

Seattle Fine-Tunes Backyard Cottages

SINCE ITS CREATION IN 1962, the Seattle Planning Commission has understood the importance of housing choice and affordability in a growing city. Moreover, the commission has always championed a variety of housing tools rather than relying on a single action to solve the housing problem.

One of those tools is the accessory dwelling unit, more commonly known as a granny flat (when it is part of a larger structure) or a backyard cottage (when it is a detached unit).

Looking back

Until the 1950s, ADUs were commonplace in Seattle. Both types were permitted under local laws. Over time, however, this type of informal housing fell out of favor and was no longer permitted in low-density, single-family residential zones. In 1993, in response to widespread concern about the cost and availability of housing, the Washington state legislature began to require local jurisdictions to adopt legislation allowing ADUs. Since 1994, the city of Seattle has allowed ADUs in single-family zones so long as they are inside of or attached to the main house.

In 1998, the city council established a demonstration program for innovative housing design. Working with the local chapter of the American Institute of Architects, the city sponsored a design competition for innovative, “neighborhood appropriate” housing. The aim of the program was to increase the city’s inventory of high-quality affordable housing.

The demonstration program allowed for certain of the city’s existing land-use code requirements to be modified to accommodate up to 10 backyard cottages. In 2006, a pilot program began in southeast Seattle. During this time, planning department staff met with community organizations and neighbors, and in 2010 the pilot program was expanded citywide. The planning commission worked with the planning department to issue a “Guide to Building a Backyard Cottage.” In it, the commission urged recognition of ADUs as an important tool for providing affordable housing options.

In September 2014, the city council directed the planning department to explore



The Stevenson Cottage in Seattle’s West Woodland benefits from the local planning commission’s support of ADUs.

policy changes that would increase the number of attached and detached ADUs. The department considered regulatory changes, incentives, and marketing programs. A year later, the Mayor’s Housing Affordability and Livability Advisory Committee released its final recommendations. The list included a recommendation to remove code barriers that made it difficult to build ADUs.

By late 2015, fewer than 200 backyard cottages had been built in the city; fewer than one quarter of one percent of single-family lots had one. In response, the planning department began exploring policy changes. An environmental impact statement released in June of this year concluded that many of the feared impacts of the ADUs—including the loss of on-street parking and a rise in speculative development—were unfounded.

Looking forward

The Seattle Planning Commission has remained steadfast in its support of ADUs. In June, the commission issued a letter supporting a number of the changes to current regulations that were studied in the environmental review. Among them:

- Allowing more than one ADU per lot
- Removing the off-street parking requirement
- Removing the owner-occupancy requirement for the principal structure
- Reducing the current requirement of a 4,000-square-foot minimum lot size
- Increasing maximum allowable floor area
- Increasing the height limit for backyard cottages on certain lots
- Increasing the rear-yard coverage limit for single-story cottages
- Encouraging flexibility regarding housing size on a single lot
- Applying floor-area limits to new development in single-family zones as a means of discouraging speculative development and the destruction of current housing stock
- Reducing predevelopment costs to encourage ADU production, especially for lower-income home owners

As Seattle continues to grow at an unprecedented rate, it is imperative that the city provide additional housing choices—from the highest density to the lowest. Doing so will help existing residents to remain in their neighborhoods while inviting newcomers to join them. ■

—Vanessa Murdock and Marj Press

Murdock is the executive director of the Seattle Planning Commission. Press is a member of the commission and of the APA Board of Directors.

On Quasi-Judicial Decision Making



ADAM LOVELADY

Adam Lovelady is the coauthor, with David Owens, of the *Quasi-Judicial Handbook: A Guide for Boards Making Development Regulation Decisions* (published last year by the University of North Carolina School of Government). In addition to teaching in the UNC School of Government, Lovelady established the Solutions Forum, a workshop that brings together local government officials in the state. He has also practiced law, focusing on land-use regulation, environmental law, and sustainable development.



The Commissioner:
Who is the handbook addressed to?

Adam Lovelady: David Owens and I intended it as a practical guide

for members of citizen boards making quasi-judicial land-use decisions and for the planners who assist those boards. The book is written for local governments in North Carolina so the statutes and case law are specific to the state. But many of the broader lessons—providing due process, running an evidentiary hearing, weighing evidence, and so on—apply regardless of the jurisdiction.

What did you intend as the basic message?

AL: Simply that boards making quasi-judicial decisions must follow certain procedures in order to protect the due process rights of all the parties involved. Most importantly, they must be fair in carrying out regulations and seek to ensure good governance in whatever they do.

When a board makes a quasi-judicial decision, it is taking a general law and applying it to a particular property or situation. When someone seeks a variance from a land-use regulation, for example, he or she is asking that the rules be relaxed for a particular property. Such a quasi-judicial decision requires the decision-making board to consider all the evidence.

It is incumbent upon the board to follow the applicable procedures and to make the decision based on the record

before it, not on personal or political preferences.

How is a quasi-judicial decision different from other land-use decisions?

AL: Good question. There are a few different types of land-use decisions. Some are legislative. When a town council amends the zoning ordinance, for instance, it is taking a legislative action. Council members are making a political decision that they believe to be in the best interest of the town. The decision applies broadly and the council has fairly broad discretion to make the decision.

Other land-use decisions are ministerial or administrative. When the zoning officer issues a notice of violation, for example, he or she is making a ministerial decision based on objective standards set forth in the ordinance.

Quasi-judicial decisions fall between these other types of decisions. A board making a quasi-judicial decision does not have the broad discretion of a legislative action, nor does it have the clear, objective standards that guide a ministerial decision. A quasi-judicial board must use some judgment to review the evidence and determine how the general rule applies to the particular property.

As indicated by the name, a quasi-judicial decision is “like a court” decision in that the general law is adjudicated for

a particular situation. That said, courts recognize that the boards making these decisions commonly are composed of citizen volunteers without a legal background. They may not be held to all of the rules of evidence and civil procedure required in a courtroom. Still, quasi-judicial boards generally must adhere to certain procedures and display fundamental fairness in their proceedings.

Can you give some examples of quasi-judicial decisions?

AL: Decisions of a board of adjustment—called the zoning board of appeals in some places—are commonly quasi-judicial. They include variances and appeals of staff decisions. In North Carolina, special-use permits, which require development proposals to be reviewed for compliance with certain standards, are quasi-judicial. So are certificates of appropriateness for development in a historic district. Some states treat rezonings of small areas as quasi-judicial.

What has been the reaction to the book?

AL: I have heard positive comments from board members and planning staff from around North Carolina. We aimed for this to be a useful guide for citizen boards, so we included sample documents, a sample script for the board chair, and other tips and tools to make it practical and user-friendly.

What is next for you?

AL: Here at the School of Government, I teach land-use law to both planning and law students. But I also teach courses and do consulting work with local government

planners, attorneys, and elected officials. Working with practitioners informs my research and writing, and I am now working on projects related to sign regulations, affordable housing, and redevelopment in suburban places. ■



—Ruth Eckdish Knack, FAICP
Knack is a former executive editor of *Planning*.

A New Approach to Redistricting

EVERY 10 YEARS, IMMEDIATELY FOLLOWING the decennial census, states and cities across the U.S. face the arduous task of redistricting—redrawing voting districts based on changes in population. Typically, elected officials lead the redistricting effort. They often face charges that the process is unaccountable to the public and leads to gerrymandering (redistricting along political lines).

The purpose of this article is to provide an alternative: a method that relies on planners and planning commissioners rather than elected officials to redistrict municipalities and counties. Planners (and many commission members) have the right skill sets: knowledge of geographic information systems and local building trends, public outreach tools, and access to appropriate data to prepare impartial maps and recommendations.

An impartial approach

Since the mid-1970s, the planning commission of Hillsborough County City-County Planning Commission has been the sole agency charged with redrawing Tampa's four single-member districts every four years, as assigned by the Florida legislature.

A unique aspect is its transparent nature. The Tampa City Council is briefed at the beginning and end of the process, but it is entirely absent from the redistricting itself. Numerous public outreach events are held regularly to ensure

that the public is aware of what is happening. The commission prepares handouts to explain the process and uses ranking forms to solicit feedback. The responses help the commission staff select the most appropriate boundaries and address neighborhood concerns.

The result is districts that are geographically compact. Oddly shaped districts are not allowed. The districts must also be contiguous and may not be split. The goal is to arrive at roughly equal population levels. The redistricting considers total population—not voting age, population, or number of registered voters alone.

Partisan redistricting is avoided because the planning commission is a nonpartisan agency, and the redistricting is open to public scrutiny. Likewise, racial gerrymandering is avoided by taking into account historical voting patterns and the number of registered voters in each

precinct. Calculating the percentage of racial and ethnic groups in districts allows planners to identify areas of retrogression (e.g., dilution of a minority population).

The Hillsborough County commission relies on materials available in almost every planning department: certificates of occupancy. Using the relatively simple distributed housing method, planners with a basic understanding of GIS can create population estimates down to the precinct level and then begin the process of developing alternatives. In 2020, with the release of new census data, redistrict-

ing will become even easier.

Allowing an independent planning commission to make the final decision on newly drawn districts is likely to instill confidence in the electorate. If elected officials remain at arm's length, a relatively complicated and controversial project may be completed with little fanfare. And,

while the use of planning commissions to serve as redistricting agencies may seem unusual at first, the truth is that planning commissioners often have the experience and disposition to handle redistricting problems just as they would any other land-use issue.

—Terry Eagan

Eagan is the librarian and project manager for the Hillsborough County City-County Planning Commission.

Commissions have the experience to handle redistricting as they would any other land-use issue.

HISTORY AT YOUR FINGERTIPS

Planning board and commission members generally don't get much training in historic preservation—or, for that matter, in the history of their community. Conferences are a good way to fill the gap. Here are two:

The Society for City and Regional Planning History holds its next biennial meeting October 31 to November 2, 2019, in the Washington, D.C., area (the conference hotel is in Arlington, Virginia). The sessions, on a wide variety of topics, are always interesting. Tours next year will highlight the area's many historic communities, at least one planned town, an "edge city" undergoing transformation, and a rich array of multiethnic suburban centers. SACRPH's membership includes planning

professors, historians, and a fair number of practicing planners. For more, go to sacrph.org.

The annual Vernacular Architecture Forum meets next in Philadelphia, May 29 to June 1, 2019. Its focus is "ordinary buildings and landscapes." Attendees come from many backgrounds—including planning—and from many countries. The first two days of its three-day conference are devoted to tours of the area's traditional housing, commercial structures, and cultural landscapes. VAF also has a useful website and offers guidebooks from previous conferences. There's lots more at vernaculararchitectureforum.org.

—Ruth Eckdish Knack