



Certified Recommendation

Raleigh Planning Commission

CR#

Case Information: TC-16-19 Accessory Dwelling Development Option

Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	Policy LU 2.2 - Compact Development New development and redevelopment should use a more compact land use pattern to support the efficient provision of public services, improve the performance of transportation networks, preserve open space, and reduce the negative impacts of low intensity and non-contiguous development. Policy LU 5.1 - Reinforcing the Urban Pattern New development should be visually integrated with adjacent buildings, and more generally with the surrounding area. Quality design and site planning is required so that new development opportunities within the existing urban fabric of Raleigh are implemented without adverse impacts on local character and appearance. Policy LU 8.5 - Conservation of Single-Family Neighborhoods Protect and conserve the City's single-family neighborhoods and ensure that their zoning reflects their established low density character. Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single-family neighborhoods to protect low density character, preserve open space, and maintain neighborhood scale. Policy H 1.8 - Zoning for Housing Ensure that zoning policy continues to provide ample opportunity for developers to build a variety of housing types, ranging from single-family to dense multi-family. Keeping the market well supplied with housing will moderate the costs of owning and renting, lessening affordability problems, and lowering the level of subsidy necessary to produce affordable housing. Policy H 2.5 - Removing Housing Barriers Address regulatory and policy barriers to affordable housing development while still maintaining Raleigh's high-quality development standards. Policy H 2.8 - Accessory Dwelling Units Promote the construction of accessory dwelling units above garages, or "granny flats," and cottage/small lot ordinances, to provide affordable and workforce housing options and help accommodate future citywide residential demand. Policy H 4.2 - Aging in Place Promote universal design and lifecycle housing to facilitate the ability of homeowners and neighborhood residents to age in place in their homes and neighborhoods. Policy H 4.3 - Housing for the Disabled Support development of accessible housing for residents with disabilities, particularly near transit stations and corridors.
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	Policy PU 1.1 - Linking Growth and Infrastructure Focus growth in areas adequately served by existing or planned utility infrastructure. Policy UD 5.1 - Contextual Design Proposed development within established neighborhoods should create or enhance a distinctive character that relates well to the surrounding area. Policy UD 5.4 - Neighborhood Character and Identity Strengthen the defining visual qualities of Raleigh's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context.
<i>Action Items</i>	

Summary of Text Change

<i>Summary</i>	Proposes to remove UDO Article 5.7 Accessory Dwelling Unit Overlay District and creates a new Section 2.6.3 to allow construction of an attached or detached accessory dwelling unit on the same lot as a principal residential building as a by-right development option.
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Summary of Impacts

<i>Impacts Identified</i>	Adoption of TC-16-19; Removes the Accessory Dwelling Unit Overlay District. Allows construction of an accessory residential structure on the same lot as a principal building, which may be a Detached or Attached House, in all districts where Single-unit Living is permitted. The maximum of one accessory structure per lot would be permitted could result in a cumulative increase in gross density, potentially with an increase in parking demand. Most of the additional regulations from the overlay district are retained. These restrictions of use, scale, and occupancy of an accessory dwelling would limit impacts of form and use.
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Public Meetings

<i>Submitted</i>	<i>Committee</i>		<i>Planning Commission</i>	
12/3/2019	2/18/2020	PC Text Change	2/11/2020	

Attachments

1. Draft Ordinance

Planning Commission Recommendation

<i>Recommendation</i>	
<i>Findings & Reasons</i>	
<i>Motion and Vote</i>	

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

_____ Planning Director	_____ Date	_____ Planning Commission Chairperson	_____ Date
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Staff Coordinator: Mark R. Holland: mark.holland@raleighnc.gov



Zoning Staff Report – TC-16-19

Accessory Dwelling Development Option

Request

<i>Section Reference</i>	TC-16-19 Accessory Dwelling Development Option
<i>Basic Information</i>	Amends the UDO to create a residential development option in which construction of an attached or detached accessory dwelling unit would be permitted on the same lot as a principal residential building.
<i>PC Recommendation Deadline</i>	May 11, 2020

Comprehensive Plan Guidance

<i>Applicable Policies</i>	LU 2.2; LU 5.1; LU 8.5; H 1.8; H 2.5; H 2.8; H 4.2; H 4.3; PU 1.1; UD 5.1; UD 5.4
<i>Action Items</i>	Not applicable

Contact Information

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History/Overview

This text change was initiated by the City Council at its meeting on December 3, 2019. During consideration of the Unified Development Ordinance in 2011-2013, the City discussed approval of “Backyard Cottage” as a new Housing Type. In the end, however, the accessory dwelling form was not included in the adopted UDO. Public interest in such housing, however, has remained, driven by interest in opportunities to provide for aged, disabled, or young adult family members to live in a separate but on-site dwelling, for new rental income, and, overall, to increase the diversity and affordability of housing options in the City.

After a petition of citizens from the Mordecai neighborhood in 2016 staff was asked to perform a study of the neighborhood in an effort to draft accessory dwelling regulations in a “test environment.” Staff performed the research and conducted outreach with the neighborhood, ultimately presenting the results to the neighborhood and the City Council. The City Council authorized a text change in October 2016. The City Council conducted a public hearing on this text amendment, TC-3-17, on July 5, 2017 and then referred it to the Growth and Natural Resources Committee. The committee conducted multiple public meetings, after which they sent a framework to the full City Council for revising the proposed ordinance as an overlay district.

The City Council authorized staff to revise the proposed ordinance based on this framework. The City Council approved the amended ordinance in February 2019 as an overlay zoning district, the Accessory Dwelling Unit Overlay District (ADUOD), with a requirement for neighborhood polling.

From February 2019 to December 2019, no petition was filed to request application of the overlay district. In December 2019, the City Council authorized a new text amendment to remove barriers to construction of accessory dwellings. In response, staff drafted this text amendment, TC-16-19, that proposes to remove the adopted overlay district and allow accessory dwelling units to be approved solely through an administrative decision (also known as “by-right” or “as-of-right”) in all districts that allow Single-unit Living.

Purpose and Need

This text provides opportunity to diversify and expand housing options within the City, while limiting aspects of built form to complement existing development patterns and uses. Removal of the overlay in favor of a “by-right” mechanism for permitting accessory dwelling units. No additional zoning or zoning changes would be required for an applicant to submit a development plan for an accessory dwelling on a lot where a Detached or Attached House used for Single-unit Living is already established. The proposal is designed to enable individual property owners to decide whether an accessory dwelling is appropriate for their property while ensuring that regulations are in place to manage the use, scale, lot coverage, and population density associated with accessory dwellings.

Alternatives Considered

A number of methods for allowing accessory dwelling units have been evaluated by staff, the Planning Commission, the City Council, and the Growth & Natural Resources committee dating as far back as the original adoption of the UDO. One alternative, an overlay district, has been adopted and has been in effect for more than a year as of the writing of this report.

This newly drafted text amendment, in addition to removing the overlay district and allowing ADUs without a preceding rezoning request, considered revisions to some of the regulations that apply to Accessory Dwelling Units (ADUs). The topics considered are listed below.

1. **Landscaping:** The ADUOD required landscaping for ADUs of a certain size. TC-16-19 proposes to remove this requirement. No special or additional landscaping would be required for ADUs beyond what is required by the underlying zoning district.
2. **Parking:** This text amendment retains the parking requirement for ADUs of one space per ADU. A parking exemption is proposed for ADUs located within one quarter mile of a high-frequency transit stop.
3. **Attached Houses:** The ADUOD did not allow an ADU on a lot developed with an Attached House (duplex). TC-16-19 would allow one ADU on a lot developed with an Attached House.
4. **Variances:** The ADUOD prohibited variance requests for ADUs. One of the effects of this provision is to prevent an existing, nonconforming accessory structure from being used as an ADU. The draft text change removes this provision, allowing a property owner to seek a decision from the Board of Adjustment as to whether an existing structure may be converted to an ADU.
5. **Height:** The proposed text amendment would allow an ADU to be taller than the principal structure. The maximum height of an ADU is set at 25 feet by the new UDO Section 2.6.3. Staff also considered exempting ADUs from other standards for Accessory Structures as listed in UDO Section 6.7.2 but retained all standards except height. It is not clear if the authorized scope for TC-16-19 includes significant changes to Section 6.7.2.
6. **Living Space:** The proposed new Accessory Dwelling development option would use a standard for the floor area of an ADU called “Living Space”. This term is explained in the section but is not a defined term in the glossary of the UDO. Staff’s intent in using Living Space is to distinguish between floor area in an accessory structure that is used for a dwelling unit and floor area used for other purposes such as a garage or storage area. The UDO defines the term “Gross Floor Area” but this definition may lead to instances where floor area within an accessory structure is counted against the allowed size of an ADU when it is not a part of the dwelling unit.

Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

Possible increase in gross residential density within residential districts that would not otherwise allow this level of density (although within structures of lesser scale than principal buildings), and, in association, potentially increased demand for parking. Part of the framework developed by City Council could alleviate the need for parking in many locations. The adoption of this text change could result in slight increases to residential density without placing much impact on infrastructure.

Additionally, approval of this text amendment would remove the case-by-case, geographic mechanism of legal notice that would accompany a rezoning request as required to apply the Accessory Dwelling Unit Overlay District. The overlay district dictates a unique legislative process for each neighborhood to decide whether or not to allow accessory dwellings. Removing the overlay district and allowing ADUs to be approved administratively across most of the City's zoning districts may deprive stakeholders of a more context-sensitive allowance for ADUs.

The removal of the neighborhood-scale element of participation and expression of values is mitigated by the fact that this text amendment will undergo a similar level of legal notice, public review, public comment, and legislative deliberation that a rezoning case would. One important discrepancy between the review processes is that, whereas a rezoning request would involve geographically localized mailed notice of public hearings, the text amendment process does not include this requirement.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

Allowing construction of an accessory dwelling unit currently entails seeking consent of a significant majority of one's neighbors to rezone at least 10 acres of property, potentially paying a rezoning application fee in excess of \$600 and participating in a rezoning process that may take six months or longer. Once these requirements are met, there is a risk that the rezoning will not be approved. If this text change is not adopted, the rezoning requirement will remain in place and present a temporal, monetary, and procedural impediment to construction of accessory dwellings.

The Accessory Dwelling Unit Overlay District offers neighboring property owners the opportunity to participate in the decision to allow accessory dwellings in their vicinity. Denial of this text amendment would sustain neighboring property owners' ability to influence a legislative decision that affects how the property of others is regulated, which may be perceived as giving undue control over the use of private property to individuals who do not own the property.

Impacts Summary

Adoption of Proposed Text Change

The adoption of this text will enhance the diversity and potentially increase the affordability of housing in areas of the City where Single-unit Living is permitted. Some degree of public input in deciding whether and where to allow ADUs will be reduced.

No action

Residential options would be the same as existing; i.e., construction of accessory units would remain hindered by a rezoning requirement that involves property owners other than the applicant for the accessory dwelling. Decisions to allow ADUs would be weighed collectively by individual neighborhoods.

ORDINANCE NO. 2020 – XX TC XX
TC-16-19

AN ORDINANCE TO AMEND THE PART 10
RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO ALLOW ACCESSORY
DWELLING UNITS ON LOTS WITH EXISTING DETACHED OR ATTACHED
HOUSES

WHEREAS, the City of Raleigh has determined it appropriate to manage the development of Accessory Dwelling Units to expand housing options while protecting and enhancing neighborhood character and scale;

WHEREAS, the City of Raleigh has determined it appropriate to remove the Accessory Dwelling Unit Overlay District that currently regulates Accessory Dwelling Units;

WHEREAS, the City of Raleigh has determined it appropriate to allow Accessory Dwelling Units on the same lot as a detached or attached house in order to provide additional affordable housing inventory;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 1.3.3. of the Part 10 Raleigh Unified Development Ordinance, Overlay Districts, is hereby amended by deletion of the following struck-through text in the list of Overlay Districts:

~~-ADUOD Accessory Dwelling Unit Overlay District~~

Section 2. Section 1.5.2.B. of the Part 10 Raleigh Unified Development Ordinance, Lot Area, is hereby amended by insertion of the following underlined text and deletion of the following struck-through text:

B. Lot Area

Lot area is the area included within the rear, side and front lot lines. It does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use. District density applies and may require larger lots than those required for an individual building type. ~~Within the Accessory Dwelling Unit Overlay District (-ADUOD), one~~ For any lot developed with a Detached House used for Single-unit Living or an Attached House used for Two-unit Living, one accessory dwelling unit is permitted per lot, regardless of underlying density designation.

Section 3. Section 1.5.3.F.2. of the Part 10 Raleigh Unified Development Ordinance, Density, is hereby amended by insertion of the following underlined text and deletion of the following struck-through text:

Although minimum lot sizes may allow additional units, density serves as the maximum number of principal units per acre. ~~Within the Accessory Dwelling Unit Overlay District (ADUOD)~~ For any lot developed with a Detached House used for Single-unit Living or an Attached House used for Two-unit Living, one accessory dwelling unit is permitted per lot, regardless of underlying density designation.

Section 4. Section 2.1.3. of the Part 10 Raleigh Unified Development Ordinance, Additional Housing Patterns, is hereby amended by insertion of the following underlined text following Sec. 2.1.3.B.:

C. Accessory Dwelling (See Sec. 2.6.3.)

The Accessory Dwelling housing pattern provides for the development of one accessory dwelling unit on a lot with an existing Detached House as an accessory use to a principal use of Single-unit Living or on a lot with an existing Attached House as an accessory use to a principal use of Two-unit Living.

Section 5. Article 2.6. of the Part 10 Raleigh Unified Development Ordinance, Additional Housing Patterns, is hereby amended by insertion of a new section after Section 2.6.2, to be numbered 2.6.3, entitled Accessory Dwelling, and to read as follows:

Sec. 2.6.3 Accessory Dwelling

A. Purpose and Objectives

The Accessory Dwelling housing pattern provides for the development of one accessory dwelling unit on a lot with an existing Detached House as an accessory use to a principal use of Single-unit Living or on a lot with an existing Attached House as an accessory use to a principal use of Two-unit Living.

B. Base Standards Apply

Except as specifically set forth in this section, the allowed uses, the dimensional requirements, height limits and general development standards of the underlying zoning district apply.

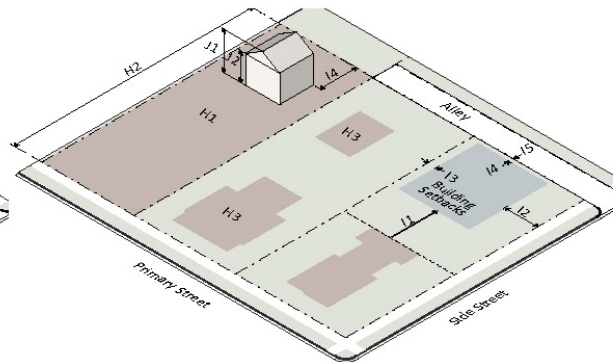
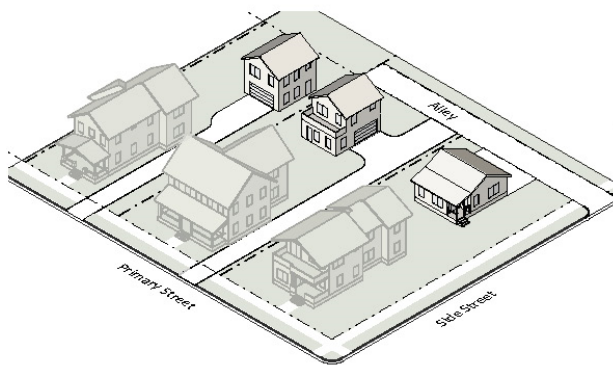
C. Definition

An Accessory Dwelling Unit (ADU) is a self-contained dwelling unit that is located on the same lot as a principal dwelling but is used independent of and subordinate to the principal dwelling. Accessory Dwelling Units typically include a living room, sleeping area, kitchen, and bathroom, and have a lockable entrance door. An Accessory Dwelling Unit may be located above a garage. Accessory Dwelling Units may be detached, attached, or internal to the principal dwelling. Only residential uses are permitted in Accessory Dwelling Units.

D. Accessory Dwelling Unit Regulations

In accordance with this section, an accessory dwelling unit shall conform with the following development regulations:

1. An ADU shall be located on the same lot as a principal dwelling and meet one of the following:
 - a. When attached or internal, the living space of the accessory dwelling shall be no more than 50% of the gross floor area of the total principal dwelling;
 - b. Shall be constructed on a permanent foundation and not be a manufactured home or moveable structure;
2. There shall be no more than one ADU on the same lot as a principal dwelling;
3. An ADU shall not be allowed within a Cottage Court development;
4. It shall be occupied by no more than two adults plus minors;
5. If attached or internal, it shall be independent from the principal dwelling unit;
6. It shall be accessed by an independent external entrance;
7. It shall not be sold apart from the principal dwelling unit;
8. It shall not be used for overnight lodging;
9. It shall not be used as a live-work unit;
10. It shall meet all relevant standards and requirements of the UDO, including without limitation those for accessory uses and structures as provided in Article 6.7. Accessory Uses & Structures with the exception of Section 6.7.2.C.5 and Table 6.7.D.2;



E. Description

An accessory dwelling is a small, self-contained dwelling unit located on the same lot as a detached or attached house and is accessed separately from the principal house. Accessory dwellings typically include a living room, sleeping area, kitchen, and bathroom and have a lockable entrance door. An accessory dwelling may be located above a garage. Accessory Dwelling Units may be detached, attached, or internal to the principal dwelling. Only residential uses are permitted in Accessory Dwelling Units.

F. Districts Allowed In

R-1, R-2, R-4, R-6, R-10, RX-, OX-, NX-, CX-

G. Applicable Lots

An accessory dwelling is allowed on a lot associated with a detached house provided the lot meets the dimensional standards of the zoning district.

20,000 to 10,000 to 6,000 to 4,000 to
LOT SIZE >40,000 sf 39,999 sf 19,999 sf 9,999 sf 5,999 sf

H. Lot Specifications

H1 Area (min)	40,000 sf	20,000 sf	10,000 sf	6,000 sf	4,000 sf
H2 Depth (min)	150'	150'	150'	120'	100'
H3 Dwellings units per lot (max)	2	2	2	2	2
H4 Living area* (max)	800 sf	800 sf	700 sf	550 sf	450 sf

I. Building Setbacks

I1 From primary street (min)	Must be located behind the rear wall of the house				
I2 From side street (min)	15'	15'	15'	10'	10'
I3 From side lot line (min)	10'	5'	5'	5'	5'
I4 From rear lot line (min)	10'	5'	5'	5'	5'
I5 From alley (min)	2' or 20'	2' or 20'	2' or 20'	2' or 20'	2' or 20'

J. Height

J1 Overall height (max)	25'	25'	25'	25'	25'
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*Living area is conditioned space used for Single-unit Living and separate from the principal Single-unit Living or Two-unit Living use on the lot. It does not include unconditioned areas used for storage, parking, or accessory uses other than Single-unit Living.

Section 6. Section 5.1.1. of the Part 10 Raleigh Unified Development Ordinance, District Intent Statements, is hereby amended by deletion of the following struck-through text:

G. Accessory Dwelling Unit Overlay

1. ~~Accessory Dwelling Unit Overlay District (ADUOD)~~

- ~~a. The ADUOD permits accessory dwelling units (ADUs).~~
- ~~b. The permitting of Accessory Dwelling Units promotes efficient land use, improves market affordability, and responds to demand for expanded housing options.~~
- ~~c. Through the regulation of minimum lot dimension requirements; maximum occupancy; and building standards, including maximum square footage, building setbacks and building height, among other standards and requirements as provided in Article 6.7. Accessory Uses & Structures. ADUOD promotes development of accessory dwelling units within a well-regulated framework.~~

Section 7. Amend the Part 10 Raleigh Unified Development Ordinance by repealing the entirety of Article 5.7. Accessory Dwelling Unit Overlay District.

Section 8. Table 7.1.C. of the Part 10 Raleigh Unified Development Ordinance, Parking Requirements by Use, is hereby amended by the insertion of the following underlined text and deletion of the following struck-through text:

~~Accessory apartment, backyard cottage~~Accessory dwelling unit

Section 9. Section 7.1.4.A. of the Part 10 Raleigh Unified Development Ordinance, Proximity to Transit, is hereby amended by insertion of the following underlined text after Sec. 7.1.4.A.2.:

3. No vehicle parking is required for an Accessory Dwelling Unit with a main entrance that lies within 1,320 feet of an operating transit stop or stops with service from 6AM to 8PM where service intervals are no longer than 15 minutes during peak commute hours.

Section 10. Section 8.4.1.C.2. of the Part 10 Raleigh Unified Development Ordinance, Letter of Acceptance Required, is hereby amended by the insertion of the following underlined text and deletion of the following struck-through text:

2. A ~~conditional~~ letter of acceptance may be issued in accordance with Sec. 8.1.3. where the Development Services Director determines that landscaping in the public right-of-way cannot be installed within the adopted planting period (October 1st to April 30th) or where the Parks Recreation and Cultural Resources Director determines that due to inclement weather conditions, a landscape agreement and a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with Sec. 8.5.1.B. The landscaping improvements shall be installed within 12 months of the next planting period from the issuance of the conditional letter of acceptance landscape agreement.

Section 11. Section 10.2.7. of the Part 10 Raleigh Unified Development Ordinance, Plot Plan Review, is hereby amended by insertion of the following section after Section 10.2.7.A.2.h.

- i. Construction of an accessory dwelling unit or conversion of an existing accessory structure to an accessory dwelling unit

Section 12. Article 12.2 of the Part 10 Raleigh Unified Development Ordinance, Defined Terms, is hereby amended by insertion of the following underlined text and deletion of the following struck-through text:

Accessory Dwelling Unit

A self-contained dwelling unit that is located on the same lot as a principal dwelling but is used independent of and subordinate to the principal dwelling. Accessory Dwelling Units typically include a living room, sleeping area, kitchen, and bathroom, and have a lockable entrance door. An Accessory Dwelling Unit may be located above a garage. Accessory Dwelling Units may be ~~detached or attached~~ detached, attached, or internal to the principal dwelling, ~~but shall not be permitted within the attached building type.~~

Section 13. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 14. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 15. This text change has been reviewed by the Raleigh City Planning Commission.

Section 16. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 17. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 18. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 19. This ordinance is effective 15 days after adoption.

Adopted on first reading:

Adopted on second reading:

EFFECTIVE:

DISTRIBUTION: Planning – Bowers, Crane, Holland, Hodge
City Attorney – Tatum Currin, Hargrove-Bailey
Department Heads
Transcription Svcs – Taylor

Prepared by the Department of City Planning