Dear Ms. Pennucci:

The Sightline Institute would like to thank the City of Seattle for giving us the opportunity to submit comments on the Draft Environmental Impact Statement (DEIS) for Accessory Dwelling Units (ADUs).

Sightline is a public policy think tank, and I lead our research on affordable housing policy. For the past five years Sightline has been researching and writing about ADU policy. Sightline’s executive director Alan Durning served on Seattle’s HALA committee and helped craft HALA’s ADU recommendations, many of which ended up in the proposed legislation analyzed in the DEIS. Sightline recently published three articles that provide information supporting our ADU DEIS comments (here, here, here, also attached at the end of this comment letter).

**Summary**

The DEIS demonstrates in excruciating detail that the proposed ADU rule changes under either action alternative would have no significant adverse impacts on the community. Accordingly, we believe that the DEIS supports the broadest range of changes to the land use code, and therefore strongly support Alternative 2 rather than Alternative 3.

For the final preferred alternative, we support Alternative 2 as proposed, with the following modifications:

1. allowance for two attached ADUs (as in Alternative 3) or two detached ADUs, or one of each
2. minimum lot size of 2,000 ft² for detached ADUs
3. increase in maximum height of three feet over the existing limit, regardless of lot width, for detached ADUs
4. increase in maximum height of two additional feet for projects with green roofs or those pursuing the city’s “Priority Green” program
5. maximum size limit of 1,500 ft² for attached ADUs
6. removal of the occupancy limit on unrelated people
7. allowance for placement of a detached ADU in a lot’s front yard or side yard
8. removal of all restrictions on the location of entries for detached ADUs

**Why Sightline supports Alternative 2**

Alternative 2 updates Seattle’s existing ADU regulations in all the most important ways to allow more homeowners to construct these much-needed, flexible homes:

- allows two ADUs per lot
- removes all off-street parking requirements
- lowers the minimum lot size for detached ADUs from 4,000 to 3,200 ft²
• removes the owner occupancy requirement
• raises the occupancy limit on unrelated people from 8 to 12
• relaxes various size restrictions for detached ADUs

Of the above changes, removal of the owner occupancy requirement has been most controversial in the past. The ADU legislation proposed prior to the appeal retained an owner occupancy requirement. City Council claimed that the requirement would “prevent speculative developers from acquiring property and building backyard cottages that don’t fit the character of the neighborhood” (link). The DEIS analysis for Alternative 2 shows that Council’s concerns are unwarranted, finding no significant adverse impacts related to either speculative development (Housing and Socioeconomics), or neighborhood character (Aesthetics).

For the DEIS to support an owner occupancy requirement, it would have to demonstrate that renters, as compared to homeowners, are an adverse environmental impact. Such a finding would be preposterous, obviously. All told, the DEIS provides no justification whatsoever for including an owner occupancy requirement in the final preferred alternative.

Sightline’s recommendations for the final preferred alternative
Below are explanations of our recommended modifications to Alternative 2 for the final preferred alternative:

1. Allowing two attached ADUs (AADUs), as in Alternative 3, would grant more flexibility for owners who have room in the main house for two AADUs, but no room for a detached ADU (DADU). Analysis on Alternative 3 with this allowance indicated no significant adverse impacts. Likewise, also allowing two DADUs instead would give greater flexibility to owners, and would be highly unlikely to cause any significant impacts. The same size and footprint limits that apply to one DADU would apply to two DADUs cumulatively – that is, the stand alone built structure(s) couldn’t be any bigger.

2. Lowering the minimum lot size for DADUs to 2,000 ft² would modestly expand the number of lots that could accommodate a DADU, as shown in DEIS Exhibit A-14. In many cases the lot coverage limit and setback requirements for DADUs would preclude their construction on smaller lots anyway. But some small lots – ones with very small houses, for example – could fit a DADU. In sum, a 2,000 ft² minimum lot size would be a relatively small change from Alternative 2, so the DEIS analysis should be sufficient to ensure there would be no significant adverse impacts.

3. Three extra feet of height can make a big difference for design flexibility and construction cost. Allowing three feet extra regardless of lot width is highly unlikely to introduce any significant adverse impacts. Lowering the height limit for narrower lots wouldn’t prevent a DADU on a wide lot from being placed on one side of the lot – that is, it won’t prevent maximum height DADUs from being close to adjacent properties, and the DEIS found no significant adverse impacts for that scenario.

4. Two extra feet of height would allow for thicker roofs to accommodate green roof materials or extra insulation to meet stringent green energy standards such as Passive House.

5. The proposal allows AADUs larger than 1,000 ft² in houses built before 2018, and that covers the vast majority of houses in the city – now, as well as ten years out and beyond – because the rate of new house construction is low relative to the total. The DEIS found no significant adverse impacts with this allowance. It follows that extending the increased AADU size allowance to the tiny fraction of homes that are newly constructed would be highly
unlikely to cause adverse impacts. But it would provide extra flexibility for some owners wishing to add an AADU. We propose an across the board maximum of at least 1,500 ft$^2$ for AADUs, regardless of year of construction.

6. It’s the number of people, not whether or not they are legally related, that determines the degree of adverse impact, if any. Over recent decades family structures have evolved and tend to be less conventional. Targeting an occupancy limit on people who are not legally related is discriminatory.

7. On some lots the primary house is placed at the back of the lot, leaving space for a DADU in the front yard. Some lots are large enough to have room for a DADU in the side yard. A DADU subject to the same front and side setback requirements as a primary house would not be any more intrusive to surrounding property than what the code already allows, and thus would not introduce significant adverse impacts.

8. All lots are different and restricting the entry placement to 10 feet away from property lines limits design flexibility to respond to unique conditions. The DEIS gives no indication that entries as close as five feet to a property line (the minimum setback) would cause significant adverse impacts.

**Further study needed on limiting the size of the main house**
For the final preferred alternative, we recommend that the city not include the maximum size limit on new houses proposed as part of Alternative 3. The DEIS indicates that the size limit would make teardowns less likely and ADU construction more likely. However, Alternative 3 also includes rules likely to impede ADU production (owner occupancy, parking, MHA). The analysis doesn’t isolate the impact of each change, so it’s unclear which change is doing what. For the final EIS, the city should conduct further analysis to assess the effect of the house size limit in isolation. A straightforward way to do that would be to apply the size limit to Alternative 2 and rerun the econometric model. If the city opts to include a size limit in the preferred alternative, it should exempt all AADU floor area from the size maximum, whether below grade or not.

**Request for additional analysis to test limits**
In general the DEIS shows that the action alternatives have substantial “breathing room” for causing any adverse impacts. This suggests that rules could be further relaxed without risk. Most importantly, the city should analyze allowing three ADUs per lot. Analysis could be simplified by assuming an upper-bound of 50 percent increase in ADU production. The city should also analyze a lower minimum lot size for DADUs (2,000 ft$^2$), an allowance for two DADUs, an increase in the maximum size for AADUs (at least 1,500 ft$^2$), and removal of limits on the number of unrelated occupants.

Thank you for the opportunity to provide comments.

Sincerely,

[Signature]

Dan Bertolet
Senior Researcher
Sightline Institute
WHY VANCOUVER TROUNCES THE REST OF CASCADIA IN BUILDING ADUS
And how Portland and Seattle could play some serious catch-up.

Author: Dan Bertolet
(@danbertolet) on February 17, 2016 at 6:30 am

This article is part of the series Legalizing Inexpensive Housing

Editor’s note: This article is Sightline’s very first from our new senior researcher, Dan Bertolet. We’re thrilled to have him on board to help both continue and expand our work pursuing smart solutions to our region’s big questions on housing and urban growth. Read his full bio here, and follow him on Twitter at @danbertolet.

Cascadia’s three largest cities have all sworn themselves devotees of the accessory dwelling unit (ADU)—also known as the in-law apartment or backyard cottage. But only one of the three has actually built any more than a smattering of them. In Vancouver, BC, fully one-third of single-family houses have legal ADUs; in Portland and Seattle, scarcely one percent of houses sport a permitted secondary dwelling. This yawning gap reveals a big opportunity for addressing future housing needs in growing cities.

The current state of Cascadia’s ADUs
ADUs are relatively modest apartments or cottages integrated into single-family properties, and they come in two flavors: physically attached to the main house (AADU), or detached in a structure separate from the single-family house on the same lot (DADU). Most fall in the moderate affordability range—
$1,200 to $1,800 per month for a one-bedroom unit in Seattle—and offer a housing option in single-family neighborhoods for residents who cannot afford a single-family house.

Known as “granny flats” for a reason, ADUs work well for multigenerational families. And they are particularly well-suited for young children, because they tend to be relatively large (at least for a rental), provide direct access to outdoor yards, and are often located in neighborhoods well served with schools and parks.

The table below shows the current ADU and single-family home stats for Vancouver, Seattle, and Portland. Vancouver has a staggering lead in AADUs, with more than 21 times as many in-law apartments (called “secondary suites” in Canada) as Seattle and almost 44 times as many as Portland. The city also holds an ample lead in DADUs (“laneway houses,” in Vancouver’s parlance).

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<thead>
<tr>
<th></th>
<th>Vancouver</th>
<th>Seattle</th>
<th>Portland</th>
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<tbody>
<tr>
<td>AADUs</td>
<td>25,300</td>
<td>1,184</td>
<td>580</td>
</tr>
<tr>
<td>DADUs</td>
<td>1,350</td>
<td>212</td>
<td>720</td>
</tr>
<tr>
<td>Single-family Houses</td>
<td>75,000</td>
<td>134,000</td>
<td>153,000</td>
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What’s holding back Cascadia’s ADUs

Myriad regulatory barriers currently litter the law books of Cascadian cities, clogging the ADU pipeline. Vancouver’s success in building more than 26,000 ADUs has been all about undoing those restrictions. Starting in the late 1980s, the city legalized thousands of existing, but illegal, ADUs. Over time, it eliminated the most counterproductive barriers. Vancouver, unlike many Cascadian cities:

- does not require an off-street parking spot for each ADU,
- does not require the owner to live on site,
- allows single-family lots to host both an AADU and a DADU,
- awards additional occupancy limits for each dwelling on a property, and
- provides great latitude to property owners in terms of size, height, and placement of each ADU.

Vancouver demonstrates a substantial housing opportunity for other cities. Matching Vancouver’s ADU track record would mean 47,000 ADUs in Seattle and 54,000 ADUs in Portland. Unfortunately, recent rates of construction in these cities would not yield that much for several hundred years. To seize the ADU opportunity and match Vancouver, Portland and Seattle will also have to match Vancouver’s welcoming set of ordinances.
Seattle is poised for progress on ADU code improvements intended to unleash production through the recently introduced Housing Affordability and Livability Agenda (HALA). HALA calls for more ADUs and prescribes most of the regulatory improvements listed above. HALA also recommends establishing a “clemency program” to legalize undocumented ADUs, which amount to perhaps two or three times the permitted inventory. (The City of Seattle makes no attempt to count unpermitted ADUs).

Next to Vancouver, Portland is the most ADU-friendly city in Cascadia, mainly because the Rose City requires neither parking nor owner occupancy for ADUs. However, Portland only allows one ADU per property, imposes a low site occupancy limit (no more than 6 unrelated people), and requires 2-story DADUs to match the design of the main house. Compared to Seattle, in recent years Portland's rate of DADU production has been relatively robust, thanks to the elimination of an $11,000 development fee and the parking requirements in 2010. (Though a recent procedural change in property tax appraisal methods may re-chill the market.)

LIKE WHAT YOU'RE READING? MORE ON IN-LAW UNITS AND BACKYARD COTTAGES HERE.
Where ADUs could take us

Vancouverites built most of the city’s 25,000 AADUs over several decades starting in the 1970s—often in defiance of prohibitive regulations in place during much of that period. DADUs are newer to the city (the program launched in 2009), but production has been steadily rising, with a record 531 units permitted in 2015.

Combined, the production rates observed in Vancouver for the two ADU types translate to something on the order of 1,000 homes per year. By comparison, Seattle has a goal of producing 20,000 affordable units over ten years, or 2,000 per year. The fact that both Seattle and Portland have roughly twice as many single-family houses as Vancouver to work with would suggest that both cities have the potential to surpass Vancouver’s ADU pace. And that’s enough new housing to take a serious bite out of the mushrooming unmet demand for moderately priced, family-friendly housing in these cities.
The reason Vancouver is currently so far ahead on ADUs stems from the presence of two synergistic ingredients: low regulatory barriers and a strong real estate market. Together, these help owners justify the cost of building ADUs. Seattle has been lagging because while it has the market, it also has the barriers. And Portland has been lagging because while most of the major barriers are gone, it has had a weaker real estate market until recently.

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Given Portland's strengthening market, an ongoing increase in ADU production can be expected, without any major code changes. In Seattle's case, however, ramping up ADUs hinges on fixing the code. Fortunately the City of Seattle already has a plan, and the solution is straightforward: implement HALA's recommendations.

Notes and methods: Vancouver data were obtained through a private communication (12/15/15) with staff at Planning and Development Services, who derived the AADU count from Census 2011: Statistics Canada. The DADU count is based on data collected by the City and includes only those with finalized permits as of 12/31/2015.

The data source for the Seattle ADU inventory is here and includes ADUs with permits finalized between 1/1/95 and 10/2/15. The data source for the Seattle single-family house inventory is here.
The total count of ADUs in Portland is based on a private communication (11/02/15) with staff from the Oregon Department of Environmental Quality. The estimated split of that total between AADUs and DADUs was derived by applying the percentages observed in this 2013 survey. The data source for the Portland single-family house inventory is here.

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Tagged in: ADUs, Affordable housing, Urban Growth, Zoning

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NOT IN YOUR BACKYARD: COTTAGES, IN-LAW APARTMENTS, AND THE PREDATORY DELAY OF HALA'S ADU RULES

Abuse of a 1971 environmental law is displacing hundreds of low-income families from Seattle this year.

Author: Dan Bertolet
(@danbertolet) on April 20, 2017 at 9:30 am

When it comes to urban homes, it’s hard to imagine anything less threatening than granny flats. But surprisingly, in Seattle last year instill fear they did, provoking a handful of anti-housing activists to appeal proposed rule changes intended to spark construction of in-law apartments and backyard cottages. And in an exasperating turn of events, the appeal was upheld.

Of all the 65 recommendations in Seattle’s Housing Affordability and Livability Agenda (HALA) plan, these homes—collectively known as accessory dwelling units (ADUs) in urban planner-speak—should have been one of the easiest wins. Tucked away on single-family lots, ADUs expand access to great neighborhoods for families who can’t afford a pricey, larger detached house. At the same time, they let more people live near jobs and services, shortening carbon pollution-spewing commutes and reining in sprawl.

Still, in many cities throughout Cascadia and the United States, the road to legalizing ADUs has been long. In Seattle’s case, that road hit a wall made of outdated thinking on urban development encoded in state laws that, ironically, were enacted to protect the environment. Because of the appeal, the city must now go back and conduct an exhaustive environmental review that is unlikely to substantially change the proposed ADU reforms. All it will do is squander time, postponing the fixes by about two years to mid-2018.

And every year of delay is a lost opportunity to create hundreds of new homes for people who do, or who want to, call this city home, all because a tiny minority of residents don’t want their neighbors to offer small rentals in their basements and backyards. It’s a phenomenon reminiscent of what writer Alex Steffen calls “predatory delay,” in which the fossil fuel industry has stalled action on climate change for its own benefit.

There are consolation prizes available to Seattle from this damaging setback, and I’ll get to them. But first, I’ll review the policies that can unlock ADU homebuilding, then tell the disheartening story of the appeal of Seattle's proposed ADU rule changes, and finally, lay out the flaws in the obsolete regulations that led to all the trouble.
What's holding back Seattle's ADUs?

In a previous article I surveyed ADUs in Cascadia's three biggest cities, finding that Vancouver trounces both Seattle and Portland in the ADU race. As of a year ago, a third of Vancouver’s single-family houses had a permitted in-law apartment or backyard cottage, compared to only about one percent of the houses in both Seattle and Portland. Vancouver reigns supreme mostly because officials simply ceased banning ADUs. They:

1) stopped mandating an off-street parking spot for each ADU;
2) did not require the owner to live on-site;
3) allowed both an in-law apartment (constructed within the main house) and a separate backyard cottage on each lot; and
4) provided great latitude on size, height, and placement of ADUs.

Consequently, Vancouverites have been adding roughly 1,000 ADUs per year to their single-family neighborhoods and now have some 27,000 total. Portland got it right on three of these four rules. The exception is that the Rose City still limits ADUs to one per lot. But still, it has seen the number of ADU homes ramp up considerably, as shown in the chart below. The city issued about 600 permits in 2016, and by this year’s end it will have an estimated 1,900 completed ADUs citywide, an increase of about 300 per year since 2015.

In 2016, a year when developers opened nearly 6,000 new apartments in the city, Seattle added only 156 ADUs, up from 116 the year before.

In contrast, Seattle's current regulations fail on all four counts. As a result, despite high and rising rents (and soaring home equity that owners could borrow against to finance ADU construction), recent ADU production lags well behind both Vancouver and Portland. In 2016, a year when developers opened nearly 6,000 new apartments in the city, Seattle added only 156 ADUs, up from 116 the year before.
The ADU-blocking appeal

In May 2016, ten months after HALA recommended the four rule changes above, Seattle leaders released an ADU plan to implement those recommendations, with a few caveats. The city asserted that the proposed changes did not require completion of an Environmental Impact Statement (EIS) under the Washington State Environmental Policy Act (SEPA), because it would cause no appreciable harm to the environment—called a “determination of non-significance” (DNS).

A month later, the Community Council of Seattle’s affluent Queen Anne neighborhood appealed the DNS. The case went to city hearing examiner Sue Tanner, who in December sided with the Community Council. The city now must conduct a full-blown EIS, a process that typically takes at least a year and costs several hundred thousand dollars in city staff time and fees to consultants.

Tanner ruled that the city’s DNS was flawed for several reasons, some of which were procedural. Here, I’ll focus on the more pertinent and meatier allegations: that the DNS did not sufficiently analyze potential impacts on existing housing and displacement, parking, and public services.

The ADU opponents have it backwards on displacement

The ruling states: “The evidence here shows that the legislation would adversely affect housing and cause displacement of populations.” The evidence in question was provided by an economist who testified that allowing both an in-law apartment and a backyard cottage would attract “outside investors” enticed by the prospect of renting three units on a single lot, who would buy older cheaper houses, demolish them, and replace each with a new house and two ADUs. An urban planning consultant added that because investors would pick off the cheapest houses first, the proposed rule changes would cause displacement of lower-income “minority populations,” accelerating gentrification and diminishing the city’s diversity.

Chart created by accessorydwellingstrategies.com based on data collected by the Portland Bureau of Planning and Sustainability. Note that not all permitted ADUs are built, and some ADUs are built without a permit.
In response to previously voiced concerns about this “outside investor” scenario, Seattle’s proposal included a requirement that the owner live on-site for a period of one year after ADU construction was completed. City planners wrote that the rule would “ensure that speculative development interests are not able to develop single-family lots with ADUs and backyard cottages.” It turns out, though, as noted in the appeal, that there’s a workaround: an off-site owner could create a Limited Liability Corporation (LLC) and grant a tenant a tiny fraction of ownership.

The hearing examiner’s conclusion that the proposed ADU changes would increase displacement hinges on an assumption that this LLC workaround would be prevalent. The ruling also relies on one witness’ opinion that the proposed liberalization would push the teardown economics across a tipping point, an opinion that cannot supported by on-the-ground data because there is none. No such sordid tales of ADU speculators run amok have yet to emerge from Vancouver, though home values are even higher there than in Seattle. Nevertheless, the appeal’s de-facto community leader Marty Kaplan hyperventilates that “there would be a feeding frenzy for anybody with a truck and a nail bag to go buy homes and convert them into three rental units and displace the population.”

In the majority of cases in-law apartments and backyard cottages are added to existing homes. But for the sake of argument, assuming that some amount of teardowns through speculative redevelopment would occur, even under those circumstances, is the ruling’s contention about displacement correct?

Short answer: no. That’s because the hearing examiner—like the plaintiffs’ expert witnesses—got it backwards: building more ADUs is not a cause of displacement; it’s a cure. As I detailed in a previous article, economic displacement (caused by rising rents) is displacing far more, probably at least ten times more, people in Seattle than is physical displacement (caused by demolition of existing low-cost housing). In the (likely rare) cases when an existing home is replaced by a new house with an ADU, the net effect citywide is less displacement, because creating more homes addresses the primary cause of rising rents: not enough homes for all the people who want to live in Seattle.

**Sacrificing ADUs to stop teardowns won’t help**

The teardown of a low-value house might cause the physical displacement of that house’s tenants. (It also might not: the previous residents may be the owners, or the teardown may be vacant because it is unfit for habitation. In any case, Seattle’s cheapest houses are already disappearing quickly to make way for exhorbitantly expensive new houses built to the maximum size allowed.) But preserving that existing house and forgoing a new ADU (or two) will only speed the increase of rents in cheap houses by exacerbating the housing shortage that is driving up prices across the board. Low-income families will pay more to get the same low-quality housing.

Not only that, when there’s a shortage of homes, the housing market is like a cruel version of the game of musical chairs. Those with money always win; those without always lose. Across the city, every ADU that does not materialize is like another a chair taken out of the game, and that translates to a low-income family displaced. Conversely, when one home is transformed into two, even in the worst case scenario where a family gets physically displaced from the original house, those two open “chairs” mean that two low-income families elsewhere in the city will not be forced out.
I am not trivializing displacement caused by a teardown. As Seattle grows, city policies and investments can support vulnerable communities so that they can stay in place and benefit from that growth. However, there is no escaping the fact that every home not added to Seattle's housing stock leads to one fewer low-income family that can live in the city. The people who are indirectly displaced when construction of new homes is prevented are every bit as harmed as the people displaced by teardowns.

Worse yet, the hearing examiner’s ruling not only has it backwards on ADUs and teardowns but also advances a perilous line of thinking for affordable housing in general. If teardowns for the sake of ADU construction are a threat to affordability, the same is true for any other form of homebuilding. When there's demand for housing, any change of laws that allows larger buildings will accelerate redevelopment. And the homes that get replaced first will be the cheap, worn-out, neglected ones—the ones with the lowest rents.

But that's not all there is to the story, because except for the case of single-family houses, redevelopment invariably yields a larger number of homes, easing competition. More players in the game of musical chairs get a seat—that is, a home they can afford in the city. The pressure pushing up rents is relieved, from the top of the market all the way to the bottom. Thus, as tempting as it may be to impose restrictions in the hope of saving low-cost homes, doing so only makes things worse for affordability overall.
Stopping SEPA from doing more harm than good

Adopted in 1971, Washington’s State Environmental Policy Act (SEPA) comes from an era of horror stories about polluted cities that spawned a reflexive inclination to limit urban growth. It calls for an assessment of all the negative environmental consequences of major government decisions. Will more ADUs increase a city neighborhood’s car trips, crowded street parking, local air pollution emissions, energy consumption, or noise? What SEPA doesn't require, though, is equal consideration of positive impacts.
Building more ADUs in Seattle’s neighborhoods will:

- modestly reduce car trips across the metro area;
- decrease car dependence and increase transit ridership, walking, and cycling;
- slow sprawl and thereby protect forest and farmland from development on the metropolitan periphery;
- improve integration by class (and therefore likely by race) in neighborhoods that currently exclude middle- and working-class people;
- allow less affluent families to live near the city’s best parks, schools, and job opportunities;
- trim consumption of fossil fuels; and
- reduce pollution of water and air—and therefore climate change.

These benefits of compact communities—of density—are ubiquitous in the past three decades’ research on cities. Indeed, the main lesson of that entire body of work is that compact, transit-rich, walkable, mixed-use, mixed-income cities are critical ingredients to a sustainable future. Seattle officials shouldn’t have to prove this anymore than they have to prove that hydro- and wind-powered Seattle City Light electricity is better for the planet than the coal power that many rust belt cities rely on. So the fact that a handful of homeowners from an affluent neighborhood successfully used SEPA to stall ADU liberalization is, to understate the case, ironic.

If there is anything of redeeming value buried in the hearing examiner’s decision, it is the chance for the City of Seattle to complete an EIS that once and for all lays to rest the ruling’s spurious arguments and demonstrates how the net positive benefits of ADUs dwarf the negatives. Ideally, such an EIS could lay the foundation for city rule changes that would exempt infill housing construction from SEPA entirely.

The most important principle: New housing reduces displacement

First and foremost, the city can address the displacement issue directly to head off future attacks through SEPA against proposals to spur in-city homebuilding. Addressing it directly means establishing the fact that when there’s a shortage of housing across a city, adding new homes reduces net displacement, full stop. Even if the new homes are more expensive than the old ones. Because it all comes down to basic math: the bigger the gap between the number of homes and the number of
people who want them, the more the competition for scarce housing floods down the market and pushes people with lower incomes out of the city.

It follows that every time a speculative developer replaces an existing house with a new one that includes an ADU (or two), it’s a net win for housing equity. Conversely, every time a teardown is replaced with the largest, most expensive house that will fit on the lot but that can only accommodate one family, it’s the worst possible outcome for equitable access to housing. If city officials fail to unequivocally demonstrate these fundamental truths, they will lose the argument from the start.

Removing the owner occupancy requirement is key

Seattle’s HALA recommended completely removing the owner occupancy requirement because such restrictions hamper ADU production. Also, in 2016 the city conducted two community meetings on potential ADU rule changes, and public feedback was nearly 2:1 against owner occupancy rules. As noted above, planners opted for a compromise that mandates one year of owner occupancy. (Incidentally, such rules may be illegal anyway.)

Requiring the owner to live on-site removes the 20 percent of Seattle’s single-family houses that are rentals from the pool of possible new ADU sites—sites where adding ADUs to existing rental houses would cause zero physical displacement. Plus, compared to typical homeowners, landlords are more likely to have the financial resources and expertise to invest in new ADUs. For many private homeowners, financing is the biggest obstacle to developing an ADU on their own. Risk-taking investors can play a key role in jump starting ADU construction by blazing the trail and establishing the design, construction, and finance infrastructure for ADUs in Seattle that will then make it easier for homeowners to get into the game. Barring non-resident investors from building ADUs will kneecap production, stifling the potential for ADUs to ameliorate Seattle’s housing shortage.

Some cities have rationalized owner occupancy requirements as a means to “preserve neighborhood character,” based on the perception that rental units may not be well maintained. But if this argument were valid, it would also justify applying the same rule not just to ADUs but to all rental homes, including everything from single-family houses to duplexes, rowhouses, and large apartment buildings. Singling out ADUs is discriminating against renters in the most sought-after residential neighborhoods. In a similar vein, some Seattle officials hope to assuage fears that speculative developers would build “backyard cottages that don’t fit the character of the neighborhood.” Such arguments prioritize some people’s aesthetic tastes over other people’s need for housing.

No one’s parking is more important than another person’s housing

Regarding parking, yes, removing the off-street requirement for ADUs might increase competition for street parking. A 2014 study in Portland found that on average, each ADU generates 0.46 cars parked on
the street. But requiring off-street parking has numerous and hefty adverse impacts. Overall, off-street parking quotas make housing more expensive and deepen car dependence—in direct contradiction to two of Seattle’s most urgent aspirations for the future.

Besides, the City of Seattle has no obligation to provide convenient parking, free of charge, on publicly owned streets, to single-family homeowners—the vast majority of whom already have plenty of car-storage space on their own property. In an age of impending climate crisis, in a city where close to half of greenhouse gas pollution comes from cars, it's ludicrous that a policy change as benign as allowing more ADUs can be contested through the State Environmental Policy Act over parking.

**Urban infill such as ADUs makes infrastructure more efficient**

The SEPA appeal ruling also cited lack of analysis of public infrastructure, but most of these concerns are based on an outdated context. First of all, as an article I will publish soon details, in most of Seattle’s single-family areas, population density has decreased over the past few decades with the decline in average household size. In other words, in the not too distant past, existing infrastructure adequately served more people in most neighborhoods where ADUs would be built. The ruling calls out stormwater management in particular, but today’s stringent regulations ensure that any new construction will not increase polluted runoff, and in fact, will likely reduce it.

Furthermore, urban infill projects like ADUs typically cost less to serve with infrastructure compared with the alternative scenario of new homes forced out to more sprawling, suburban locations. Here again, the appeal ruling ignores modern reality—in this case, that urban infill housing lowers per-capita public expenditures on infrastructure.
Let's stop shooting ourselves in the foot with SEPA

That adding homes to existing cities is a net positive for both people and the planet is an utterly uncontroversial principle of urban planning. One of the gentlest ways to do that is by allowing ADUs into areas otherwise reserved for single-family houses. Yet in Seattle, Washington State’s environmental laws
enabled an obstructionist minority to torpedo a policy change that would have unlocked these much-needed, flexible housing options.

The harm of delay is real: based on ADU construction rates in Vancouver and Portland, every year Seattle's ADU rules remain unfixed and impede production, hundreds of families are losing the opportunity to rent in-law apartments or backyard cottages. Instead, they are competing for existing homes, and as the bidding wars cascade down the market, the lowest-income families are being displaced from Seattle. Rents are rising faster for everyone. Seattle's most desirable neighborhoods are remaining as exclusive as ever, off-limits to people of modest means. The delayed densification of the city's most auto-dependent zones is hamstringing its progress beyond carbon.

Who is winning from the EIS delay? Almost no one, save for a few extreme NIMBYs who want to freeze their neighborhoods in amber, or who care more about street parking than welcoming new neighbors.

Who loses? All the city's renters, who in the best case will pay a little more because of the added competition for apartments that the ADU delay is intensifying, and in the worst case may be forced to find somewhere to live in a cheaper location outside Seattle. But most of Seattle's single-family homeowners lose, too: the majority of them support liberalizing ADU rules. ADUs not only fit Cascadians' tolerant, welcoming values and laidback lifestyles, but they increase home values and income potential for homeowners.

Oh, and the planet. The planet loses, too.

For all these reasons, ADUs should have been the easy part of the HALA agenda. There is a potential silver lining, though. Seattle planners now have the opportunity to craft a definitive EIS that lays the groundwork for preventing the exploitation of SEPA by small numbers of entitled residents at the expense of everyone else. Priority one for the EIS is to establish the fundamental truth that regulatory changes allowing more homes are a net positive because more homes are a net positive. Optimistically, this path could lead to the exemption of all future infill housing construction from SEPA, expanding on what the city council recently approved for small and mid-sized apartment buildings in Seattle's six official "urban centers."

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Tagged in: ADU, Backyard Cottages, HALA, Housing Affordability, Urban Planning, Urbanism, Zoning
SEATTLE’S NEW ENVIRONMENTAL STUDY ON ACCESSORY DWELLINGS OBLITERATES OBSTRUCTIONISTS’ CLAIMS
Or: How Seattleites learned to stop worrying and love the backyard cottages?

In the summer of 2016, anti-housing activists from a wealthy Seattle neighborhood appealed proposed liberalization of rules governing accessory dwellings—commonly known as mother-in-law apartments and backyard cottages. Six months later a city hearing examiner upheld the appeal, forcing Seattle planners to spend the next year and a half slogging through a voluminous environmental study. In a previous article I covered this sorry episode of anti-housing obstructionism in Cascadia's first city.

Well, Seattle has released its draft Environmental Impact Statement (EIS) on the prospective accessory dwelling unit (ADU) rule changes. The verdict? The appeal was bunk: baseless claims eviscerated by analysis and evidence.

The appeal's most grievous complaint was that making it easier to build accessory dwelling units (ADUs) would lead to displacement in lower-income communities of color. In other words, poor people would lose homes to rich speculators. As the appeal's de-facto leader, Marty Kaplan, warned: “There would be a feeding frenzy for anybody with a truck and a nail bag to go buy homes and convert them into three rental units and displace the population.”

Math begs to differ. The EIS finds that relaxing ADU rules would lead to fewer teardowns of existing single-family houses—which would decrease the likelihood of renter displacement—and that teardowns are less likely in lower-priced neighborhoods to begin with. It also demonstrates that in Seattle the value of selling a house, with or without ADUs, eclipses the value derived from renting. So much for any rental conversion “feeding frenzy.”

Following the standard script of anti-housing legal challenges, the ADU appeal also raised the alarm over the threat to convenient free parking. What did the EIS show? “We conclude that ADU production would not have an adverse impact on the availability of on-street parking.”

The EIS projects that over 10 years the relaxed rules would boost production by up to an additional 1,440 ADUs, a 76 percent increase beyond the 1,890 new ADUs projected under existing regulations. A mere half a percent of Seattle's single-family lots would likely see ADU construction as a result of the rule changes. That is to say, the proposed liberalization would have a miniscule impact on...
neighborhoods and the infrastructure that supports them, and that's exactly what the EIS concluded: "no significant adverse impacts" across the board.

Conducting this EIS would not have been necessary in the first place, were it not for abuse of Washington's State Environmental Policy Act (SEPA). And the SEPA process abuse may not be over yet. Based on feedback on the draft EIS, the city will then prepare a final EIS defining the "preferred" policy, burning four or five more months. And then obstructionists can appeal the final EIS before the legislation moves on to the city council (not holding my breath).

The two or more years of delay caused by the appeal means a city already grappling with an epic housing shortage will fall even further behind by a few hundred ADU homes. And because tight housing markets work like a giant game of musical chairs, in which the poorest people always lose, this pointless delay has already forced hundreds of low-income residents out of Seattle.

On the upside, Seattle's EIS saga may finally neutralize once and for all the anti-housers' firehose of spurious objections over ADUs—modest homes that are, after all, less intrusive to neighborhoods than any other form of added housing. Overall, the EIS makes it clear that the benefits of loosening ADU rules vastly outweigh any downsides, bolstering the case to move forward with the most welcoming of the policy options under consideration. If Seattle manages to soldier on without compromising, its ADU rules will serve as a model for cities throughout Cascadia and beyond.

What the EIS Dissected

Environmental Impact Statements analyze proposed government actions to identify potential adverse impacts on the affected community. An EIS typically assesses multiple action alternatives and compares them to taking no action. In Seattle's ADU EIS, Alternative 1 is the city's unchanged existing regulations, Alternative 2 is the most welcoming set of rule changes, and Alternative 3 imposes some restrictions on ADUs not included in Alternative 2.

Alternative 2 follows the recommendations of Seattle's 2015 Housing Affordability Agenda to remove several key barriers to ADU construction. It raises the ADU allowance from one to two per lot; reduces the minimum lot size from 4,000 to 3,200 square feet (ft²); eliminates off-street parking requirements; removes the requirement for the owner to live on site; raises the occupancy limit of unrelated people on the lot from 8 to 12; and modestly relaxes size restrictions on backyard cottages.

Alternative 3 is more restrictive than Alternative 2. It retains the status quo rules requiring the owner to live on site six months of every year and limiting unrelated occupants to eight; mandates one off-street parking space for a lot's second ADU; exacts Mandatory Housing Affordability fees on a second ADU; and limits the size of new single-family houses to 2,500 ft² or a floor-area-ratio of 0.5, whichever is larger. (That last change is remarkable: it would impose an unprecedented cap on the size of every new house built in any single-family zone throughout the city, regardless of whether it includes ADUs.) Alternative 3 does loosen the rules in one way: it allows a second attached ADU (part of the main house) as a substitute for a backyard cottage.

Allowing more ADUs would slow home demolitions
A critical concern about any rule change that accelerates homebuilding is displacement of existing residents. In general, when redevelopment adds homes it helps reduce overall displacement across a growing city because it creates more room to accommodate newcomers, who would otherwise outbid less affluent residents for the scarce homes available.

In the case of ADU liberalization, however, there's a more specific concern: would the expanded opportunity to create ADUs lead to speculative purchasing of cheaper houses and cause displacement of low-income tenants?

To assess that potential, the ADU EIS looks at how the alternatives would affect the economics of constructing ADUs and tearing down existing houses to build new ones. The analysis seeks to answer the question: on any given lot, what actions would yield the most financial value to the owner? Remodeling and adding a basement mother-in-law rental? Tearing down the existing house and building a new house and backyard cottage? Doing nothing? And so on.

The analysis showed that in general, the two action alternatives reduced the likelihood of a teardown to construct a new house (see Appendix A in the EIS). This reduction was slightly larger for Alternative 3 mainly because it limits the size, and therefore the value, of new houses. The expectation of fewer teardowns makes sense if you consider that the expanded allowance for ADUs gives more owners a way to create new value on their properties without having to sacrifice the value of an existing house by tearing it down.

Teardowns would also be less likely in what the EIS designated as Seattle's “low-priced” neighborhoods, which largely overlap with areas city planners previously identified as having a high risk of displacement. In those parts of the city, under all alternatives the most valuable option for owners is keeping the existing house and adding an attached ADU. That's because lower home sale prices can't as easily cover the cost of new home construction—in other words, the payoff isn't worth the effort. For this same reason, ADU liberalization is likely to boost house turnover and ADU construction more in expensive areas rather than in low-priced neighborhoods that are often homes to communities of color.

The EIS also puts the lie to the presupposed scenario of flocks of speculative investors swooping in to buy up modest houses so that they can build two ADUs and rent all three units. The analysis shows that renting is consistently “the least profitable valuation option,” and that “in current market conditions, single-family houses and ADUs are generally more valuable on the for-sale market than as rental properties.” A smart speculator would be highly unlikely to tie up money to demolish, rebuild, and then hold onto rentals.
The proposed rule changes would boost ADU construction

To project ADU production over ten years, the EIS analysts developed an econometric model based on historic ADU production rates, lot characteristics, regulatory constraints, and the economic analysis described above (see EIS Exhibit A-20). The results are shown in the table below (see EIS Exhibit A-40).

<table>
<thead>
<tr>
<th>Alternative 1</th>
<th>Alternative 2</th>
<th>Alternative 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of ADUs built</td>
<td>1,890</td>
<td>3,330</td>
</tr>
<tr>
<td>Number of existing homes torn down and redeveloped</td>
<td>2,610</td>
<td>2,460</td>
</tr>
</tbody>
</table>

To put these ADU numbers in perspective, Seattle currently has about **130,000 single family houses in single-family zones**. Compared with ADU production under status quo regulations, the rule changes are expected to increase the number of homes in single-family neighborhoods by about 1 percent. Because the new rules would allow two ADUs on a lot, the additional single-family lots that would likely see new ADU construction under the rule changes is even lower, only about 0.5 percent of the citywide total.

Unsurprisingly then, the EIS found “no significant adverse impacts” for all analysis categories: housing and socioeconomics, land use, aesthetics, parking and transportation, and public services and utilities. What’s more, over the past few decades **much of Seattle's single-family land has actually lost population** as household size shrinks and very few new homes have been added. These neighborhoods can unquestionably welcome more residents because they have before.
The differences between Alternatives 2 and 3 matter

As shown in the table above, the net effect of the tighter restrictions in Alternative 3 is fewer ADUs produced compared to Alternative 2. There were no historic data available to calibrate modeling of owner occupancy, parking, larger cottages, and Mandatory Housing Affordability fees, so to account for their effects the analysts made an educated guess on a single, consolidated adjustment factor that was then applied to the projections (see EIS Exhibit A-39). Because they are lumped together, the analysis cannot isolate how much each of these changes contributes to differences in projected ADU production.

The table above also shows the projected number of single-family homes torn down, and that includes cases without any new ADUs involved. Alternative 3 would result in 11 percent fewer total teardowns than Alternative 2. The primary cause of that difference is the size limit on new houses imposed by Alternative 3, which applies to any new single-family house, regardless of whether it incorporates ADUs. The size cap reduces the potential value of a new house relative to other options such as keeping the existing house or adding ADUs.

In contrast, the other extra restrictions in Alternative 3 lower the likelihood of ADU construction, which raises the probability of teardowns—but that effect is outweighed by the house size limit pushing the other way. In particular, the owner occupancy requirement in Alternative 3 is likely to increase teardowns because it prohibits ADUs from the one fifth of Seattle's single-family houses that are rentals. Deprived of the ADU option to add value, these owners will be more likely to maximize their property's value by demolishing the house and building an expensive new one. Not to mention that there is no defensible justification for requiring owner occupancy on homes with ADUs when it's not required for separate single-family home rentals.

Another proposed constraint in Alternative 3 to avoid is Mandatory Housing Affordability (MHA) for the second ADU on a lot. As described in the economic analysis given in EIS Appendix A, exacting a fee on an ADU will reduce the value gained by constructing it, and therefore will reduce the likelihood that it gets built. This circular logic highlights the core flaw in the MHA program overall. Through regulatory reform, the city hopes to increase production of ADUs to expand housing choices and affordability. At the same time it proposes charging MHA fees to fund affordable housing, but that will hold back ADU production. Does the city want more ADUs or not? If yes, then skip the MHA fees.

Even with no house size limit, Alternative 2 yields 6 percent fewer teardowns than does the status quo, because making it easier to build ADUs tips the financial scales away from teardowns. If policymakers wish to combine Alternative 3's benefit of fewer teardowns with Alternative 2's benefit of increased ADU production, they can simply add the house size limit to Alternative 2. They could also tack on Alternative 3's allowance for a second attached ADU.

ADUs will not devour all the free on-street parking

To assess potential impacts on parking, the EIS analysts estimated ADU resident car ownership using a 2013 Portland State University survey adjusted for Seattle's demographics. They estimated that each ADU would generate between 1.0 and 1.3 cars, and conservatively assumed that all ADU residents
would park on the street. To establish a baseline for on-street parking utilization they applied recent parked car counts in four areas distributed across the city covering a total of 339 single-family blocks and 7,527 on-street spaces. Average weekday utilization was 52 percent.

The analysts then applied the 10-year ADU projections discussed above to estimate how many more cars would end up parked on the street. Compared with the status quo Alternative 1, under the proposed rule changes in Alternatives 2 and 3 utilization increased by between 1 and 3 percentage points, depending on location. In the worst case in the most heavily utilized location, it rose from today's 78 percent utilization to 81 percent under Alternative 2 (see EIS Exhibit 4.4-14).

According to the city's standard, “on-street parking utilization would not become an issue until it exceeded 85 percent.” Because all of the studied areas stayed below that 85 percent threshold, the EIS concludes that the rule changes would not cause adverse impacts on parking. And that minor blip in parking demand makes perfect sense when you consider that the liberalization proposal is projected to add only about 1 percent more homes to single-family neighborhoods over ten years.

The EIS also highlighted the interplay between parking and another overblown concern often raised by anti-housing activists: loss of tree cover. The EIS finds that under worst-case assumptions, the projected number of new backyard cottages would cover “less than 0.1 percent of the total tree canopy in single-family residential areas.” It adds that, “removing the off-street parking requirement could reduce the amount of vegetation and tree removal otherwise needed to accommodate a parking space when creating an ADU.”

The bottom line is clear: there's no good reason not to remove all off-street parking requirements for ADUs, and doing so will yield more ADUs and likely less tree loss to boot. (You'd be forgiven for wondering why environmental laws require that building less new parking be assessed as if it's an adverse impact when cars are Cascadia's largest single source of climate pollution.)

**Time for ADU reform**

Seattle's recently released draft EIS on proposed ADU rule changes is a 364-page testament to what most housing wonks already knew: relaxing regulations on ADUs is one of the most benign policy actions a city can take to improve housing equity. Even under the loosest set of proposed regulations, the projected number of new ADUs is small compared with the number of single-family houses. So it follows that the impacts on neighborhoods would also be small, as the EIS confirmed in excruciating detail.

 Particularly salient, the EIS shows that by relaxing ADU rules, growing cities can ease the demolition of existing homes—and the associated risk of displacement—while simultaneously boosting the creation of flexible housing options for those who can't afford a million dollar house. All told, the EIS makes a bulletproof case for the most permissive set of rules, and if Seattle acts on that prescription it will set an example for ADU liberalization across North America.

But cities in Washington will still have to face the entrenched problem of the State Environmental Policy Act (SEPA), Washington's set of environmental review laws that enables obstructionists, no matter how
unfounded their objections, to abuse the process and hijack efforts to create homes of all shapes and sizes for all of our neighbors.

(Those who wish to comment on the draft EIS can do so in writing until June 25, or can testify in person at a city hearing on Thursday, May 31, 2018 at Seattle City Hall.)

Endnote: Don’t ban Airbnb in ADUs

Though not proposed as part of Seattle’s ADU reform, many cities have considered or enacted restrictions on short-term renting of ADUs, but that’s misguided policy. The EIS analysts estimate that on average ADUs used as short-term rentals can generate between about $1,143 and $1,386 per month, depending on the location, and accounting for the typical gaps in renting. For long-term rentals, they estimate rent that varies from as low as $1,056 for an 800 ft² attached ADU in a low-price location to as high as $2,470 for a 1,000 ft² backyard cottage in a high-price location. Overall, the EIS data indicate that long-term rental of ADUs would typically be more lucrative than short-term. This suggests that the reason people put ADUs on short-term rental is because they need the flexibility—to reserve the ADU for family members at a certain time of year, for example. Denied that flexibility and supplemental income by a short-term rental ban, many owners would opt not to build ADUs. Furthermore, even if ADUs are used for short-term rentals they absorb hotel demand. Over the long term, that means fewer hotels get built, leaving more urban space for new apartments to ease the housing shortage.

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