

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****ZOTA 2019-5: AMENDMENT TO ARTICLES 1, 3, 8, 15 AND 23 TO REGULATE ACCESSORY DWELLING UNITS**

REQUESTED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: See attached

(Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~dashed through~~ indicates a deletion.)

**STAFF REVIEW:**

Through the adoption of the 2018 Comprehensive Plan, the Urban County Planning Commission initiated a text amendment. This proposed text amendment includes changes to portions of Articles 1, 3, 8, 15 and 23 of the Zoning Ordinance in order to incorporate a new residential housing option into existing residential zones.

Since the adoption of *Imagine Lexington*, the 2018 Comprehensive Plan, staff has begun implementation efforts to update the Zoning Ordinance. The plan's adopted goals and objectives have a strong focus on expanding housing choices, enhancing existing neighborhoods and supporting infill efforts. While much work was done through previous comprehensive plans and small area plans, the Infill and Redevelopment Steering Committee also recommended updates to the Zoning Ordinance, which have been implemented over the past 20 years to accommodate more dense urban development. One of those efforts during 2008 and 2009 included a proposal for Accessory Dwelling Units (ADU) that was not implemented.

During the *Imagine Lexington* planning process, the Senior Services Commission approached the Division of Planning regarding their interest in ADUs. The commission expressed concerns related to the high cost of new senior living and the dearth of options for affordable senior housing. Many of the city's residents exist in an economic gap of being too well off to qualify for subsidies, but not affluent enough to afford the new products and services coming to market. Further, many senior residents have expressed a desire to be able to stay in their homes or neighborhoods, but needing a smaller or more accessible unit that they could live in long-term. Lastly, others wished to be able to house caretakers or family on their property and provide more affordable care. Over the next 20 years, nearly 30,000 of the projected population increase of 80,000 will be seniors, highlighting an obligation to provide more housing options for aging-in-place.

Through the fall of 2018, members of a Senior Services Commission ADU committee began work to obtain a grant from AARP to develop an educational manual on ADUs that could be used in a public outreach process. From January through May of 2019, the project team met with the public and provided education on the benefits of ADUs. Along with a social media effort, over 1,000 television



commercials were aired that resulted in three well-attended public education sessions. Beginning in June through early August, planning staff started drafting a proposed Zoning Ordinance Text Amendment to allow ADUs to be constructed. In August, a public input session was held where over a dozen staff met with over 100 people to discuss the proposed ordinance, gain feedback from attendees, and educate the public on ADU best practices from across the country. In the weeks before, the project team worked with online, print, radio and television media to promote the meeting.

*Imagine Lexington* is a plan focused on adding housing options in varying formats. Theme A, Goal #1 explicitly calls for expanding housing choices. Theme A, Goal #2 aims to “support infill & redevelopment throughout the urban service area as a strategic component of growth.” Finally, Theme A, Goal #3.a encourages expanding “options for mixed-use and mixed-type housing throughout Lexington-Fayette County.” For Lexington to grow responsibly and equitably for both the current and future residents, the entire community must incorporate context-sensitive housing development into existing neighborhoods. Providing greater infill opportunities and increased housing options is not just for the downtown area or corridors. There is no better way to provide small, incremental, and context-sensitive avenues for growth than through an ADU ordinance which has been tailored to fit our community and is supported by national best practices.

The proposed text provides a new definition for an Accessory Dwelling Unit in Article 1:

DWELLING UNIT, ACCESSORY (ADU) – A smaller, secondary independent housekeeping establishment located on the same lot as a principal dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation.

There are two types of ADUs:

(a) Detached structures. Examples include converted garages or new construction.

(b) Attached units are connected to or part of the principal dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.

The proposed revisions to Article 8 are limited to adding Accessory Dwelling Units as a permitted use accessory to single family residences in the R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3 and R-4 zones. A single change is proposed in Article 15 to increase the setback for accessory structures from one and one half (1 ½) feet to three (3) feet. This increase is proposed to offset the increase in intensity of the use that would be allowed if a dwelling unit were to be located in an accessory structure. In Article 23, where the Expansion Area currently allows ADUs, the proposed text deletes the existing definition in order to maintain consistency with the proposed definition in Article 1.

The majority of the proposed regulations are in Article 3, including all lot, yard, height, size and parking restrictions. Under the new Article 3-12 General Regulations for Accessory Dwelling Units, an ADU would be limited to one (1) per lot, with an absolute maximum size of 800 square feet. Further restrictions on detached ADUs are already regulated in Article 15, which governs all accessory structures, including garages or sheds.

National ADU model ordinances were considered in the off-street parking provisions. By not requiring additional off-street parking and encouraging the use of on-street parking, there will be less impervious area created. In addition, requiring off-street parking in all cases would only serve to exclude small lots that would otherwise be well-suited for an ADU and act as an exclusionary



requirement. Ancillary benefits of using streets for parking also include slowing traffic and making the street safer for all users.

ADUs are intended to serve as a long term housing option and, as such, this text amendment recommends an owner occupancy requirement for any property which intends to be utilized as a short-term rental. This restriction is consistent with the current zoning restrictions and definitions for a bed and breakfast facility, which requires the owner-operator to reside on the premises. The ADU requirement for short-term rentals is also more restrictive than how short-term rentals are currently regulated throughout the Urban County. The omission of an owner occupancy requirement on all ADUs is intentional and based on 20+ years of ordinance changes in cities across the country. The narrow application of this requirement on short-term rentals will serve to discourage ADUs functioning as de facto commercial uses in residential zones. This will allow for ADUs to be more easily financed for long-term housing needs and those who would most benefit.

Furthermore, an owner occupancy requirement for long-term rentals is not consistent with the Zoning Ordinance. If a property owner owns a duplex or a multi-family unit, they are not required to live on-site. Staff has reviewed dozens of accessory dwelling unit ordinances across the country and consulted with national leaders in the industry to create a model ordinance that will promote ADU construction.

Research has proven that the inclusion of ADUs into the community would not provide a solution to all of Lexington's housing problems, but could serve as an incremental means to provide opportunities for aging in place, while also creating additional housing units that fit within the context of neighborhoods.

**The Staff Recommends: Approval**, for the following reasons:

1. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 1 to provide additional housing choice. Accessory dwelling units will provide a needed affordable and accessible housing type that supports aging in place.
2. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 2 to Support Infill and Redevelopment throughout the Urban Service Area as a strategic component of growth. Accessory dwelling units will provide an infill opportunity available throughout the Urban Service Boundary, offering equitable access to the entire community.
3. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 3.a to expand options for mixed-type housing throughout Lexington-Fayette County. Accessory Dwelling Units are a new housing product for Lexington that will provide greater flexibility to all residents.

CT/CW/HBB/TLW/dw

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