



# Maryland DEPARTMENT OF PLANNING

## Accessory Dwelling Unit Task Force 3.19.24 Meeting Summary Notes

- 9:30 – 9:35 **Welcome & Overview**

**Roll Call:**

- Senator Mary Washington -No
- Delegate Vaughn Stewart, III- No
- Secretary Rebecca L. Flora, Chair - Yes
- Theo Williams - Yes
- Lori Parris - Yes
- Amy Moredock - Yes
- James Gaston, III – Yes
- Dan Hoff - No
- David Thaler - Yes
- Tiffany Harris - No
- Quinn Griffith - Yes
- Deborah Buelow - Yes
- Priscilla Kania - Yes
- Mandy Gitt - Yes
- Jennifer Ray - Yes
- Lisa Belcastro - Yes
- Isabella Shycoff - No

- 9:35 – 9:45 **Administrative Updates**

- Meeting Objectives (see slides) - Joe introduced five objectives of the meeting.

- 9:50-9:55 **Preliminary Parking And Community Facilities**

**Recommendations**

- Local Governments

- Zoning ordinance parking requirements should be designed to facilitate rather than limit or burden ADU development.
- APFOs should account for lower rate of school age children in ADUs.
- ADU parking requirements should consider:

- Proximity to transit, burden of construction cost on homeowners, sufficiency of curb area for on-street parking, increase in impervious surface.
    - Variability of requirements based on lot size.
  - State Government
    - Incentivize TOD responsiveness and discourage requiring more than one off-street parking space
    - State agencies should analyze and develop guidance on...
    - Maximum parking standards
    - The applicability and scale of school APFO tests to ADUs based on student generation estimates.
    - The documented parking, community facilities, and infrastructure impacts of ADU development
  - Best Practices
    - Variability by zoning district or neighborhood includes..
      - No parking requirements if...
        - Proximate to transit, sufficient curb area, higher level of impervious surface or smaller lot size
- One off-street parking space if ...
  - Medium to larger lot sizes and construction of ADU removes existing space
  - Largest lot sizes for ADUs 1.5 times larger than min ADU size

#### 9:55- 11:30AM Research

- HOA and Community Associations Focus Group Responses (See Slides)
- Environmental Organizations Survey Responses due by 4/5
- Restrictive Covenants
- Focus Groups and Panels
  - Summaries posted to webpages
  - 3/13 Housing Organizations Focus Groups

**Note:** Task Force Members had some discussion on whether they did not receive adequate representation from an HOA representative, as the HOA Representative selected for the 2/20 Panel canceled last minute.

- **Restrictive Covenants- Adam Synder, JD (Legal Counsel to MDP and ADU Task Force)**

The question was asked: Can covenants or HOA documents be over-ridden by state legislation?

This question would be analyzed under two federal constitutional provisions:

1) The Takings Clause. A takings claim would be evaluated under three factors:

a. Economic impact,

b. The character of the governmental measure, and

c. The extent to which the measure interferes with the landowner's reasonable investment-backed expectations.

2) The Contract Clause. The government cannot substantially impair a contract unless the government has a significant interest at stake, such as addressing a housing crisis or eliminating the vestiges of overt racial restrictions.

Maryland law generally enforces covenants and restrictions, but also recognizes that they are subject to State laws advancing important public purposes. In fact, Maryland statutes already include several provisions overriding covenants and restrictions, and more are proposed (e.g., H.B.783 would override covenants that restrict long-term rentals).

Please reference discussion [starting at minute 48:40 of the March 19 Task Force meeting recording](#) for more information on this topic.

- Report design and layout
  - [Final Reporting Outline](#)
  - [Glossary Updates](#)
  - [Zoning/ Building Codes/Other Recommendations](#)
  - It was suggested that the framing of the report should include the Executive Summary, followed by the definition of the ADU, followed by priority recommendations, followed by all the back-up.
  
- **Utilities and Fees**
  - [California ADU Handbook](#) (2022)
    - Permits locational limitations on ADU allowances only “based on the adequacy of water and sewer service and on the impacts on traffic flow and public safety”.
  - [AARP Model State Act](#) (2020-2021)
    - Prohibits requiring ADU applicant to install new or separate water and sewer lines unless constructed at same time as single-family dwelling.
    - No impact fees for ADUs less than 750 sq ft.
    - Applicants can use shared meter or install a separate meter.
    - ADUs shall not be considered a new residential unit for purpose of fees or capacity charges.
  - [Equity in Zoning Policy Guide, APA](#) (2022)

- Recommends reducing application or development impact fees for projects that improve neighborhood equity and opportunity.
- [Recommendations for Alexandria, VA, Urban Institute](#) (2020)
  - Recommends reducing application or development impact fees for projects that improve neighborhood equity and opportunity.

### MARYLAND Inventory Analysis

- Maryland Summarized: Utilities
  - Lot size requirements impacted by availability of sewer/septic.
  - Most ADU ordinances do not address utilities specifically.
  - ADU approval is contingent on water/sewer system used based on health or utilities/public works department approval and capacity.
  - Most prohibit separate connections for ADUs.
  - Not counted against density if connected to public water and sewer.
- **Examples**
  - Baltimore County
    - If in an accessory building on owner-occupied property, “The accessory apartment may not have separate utility meters or water and sewerage services unless approved by the Office of Administrative hearings based on specific findings of necessity for the accessory building.”
    - If an internal ADU, it may not have separate utility meter, such as gas and electric.
  - Chesapeake Beach
    - “The principal dwelling shall be a single-family detached dwelling and shall be located on a lot of at least 7,500 square feet served by public water and sewer.”
  - Indian Head
    - “Prior to the issuance of a building permit for the establishment of an accessory apartment in an existing residential structure, or the conversion of an existing accessory building to an accessory apartment use, approval of the proposed method of water supply and sewage disposal shall be obtained.”
  - Caroline County
    - “ADUs shall not have separate water and sewerage facilities from the principal dwelling.”
  - Trappe
    - “Accessory dwelling units that rely on the same water connection shall not be counted in the overall density calculation.”
  - Talbot County
    - Detached ADUs permitted on lots 1 acre or more if on septic or on lots 1/2 acre or more on sewer

- On lots of 5 acres or less, ADUs must use the same sewage disposal system as the primary dwelling.

### **Maryland Summarized: Fees**

- Some exempt ADUs from school and other impact fees.
- Required if unit necessitates capacity enhancements.
- Most ADU ordinances do not address fees specifically.
- Based on Equivalent Dwelling Units.
- **Examples**
  - Chestertown
    - “A hookup fee for water and sewer shall be made to the town and separate water and sewer laterals will be required if the Director of Utilities deems it necessary or deems the principal residence to have inadequately sized lines for the additional usage.”
  - Smithsburg
    - “A water allocation benefit charge shall be imposed in the amount of \$2,600 per domestic equivalent unit for nonresidential or residential, or any combination thereof, water hookups or usage, including the conversion of, alteration of, or additions to residentially used property already connected to the Town's water system, on a per domestic-equivalent-unit basis (200 gallons per day/per annum) with residential usage being assessed at the number of residences, including each apartment or housing unit as a separate unit”
  - Frederick Co (Special Exception if 1,000 s.f. or greater, By-right if less than 1,000 s. f.)
    - ADUs 800 sq ft or less are exempt from payment of school development impact fees.
  - Anne Arundel
    - Bill 6-23 (passed 1/23) exempted ADUs from development impact fees.

### **Other State Legislation [Analysis](#)**

- **Water/Sewer**
  - All permit some variation of ADU restriction for properties not served by public water and sewer.
  - Not more restrictive than existing requirements.
  - Local documentation of insufficient capacity permits jurisdictions to prohibit ADUs in impacted areas.
- **Fees**
  - Many do not address fees.

- Some prohibit, others limit permitted fees based on unit size or percentage of fees for principal dwelling.
- Enabling authority to either impose or require impact fees for ADUs.
- Distinction between ADUs added to lots with existing single-family dwellings and those added with new construction.

#### **Lower-degree State Pre-emption: Water/sewer**

- [HB 1337 \(2023\)](#) - Washington State
  - Jurisdictions can prohibit ADUs on lots not connected to public sewer.
- [SB 528 \(2023\)](#)- Montana
  - "A municipality may require an accessory dwelling unit to have a will-serve letter from both a municipal water system and a municipal sewer system."

#### **Moderate-degree State Pre-emption: Water/sewer**

- [HB 06107 \(2021\)](#)-Connecticut
  - Must not be more restrictive than other requirements where "well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld".
- [Rhode Island H 6082 \(2023\)](#) *\*Passed by the House and referred to the Senate*
  - "A municipality shall not require such permitted ADUs to make infrastructure improvements, including, but not limited to, separate water or sewer service lines or expanded septic system capacity; unless such improvements and/or modifications are required for compliance under state law or regulation".

#### **11:30- Discussion**

**Question 1:** *What preliminary legislative and policy recommendations, related to utilities and fees, should the Task Force include in its final report to the Governor and General Assembly?*

**David Thaler:** We need to remove the barriers and impact fees already in place because of the high cost associated with new construction.

**Jennifer Ray:** Utilities infrastructure is nearing capacity. We need to keep these restrictions simple.

**Theo Williams DHCD:** Liked the examples from California in regard to fees. Believe it's a good compromise.

**Priscilla Kane:** Impact fees should be included if there's more than 2 bedrooms. Emphasized that there is a massive difference between an inside dwelling and a detached dwelling. The utility and impact fees should only apply to detached- and only if they are a certain size.

**Deborah Buelow:** Does not understand how the two types of ADUs differ in terms of energy impact and requested clarification.

**Councilman Hoff:** provided written comments: Opposed to impact fees, and should not be subdivided, and APFOs related to schools should not be implemented, but that water and sewer capacity should be tested.

**David Thaler:** Responded questioned about the condominium possibilities, and Joe reminded the provision on the bill relating to owner occupied properties.

**Question 2:** *What preliminary best practices, related to utilities and fees, should the Task Force include in its final report to the Governor and General Assembly?*

**Secretary Flora:** Related to best practices in policy.

**Question 3:** *What additional research, if any, is needed to address this topic?*

**Secretary Flora:** In terms of capacity, there is a good understanding of sewer limitations. Poses a question to Joe: "Is there additional data or mapping that MDP has, that can shed light on this complex topic?"

**Joe Griffiths:** We do not have mapping. MDP does review sewer plans, MDE however would be better versed in this area.

**Secretary Flora:** This is a serious issue that needs to be addressed so that growth is not stifled.

**Susan Llareus:** There may be opposition to ADUs due to school capacity. We do have numbers from Montgomery County on this issue and could use that information.

**Prisilla:** Keep in mind that the ADU is being built without permits and this affects available capacity.

**Secretary Flora:** The issue of grandfathering should be considered.

**Joe Griffiths:** Amnesty programs should also be considered.

12:00-12:15: April 16 Meeting Preparation (9:30AM-1:30)

- Lunch will be provided.
- Recommendations will be prioritized.
- Housing Market Analysis
  - [11/28/23 Plan](#)
- Compiled Public Comments
- Environmental Organizations Survey results
- Other Topics and Discussion

#### 12:00-12:15: **Public Comment**

- **Jeff Delmonico:** He suggests adding accessory uses to the listing of the zoning. Last year's APA conference included discussions about ADUs and many people started complaining about the aesthetics of the neighborhood being degraded by parking pads being placed in the front yards.
- **Marie Dias:** Would like more information on the Amnesty Program. If state legislature passes laws on ADUs can local jurisdictions pass more restrictive laws? Does the Task Force have any thoughts of Prince George's County's restriction of ADUS?
- **Ileana Schinder:** Commented on consumption of energy and water conservation. She encouraged the Task Force to stay away from non-quantifiable topics/subjective items such as character of the neighborhood. The Task Force can only enforce what is measurable. She said metrics need to be measured so that they can be rated with a yes or no answer as objective measures. She gave examples of lot coverage, impervious areas, and tree preservation as they are measurable by size. She is open to further discussion if anyone wants to reach out.
- **Greg Cantori:** Reinforce what Ileana stated. He also spoke of efforts he labeled as "ADU-2.0". He mentioned Anne Arundel County's recent progressive passage of their local legislation (2023) which followed California's recommendations and AARP's model ordinance but since then only 2 or 3 ADUs have been built with 13 applications because the permit process is complex and lengthy. He also spoke of the FHA/HUD allowance for funding that 50/75% of rental income can be applied to the loan criteria.

#### • 12:15-12:30 **Summary and Final Thoughts**

- **Jennifer Ray:** Nothing new to add but wanted to circle back. Needs to have level set definitions. Making sure what the constraints are. Wants the Task Force to think about the unintended consequences.
- **Amanda Gitt:** Will be reviewing the draft recommendations with the Interior Designer's Association and will be sharing their thoughts shortly.
- **Priscilla Kane:** Believes that we need to provide clarity on detached and attached ADUs.
- **Deborah Buelow:** Agree with Priscilla. In regard to parking spaces, she believes there should be recommended 2 scenarios, either one or no spaces required. Will also wait for the American Institute of Architects to share their opinions on the draft recommendations.
- **Amy Moredock:** Great conversation, nothing to add.



- **David Thaler:** Plugged his event on May 3<sup>rd</sup> “Why America is under Housed” to be held at Laurel Race Track with Secretary Day. Invited Secretary Flora who then reminded the group of the Smart Growth Summit to be held on May 2<sup>nd</sup>.
  - **Theo Williams:** Thanked the panelists for an amazing discussion.
  - **Lori Parris:** Suggested narrowing down the definition of ADUs
  - **Secretary Flora:** Please read all the materials so our discussions can go deeper.
- **Next Steps**
    - Distribute environmental organizations survey and encourage completion.
    - Housing market analysis.
    - Continue developing a glossary of terms.
    - Craft preliminary utilities and fees recommendations.
    - Next meeting: April 16, 9:30 am – 1:30 pm. Location: MDP Office
- **Adjourn**

