

## MEMORANDUM

**TO:** Planning Commission  
**FROM:** Allan Giffen, Planning Director   
**DATE:** December 22, 2016  
**SUBJECT:** Public Hearing for Code Amendments – Accessory Dwelling Units

A. **Background Information:** At the June 7, 2016 Planning Commission meeting, Mr. John Dimas presented a request to consider a code amendment to allow detached accessory dwelling units (DADU's) in Everett's single family zones. The Planning Commission agreed to initiate consideration of the amendment, and has discussed potential development standards for DADU's at meetings on:

- July 17
- September 6
- October 4
- November 1

B. **What is an Accessory Dwelling Unit?** The Zoning Code defines "accessory dwelling unit," or ADU, as "*an additional room or set of rooms located within an owner-occupied single-family dwelling and designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent from the accommodations for the owner's family and subject to the limitations of Section 39.020(D) of this title.*"

C. **Existing Regulations:** The City's zoning code has allowed attached ADU's since 1992, prior to State law mandating that cities over 20,000 in population must allow them. State law includes the following requirement:

**RCW 43.63A.215 Accessory apartments—Development and placement—Local governments.**

(1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority. (emphasis added)

The City's existing regulations allow ADU's only within a structure that is attached to the principal dwelling located on a single family zoned lot. It does not allow DADU's in single family zones. However, the H (Historic) Overlay Zone regulations allows for "infill dwelling units," which could be considered a detached accessory dwelling unit, subject to design guidelines applicable in the H overlay zone.

- D. **Comprehensive Plan text:** The Implementation section of the Housing Element of the Comprehensive Plan includes the following statements regarding DADU's and infill dwellings:

*Measures Related to the Land Use Element*

8. *Allow rear yard "infill dwellings" in single-family zones where alley access is available*

*Examples of Specific Potential Zoning Code Changes*

*The following are examples of specific zoning code amendments that could be used to implement many of the housing objectives and policies of the Housing Element.*

2. *Revise the standards for accessory dwellings and "infill dwellings" as defined in the zoning code to also allow such units in detached buildings, subject to design guidelines.*

- E. **Previous Planning Commission Discussions:** At the four previous discussions in 2016, the Planning Commission considered much information related to ADU's and DADU's, including:
1. Pictures and graphics of DADU's in Everett and other communities
  2. Previous recommendation in 2010 to amend code to allow DADU's
  3. Comparison with other cities' regulations (see attached spreadsheet)
  4. More recent attempts in the City of Seattle to amend similar regulations
  5. A lengthy list of questions related to potential standards for DADU's (see attached list of questions discussed at October 4 meeting)
  6. A draft set of regulations that would allow DADU's and development standards that would apply
- F. **SEPA – Environmental Review:** The City prepared an environmental checklist for the draft regulations that were presented to the Planning Commission on November 1. In response, two public comments were provided, see attached. Several Planning staff members also provided feedback.

G. **Staff Recommendation:** Staff has compiled a proposed revision to the existing Zoning Code regulations for Accessory Dwelling Units that essentially would repeal the current regulations and adopt a new section of the code that addresses both attached and detached ADU's. The regulations are summarized below, and a complete draft of the proposed regulations is attached as Exhibit 1 to the Planning Commission resolution.

- Adds a new definition of “principal dwelling unit”
- Revises the definition of “accessory dwelling unit”
- Review process for ADU's, is administrative unless applicant proposes to modify development standards. In that case, public notice would be provided
- Maintains requirement for owner occupancy for one of the dwellings
- Only one ADU or DADU would be allowed per lot
- ADU or DADU cannot be sold separately from principal dwelling
- One additional off-street parking space required for ADU / DADU. An exception process to allow an ADU / DADU with no additional off-street parking under limited circumstances would require public notice
- ADU / DADU cannot exceed the less of 75% of floor area of principal dwelling, or 800 square feet
- Rear setback = none required for alley lots; 20' required for non-alley lots. Reduction for non-alley lots to 5' may be approved if ADU / DADU does not exceed 18 feet in height within rear 20' of lot. Public notice provided for any request for a setback of less than 20' for non-alley lots.
- Building height – same as for principal dwelling (28') for attached ADU. 24' for detached ADU (same as for “infill dwelling” in Historic Overlay zones). May not exceed 18' when located within rear 20' of lot for non-alley lots
- Lot coverage by all buildings – same as underlying zone (RS and R-1 = 35%; R-2 = 40%). May be increased by up to additional 5% with public notice
- Design standards – for attached ADU's, none. For DADU's – roof pitch, siding, roofing, windows and building trim materials shall visually match those used on the principal dwelling. City to promulgate design manual with best practices and examples for the design of DADU's and compatibility with the surrounding neighborhood. Proposal to modify design standards requires public notice

H. **Planning Commission Resolution:** Staff recommends that the Planning Commission approve the proposed amendments to the regulations for Accessory Dwelling Units as contained in Exhibit 1 of the attached Planning Commission Resolution.

PLANNING COMMISSION  
RESOLUTION NO. \_\_\_\_\_

A Resolution Recommending that the City Council Approve Amendments  
to the Zoning Code Regulations for Accessory Dwelling Units (ADU's)

WHEREAS, the Planning Commission finds the following:

1. The Everett Zoning Code includes regulations that allow accessory dwelling units (ADU's) in single family zones when located within, or attached to, a principal dwelling unit, but does not allow detached accessory dwelling units.
2. The Everett Zoning Code allows for the establishment of detached "infill dwelling units" within the Historic Overlay zones.
3. A citizen has requested that the Planning Commission initiate consideration of an amendment to the Zoning Code to allow for detached ADU's in single family zones.
4. The Planning Commission agreed to consider the requested amendment and directed Planning Department staff to provide information related to the requested amendment.
5. The Planning Commission discussed the potential code amendment and alternative development standards at public workshops on July 17, September 6, October 4 and November 1, 2016; and did take public testimony at each public workshop.
6. The Planning Commission considered a substantial amount of information, including standards for detached ADU's that had been recommended by the Planning Commission in 2009-2010, and the regulations of other cities pertaining to ADU's.
7. The Planning Commission expressed diverse opinions concerning the merits of the proposed code amendments and development standards therefore.
8. The Planning Commission identified preferred standards for most elements of the regulations for ADU's so staff could conduct the State Environmental Policy Act review of the potential impact of the code amendments.
9. Staff prepared a recommendation for the content and format of the proposed code amendments to allow detached ADU's.
10. The Planning Commission conducted a public hearing on January 3, 2017, to take additional public testimony and consider the staff recommendation.

WHEREAS, the Planning Commission concludes the following:

1. The Planning Commission did provide for substantial public input during its discussion and deliberation process.
2. Staff has compiled a recommendation for amendments to the Zoning Code that reflect the feedback from the Planning Commission and public to allow for detached ADU's in single family zones, including appropriate review processes and development standards.
3. The proposed amendments are consistent with the relevant provisions of the City of Everett Growth Management Comprehensive Plan.
4. The proposed amendments to the Zoning Code bear a substantial relation to the health, safety and welfare of the Everett community.
5. The proposed amendments to the Zoning Code promote the best long-term interests of the Everett community.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AND RECOMMENDS that the City Council approve the proposed amendments to the Zoning Code substantially in the form contained in Exhibit 1, which is attached hereto and made a part hereof.

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Planning Commission Chairperson

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Date

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Planning Commission Secretary

For:

Against:

Absent:

Abstain:

# EXHIBIT 1

## [PROPOSED DRAFT - AMENDMENTS TO THE ZONING CODE REGULATIONS FOR ACCESSORY DWELLING UNITS]

December 19, 2016

*The following draft regulations are intended to replace the existing regulations in Section 39.020.D of the Zoning Code, Accessory Dwelling Units, which currently apply only to attached accessory dwelling units. These proposed regulations would apply to accessory dwelling units in the RS, R-1 and R-2 zones, whether attached or detached.*

### Definitions:

“Dwelling unit, principal” means the larger or main dwelling unit located on a lot which also contains an accessory dwelling unit.

“Dwelling unit, accessory,” or “ADU,” means a secondary dwelling unit located on the same lot as a single-family dwelling unit that is designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent from the accommodations for the principal dwelling unit. An “attached” accessory dwelling unit is attached to or located within a principal dwelling unit. A “detached” accessory dwelling unit (DADU) is detached from the principal dwelling unit.

**7.030 Accessory Dwelling Units.** The regulations in this section shall apply to Accessory Dwelling Units (ADU’s), whether attached or detached. The term “ADU” as used in this section shall apply to either attached or detached accessory dwelling units. The term “DADU” as used in this section shall apply only to detached accessory dwelling units. In the event there is a conflict between the provisions of this section or any other provision of the EMC, the provisions of this section shall control.

- A. **Accessory Dwelling Units (ADU’s), Where Permitted.** An ADU shall be permitted as an accessory use to the principal dwelling unit in the zones indicated in Use Table #5.1 on any legally established lot, provided it complies with the provisions of this section. In the Core Residential Area and other zones that allow single family attached or multiple family dwellings, the development standards applicable to those zones shall apply to development of more than one dwelling on a lot rather than this section.
- B. **Review Process.** ADU’s shall be permitted subject to Review Process I as defined in Title 15 of the Everett Municipal Code.
- C. **Owner Occupancy Required.** Either the principal dwelling unit or the ADU shall be occupied by the owner of the property as his or her principal residence. Prior to issuance of a permit for an accessory dwelling unit, the property owner shall submit to the City a signed affidavit affirming that the owner occupies the principal dwelling as his or her principal residence, and will occupy either the principal dwelling or accessory dwelling after completion of the accessory dwelling unit. The owner shall record a covenant with the Snohomish County Auditor, approved by the director, that shall run with the land as

long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Snohomish County Auditor's office prior to issuance of the building permit.

- D. An ADU shall not be segregated from the ownership of the principal dwelling through a subdivision, condominium, or any other process.
- E. Only one ADU is permitted on a lot.
- F. An ADU shall not be permitted on a lot with more than one dwelling unit.
- G. Off-street parking.
  - 1. A minimum of one off-street parking spaces above what is required for the principal dwelling shall be provided for the ADU.
  - 2. When abutting an alley, the required parking for the principal and accessory dwelling units shall be accessed from the alley, unless there is an existing legally established driveway connecting to a public street.
  - 3. The requirement for one off-street parking space for the ADU may be waived by the Planning Director, using Review Process II as defined in Title 15 of the Everett Municipal Code, when all of the following circumstances apply:
    - a. The property is not located in a Residential Parking Permit zone (EMC 46.30); and
    - b. The property has frontage on a public street; and
    - c. There are at least two on-street parking spaces in front of the subject property; and
    - d. There is a public transit stop located within one-quarter mile walking distance of the property with a safe walking path to the transit stop.
- H. The property owner shall certify to the City no later than April 1st of each year that the owner occupies one of the dwellings as his or her principal residence. Any person who fails to report or falsely certifies that he or she resides in a dwelling unit at the stated address shall be subject to the enforcement and penalty provisions of EMC Chapter 1.20.
- I. A permit for an ADU shall automatically expire, and the building shall be brought into conformance with the zoning code, whenever:
  - 1. The ADU is substantially altered and is no longer in conformance with the standards of this section;
  - 2. The owner ceases to reside in either the principal or the accessory dwelling unit.

- J. An ADU shall not exceed 75% of the gross floor area of the principal dwelling, or 800 square feet, whichever is less.
- K. Minimum rear setback.
1. Alley lots. An ADU shall have no minimum rear setback.
  2. Non-Alley Lots. 20 feet, provided that the City, using Review Process II as defined in Title 15 of the Everett Municipal Code, may allow a DADU to have a minimum rear setback of 5 feet if the building does not exceed 18 feet in height within the rear 20 feet of the lot.
- L. Building Height. The maximum permitted building height for a detached ADU shall be:
1. Alley lots. 24 feet.
  2. Non-alley Lots. 24 feet, provided however, that the maximum height shall not exceed 18 feet in height when located within the rear 20 feet of the lot.
- M. Lot Coverage. The maximum lot coverage standard for the underlying zone shall apply to all buildings on the lot, provided that it may be increased, using Review Process II as defined in Title 15 of the Everett Municipal Code, by an additional five percent of the lot area if necessary to allow a DADU on an existing developed lot that meets all other requirements of this section.
- N. Design Standards. An ADU shall meet the design standards in this section. A property owner may request that the Planning Director modify the design standards, using Review Process II as defined in Title 15 of the Everett Municipal Code. The Planning Director shall consider the impact that the requested modification will have on abutting properties in terms of aesthetics, privacy, view impacts, and compatibility with the character of other dwellings.
1. Attached ADU's. The single-family appearance and character of the dwelling shall be maintained when viewed from the surrounding neighborhood. Only one entrance to the residential structure may be located on any street side of the structure; provided, that this limitation shall not affect the eligibility of a residential structure which has more than one entrance on the front or street side on the effective date of the ordinance codified in this section.
  2. Historic Overlay Zones. On lots located in the Historic Overlay Zone, an attached ADU shall comply with the standards of subsection 1 of this section. A DADU shall comply with the development and design standards of the H Overlay Zone for Infill Dwelling Units.

3. Detached ADU's. The Planning Director shall promulgate a design manual of examples and best practices for the design of DADU's and compatibility with the surrounding neighborhood. The City shall have the authority to require changes to the design of a DADU that is not consistent with best practices identified in the design manual. In addition:
    - a. The DADU shall be designed to give the appearance that it is secondary to the principal dwelling.
    - b. Siding, roofing, windows and building trim materials shall visually match those used on the principal dwelling.
    - c. The roof pitch shall be similar to the predominant roof pitch on the principal dwelling.
- O. Legalization of Illegal ADU's.
1. An illegal ADU, whether attached or detached, may be legalized provided it can be made to comply with the provisions of this Section and all other applicable codes.
  2. If the property owner takes all actions necessary to legalize the ADU within two years of the effective date of this section, the additional fees required by EMC 16.72.070 shall be waived.

On Nov 9, 2016, at 7:30 AM, Allan Giffen <[AGiffen@everettwa.gov](mailto:AGiffen@everettwa.gov)> wrote:

Thank you, Tara. It is good to know what you are hearing from buyers. Are you already on our planning commission notification list? If not, would you like to be added so you can keep up with what we are working on?

Allan Giffen

**From:** Tara Fuller [<mailto:tara.fuller@ymail.com>]  
**Sent:** Tuesday, November 08, 2016 1:00 PM  
**To:** Allan Giffen  
**Subject:** Re: Zoning - Everett

Yes, in North and South Everett; and not just seasoned investors either. Beginning investors are looking to Everett to buy because "fixers" are plentiful, home prices are lower than much of the region, and greater potential on ROI turnaround.

For residential single-family buyers, their reasons vary. Some want the option to rent the DADU to supplement their income or minimize their mortgage burden, while others want it to double as a home office and guest house, while still others want it as an alternative means to care for aging parents or grown children returning to the nest.

There is also a growing need for DADUs for multi-generational families. Even buyers who aren't currently in a multi-generational living situation ask for me to find a home with a lot size and zoning to accommodate a DADU should it one day become a need.

I sure hope the city amends the zoning to accommodate more DADUs. It's a win-win for the City of Everett surely. It meets the needs of the community – now and in the future – increases jobs, and supports local businesses. All the while, expediting Everett's much needed restoration well beyond downtown and the waterfront.

Okay, sorry for the novel. I used to be a news journalist and I'm passionate about community interests.

Thank for your time,

Tara Fuller | Broker, REALTOR®  
[RE/MAX Northwest Realtors®](#)  
[\(206\) 650-5554](tel:2066505554) Bothell, Wa.

On Nov 8, 2016, at 8:02 AM, Allan Giffen <[AGiffen@everettwa.gov](mailto:AGiffen@everettwa.gov)> wrote:

Hello Tara – thank you for checking on the status of the potential code amendment. The Planning Commission will take this up in January, and if they approve, their action is a recommendation to the city council. The council must approve any amendment to our land use codes. If the commission takes action in January, the council would probably take action in March. In one previous attempt to allow DADU's in 2010, the council decided not to approve the planning commission recommendation, so I would not say it is certain to pass. We already do allow attached ADU's. As drafted, the regulations for DADU's would require one of the dwellings to be owner occupied.

Do you see many buyers who are looking for an opportunity to have a DADU?

Allan Giffen

**From:** Tara Fuller [<mailto:tara.fuller@ymail.com>]

**Sent:** Monday, November 07, 2016 6:32 PM

**To:** Allan Giffen

**Subject:** Zoning - Everett

Dear Mr. Griffin,

I am a Realtor® at RE/MAX Northwest and I have clients looking at flips in North Everett, so in my research on one particular property I came upon The City's Planning Commission consideration of a code amendment that would allow DADU's in single family zones. Has their been a decision to amend, and if there has when will it be in effect? My client is currently looking a property located on Wetmore Ave, an R1 Zoning if my information is correct.

Thank you for your consideration in responding to my inquiry.

Sincerely,

Tara Fuller, Broker|Realtor®

(206) 650-5554

RE/MAX Northwest Realtors

Thea Miller  
5403 East Drive  
Everett, Wa. 98203  
(425) 327-9082

9 Dec 2016

Dear Mr. Geffen

As per our recent telephone conversation, I am writing with my concerns on the developing code/zone amendments regarding DADU's.

The items and concerns being discussed seem reasonable and relevant for most areas of Everett, ie: lot sizes and where to allow placement of the DADU, setbacks, height, alleyways, aesthetics, parking, etc. However, a situation like mine, having an odd shaped lot, doesn't quite fit under all of the criteria that is being discussed. Our lot is a very long and narrow ½ acre parcel that slopes sharply into a ravine at the back of the property, with no structures behind us until you get to the very bottom of the ravine where there is a mobile home park. My neighbors to the North are separated by a thick greenbelt of trees and shrubs. To the West, is the road. My neighbors to the south are a little closer as this was part of the original homestead of my parents, who purchased the property in 1944 as a one acre parcel. We short platted the property in 1997 (this was our only option at the time because zoning only allowed one dwelling per lot), and I put a manufactured home on the other half of the property to the North of their house. As they grew older, they needed more looking after, and I was grateful to do this so they could stay in their home, which they did until the end of their lives. Now, I am facing the same challenges as my parents did as I grow older. My goal is to build a garage with an "MIL" above for myself, and then my daughter and her family will live in the main house. It is a similar situation as what I was able to do for my parents, my family will do for me. But without having to do a short plat again, hopefully!

The uniqueness of my lot is compounded by the fact that the house is placed "sideways" approximately 100 feet back from the road. The front of the house faces south, with the side facing West towards the road. Technically speaking, our DADU would be to the "side" of the home. But since the "side" of the home faces the road, it would be considered in "front" of the home. There is no way to place the garage unit on the East side behind the home as there is not enough room before the property starts to slope, plus it would block our view of the mountains! Even though our unit would be in front of the house, it would still be a good 60 feet back from the roadway, yet close enough to the house to utilize the existing electrical/sewer/water connections to the main house. And with little or no impact to the surrounding homes.

Over the past 75 years East Drive has changed dramatically. What were once ½ to 1 acre lots with one dwelling, have become sub-divided with anywhere from two to five dwellings. In my opinion, allowing DADU's to be placed on these kind of lots is no different than sub-dividing them and sticking five homes on them! In fact the DADU seems like a much better option to me.

It is my hope that while writing the new amended zoning codes, the planning commission will allow for language to accommodate these types of unique situations,

because not all property types in Everett are created equal. Thank you for your consideration.

Sincerely,  
Thea Miller

**ON-LINE COMPARISON OF REGULATIONS FOR DETACHED ACCESSORY DWELLING UNITS**

City	Everett draft	Mukilteo	Marysville	Lynnwood	Mill Creek	Edmonds	Bothell	Bellingham	Kirkland	Tacoma	Seattle	Olympia	Bremerton	Redmond	Renton
<b>Code Requirements</b>	<b>Proposal</b>					<b>Bellevue</b>									
DADU's allowed in single fam. Zones	yes	yes	yes	yes	yes	no (6)	yes	yes	yes	yes	yes	yes	yes	yes	yes
Owner occupancy required	yes	yes	yes	yes	no		yes	yes	yes	yes	yes (9)	yes	yes	yes	yes
Alley access limitations	if abuts alley	if abuts alley	if abuts alley	no standard	no standard		no standard	yes (8)	no standard	no standard	no	no standard	no standard	no standard	no standard
Maximum size allowed	800 sq. ft.	700 sq. ft.	35% of main	800 sq. ft.	800 sq. ft.		800 sq. ft.	800 s.f.	800 sq. ft.	1,000 sq. ft.	800 s.f.	800 sq. ft.	1,000 sq. ft.	1,000 sq.ft.	800 sq. ft.
Minimum size required	no standard	no standard	300 sq. ft.	no standard	400 sq. ft.		no standard	no standard	no standard	no standard	no standard	no standard	300 sq. ft.	no standard	no standard
# of parking spaces required for DADU	one (1)	one	one	one	one		one	one	one	none	none	one	one	one	one
Location on lot	no standard	behind main	no standard	no standard	no standard		no standard	no standard	no standard	rear of lot	no standard	no standard	no standard	no standard	no standard
Design standards	yes	yes	yes	yes	yes		no	yes	no	yes	yes	no	yes	yes	no standard
Privacy standards	w/ modific. (2)	yes	no standard	no standard	no standard		no standard	yes	no standard	no standard	no standard	yes	no standard	no standard	no standard
Open space requirement	no standard	no standard	no standard	no standard	no standard		no standard	no standard	no standard	no standard	no standard	no standard	no standard	no standard	no standard
Max.height allowed	24', 18' (3)	per zone	per zone	per zone	per zone		per zone	25 feet	per zone	18 feet	per zone	per zone	per zone	per zone	per zone
Min. separation between dwellings	no standard	no standard	no standard	no standard	no standard		no standard	6 feet	no standard	no standard	5 feet	no standard	no standard	no standard	no standard
Only a single electric meter?	no	no	no	no	no		no	no	no	no	no	no	no	no	no
Amnesty for illegal DADU's	yes	yes	no	yes	no		yes	no	no	yes	no	yes	no	no	no
Other standards	yes (4)	10,000 sf lot						yes (5)	yes (5)		yes (10)			yes (5)	
Other standards	yes (5)	yes (5)							yes (7)						

- (1) parking space may be waived if site meets 4 conditions: property not in a Residential Parking Permit zone; has frontage on a public street; at least two on-street parking spaces in front of lot; public transit stop located within one-quarter mile
- (2) when modification of standards is proposed, privacy impacts are considered
- (3) 18' for non-alley lots when located in rear 20' of lot
- (4) design standards require use of similar building roof pitch and building materials as principal dwelling
- (5) may not be divided from ownership of principal dwelling
- (6) DADU's not allowed, only attached ADU's are allowed
- (7) not allowed on lots smaller than minimum lot area required by zone
- (8) allowed only on lots with alley access, or on a corner lot, or with min. 10,000 sq. ft. lot area
- (9) currently considering eliminating owner occupancy requirement
- (10) currently considering allowing both an attached and a detached ADU with principal dwelling on a single lot