

**MANATEE COUNTY AFFORDABLE HOUSING
ADVISORY COMMITTEE REGULAR MEETING
BRADENTON AREA CONVENTION CENTER, LONGBOAT KEY ROOM
One Haben Boulevard
Palmetto, Florida
July 20, 2020**

Present were:

Glen Gibellina, First Vice-Chairman
Frank Conorozzo, Second Vice-Chairman
Kenyatta Randall, Third Vice-Chairman
Erin Bodie
Amy Farrington
Vallerie Guillory
George Kruse
Steve Rinehart
Sandra Suite

Absent was:

Charlie Kennedy, Chairman

One seat is vacant.

Also present were:

Geri Lopez, Redevelopment and Economic Opportunity Director
Deborah Ash, Redevelopment and Economic Opportunity
William O'Shea, Building and Development Services
Robin Toth, Deputy Clerk, Clerk of the Circuit Court

Commissioner Misty Servia, representing District 4, was present and observing on behalf of the County Commission.

AGENDA AND SIGN-IN SHEETS

HC20200720DOC001

1. **CALL TO ORDER**

 Glen Gibellina, First Vice-Chairman, called the meeting to order at 3:05 p.m.

2. **MINUTES**

 A motion was made by Member Conorozzo, seconded by Member Rinehart, and carried 9-0, with Chairman Kennedy absent, to approve the minutes of June 15, 2020.

PLEDGE OF ALLEGIANCE

 First Vice-Chairman Gibellina led the Pledge of Allegiance.

3. **PLANNING PROCESS 101**

 William O'Shea, Principal Planner, gave an overview of the Planning Process 101, to explain the purpose and function of the Comprehensive Plan, Land Development Code (LDC), Zoning, and Future Land Use Categories (FLUCs) to give a perspective on what is required and how development projects get approved and move forward.

The Comprehensive Plan is one of the guiding documents to regulate development; it only applies to the unincorporated areas of the County; and does not apply to the Cities or the Island communities. Staff must follow the Plan's policies and objectives; many components and elements are regulated by Florida Statute (F.S.); and it is the long-range, local community vision. The amendment process is lengthy and requires State approval.

 The LDC is the implementation mechanism for the Comprehensive Plan, providing specific requirements in more detail. Many LDC requirements can be modified through the amendment process or modified administratively for specific types of projects (i.e. development along urban corridors, accessory dwelling units).

HC20200720DOC002

 Mr. O’Shea used a diagram to explain net density and gross density. Gross density is the number of units divided by the total site acreage. Net density determines how many units can be built after the acreage of lakes, wetlands, common areas, and other areas not used for residential use, are subtracted from the total site acreage. The Comprehensive Plan includes both gross and net density restrictions for various FLUCs that permit residential development.

HC20200720DOC003

4. **ACCESSORY DWELLING UNITS (ADU)**

 Mr. O’Shea showed a brief video explaining Accessory Dwelling Units (ADUs). Today’s presentation is for informational purposes and not to debate or change the proposed language. The AHAC and public will have an opportunity to address the Draft ADU Text Amendment at the August 4 County Commission work session. Public comment will remain open until the end of the year, and WebEx meetings may be held with interested groups. An informational video and materials will be published on the County’s website until ADU regulations are adopted (anticipated in December). The video, along with a press release and the proposed text language, will also be published on the County’s website two weeks prior to the August 4 work session.

As currently proposed in the Draft ADU LDC Text Amendment, the definition an ADU shall mean an attached or detached residential dwelling unit, with cooking and bathroom facilities, which is subordinate and separate from the primary dwelling unit. The Draft ADU LDC Text Amendment includes an amendment to LDC Section 511, to include new sub-section 511.19 – Guest Houses.

An ADU is one tool the County can use as an affordable housing option. An ADU is on the same property as the primary dwelling unit, and is less than 500 square feet, limited to one bedroom, with cooking and bathroom facilities. It is held in common ownership with the primary dwelling unit and may be rented out or occupied full time. Guest houses are currently allowed in Manatee County, but cannot be rented or occupied on a full-time basis. Guest houses can only be used for the occasional housing of guests of the occupant of the principal structure. Guest houses can be much larger than the proposed ADU, but do not include a kitchen or dining facility.

Common misconceptions about ADUs are that 1) everyone would want one – construction costs are high and may outweigh the benefit of any rental income; and 2) everyone can have an ADU – many subdivisions and development communities have deed restrictions prohibiting a secondary living unit. Physical site constraints and overlays may prohibit the permitting of ADUs. The proposed ADU standards will further reduce the number of ADUs that can be permitted. Impact fees will be assessed during the permitting process, and utilities will be examined in detail. If capacity is not available, a permit will not be issued.

The Draft ADU Text Amendment language will be reviewed and discussed by the County Commission on August 4. If County Commission comments are minimal, the ADU Text Amendment will proceed to the Planning Commission on October 8, followed by the first public hearing on November 5, and final adoption hearing on December 10. The Draft ADU Text Amendment is available on the County’s website.

 Mr. O'Shea presented and reviewed the Draft ADU LDC Text Amendment with proposed revisions. HC20200720DOC004

 Staff added the prohibition of ADUs in the Coastal Evacuation Area and Coastal High Hazard Areas (Section 511.18.A.2.). In looking at the intent of the Comprehensive Plan prohibiting increasing density in the coastal areas primarily because of public safety reasons and the ability to evacuate in a timely manner, staff felt there was validity to those concerns. One comment received to date from staff was that bigger estate or waterfront properties may want to have an ADU. Staff may ask the Board if they want to keep guest houses on properties in Coastal Evacuation Areas or Coastal High Hazard Areas.

Staff included separate wording prohibiting ADUs in the Rubonia Village Zoning District (Chapter 4 – Zoning), because the community had too many issues with small-lots, the amount of fill required for construction, and the inability to meet setback and rear-yard requirements.

For properties zoned A (Agricultural), staff considered the ability to use a small mobile home, instead of stick-built construction. Some of the standards for mobile homes and ADUs were reduced so they would work better together.

 Though the County Commission was not in favor, wording was kept in the text amendment addressing the ability for a slightly reduced rear-yard setback, in exchange for height limitations and opacity requirements.

Several different ADU styles include a detached, free-standing unit in the back yard, a unit above a detached garage, an attached-type unit on level one with its own separate entranceway, and a unit built above an existing, attached garage.

Inasmuch as the County Commission was not interested in providing larger units for families, staff limited the square footage of an ADU to 500 square feet in the Draft ADU LDC Text Amendment, with the thought that the 500 square feet was a reasonable starting point.

 One of the items to be discussed with the County Commission is the inclusion of porches or balconies in the 500-square-footage floor area. Staff did not want the ability for covered porches or balconies to be enclosed and developed into another habitable room.

 Member Conorozzo suggested wording to state that exterior staircases shall not be included in the 500 square feet.

 Member Rinehart suggested exterior staircases and overhangs not be calculated in the 500 square feet.

 Mr. O'Shea stated it was not staff's intent to include exterior staircases in the 500-square-foot floor area.

 Geri Lopez, Redevelopment and Economic Opportunity Director, suggested the AHAC discuss 500-square-foot ADUs, exterior staircases and what is included in under-air floor area.

 Discussion ensued that a 500-square-foot ADU is small, Sarasota County's affordable housing floor area is 750 square feet, and the City of Bradenton is 650 square feet, the

County should mirror Sarasota County or City of Bradenton square footage at the very minimum, minimum floor requirements were removed from the LDC, a motion should be made with specific recommendations to the County Commission for the August 4 work session, a 500-square-foot ADU is substantially smaller than what is being discussed at this meeting, factor a percentage of the primary residence including the lot size, only so many people will build ADUs, the additional costs to potentially expand a 500-square-foot ADU is not the issue but the principal, and the Committee should define and justify a recommended ADU square footage.

 Mr. O'Shea stated much of the County Commission's past discussion of ADUs focused on the enforcement, size and parking for Airbnbs. He suggested setting the code enforcement issue aside for a later time. Code Enforcement officers do not have legal authority to access the back yard of a property and can only rely on what is visible from the street to conduct investigations. There are community concerns with the enforcement of ADUs and a misconception that everyone will want an ADU.

 Member Rinehart questioned the intent of staff on using the word "Conforming" in Item 6, Section 511.18.B, Development Standards. It would appear that ADUs would be in more of a non-conforming lot situation, because subdivisions and development communities prohibit an ADU as secondary living quarters on a conforming lot in the deed restrictions.

Mr. O'Shea stated the LDC prohibits staff from improving or intensifying a use if it is not in conformance with the LDC. However, reference to the LDC could be added to the wording.

 Commissioner Servia explained the difference between a non-conforming lot and a non-conforming structure. A lot would be non-conforming if it did not meet the zoning minimum standard. A structure would be non-conforming if it did not meet required setbacks or dimensional standards (height, floor area). The LDC allows lots of 5,000 square feet or less to have a five-foot, side-yard setback, unless they are owned in common ownership. Development could occur on a 3,500-square-foot lot if it is a legally platted lot with access in single ownership.

Mr. O'Shea stated Affordable housing regulations allow a reduced lot size of 3,500 square feet in the RSF-6 and RSF-9 zoning classifications.

 Discussion continued that a platted lot cannot be subdivided, certified lot sizes, many older lots in Bradenton are non-conforming, when the Comprehensive Plan was developed the County looked at property as a whole and determined there was 20 percent wetlands on a given parcel and by subtracting the 20 percent, the buildable lot size might be somewhat less because of the inclusion of the wetlands on the site.

Mr. O'Shea stated he would get back to the AHAC on whether the LDC includes a required, minimum square footage for a home, or if this requirement was removed with the last LDC revision. A small, residential home could be built as long as setback requirements are met. He stated he would bring back information on whether a park model of masonry stick-built framing could be considered a home, but noted the lot size would still have to be factored.

 Another item of past Board discussion was the provision for off-street parking space. The Draft ADU LDC Text Amendment includes a provision (Section 511.18.B.5, Development Standards) for one required, off-street, parking space that can be provided on an existing driveway leading to a garage or carport, but must be in addition to any parking required for the primary single-family residence. The LDC requires two parking spaces for single-family

dwelling units. However, if large square footages are considered that would house more people, perhaps one space is not enough. Parking could be enforced by Code Enforcement.

 Upon question by Member Guillory on whether an ADU could be considered a density bonus, Mr. O'Shea stated density bonuses cannot be applied to an affordable housing development in a coastal area. It would not behoove a developer to have ADUs count toward the density in a development. It is more likely a developer would want to construct all the units on buildable lots to count toward the density bonus, with the understanding they could also construct an ADU.

 There was further discussion that an ADU is not separate ownership, there is no separate deed for an ADU, an ADU does not factor into the density bonus, the AHAC should come to a consensus and vote on standards for consideration by the County Commission, an ADU was discouraged for single families, this would be a fair housing violation and cannot discriminate, staff's original draft language was limited to two people, but if a woman becomes pregnant during the occupancy of the unit there are now three occupants, this language was removed, two heartbeats per room, ADUs are ideal for a single mother with a child, suggestion of no more than two adults and an infant, define an infant to give the adults time to move into something else, but it is still a fair housing violation, the County cannot limit occupancy with current fair housing laws, the scaling of square footage is a good idea, one versus two bedrooms, and two bedrooms are not out of context with an ADU.

 Mr. O'Shea addressed LDC Section 511.19, Guest Houses. It was staff's thought to sunset guest houses, because people could circumvent the rules and get a guest house, which currently by Code, is larger than the ADU. If guest houses are kept in the LDC, the square footage would be changed to be consistent with whatever is decided with ADUs, so that a bigger unit could not be rented out illegally. People would like to see some type of guest house built on coastal properties.

Mr. O'Shea referenced the language of proposed LDC Section 511.18.A.5, stating that mobile homes meet the standards of Section 531.32, are legally permitted, and may be used as an ADU in the A zoning district. There are exceptions for the facade when used as an ADU.

Mr. O'Shea addressed the Proposed Revisions to Chapter 10 – Transportation Management, adding Table Note 19. To Table 10-2: Parking Ratios, regarding the requirement for off-street parking.

 First Vice-Chairman Gibellina spoke in support of the park model of a mobile home.

 Commissioner Servia explained that a park model is not approved in the same manner as a manufactured home. A park model is a vehicle and it may be prohibited from being used as an ADU.

 Mr. O'Shea stated that a manufactured home is recognized by the State and includes park models. The County Attorney suggested going back to a mobile home. Florida Statute measures a park model by including the tongue of the trailer. One of the questions is whether or not a park model could be used as an ADU due to the differences between the County definitions. Park models are built to strict standards, because they are regulated and must meet the standards of the Department of Housing and Urban Development (HUD), and because they are road ready. Currently, tiny houses are not prohibited by Code as they relate to the square footage of a single-family structure. Many tiny houses do not meet the Florida

Building Code and would not get permitted in Manatee County, because the structural integrity is skewed.

 Section 511.18.A.5.a.-e. addresses the requirements for a mobile home used as an ADU, where an ADU would have to match the architectural style and color of the primary dwelling unit. The current, maximum square footage is 500 square feet. The maximum square footage of guest houses can be much larger than what is being proposed, and there is language interpreted to mean it only has to be one square foot less than the primary structure. As currently proposed, guest houses would sunset with adoption of ADUs and would no longer be permitted, because they can be much larger and would continue to be built and rented even though they are prohibited by the Code.

There being no public comment, First Vice-Chairman Gibellina closed public comment.

 First Vice-Chairman Gibellina stated that a recommendation of the AHAC should be put in the form of a motion to the County Commission, of a 750-square-foot ADU, with no restrictions on the bedrooms.

AHAC Recommendation – ADU Square Footage

 A motion was made by Member Guillory that the AHAC recommendation to the County Commission is for a 750-square-foot ADU, with no minimum bedroom requirements. The motion was seconded by First Vice-Chairman Gibellina and carried 9-0, with Chairman Kennedy absent.

As to parking for the larger units, First Vice-Chairman Gibellina stated he would agree with staff's recommendation for one parking space. However, Mr. O'Shea stated that one parking space might not be adequate, because a 750-square-foot ADU would most likely have more than one car. This is something the AHAC can decide and let staff know at a later time.

 Discussion ensued as to whether the number of parking spaces could be determined on a permit-by-permit basis or negotiated with the landowner, tie the number of parking spaces to the number of bedrooms or ADU square footage, and this may be an issue with the County Commission as they were adamant about not having any cars parked on the street.

 Mr. O'Shea stated the use of a parking space in an existing driveway or garage would need to be identified in the permit application. This would assist Code Enforcement in the event that a complaint was filed. The number of parking spaces must be shown so they are legally binding to the ADU. A drainage design would be required to ensure stormwater flow does not impact surrounding properties. The stormwater system design should be adequate to handle any impervious surfaces. Another issue with the County Commission was whether or not the utility system could support additional units, and the analysis would have to be done with each permit. It would be logical to address the parking requirement in the Code.

 When talking about affordable housing, Ms. Lopez stated there is a Capital "A" affordable housing and a little "a" affordable. There is naturally affordable housing, which is housing that is just affordable versus Capital A affordable housing, which is subsidized and restricted. When talking about ADUs, she stated her recommendation is that this is a very naturally occurring housing that is affordable and not necessarily affordable housing that is income restricted or restricted in any other way. The overall goal is to add diverse housing options into what can be provided in Manatee County. ADUs are just one component, and staff does not recommend that affordable housing be restricted or monitored.

 Mr. O'Shea referred to House Bill (HB) 1339 – Community Affairs, and the 2020 Summary of Legislation passed on HB 1339. HB 1339 addresses several issues affecting development zoning, bonding activities, impact fees, building inspections, affordable housing and the regulation, ownership and tenancy related to mobile homes, mobile home parks, and related homeowners' associations. Staff is not sure at this time if the homeowner/property owner would be required to sign a Land Use Restriction Agreement for an ADU, because HB 1339, Community Affairs, includes requirements for ADUs, one of which is an affidavit signed by the homeowner stating that he will rent to income-qualified residents. There is no exception for family members. There are some problems in the way HB 1339 was passed and it is left to the local jurisdiction on whether or not to do affordable housing or ADUs; however, the homeowner must comply with specific requirements. At this time, staff is not sure what impact HB 1339 will have on ADUs or affordable housing in general. HC20200720DOC005

 First Vice-Chairman Gibellina stated his goal is to make sure ADUs are designated for the Asset Limited Income Constrained Employee (ALICE) population. The AHAC could entertain the idea of mandatory impact fees if the structure is built and used as a market rental, or waive the impact fees and make the ADU affordable in accordance with HB 1339 and maintain HUD standards.

 Member Conorozzo stated HB 1339 refers to an affidavit, which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income or moderate-income person or persons.

Mr. O'Shea stated the income qualification must be revisited annually. This process could be expensive due to the additional staff necessary to oversee the qualification process.

Member Conorozzo further stated the Bill allows government to adopt an ordinance to allow ADUs in any zoned residential area. The Bill would remove the requirement of the ordinance being conditioned upon finding affordable rentals.

 Mr. O'Shea stated staff's proposed ADU language was forwarded to the County Attorney's office for review/feedback before the August 4 work session. The definition of ADU in HB 1339 is very similar to staff's proposed language. The County Commission would need to realize possible fiscal ramifications from assuming a new allowance for ADUs.

Discussion ensued regarding affordable housing incentives per F.S. 420.9076(4), keeping ADUs for affordable housing and guest houses for rentals, a guest house does not include a kitchen, trying to make regulations work and not create loopholes, a guest house cannot be rented full time, the intent of HB 1339, and the requirement is that in perpetuity an ADU is going to remain affordable. HC20200720DOC006

 Commissioner Servia questioned if it was the intent of HB 1339 to prevent ADUs from becoming Airbnb (air bed and breakfast) rentals.

 Mr. O'Shea stated the original version of the Bill contained more stringent language that the County had to provide relief from impact fees and any types of public improvement; however, the language was watered down.

 There was further discussion on whether there has been dialogue with the School Board on their \$7,500 impact fee on ADUs, impact fees on a guest house would be assessed at the

minimum 1,050 square feet, this fee is the same for ADUs, how ADU impact fees would be assessed with other fees, not counting it as a unit but paying all impact fees as a unit, this may be something to look at further, the State recognizes that the jurisdictions were charging impact fees and trying to give homeowners relief when they were building ADUs, ADUs on septic systems in unincorporated areas would have to increase their system to handle the additional waste, and prior versions of the house bill recognize impact fees.

 Member Conorozzo recommended the coastal evacuation area and coastal high hazard area maps be attached to the Draft ADU LDC Text Amendment document.

Mr. O'Shea stated the maps are already part of the LDC, but would be included in the power point presentation for August 4.

 Member Conorozzo stated the proposed LDC Text Amendment states that ADUs shall not be permitted within the Rubonia Village Zoning District, while there are other communities that are unable to build ADUs. He requested this be included in the power point presentation.

 Member Rinehart questioned when the AHAC would discuss potential changes to the LDC and Comprehensive Plan. He expressed concern that most AHAC members are not developers, LDC Section 545-Housing Program has several issues, and he expressed interest to be included in the rewriting of the language for Section 545.

 Ms. Lopez explained changes to the LDC are under the purview of Building and Development Services, and the implementation is administered by the Redevelopment and Economic Opportunity Department and Community Development Division.

 Suggestions and recommendations presented at this meeting would be brought forward at the August 4 work session.

5. **PUBLIC COMMENT**

 There being no public comment, First Vice-Chairman Gibellina closed public comment.

6. **MEETING SCHEDULE**

 The next meeting is August 17, in the Longboat Key Room.

AHAC members were encouraged to attend the August 4 County Commission work session.

ADJOURN

 There being no further business, a motion was made by Member Rinehart, seconded by Member Guillory and carried 9-0, to adjourn the meeting at 4:57 p.m.

Minutes Approved: _____