

ADU Advisory Committee – Meeting #5

Aug 4, 2022 – via Zoom

Prepared by the Consensus Building Institute (CBI)

Meeting in Brief

The Committee met to discuss proposed tools and approaches for addressing ADU challenges within the suburban, urban and urban edge contexts. The Committee discussed feedback from the public survey and provided input on options for removing barriers to ADU construction in the different neighborhood contexts. The City will host a public open house on August 25th for a final round of feedback before recommendations are brought forward at the September Committee meeting.

Click [here](#) for a video recording of the meeting, future meeting announcements, and other materials. The public comments and Q&A from the Committee meeting are included at the end of this summary. The Q&A from this and previous meetings is an excellent resource for answers to commonly asked questions. The full meeting presentation can be viewed [here](#).

Focus Groups

Abe Barge provided a recap of take-aways from the June Committee meeting. Following this, Libby Kaiser and Joshua Palmeri reviewed input from the Suburban Context and Architects/Builders Focus Groups on issues related to shade and privacy concerns, setbacks and height, windows, and conversions. This summary of the presentations with respect to these areas of concern is included below.

Suburban Context Focus Group

The nine-person Suburban Context Focus Group met on **June 16**. The following points were noted:

- Focus group participants confirmed several areas that have already been identified as ADU challenges, including concerns about shade and privacy. Proximity of ADUs to primary units and lack of alleys in suburban areas elevate these concerns.
- Setbacks and height were discussed as well. Participants clearly suggested that ADUs should be limited to one story in the suburban context, versus 1.5- or 2-stories. In this case, the setback could remain at 5', which participants preferred to the suggestion made by City staff to change setbacks to 7'. Limiting height would be more impactful.
- Participants liked the idea of regulations around landscaping, as well as window placement and configuration to prevent ADU residents from looking into neighboring homes.
- Some limited concerns were raised about use of garages resulting in a loss of parking.
- A question was raised about setbacks for attached versus detached ADUs. The group viewed and discussed relevant aspects of each; there was less concern about setbacks for attached ADUs, which are required to be set back 15' from the rear property line vs. 5' for detached ADUs. Participants expressed that setbacks become particularly important if the height is greater than one story.
- Based on feedback provided, City staff is considering allowing two stories in Urban Edge settings.

Architects/Builders Focus Group

- City staff reached out to the American Institute of Architects (AIA) in Denver and met with a group of 15 architects and builders to discuss a range of technical issues. Through these discussions, the focus group was able to resolve 9 out of 10 of the major issues identified.
- The group discussed the amount of time required by the City to review permits, due to a backlog at the City. This is a significant challenge.
- The design and construction fees for an ADU can be comparable to a full-sized home. There are additionally permit fees, Sewer Use and Drainage Permit (SUDP) fees, water-tap fees, and others that combine to create significant cost challenges.
- Building code issues are often difficult to address, which the team acknowledges, but this project is focused on overcoming zoning code barriers.
- Staff are considering amending the exterior balcony allowance. Currently, only a 3'x3' stair landing is allowed, which does not leave enough space for seating or general use. Focus group participants said balconies facing alleys should be allowed with a potential small square footage allowance (~15sf). If regulations change to allow a 2-story height, the interior square footage could potentially be greater and eliminate the sense of unused outdoor space that could be a balcony.
- The maximum 36' length of an ADU is limiting and should be reconsidered for larger lots.
- Windows are not significantly different than a deck/balcony from a privacy standpoint.
- ADUs on corner lots have more significant design challenges given bulk-plane requirements and greater setbacks.
- From a livability perspective, every square-foot matters. But roughly the same cost/effort goes into 400sf as 1,000sf, as ADUs still contain a full kitchen and bathroom.
- The group clarified that for single-story ADU height, a 17' maximum is appropriate and will enable mechanical, HVAC, and storage to fit.
- There are access and affordability issues for pre-fabricated versus stick-built costliness of homebuilding. While prefabricated units may be cheaper, they may not fit the city's building form standards, but there's a lot of interest in creating pre-approved designs that would be allowed. City staff are open to potentially creating master sets for that purpose. Master planning with the city in general is something to be discussed further. The group wants to get zoning rules right first.
- City staff talked about the option for meeting with the AIA/Builders Focus Group again and welcome anyone to continue participating in those discussions. Committee members Gosia Kung and Chelsey Hume would like to be added to that group.
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The discussion transitioned from the focus groups to the four primary areas of discussion for tonight's meeting:

- 1) Owner Occupancy
- 2) Creation of Suburban Context Zone Districts
- 3) ADUs with Duplex/Rowhome/etc.
- 4) ADU Square Footage (sf) Allowance

Alternatives Discussion, Part 2 (continued from June meeting)

1) Owner Occupancy

- The **issue** is that if a homeowner builds an ADU and then has to move, the ADU has to be decommissioned and is no longer legal, meaning the kitchen or bathroom must be removed or the utilities cut off so the unit is no longer livable. If you have an ADU and live on the property, you can live in the ADU or main house and rent out the other. Once you move, the ADU becomes illegal as a dwelling unit.
- The owner occupancy requirement only applies to single-unit zone districts.
- There is a concern that removing the owner occupancy requirement would increase opportunities for short term rentals. There are fears that it might lead to ‘speculative development,’ distant landlords, and student housing, as is already happening in primary homes. However, speculative development is unlikely as banks tend to undervalue ADUs, which makes them less profitable for investors to build and profit from.
- Staff is weighing the pros and cons. Pros include capacity for more housing units to be built, preventing displacement of current ADU residents, and increasing flexibility and motive for homeowners to invest additional resources into their properties.
- In a practical sense it is unclear whether this regulation is really being enforced. Staff offered that there is not proactive enforcement currently; there have been a couple of ADUs decommissioned because of it, but this is not widespread. It is assumed that there are many cases City staff haven’t been made aware of.
- If a property with an ADU changes ownership, there’s no guarantee that tenants of the ADU would be able to stay in the ADU and may still be displaced.
- Committee members’ general recommendation was to remove owner-occupancy restrictions on ADUs, but there was a request for gathering more data from peer cities to understand the impacts. There were also concerns that allowing both the primary and accessory dwelling units to be rented would result in a lack of maintenance and a deterioration in neighborhood character, particularly in suburbia

2) Creation of Suburban Context Zone Districts

- The **issue** is that only one single-unit zone district in the Suburban Neighborhood Context allows ADUs today: S-SU-F1, which requires a minimum lot size of 8,500sf. More districts need to be created for various lot sizes throughout the Suburban context (A1, D1, E1, G1, H1, I1, etc.) to meet the demand for ADUs in suburban neighborhoods.
- S-SU-D is the most common suburban zone district and comprises roughly half of single-unit parcels city-wide.
- In future meetings, there may be proposed changes to the number of stories and feet height, as well as removing Zone Lot Size and Lot Depth. For example, ADUs may be limited to one story in Suburban Contexts.
- This issue would be interesting to look at in the context of specific sites. Suburban lots tend to be shallower so we should consider allowing ADUs closer to the front of the lots, which could help address privacy concerns.
- On lots with 2-story homes, are we limiting ADUs too much if we restrict them to one story? Maybe the height of ADUs should be tied to the height of the primary home.
- In some neighborhoods, contractual rules say you can’t build a 2-story home. The proposal being discussed is to limit ADUs to one story in suburban contexts in City zoning, so that is not likely an issue. But covenants and agreements are distinct from City restrictions and must always be considered.

3) ADUs for Duplex/Rowhomes

- The **issue** is that ADUs are only allowed as accessory to a single unit dwelling. City staff are looking at inclusion of two-unit (TU) and multi-unit (MU) spaces like rowhouses. There are currently ~26,500 parcels across the City like this. The Committee discussed what this would look like and what allowances could be.
- The City asked the Committee to consider: what is the likely practical built outcome of an ADU with a duplex or rowhome? What about attached vs. detached? Stacked vs. side-by-side? What are TU considerations around bulk-plane and setbacks?
- Staff is considering allowing ADUs with two-unit dwellings and rowhomes and limiting the square footage of ADUs to 75% of the square footage of the primary use.
- The ADU would be tied to the ownership parcel and still couldn't be sold separate from the primary structure.
- There was a concern that ADUs attached to duplexes are too similar to slot homes, but others said the attached ADU would have to fit into the two-unit building form with entrances facing the street and they wouldn't have the same massing as slot homes.
- A suggestion was made that the City collect data on how other cities have handled this issue, but encouraged staff to keep exploring this allowance.

4) ADU Square Footage (sf) Allowance

- In these discussions, the Committee has been asking the question “what’s livable?” Does this really provide for needs with family housing? How livable is a 650sf ADU?
- In an earlier meeting, it was noted that since garages can be 1,000sf, why can't ADUs? Code cites that “Accessory uses shall be clearly incidental, subordinate, customary to, and commonly associated...” Maximum gross floor area (GFA) is not allowed to exceed sf limitations set by lot size, which also matches the maximum building footprint allowed.
- The **issue** is that on the city's smallest lots, ADUs are limited to 650sf, including the interior stair well, which may be too small. The question being proposed for discussion is whether 650sf should be moved higher. Committee members support moving up to a larger allowance (up to 864sf) when site conditions align. There are other building form regulations, like setbacks and bulk plane, that limit the size of an ADU.
- A suggestion was made to think more about limitations around “subordinate” use as an equity issue. The ADU being behind the main unit and not on the street could be enough to justify being “subordinate” as required by Code.
- 650sf is roughly the size of a one-bedroom apartment, and it is difficult to include two bedrooms in that space. This would be a positive change for families to be able to live in ADUs.
- Square footage is a difficult metric to use to estimate costs. For example, when building a 400sf ADU versus a 1,000sf ADU, there is not a huge cost difference per square foot since design and permitting costs are similar. This is a challenging metric to use and something to consider.

In summary, there was general support for most strategies proposed by City staff, with caveats and strong feelings around some topics (i.e., owner occupancy). In the Suburban Context, the Focus Group discussion indicates staff are heading in the right direction. There is general support for ADUs in TU/MUs with potential concerns. It looks like the square footage discussion is heading in the right direction as well. It is helpful to hear that data from other cities is seen as useful; City staff agrees. Portland, for example, has done research on how to improve ADU accessibility. More research will be done in this area.

Process Overview

Starting in **September**, the City will be providing **draft language** to the group for review. In addition, City staff are working on the reports that summarize the background and work on the project so far. An initial **issues report** includes a draft issue identification statement that was distributed this week for Committee feedback.

From there, the team will develop an alternatives report. All materials will come together in a **strategy report** to be finalized in **October**. This strategy report will be the blueprint for zoning discussions. This will include proposed criteria to help guide the City’s decision-making with respect to the different options under consideration. Successful solutions will need to meet the criteria of effectiveness, equity, flexibility, and predictability. These criteria have been generally established by the City and supported by early Committee discussions regarding considerations that matter most to Committee members.

Wrap Up + Next Steps

Public Meeting/Open House: Staff members will host an opportunity for public feedback on August 25th from 4:00-6:00 pm at the Carla Madison Rec Center. Staff would like to have Committee members attend throughout the evening to informally share their perspectives and Committee discussions with attendees if at all possible. A sign up sheet will be distributed for in-person attendance.

Next Meeting: The Committee will meet on September 1 from 4:30-6:30 pm to review refined alternatives and finalize ideas, as well as start to ‘translate’ preferred alternatives into Code language before drafting Code update and solutions.

Meeting Attendees

The meeting was attended by the following Committee members and City staff:

City and County of Denver – Community Planning and Development

Joshua Palmeri, Senior City Planner and Project Manager, ADUs in Denver

Abe Barge, Principal Senior Planner

Libby Kaiser, Senior City Planner

Alisa Childress, Associate City Planner

Committee members

Present		
X*	Councilwoman Kendra Black (represented by Andrew Brooks*)	Denver City Council Member for District 4
X	Councilman Chris Herndon	Denver City Council Member for District 8
X	Gabriel Calderon	Member of BRUN-Berkeley Regis United Neighbors RNO
X	Ozi Friedrich	Architect; member of Baker Landmark Commission
X	Emily Goodman	Community Navigator for East Colfax Community Collective
X	Naomi Grunditz	Clayton resident; planner and aide for Council District 1

X	Mary C Hawthorne	Wellshire resident; member of Cherry Hills Heights HOA
X	Chelsey Hume	Virginia Village resident; ADU project manager for Habitat for Humanity of Metro Denver
X	Lisa Kerin-Welch	Mayfair-Montclair resident, real-estate advisor for ADU4U; member of STRAC-Denver's Short-Term Rental Advisory Committee
	Pamela Jiner	Director of Monbello Walks/Montbello 2020
X	Jennifer Steffel Johnson	Park Hill resident; CU Denver Professor of Planning
X	Rosemary Stoffel	University Park resident; board member of University Park Community Council
	Shawn Johnson	Sunnyside Resident; has experienced barriers building a fully accessible ADU for his aging mother
X	Gosia Kung	Sloan Lake resident; architect; Denver Planning Board Member
X	Terra Mazzeo	City Park West resident; architect; owner of AlleyFlats (ADU prefabrication/development company)
	Brooke Murphy	La Alma-Lincoln Park resident; planner/impact associate for Elevation Land Trust
	Cesar Olivas	Chaffee Park resident; architect working on affordable housing
X	Donna Repp	Mar Lee resident; past president of the Mar Lee/Brentwood/Sharon Park Neighborhood Association
X	Suzanne Reed	Regis resident; concerned with housing options and short-term rentals near the university
X	Sarah Senderhauf	Park Hill resident; ADU sales manager/real-estate broker with L&D Construction
X	Renee Martinez Stone	West Highlands resident; Executive Director of WDRC-West Denver Renaissance Collaborative
	Michelle Ferrigno Warren	Athmar Park resident; Athmar Zoning Committee member
X	Darcy Wilson	Cole resident; construction professional for Stan Mar; member of the African-American Construction Council and UNDR – United Neighbors of NE Denver

Public Comment

- There is an ADU home tour coming up on August 27 through Baker Homes. More information can be found at www.bakerhometour.com.
- At the June meeting, were zoning codes and prospective changes to them presented there similarly to today's meeting?
 - *The group is still working on these topics pending feedback from these discussions.*
- There's value in having some sort of porch on a second-story ADU and defining what can or can't be done. There are obvious reasons to not have the porch facing the primary unit on the lot. Maybe the most important distinction here is whether the porch extends outward or faces the front of another structure.

Public Q&A (with staff responses that were shared during the Zoom webinar)

- Happy Thursday, everyone. At the beginning of the effort, many barriers to creating ADUs were identified, a good portion of which are not zoning related. Is there a draft of recommended barriers to address, with recommended actions, that are not in the zoning code? I think the Advisory Committee could provide some good feedback on such a list in progress
 - *Thanks Joel! Certainly, we are hearing many of those issues especially in our focus group discussions, with the architects and builders, things like permitting/process/cross-departmental barriers, we will have a more comprehensive list to discuss and look at during the next AC meeting!*
- Nice recap of focus group! Thank you!
 - *You're welcome!*
- What other central neighborhoods with narrow lots and closely spaced neighborhoods would benefit from ADU allowances like Curtis Park struggled with before our overlay was updated to be more flexible for ADUs? As part of the RNO that crafted that custom zoning for the neighborhood, I'm interested in this effort helping other similar central neighborhoods facing similar challenges with the interaction between narrow lots and the bulk plane & 1.5 story limits that would result in the ability to build an ADU with only a hallway as the upper story (correction to previous: "closely-spaced homes"*).
 - *As Josh is describing, we've heard from several people that the bulk plane and 1.5 story rules are very limiting, particularly on narrow lots. Hopefully, our proposed revisions to the regulations will allow more livable space in ADUs on narrow lots throughout the city.*
 - *The longer it takes to get reviewed, construction costs go up... heard a lot about sewage and water tap fees, things that homeowners aren't necessarily informed about. Looking inter-departmentally to lower those fees. Some of the zoning issues or ideas of exterior balconies, lots of folks using ADUs are interested in those things. Currently only a stair landing is allowed, thinking about creating a small square footage allowance for small balcony or larger landing. A lot of the issue stems from 1.5-story limitation, a lot of that could be changed if we move to 2-story allowance. Heard about 36' maximum length, in some cases that's arbitrary, feels limiting in a lot of ways.*
- I have a question in regards to the focus group, how were they selected and were all neighborhoods for potential neighborhoods notified? Was there a representative from Mayfair Park.
 - *Josh described how we attracted participants, and I don't think we did have someone from Mayfair Park.*
- Also, what about sewer line easements to the back of the lots. In Mayfair Park they run down the back and could not be set in 5' property line.
 - *Sorry, Debbie, I'm not sure what you're asking. Typically, you wouldn't be able to construct a building on top of an easement.*
- So how do you define a duplex vs an attached ADU and is this exposing the neighborhood to be rezoned for duplex dwellings?
 - *An ADU must be subordinate to, meaning smaller, the primary dwelling, whereas a duplex has two units of similar size. Because of this, it should not open a neighborhood to be rezoned for duplexes.*

- What about zoning change for set-backs, if a more lenient set-back is allowed for a corner lot will that then set a precedent for all new construction corner lot in a neighborhood?
 - *We're not considering reducing setbacks for new construction, but we might make allowances for converting existing structures into ADUs even if they don't meet the setback requirements.*
- Are there any suburban context zoned blocks that do have alleys? Do they warrant any different consideration? (Although atypical, it may be a question worth asking)
 - *We'll consider whether the standards should vary based on existing conditions, like alleys, besides the neighborhood context, but we want to avoid overcomplicating the standards as well.*
- I asked the first question before the person asked, thanks for the clarification. We are facing our first ADU zoning in Mayfair Park and are holding a special meeting and neighborhood vote, the owner applying for rezoning has been invited to speak.
 - *It's great to hear that there's a dialogue between the owner and the rest of the neighborhood. Let us know if we can provide any helpful information.*
- What is the process for a zone district that does not currently qualify for an ADU. Will a rezoning application still be required once the zoning code has been changed?
 - *Yes, property owners will still have to go through the rezoning process, which typically costs \$1,000, takes 4-6 months, and involves public hearings. This project is focused on changing the building form standards and use allowances, like the owner occupancy requirement Josh is presenting, but this project won't rezone any properties to allow for ADUs.*
- Shouldn't the ADU be treated as part of a residential sale? So, it would be a non-issue.
 - *As Terra just mentioned, this is an issue if the owner moved but wanted to keep the property. Today, if the owner moves, the tenants of the ADU would also have to move and the ADU would have to be decommissioned.*
- Hi - Susan with Studio Shed Customer Experience here. Our prefab panelized kit is designed and built here in Louisville. Come for a tour! We have lots of experience permitting our ADUs 252-1000sf in Denver. We'd like to join your ADU conversations/focus groups.
 - *A tour would be awesome - thanks for the invite! Please go to ADUinDenver.com and click on How to Get Involved so we can let you know when we have more focus groups.*
- This is only in the SU district. Has this ever been an issue in any of the other districts the don't have this owner occupancy rules? That info can be used in this situation.
 - *Good idea - we'll see if we can get this data based on our 311 complaints.*
- So how does building for an income property in an owner occupied fall under hardship?
 - *As mentioned in the discussion, the ADU tenant is at risk of being displaced if the property owner moves and maintains ownership, since the ADU could no longer be used.*
- There is no current protection for tenants if a house is sold today.
- I have been told that some neighborhoods do not allow rezoning for the purposes of developing an ADU. How does one find out if a particular neighborhood allows rezoning for the development of an ADU.

- *Josh is digging into this now. Most suburban neighborhoods do not allow ADUs. While we're thinking about allowing ADU zoning in more suburban neighborhoods, one would still have to rezone their property to one of the new districts.*