



## ATTACHMENT G:

### ACCESSORY DWELLING UNITS: BACKGROUND INFORMATION AND SUMMARY OF PROPOSALS

#### What are accessory dwelling units (ADUs)?

In Durham's Unified Development Ordinance (UDO), an ADU is a dwelling that exists as part of ("attached"), or separate from ("detached"), a principal dwelling on the same lot and is subordinate in size to the principal dwelling. Other names include carriage houses, mother-in-law suites, granny flats, or backyards cottages.

#### Durham Examples

Detached: 2713 Elgin Street



Attached: 1212 Vickers Avenue



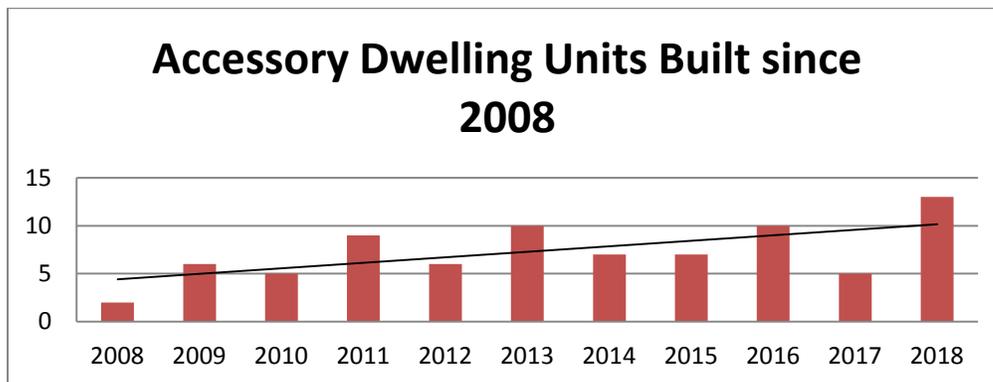
#### Existing Inventory of Accessory Dwelling Units

Creating an accurate inventory of accessory dwellings is difficult. Many were built and grandfathered prior to the current system of tracking building permits; many may exist that never received permits, and the current system for tracking ADU permits is not consistently deployed.

Using data from the County Tax Assessors Office, there are approximately 253 detached ADUs. These figures do not include attached accessory dwellings.

#### Recent Trends

- According to available building permit records, only 80 ADUs have been permitted since 2008.
- The highest production of ADUs in a year was 2018 with 13 units.



- New ADUs are dispersed geographically throughout the City and County; however, there is a concentrated cluster in neighborhoods to the north and west of Downtown Durham (Trinity Park, Old West Durham).

### Zoning Background

- Prior to the 2006 adoption of the UDO, Accessory Dwellings required a Special Use Permit;
- The 2006 UDO made Accessory Dwellings available by-right, so long as the owner of the property lived in either the primary structure or the accessory dwelling;
- In 2012, the Durham City Attorney advised the Planning Department that the requirement for owner-occupancy was in conflict with state law based on a North Carolina Court of Appeals case (*City of Wilmington v. Broadus E. Hill, III*), and a text amendment was approved that eliminated that provision.
- In 2017, a text amendment was approved removing required parking for an ADU.

### Summary of Existing Zoning Regulations

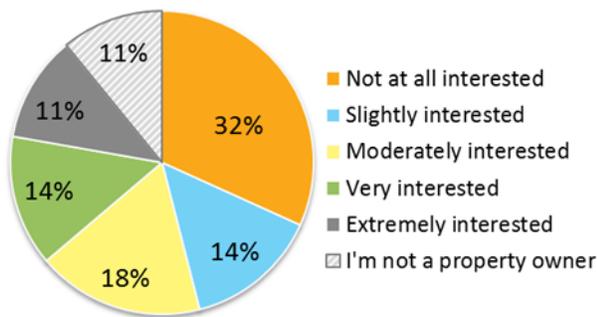
- Accessory dwellings are limited to lots with one-dwelling unit.
- To be eligible, the lot must meet minimum lot area requirements of the zoning district. In other words, it cannot be a non-conforming lot.
- The ADU cannot be built in a Special Flood Hazard Area or Future Conditions Flood Hazard Area.
- Heated floor area of the ADU cannot exceed 30 percent of the heated floor area of the primary dwelling (50% is allowed on lots greater than four acres in the RR zoning district).
- Only one ADU is allowed per lot.
- The ADU must be clearly subordinate to the primary dwelling in size.
- The property must retain a single-family appearance from the street.
- If the ADU is attached to the primary dwelling, the accessory dwelling must meet all yard requirements of the primary structure.
- If the ADU is detached from the primary dwelling, the accessory dwelling must meet the dimensional requirements for other types of accessory structures:
  - The structure must be located to the rear of the rear building line of the primary structure.

- In the RU and RC zoning districts, the structure can be no closer than 3 feet to the side or rear property line.
- In all other zoning districts, the structure can be no closer than 5 feet to the side or rear property line.
- In RS zoning districts, the structure cannot be taller than 15 feet when within 10 feet of property line.
- In RU and RC zoning districts, the structure cannot be taller than 25 feet when within 5 feet of property line.
- There is no on-site parking required for ADUs.
- If the property is in a Local Historic District, the Historic Properties Local Review Criteria require additional consideration of form, bulk, massing and architectural detail.
- If the property is in a Neighborhood Protection Overlay, additional standards may apply or supersede base zoning.

**Summary of Survey Results**

**Summer 2018**

Question 1: How interested would you be in building an ADU? (1,095 responses)



This question was asked to gauge respondent's interest in having an ADU on their property. Results are mixed, with 32% of respondents indicating they are not at all interested, 25% expressing they are either extremely or very interested, and another 32% with a moderate degree of interest. Eleven percent (11%) of respondents answered this option was not available to them, because they are not property owners.

Question 2: What are the top three things keeping you from building an ADU? (852 responses)



This question was asked to understand respondent's perceptions of the impediments to building ADUs. The most common response (34%) was related to the expense. Confusion about the process (i.e. design, permitting, construction) was the second most common response (29%). All of the responses received a relatively high number of votes, indicating that potentially all of the options carry some truth as to why more Accessory Dwellings are not built.

For further questionnaire details refer to Attachment C.

### ***November 2018-January 2019***

This survey asked respondents to comment on specific proposals regarding ADUs via "Right direction", "Wrong direction", or "Don't Know/Uncertain". Questions included expanding the allowable size to 800 square feet, allow with a duplex, provide a limited allowance for the location of detached ADUs to the side of the primary structure, and allow on existing non-conforming lots.

In all instances, responses were over 60% for "Right direction", with some responses rating at or above 70%. For further questionnaire details refer to Attachment E.

### **Additional Considerations**

- ADUs have the potential to be a grass-roots answer to the affordable housing challenge. At their best, they can provide more affordable rental options AND provide a rental revenue stream for middle-income homeowners to help pay their mortgage or pay back their construction loan;
- ADUs can offer a form of discreet density, utilizing underutilized land in the neighborhood context;
- Flexibility is an important consideration for the citizen builder who may want to use the ADU for a range of purposes over time: maybe as a rental unit, maybe a home for a family member, maybe to be a home office.
- While they are allowed under zoning rules in many places, many neighborhoods have HOA rules, covenants, or restrictions of deeds that would not permit them. An inventory of these is not complete and applicability would need to be reviewed on a neighborhood by neighborhood basis.
- ADUs are not considered in density calculations, but were considered by staff when developing the illustrative development scenarios found in Attachment K.
- To be most effective, "citizen builders" need to be educated and empowered to navigate through the process – from financing, to designing, to permitting, to construction, to becoming a landlord. Planning is partnering with departments and outside groups to streamline processes and create a manual intended to provide information and advice.
- A specific deterrent that has been voiced is the overall cost of building a detached accessory dwelling. One significant cost (estimated to be at least \$8,000) is the cost of extending a water and sewer connection from the street to the ADU. These expenses are the same for ADUs or for primary dwellings, and it is not dependent on the size of the house. What drives the cost is the actual labor and materials associated with excavation and installation.

- An additional deterrent is financing. Those interested in building an ADU either need to have the cash or equity in their house to finance the project. There are no loan or other financing options available for the construction of an ADU.

### **Summary of Proposed Revisions to Existing Regulations**

- The maximum size of an ADU would be 800 sq. ft.;
- An ADU would be allowed on a legal, nonconforming lot;
- Additional height standards based upon placement on the lot;
- A detached ADU can be located to the side of a house, but towards the back ¼ of the house and must still maintain side yard requirements;
- Allow existing, nonconforming accessory structures to be converted (without expansion) to an ADU.
- Allow ADUs on sites with civic uses such as places of worship or schools. The number is limited to three (3) units and held to the same size limitations.
- ADUs will not be allowed for the following:
  - On a lot utilizing the 2,000 square foot lot reduction (Option B)
  - On a lot with a reduced flag pole width
  - Duplex lots (current standard)
  - Townhouse and single-family attached developments that are less than four acres (thus regulated as infill).

### **Differences from the November Proposed Revisions**

The following changes have been incorporated into the revised draft as a result of feedback from the community.

- An ADU shall not be allowed with a Duplex.
- An ADU shall not be allowed with the new Small Lot Density Bonus option B (formerly called Small House housing Type).
- New limits on townhouse and single-family attached lots.
- New allowances for nonresidential civic uses.
- Revised height requirements.

The proposed changes attempt to address the predominant concerns submitted to staff, such as the ultimate number of dwelling units, size, and placement. Although one of the fundamental goals of this project is to increase the supply and variety of units in primarily the Urban Tier, staff realizes that needs to be done in an incremental way.