24

DISCUSSION

What preliminary legislative and policy recommendations, related to ADU design and building codes, should the Task Force include in its final report to the Governor and General Assembly?

What preliminary best practices, related to ADU design and building codes, should the Task Force include in its final report to the Governor and General Assembly?


What additional research, if any, is needed to address this topic?

Members of the public are encouraged to submit comments for Task Force consideration using [this commenting form](#)


PUBLIC COMMENT


SUMMARY AND FINAL THOUGHTS

NEXT STEPS


 Continue forming panels and focus groups and prepare for February 20 HOA and Community Association panel discussion

 Encourage builders and developers to complete the survey

 On board and begin working with intern

 Continue developing a glossary of terms

 Craft preliminary legislative and policy recommendations

 Next meeting: February 20, Location: MDP Office

ADJOURN