

Comments on HALA Recommendations regarding Accessory Dwelling Units and Backyard Cottages

Queen Anne Community Council - Land Use Review & Planning Committee
by Martin Henry Kaplan, AIA, Chair - May 14, 2016

These comments were prepared in response to the recommendations of the HALA (Housing Affordability and Livability Agenda) Advisory Committee. These comments are excerpted from a longer letter. The section and page numbers refer to specific recommendations in the HALA Advisory Committee's final report.

SF.1a (Page 25) Remove code barriers to Accessory Dwelling Units and Backyard Cottages

This proposal highlights the separation between the City's stated position that HALA will not affect single family zones, and the reality that indeed HALA will seriously impact and erode almost all Seattle single family zones and neighborhoods. As I served on the Seattle Planning Commission during the time that we proposed and helped craft the DADU legislation, we took a very measured and educated approach in evaluating the conditions whereby someone could add a dwelling unit onto their single family zoned property.

Critical to this discussion is the fact that we must honor the investment, security, privacy and critical expectations of homeowners when they invest their lives, families, and finances in a home and within a neighborhood and a specific land use zone. There indeed is an expectation that our quality of life should be protected from abuse by neighboring properties that build beyond what a community expects and for which zoning codes define. After all, that is the foundation and obligation of a zoning code and City Hall enforcement.

On the Planning Commission, we felt that increasing the city's density in a measured and respectful manner made sense, especially as we studied the opportunities and results from other similar sized cities that had implemented a similar approach. Through a serious study and public input, we arrived at the current code, enabled by legislation. It was intentionally crafted to be restrictive to the point of protecting neighbors and neighborhoods alike, while offering unique and clearly defined opportunities for those properties that met the qualifications. In so doing, the impact to others was anticipated to be very low; an important goal for any strategic exercise, certainly an ADU or DADU backyard cottage. The very foundation for our code limitations on DADU's established to respect and support all our city-wide communities is eroded by this HALA proposal.

- A. **Remove the Parking Requirement:** Coincident with allowing for single family zones to build a DADU, it was imperative that this increase in density limit the impacts upon neighbors and infrastructure. One critical component in all neighborhoods is parking. Therefore in order to help preserve the character and sustainability of the neighborhood and street, the condition of creating one additional parking space on site in order to qualify for adding a DADU was critical in our deliberations. Parking in many of our communities remains a serious concern, and adding density will only exacerbate parking demands. Hoping and stating that none of these new residents will own cars is wishful but not codified nor based upon reality. The condition of one on-site parking space per DADU must stand.

None of us own the parking spot on our street, however we share that investment with our neighbors in the form of common property taxes which help maintain our streets. Why should a single family lot converted to three units be allowed to monetarily profit from disproportional inconvenience to all its neighbors?

- B. **Removal of the ownership requirement:** Again, our mission as a Planning Commission was to study and propose a sustainable and logical strategy for advancing increased density opportunities while respecting adjacent neighbors and community character. The ownership provision was critical in protecting the fabric of the neighborhood and the foundation of the single family zone in which these projects would be developed. Absent the ownership requirement, the City is proposing converting all single family properties into multi-family zoned land where each single family property could become a duplex or triplex for rent absent any home ownership and the responsibilities and living environment expectations associated with such homeownership.

Additionally, the ownership requirement intentionally prevents investors and developers from buying up single family homes and developing them with multi-family units to be rented. Aside from the change in neighborhood character, this proposed change will provide little to no affordable housing as the costs for re-development together with increased mortgage, utility, maintenance and property taxes will require rents that easily exceed the original market rate rental value of the original property.

- C. **Allow a single lot to have both an ADU and a DADU:** This change effectively converts most single family zoned land into multi-family triplex zoning. And remember that the City has posited continually that HALA will not affect single family zoned land. Together with this change is the provision that no parking will be required! So, in current single family neighborhoods, the on-street parking requirements may triple without one condition or protection for our neighborhoods. And that considers only one car per unit. In the event these three units are rented to families and multiple people, the impacts will grow exponentially. Under certain conditions, we may not be opposed to allowing all three

uses on one site, but impacts must be considered and a serious dialogue and partnership must occur between City Hall and our neighborhoods.

- D. Remove barriers to development like height limits, setbacks, maximum square footage, and minimum lot size:** Let's begin with lot size - our Planning Commission felt strongly that placing a 5,000 sq ft minimum limit on allowing for DADU's would allow for respected open area and separation from neighboring properties. We felt strongly that this condition was a minimum to protect neighbors and allow for on-site parking and open air separation. While touting support for all of these HALA recommendations, Councilmember O'Brien tells us the preferred lot size should be 3,000 sq ft (instead of 5,000). This means that most single family zoned property in the city can qualify to shoehorn in a DADU and erase any rear or side yard open space and dramatically impact the neighboring properties. The additional provisional changes to height limits, setbacks, and maximum square footage are founded upon a 'taking' from homeowners in favor of converting all our single family zoned land to multi-family zones, with potentially 40' or more high multi-family structures squeezed into all our single family residential neighborhoods. This is an entire city-wide rezone of single family zoned land and a dramatic disintegration of quality of life and realistic expectations from living in our once unique and scaled neighborhoods.

Finally, the DADU by definition will not produce affordable housing. The costs for constructing a DADU require a homeowner to rent the unit for market rate in order to cover the expense and increase mortgage. This has been proven throughout the City. In fact we have DADU's and ADU's on Queen Anne that are rented thru AirBnB, VRBO, and other daily rental portals. While this is not the intent of HALA, it is the reality. Why build a DADU, call it affordable and rent it for \$350/month when one could rent the same unit online for \$100/night. This is happening all over our city but HALA claims otherwise that adding these units and taking away current restrictions will create affordable housing - nothing could be further from the truth. Again this concept disregards basic economic reality and we all deserve to review the data that confirms HALA's contradictory conclusions.

For example, a developer buys an affordable house (in Seattle terms) for \$400K, tears it down and builds a new house with an ADU, and builds a DADU in the rear yard. They intend to rent them out without ownership or parking requirements. This will remove one affordable unit from the market place and add back three market rate units, each far exceeding the original rent; perhaps adding at least three new cars to the street where one originally may have parked. Another property owner, in any Seattle neighborhood, who builds a DADU will spend at least \$250K or more on the unit and then see their utility bills, maintenance, and mortgage or other financing increase by at least \$1,000/month and their real estate taxes increase by at least another \$1000K/month or likely much more. The net rental must exceed at least \$2,500 per month for 800 sq ft (over \$3/sq ft) which everyone would agree is anything but affordable. These units would simply be developed as many are now, for AirBnB, VRBO, and other short term

rental investments, or expensive market rate rentals. However, City Hall continues to sell this blanket policy under the umbrella of affordability.

SF.1b (Page 26) Create Pre-approved Standard Plans for Backyard Cottages

The effort to produce more DADU's at a lower cost may be a valuable strategy but subjecting all our citizens that live within single family zones to incredible impacts is unjust, inequitable, and unwarranted. One needs only to review the proliferation of the 6-pack townhomes and current crop of similar developments that have converted once character filled neighborhood streets into homogeneous repetitive structures that lack the vision, individuality, and soul of the neighborhood that once existed and is now forever gone. Approving standard plans for DADU's would again proliferate the textural disintegration of our once beloved Seattle residential neighborhoods. This will save developers design and permitting fees at the expense of their neighbors and neighborhood character - it is not what our communities want.

SF.1c (Page 26) Develop a clemency program to legitimize undocumented ADU's and DADU's

Throughout our city there are numerous examples of illegal ADU's and DADU's, easily recognized but never called to task. There are many in Queen Anne, some built on property lines that extend 4 stories tall and tower over neighboring yards, erasing every expectation of adjacent homeowners. Why should these illegal buildings get a free pass with no permit associated with their development nor any legal authority to exist. These illegal units should undergo a similar rigorous exercise in permitting and review that any Seattle homeowner is subject to completing. In addition, many of these illegal units are and can be rented out to the public and in no way can the City be certain that they meet any building or life-safety codes - and many completely ignore and violate the existing zoning code as well.

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