



# Maryland

## DEPARTMENT OF PLANNING

### ADU Task Force Meeting Notes

**November 28, 2023**

#### Member attendance

Senator Mary Washington, Senate Representative – virtual  
Secretary Rebecca L. Flora, AICP – Task Force Chair  
Theo Williams - Maryland DHCD  
Lori Parris - MACO Urban Co Representative  
Amy Moredock - MACO Rural Co Representative  
James D. Gaston III - MML Urban Municipality Representative – virtual  
Councilman Dan Hoff - MML Rural Municipality Representative – virtual  
David S. Thaler – MD Building Industry Association – virtual  
Tiffany Harris – MD Assoc. of Realtors  
Quinn Griffith - Chesapeake Region Chapter of the Community Associations Institute - virtual  
Deborah Buelow – AIA MD-Chapter  
Mandy Gitt – MD Coalition for Interior Designers – virtual  
Jennifer Ray, AICP– Transportation Planner  
Chelsea Hayman – MD Dept of Disabilities  
Priscilla Kania - AARP

- Welcome & Overview
  - Roll call.
  - Sec. Flora is informing the group about keeping the group focused - we do not have a lot of time left so we need to narrow our range to get worthwhile recommendations.
- Administrative Updates
  - Covering today's meeting objectives:
    - Construct the work plan for completing a qualitative ADU housing market analysis.
    - Develop preliminary legislative and policy recommendations related to zoning use and approval processes.
    - Compile a list of best practices for local governments that address the practical issues associated with zoning use and approval processes.
    - Receive, review, and discuss public comment.
      - These focused objectives will aid greatly in getting us to build the report in a timely fashion.
  - Public comments will be covered at the end of the meeting and they will be recorded and shared with the whole task force.

- Financial disclosure exemption request - state ethics board reviewed and approved the financial disclosure exemption request. Reminder of conflict of interest subtitles, as they still apply.
- Public comments have been written about citing sources to back up claims of task force members.
- Report on activities was sent to the governor November 1st - can read the report on our website if you wish to do so.
- Recap of Previous Meeting
  - What we heard (refer to slides):
    - We have attempted to get a speaker to present on the history of racist housing policies but all of the individuals we have tried to book cannot present at the next meeting.
    - Task force is engaged in involving housing advocates, community organizations, HOAs, and environmental groups.
  - 10/31 discussion (refer to slides)
    - Sec. Flora stated that some special topics/presentations may need to happen outside of the meeting.
    - Sen. Washington voiced interest in establishing subcommittees to get the work done because we have such little amount of time.
      - Joe and Sec. Flora are already getting working groups together to do what Sen. Washington is asking.
    - Sen. Washington stated that she believed we had a discussion on historical legacy at the 10/31 meeting, but Sec. Flora stated that it was already covered. Sen. Washington stated she would follow up with a recommendation to the Secretary.
- Task Force Meeting and Research Plan
  - This group drilled down to what is needed to be developed, as tasked by SB 382 after the last meeting. These drilled down marching orders of the task force can be found on the slides.
  - Presenting the qualitative research approach document that was circulated to the task force members. Tags on the document are organized around the specific requirements of the bill
  - Moved builders and developers subject to the survey. Will be doing that for the environmental groups as well. Only some subjects will be focus groups, panels, surveys, and the status of each can be found in the meetings slides.
  - Discussion Questions
    - Everyone has been asked to assist Joe in involving stakeholders to the various focus groups, panels, and surveys. Six panel members at most for each of our panels. Could be core panels and then cross sections to involve all attendees, task force members, and be more attractive for panel presenters to come out to the meetings.

- Joe stated that thoughts can be inserted into the shared doc with the task force members. Does not have to be all finalized statements or completed opinions.
    - Game plan for the surveys are online, any comments from the task force members are due by the end of the week. Adding in “design professionals” when distributing the survey.
- Housing Market Analysis Plan
  - Not a ton of quantitative data, but will be reporting on what we have so far.
  - Licensing can be a recommendation of the task force. Use the quantitative data as inputs for the focus groups. All county ADU information/quantitative data will be summarized and circulated to the task force members.
  - SDAT does not track ADUs specifically.
  - Montgomery County does have an ADU mapping tool, walking through it now
    - Red and purple dots on the map are ADUs that have been applied for. Some on the map have been approved, are in the approval process, or have been denied licensing.
    - Can go online and visit this tool at [montgomerycountymaryland.gov/adus](http://montgomerycountymaryland.gov/adus)
    - We have three primary sources of permitting, SDAT, and the Montgomery County ADU mapping tool to get information on ADUs in Maryland.
  - Qualitative Housing Market Analysis (refer to slides)
    - Other states are providing incentive money for ADU construction, that is a policy to Sec. Flora. We want to research and find policies that incentivize ADUs in any way. Laws are closer to things like zoning.
    - Sen. Washington is concerned about restrictive local zoning regulations, if there is a way to identify where local restrictive local zoning regulations would be helpful in recommending statewide policy. How do we find these restrictions? Are they on the books, or are there other aspects? Sec. Flora voiced her desire to have a follow up meeting with Sen. Washington about the racist legacy of housing policies.
    - Glossary will help the average person better read the recommendations/reports. There is a desire to make the glossary a working document for everyone to add to or ask others questions as to what something means.
    - There is also a desire voiced about numbering all the jurisdictions that have restricted policies. Some policies that could be restrictive towards affordable housing generally could also directly impact ADUs without specifically mentioning them. There is also a conversation going on in the planning world about what a dwelling unit even is.
    - If you are discussing incentives you also need to discuss enforcement and how to practically practice them. The why and how of the incentives, and how they are going to impact the jurisdictions. If we are recommending incentives we have to also give jurisdictions a roadmap of how they can enforce that.



forms that are more desirable, such as an ADU providing two on-street parking spaces in some jurisdictions.

- Dan Hoff voiced that the inherent tension between by-right and special exceptions is that capacity related issues are magnified because under by-right, a large number of houses adding ADUs in a jurisdiction/neighborhood might push capacity boundaries beyond their limits.
- We are talking about broader topics than accessory units - they are accessory to a primary use unit.
- Knowing the amount of ADUs in a given area will not give you all needed performance metrics. We need to investigate what kind of use are those units fulfilling, too. Sen. Washington voices concern that raising housing availability may decrease property values. Zoning regulations have been adopted to maintain property values, so the task force should prepare to answer concerns about effects on property values that may occur when recommendations for ADU policies are made.
- There are a lot of HOAs that have their own sets of rules and regulations (covenants) that need to be investigated, and if state or local laws can override covenants. Has Maryland adopted laws like that? We should not investigate how current HOAs will react to this, but how this will impact HOAs in the future if there is an override. How will that impact HOA covenants/policy?
- Maryland Inventory Analysis (refer to slides)
  - Every jurisdiction writes zoning ordinances in unique and context specific ways. Joe is highlighting local jurisdictions as potential models for other jurisdictions. All following examples are specific to each jurisdiction.
  - Statewide: where by-right, special exception, and no demonstrable tendencies most likely occur.
  - Aberdeen - their regulations surrounding ADUs, include a requirement that an accessory “apartment” shall not exceed 50% of the above-grade square-footage of living area of the principal dwelling unit.
  - New Market - specific conditions include that no detached ADU are allowed in New Market. New Market has several conditions that can be seen as restrictive towards the construction of ADUs due to the historic nature of certain portions of the community.
  - Wicomico - is by special exception only through the Board of Appeals or Planning Department after a public hearing.
- Other state legislation analysis
  - Lower Degree State Pre-emption
    - Oregon - Specifies what kind of communities are allowed to have ADUs, but they can be approved by more ways than just special exception
    - New Hampshire - Can be approved by-right or special exception. If local jurisdictions do not adopt their own ADU ordinances, then the state

legislation overrides the jurisdiction, which states that ADUs may be constructed according to the state legislation requirements.

- Higher-Degree State Pre-Emption
  - California - locals must not require a special exception approval process for ADUs.
  - Montana - allows more than one ADU by-right.
- Public comment on ADU use allowances
  - “Good land use protects the character,”
  - “Please allow as few barriers as possible” (this person likely sees special exceptions as a barrier),
  - Some comments indicate Baltimore’s approach of by-right as detrimental, and something that needs to be recovered from.
- Discussion (see questions in slides)
  - Aberdeen - liked by the Task Force because it specifically states that independent cooking, living, sleeping, and bathroom facilities are requirements. Not all ADU ordinances have this. Flexibility is appreciated and there is a lot of clarity. There are also positives voiced that there could be either attached or detached dwelling units and that the ADUs are referred to as “dwellings”. Some are concerned about lot size since this ordinance may be restrictive towards homeowners that have a smaller lot size (need to research further). The 50% square-footage requirement may allow for dwelling units that are too large - if you have a 4,000 square foot house then you can build a 2000 sq. ft. ADU and that’s a large separate house entirely.
  - New Market - Does not create independent housing options, this is a concern particularly for people with disabilities. There is praise and concern given to the lesser of the 800 sq. ft. and/or 33% lot coverage requirement, one because it ensures that ADUs aren’t too big.
  - Wicomico - Praise given to how many units are allowed on the property itself. Concerns about how much work is put through the special exceptions process, would stifle ADU construction. ADU policy being consistent with the comprehensive plan may make extra work in the future to either update the comprehensive plan to accommodate new ADU regulations or vice versa. Concern that ADUs are not allowed on properties that rent out rooms in the principal properties.
  - Oregon - praise for threading the needle on rural vs. urban, giving authority to some local jurisdictions and concentrating on urban areas that need housing the most. Also, praise was given that there is not a 1 unit limit, but there was concern brought up that building more than 1 in neighborhoods with massive lots might affect the character of the neighborhood.
  - New Hampshire - Praise given to the portion where if a local jurisdiction does not adopt a local ADU ordinance then the state can override.

- California - The impact of the ADU legislation in California has led to the development of 24,000 ADUs. Considering the total number of dwelling units (14 million) in the state, there is not a high percentage of ADUs compared to non-ADU structures. There was discussion in the room surrounding the kinds of properties that are predominant in California, specifically because many are built on very small or condensed lots that could not accommodate ADUs no matter how flexible the ordinance is.
    - Montana - Sec. Flora commented on the “shall adopt” and “minimum of 1” language, stating that it is key language of the legislation.
- Public Comment
  - Henry Munoz, realtor, states that properties with ADUs raise property values because plenty of people are looking for what ADUs provide. He also stated that ADU policies should be implemented by lot size instead of zoning district.
  - Another public commenter stated that some ADUs should be incentivized only for working class, older, or single parent families, not for the introduction of businesses who will come in and pull out whenever they please with little regard for the neighborhood itself.
  - Jeff Delmonico, Howard County Planner and GIS Specialist commented on the ordinances in Howard County and how many ADUs have been constructed since the ordinance’s adoption. He will share more information on this issue.
  - There was a technical issue with public comments, but they will be circulated to the group after the meeting adjourns. Many commenters were responding to each other or to the group in real-time.
- Summary and Final Thoughts
  - A round robin approach was utilized so the Task Force could hear from others of what they think is best as to the issue of by-right or a special exception approach for an ADU model ordinance.
    - Sen. Washington believes by-right is best. Sec. Flora reiterated that even in a by-right area all zoning standards still apply.
    - Theo and Sec. Day believes that ADUs should not go through a special exception process except in special areas, ordinances should be as permissible as possible. There was a suggestion on adopting a policy on how jurisdictions could navigate a by-right approach.
    - Lot size needs to be considered, and when we are developing recommendations, we need to give attention to rural, urban, historic, and conservation areas.
    - Amy believes that ADUs should be defined, and that by-right is the best path forward. She is unsure if we should recommend where there should be additional restrictions (conservation area or historic) because there are already other codes in place, and we should not over-legislate.
    - James is concerned about the over-usage of town services as the pervasiveness of ADUs rises.

- Tiffany is leaning on the side of by-right, hoping to adopt guidance for jurisdictions in navigating special areas.
  - Quinn Griffith is leaning toward by-right and agrees that we need to adopt language that provides clear guidance, not subjectivity. Simple is better here because these laws affect individual homeowners who are not reading zoning codes or are willing to hire a lawyer.
  - Priscilla supports by-right, specific definition of ADU and a maximum square footage requirement. Unsure what the right answer is on owner occupancy. How do ADUs affect property valuation for tax purposes?
  - Mandy wants to define the dwelling unit as to how jurisdictions are already defining dwelling units. This could help guide us in developing a definition for ADUs. Local jurisdictions should be the ones determining if ADUs are by-right or special exception.
  - Leans By-Right, California model being something to look to. Development of a flow chart for the individual user would be great for us to develop.
  - Chelsea Hayman believes by-right makes the most sense and agrees with what Theo said.
- All next steps are on the slides
    - Lot size is the topic for the next meeting, which will be held in the Department of Planning's office, 301 W. Preston St. Baltimore, MD on the 11th floor, in the Olmstead Conference room.



