

ACCESSORY DWELLING UNIT POLICY TASK FORCE

November 28, 2023

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

AGENDA

9:00 – 9:05

9:05 – 9:15

9:15 – 9:30

9:30 – 10:00

10:00 – 10:30

10:30 – 11:30

11:30 -11:45

11:45 – Noon

Welcome & Overview

Administrative Updates

Recap of Previous Meeting

Task Force Meeting and Research Plan

Housing Market Analysis Plan

By-Right, Conditions, and Special
Exceptions

Public Comment

Summary and Final Thoughts

MEETING OBJECTIVES



Construct the workplan for completing a qualitative ADU housing market analysis



Develop preliminary legislative and policy recommendations related to zoning use and approval processes



Compile a list of best practices for local governments that address the practical issues associated with zoning use and approval processes



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

- Financial Disclosure Exemption Request
- Microsoft Teams Site
- Focus Group and Panel Assistance
- Citing Sources
- [Report on Activities](#)



Detached New Construction

PROS:

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

CONS:

- ✗ Most expensive

AVERAGE COST:
\$100,000+

OCTOBER 31 MEETING RECAP

WHAT WE HEARD



[Meeting recordings and materials](#) available on the ADU Task Force webpage

The Task Force must consider the legacy of racist housing policies

Zoning authority is local, but only because the state has delegated that authority

Maryland's strong environmental and natural resource protection regulations impact ADUs and the Task Force's recommendations

Cannot forget about ADU impact on the cost of municipal services

Data must be used to inform Task Force recommendations.

Clarity on scenarios exercise

Groups to engage include housing advocates, community orgs and HOAs, environmental groups

Task Force recommendations must be tangible and something that locals can use

10/31 DISCUSSION



Universal design and needs of the disability community

Problems of Euclidean zoning

Panel discussion of Planning Directors in jurisdictions that have implemented ADU ordinances

Need to develop a glossary of terms

Ingress/egress and life safety must be addressed

Inherent tension between state mandates and the local level implementation of new regulations

Abundance of information in the public realm may become exhaustive and redundant



TASK FORCE MEETING AND RESEARCH PLAN

SB 382 REQUIREMENTS

1. Study available best practices for streamlining or standardizing the application process for permits necessary to build or operate an accessory dwelling unit.
2. Make **legislative or other policy recommendations**, including a **list of best practices** for local governments in the State, that holistically address:
 - a. the **practical issues** associated with the development of accessory dwelling units on owner–occupied land zoned for single–family residential use; and
 - b. the **impacts on local housing markets, neighborhood livability**, and other policies and projects related to accessory dwelling units.

QUALITATIVE RESEARCH APPROACH

(TASK FORCE MEETING AND RESEARCH PLAN)

Meeting Date	Focus Area(s)	Prior to Meeting Research/Work Product	During Meeting Research/Deliberation	SB 382 Deliverable/Focus	Core Objectives. Task Force will...	Assisting Task Force Members
11/28/2023	Housing Market Analysis	Develop housing market analysis approach	Task Force discussion	<ul style="list-style-type: none"> Impacts on Local Housing Markets Neighborhood Livability 	<ul style="list-style-type: none"> Construct the workplan for completing a qualitative ADU housing market analysis 	
	By-Right vs Conditional/Special Exception	Practical issues and inventories analysis. Public comment analysis	Task Force discussion	<ul style="list-style-type: none"> Legislative and policy recommendations Best Practices Practical Issues 	<ul style="list-style-type: none"> Develop preliminary legislative and policy recommendations related to zoning ordinance use allowances Compile a list of best practices for local governments that address the practical issues associated with zoning ordinance use allowances 	
12/19/2023	Lot Requirements	Practical issues and inventories analysis. Public comment analysis Survey to builders/developers/architects	Panel discussion with Planning Directors who have recently implemented ADU zoning changes*	<ul style="list-style-type: none"> Legislative and policy recommendations Best Practices Practical Issues 	<ul style="list-style-type: none"> Compare, contrast, and measure the ADU ordinance provisions and regulations of Maryland jurisdictions and their impacts on ADU construction Develop preliminary legislative and policy recommendations related to zoning ordinance lot requirements Compile a list of best practices for local governments that address the practical issues associated with lot requirements 	Amy Moredock Lori Parris Theo Williams Priscilla Kania

* Indicates research methods with which Task Force members will assist. Assistance includes recruitment, organization, attendance, and other tasks as needed

FOCUS GROUPS, PANELS, AND SURVEYS

Meeting Date	Topic Area*	Panel/Focus Group/Interviews/Guest Speakers	Survey
12/19/23	Lot Requirements	Panel discussion with Planning Directors who have recently implemented ADU zoning changes**	Builders and Developers
1/16/23	ADU Design and Building Codes	Focus group/interviews with ADU owners/residents/ accessibility and aging advocates	
2/20/24	Parking, Community Facilities, and Code Enforcement	Panel discussion with community associations and HOAs	Environmental Groups
3/19/24	Utilities and Fees	Focus group/interviews with housing organizations and advocates	

** As possible, panel discussions, focus groups, and interviews designed to align with topic area*

*** Flexible with definition of "recent"*

DISCUSSION

- Does the Task Force have any questions about the requests for assistance with the qualitative research approach?
- Does the Task Force have any suggestions for the research approach?
- Can the Task Force help us distribute the builders and developers survey to the broadest possible audience?



HOUSING MARKET ANALYSIS PLAN

AVAILABLE QUANTITATIVE DATA



Permitting



State Department of
Assessment and Taxation




[Montgomery County ADU
Mapping](#)

QUALITATIVE HOUSING MARKET ANALYSIS

Objectives. The Task Force will...

- consider and analyze how state and local ADU policy, regulation, and implementation facilitate and/or deter the construction of ADUs.
- evaluate how the construction of ADUs affects the viability and appeal of local housing markets.
- compare and contrast the impact of policy versus market demand on the proliferation of ADU development.
- evaluate how ADUs impact neighborhood livability in relation to the provision of public facilities, sustainability, affordability, and other quality of life factors.



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QUALITATIVE HOUSING MARKET ANALYSIS



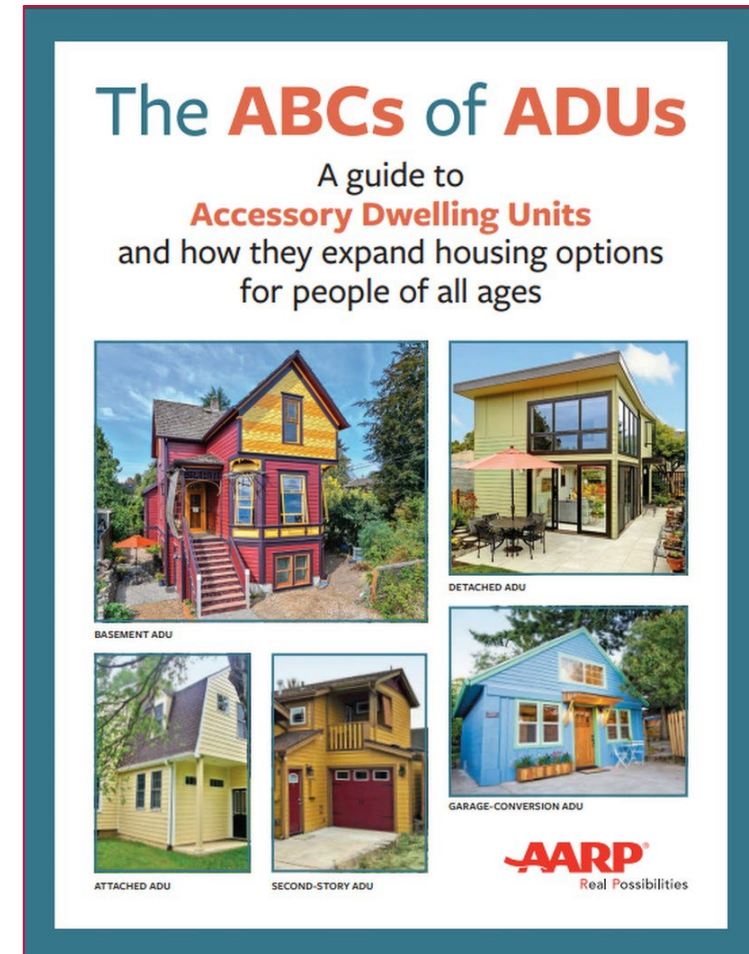
Approach

- Insert quantitative data and insights for focus group and panel discussion as available
- Housing market analysis questions asked of all focus groups and panels
- Build as we go and adjust as needed
- Best practices literature review for ADU proliferation and any demonstrated impacts on local housing markets and neighborhood livability. Hopefully an intern to support this
- Final analysis and deliberation during April 16, 2024, Task Force meeting
 - Compiled and categorized research
 - Organized around objectives

QUALITATIVE HOUSING MARKET ANALYSIS

Focus Group/Panel Questions

- What has the local government experience taught us about ADUs and the housing market? What prevents them from being a viable housing product? Conversely, what facilitates them as one?
- What is the interplay of policy or ordinance changes and market demand in the proliferation of ADUs? How do they impact each other? Do certain policies or ordinances work better in certain types of communities?
- What practical issues associated with the development of accessory dwelling units on land zoned for single-family residential use should the Task Force address?
- From your experience, how have ADUs impacted neighborhood livability?
- How can ADU policies and regulations be designed to minimize negative impacts on neighborhood livability and ensure that ADUs increase the supply of affordable housing?

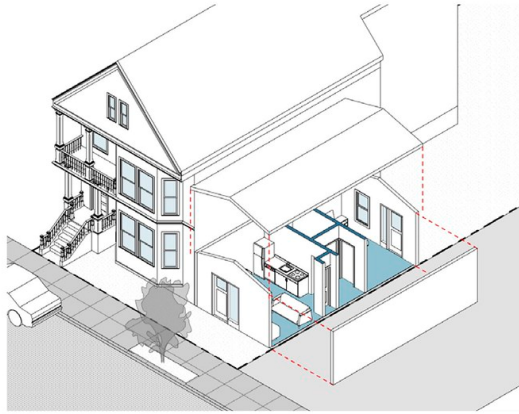


DISCUSSION

How can the Task Force and focus groups/panels use the limited quantitative data to inform discussions?

Can the Task Force share any resources to support the literature review for ADU proliferation and any demonstrated impacts on local housing markets and neighborhood livability?

Does the Task Force recommend any other focus group/panel questions for addressing the housing market analysis requirements and objectives?



Primary Considerations

A small one-bedroom or efficiency studio is typically all that can be accommodated in a free-standing garage, unless the footprint is expanded (see "Variations").

Historic Preservation: Changing the front of the garage to install the swing door will create a change visible from the street. Historic preservation review may also be required if the building is identified as historically significant or potentially significant as described in Chapter Two.

Exiting & Fire Ratings: If there is no access to

the street, compliance with the emergency egress opening requirements may dictate that the sleeping space be located with direct access to the sidewalk, (other than to the rear yard as shown in our example) unless the rear yard is deep enough to provide a safe refuge (typically over 25' from the building).

Since these are two separate buildings on the same property, the fire-rating requirements of the walls between the primary residence and the garage/dwelling unit need to be reviewed as part of the pre-application meeting.

Fire Sprinklers: The common fire protection



BY-RIGHT, CONDITIONS, AND SPECIAL EXCEPTIONS

ADU PRACTICAL ISSUES



Dreamstime

By-Right v Special Exception

Time & Subjectivity

Euclidian Zoning

Form-Based Zoning

Local Authority

Mandates

[Access Inventory Here](#)

MARYLAND INVENTORY ANALYSIS

MARYLAND SUMMARIZED



ADUs tend to be permitted by-right in

- Medium density residential districts
- Town center districts
- Agricultural districts

ADUs tend to be permitted by special exception (SPEX) in

- Historic districts, those with design restrictions and/or neighborhood preservation purposes
- Critical Areas or other resource conservation districts
- Low density and suburban residential districts

No demonstrable tendency

- Commercial and business districts
- High density residential and mixed-use districts
- Village conservation districts

MARYLAND BY-RIGHT EXAMPLE (ABERDEEN)

Definition	Dwelling, Accessory Apartment: A second dwelling unit either within, or added to, a single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling, that functions as a complete, independent living facility with provisions for independent cooking, living, sleeping, and bathroom facilities.
Note	ADUs are defined as a type of dwelling and not a type of accessory structure, which are regulated separately in this ordinance
Districts	By-right (Permitted) in R-2 , R-3, B-1, B-2, IBO, and TOD Districts
Approval	Ministerially by Zoning Administrator

MARYLAND BY-RIGHT EXAMPLE (ABERDEEN)

District Purpose	R-2: Medium-Density Residential District. The purpose of this district is to provide for single-family and two-family residential developments of city-scale character, together with such public buildings, schools, churches, public recreational facilities, and accessory uses as may be necessary or which are normally compatible with residential surroundings.
Note	Any permitted accessory apartment shall not exceed 50% of the above-grade living area of the principal use or structure as shown in the records of the Maryland Department of Assessments and Taxation.
Process/Criteria	Permits for new construction, additions, or similar projects require: <ol style="list-style-type: none">1. Submitted permit application2. Plot plan or location survey with the location of the improvement3. Construction drawings <p><u>Zoning Review</u> Documents listed above are reviewed for compliance with the Development Code, including lot, yard, height, parking, and other requirements.</p> <p><u>Plans Review</u> <i>Where applicable, the construction plans will be forwarded to the County Department of Inspections, Licenses, and Permits as they perform all reviews of building plans, and all building, electrical, plumbing, mechanical, and fuel gas inspections. All plans must comply with the current building and trade codes as recognized by the County.</i></p>

MARYLAND BY-RIGHT WITH CONDITIONS EXAMPLE (NEW MARKET)

Definition	Accessory Apartment is not specifically defined in the zoning ordinance, but it is categorized as an accessory use rather than residential use
Note	Accessory Apartments are only permitted as internal (conversions) ADUs or as part of an addition to a single-family home
Districts	By-right subject to conditions in the R-1 & RM (only within a dwelling unit) districts
Approval	Ministerially by Zoning Administrator

MARYLAND BY-RIGHT WITH CONDITIONS EXAMPLE (NEW MARKET)

District Purpose	RM: Residential Merchant District. The purpose of this district is to preserve the historic character of areas within the Town of particular historic significance, and to preserve, encourage and strengthen the historically appropriate mixed residential and commercial character of the district, while allowing limited retail and commercial uses which promote and enrich tourism
Note	The "RM in d.u." designation in the ordinances use table signifies that an Accessory Apartment is a by-right with conditions use in the RM district when it is within a residential structure
Process/Criteria	An accessory apartment shall be permitted within a single-family dwelling, provided the following conditions are met that insure the use is consistent with such a unit: <ol style="list-style-type: none">1. The accessory dwelling unit is within the principal single-family dwelling located on its own lot;2. The accessory dwelling unit shall not exceed the lesser of 33% of the gross livable floor area of the dwelling, or more than 800 square feet and shall include a toilet and bathing facilities;3. Any entrance to the accessory dwelling unit from the outside shall not be on the front wall of the principal structure;4. Home occupations shall be prohibited within an accessory apartment; and5. A minimum total of four (4) off-street parking spaces shall be provided for the principal dwelling and the accessory dwelling unit. An exception to this requirement may be approved by the Administrator if written verification is given by the property owner that the occupants of the accessory dwelling unit, due to age or physical disability, will not have vehicles on-site. No more than two vehicles owned by the occupants of the accessory dwelling unit will be permitted and must be parked off-street.

MARYLAND SPEX EXAMPLE (WICOMICO)

Definition	Accessory Apartment: Not more than one apartment unit as an accessory use within an owner-occupied single-family residence or an accessory building on the same lot, on a minimum lot of 20,000 square feet, provided that: (1) The apartment shall be no larger than 50% of the square footage of the residence. (2) All parking for the apartment is appropriately located as specified by the Board of Appeals. (3) No accessory apartment may be constructed on any property which has exercised the option of renting of guest rooms under the provisions of this chapter.
Note	ADUs are defined as a type of accessory use rather than a type of dwelling
Districts	Special Exception by the Board of Appeals in the A-1, V-C, R-8 , R-15, R-20, R-30, TT, and C-2 districts. Special Exception by the Planning Commission for C-1 district.
Approval	By Board of Appeals or Planning Commission after Public Hearing

MARYLAND SPEX EXAMPLE (WICOMICO)

District Purpose	R-8: Residential District: The purpose of the R-8 Residential District is to protect and develop primarily residential and supporting uses at medium to higher densities than provided for in the other residential districts.
Note	Criteria for approval. A special exception may be granted when the Board of Appeals or Planning Commission finds from a preponderance of the evidence produced at a public hearing , where applicable, that:
Process/Criteria	<ol style="list-style-type: none">1. The proposed use is consistent with the Comprehensive Plan or a specific area plan for the physical development of the county or a portion thereof, as adopted by the County Council.2. The proposed use will not adversely affect the health, safety and general welfare of the residents or workers in the area.3. The proposed use is compatible with and will not be detrimental to the use or development of adjacent properties or the general neighborhood.4. The proposed use meets all of the standards set forth for each particular use for which a special exception may be granted.5. The proposed use has been designed so as to minimize possible adverse effects on adjacent properties or on the immediately surrounding area.6. The proposed use will not adversely affect the transportation network or unduly burden water, sewer, school, park, stormwater management areas, including streams, or other public facilities.7. The proposed use will not adversely affect the environmental, archeological or historical assets of particular interest to the community as may be identified in any adopted plan of the county.

[Access Other State Legislation Table Here](#)

OTHER STATE LEGISLATION ANALYSIS

LOWER-DEGREE STATE PRE-EMPTION

[HB 2001 \(2019\)](#)

*A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas **within the urban growth boundary** that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, **subject to reasonable local regulations relating to siting and design***

The definition of “reasonable local regulations relating to siting and design” precludes owner-occupancy and additional off-street parking requirements, but not SPEX requirements



LOWER-DEGREE STATE PRE-EMPTION

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

*A municipality that adopts a zoning ordinance pursuant to the authority granted in this chapter shall allow accessory dwelling units **as a matter of right or by either conditional use permit or by special exception**, in all zoning districts that permit single-family dwellings.*

*If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then one accessory dwelling unit shall be deemed a permitted accessory use, **as a matter of right**, to any single-family dwelling in the municipality, and no municipal permits or conditions shall be required other than a building permit, if necessary.*



HIGHER-DEGREE STATE PRE-EMPTION

[Title 7, Division 1, Chapter 4, Article 2 \(Multiple Years\)](#)

*A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and **approved ministerially without discretionary review or a hearing...** The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit **within 60 days** from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot.*

*An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes **only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision.** If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be **null and void***



CALIFORNIA REPUBLIC

HIGHER-DEGREE STATE PRE-EMPTION

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



*A municipality shall adopt regulations under this chapter that allow a **minimum of one accessory dwelling unit by right** on a lot or parcel that contains a single-family dwelling.*

*A municipality that has not adopted or amended regulations pursuant to this section by January 1, 2024, **shall review and permit accessory dwelling units in accordance with the requirements of this section until regulations are adopted or amended.** Regulations in effect on or after January 1, 2024, that apply to accessory dwelling units and do not comply with this section **are void.***

“By right” means the ability to be approved without requiring:

- a. a public hearing;*
- b. a variance, conditional use permit, special permit, or special exemption; or*
- c. other discretionary zoning action other than a determination that a site plan conforms with applicable zoning regulations*

PUBLIC COMMENT ON ADU USE ALLOWANCES

Good land use protects the character of established neighborhoods. ADUs could lead to significant changes. ADUs could cause serious physical damage to nearby property in many neighborhoods through the significant decrease in impermeable surface.

Please allow as few barriers as possible to construction. The state has a strong interest in making sure that there are no odious mandates on who can live in an ADU vs not ...and make approved designs easier to get through the permitting process quickly so people can make them easily and timely.

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

Since Baltimore has been the target of speculators and absentee landlords, and many of its neighborhoods are still recovering from the time when conversion of single-family to multi-family housing was a matter of right, I'm very glad to see the emphasis on owner-occupied ADUs.

The Task Force should not compromise on making the most innovative and permissive ADU recommendation. Any requirement for owner occupancy, minimum lot size, parking, and setbacks will kill ADU development. Instead, we need low and no-interest loans, grants, and a navigator office.

California legislators, again, worked on easing construction of ADUs. These backyard homes have become a demonstration of how state laws that override local restrictions can lead to a building boom.

DISCUSSION

What preliminary legislative and policy recommendations, related to zoning use and approval processes, should the Task Force include in its final report to the Governor and General Assembly?

What preliminary best practices, related to zoning use and approval processes, 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



Form panels and focus groups



Gather quantitative ADU development data as available



Begin developing a glossary of terms



Practical issues review by topic area



Craft preliminary legislative and policy recommendations



Continue adding resources to Microsoft Teams site



Next meeting: December 19, MDP offices, Olmsted Conference Room

ADJOURN