



STAFF REPORT

Council Meeting Date: January 27, 2026

Subject: Zoning Text Amendment: Nonconforming Structures as Accessory Dwelling Units

Staff Resource(s): Stephanie Monson Dahl, Planning & Urban Design Department Director;
Sam Starr-Baum, AICP, Planner III;

Action Requested: Consideration of a zoning text amendment to the Unified Development Ordinance (UDO) Chapter 7 of the Asheville Code of Ordinances to amend UDO section 7-14-1.

Background:

- The City adopted an ordinance in 2015 (current ordinance) to clarify the standards and process for property owners to develop Accessory Dwelling Units (ADUs); ADUs were already allowed in residential zoning districts.
- The current ordinance allows the owners of non-conforming structures (ONCS) to develop them as ADUs as long as they meet other/more recent lot and structure standards of the City's ordinance; the result of that wording is that most ONCS need to apply for a variance from the City's Board of Adjustment before developing existing structures as ADUs.
- 37% of all structures in Asheville's residential zoning districts are identified to be nonconforming.
- From 2023 to today, the Board of Adjustment has heard 38 variances requests; of which, 16 have been granted to allow the conversion of existing non-conforming structures to ADU's. ADU cases represent 42% of all zoning variance requests during that time; the percentage has increased every year since 2022.
- Staff developed this proposal in 2024 so that Council could consider removing what appears to be a layer of unnecessary and costly bureaucracy in neighborhood backyard housing development; leveling the playing field for the development of ADUs is also aligned with City policies based on aging in place and promoting affordability.
- The proposed amendment would allow for existing structures to be converted into ADUs without having to pursue a variance, specifically that ADUs "may occupy conforming or lawfully created non-conforming existing accessory structures, or lawfully created non-conforming primary residential structures".
- The proposed amendment also clarifies that the calculation for gross floor area (GFA) for ADUs shall not include covered decks, patios, and porches; and removes unclear, erroneous and/or extraneous language.
- This text amendment does not change how new ADUs are permitted, or where they are allowed. Since adoption of electronic recordkeeping, City staff have permitted 333 ADU's, 80 of which have been in what are now known as "7F parcels". These new buildings have to meet the 6' setback requirements in order to be approved.

Community Outreach and Feedback:

- The City performed outreach to neighborhood associations, held one online information session, and one in person information session, in September 2025.
- Public participation was limited; comments were generally positive.
- The Legacy Neighborhood Coalition (LNC) provided public comment to staff and the City's Planning and Zoning Commission that did not express opposition, but noted concerns regarding community awareness of the proposal, availability of space for parking, promoting predatory investments in legacy neighborhoods, the need for additional data and communication from the City, and the need for the City to monitor and report outcomes from zoning changes.
- Staff's preliminary response to community feedback is an increased commitment to neighborhood awareness, and data collection and reporting. Emerging efforts to strengthen a working partnership between the City and LNC is intended to help address concerns.

Comprehensive Plan Consistency:

- This proposed amendment supports the *Living Asheville Comprehensive Plan* by advancing the following Goal Area:
 - **Encourage Responsible Growth:**
 - by standardizing and clarifying the process to create backyard ADUs through by-right adaptive reuse, and
 - by removing barriers to achieving the City's housing and community development goals

Council Goal(s):

- An Equitable and Diverse Community
- A Well-Planned & Livable Community
- A Healthy Community

Boards/Committees:

- Board of Adjustment
 - 2/26/24 unanimous support 5-0
- Planning and Zoning Commission
 - 5/1/24 (as part of larger package of "Backyard Housing" proposals) Recommended unanimously that Council adopt the entire package with 8 amendments, 3 of which were pertinent to ADUs
 - Require staff to track implementation to understand effectiveness and number of units created
 - Increase the maximum allowed gross floor area to 1,200 s.f.
 - Continue ongoing community engagement for holistic anti-displacement strategy.
 - 10/1/25 Recommended Council approval with the condition that parcels identified in Appendix 7F of the Asheville Code of Ordinances be excluded from this amendment.
- Housing & Community Development Committee
 - 1/20/26 - Formal recommendation was not made

Pros:

- Levels the playing field for owners of non-conforming structures wishing to convert their existing structures into ADUs
- Significantly reduces the amount of City and volunteer resources needed to operate the City's quasi-judicial Board Of Adjustment
- Eliminates overhead costs to infill development by removing variance fees
- Strongly aligned with recommendations in Comprehensive Missing Middle Supports use of existing building inventory rather than new construction

Cons:

- While staff does not anticipate this action to create negative impacts, it is noted that the community has concerns. Data monitoring, reporting is a best practice that will be used to respond to these concerns.

Staff Recommendation:

- Staff recommends approval of the zoning text amendment request based on the reasons stated above.
- Staff additionally recommends against adoption of this ordinance using Appendix 7F, as recommended by PZC. The use of Appendix 7F creates confusion for property owners, includes a loophole for larger property owners, and comes with significant legal risk. The City Attorney's Office cautions that inclusion of the 7F exclusion would place the entire zoning amendment in legal jeopardy, and expose the City to numerous challenges from property owners within the 7F areas.

Suggested Motion:

- Motion to recommend approval the proposed text amendment to Chapter 7 of the Asheville Code of Ordinances and find that the proposed amendment is reasonable, in the public interest, consistent with the City's comprehensive plan and meet the development needs of the community in that the amendment will encourage responsible growth by 1) standardizing and clarifying the process for all residential property owners to create backyard ADUs through by-right adaptive reuse 2) using existing building inventory for infill development and aging in place and 3) improving government efficiency.

Attachments

- [Proposed Marked Up Revisions for Sec 7-14-1 \(ADUs\)](#)
- [Draft Ordinance](#)