

Memorandum

Date: March 9, 2023

To: West Linn Planning Commission

From: Chris Myers, Associate Planner
Ben Gardner, Assistant Planner

Subject: ADU Code Amendment Project Work Session 4

WHAT:

The Accessory Dwelling Unit (ADU) Code Amendments project is a policy analysis to review the City's current ADU code (*CDC Chapter 34: Accessory Structures, Accessory Dwelling Units, and Accessory Uses* ([CDC Chapter 34](#))) and make recommended changes based on whether the City wishes to facilitate or complicate the construction of ADUs. The West Linn City Council directed Planning staff to undertake this project by prioritizing it on the [Planning Docket](#).

ADUs have been utilized to provide alternative housing options that in turn foster opportunities for a greater diversity of more accessible and affordable living arrangements ([HUD Case Study](#)). ADUs are commonly identified as a viable way to help facilitate multigenerational housing, 'aging in place', and independent living for family members and renters, as well as housing for caregivers, individuals with disabilities, and individuals with special care requirements, among others. As stated above, ADUs are typically a more affordable housing option in communities because of their smaller living area and the fact they are located on a property that has a primary structure. West Linn Comprehensive Plan Goal 10: Housing contains the following housing goal, which aligns well with promoting construction of ADUs as an affordable housing option.

Goal 10: Housing

Goal 3. Encourage the development of affordable housing for West Linn residents of all income levels.

WHY:

The City's current code requirements have made constructing an ADU within West Linn difficult for a number of reasons. One of the primary reasons was the requirement to install half-street improvements with the construction of an ADU. This requirement was eliminated as part of the CDC Chapter 96 Code Amendments. A separate legislative project, Clear and Objective Standards for Housing Audit, is proposing amendments to align our ADU code with new state rules and legislation.

In addition to the street improvement requirement, City staff have identified a number of additional code requirements in CDC Chapter 34 that have proved to be a hindrance to the development of ADUs. If the City's policy decision is to facilitate construction of ADUs, amending some, or all, of the requirements may be necessary.

HOW:

City Council has directed the Planning Commission to act in the role of the working group on this project.

Staff has identified 11 policy questions for the Planning Commission (PC) to discuss as part of the project. The policies have been divided into three work sessions; the PC will work towards consensus on any proposed code amendments to CDC Chapter 34. Based on PC input, Staff will draft proposed code amendments and bring back to the next work session for review before moving on to the next set of policy questions. A fourth work session is scheduled to review the recommended changes to all 11 identified policies as well as any proposed code language.

WORK SESSION 1 RECAP OF PROGRESS:

At work session 1, held on November 16, 2023 staff presented the first four policy questions for review and discussion by the PC. The discussion for policy questions 1 and 4 were continued to work session 2 (January 18, 2023) as PC members requested further information from staff.

PC members came to a consensus agreement that code language referenced in policy questions 2 and 3 should be removed from the Community Development Code. (See attached document titled: ADU Code Amendment Policy Status) for more detailed code edits.

[Link to PC Work Session 1 Memo](#)

[Link to PC ADU Work Session 1 Video](#)

WORK SESSION 2 RECAP OF PROGRESS:

At work session 2, held on January 18, 2023 staff presented further information for policy question 1. PC members discussed and came to a consensus to remove code language referenced in policy question 1 language from the Community Development Code.

Staff presented further information on policy question 4. PC members discussed the newly presented information from staff. PC members requested further information and ultimately decided to continue policy question 4 to work session 3 on February 15, 2023.

Staff presented policy questions 5 and 6 for review and discussion. PC members came to a consensus agreement to remove code language referenced in policy questions 5 and 6.

Staff presented policy question 7 for review and discussion. PC members came to a consensus agreement to recommend no changes to current code language for policy question 7. (See attached document titled: PC-3 ADU Code Amendment Policy Status) for more detailed code edits.

[Link to PC Work Session 2 Memo](#)

[Link to PC ADU Work Session 2 Video](#)

During work session 2 PC members asked if the City can require parking for ADUs. Staff performed research and have determined that under state law (ORS 197.312.5.b.B) the City cannot require parking for ADUs.

ORS 197.312 Limitations on city and county prohibitions

*(B) "Reasonable local regulations relating to siting and design" does not include owner-occupancy requirements of either the primary or accessory structure **or requirements to construct additional off-street parking.***

[Link to ORS 197.312](#)

WORK SESSION 3 RECAP OF PROGRESS:

At work session 3, held on February 15, 2023 staff presented further information for policy question 4. PC members discussed and came to a consensus to remove code language referenced in policy question 4 from the Community Development Code.

Staff presented policy questions 8-11 for review and discussion. PC members came to a consensus agreement to remove code language referenced in policy questions 8 and 10.

PC members requested further information on Policy Question 9 and 11. (See attached document titled: PC-3 ADU Code Amendment Policy Status) for more detailed code edits.

[Link to PC Work Session 3 Memo](#)

[Link to PC Work Session 3 Video](#)

WORK SESSION 4:

In preparation for the March 15, 2023 Planning Commission work session (ADU Code Amendment Work Session 4), policy questions 9 and 11 and their associated code sections are listed below. Staff has also provided some options to consider to provide a starting point for the PC discussion. During the work session, staff will provide a recap of progress to date and a summary of redline code changes.

The goal of work session 4 is Planning Commission consensus on Policy questions 9 and 11 and a review of all ADU Code Amendment work to date

The applicable policy questions were previously introduced at the October 19, 2022 Planning Commission briefing.

[Link to PC Briefing Memo 10.19.22](#)

POLICY QUESTION 9: Should ADUs have a maximum size in relation to the primary dwelling?

Currently, ADUs cannot exceed 1000 sq. ft. in size, and if they are in an accessory structure, they cannot exceed 30% of the gross square footage of the primary dwelling. CDC 34.030(A)(4)

EXAMPLE USING EXISTING CODE: *A resident owns a 1300 sq. ft. house. They are limited to a maximum detached ADU size of 390 sq. ft. even though they could build other types of accessory structures up to 1500 sq. ft.*

Pros of current code:

- Potentially minimizes conflict with other housing types
- Potentially makes structures visually distinct from primary dwelling

Cons of current code:

- Dimensional limits already in place for zones
- Restricts attainability for older/smaller houses
- Restricts variety of possible designs

Options to Consider

1. Retain the 30% requirement, knowing properties with smaller homes may struggle with this limitation
2. Amend to 60% to provide some additional flexibility (Central Point and Happy Valley allow 50%, Milwaukie allows 75%, and Oregon City allows 60%)
3. Amend the requirement to simply be smaller than the primary structure

POLICY QUESTION 11: Should detached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, detached ADUs are limited to an 18 ft. maximum height. CDC 34.030(B)(7)

EXAMPLE USING EXISTING CODE: *A resident wishes to construct an ADU above an existing detached garage, but cannot do so due to the height limitation. If they wanted to build a detached garage without an ADU, the structure could be 35 ft. tall.*

Pros of current code:

- Potentially makes structure visually distinct from primary dwelling

Cons of current code:

- Height requirements already in place for zones
- No other structures are limited in this manner

Options to Consider

1. Retain 18 ft. requirement, knowing it will effectively eliminate an ADU over a garage
2. Amend to 26 ft. (Happy Valley) to allow two stories plus a decently pitched roof
3. Remove the restriction and allow the max height of the zone

Table 2: Comparison of ADU Dimensional Design Standards for Similarly Sized Cities

City	Min. Size	Max. Size	Max. Height (Attached)	Max. Height (Detached)
West Linn	250sf	1000sf or 30% of primary dwelling	Height of existing primary	18ft
Ashland	No	No	No	No
Canby	No	800sf (detached) or entire floor (attached)	No	No
Central Point	No	800sf or 50% of primary dwelling gross square footage	No	Detached ADUs not above a garage limited to single story <= 25ft
Forest Grove	No	720sf or entire floor if a conversion	No	No
Happy Valley	No	1000sf (detached) or 50% of gross habitable SF of primary dwelling	Max. 50% of existing height or 26ft, whichever is 'higher'	Max. 50% of existing height or 26ft, whichever is 'higher'
Klamath Falls	No	50% of gross habitable of primary	No	No
Milwaukie	No	800sf (detached). 800sf or 75% of floor area, whichever is less (attached)	No	No
Roseburg	No	1000sf (detached) or entire floor/level if it's a conversion	No	No
Tualatin	No	800sf	No	No
Oregon City	No	800sf or 60% of floor area, whichever is less	20ft or height of principal dwelling unit, whichever is greater	20ft or height of principal dwelling unit, whichever is greater
Lake Oswego	No	800sf If it's a conversion, up to 200sf of circulation areas and mechanical elements are excluded	No	No

If you have questions about the meeting or materials, please feel free to contact Ben Gardner (bgardner@westlinnoregon.gov – 503-742-6057). As always, please submit questions before the meeting to increase the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration.

ATTACHMENT PC-1: REDLINED CDC CHAPTER 34 PROPOSED AMENDMENTS

34.030 ACCESSORY DWELLING UNITS (ADUs)

A. An accessory dwelling unit (ADU) may be allowed in conjunction with an existing primary single-family dwelling by conversion of existing space inside the primary dwelling; by means of an addition to an existing dwelling; by means of an addition as an accessory structure; or by converting or adding to an existing accessory structure, such as a garage, on the same lot with an existing primary dwelling, when the following conditions are met:

~~1.—One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.~~

~~2.1.~~ Public services can serve both dwelling units.

~~3.—The number of occupants is limited to no more than one family as defined by the Community Development Code.~~

~~4.2. —The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet.~~ If the ADU is located in an accessory structure, then it shall not exceed 75 30 percent of the gross square footage of the primary dwelling, ~~except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling.~~

3. No more than one ADU is allowed.

~~5.4.~~ The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.

~~6.—The following minimum area standards shall be met:~~

~~1 person — 250 square feet~~

~~2 persons — 500 square feet~~

~~75.~~ Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet. Existing structures are not required to meet the design standards of subsections (B)(1) through (9) of this section, but shall conform to them to the greatest extent feasible.

~~B.—Design standards for both attached and detached ADUs are as follows:~~

~~1.—Exterior finish materials. The exterior finish material must be the same, or visually match in type, size, and placement, the exterior finish material of the primary dwelling.~~

~~2.—Roof pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.~~

~~3.—Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.~~

~~4.— Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height). Second-floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).~~

~~5.— Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.~~

~~6.— Setbacks. The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single-family home. The only exception allowed shall be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.~~

~~76. . Height. The maximum height allowed for a detached ADU is 25 ~~18~~ feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.~~

~~8.— The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.~~

~~9.— Exterior stairs serving the ADU shall not face the front property line. (Ord. 1463, 2000)~~

ATTACHMENT PC-2: ADU vs. PLEXES MEMO

Memorandum

Date: March 9, 2023

To: West Linn Planning Commission

From: Darren Wyss, Planning Manager

Subject: ADU vs. Duplex Comparison

The Planning Commission has held two work sessions on the Accessory Dwelling Unit (ADU) Code Amendment Project. At both work sessions, a question was asked about the difference in how the City treats the construction of an ADU versus the construction of a duplex under the middle-housing code. Although both could look similar on the ground, the distinction is found in the details of the middle-housing rules and the recent policy change adopted by City Council to exempt ADUs from needing to install street improvements.

With proposed changes that arise from the Planning Commission work on the ADU project, staff believes the outcome will be for ADUs to be smaller, affordable housing options that a property owner would likely undertake. The middle-housing duplex option will require additional costs associated with SDCs, street improvements, and if divided under SB458 rules, development review and plat surveying/recording. Staff anticipates the development community will more likely take on these projects.

Staff has already dealt with this distinction on a project that is currently under construction. A property owner wanted to build a 700 sq. ft. ADU above an existing detached garage. The current code (the PC will be discussing this policy question) sets a maximum height for a detached ADU at 18 feet and the proposed ADU could not meet that code section. The property owner received approval by calling it a detached duplex, which is permitted by the Community Development Code. In this case, the project will share the existing water and sanitary sewer connections (if separate connections were installed, the property could be divided under SB458 rules) and the street was already improved, so no additional improvement costs were required. However, if the street was not improved, the project would have required street improvements or a fee-in-lieu (if eligible). If it was an ADU, it would not require street improvements or a fee-in-lieu. The completed project will look the same whether it was defined as an ADU or detached duplex, but it could have been more expensive as a duplex because of the street improvement differences.

You will find a table on page 2 that outlines the primary differences between an ADU and a middle-housing duplex.

If you have questions, please feel free to email or call me at dwys@westlinnoregon.gov or 503-742-6064.

	Accessory Dwelling Unit	Middle-Housing Duplex
Max Size	1,000 sq. ft.	Limited by maximum FAR*
Setbacks	Same as existing zone, except must be 10 ft. behind front facade of primary dwelling	Same as existing zone
Height	Restricted to 18 ft. for detached and no higher than primary dwelling for attached	Same as existing zone (typically 35 ft.)
Street Improvements	Not required	Required
SB458 Division	Not eligible	Eligible
SDCs	Yes, at reduced rate	Yes, at reduced rate SB458 division doubles reduced rate
Available for Sale	No	Yes, if divided under SB458
SB458 Division	Not eligible	Eligible
Separate Utilities	Not required	Not required, unless SB458 division

ATTACHMENT PC-3: ADU CODE CHANGES STATUS DOCUMENT

ADU Code Amendment Policy Status

POLICY QUESTION 1 STATUS: PC recommends removal of this code language.

Should the visual design of ADUs be regulated in relation to the existing dwelling?

Currently, ADUs need to meet a number of requirements matching them to the exact visual design of the existing dwelling (i.e. trim, roof pitch, windows, eaves, etc.). CDC 34.030(B)(1-5)

~~B.—Design standards for both attached and detached ADUs are as follows:~~

- ~~1.—Exterior finish materials. The exterior finish material must be the same, or visually match in type, size, and placement, the exterior finish material of the primary dwelling.~~
- ~~2.—Roof pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.~~
- ~~3.—Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.~~
- ~~4.—Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height). Second floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).~~
- ~~5.—Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.~~

POLICY QUESTION 2 STATUS: PC recommends removal of this code language.

Should the placement of stairs on ADUs be limited?

Currently, exterior stairs serving ADUs are prohibited from facing the front property line. CDC 34.030(B)(9)

~~9.—Exterior stairs serving the ADU shall not face the front property line. (Ord. 1463, 2000)~~

POLICY QUESTION 3 STATUS: PC recommends removal of this code language.

Should the location of the entrances on ADUs be limited?

Currently, exterior entrances of ADUs are required to be located on their rear or side. Other comparable structures do not have such restrictions. CDC 34.030(B)(8)

~~8.—The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.~~

POLICY QUESTION 4 STATUS: PC recommends removal of this code language.

Should the placement of ADUs be limited in relation to the primary dwelling?

Currently, detached ADUs are required to be at least 10ft behind the front of the primary structure. CDC 34.030(B)(6)

~~6.—Setbacks. The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single-family home. The only exception allowed shall~~

~~be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.~~

POLICY QUESTION 5 STATUS: PC recommends removal of this code language.

Should the number of bedrooms in ADUs be limited? Currently, ADUs cannot exceed one bedroom. CDC 34.030(A)(4).

~~4. The ADU does not exceed one bedroom (...)~~

POLICY QUESTION 6 STATUS: PC recommends removal of this code language.

Should the size of ADUs be limited on a per-person basis?

Currently, if one person is living in an ADU, the minimum area standard is 250 sq. ft., whereas if two people are living in an ADU, the minimum area standard is 500 sq. ft. CDC 34.030(A)(6).

~~6. The following minimum area standards shall be met:~~

~~1 person — 250 square feet~~

~~2 persons — 500 square feet~~

POLICY QUESTION 7 STATUS: PC recommends no change to current code language.

Should the number of ADUs be limited on a per lot basis?

Currently, no more than one ADU is allowed per primary dwelling. CDC 34.030(A)(4).

~~4. (...) No more than one ADU is allowed.~~

POLICY QUESTION 8 STATUS: PC recommends removal of this code language.

Should ADUs have a minimum size?

Currently, the minimum ADU size is 250 square feet. CDC 34.030(A)(4)

Currently, a resident wants to build a 20 ft. by 12 ft. tiny home, or other compact living option to fit on their relatively small property. They are unable to do so.

~~4. The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. (...) an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling.~~

POLICY QUESTION 9 STATUS: PC requested more information and options.

Should ADUs have a maximum size in relation to the primary dwelling?

Currently, ADUs cannot exceed 1000 sq. ft. in size, and if they are in an accessory structure, they cannot exceed 30% of the gross square footage of the primary dwelling. CDC 34.030(A)(4)

Currently, a resident owns a 1300 sq. ft. house. They are limited to a maximum detached ADU size of 390 sq. ft. even though they could build other types of accessory structures up to 1500 sq. ft.

POLICY QUESTION 10 STATUS: PC recommends removal of this code language.

Should attached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, attached ADUs cannot exceed the height of the existing primary dwelling. CDC 34.030(B)(7)

~~7. Height. The maximum height allowed for a detached ADU is 18 feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.~~

POLICY QUESTION 11 STATUS: PC requested further information and options.

Should detached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, detached ADUs are limited to an 18 ft. maximum height. CDC 34.030(B)(7)

EXAMPLE USING EXISTING CODE: *A resident wishes to construct an ADU above an existing detached garage, but cannot do so due to the height limitation. If they wanted to build a detached garage without an ADU, the structure could be 35 ft. tall.*