Accessory Dwelling Unit Community Update

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Agenda

- Where We've Been Up to Now
- Draft ADU Policy Fey Features
- Key Policy Challenges
  - Existing ADUs (How do we treat them?)
  - Occupancy Standards (Yea or Nay?)
  - Density Allocation (or lack thereof)
- Feedback

Where We've Been Up To Now

- November 20, 2019 – Introductory Meeting Discussion Item
- February 19, 2020 – ADU Workshop
- December 16, 2020 – ADU Workshop
- March 20, 2021 – ADU Workshop and follow-up study on parking issues, occupancy restrictions, and incorporating survey feedback
- January 17, 2024 – ADU Update Presentation
- March 27, 2024 – ADU Update Presentation and direction for ordinance development
- Summer 2024 to summer 2025 – active litigation and SB184 potential preemption
- Summer 2025 to present – working with legal on draft ordinance

Our Policy (Key Features)

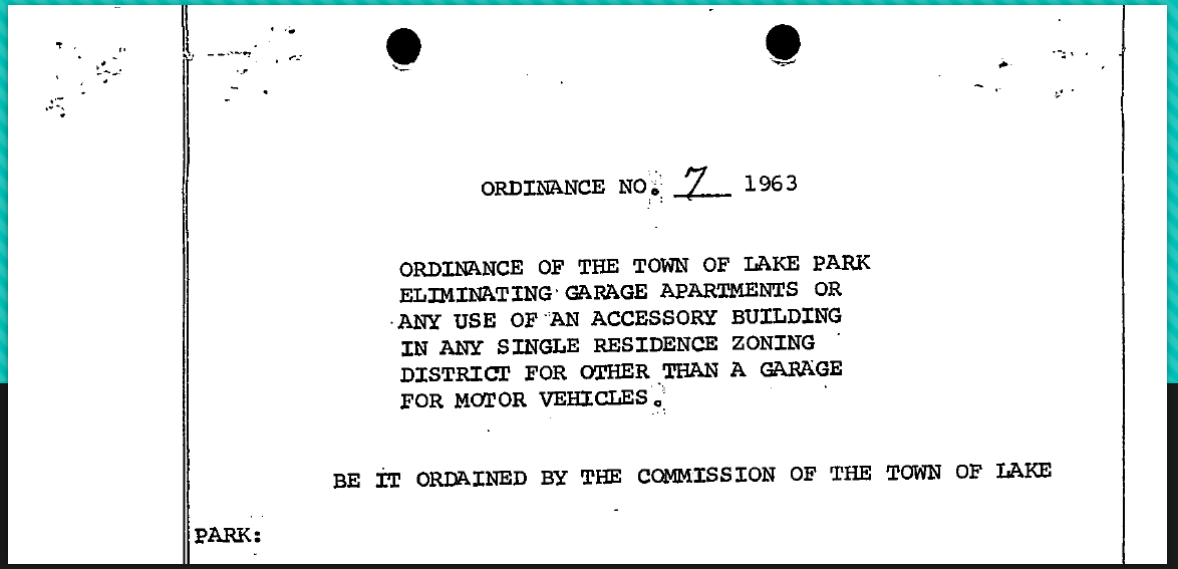
- ADUs are accessory uses in the R-1 and R-1A single family districts
- ADUs will be included in the density calculation
- ADUs may be up to 1,000 square feet but must not exceed the maximum built coverage in the single family districts (50% in R-1A or 60% in the R-1)
- ADUs must honor existing setback standards and shall be 10’ from the primary structure
- ADUs shall create a dedicated access sidewalk
- ADUs shall provide two new 8’ X 20’ parking spaces in addition to those for the primary dwelling or demonstrate such parking already exists
- ADUs shall be one story or 20’
- ADUs shall provide stormwater retention
- Owner must occupy ADU or primary dwelling
- ADUs shall be an administrative approval

Key Challenges

- How do we treat existing ADUs given some properties have multiple ADUs and we cannot identify permits? What is the vesting process or is there a vesting process at all?
- Occupancy Standards – can we impose an occupancy requirement? What are the potential liabilities associated with this requirement?
- Density – how should it be calculated and how does it reflect on the “spirit and intent” of our ADU regulations?
  - What is the impact of SB180 on new rulemaking for ADUs? (Town Attorney will review)

Notes	Blding Type	ADU	BTR	LLC	Permitted as ADU?	Units (According to PAPA)	Attached?
New Meter on Rear Apt 1987 plan sheet/ Nonconforming setbacks	Outbuilding	Yes	No		"Rear Apt" Reference	2	Detached
No permits identified	Apparent Attached ADU and Outbuilding	Yes	Yes		Unknown	4	Attached and Detac
Unit A Service Change 16-294	Attached ADU	Yes	Yes		"Units" Reference	2	Attached
No permits identified	Attached ADU	Yes	No		Unknown	2	Attached
Reroof Back Unit 14-92	Apparent Attached ADU and Outbuilding	Yes	Yes	Y	"Units" Reference	3	Attached and Detac
13-356 (reroof garage / "back unit")	Outbuilding	Yes	No		"Units" Reference	2	Detached
Historical Structure Form notes 1 Outbuilding	Outbuilding	Maybe	No		Unknown	1	Detached
No permits identified	Outbuilding	Yes	Yes		Unknown	2	Detached
09-589 cottage remodel	Outbuilding	Yes	Yes		"Cottage" Referenced	2	Detached
05-201 (new duplex meter)	Apparent Attached ADU and Outbuilding	Yes	Yes	Y	"Duplex" metered	3	Attached and Detac
12-172 close-in garage on outbuilding; records indicate formerly recognized as 2 units	Outbuilding	Maybe	No		Former ADU	1	Detached
10-97 references unit 1/2	Apparent Attached ADU and Outbuilding	Yes	Yes		"Units" Reference	3	Attached and Detac
No permits identified	Outbuilding	Yes	No		Unknown	2	Detached
2006 Survey refers to outbuilding as "residence"	Outbuilding	Maybe	No		Unknown	1	Detached
No permits identified	Outbuilding	Yes	Yes		Unknown	2	Detached
No permits identified	Outbuilding	Yes	No		Unknown	2	Detached
06-472 "cottage door replacement"	Outbuilding	Yes	No		"Cottage" Referenced	2	Detached
12-262 "Cottage AC addition"	Outbuilding	Yes	No	Y	"Cottage" Referenced	2	Detached
14-254 Reroof rear unit	Outbuilding	Yes	Yes		"Units" Reference	2	Detached
2 doors - no records	Finished Garage	Maybe	No		Unknown	1	Attached
No permits identified	Multiple Attached and Detached	Yes	Yes	Y	Unknown	5	Attached and Detac
25-190 "guest house" reroof	Outbuilding	Yes	No		"Guest House" Referenced	2	Detached
Permits issued for unit 1 18-463	Outbuilding	Yes	No		"Units" Reference	2	Detached
No permits identified	Outbuilding	Yes	Yes	Y	Unknown	3	Attached and Detac
08-619 references unit 1/2	Outbuilding	Yes	Yes		"Units" Reference	2	Detached
03-87 Cottage reroof	Outbuilding	Yes	Yes		"Cottage" Referenced	2	Detached
No permits identified	Outbuilding	Yes	Yes		Unknown	2	Detached
06-985 Unit B windows and doors	Outbuilding	Yes	No		"Units" Reference	3	Attached and Detac
No permits identified	Outbuilding	Yes	Yes	Y	Unknown	2	Detached
12-200-203 Interior remodel; 1984 Survey identifies APT and Garage; former or defacto ADU	Finished Garage	Maybe	No		Unknown	1	Detached
No permits identified	Outbuilding	Yes	Yes		Unknown	2	Detached
04-747 "Duplex" ref; 2 meters	Attached ADU	Yes	No		"Duplex metered	2	Attached
Permits issued for address "1"	Multiple Attached	Yes	No	Y	"Units" Reference	5	Attached
No permits identified	Multiple Attached and Detached	Yes	No	Y	Unknown	4	Attached and Detac
No permits identified; nonconforming setbacks	Outbuilding	Yes	Yes		Unknown	2	Detached
15-656 reno; no demo required for permit of ADU renovation	Duplex Outbuilding	Yes	No	Y	Permittted for ADU Reno	3	Detached
Air conditioned outbuilding; no specific permit refs IDed	Outbuilding	Maybe	No		Unknown	1	Detached
Various upgrade permits; unit reference 08-115	Multiple Attached and Detached	Yes	No	Y	"Units" Reference	5	Attached and Detac
12-084 "rear unit" reroof	Outbuilding	Yes	No		"Units" Reference	2	Detached
BTR is not for ADU; unpermitted	Outbuilding	Yes	Yes	Y	Unpermitted Work	1	Detached
Settlement; known ADU	Outbuilding	Yes	Yes		Settlement Agreement	1	Detached

Challenge: Existing ADUs



ORDINANCE NO. 7 1963

ORDINANCE OF THE TOWN OF LAKE PARK ELIMINATING GARAGE APARTMENTS OR ANY USE OF AN ACCESSORY BUILDING IN ANY SINGLE RESIDENCE ZONING DISTRICT FOR OTHER THAN A GARAGE FOR MOTOR VEHICLES.

BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF LAKE PARK:

- It has not proved possible to definitively identify if ADUs were originally permitted at construction.
- We have managed to identify when Lake Park ADUs were repealed (Ord 07-1963) so we might make assumptions about outbuildings of a certain age, but we cannot be certain if they were permitted or not and this complicates explicit vesting schemes.
- This legal uncertainty creates concerns about blanket amnesty for existing de facto ADUs, given there have been several identified cases of conversions without permits.
- Furthermore, several properties contain multiple ADUs, which raises the question how these should be treated.
- Furthermore, existing ADUs, if legalized, may require upgrades to the current FBC in order to be habitable.

Challenge: Occupancy Standards

- Occupancy standards were always envisioned to limit ADU occupancy by requiring property owner occupancy of the primary or secondary dwelling.
- This was intended to promote ADUs as a use for residents and not investment corporations. Duplex districts like R-2 already provide this option to investors.
- Although Town staff supports the occupancy restriction and there is some local precedent for it, legal has concerns it could bring challenges.

Challenge: Density Standards

- Density is the final aspect of the policy that may need reconsideration.
- Depending on the final configuration of the occupancy standards, the density entitlement may present an issue by effectively entitling a second unit on single family properties; an implication of this approach would be the single family properties effectively become duplex properties.
- A negative impact we've striven to avoid is commodifying the single-family housing stock. We want to configure this ordinance in a way that puts families first and rewards those who want to own and live in Lake Park.
- If Lake Park single-family homes become bought up by investors as rental properties, ADUs have the potential to have the opposite effect as an affordable housing tool, at which point they would have to be considered a failure under our justifying framework of Flexibility, Sustainability and Affordability.

Why ADUs in Lake Park?

- Affordability – for current owners, new buyers, and renters

- Flexibility – for multigenerational households, parents and young adults

- Sustainability – for community health and the environment

Possible Solutions: Existing ADUs

- The existing ADU problem essentially breaks down as follows: how do we identify existing ADUs for vesting, how do we handle multiple ADUs, and how do we ensure they're safe for habitation.
- One solution: we use built date (before 1963) as a proxy for determining if these structures were permitted and vest those before that date, subject to necessary upgrades.
- Another solution: amnesty / compliance program. Owners are asked to come forward and identify their units for the purposes of specific vesting subject to life-safety inspections and needed upgrades.
- Another solution: no specific ADUs are vested. Rather, going forward, all property owners are now allowed to build, or renovate, one ADU to meet code, insofar as possible. Multiple ADUs remain nonconforming above the entitlement of one.

Possible Solutions: Existing ADUs (cont.)

- West Palm Beach was able to verify vesting of existing nonconforming “accessory apartments” using building permit records.
- Palm Beach County: defers to standard existing nonconforming provisions.
- Delray Beach: legal nonconforming (i.e., permitted) “guest cottages” can remain and make improvements until torn down, at which point they’d have to meet (proposed) regulations. Uses without permits would be dealt with on a case by case basis; no compliance plan at this time.
- Lake Worth Beach: No blanket amnesty or special provisions. Defers to general existing nonconforming provisions.

Possible Solutions: Occupancy Standards

- The question of occupancy standards may be broader than an owner requirement or not.
- It could be rather than attempting to limit the occupancy, instead eliminating the new density allocation could be enough to deter speculation, with only one unit existing “on paper.”
- Other novel policy mechanisms may need to be envisioned to achieve the desired effect of creating affordable housing targeted at extended families and rentals to friends.

Possible Solutions: Occupancy Standards

- Palm Beach County currently requires the owner to reside on site in the principal dwelling.
- West Palm Beach has no owner occupancy standard and allows both units to be rented.
- Delray Beach allows guest cottages to be used by family, live-in service providers, or nonpaying guests. Looking at further restricting occupancy in forthcoming ordinance.
- Lake Worth Beach has no occupancy restriction and allows these uses only in multifamily districts.

Possible Solutions: Density

- The density entitlement (or lack thereof) is an important aspect of the ADU policy.
- Anecdotally, staff is aware some investment entities make purchase decisions purely based on the number of units on the property.
- Adding an additional half unit of density to the single-family districts may conflict with these districts function as single-family districts.
- Omitting the half-unit entitlement would help reinforce the purpose of these areas as single-family homes with accessory living quarters and not duplexes (Palm Beach County utilizes this framework and also requires one utility meter per property).

Possible Solutions: Density

- Palm Beach County excludes accessory quarters and guest cottages from their density calculation. Previously, they used to have accessory dwelling “units” but changed it to quarters, which did not confer a unit entitlement.
- West Palm Beach includes accessory use in the density calculation
- Delray Beach: Does not include guest cottages in the density calculation.
- Lake Worth Beach: includes density in calculation, but does not allow ADUs in SF districts; duplex or triplex properties only.

Summary

- Existing Nonconforming: ADUs appear vested through building permit records. In our case, it may simply be best to refer to our existing nonconforming regulations and allow existing ADUs to come into compliance with the new code over time.
- Occupancy: There is some variety in local treatment of occupancy. It seems to breakdown as follows: where density is allocated, ADUs are treated like commercial (duplex) properties and have no rental restrictions whereas where density is not allocated they are treated like accessory uses for homeowners.
- Density: It seems where the intent is to retain the single-family character of a district, density is not calculated and ADUs are accessory uses (PBC, Delray Beach). If there is not an occupancy restriction, I would advise against adding a half unit entitlement to the SF districts. We may also need to change “Accessory Dwelling Unit” to “Accessory Dwelling Quarters” and clearly define these accessory uses as subordinate to and distinct from residential “units.”

Feedback

- Thank you for your continued attention and patience as we work through this policy.
- Some solutions to these issues may be easier than others, but given how far we've come, let's not compromise on our vision before the finish line. We have the opportunity to do something great and we are very close to realizing our vision.
- Time is of the essence however; legislators seem increasingly eager to compromise sound community planning principles. Lake Park needs to enact good policy before we are preempted.

Town Commission Open Discussion

Thank you for your time!