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**COMMUNITY PLANNING &
ECONOMIC DEVELOPMENT DEPARTMENT**

Joshua Cummings, Director

Creating Solutions for Our Future

MEMORANDUM

TO: Thurston County Planning Commission

FROM: Andrew Boughan, Associate Planner
Jennifer Davis, Community Planning Manager

DATE: June 3, 2020

SUBJECT: Rural Accessory Dwelling Unit (ADU) regulations- Allowing ADUs in rural Thurston County (A-21 on the 2020-2021 Official Docket of Development Code Amendments)

Background

RCW 43.63A.215 and RCW 36.70A.400, adopted as part of the 1993 Washington Housing Policy Act, encourages many Washington cities and counties to adopt ordinances allowing the development of accessory apartments or accessory dwelling units in single-family zones. Specifically, this legislation applies to:

1. Cities with populations of over 20,000
2. Counties with populations of over 125,000, and
3. Counties/cities that plan under the Growth Management Act (GMA).

An **Accessory Dwelling Unit (ADU)** is a small, separate living unit built on the same lot as a single-family home. Traditionally, ADUs can be an addition to a single-family home, a conversion of a basement or attached garage, or a freestanding “detached” structure. An ADU has all the basic facilities for day-to-day living, such as a kitchen, sleeping area, and bathroom. As the term "accessory" implies, ADUs are smaller in size, use and prominence than the main residence on the lot.

Thurston County does not permit ADUs in the rural County; however, they are allowed in the Urban Grown Areas (UGAs) of Olympia, Lacey and Tumwater, as well as in these cities. Additionally, ADUs are allowed in certain zones of the Grand Mound UGA, per TCC 20.34.020.

What types of accessory housing are currently allowed in rural Thurston County?

While Thurston County does not currently allow ADUs, the County allows Family Member Units (FMUs) in all residential zones (TCC 20.09.030). A Family Member Unit must be a temporary mobile/manufactured or modular home, for the purpose of housing a family member only, and must be removed once the family member leaves. Family Member Units provide an affordable way to care for family members, however there are concerns regarding the lack of enforcement and their impact on the rural areas.

Thurston County is one of the last counties to allow FMUs, as most counties in Washington State have replaced their FMU policies with Accessory Dwelling Unit policies. This is due to the difficulty in enforcement of the family provision or the removal of the unit once the family has left. Replacing the FMU regulations with ADU regulations is part of this ADU proposal.

Additionally, the Thurston County Code permits guest houses (no plumbing allowed) and agricultural housing. Regulations over these types of accessory housing are not proposed to change.

Why accessory dwelling units?

The Washington State Department of Commerce created “Model Accessory Dwelling Unit Ordinance Recommendations”, which lists the purpose of allowing an ADU as to:

1. Provide homeowners with a means of obtaining, through tenants in either the ADU or the principal unit, rental income, companionship, security, and services.
2. Add affordable units to the existing housing.
3. Make housing units available to moderate-income people who might otherwise have difficulty finding homes within the County.
4. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
5. Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the conditions of [this] Ordinance.

The Model Ordinance structure and recommendations can be used as a basis for Thurston County’s ordinance.

Growth and Affordable Housing

Thurston County has experienced an increase in housing demand due to the number of new residents moving to Thurston County. Thurston Regional Planning Council (TRPC) estimates that the rural County alone is projected to add an additional 16,710 new people, and need an additional 7,020 new housing units by 2040. TRPC estimates that 38 percent of these households will be low

income (earning less than 80 percent of the County’s median income). Chapter 4 (housing) of the Thurston County Comprehensive Plan states “enough housing should be available to meet the housing needs of the existing and projected population of the county including rental and purchase opportunity for all income levels.” ADUs can provide additional housing stock on parcels that would not otherwise be permitted to have additional dwelling. Utilizing the existing facilities on the parcel could reduce the overall cost and may lead to more affordable rents.

ADUs have helped local jurisdictions meet GMA goals to encourage affordable housing and provide a variety of housing types, while preserving the character of single-family neighborhoods. Joint Base Lewis-McChord has identified ADUs as an important source of affordable housing in neighboring jurisdictions for its personnel.

Demographic changes

Housing demand is largely driven by economic conditions and demographics. While the population of Thurston County is projected to increase over the next 20 years, household size is projected to decrease. Smaller households mean an increased demand for smaller homes.

Additionally, TRPC projects that between now and 2040, the Thurston Region's population of residents older than 65 will more than double. Seniors generally prefer to age in place, which means either within their existing home or current neighborhood. Existing neighborhoods, especially in the rural communities, may benefit from diversifying their housing choices to meet a range of housing needs.

Legal framework for rural ADUs

Growth Management Act (GMA)

Rural ADU standards must balance the need to provide diverse and affordable housing, while not creating urban sprawl and negatively impacting the rural character. RCW 36.70A.020(2) lists relevant Planning Goals of GMA, including (2) and (4):

- (2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low density development.
- (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

Additionally, RCW 36.70a.070, *Comprehensive plans—Mandatory Elements*, requires any rural development to be balanced with rural character and visual compatibility with the surrounding areas.

Growth Management Hearings Board (GMHB) Rulings

The Central Puget Sound Growth Management Hearings Board, *1000 Friends of Washington v Snohomish County* (2004), page 9.

“Construction of a detached new ADU on a parcel smaller than 10 acres is generally prohibited because it would effectively allow two freestanding dwelling units. The effect would necessarily be one freestanding dwelling on a lot smaller than 5 acres, which the Board has previously held to constitute urban growth. Regardless of the size of the rural lot, ADUs attached to the main residence or a conversion of a detached existing structure (e.g., a garage) in close association with the primary residence would not constitute new urban growth.”

Review of the Snohomish ruling indicates that:

- 1) ADUs attached to the main residence, as well as conversions of a detached existing structure, would not constitute new urban growth, and could be permitted without counting towards the density of the parcel.**
- 2) Legal lots of 10 acres or more could be allowed to have a freestanding detached ADU, so long as the lot conforms to the density of the underlying zone.**

There is also a question as to whether or not detached ADUs could be allowed on any legal lot that has twice the acreage necessary to meet the underlying density. Residential LAMIRDS for example, which are ‘limited areas of more intense development’, are already intended to have higher densities than other rural areas. A legal lot that has twice the acreage necessary to meet the underlying density is one that could be subdivided into two separate lots as discussed below.

This is a question for consideration for the Planning Commission and Board of County Commissioners.

Impact of detached ADUs on rural development

GMA and case law appear to limit the siting of detached ADUs in the rural area in order to maintain rural character and densities. An ordinance allowing detached ADUs would therefore likely need to require the property owner to sign an affidavit prohibiting future subdivision of the property, unless it conforms to subdivision requirements of the zone. This affidavit would follow the property even after a sale. Affidavits are not a new approach for government entities to ensure property owners comply with local regulations. Family Member Units (FMUs) require an affidavit, detailing Title 20 zoning regulations on FMUs, to be signed part of the application process.

Requiring an affidavit would prevent the subdivision and development of these parcels while the detached ADU is present. Because a detached ADU would need to be subordinate in size to the single-family residence, it may also have less of a visual impact on rural landscapes than a full-size home, while still conforming to the density requirement of the zone.

For example:

- In the RRR1/5 zone (1 dwelling unit per 5 acres), only a legal lot with 10 acres or more would meet the density requirement and therefore be eligible for a detached ADU.

- In the Residential LAMIRD RL ½ (one dwelling unit per two acres) a legal lot would need to have at least 4 acres in order to be eligible for a detached ADU.

Note that attached ADUs or conversions of existing structures to include an ADU could be permitted without the requirement for an affidavit or restriction on future subdivision.

Consistency with the Comprehensive Plan

The County Wide Affordable Housing Planning Policies, which influence the Comprehensive Plan Housing Policies, state:

- Increase housing choices to support all ranges of lifestyles, household incomes, abilities, and ages. *Encourage a range of housing types and costs that are commensurate with the employment base and income levels of jurisdictions' populations, particularly for low, moderate and fixed income families.*
- *Accommodate low and moderate-income housing throughout each jurisdiction rather than isolated in certain areas.*
- *Explore ways to reduce the costs of housing.*
- *Establish and maintain a process to accomplish a fair share distribution of affordable housing among the jurisdictions.*
- *Regularly examine and modify policies that pose barriers to affordable housing.*

ADUs may be an affordable, accessible and low intensity way of allowing affordable housing in the rural community without negatively impacting density or rural character, with appropriate regulations.

Within the **Comprehensive Plan Chapter 4—Housing**, these goals and policies support ADU development:

Goal 1: *Enough housing should be available to meet the housing needs of the existing and projected population of the County including rental and purchase opportunities for all income levels.*

Goal 1, Objective C, Policy 1: *The County should reduce, where appropriate, regulatory barriers and other requirements which add unnecessary costs and thereby discourage affordable housing construction.*

Goal 2, Objective A, Policy 1: *The County should encourage that within rural areas, a variety of residential development types and housing mixtures should be available, such as detached single-family housing, cluster housing, duplexes, and a residence in conjunction with commercial uses in neighborhood convenience centers.*

Any impacts to density in regards to allowing attached or detached ADUs should also be considered in the context of the Comprehensive Plan and GMA.

Public Comment and Participation to date

Thurston County has contemplated allowing rural ADUs for many years. In 2017 a stakeholder group was formed to provide input and recommendations to aspects of a proposed ordinance. The public has continued to provide input, including during the most recent 2020-2021 docketing discussions with the Board of County Commissioners. Community interest remains high. In 2019, staff met with the Olympia Master Builders to discuss options for moving the ADU project forward, and key elements of the ordinance OMB has been supportive of these changes. The Board identified ADUs as among its top priorities for amendments this cycle.

Key Planning Commission Decision Points: Questions for Consideration

In a follow-up work session, staff will be presenting the following decision points to the Planning Commission to work through so that a public hearing draft of a rural ADU ordinance can be developed. A preliminary list is provided here to begin the conversation.

General

- What types of ADUs should be permitted in the County? Should the County permit all legally feasible new ADUs, including new internal addition, new detached structures subject to density requirements, and conversion of an existing space or structure?
- Should the Family Member Unit (FMU) code section be repealed and replaced with an ADU code section, or should FMUs remain as a secondary option for residents?
- Owner occupancy requirements-- Should the County require the property owner to live on-site for a certain number of days per calendar year? How many days would constitute living on-site full time?
- Should a notice or deed restriction be placed on the parcel to ensure that the ADU is not sold separately?
- Should all base zoning requirements still apply to a detached ADU? This would include setbacks, height, etc.?
- Should the site need to be a minimum size to have an ADU based on the underlying zoning district?
- If the parcel contains an ADU, should it be prohibited from future subdivision until the ADU is removed?
- Should a parcel that has twice the acreage necessary to meet the underlying density that could be subdivided into two separate lots be prohibited to have an ADU?

Building and design standards

- What building design requirements should be imposed on an ADU, if any (e.g., should the code dictate the location of the front door; should the ADU have similar building materials or roof for as the principle structure)?

- What type of buildings should be permitted as an ADU? Should the County allow all building types including, stick build, trailer, manufactured home, etc.?
- What is the maximum square footage an ADU can be built to? If its internal, should it not exceed X% of the existing structure square footage?

Site design

- What site design requirement should be imposed on any or all of the ADU types?
- Should the County require a shared driveway if a detached ADU is proposed?
- If a detached structure is proposed, should the subordinate structure be prohibited between the Public Right-of-Way and principle structure?
- If a detached structure is proposed, should it be located within a certain distance from the principle structure or should it be setback a certain distance?

Utilities

- Should the County require the ADU to connect to the existing single family well provided it can meet Certificate of Water Availability (COWA) requirements for a 2 single-family residential water supply? One well serving two residences is considered a 2 Single-Family residential water supply.
- Should a new septic system be installed to serve the ADU, unless the property owner can prove the existing system was designed to allow the additional dwelling unit?

Permitting Process & Fees

- Should rural ADUs follow the same permitting process as ADUs in the UGA, which includes submitting all permits required for a residential structure as well as an affidavit with the permit?

Attachment

- Attachment A: Washington ADU County Comparison Chart

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County Population	Attached	Conversion	Detached	Owner Occupancy Requirement?	ADU Occupancy Requirements?	Max Square Feet?	Max Size % Requirement?	Parking?	Water / Septic	Design Standards	Other
Clark County 459,495 Rural ADUs <i>40.260.022 Accessory Dwelling Units – Rural (RADU)</i>	Yes. Permitted Use.	Yes. Permitted Use.	Yes. Permitted Use* (Only as an inclusion of the construction of a new single-family).	No.	No. Anyone may occupy ADU.	1,500 square feet.	40% SF of primary.	Yes. 1 on-site parking spot.	Can connect to existing well and septic if adequate in size.	When possible, new entrance shall be placed at side or rear. Total floor area of basement can be RADU, if area less than primary.	Subject to a seventy-five percent (75%) reduction in school and transportation impact fees from the rate imposed for multifamily dwelling units. Deviation allowed for ADA-accessibility reasons. Must be a legal lot.
Pierce County* 843,954 *Not included in density, grandfather clause. <i>18A.37.120 Accessory Dwelling Unit (ADU)</i>	Yes. Permitted Use.	Yes. Permitted Use.	Yes. Permitted Use.	No.	No. Anyone may occupy ADU.	1,250 square feet.	None.	Yes. 1 off-street parking spot.	Information forthcoming. Chart will be updated when information has been made available.	Detached ADU building height shall not be taller than primary height When possible, new entrance shall be placed at side or rear. Detached ADUs shall be no closer to the front lot line than the front edge of the principal dwelling.	A detached ADU may be any dwelling permitted in the applicable land use classification. ADUs are not included in density calculation. Owner shall record a notice on the property title acknowledging the existence of the ADU.
Snohomish County* 772,501 <i>30.28.010 Accessory apartments</i>	Yes. Administrative Conditional Use.	Yes. Administrative Conditional Use.	Yes. Administrative Conditional Use.	Yes. Property owner must occupy primary or accessory. Must file a declaration of owner occupancy with Clerk and Recorder.	No. Anyone may occupy ADU.	Yes, varies based on size of primary.	Attached size: ADU has a sliding size % of primary, based on size of primary Detached shall not exceed 40% of primary, or 850 square feet, whichever is less	Yes. 1 off-street parking spot.	Can connect to existing well and septic if adequate in size.	Must match design of primary structure Attached: entrance shall be on the side or rear of dwelling	Mobile home allowed as detached accessory apartment Not allowed on substandard lots: lots smaller than the current zoning
Whatcom County* 212,284 <i>20.36 Rural District ADU</i>	Yes. Administrative Approval Use.	Yes. Administrative Approval Use.	Yes. Administrative Approval Use.	Yes. Property owner must occupy primary or accessory unit. Deed restriction is recorded prior to building permit issuance.	No. Anyone may occupy ADU.	Yes, either principal residence or ADU	No larger than 1,248 square feet in floor area	No Requirement	Can connect to existing well and septic if adequate in size.	One additional entrance visible from the front yard for detached (not for attached) Meet setback requirements, and location in immediate proximity to primary residence preferred. A common driveway shall be used.	Outside of an UGA, the minimum lot size for detached ADU shall be on a lot no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density Long and short plats that are granted after January 1994 shall be marked specifically designating lots allowed to be developed with an accessory apartment or detached accessory dwelling unit.