

### **Remaining Issues, Concerns, Questions on the ADU ZOTA:**

What is the proposal for second dwellings on single-family lots, and how would it work? What are its aims, and what would be its actual impact? This compilation of concerns expressed and questions asked by Lexington's neighborhoods is not short, not complete, and not arranged in any particular order. It does not include responses and answers, which may come during our discussion. Only a few issues cover aspects already addressed in full by promoters of ADUs on city staff and in the larger community: As decision nears, our focus is on anything still missing or unresolved from the discussion.

Our task at the meeting will be to add missing pieces, organize, clarify, shorten, and prioritize. **Please scan it and mark the issues that matter most to you and your neighbors. Add new ones from your own experience; rank your priorities. Ultimately, what is your neighborhood's 3-minute message?**

#### **Try to answer 3 questions:**

1. Should Council adopt or deny the ADU ZOTA as proposed? Is it right for your neighborhood and for Lexington?
2. What information & analysis is missing: what do we still need to know to make a good decision on this ZOTA?
3. What changes need to be made to the ZOTA before we and our Councilmembers can consider its adoption?

**A Home extensions, semi-independent living quarters.** Is the ADU ZOTA needed to allow us to add to our home a living area for seniors, grown children or disabled family members—without a public hearing before the Board of Adjustment? Can living quarters for caregivers and domestic employees be allowed under the present zoning regulations? Are ADUs needed to provide for this accessory use in residential zoning?

**B Small-area restrictions.** Can ADUs be prohibited in any area, for example near the University or in areas where tourism threatens to displace long-term residents? Can the ZOTA exclude these areas from the beginning? Alternately, can neighborhoods opt out of the zoning that allows ADUs after it is adopted?

**C Conditional use permit.** What are the pros and cons of making ADUs a conditional use? What specific conditions could be attached to the use: distance/spacing requirements, lot size, ADU size, parking requirement, number of occupants, rental use, detached/attached, neighborhood stability/displacement, greenspace, environmental impact...

**D Neighborhood deed restrictions.** Will private deed restrictions that prohibit or restrict ADUs be legal and valid? How can we learn whether deed restrictions are already in place in our subdivision? What does it take to adopt restrictions today, and which neighborhoods have that option? What is the cost to neighborhoods of enforcing these restrictions?

**E Enforcement.** How are the zoning regulations currently enforced that limit number of dwellings, number of occupants per dwelling, and number of parking spaces permitted? Is enforcement of the proposed ADU restrictions feasible? Is staff and budget adequate? Is the proposed ADU ZOTA likely to make enforcement better or worse? What is known of currently existing "illegal ADUs"?

**F Rental licensing and inspection.** How would rental licensing and regular inspection impact enforcement? Which areas frequently suffer significant non-compliance with zoning regulations? What is the rate of home ownership in these neighborhoods, and how is it trending?

**G Vulnerable neighborhoods and displacement.** Will a ZOTA permitting ADUs have a disparate impact on neighborhoods vulnerable to displacement of long-term residents? What ADU conditions can guard against such impact?

**H Balanced distribution.** Is distribution of ADUs likely to be balanced across the urban area? What safeguards could ensure it? What standards and conditions from C above might be effective, or what others?

**I Resident owner requirement.** How many ADU permits are expected to be granted annually with a resident owner requirement? How many are expected with no residency requirement? (Staff at the [10-21-2019 Planning Commission hearing & vote](#) (minutes 26 and 32) conjectured an annual 20-100 ADUs constructed initially without a residency requirement; and 20 at most with the residency requirement).

Is an owner residency requirement for properties with ADUs legal, and can it be effectively enforced? Is the residency requirement in place for the long term? (Staff noted [9-26-2019](#) that an owner occupancy requirement was removed in NC in 2012 after the state supreme court in *Wilmington v Hill* ruled it impermissibly regulated ownership rather than use; Fayetteville AR removed its requirement in 2018 to encourage more ADUs).

**J “Accessory” use.** Is it legal to allow two complete and independent dwellings on a lot in single-family zoning? What is “accessory” about the second dwelling unit, if indeed it is a full and separate “unit”?

**K Alternative “duplex” zone R-2A; zone changes mapped to chosen locations.** Lexington has six varieties of R-1 and three types of B-2. Why not create a second duplex zone, a less-intensive R-2A, to give opportunity on a single lot for a second smaller dwelling unit with flexible standards; and then use the zone change process to apply it to suitable areas? Why make the change in residential zoning city-wide?

**L Short term rentals/Airbnb.** Should frequent short rentals—under a month long—be allowed in an ADU only with a conditional use permit? If so, what general conditions, specifically, need to be written into the use?

**M Affordability.** How affordable are ADUs as a housing option? What proportion are typically rent-free or rented below market rate? How does the opportunity for rental income factor in— what is its impact for the owner/investor, for the neighbors?

**N Construction.** What is the expected cost of developing an ADU, for the different types: attached, detached, conversion, addition? (See [ADU Manual](#) p. 9 for one estimate, 2019 or earlier).

**O Attached vs Detached ADUs.** What are the pros and cons of attached vs. detached (garage) ADUs? How far will each accomplish the goal of housing affordability?

Is a full dwelling unit comparable to a garage or toolshed in the intensity of its use: is it fair to allow a structure that doesn’t meet today’s zoning standards to house this new “accessory” use?

**P ADUs beyond the single-family zones.** Why allow ADUs for house-lots already in duplex, townhouse and multi-family zones? If the zone already provides for the orderly development of additional dwellings, doesn’t an ADU ordinance circumvent these provisions? (Find your zone on the [official zoning atlas](#)).

**Q Fair Share: Taxes & Fees** to support utilities, transportation, schools, water, sewers, environment, safety. Will ADU developers and owners pay their fair share of taxes and fees for creating and using a new dwelling unit? How is the cost of needed public facilities and services reckoned, for an ADU?

**R Syndicated rental ADUs.** Portland and other cities have seen the rise of companies that develop and manage multiple ADUs for different investors and homeowners. In Lexington, as investors acquire dozens of single-family homes for rental conversion, certain areas have seen a steep decline in home ownership, at times accompanied by changing property values. Should the proposed ADU “resident owner” requirement extend to requiring the resident owner’s operation of the rental, as it does for Lexington bed and breakfasts?