

Memorandum

To: Board of Commissioners
From: Molly Boyle, Planner II
Cc: Shannan Campbell, Planning & Economic Development Manager
Date: October 28, 2024
Subject: Staff analysis for UDO text amendment to Section 5.2.8, *Dwelling, Accessory* (applicant-initiated)



Background

On April 18, 2024, a joint public hearing was held for a staff-initiated UDO text amendment on accessory dwelling units (ADUs). The main goal of the text amendment was to increase the maximum size of ADUs.

A resident, Natalie Dolgireff, spoke at the hearing. She and her husband live on the private portion of Daphine Drive (originally platted as Daphine Court). She asked that the amendment be revised to allow freestanding (*i.e.*, detached) ADUs on private streets so they could build a freestanding ADU; currently, the UDO allows freestanding ADUs only on lots with direct access to a public street.

On June 10, 2024, the Board of Commissioners adopted the text amendment as originally proposed by staff (*i.e.*, Ms. Dolgireff's request was not included). When making its recommendation in May 2024, the Planning Board asked staff to investigate the feasibility of allowing freestanding ADUs on private streets and to report back to the board. Before the Planning Board met again, the applicant submitted their own request to amend the UDO

Proposal Summary

The applicant is proposing to amend UDO Section 5.2.8, *Dwelling, Accessory* to allow freestanding (*i.e.*, detached) ADUs on private streets. The applicant lives on the private portion of Daphine Drive (originally platted as Daphine Court) and would like to build a freestanding ADU. Currently, the UDO allows attached ADUs on private streets but not detached ones. The applicant's proposed amendment and justification are enclosed with the application materials.

Planning Analysis

Daphine Drive

The applicant lives on the private portion of Daphine Drive, which consists of the following:

- a 60' private right-of-way;
- a new gravel travel-way approximately 20' wide, which was laid within the past three years; and
- a new gravel cul-de-sac approximately 95' in diameter, also laid within the past three years.

The lots on the private right-of-way for Daphine Drive were created decades ago. The street serving the lots was historically gravel and deteriorated over time after homes were removed from the lots. Around 2019, a developer bought the lots and, after consultation with town staff and the Fire Marshal, installed new utility lines and improved the street to the standard described above.

Private Street Standards

Not all private streets in town are built to the same standard as Daphine Drive.

UDO Section 6.21.4, *Design Standards – Private Streets* and the town’s Street Manual contain standards for new private streets. Private streets that provide primary access to no more than four lots and/or dwelling units may be constructed with a right-of-way as narrow as 18’ in width. The travel-way in these situations may be gravel and 12’ wide. There are no design standards for private streets that serve only one or two lots. Some existing private streets pre-date these standards and are considered nonconforming, meaning they do not meet, and are not required to meet, current private street design standards.

Allowing freestanding ADUs on all private streets raises concerns about emergency access, such as:

- Can the private street support the width and weight of a fire apparatus and other emergency vehicles?
- Does the private street have a turn-around, such as a cul-de-sac or t-turn, that can accommodate these emergency vehicles?

It raises the same questions for other types of service vehicles, such as school buses and garbage trucks. Bus stops and trash receptacles may have to be brought to the closest public street intersection as well, which may be a significant distance.

ADU Regulations: Attached vs. Detached

On June 14, 2021, pursuant to a citizen-initiated text amendment application, the Board of Commissioners amended the UDO to allow attached ADUs on private streets (vote 3-2). In the UDO, an attached ADU is referred to as “within a principal single-family dwelling.” Minutes from the subject hearing, Planning Board meeting, and Commissioners meeting are attached.

Street access standards should be made the same for both attached and detached ADUs, either through the text amendment process or during the UDO rewrite. However, because of the variability in private streets in town, access standards should be established in the interest of public health, safety, and welfare.

Utilities Analysis

Per the Utilities Department, many of the private streets in town have undersized, outdated utilities without properly platted and recorded public utility easements. The Utilities Department does not support additional development on streets that do not meet the town’s current standards for sizing and access for maintenance.

If freestanding ADUs are to be allowed on a private street, then Utilities staff suggests that the private street be required to have a platted, deeded public utility easement and that the existing utility lines must be upsized, if needed, prior to development.

Staff Recommendation

Staff does not support the proposed text amendment as written because of the issues outlined above. If the boards wish to allow all types of ADUs on private streets, staff recommends including the following limitations:

- A platted, deeded public utility easement shall be required and existing utility lines shall be upsized, if deemed necessary by the Utilities Department; and
- The private street providing access to the ADU must conform to UDO Section 6.21.4, *Design Standards – Private Streets*.

Note this will necessitate additional amendments to Section 6.21.4. For example, subsection 6.21.4.5.b prohibits “any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences” on private streets. This language would need to be revised.