

TOWN OF GRAY
PLANNING BOARD
AGENDA • JUNE 13, 2024

**Planning Board
Regular Meeting**

Henry Pennell Municipal Complex
24 Main St., Gray, Maine
And via Teams videoconferencing:
<https://graymaine.link/PB-Meeting>

7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

- a. Regular Planning Board Meeting Minutes from April 11, 2024

III. INFORMATION EXCHANGE

IV. PUBLIC HEARINGS

- a. Zoning Ordinance (402.7.9) Amendments:

The Town of Gray Planning Board will host a public hearing on amendments to the Zoning Ordinance, Accessory Dwelling Units, 402.7.9, that propose to eliminate the owner occupancy requirement and increase the maximum square footage.

V. NEW BUSINESS

- a. Proposed Planning Board process flowchart

VI. ADJOURNMENT

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

TOWN of GRAY
PLANNING BOARD
MINUTES • APRIL 11, 2024

Henry Pennell Municipal Complex
 24 Main Street Gray, ME, 04039

7:00 PM

I) MEETING COMMENCES

ROLL CALL

| Attendee Name | Status |
|-------------------|---------|
| Dan Cobb | Present |
| Tamara Lee Pinard | Present |
| Melinda Sheehee | Present |
| Dan Maguire | Present |
| Kristen Muszynski | Present |
| Martin Meaney | Present |

II) MINUTES APPROVAL

- a) Planning Board - Regular Meeting Minutes - March 7, 2024

Motion to approve Minutes from March 7, 2024 Regular Planning Board Meeting

| | |
|-----------------|--|
| RESULT | PASSED [UNANIMOUS] |
| MOVER | Melinda Sheehee |
| SECONDER | 0 |
| AYES | Dan Cobb, Tamara Lee Pinard, Melinda Sheehee |

IV) NEW BUSINESS/PUBLIC HEARING

- a) Public Hearing: Floodplain Management Ordinance
 The Planning Board will host a public hearing on the proposed repeal of the current Floodplain Management Ordinance, Chapter 405, and adoption of the updated Floodplain Management Ordinance and Flood Insurance Rate Map, to become Ordinance Chapter 405.

Kristen noted that it is an administrative update to align with the updated FEMA maps, and the council will potentially move the permit fee to the fee schedule.

Public hearing opens, 7:03 p.m.

No public comment.

Dan Maguire noted that the update is dictated to the town. The town can only have say over the fees or change non-substantive things. He noted that the maps are available online.

Public comment closed, 7:04 pm.

- b) Public Hearing: Subdivision Amendment Review: Lyons Point Subdivision- Fecteau Lot
 A request by Daniel Fecteau for an amendment to the approved Lyons Point Subdivision, to alter the lot line between lots 4 and 5. Mr. Fecteau owns the 3+/- acre Lot 5 at 121 Lyons Pt. Road at Tax Map 32, Lot 315-068-001, in the Lake zoning district and Limited Residential Shoreland Zoning district. This proposal is subject to subdivision amendment review and Shoreland Zoning.

Applicants Dennis and Daniel Fecteau addressed the board.

Dennis said they wanted to build the house on the knoll to allow for full daylight basement. Couldn't find second stake, found the line was actually angled. Asked abutter Ursula Thompson to allow land exchange to meet the setbacks.

Dan Cobb acknowledged that the discrepancy was found after the foundation was already installed. Acknowledged letter of support from another abutter. Ursula Thompson was also present.

Public hearing 7:13 opened and closed, no comments.

Motion to approve to find the application by Daniel Fecteau for an amendment to the approved Lyons Point Subdivision, to alter the lot line between lots 4 and 5, complete per 401.7.1 E. Mr. Fecteau owns the 3+/- acre Lot 5 at 121 Lyons Pt. Road at Tax Map 32, Lot 315-068-001, in the Lake zoning district and Limited Residential Shoreland Zoning district. This proposal is subject to subdivision amendment review and conformance with Shoreland Zoning standards.

| | |
|-----------------|--|
| RESULT | PASSED [UNANIMOUS] |
| MOVER | Melinda Sheehee |
| SECONDER | Tamara Lee Pinard |
| AYES | Dan Cobb, Tamara Lee Pinard, Melinda Sheehee |

Motion to approve the application by Daniel Fecteau for an amendment to the approved Lyons Point Subdivision, to alter the lot line between lots 4 and 5. Mr. Fecteau owns the 3+/- acre Lot 5 at 121 Lyons Pt. Road at Tax Map 32, Lot 315-068-001, in the Lake zoning district and Limited Residential Shoreland Zoning district. This proposal is subject to subdivision amendment review and conformance with Shoreland Zoning standards. This approval is subject to the following conditions:

1. The project shall be constructed, operated, and maintained in accordance with the plans, submissions and testimony presented to the Planning Board by the applicant and its representatives.
2. All prior applicable standards and conditions of approval remain in effect.
3. The final plan shall be amended as necessary and submitted to the Town Planner for final review before planning board members sign the final plan.
4. The applicant shall ensure that the deeds for both Lots 4 and 5 are amended as per the approval and recorded with the Cumberland County Registry of Deeds.
5. The applicant shall record the final signed plan amendment with the Cumberland County Registry of Deeds within the required 90-day post-approval period.

| | |
|-----------------|--|
| RESULT | PASSED [UNANIMOUS] |
| MOVER | Melinda Sheehee |
| SECONDER | Tamara Lee Pinard |
| AYES | Dan Cobb, Tamara Lee Pinard, Melinda Sheehee |

III) INFORMATION EXCHANGE

Kristen conveyed input from OSC regarding the Ramsdell Road Gervais subdivision, interest in retaining some access to the existing trail. She noted the joint workshop regarding zoning districts is rescheduled to May 14. Melinda said she will be unavailable. Kristen noted the Planning Board participated in a site walk for the proposed Mayall Road subdivision, on April 10.

Dan Maguire notified the board that on March 22 the town attorney's office did a training for the ZBA, and they could provide training for PB as well. Any ideas for training/ outreach are welcome.

V) NEW BUSINESS

- a) Sketch Plan Review: Gervais Homes Ramsdell Road Subdivision
 A request by Andrew Gervais of Gervais Homes LLC, represented by BH2M Engineering, for Planning Board sketch plan review of a proposal to create a 13-lot subdivision on his 144 +/- acre property near 123 Ramsdell Road at Tax Map 41, Lot 13-20, in the Rural Residential and Agricultural zoning district. This proposal is subject to major subdivision review.

Austin Fagan, BH2M presented the project.

Stated that the applicant would be happy to keep the trail active; relocate or put an easement on to keep continued access.

Shared driveways- would prefer to use single driveways off Ramsdell if possible. Can see what the sight distances are when we do the site walk. No concern with other staff comments. Note improvements to Ramsdell, agreeable to completing that work.

Melinda asked for orientation to the existing Thayer Brook trailhead and the trail, familiar with this area.

Austin- would locate the trail and figure out where it lies; provide easement to town or ATV club to allow use. May be road that crosses it if there is future development or could relocate trail to make it work with lot frontages. Dan Cobb agreed, would be really nice to keep that connector between Mountainview Road and high school, a lot of people would really appreciate that. Board members would all appreciate maintaining the trail connector. Suggested that applicant talk to the snowmobile/ATV club too, to double-check on how location works with offsite connections.

Dan Cobb said as for common curb cuts, he could go either way. Melinda likes less impervious area; acknowledged that traffic reasons are a bit less on Ramsdell but like to reduce pavement.

Austin noted it is more marketable to have your own driveway.

Board supports road improvements as suggested per review by town consulting engineer, Doug and Public Works.

Need to set date/time for site walk. Agreed upon: Tuesday, April 30 at 5 PM

Austin noted he is waiting on stream, wetland and vernal pool delineation; site walk participants will be able to view but it won't be delineated yet.

VI) ADJOURNMENT

Motion to adjourn

| | |
|-----------------|--|
| RESULT | PASSED [UNANIMOUS] |
| MOVER | Melinda Sheehee |
| SECONDER | 0 |
| AYES | Dan Cobb, Tamara Lee Pinard, Melinda Sheehee |



TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St, Gray Maine 04039
www.graymaine.org

Michael Foley
Town Manager
207-657-3715
mfoley@graymaine.org

TO: Town Council & Planning Board
FROM: Michael Foley, Town Manager & Tammy Munson, Code Enforcement
DATE: May 14, 2024
RE: ADU Changes

Throughout our time with the Town, we have had several requests for the construction of Accessory Dwelling Units (ADUs) following the recent promotion of LD2003. ADUs were suggested as a tool to help with the shortage of available housing. Here in Gray, we have discovered some challenges to those efforts. Many other challenges exist for the development of ADUs that we cannot begin to address, though we hope two simple changes can help here in Gray. Those are as follows:

- **Unit Size:** Currently our ordinance has a size restriction of 750 square feet per unit. Having an odd number for building size presents some challenges and we recommend it be changed to an even number and suggesting 800 square feet.

One reason why an even number size is better for building construction is because it allows for more symmetrical and balanced designs. Dividing the space into equal sections or placing windows and doors at the center of walls is easier when working with even numbers. This can result in a more aesthetically pleasing and harmonious overall look to the building.

Additionally, using even numbers can streamline the building process and reduce overall construction costs. This is standard practice in this industry and reduces overall waste of materials.

Overall, building with even numbers can lead to a more visually appealing, structurally sound, and efficient construction project.

- **Owner Occupancy Requirement:** Currently our ordinance requires that either the existing unit or the ADU be occupied by the property owner. This requirement presents many challenges for the development of ADUs in our community we will outline below:

- Enforcement: Many communities in Maine have removed this restriction given the challenges of enforcement. This would require our Code Enforcement staff to find out the occupancy of every property with an ADU on a regular basis. This would be extremely time-consuming and problematic as the Code Office would have to track residency through vehicle registrations, voter registrations, utility bills, PO Boxes, homestead exemptions, etc. We do not currently regulate the occupancy of any other residential property in the community and therefore feel this will be difficult to enforce.
- Financing: ADUs are extremely difficult to finance. With this restriction in place, the prospective income from an ADU is not given as much value when an owner-occupancy requirement is in place, because it restricts both the primary dwelling and the ADU from being income generating. Therefore, this would only allow individuals with more wealth to develop ADUs ultimately creating an equity issue.
- Limited accessibility: The ownership occupancy requirement restricts the ability of property owners who do not reside on the premises to develop an ADU. This limits the pool of potential developers and reduces the overall supply of ADUs in a community.
- Lack of flexibility: The ownership occupancy requirement limits the flexibility of property owners in how they use their property. For instance, a property owner may want to develop an ADU for rental income or to accommodate family members, but the ownership occupancy requirement would prevent them from doing so.

Overall, the ownership occupancy requirement acts as a barrier to the development of ADUs and hinders efforts to increase housing affordability and diversity in communities. Removing or loosening this requirement may help to facilitate the development of ADUs and promote more inclusive and sustainable housing options. The state also initiated a study to encourage the development of ADUs and they recommend this change as well. This study has been attached.

We thank you for your consideration of these minor changes to our ordinances reference ADUs. We think these changes will help to encourage thoughtful development of housing options in the community.

4. The lot upon which said mobile home is located shall meet the space regulations set forth in this Ordinance and shall have a minimum lot area required by the applicable zoning district.

D. Uses of Travel Trailers and Motor Homes

1. **Temporary Occupancy:** A householder may permit bona fide guests to park not more than two (2) travel trailers or motor homes in the yard adjacent to such house for a period not exceeding thirty (30) days per calendar year, provided that the travel trailer or motor home is used only for sleeping purposes during said period and also provided that the householder shall have granted permission to the travel trailer or motor home occupant to use the householder's toilet facilities.
2. **Storage:** An unoccupied travel trailer or motor home may be stored on any lot subject to all regulations concerning setbacks for buildings provided that it shall not be used for living or sleeping purposes during said period of storage.
3. **Construction Offices:** No travel trailer or motor or mobile home shall be used as a permanent office, but may be used for a temporary demonstration and sale of such articles or services as may be readily transported or displayed in a trailer or mobile home by a distributor or salesperson if situated in the applicable zoning district for a period not to exceed fifteen (15) days; provided, further, that such a travel trailer or motor, or mobile home may be used as temporary office headquarters (including electricity and phone) for a bona fide charitable organization for a period not to exceed one year. During such period such a trailer or motor or mobile home shall not be used for living or sleeping purposes. The Town Council may extend said sixty (60) day period in the case of trailers or mobile homes used as offices on construction work, renewable by the Code Enforcement Officer, until construction is completed.

E. Existing Mobile Homes and Travel Trailers

A travel trailer or mobile home lawfully established at the time of adoption of this section shall not be affected by this Section and such travel trailer or mobile home may be replaced with another travel trailer or mobile home, but not later than ninety (90) days after its destruction, removal, or abandonment.

402.7.9 Accessory Dwelling Units

A. General Standards:

1. For any lot located fully or partially in a Shoreland Zoning district, Accessory Dwelling Units must independently comply with all Shoreland Zoning requirements.
2. Except as established above in this section for lots partially or fully in the Shoreland Zoning District, Accessory Dwelling Units shall be permitted in all zoning districts where single-family housing is permitted, on the same lot as a single-family dwelling, constructed only:
 - Within an existing single-family dwelling unit on the lot;
 - Attached to, or sharing a wall with, a single-family dwelling unit;
 - As a new structure on a lot for the primary purpose of creating an Accessory Dwelling Unit;
 - Within an existing detached accessory structure on the same lot as a single-family dwelling
3. Accessory dwelling units are specifically prohibited in, on, or within any of the following:

- a. any two-family or multi-family dwelling;
- b. any lot that contains one (1) or more principal commercial use(s) either on the parcel or in any structure located on such lot; or
- c. any lot that does not have a single-family dwelling as its principal use

4. Only one (1) Accessory Dwelling Unit is allowed per lot, and only on a lot on which the CEO has determined the primary use to be a single-family dwelling.

5. The minimum square footage of finished living area for Accessory Dwelling Units is one-hundred-and-ninety (190) square feet.

6. The maximum footprint for any Accessory Dwelling Unit is ~~eight-hundred (800)~~ square feet and shall not exceed the footprint of the primary dwelling unit. If the footprint of the primary dwelling is ~~800~~ sf or less, the maximum footprint of the Accessory Dwelling Unit shall not exceed 90% of the primary dwelling's footprint. The Zoning Board of Appeals shall not have the authority to increase this footprint by variance or otherwise.

Deleted: seven-hundred-fifty

Deleted: 750

Deleted: 750

7. Although an existing single-family dwelling may be expanded or utilized for the purposes of creating an Accessory Dwelling Unit, no portion of an Accessory Dwelling Unit shall be located within minimum lot line setbacks, including non-conforming structures of record.

8. Accessory Dwelling Units must comply with applicable building and fire safety codes.

9. Accessory dwelling units must have shared common utilities, such as water and wastewater disposal, with the single-family dwelling, except as required by applicable codes.

10. One Accessory Dwelling Unit must be allowed on any lot where a single-family dwelling is the principal structure. In the event that one (1) Accessory Dwelling Unit has been duly permitted and constructed on a lot utilizing this exemption from zoning density requirements for minimum area per dwelling unit, as established in Table 402.5.4.A, any additional dwelling unit, including any Accessory Dwelling Units, must comply with all dimensional standards established in Tables 402.5.4 A and B.

11. An Accessory Dwelling Unit shall be permitted only as one (1) floor of living space, such as a one-story structure or a single floor above a garage.

12. Accessory Dwelling Units are intended to be accessed via the existing driveway and curb cut for the principal single-family dwelling, and must meet the standards established in the Street Ordinance, Chapter 400.

13. An accessory dwelling unit shall not be considered a separate dwelling unit when calculating lot area per dwelling unit for this Ordinance.

14. In accordance with Section 6 30-A M.R.S.A. §4364-B, an Accessory Dwelling Unit is not required to provide any additional parking requirements beyond the minimum number of off-street parking spaces established in Table 3 of Article 10 for the single-family dwelling unit located on the same lot as the Accessory Dwelling Unit.

B. Ownership Standards:

1. Ownership of the existing single-family dwelling and the Accessory Dwelling Unit must be held by the same person(s).

C. Aesthetics:

1. Accessory Dwelling Units shall retain and respect the existing streetscape and character of the neighborhood, and preserve the single-family dwelling appearance, architectural style, and character of the dwelling.
2. Any exterior modifications to the single-family dwelling associated with the construction or installation of an Accessory Dwelling Unit must be consistent with architectural style and character of the single-family dwelling in terms of exterior materials, roof pitch/form, and window type/spacing.
3. Any exterior alteration of the single-family dwelling associated with the construction or installation of an Accessory Dwelling Unit must preserve the formal, front entrance of the building in order to maintain the single-family dwelling appearance and architectural style of the building, as determined by the Code Enforcement Officer with input from the Town Planner as appropriate.
4. Exterior stairs more than five (5) feet above final finished grade shall be enclosed and are restricted to the rear and sides of the accessory dwelling unit or the single-family dwelling in which it is located or to which it is attached, wherever practicable provided that that they are integrated into and consistent with the architecture of the building.
5. In the event that the Code Enforcement Officer and the applicant for the Accessory Dwelling Unit cannot agree on the aesthetic standards contained in this Section 402.7.9.C, the applicant may appeal to the Planning Board within thirty (30) days of the CEO's written decision.
6. All Accessory Dwelling Units in the Village Center and Village Center Proper zoning districts are subject to the Village Design Standards as referenced in the Village Center District Standards section of this Zoning Ordinance.

D. Wastewater Disposal:

1. An Accessory Dwelling Unit may be served by one of the following subsurface wastewater disposal (SSWD) systems that maintain standards established in the Maine Subsurface Wastewater Disposal Rule:
 - a) an existing SSWD system,
 - b) an upgraded SSWD system, or
 - c) a new SSWD system, designed by a licensed site evaluator, all as otherwise allowed by law.

Deleted: <#>Either the existing single-family dwelling or the Accessory Dwelling Unit must be owner-occupied. "Owner-occupied" means that either the existing single-family dwelling or the Accessory Dwelling Unit must be occupied by a person(s) who has a legal ownership and bears risk of decline in value of the property and who receives any payment from the lease or rental of the property.

2. In all cases, the SSWD system serving the Accessory Dwelling Unit must meet First Time System criteria as established in the Maine SSWD Rule. Utilizing Replacement System or Expanded System criteria per 10-144 CMR 241 is prohibited.
3. If an existing SSWD system is proposed to serve the Accessory Dwelling Unit without being upgraded, as may be allowed in the Maine SSWD Rule, the LPI shall require the applicant to submit sufficient documentation from a Maine licensed site evaluator showing the SSWD system meets First Time System criteria.
4. If a new SSWD system is proposed to serve the Accessory Dwelling Unit, the local plumbing inspector (LPI) shall have the authority to require the design be recorded at the CCRD if it does not need to be installed, as may be allowed in the Maine SSWD Rule.
5. The owner of the Accessory Dwelling Unit must provide written verification that the unit is connected to adequate wastewater services prior to receiving a Certificate of Occupancy. Written verification must include the following:
 - a. If an Accessory Dwelling Unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector, based on sufficient information provided to the LPI by the applicant or their consultant, pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal system must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rule; 19-100 Chapter 5 page 10.

E. Potable Water Supply Standards

1. The owner of the Accessory Dwelling Unit must provide written verification that the unit is connected to adequate potable water services prior to receiving a Certificate of Occupancy. Written verification must include the following:
 - a. If an Accessory Dwelling Unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
 - b. If an Accessory Dwelling Unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10, section 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

F. Discontinuance:

1. If any of the applicable ordinance standards are no longer being met, use of the Accessory Dwelling Unit must be discontinued, and the single-family dwelling must revert to single-family use by removing the eating and cooking facilities/equipment support system(s) from the Accessory Dwelling Unit as established in the definition of "Dwelling Unit" contained in the version of the International Residential Building Code most recently in effect.



State of Maine
131st Legislature, First Special Session

**L.D. 654, Resolve Directing the Office of Policy Innovation and the
Future to Study Methods to Encourage the Development of
Accessory Dwelling Units**

November 2023

Stakeholder Group Convened In Accordance With Resolve 2023, Chapter 107

Staff:

Ryan Fecteau

Greg Payne

Senior Advisors

Governor's Office of Policy Innovation and the Future

181 State House Station

Augusta, Maine 04333

<https://www.maine.gov/future/housing>

Members:

Jennifer Hogan, Community Credit Union

John Egan, Genesis Fund

Justin Murray, Bangor Savings Bank

Kimberly Twitchell, NBT Bank

Erik Jorgensen, MaineHousing

Kim Nason, Machias Savings Bank

Daniel Stevenson, City of Westbrook

Rebecca Graham, Maine Municipal Association

Jeff Levine, Levine Planning

Andrew Cook, Mascoma Bank

Jason Thomas, Coastal Enterprises Inc.

Janice De Lima, Norway Savings Bank

Scott Sarapas, Androscoggin Bank

Tim O'Reilly, Backyard ADUs

Chris Lee, Backyard ADUs

Austin Gregory, Backyard ADUs

Amanda Campbell, Maine Municipal Association

Jeff Bowman, Backyard ADUs

Sarah Sturtevant, Shaw Innovation Fellow, Muskie School of Public Service

Andrew Lardie, Tedford Housing

Parlin Meyer, BrightBuilt Home

Jessica Benner, BrightBuilt Home

Gerard Howley, KBS Homes

Thatcher Butcher, KBS Homes
Sherrilyn Page, KBS Homes
Nicholas Farmer, Opal Build
Jesse Thompson, Kaplan Thompson Architects
Pat Barendt, Simons Architects
Benjamin Breadmore, Town of Holden
Mayor Jason Levesque, City of Auburn
Eli Rubin, Maine Association of Planners
Hilary Gove, Department of Economic and Community Development
Benjamin Averill, Department of Economic and Community Development
Corinne Watson, Tiny Homes of Maine
Kara Wilbur, BuildMaine
Paul Demers, State Fire Marshal's Office
Richard McCarthy, State Fire Marshal's Office
Phil Kaplan, Kaplan Thompson Architects
Andrew Hayes, Opal Build
Alicia Yabsley, Opal Build
William Nash, International Code Council
Jennie Franceschi, City of Westbrook

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Appendices

- A. Authorizing Legislation: Resolve 2023, chapter 107
- B. ADU Financing, Equity, and Innovation in California presented by David Garcia, Policy Director, and Muhammad Alameldin, Policy Associate, UC Berkeley Turner Center for Housing Innovation
- C. ADU Financing presented by Laurie Goodman, Institute Fellow, Housing Financing Policy Center at the Urban Institute
- D. Pattern Zones and Pre-Approved Building Programs, Matthew Petty, CEO at Pattern Zones Co.

Executive Summary

The 131st Legislature passed L.D. 654 “Resolve, Directing the Office of Policy Innovation and the Future (GOPIF) to Study Methods to Encourage the Development of Accessory Dwelling Units (ADUs)” sponsored by Senator Matt Pouliot (Appendix A). The legislation charged GOPIF with convening a stakeholder group of experts to identify existing barriers to ADU development and propose potential solutions to addressing these barriers. Ryan Fecteau, Senior Advisor on Community Development and Strategic Initiatives at GOPIF, invited more than 40 experts to join the stakeholder group. The stakeholders including persons from financial institutions, community development financial institutions (CDFIs), community planning, building design, architecture, off-site construction, academia, code enforcement, municipal government, and more. A list of stakeholder group participants can be found in Appendix B. The stakeholder group was divided into two subgroups. Group A focused on financing barriers and Group B focused on pre-approved designs.

Pursuant to Resolve 2023, Chapter 107, the stakeholder group was charged with the following duties:

1. Study methods and develop model policy to encourage the development and construction of accessory dwelling units.
2. Review existing models for financing and incentivizing accessory dwelling units.
3. Explore standardized building designs; solicit input from interested parties; and review municipal efforts to adopt ordinances governing accessory dwelling units.
4. GOPIF shall submit a report, with findings and recommendations of the stakeholder group, including suggested legislation, to the Joint Select Committee on Housing no later than March 1, 2024.

Over the course of seven meetings the stakeholder group developed the following recommendations, which are not necessarily plurality recommendations as no votes were taken by the group:

Recommendation #1. A financial incentive program such as a grant, deferred loan, or interest buy-down should be established to off-set the cost of ADUs.

Recommendation #2. A financial product should be created to either securitize existing financing options or make a secondary mortgage possible.

Recommendation #3. Municipal incentives should be established for ADUs, including tax increment financing (TIF) or property tax relief.

Recommendation #4. The concept of sale-lease back, used at times in commercial sales, should be investigated as a tool for building ADUs for older adults.

Recommendation #5. Several technical barriers need to be addressed, including but not limited to, changes in the appraisal and assessment process such as terminology used to define ADUs, allowances for condominium conversion, and eliminating some owner-occupancy requirements.

Recommendation #6. Education and training programs should be designed to inform consumers about ADUs and to prepare a workforce to build them.

Recommendation #7. A pre-approved ADU design program should streamline approvals, receive an engineer stamp, meet the Maine Uniform Energy and Building Code (MUBEC), and not be compulsory for consumers. It might be valuable to make the pre-approved designs compulsory in certain neighborhoods.

Recommendation #8. The state should establish a pre-approved ADU design program with a multitude of designs for a range of typologies such as garage conversion and backyard detached units. There are numerous recommendations regarding how this program could be configured.

Recommendation #9. A state pre-approved design program should include off-site, modularly built ADUs and changes should be made to bring more modular building to Maine.

Recommendation #10. Grant programs should be created to assist municipalities with limited capacity to administer pre-approved programs and conduct permit reviews.

I. Introduction

The 131st Legislature passed L.D. 654 “Resolve, Directing the Office of Policy Innovation and the Future (GOPIF) to Study Methods to Encourage the Development of Accessory Dwelling Units (ADUs)” sponsored by Senator Matt Pouliot (Appendix A).

The resolve authorized GOPIF to convene the stakeholder group and invite relevant experts and practitioners to participate. The stakeholder group did not have a meeting limit but was charged to report back to the Joint Select Committee on Housing no later than March 1, 2024.

The stakeholder group convened for the first time on September 12 and met six times thereafter. The stakeholder group received several presentations relevant to its assignment from experts in finance and pre-approved ADU design programs. The stakeholder group’s meetings were published on the GOPIF website where members of the public or other interested parties could sign-up to participate.

Senator Pouliot noted in his L.D. 654 testimony that, “L.D. 2003 paved the way to increase access to affordable housing options in Maine. Accessory dwelling units are a significant part of that equation.” L.D. 2003 (Public Law, Chapter 672) passed by the 130th Legislature included several provisions regarding ADUs. Here a few of those provisions¹:

1. Except as provided in Title 12, chapter 423-A, a municipality shall allow an ADU to be located on the same lot as a single-family dwelling unit in any area in which housing is permitted.
2. A municipality shall exempt an ADU from any density requirements or calculations related to the area in which the ADU is constructed.
3. For an ADU located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirement, and dimensional requirements of the single-family dwelling unit.

¹ <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1489&item=9&snum=130>

4. An ADU may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the ADU is located.
5. A permit issued by a municipality for an ADU does not count as a permit issued toward a municipality's rate of growth ordinance as described in section 4360.

These provisions and others contained in L.D. 2003 increase the likelihood that an ADU would be authorized for construction or installation within any municipal jurisdiction in the state. However, they do not necessarily mean the costs to obtain an ADU will be within reason for a median income household or the process for approval will be easily accessible to the public. As noted in Senator Pouliot's testimony, one such financial barrier is high-interest rates for borrowing. Unfortunately, with high interest rates," shared Senator Pouliot, "many folks aren't able to pencil out ADUs in an affordable way."

Greg Payne, Senior Advisor on Housing at GOPIF, elaborated in his testimony on L.D. 654, "Those seeking loans will, at times, face challenges with getting approved for a loan due to their debt-to-income (DTI) ratio. According to Total Mortgage, construction lenders look for a DTI under 45 percent and a down payment of at least 20 percent. As of April 7, [2023,] Bath Savings offered a 30-year construction loan at a 6.25% interest rate. However, many lending institutions do not allow for potential rental income from the ADU to be considered when determining loan eligibility, further constraining the DTI ratio. Other financing options include, but are not limited to, cash-out refinancing, home equity lines of credit, and home improvement loans. However, financing for an ADU is not as commonplace as the traditional 30-year home mortgage and can present major obstacles for Mainers who want to add an ADU for an aging parent or simply to add a new income source that could help them pay their bills."

While soon-to-be more readily allowed by municipal ordinances as a result of L.D. 2003, ADUs face practical issues like financing as noted by Senator Pouliot and Mr. Payne. L.D. 654 charged the stakeholder group with contemplating strategies to overcome these practical issues by analyzing financial options and the concept of pre-approved designs.

In the grand scheme, ADUs could be a key tool for addressing Maine’s housing affordability and availability crunch. Thirty percent of Maine renters spend more than half of their income on housing, according to the National Low Income Housing Coalition². The median home sale in Maine jumped by 12 percent between 2021 to 2022, according to the Maine Real Estate Information System³ Meanwhile, the number of units sold dipped by nearly 17.5 percent during that same period. According to a recently published report commissioned by MaineHousing, GOPIF, and the Department of Economic and Community Development (DECD), Maine needs 75,200-84,000 total units of housing to address historic underproduction and future need.⁴

The Casita Coalition, an industry leader concerning ADU policies, cites several reasons why ADUs are key housing types. They specify the following benefits⁵:

1. ADUs offer homeowners choice by making it more affordable to stay in their current neighborhood via income derived from renting an ADU.
2. ADUs provide families with flexibility, particularly for older adults who no longer can or want to live on their own, but do not require permanent care.
3. ADUs preserve communities by providing more affordable options to people who might otherwise be priced out.
4. ADUs help homeowners build personal and intergenerational wealth.
5. ADUs are naturally affordable to build and rent when compared to other options on the market.

II. Stakeholder Group Process

The stakeholder group or its subgroups met on September 12, September 19, September 20, September 29, October 03, and October 10. All meetings were fully remote and meeting information was posted on GOPIF’s website for public awareness. Meeting notes were made available to members unable to attend a meeting(s). Mr. Fecteau notified the stakeholder group from the outset that all

² <https://nlihc.org/housing-needs-by-state/maine>

³ <https://www.legacysir.com/blog/2023/01/24/maine-home-prices-rose-12-percent-in-2022/>

⁴ https://www.maine.gov/future/sites/maine.gov.future/files/inline-files/State%20of%20Maine%20Housing%20Production%20Needs%20Study_Full_Final_10.3.23.pdf

⁵ <https://www.casitacoalition.org/neighborhoodscalehomes>

recommendations would be recorded in the report and formal votes would not be taken.

A. First Meeting, September 12, 2023

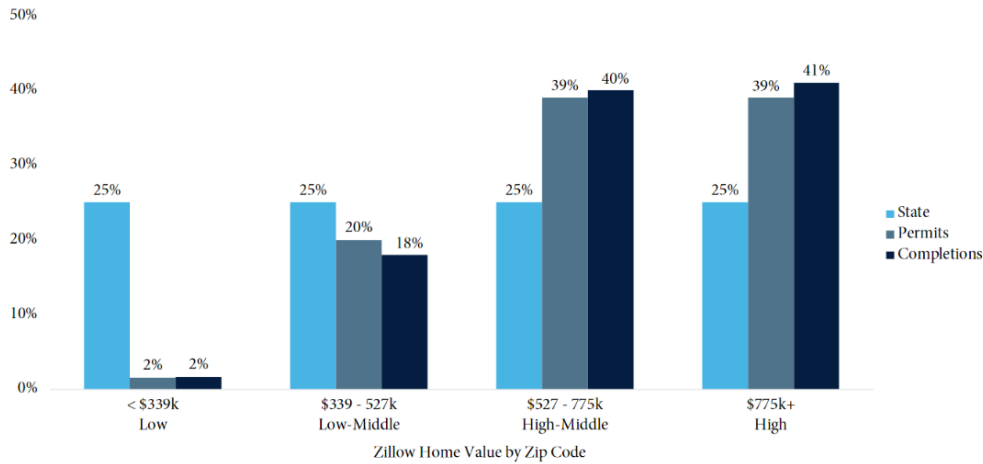
The first meeting of the stakeholder group was held on September 12, 2023. Mr. Fecteau provided an overview of the enabling legislation (Resolve 2023, chapter 107 in Appendix A), covered the duties, process, and timeline for the stakeholder group’s work.

During the remainder of the meeting, David Garcia, Policy Director, and Muhammad Alameldin, Policy Associate, from UC Berkeley Turner Center for Housing Innovation provided a presentation titled, “ADU Financing, Equity, and Innovation in California”. Their presentation is included as Appendix C. Mr. Garcia and Mr. Alameldin were invited by Mr. Fecteau, because of California’s early adoption of ADU provisions like those included in L.D. 2003. California has experience with broader allowances for ADUs and further programming to close financing gaps and offer pre-approved designs.

Mr. Garcia and Mr. Alameldin noted that their analysis of ADU permit data in California found areas with high home values were more likely to have an ADU built. The predominance of ADUs in wealthier California neighborhoods is consistent with one of the most common ways people pay for ADU costs: existing savings or assets.⁶

⁶ <https://www.casitacoalition.org/s/CC-ADU-Finance-Guide-for-Homeowners-v4-31821-33xg.pdf>

Figure 5. ADU Permitting and Completions by Home Values in Zip Code



Source: Calculated by the authors from Annual Production Report data (California Department of Housing and Community Development) and Zillow Home Value Index data.

Mr. Garcia and Mr. Alameldin provided a complete breakdown of ADU financing products and listed their utilization in California. The data was collected by the Center for Community Innovation at UC Berkley between 2018 to 2019. The survey found the following:

| Type of Product | Utilization |
|-----------------|-------------|
| Liquid Assets | 62% |
| Mortgages | 43% |
| Unsecured Debt | 7% |
| Other | 3% |

The most common mortgage products were HELOC or Home Equity Loan (56 percent) and cash-out refinance (35 percent). Renovation loans or other construction loans were only used by 6 percent of those who applied for or received a certificate of occupancy for an ADU between 2018 to 2019. Despite being a tool for those with little home equity, renovation loans seem to be very unpopular according to their presentation.

Mr. Garcia and Mr. Alameldin noted how the FHA 203(k) Rehabilitation Mortgage Insurance could be a worthwhile product. According to the U.S. Department of Housing Urban Development (HUD), the 203(k) “permits homebuyers and homeowners to finance up to \$35,000 into their mortgage to repair, improve, or upgrade their home.”⁷ However, there are issues with this product for ADUs according to the presenters. Prospective rental income is not considered, the ADU must be attached to the existing dwelling, must be owner occupied, and appraiser expertise varies. The Turner Center recommends HUD adjust its consideration of prospective rental income, review attached-only interpretation, require an ADU specific training for appraisers, and clarify ability to include ADU income into appraised value. Several weeks after the Turner Center’s presentation, HUD released a mortgagee letter noting prospective rental income for ADUs would be considered by the Federal Housing Administration (FHA). The letter states, “The provisions of this [mortgagee letter] apply to FHA Single Family Title II Forward and Home Equity Conversion Mortgage (HECM) programs.”⁸

In addition to providing information about existing financing options, the presenters highlighted a program from California Housing Finance Agency. The program provides up to \$40,000 towards pre-development and non-recurring closing costs associated with the construction of an ADU. Pre-development costs include site prep, architectural designs, permits, soil tests, impact fees, property survey, and energy reports. The program has issued \$100M in grants thus and helped finance approximately 2,500 ADUs.

The presenters also highlighted other initiatives such as a requirement that ADUs shall be deemed approved if the local jurisdiction doesn’t act on the application within 60 days, prohibit local jurisdictions from requiring property owners live in the ADU or primary dwelling, exemption from impact fees for ADUs under 750 sq. ft., local jurisdictions are required to create incentive(s) for the creation of ADUs to be rented to very low-, low-, and moderate-income households, prohibition on HOAs from restricting ADUs, and requirement that all local jurisdictions adopt pre-approved ADU plans.

Mr. Garcia and Mr. Alameldin focused on the city of San Diego’s ADU bonus program and the city of San Jose’s pre-approved ADU design program. The latter

⁷ https://www.hud.gov/program_offices/housing/sfh/203k

⁸ <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-17hsgml.pdf>

published a list of pre-approved designs on its website. The companies are vetted by the city. There is a so-called “ADU Universal Checklist” for the homeowner to fill-out and permits are approved within a week.

Following the presentation, stakeholder group participants were invited to ask questions. John Egan from Gensis Community Loan Fund asked about lender consent from the primary lender in the context of San Diego’s bonus ADU program. Mr. Garcia said most of the property owners are accessing commercial loans because of the increased number of units on the lot. Chris Lee from Backyard ADUs asked why the Cal FHA ADU loan program wasn’t a forgivable loan. Mr. Garcia said Cal FHA heard from lenders that a grant program would be most conducive with the existing funding mechanisms. Mr. Fecteau asked if the Cal FHA program had income restrictions. Mr. Alameldin said they didn’t. Parin Meyer from BrightBuilt Homes asked about the deed restriction requirement for the San Diego ADU bonus program when the property is sold. Mr. Alameldin said the deed restriction moves with the sale of the property. There was also a discussion about short-term rentals. Mr. Garcia noted that the characteristics of a community will likely dictate the percentage of ADUs that are used for short-term rentals. Kim Nason from Machias Savings Bank said most of her ADU lending has been for customers looking to add short-term rentals, only a few for family members. Mr. Fecteau asked about infrastructure considerations like access to public sewer and water. Mr. Garcia noted that impact fees collected by local jurisdictions assist with capital improvements. He said there is a conversation in the legislature about providing additional funds to local jurisdictions for infrastructure upgrades. Amanda Campbell from Maine Municipal Association asked about water availability. Mr. Garcia said the water agencies in California are given authority to determine the adequacy of the resource. Mr. Alameldin noted that ADUs consume 40 percent less water compared to larger housing types. Mr. Fecteau asked about cost savings from pre-approved designs. Mr. Garcia noted that design costs represent 5-10 percent of the soft costs in California for ADUs. Thus, homeowners are saving in that regard. Mr. Lee asked about the uptake of pre-approved designs. Mr. Garcia noted that uptake remains modest, because those building ADUs tend to be wealthier and thus interested in customization. Andrew Hayes from OPAL Build asked about energy efficiency incentives for ADUs. Mr. Garcia said the building code drives ADUs to being highly efficient. In fact, builders in California are seeking a separate code for ADUs due to the fundamental difference and inherent efficiencies between ADUs and single-family.

The meeting concluded with instructions from Mr. Fecteau regarding the next meetings for the two subgroups.

B. First Meeting, Group A – Finance, September 19, 2023

The first meeting of the stakeholder group's smaller cohort focused on ADU financing was held on September 19, 2023. The meeting started with introductions. Mr. Fecteau outlined several prompts for discussion. The prompts included:

1. What's the status of financing ADUs today?
2. What would improve access to financing and lending approvals?
3. Are there subject matter experts we should invite to our next meeting?

In response to the first prompt, the following notes were recorded:

- Is everyone on the same page about what's to occur because of L.D. 2003? There seems to be a need to get the word out and to get municipal officials to help so people understand that they could add an ADU to their property if they wanted to.
- There is difficulty finding contractors who are willing to build ADUs.
- The high interest rates are discouraging people to borrow or perhaps outright disqualifying them from being able to borrow.
- ADUs being a product for wealthier individuals is only a recent phenomenon. In the past, it was very common to see families of all incomes being able to afford to build them.
- ADUs are not being built as rental units in New England. The cost to build is so high that even market rate rents wouldn't cover the cost.
- Many older adults in Maine have a lot of equity in their homes and that's a very common means to pay for the ADU. Families are also pooling their cash and assets together.
- Home equity lines of credit can keep the costs down.
- RenoFi uses renovation underwriting to leverage the future value of the property get financing for the project. They can go up to 125 percent on loan to value ratio.
- Grants from local towns and cities have helped cover financing gaps. Kittery and Auburn issued ADU grants.

- The Community Economic Development Assistance Corporation (CEDAC) offers a Home Modification Loan Program (HMLP) for older adults and persons with disabilities. The loans are up to \$50,000 and 0% interest rate.
- The typical financing gap is between \$100-\$150K.
- Banks are hesitant around counting potential rental income from an ADU.
- Appraised value of an ADU is difficult to determine.
- Manufactured or off-site built ADUs are constrained by licensing requirements for set crews.
- North Hampton, MA has a small-unit incentive known as “Half-Scale Units”.
- Higher income earners have plenty of tools. We need to find a way to address the barriers faced by low- and middle-income earners.

In response to the second prompt, the following notes were recorded:

- When it comes to cost and things related to that, banks cannot really make much of an impact due to federal regulations and requirements.
- On the topic of loan to value ratios, would there be a product that MaineHousing or FAME could create to help mitigate this issue on the insurance front?
- You have a delivery system via banks that works well. People are familiar with it. However, they face constraints that prevent them from going above 120 percent loan to value.
- Could a TIF be used for ADUs by a municipality?
- It is possible a TIF wouldn't retain enough value to work for this.
- There could be some challenges with MaineHousing, but it seems like it could be a very good option, especially since they have existing relationships with lenders.
- A deferred loan program would be the best option for spurring ADU production.
- Skeptical that \$40K grants would be enough to have a huge impact. The sweet spot for support would be in the \$100K range.
- Is it possible for the Federal Home Loan Bank in Boston to have an impact here? They issue a lot of grants.
- Assessors are required to determine value based on this idea that is a “feature of the property”. Could this be changed at the federal level?

In response to the third prompt, the following notes were recorded:

- Salem, MA has one of the largest municipal grant programs. Should we invite someone to speak about their program?
- Casita Coalition has a lot of great information about financing.

C. First Meeting, Group B – Designs, September 20, 2023

The first meeting of stakeholder group’s smaller cohort focused on pre-approved ADU designs was held on September 20, 2023. The meeting started with introductions. Mr. Fecteau outlined several prompts for discussion. The prompts included:

1. Who or how could pre-approved designs help?
2. What would a successful pre-approved design program look like?
3. Are there subject matter experts we should invite to our next meeting?

In response to the first prompt, the following notes were recorded:

- People just don’t know where to start. Most people who are interested in an ADU haven’t built a home before and even some people who have built a home are looking for easier ways, more navigation-friendly system.
- There are not enough examples of ADUs out in the real world for consumers to see and then say, “I want one of those.”
- How is building an ADU any different than building a regular home?
- It is different, because ADUs can go on lots with existing single-family home. Therefore, we have an opportunity to maximize lots that have already been built and used for residential purposes.
- From a municipal perspective, it would be helpful to have a stamped set of plans. If you had a pre-approved design, working with a specific firm(s), a checklist of code compliant things.
- Every lot is set up differently, if there was a guide sheet to direct homeowners to what an ADU would be, a checklist of what they need to make the ADU a reality. To just have the state publish a set of designs, not sure this will work due to differences with lots.

- Makes a lot of sense to have pre-approved products from a design firm perspective.
- Auburn looked at South Bend, Indiana for a similar pre-approved design model. Auburn wanted 2-3 designs (detached designs were less complex). Six different plans for people to choose from. The cost for the municipality was too significant.
- Could you assign plan value to the pre-approved designs? Say \$10K which would help when seeking funds from a bank.
- It is important to assess the quality/character of the companies that would be submitting the pre-approved designs.
- Let's also remember that there are a lot of citizens that are skilled enough who would build it themselves if they had the plans to do so.

In response to the first prompt, the following notes were recorded:

- Every site is different so there needs to be consideration given there. A successful program could lean on manufactured or CrossMod requirements that are already pre-approved via HUD inspectors. Perhaps, this would also help save on the overall costs.
- If it is pre-approved, we need to make sure that there are no longer delays issuing a certificate of occupancy—would really help the consumer.
- When we talk about pre-approved, a successful program would be pre-approvals on the design itself not on the site work that would still be necessary given differences in lot types.
- It would be best for the state to send out a request for proposals and then let towns opt-in to accepting the designs as pre-approved.
- Another helpful program could be a state reimbursed building permit for an ADU. Standardizing the permitting costs across the state. Auburn has reduced permit fees to \$25.
- Would likely be helpful to have the architectural or design firm responsible for the design remain involved to help guide the consumer.
- Would be good to get regular feedback from code officers to update designs on an as-needed basis.
- If you're doing an attached structure, it is unlikely you will be able to the keep the savings on the architectural design.

- Would remove some of the concerns around codes for towns that have to share code enforcement officers and whose resources are stretched thin.
- Would it be worthwhile to include pre-approved designs beyond ADUs, such as duplexes, in-fill single-family, etc.?
- Is there a way to capture the spirit of the manufactured housing code and apply it to this?
- From a design perspective, it is important to maintain designer fingerprints on this.
- Modular pre-approved design could help significantly with reducing the time for these projects.

In response to the third prompt, the following notes were recorded:

- Inviting folks from the pre-approved design program in South Bend, Indiana was mentioned.
- Inviting folks from the pre-approved design program in Seattle, Washington was mentioned.
- Inviting folks from the pre-approved design program in Bend, Oregon was mentioned.

Second Meeting, Group A – Finance, September 29, 2023

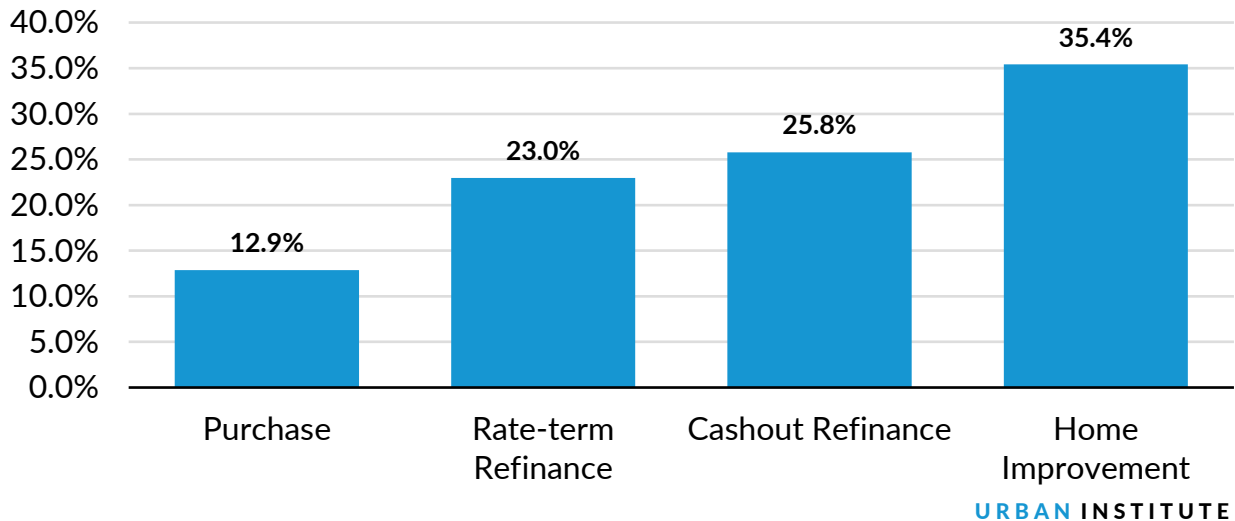
The second meeting of the stakeholder group’s smaller cohort focused on ADU financing was held September 29, 2023. The group received two presentations. The first presentation was provided by Laurie Goodman, Institute Fellow, Housing Finance Policy Center at the Urban Institute. Her presentation is included as Appendix D. Ms. Goodman was invited by Mr. Fecteau due to her expertise and inclusion in an article focused on ADU financing. The article noted, “[Ms. Goodman] says to get ADU construction financed with a renovation loan, homeowners must navigate complicated and expensive planning requirements and meet development standards that usually involve hiring professional consultants and maneuvering through a cumbersome borrowing process—that is, if they can even find a willing lender.”⁹

⁹ <https://shelterforce.org/2022/05/09/how-financing-barriers-keep-adus-expensive/>

Ms. Goodman’s presentation started with a refresher on various types of ADU configurations and highlighted places in the United States, like Maine, with broader allowances for ADUs. In addition, Ms. Goodman highlighted the rapid increase in ADU permits in the state of California from just under 10,000 issued permits in 2017 to just over 30,000 issued permits in 2022. She noted how California has reduced regulatory barriers and deployed a state grant for ADUs.

In addition, Ms. Goodman noted the ways homeowners can finance renovations or ADU construction. They include cash, personal loans, short-term loans, home equity extraction (i.e., home equity loans, lines of credit, and cash-out refinance), renovation financing via federal-agency backed financing from Fannie Mae, Freddie Mac, and Federal Housing Administration (FHA), and private financing from banks and credit unions. However, while these options exist, Ms. Goodman said, leveraging home equity to finance renovation or ADU construction is best suited for wealthy households. The average credit score to qualify for home equity line of credits (HELOCs) are more than 760 and have high income requirements. Home equity lending is capped at 80 percent of the current market value of the property, and it doesn’t consider prospective rental income from an ADU. Federal renovation financing is other option highlighted by Ms. Goodman’s presentation. She said, “Federal renovation financing is cumbersome and expensive for lenders.” The FHA 203k program two forms: the limited which has a \$35K max loan and a standard form which has several requirements. The standard form requires lenders to review contractor credentials, work plans, and cost estimates. The repairs must start within 30 days of closing and be completed in six months. Any delays or cost overruns require lender involvement. Borrower must hire a HUD consultant to oversee the renovation process. The median standard form loan in 2020 was \$75K and less than 4,000 loans were issued in 2022 nationwide. In addition, Fannie Mae Homestyle Program, Freddie Mac CHOICE Renovation, and Freddie Mac CHOICE Renovation eXpress programs have similarly burdensome requirement and thus low utilization by consumers. Ms. Goodman also shared data reflecting the high denial rates on renovation financing.

Denial Rates by Loan Purpose in 2022



Source: Home Mortgage Disclosure Act Data (2022) and Urban

Ms. Goodman subsequently highlighted improvements that could be made to lending products for ADUs. They include the following:

- ADU underwriting should provide at least 50 percent credit for prospective rental income. This will help quality homeowners with lower incomes like older adults.
- Appraisals should be completed on an “after-repair” basis. This is currently difficult due to lack of comps. Government-sponsored enterprises (GSEs) like Fannie Mae and Freddie Mac should share info on the value add resulting from ADUs.
- The maximum 80 percent loan to value (LTV) cap for home equity lending should be raised to 90 percent so long as funds are used to improve the home and to 95 percent if adding a factory built ADU.
- The loan amount should be increased from the 35K threshold for limited form loan to \$50K to \$75K.
- Second lien financing is important, particularly for borrowers who are locked into low interest mortgages.

Ms. Goodman concluded her presentation by saying, “We need to completely revamp the way we think about renovation financing.” She said federal agencies and lenders need reasonable assurance that construction will be completed on time

and within budget. She suggested establishing a pre-approved list of contractors and vendors for ADU projects. She used an example in the city of Detroit, Michigan where Rocket Mortgage's philanthropic arm worked with Home Depot and their approved contractors and vendor list to repair thousands of abandoned homes. The repairs were standardized to minimize labor and material costs. Contractors were subject to quality standards, background checks, and other means of vetting to ensure quality.

Ms. Goodman fielded questions from the stakeholder group. Sarah Sturtevant, Shaw Innovation Fellow at the Muskie School of Public Service wondered if a prospective ADU tenant with social security provided lenders with the assurance they need to consider rental income. Ms. Goodman said lenders will consider income from other people living in the primary home up to 30 percent. Kimberly Twitchell at NBT Bank asked about whether tax credits have been considered. Mr. Fecteau noted a failed proposal in New York to provide property tax exemptions for ADUs.¹⁰ He also mentioned how the tax incentive would likely benefit those who already have the means to finance an ADU. Janice De Lima from Norway Savings Bank asked if there might be a re-insurance product for banks to purchase to mitigate risk against ADU lending. Ms. Goodman said she was not aware of any re-insurance products. However, she said there is a company called RenoFi that works with a lot of credit unions. RenoFi evaluates the quality of contractors and are trying to correct for the deficiencies in renovation financing.

The group also received a presentation from Amanda Chiancola from the city of Salem, Massachusetts. Ms. Chiancola noted that Salem considers all ADUs to be an extra bedroom for the purpose of tax evaluation instead of a separate structure or dwelling. Salem has also created a design grant up to \$2,500 for ADUs. In addition, they offer a construction grant up to \$45,000. The grant covers materials and labor. Salem applies a restrictive covenant to grant recipients that caps the rent at 50 percent of the fair market rent. Mr. Fecteau asked the presenter what the uptake has been. Ms. Chiancola said they have ten applicants at this point.

In addition, Mr. Fecteau asked the lenders in the group how they would account for this kind of grant funding when evaluating an applicant's qualifications to finance the remaining cost of a project. Ms. De Lima said that lenders are still held to the

¹⁰ <https://www.governor.ny.gov/news/governor-hochul-announces-statewide-strategy-address-new-yorks-housing-crisis-and-build-800000>

appraisal and the applicant's income. Kim Nason from Machias Savings Bank said they would consider the grant funds, but ultimately, they will be relying on the true cost of the project. They will lend on the lower of the acquisition cost or the appraised value.

Ms. De Lima asked if the applicants need to have a certain income. Ms. Chiancola said they do not need to have a certain income to apply for the grant. Rebecca Graham from Maine Municipal Association asked how long the restrictive covenant is in place. Ms. Chiancola said it is for 20 years. John Egan from Genesis Community Loan Fund asked if the ADU could be used as a short-term rental. Ms. Chiancola said that Salem has a short-term rental prohibition. Chris Lee from Backyard ADUs noted that Salem's grant program can be paired with a home modification zero percent interest loan from the state of Massachusetts.¹¹

At the conclusion of the meeting, the group discussed whether it felt like more information was needed before determining its recommendations. The group decided it would be helpful to invite an assessor and an appraiser for a brief conversation and then work on determining its recommendations.

Second Meeting, Group B – Designs, October 03, 2023

The second meeting of the stakeholder group's smaller cohort focused on pre-approved ADU designs was held on October 03, 2023. The meeting started with introductions. The group invited Matthew Petty, CEO of Pattern Zones Co., to present. His presentation is included as Appendix E. Mr. Petty has served as an alderman in Fayetteville, Arkansas and founded Infill Group, a planning firm. He is regarded as an expert on pre-approved designs.

Mr. Petty started by sharing his experience as a policymaker in Fayetteville and working with jurisdictions in other states. While regulatory reform is important according to Mr. Petty, it alone cannot unlock the housing needed to address the availability and affordability. Mr. Petty said pre-approved designs are based on the premise of incremental development. He added, "It's better when neighborhoods grow in familiar patterns." Pre-approved building programs can help guide the market towards building types and designs that are familiar to a neighborhood or community.

¹¹ <https://cedac.org/hmlp/>

Mr. Petty subsequently noted, “Convenience in permitting drives market response. Careful pre-approvals could be the foundation for a new market standard.” He said that developers value convenience above all else. It is important to keep convenience at the center of a pre-approved design program. Mr. Petty added that single-family permits are usually easy to acquire. The permits issued under a pre-approved design program should reflect the same ease. He placed emphasis on the fact that the review is not deleted, but rather it is all done upfront before an applicant walks through the door.

He presented a case study from Claremore, Oklahoma. This is a city in northeastern Oklahoma—near Tulsa, Oklahoma. It has a population of 19,580. The city adopted what they call a “unified development code” (UDC).¹² The UDC includes pre-approvals, including for subdivisions. They issue permits in under 96 hours. The UDC provides preference for compact, single-family homes. Mr. Petty added that the city receives substantially completed plans which promotes quick turnaround. This does not happen outside of a pre-approved design program.

Mr. Petty provided the group with standards and best practices to keep in mind when designing such a program. The best practices include the following:

- Provide 8-12 choices per building type. For example, if you have a pre-approved ADU program, you should offer 8-12 garage conversion designs, 8-12 detached ADU designs, and 8-12 attached designs. Mr. Petty said this is the psychology of choice.
- Thematic variations of buildings to give people enough choice for the program to be utilized.
- Supplemental application criteria.
- Applicants must opt-in which means when they walk into city hall, staff should make the applicant aware of the program and emphasize the ease.
- Sponsored plan fees are preferable.
- Easy portfolio swaps to comply with code changes and to make sure one type of design doesn’t get overly subscribed.

In addition, Mr. Petty noted that there a few variations of pre-approved programs. These include the following:

¹² <https://claremore.com/wp-content/uploads/2022/08/Unified-Development-Code-Final-Version.pdf>

- An open-source plan which is a license for construction free of charge by the design or architect.
- A pre-approved building which has a contingent building permit on file with the building safety division.
- A patten zone which combines pre-approved buildings with programmatic enhancements.

There are several ways these are paid for. These include the following:

- Pay-per use: the city has pre-approved the building, but applicants still need to purchase the plans from the architect or a clearinghouse that is a custodian of the plans.
- Jurisdiction sponsorship: the local jurisdiction pays a one-time or annual fee for use of the plans.

Mr. Petty added that it is important to have “variations-on-a-theme”. In other words, you want similarity between each design. He used a pre-approved design program in Bryan, Texas as an example. Each design was inspired by a locally beloved home. He said, “They feel just different enough.”

He also said that pre-approved designs are a great opportunity for experimentation. He worked in a town that did not allow for courtyard subdivisions; however, they were willing to allow it if the developer used pre-approved designs. Mr. Petty said, “Like it or not, [the unknown] is one of the main reasons we see public objection to our planning proposals.” Pre-approval programs ensure predictably for the community regarding the appearance of new zoning concepts.

In conclusion, Mr. Petty emphasized the importance of making the pre-approved designs as accessible as possible to the public. He also showed an example website where applicants could simply click a design and it would send a professionally packaged application to the planning office.

During the discussion with Mr. Petty, Rebecca Graham from Maine Municipal Association (MMA) asked how towns with pre-approval programs handle storm water approvals. Mr. Petty said Spokane, Washington has what they call a “water-wise program” where pre-approved landscape components are offered. If the

applicant adopts those components, they are exempt from calculations. In addition, he said in Fayetteville, Arkansas, they have a green storm water facility that is predesigned that goes down the side of the property which simplifies the calculations. Parlin Meyer from BrightBuilt Homes asked if there are any statewide programs of this nature. Mr. Petty said only California has a requirement to adopt such a program and the local jurisdictions are responsible for program designs. He also said there is interest from the Michigan Land Bank Authority to establish a portfolio of pre-approved designs. He said the gold standard for a statewide program would be to work with a state building official to pre-approve designs that preempt local approvals. Phil Kaplan from Kaplan Thompson Architects asked about liability for the architects. Mr. Petty said contracts signed by the builders include a clause that they will assume all the liability. Mr. Fecteau asked about modular building and pre-approved programs. Mr. Petty said he was not aware of any pre-approved programs with modular designs. Ms. Graham asked if towns require additional licensure or vetting for builders who wish to build pre-approved designs. Mr. Petty said he was not aware of such requirements anywhere. He did say that a program with a builder vetting process could be a value add. Jennie Franceschi from the city of Westbrook asked about site work. Mr. Petty said that pre-approvals do not extend to foundation work, as an example.

The group concluded its meeting by deciding that it would meet once more on Tuesday, October 10, 2023. The purpose of the meeting would be to determine its recommendations.

Third Meeting, Group A – Finance, October 10, 2023

The third meeting of the stakeholder group's smaller cohort focused on ADU financing was held October 10, 2023. The group was joined by Kerry Leichtman, assessor for the towns of Camden and Rockport. Mr. Leichtman said there is not a neat category for an ADU. Assessors use various codes that incorporate more than single-family units on a single parcel. Mr. Leichtman also noted that assessors are required by Maine law to consider all potential avenues towards value. Therefore, rental income from an ADU would increase the value of the property. Mr. Fecteau asked how assessors determine if rental income is being derived. Mr. Leichtman said they would ask the homeowner. Sarah Sturtevant, Shaw Innovation Fellow at the Muskie School of Public Service asked about the cost of construction being incongruent with the appraisal value. Mr. Leichtman said they are more attuned to

the sale price. After the third bedroom, at least in Rockport, Mr. Leichtman said they would not assess more value. If the ADU was attached to the existing home and resulted in a fourth bedroom or more, no additional value would be assessed. Janice De Lima from Norway Savings Bank asked if there is a statewide standard around assessing. Mr. Leichtman said there are some aspects governed by statute, but there are nuances from community to community.

Mr. Leichtman added, “I mentioned that assessing systems differ from town to town, but they do so on the... the micro levels, not the macro. We all, for example, code a single-family dwelling with land use code 1010. 1090 for multi house parcels is probably also common to us all. All dwelling unit properties’ land use code begins with 10. The second two digits define the details, which is where we can differ from municipality to municipality. In Rockport we have a code for 2-unit and three-unit, then we group as four-seven units as a single code and eight-plus as another code. In Camden, we have an individual code for two, three, four, five, six, seven units and then go eight-plus.”

In addition to the assessor’s perspective offered by Mr. Leichtman, Mr. Fecteau and Ms. De Lima met with Jake Wight from Oceanside Appraisal, LLC on October 11, 2023, in order to capture an appraiser’s perspective on ADUs. Mr. Wight shared that appraisers place tremendous emphasis on market comparables when determining value. The prospective income from an ADU is not given as much value when an owner-occupancy requirement is in place, because it restricts both the primary dwelling and ADU from being income generating. Rebecca Graham from Maine Municipal Association noted how owner-occupancy is sometimes required for municipal grant programs or other public programs. Mr. Wight said the appraised value does not reflect the full cost of ADU construction. There is some impact to the appraised value if prospective buyers in the market lack interest in ADUs or vice versa. He also said there could be increased value if the ADU was allowed to be sold on its own as a condominium; however, condominiums have their own appraisal limitations. Ultimately, the uniqueness and scarce sale history of ADUs is likely constraining their appraisal valuations.

The group discussed its recommendations for the legislature. Mr. Fecteau clarified that votes would not be taken, and all suggestions would be captured in the report. Therefore, the recommendations below are not categorized in any order. No one recommendation necessarily represents a plurality of the subgroups’ perspective. The recommendations have been categorized for easier reading.

Challenges

Firstly, the group acknowledged the challenges being able to pinpoint a specific solution or solutions. Due to risk factors for the lender, what the appraisal will say, federal regulations, and more, it might be difficult to implement a program that resolves the bulk of the financial barriers.

Financial Assistance

The group focused a great deal of discussion on financial assistance program. They included:

- An insurance product offered by the state that mitigates the risks for lenders.
- A grant program that is funded by the state and administered by municipalities. Some members of the group noted the importance of finding a way to not spend this down quickly or to achieve substantial funding.
- An interest buy-down program like the “First Generation” program offered by MaineHousing. The buyer would receive a mortgage with a lower-interest rate and a grant for closing costs if they agree to add an ADU for an older adult on the property.
- An interest buy-down program designated for those employed in the building trades. This program would try to incentivize attraction and growth in this workforce sector.
- A securitized loan offered by the state like what the Finance Authority of Maine (FAME) offers on the commercial lending side. MaineHousing suggested as the entity to provide this product.
- A secondary mortgage program offered by the state, particularly useful for homeowners locked into low-interest rates on their primary mortgage.
- A deferred loan program offered by the state which would come due when the homeowner sells, or the property gets transferred to a new owner. The product would be zero percent interest or less than three percent, a maximum award of \$100K, and could include rental income restriction.

Municipal Incentives

The group discussed ways in which the state and municipalities might provide financial incentives. They included:

- A tax increment financing (TIF) mechanism could be available specific to ADUs to encourage a municipality to increase their usage. A member noted this could be challenging due to the lack of retained value in ADUs. It would be difficult to realize an increment if the assessment doesn't change all that much. The state would likely need to provide support for it to be a valuable incentive.
- A state program that matches the value of a TIF for the purposes of ADUs and incentivizes the community to increase the assessed value. A member noted this could be like the Tree Growth Program but would require a constitutional amendment.
- A program that reduces or eliminates property taxes for the homeowner if they build an ADU and provide an income-restricted rent. Senator Stacey Brenner has submitted L.D. 1538 "An Act to Provide Tax Benefits to Persons Constructing Accessory Dwelling Unit" which has a similar intent. The bill has been carried over in the Taxation Committee.¹³

Real Estate Transactions

The group discussed a unique mechanism that could be applied at the time of a real estate transaction. This included:

- Implement a similar transaction known as the "sale leaseback" in the commercial context. By leveraging the consumer directed personal assistance program (CDPAP), a purchaser could buy a home from an older adult and then earn up to \$30K per year in additional income to provide personal care to the dual eligible older adult. Accounting for this additional income would help with the debt-to-income ratio on the mortgage and ADU loan. Most likely a transaction between family members.

Technical Changes

The group discussed some technical changes that could be made to address financial barriers for ADUs. They included:

- Improvements to how ADUs are assessed must be made. This includes establishing commonly used terminology and comparable values. A member noted that Maine Revenue Services (MRS) has a major role in establishing the assessment criteria.

¹³ <https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0611&item=1&snum=131>

- Increased appraisal values are more important than increased assessment values because banks are relying on the appraisals to determine loan to value (DTV) ratios.
- Require the Real Estate Appraisal Board to update their MRS standards to include ADU values.
- Send a letter to the appropriate federal agencies to compel them to publish ADU values for better comparables, require financial institutions to consider prospective rental income from an ADU, and making changes to construction loan regulations as noted in Laurie Goodman’s presentation.
- Eliminate requirements that either the primary dwelling or the accessory dwelling be owner-occupied.
- Allow ADUs to be sold as condominiums with their own unique address.

Education and Training

The group discussed the importance of education and training concerning ADUs. These ideas included:

- Create a statewide ADU ombudsman position to assist homeowners with understanding financing, construction, timelines, requirements, and other applicable standards.
- Implement a public service announcement campaign and educational resources regarding what it takes to build an ADU, costs, and the financial tools available to homeowners.
- A grant program tied to a student training program. The training program receives funds to build ADUs and then sells or donates the product to an income eligible homeowner.
- In order to address the lack of workforce to build ADUs, the Community College System might consider establishing a construction sector focus program or campus to include legal, appraisal, and trades tracks.
- Provide a state sponsored education program on tips and best practices for being a landlord, including maintenance plans and leasing. Many potential homeowners who could build ADUs have never been a landlord.

Third Meeting, Group B – Designs, October 10, 2023

The third meeting of the stakeholder group’s smaller cohort focused on pre-approved ADU designs was held on October 10, 2023.

The group discussed its recommendations for the legislature. Mr. Fecteau clarified that votes would not be taken, and all suggestions would be captured in the report. Therefore, the recommendations below are not categorized in any order. No one recommendation necessarily represents a plurality of the subgroups' perspective. The recommendations have been categorized for easier reading.

Overall Positions

The group discussed some topline points that ought to be considered when contemplating pre-approved designs. These points included:

- Pre-approved design programs should be adopted to address the housing crisis.
- ADU pre-approval programs should not be compulsory for residents. However, compulsory designs could be a tool for towns that want to allow developments that they wouldn't normally allow (i.e., courtyard subdivisions).
- A pre-approved program should be streamlined, efficient, and accessible. It should be much faster than a normal building project.
- A pre-approved program would be helpful in efforts to educate the public about ADUs by providing conceivable designs.

State Pre-Approved Program

The group focused a great deal of discussion on the concept of a state created pre-approved ADU design program. The concept varied in structure and included the following ideas:

- The state should establish a pre-approved program and determine which subscription type it will adopt, what typical sq. ft. it wants for an ADU, and the types it will want to pursue (i.e., garage conversion, backyard, attached, etc.).
- The state should establish a portfolio of designs towns could opt-in and then make determinations regarding aesthetic. It was noted this approach could result in design repetitiveness. It would be important to refresh the designs on a regular basis. There should be 8-12 design options for several typologies (i.e., garage conversion, backyard detached, attached, etc.).
- A state pre-approved program should solicit designs from multiple firms and the program should allow for exterior aesthetics to be customized.

- A state pre-approved program should create the scaffolding for the requirements that will need to be met so that the designers know what they need to do, and towns do not feel overwhelmed regarding where to start.
- A state pre-approved program should meet federal and state regulations including fire code, and the uniform energy and building codes.
- Interested municipalities should be included in the program design process to ensure it reflects what they would want.
- A state pre-approved program should start small. It would be better to partner with a small group of towns to prove that the program can be successful. Have them apply for funds to implement the program and tailor designs that reflect their community.
- A state pre-approved program should assist communities that do not have robust resources for permit review and permitting processes. It could be useful to have state official that can preempt local approval processes when pre-approved designs are being used.
- A state pre-approved design that is different for each community and tailored to their needs would be the best approach. Have communities self-identify where these pre-approved designs will be applicable.
- Municipalities should be to access assistance from state building officials to implement a pre-approved design program and determine characteristics that reflect community conditions.

Modular Designs for Pre-Approvals

The group discussed the importance of off-site, modular construction for a pre-approved design program. The points included:

- Off-site manufactured housing should be leveraged for pre-approval by either towns or the state.
- There are improvements that could be made to the Maine Manufactured Housing Board to increase companies and professionals involved in building pre-approved building types.

Create Grant Programs

The group also discussed the possibility of a grant programs to aid a pre-approved design program. These ideas included:

- Create grants for communities to fund needed capacity to administer a pre-approved program.

- Issue grants to licensed design professionals to develop a catalog of pre-approved designs that the state or local jurisdiction would subsequently own.

III. Recommendations

Each stakeholder group made a series of recommendations. These recommendations were not brought to a vote. All recommendations presented by a member or members were recorded. They may or may not represent a plurality. Below are the recommendations in a compiled format. You can find the full series of recommendations beginning on pages 19 and 23 respectively.

Recommendation #1. A financial incentive program such as a grant, deferred loan, or interest buy-down should be established to off-set the cost of ADUs.

Recommendation #2. A financial product should be created to either securitize existing financing options or make a secondary mortgage possible.

Recommendation #3. Municipal incentives should be established for ADUs, including tax increment financing (TIF) or property tax relief.

Recommendation #4. The concept of sale-lease back, used at times in commercial sales, should be investigated as a tool for building ADUs for older adults.

Recommendation #5. Several technical barriers need to be addressed, including but not limited to, changes in the appraisal and assessment process such as terminology used to define ADUs, allowances for condominium conversion, and eliminating some owner-occupancy requirements.

Recommendation #6. Education and training programs should be designed to inform consumers about ADUs and to prepare a workforce to build them.

Recommendation #7. A pre-approved ADU design program should streamline approvals, receive an engineer stamp, meet the Maine Uniform Energy and Building Code (MUBEC), and not be compulsory for consumers. It might be valuable to make the pre-approved designs compulsory in certain neighborhoods.

Recommendation #8. The state should establish a pre-approved ADU design program with a multitude of designs for a range of typologies such as garage conversion and backyard detached units. There are numerous recommendations regarding how this program could be configured.

Recommendation #9. A state pre-approved design program should include off-site, modularly built ADUs and changes should be made to bring more modular building to Maine.

Recommendation #10. Grant programs should be created to assist municipalities with limited capacity to administer pre-approved programs and conduct permit reviews.

Appendix A

APPROVED

JULY 26, 2023

BY GOVERNOR

CHAPTER

107

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 271 - L.D. 654

Resolve, Directing the Office of Policy Innovation and the Future to Study Methods to Encourage the Development of Accessory Dwelling Units

Sec. 1. Stakeholder group regarding accessory dwelling units; encourage development and construction. Resolved: That the Office of Policy Innovation and the Future shall convene a group of stakeholders including, but not limited to, representatives from the Department of Economic and Community Development, the Maine State Housing Authority, community lending institutions, the construction industry and the manufactured and modular housing industry to study methods and develop model policy to encourage the development and construction of accessory dwelling units. Methods may include, but are not limited to, financing and incentive programs for the development and construction of accessory dwelling units. The stakeholder group shall review existing models for financing and incentivizing accessory dwelling units; explore standardized building designs; solicit input from interested parties; and review municipal efforts to adopt ordinances governing accessory dwelling units. The office shall submit a report, with findings and recommendations of the stakeholder group, including suggested legislation, to the Joint Select Committee on Housing no later than March 1, 2024. The joint select committee may submit a bill to the Second Regular Session of the 131st Legislature relating to the subject matter of the report.

Appendix B



ADU Financing, Equity, and Innovation in California

Presented by UC Berkeley Turner Center for Housing Innovation

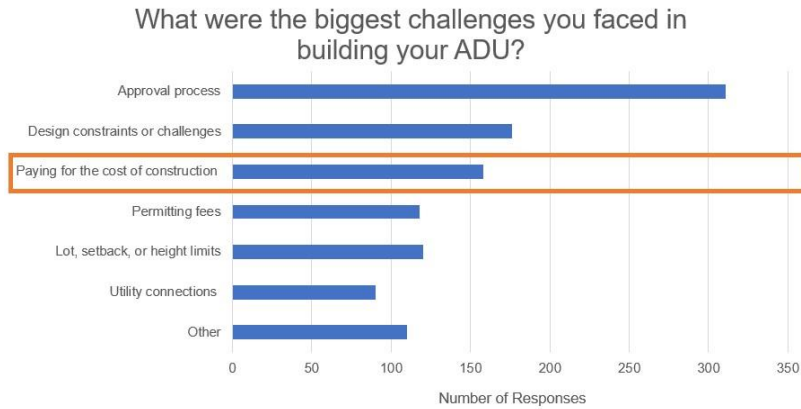
David Garcia, Policy Director
Muhammad Alameldin, Policy Associate

September 12, 2023



ADU financing and costs

Financing is challenging for many, including those who successfully built their ADU

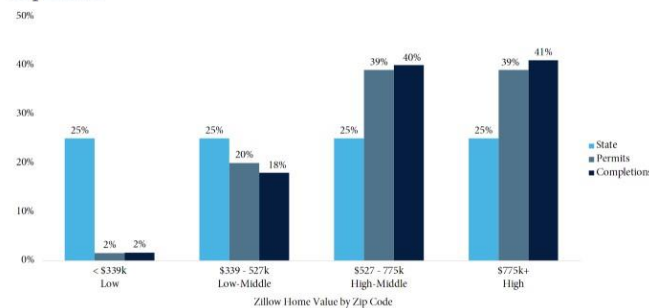


Source: Chapple, Karen, Dori Ganetsos, and Emmanuel Lopez. "Implementing the Backyard Revolution: Perspectives of California's ADU Owners." Center for Community Innovation: University of California, Berkeley, April 22, 2021. 800 survey participants who applied for a permit or received a certificate of occupancy in 2018 or 2019 in California.

ADUs are predominantly built in wealthier neighborhoods due to complex financing

ADUs are predominantly built in areas with high home values...

Figure 5. ADU Permitting and Completions by Home Values in Zip Code



Source: Chapple, Karen, David Garcia, Eric Velchuis, and Julian Tucker. "Reaching California's ADU Potential: Progress to Date and the Need for ADU Finance." Center for Community Innovation and the Turner Center for Housing Innovation: University of California, Berkeley, August 2020. http://turnercenter.berkeley.edu/uploads/Reaching_California's_ADU_Potential_2020_L.pdf. Right: if the coefficient for a given independent variable (e.g., % Black residents) is greater than zero, meaning that the independent variable has a positive effect on the dependent variable, a (+) is shown. If the coefficient is negative, then a (-) is shown. If the results are statistically insignificant, then the area is shaded grey.

How have people been financing ADU construction?

| Type of Product | Utilization |
|-----------------|-------------|
| Liquid Assets | 62% |
| Mortgages | 43% |
| Unsecured Debt | 7% |
| Other | 3% |

| | |
|--|-----|
| HELOC / Home Equity Loan | 56% |
| Cash-out refinance | 35% |
| Renovation Loan or other construction loan | 6% |

*Renovation loans are unpopular despite being a tool for those with little home equity. **Why?***

Source: Chapple, Karen, Dori Ganetsos, and Emmanuel Lopez. "Implementing the Backyard Revolution: Perspectives of California's ADUers." Center for Community Innovation: University of California, Berkeley, April 22, 2021. 800 survey participants who applied for a permit or received a certificate of occupancy in 2018 or 2019 in California.

FHFA 203(K) program could provide financing, but issues remains

| ADU Specific | | | General |
|--|---|---|--|
| Rental Income | Eligibility | Appraisals | |
| Consideration of stable income: <ul style="list-style-type: none"> • In-place lease • No in-place lease • Unbuilt ADU | <ul style="list-style-type: none"> • Single family dwelling only • One ADU only • Attached only • Owner-occupied only | <ul style="list-style-type: none"> • Appraiser expertise | <ul style="list-style-type: none"> • Higher interest rates or fees • Long closing timeframe • High rate of denial • Releasing money more easily to contractors |

Recommendations – FHFA 203(k)

| ADU Specific | | | General |
|--|---|--|---|
| Rental Income | Eligibility | Appraisals | |
| <ul style="list-style-type: none"> Analyze performance of loans with ADUs; modify guidelines as appropriate | <ul style="list-style-type: none"> Analyze potential to allow ADUs on 2-4 unit properties Analyze potential to allow up to 3 ADUs per property Review attached-only interpretation Investment properties? | <ul style="list-style-type: none"> Recommend / require ADU specific training for appraisers Clarify ability to include ADU income into appraised value | <ul style="list-style-type: none"> Explore areas to streamline origination and servicing <ul style="list-style-type: none"> Underwriting software Cost estimation Draw process Analyze rate of denial |

FHA Proposed Changes – 203(k)

Use of Projected Rental Income

- **Current State:** Projected ADU rental income can't be used for loan qualification.
- **Practitioner Insight:** Including ADU income could improve loan repayment ability and may reduce default probability.
- **Proposed Change:** 50% of fair market rents allowed.
- **Federal Letter Recommendation :** Consider a higher percentage, like duplexes' 75% under FHA rules. Possible requirement: in-place lease or guidelines like those for 5+ unit properties.

California financing efforts

California Housing Finance Agency

- Program provides to \$40,000 towards pre-development and non-recurring closing costs associated with the construction of the ADU. Predevelopment costs include site prep, architectural designs, permits, soil tests, impact fees, property survey, and energy reports.
- \$100 million in grants made so far, which has helped to finance approximately 2,500 ADUs. FY 24 includes another \$25 million to continue program
- Local efforts are small, not scalable so far

For moderate and lower income owners, cost and complexity are the most significant barriers

-
- Lack of financing options
 - Design, permitting costs and site challenges
 - Unexpected costs during construction
 - Unfamiliarity with the ADU construction process keeps a lot of homeowners on the sidelines



ADUs for All: Paper Recommendations

- Build the capacity of community organizations to reach out to homeowners and provide assistance on ADUs
- Expand tailored financing resources and homeownership counseling to low- and moderate-income households
- Streamline ADU permitting and approval processes at the local level in order to reduce cost and complexity for homeowners
- Create clear state and local pathways to bring existing, unpermitted ADUs up to code



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California ADU legislative progress

California ADU Bills - 2019 - 2023

- **AB 3182** - ADU or JADU shall be deemed approved (not just subject to ministerial approval) if the local agency has not acted on the application within 60 days
- **AB 976** - permanently prohibit local ordinances that require property owners to live in their ADU
- **AB 68, AB 881, SB 13** - application review timeline to 60 days, impact fee exemptions under 750 sq ft., state agency enforcement of laws
- **AB 671** - localities must plan incentivizes to creation of ADUs affordable to very low-, low-, or moderate-income households. State must develop a list of state grants and financial incentives in connection with goals.
- **AB 670** - prevents CC&R and HOAs from restricting ADU construction
- **AB 1332** - soon to be signed, localities must adopt pre-approved plans



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Local Innovation 1: San Diego ADU Bonus Program

SD ADU Bonus Program Guidelines

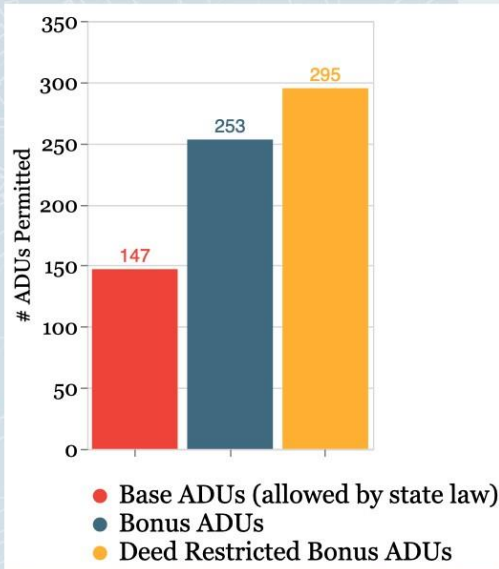
- Additional ADUs are one deed restricted unit per market rate unit built
- Deed restricted unit timelines are determined by income
 - 15 years - moderate income
 - 10 years - low income
- Affordable ADUs shall be comparable in size, bedroom mix, amenities and features to market-rate ADUs.
- In a single family zone, the affordability restriction will be on title in second lien position. In a multifamily zone, the affordability restriction will be on title in first lien position.
- Existing city land use regulations for floor area ratio, lot coverage, and height requirements influence the number of additional units that can fit on a given lot.



The SD ADU Bonus Program

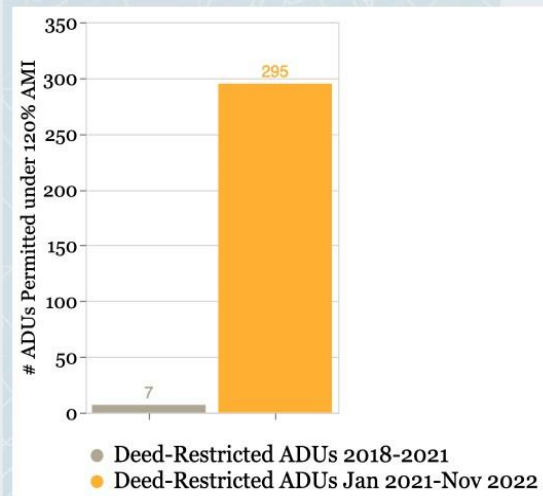
- The City of San Diego has gone above and beyond these state laws, in part to achieve compliance in its Housing Element.
- In 2020, the City received a planning target of 108,036 new housing units over the next 8 years, 64,179 of which must be affordable to moderate - or lower-income residents.
- Key elements of the program:
 - Transit Priority Areas - Unlimited ADUs
 - Outside of TPA - 2 additional ADUs per lot
- **Result:** Nearly 300 deed-restricted ADUs are being built without public subsidy.

Figure 1: Number of Deed-Restricted ADUs Permitted in San Diego, with projected ADU Bonus Program Units



Program By The Numbers

Figure 2: Breakdown of ADU Bonus Program Projects (January 2021-November 2022)



Why The SD ADU Bonus Program Works

- Maximizing the number of units allowed on a given lot
- Leaning on ADU state laws
- By-right ministerial approvals for extra units
- Lien positioning and commercial loans with existing home
- San Diego Housing Commission administers deed restriction

6 units, 2bd/2ba

Example Projects

9 studios + Renovated Triplex



Collaboration Leads to Benefits

- Collaboration between San Diego Planning staff and Building community
 - Development Services Department (DSD) and Project Manager
 - Annual codes rewrite
- Benefits for Smaller Scale Builders
 - More likely to be led by women or people of color
 - Lower cost to build missing middle housing
 - Easier financing with prospective rental income
- Lower cost to build missing middle housing
- Drawbacks
 - Limited homeownership units and family -sized units



Local Innovations 2: Pre-approved ADU Designs

San Jose: ADU Tuesdays!

- List of pre-approved designs approved by the city
- Vetted ADU companies and their approved designs are listed on the city website
- 5 Page “ADU UNIVERSAL CHECKLIST” to fill out
- Permits are approved within 24 hours or within a week (depends on submittal)



Villa 450
1 bed | 1 bath | 440 sq. ft.

[Explore this home](#)



Villa 550
1 bed | 1 bath | 589 sq. ft.

[Explore this home](#)



Villa 750
2 beds | 1 bath | 747 sq. ft.

[Explore this home](#)

Citypaks

Website: <https://citypaks.com/>
 Contact: lori@citypaks.com or 408-412-1154
 What's Preapproved:

- 589 sq. ft. 1 Bedroom ADU

Connect Homes

Website: <https://connect-homes.com/san-jose-adu>
 Contact: hello@connect-homes.com or 888-959-2261
 What's Preapproved:

- 460 sq. ft. 1 bedroom ADU
- 640 sq. ft. 1 bedroom ADU

Framework First

Website: <https://frameworkfirst.com/san-jose-pre-approved-adu/>
 Contact: mail@frameworkfirst.com or (831) 596-5969
 What's Preapproved:

- 660 Sq.ft. 1 bedroom, 1 bathroom

Inspired ADU

Website: <https://inspiredadus.com/contact-sanjose>
 Contact: hello@inspiredadus.com or 800-503-5769
 What's Preapproved:

- 747 sq. ft. 2 bedroom

J. Kretschmer Architect

Website: <https://www.getadu.com/pre-approved-adu>
 Contact: getadu@kretschmer.com or 408-221-0771
 What's Preapproved:

- 476 sq. ft. 1 bedroom ADU



Thank you

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*An overview of recent &
upcoming Research
2023*



SCAN ME

Appendix C

ADU Financing

Laurie Goodman,
Institute Fellow, Housing Finance Policy Center
Urban Institute

Maine, Governor's Office of Policy Innovation and the
Future
September 29, 2023



Accessory Dwelling Units (ADUs)

- ADUs are small second housing units on the same lot as a single-family home. They can include backyard cottages, basement apartments, or garage conversions.
- Historically, most single-family residential zones in the US prohibited ADU construction. But today, cities and states are increasingly permitting ADUs to be built on single-family lots.
- The state of California, Oregon, Maine and a number of cities including Minneapolis (MN), Austin (TX), Seattle (WA), and Burlington (VT), allow ADUs as a matter of right.
- The problem: Financing ADU construction is proving to be a major hurdle. The issues are very similar to those in renovation financing.

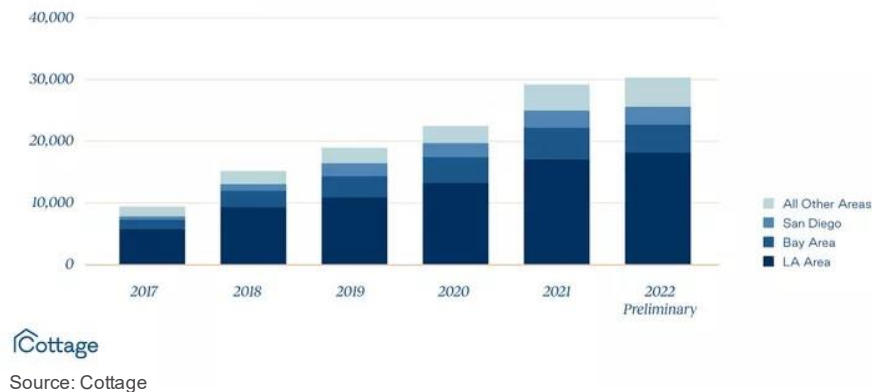
What does As of Right Zoning for ADUs look like?

- The states of California, Oregon, and Maine, as well as the cities of Minneapolis MN, Seattle WA, Austin TX, Burlington VT and several other communities are now permitting ADUs in single family zones as a matter of right.
- In the state of California if the lot is zoned for single family use, the owner can build and rent out an ADU (up to 1200sf) as well as a junior ADU (up to 300 sf) on the property, regardless of lot size.
 - Restrictions on lot coverage and minimum lot size are prohibited.
 - Parts of structures such as storage units and garages can be turned into ADUs.
 - Setbacks are no longer required, or are limited to four feet, increasing buildable space. Fire code setbacks still apply.
 - An ADU is not required to have parking if it is within a half mile of public transit, is part of a proposed or existing primary residence, or is in a historic district.
 - An ADU can be built even if the homeowners association restricts or prohibits it; it can also be built in a historic district and can be added to homes subject to historic preservation.

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3

ADU Permit Applications in California



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4

How can homeowners finance renovations or ADU construction?

- Homeowners can finance ADU construction in a few ways:
 - Cash, personal loans, and short-term loans
 - Home equity extraction – Home equity loans, lines of credit, cash-out refinance
 - Renovation financing
 - Federal-agency backed renovation financing from Fannie Mae, Freddie Mac and FHA
 - Private financing from banks, credit unions and state HFAs

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Tapping home equity to finance renovation or ADU construction is best suited for wealthy households

- Home equity lending:
 - Underwriting standards for home equity lending are very strict:
 - Average FICOs for HELOCs are in excess of 760; high income requirements
 - Home equity lending is capped at 80% of the current market value of the property.
 - Doesn't consider future rental income the ADU will generate
 - Home equity lending is based on property value at the time of loan application; i.e., it doesn't consider the value of improvements. Appraising how much value new construction will add isn't easy.
 - Best suited for property owners with lots of equity, substantial savings or income.
 - To get financing based on “after-repair value,” one needs renovation financing; it is difficult to get financing based on the future income of the ADU.

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Federal renovation financing is cumbersome and expensive for lenders

- **FHA 203 K program has two forms:**
 - Limited form: Max \$35,000 loan; minor remodeling and nonstructural repairs.
 - Standard form:
 - Lenders must review contractor credentials, experience, work plans, cost estimates, etc. Must ensure quality workmanship and timely completion (adds substantial cost, uncertainty and risk).
 - Repairs to start within 30 days of closing and completed in 6 months. Delays/cost overruns require lender involvement.
 - Borrower must hire a HUD consultant to oversee the renovation process.
 - 10-20% of the total loan amount must be set aside as a contingency.
 - Median renovation loan amount in 2020: \$75,000; Less than 4000 loans made in 2022

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Federal renovation financing is cumbersome and expensive for lenders

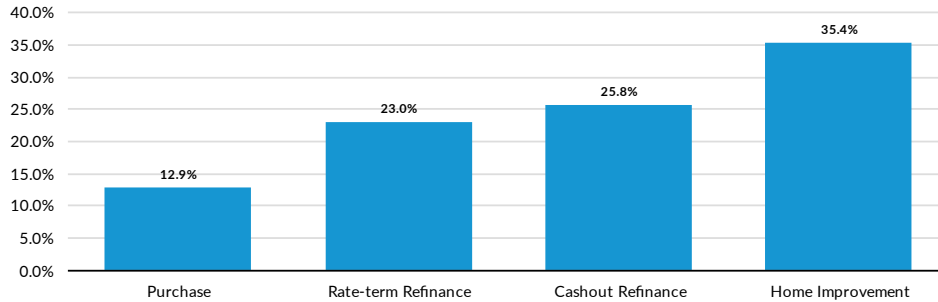
- **Fannie Mae Homestyle Program, Freddie Mac CHOICE Renovation:**
 - Repairs must be completed within 12 months.
 - A contingency must be set aside for cost overruns.
 - No consultant is required, but the GSEs have recourse to the lender during the construction period.
 - Essentially, lenders are on the hook for any delays, cost overruns and poor quality workmanship; most are unwilling to take the risk.
- **New Program: Freddie Mac CHOICE Renovation eXpress**
 - Up to 15% of the purchase value of the home in a high needs area, 10% elsewhere, can be used for renovations.
 - No lender recourse.
 - Less than 15K loans made through all Fannie/Freddie programs in 2022.

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Denial Rates on Renovation Financing are High

Denial Rates by Loan Purpose in 2022



Source: Home Mortgage Disclosure Act Data (2022) and Urban Institute Calculations.

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Obstacles to Counting ADU Rental Income toward Mortgage Qualification

- The owner of the risk has no guarantee the unit will be used to generate rental income; the homeowner may use it as a home office or allow relatives to use it at a non-market price.
- The time frame for completion before the unit begins to generate income could stretch out.
- There is no lease in place, hence the rental income is uncertain.
- FHA and the GSEs do allow some counting of rental income
- FHA, April 13, 2023 Mortgagee Letter: FHA will use 50 percent of the lesser of: (1) fair market rent reported by the Appraiser; or (2) the rent reflected in the lease or other rental agreement. The amount of the Rental Income from the ADU used as Effective Income may not exceed 30% of the total Effective Income used to qualify the Borrower.
- Freddie Mac will count up to 75% of the prospective income, but the amount cannot exceed 30% of the total effective income used to qualify the borrower.
- Fannie Mae does not count rental income, unless the unit is already complete and rented.

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How can we improve availability of renovation financing to spur ADU construction?

- Overcoming barriers to ADU Lending:
 - Homeowners are unfairly penalized by lending rules:
 - ADU underwriting should provide 50 -75% percent credit for future rental income; this will help qualify lower income and senior homeowners living on fixed incomes. This income should not be limited to 30%; raise the cap.
 - Appraisals should be completed on an “after -repair” basis. This is difficult for ADUs today due to lack of comps. The GSEs could share info on the value add, as well as the rental income, due to the addition of ADUs.
 - Raise the maximum 80% LTV cap for home equity lending to 90%, as long as funds are used to improve the home (for example, to finance renovations/ADUs), and 95% if adding a factory build ADU.
 - Raise the threshold for FHA's Limited from program and Freddie's ChoiceReno eXPress program; Fannie Mae should roll out a similar program without lender recourse.
 - Second lien financing is important.

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Improvements in Renovation Financing: Overcoming the risk of cost overruns and delays

- Federal agencies and lenders need reasonable assurance that construction will be completed on time and within budget.
 - Hire a reputed entity to oversee construction at a fixed cost.
 - Case Study: The City of Detroit teamed up with Home Depot during the last foreclosure crisis to repair thousands of abandoned homes. The project was financed by Rock Central, Rocket Mortgage's Philanthropic Arm.
 - Home Depot deployed contractors from its approved vendor list. Contractors on this list are subject to quality standards, background checks and other vetting to ensure a level of quality.
 - Repairs were standardized to minimize labor and materials costs. Large economies of scale.
 - Financing was philanthropic, but it proved that the model works.

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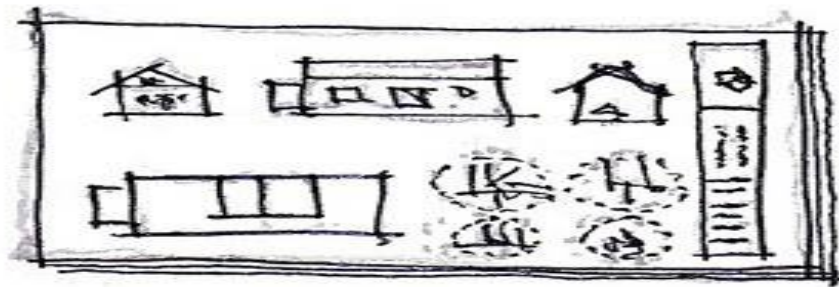
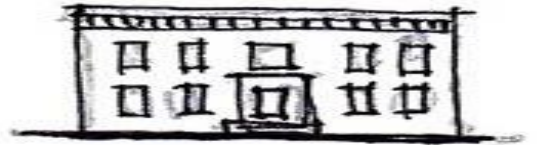
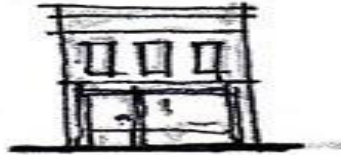
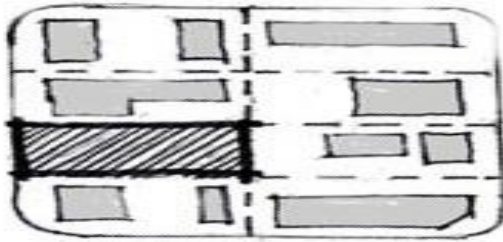
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Appendix D

PATTERN ZONES

AND PRE-APPROVED BUILDING PROGRAMS

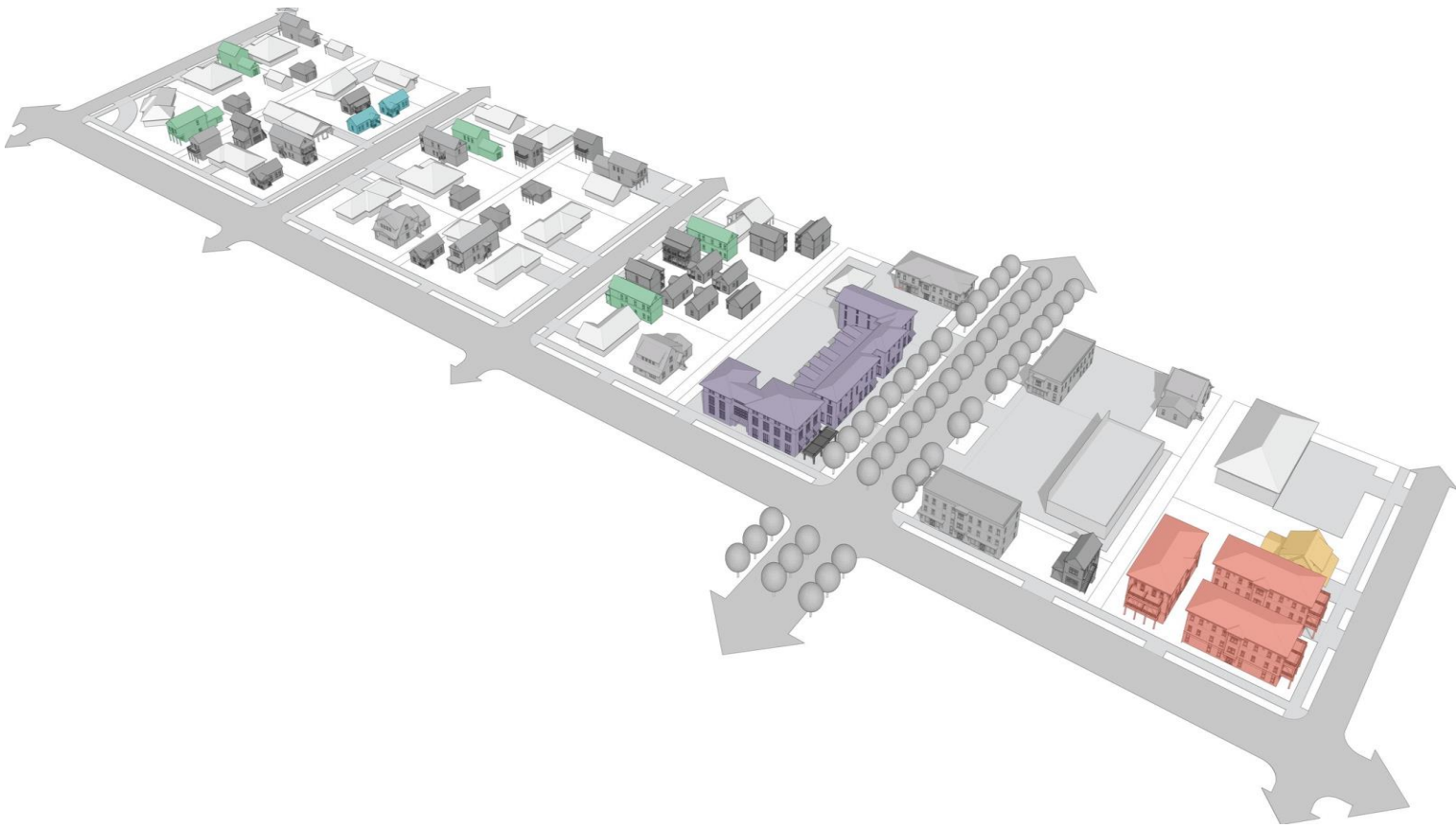
Overview

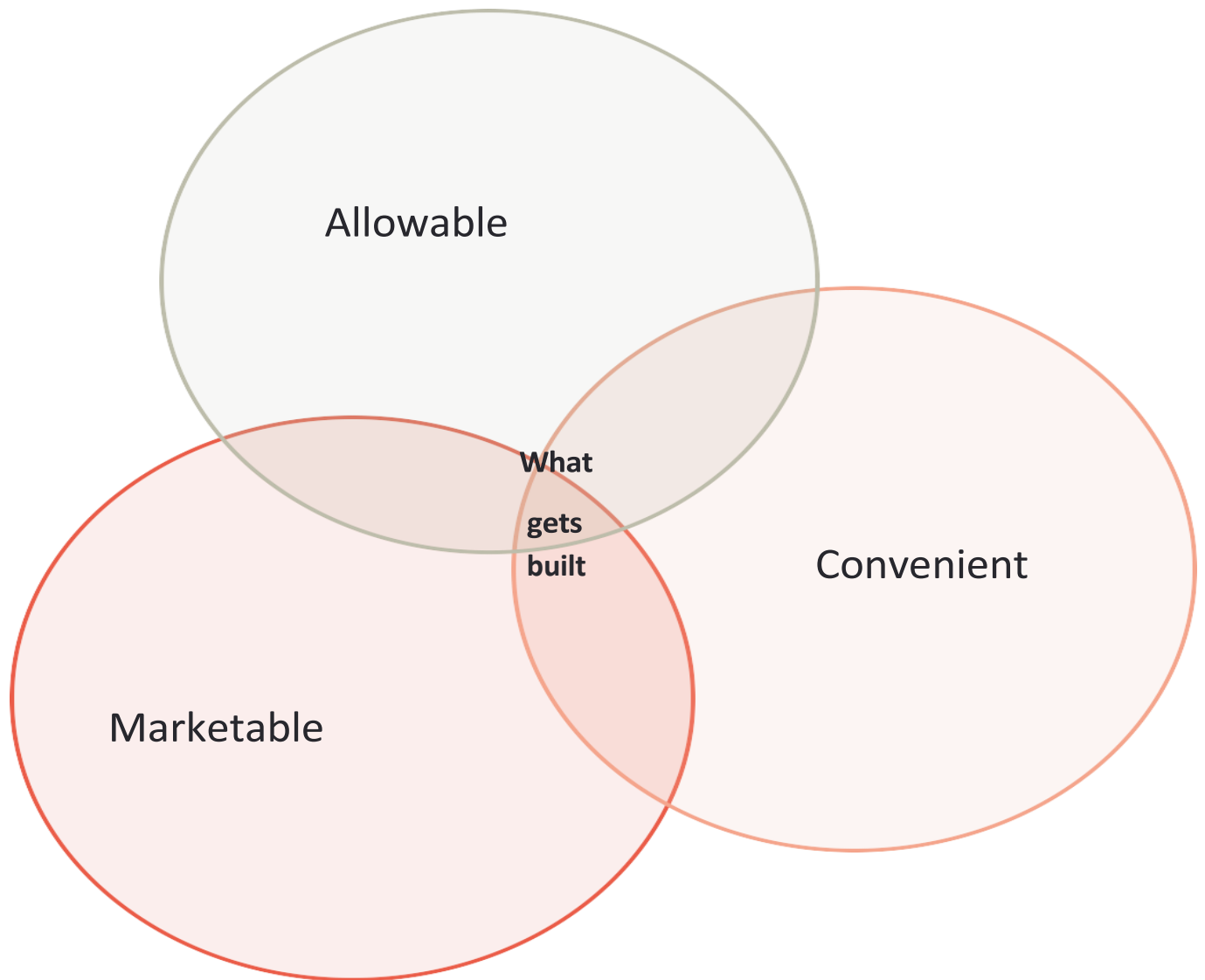


Premise

Incremental Development

It's better when neighborhoods grow in familiar patterns.





Observation

Scaling Factors

Convenience in permitting drives market response. Careful pre-approvals could be the foundation for a new market standard.



Case Study: Pre-approved Building Program

Claremore, Oklahoma

Profile: Small college town. Commuter flows to Tulsa. Builder-focused process.

Goals: Quick start with a pilot project. Preference compact single-family products.

It's new

Comprehensive package includes new UDC with pre-approvals.

It's popular

Even subdivision developers are starting infill projects.

It's fast

Most permits released in <96 hours, and many in <48 hours!

Standards and Best Practices

An **open-source plan** is licensed for construction free of charge by the designer or architect.

A **pre-approved building** has a contingent building permit on file with the building safety division. A **pattern zone** combines pre-approved buildings with programmatic enhancements.

- 1 8-12 choices per building type
- 2 Thematic variations of buildings
- 3 Supplemental application criteria
- 4 Applicants opt-in
- 5 Sponsored plan fees
- 6 Easy portfolio swaps

Variations-on-a-theme

This pre-approved cottage in Bryan TX is expressed in four variants and inspired by a locally loved house.

- Standard floor options include a garage, a fully accessible apartment, and a standard apartment. The second floor plan will work with any ground floor option.
- Facade options include both single- and double-porch, simple stair access for second floor, and a carport option.



Two-Story Garage Cottage



Single-Story Side



Two-Story Twin Unit Side/Front



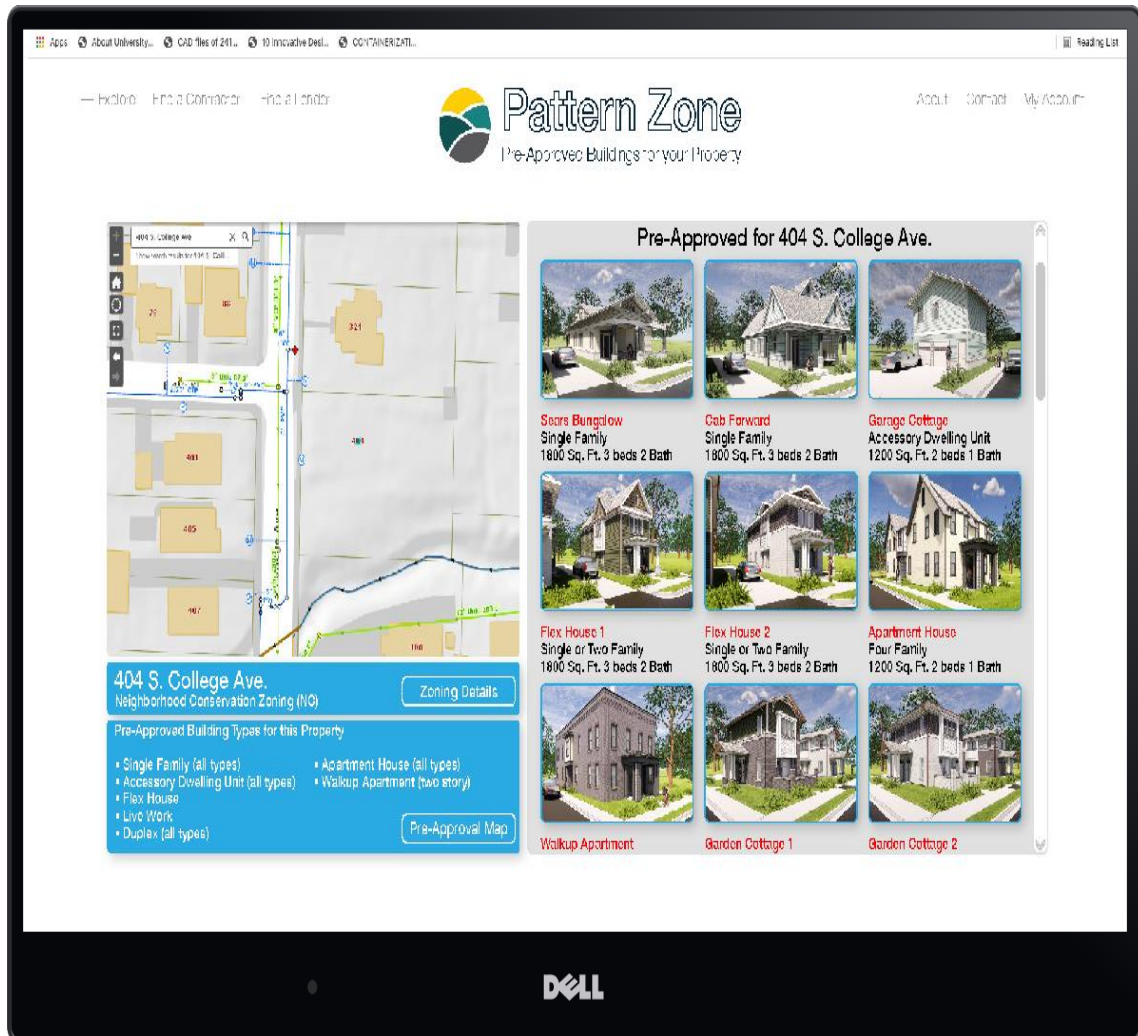
Double-Porch Twin Unit Side/Front



Platform

Simple and Predictable

Applicants select a building and site diagram from a pre-approved list.



Platform

Click to Start

Applicants click to send professionally packaged applications to planning offices.



DRAFT

Flowchart of the subdivision application/review/approval process:

1. The applicant requests a meeting with Planning Department staff to discuss the property/zoning/proposed use(s).
2. The applicant submits sketch plan application materials and fees to Planning Department staff. The Town Planner confirms if the application is complete.
3. The Town Planner shares the sketch plan with the Gray Fire Department and Gray Public Works for initial input and places the sketch plan on an upcoming Open Space Committee agenda. The Town encourages the applicant to attend the Open Space Committee meeting to discuss the project, especially for Residential Open Space subdivision proposals, but attendance is not required.
4. The Town Planner places the sketch plan on the next upcoming Planning Board agenda and notifies the applicant. Abutter notification is not legally required for sketch plan review, but applicants are encouraged to reach out to the abutters directly to get their input early in the process and allow the developer time to consider how to address any concerns.
5. The Planning Board conducts sketch plan review, with consideration of initial input from the Open Space Committee and town staff. At this meeting, the Board may choose to set a date for a site walk, and the Planning Department staff will subsequently notify abutters.
6. If there are significant environmental or engineering challenges associated with the subdivision, the applicant may wish to proactively submit comments from the town's consulting engineer, at applicant expense, at the beginning of the project prior to investing in fully engineered plans.
7. The Planning Board, applicant and abutters participate in a site walk of the property.
8. The applicant incorporates all input received at the sketch plan review and site walk to create plans for the preliminary plan approval submittals.
9. The applicant submits preliminary plan materials and required fees, and the Town Planner reviews to confirm Preliminary Plan application materials are complete. Staff places the preliminary plan review on a Planning Board agenda and notifies abutters and the school district of the public hearing. The Town Planner also publishes two public notices, per statutory requirement, advertising the public hearing.
10. The Planning Board conducts the Preliminary Plan review and Public Hearing, with consideration of input from the Town's Consulting Engineer, Gray Fire Department, Gray Public Works, Community Development Staff and the Open Space Committee. The Board provides feedback to the applicant regarding any requested waivers, outstanding permits/studies, and any changes to the plans. Note: The goal of preliminary approval is to have a nearly finalized lot layout and all potential outstanding issues identified. Larger and/or more complex subdivisions may require more than one Planning Board meeting to obtain preliminary approval, for the purpose of establishing the overall layout and a comprehensive list of items that need to be resolved before final plan review.

11. The applicant must submit the construction cost estimate to the town, for review by the town's consulting engineer, for determination of the performance guarantee escrow amount. The estimate must provide a breakout of the major construction components such as road construction, erosion and sedimentation controls, and stormwater management elements.
12. The applicant incorporates all input received at the preliminary plan review to create plans for the final plan approval submittals.
13. The applicant submits final plan materials and pays final plan review fees, and the Town Planner confirms that all responsive submittals per the Preliminary Plan Review are in hand. The Town Planner then schedules the Final Plan Review on an upcoming Planning Board agenda.
14. The Planning Board conducts the Final Plan review. If the Board approves the plan, the applicant will make any changes per the final approval and add all necessary notes to the face of the plan. The Town Planner will review these final updates and confirm the completeness of the plan before the applicant prints four full-size copies for the Planning Board to sign.
15. The Town Planner releases the signed copy of the final plan upon receipt of the necessary escrows/bonds, including but not limited to those for site inspections, erosion/sedimentation and the performance guarantee. For some projects, additional conditions of approval, as outlined in the Notice of Decision, must also be met prior to release of the final signed plan.
16. The applicant must file the final signed plan with the Cumberland County Registry of Deeds within 90 days of approval, per State Statute, and provide the plan book/page to the Town Planner for the town records.
17. After filing the plan with the CCRD, the applicant and all parties associated with construction of the project must participate in a pre-construction meeting with the Town Planner, Town's Consulting Engineer, and Code Enforcement Officer prior to issuance of building permits. For some projects, additional conditions of approval, as outlined in the Notice of Decision, must also be met prior to seeking building permits with the Code Enforcement Office.
18. If the Planning Board does not grant final approval for the plan, the applicant will address any necessary alterations, studies, permits, etc. that the board requires to grant final approval. Once the applicant has addressed those items, the Town Planner will confirm completeness and will place the project on an upcoming Planning Board agenda again for Final Plan Review.
19. If the Planning Board denies the plan, the applicant may appeal the Board's decision to the Superior Court.