

**City of Salem Planning Board and City Council
JOINT MEETING
DRAFT Minutes
Thursday, August 15, 2019**

A continuation of joint meeting of the Salem Planning Board and the City Council was held on Thursday, August 15, 2019 at City Hall Chambers, 93 Washington Street, Salem, Massachusetts.

Ben J. Anderson, Chair

Councilor Dibble, presiding, opens the meeting at 7:00PM

I. ROLL CALL

Planning Board Members present: Chair Ben Anderson, Carole Hamilton, DJ Napolitano, Matt Smith, Noah Koretz, Matt Veno

Planning Board Members Absent: Kirt Rieder, Helen Sides

City Council Members Present:

Thomas H. Furey, Councilor At Large
Domingo J. Dominguez, Councilor At Large
Elaine Milo, Councilor at Large
Robert K. McCarthy, Ward 1 Councilor
Christine W. Madore, Ward 2 Councilor
Lisa JB Peterson, Ward 3 Councilor
Timothy G. Flynn, Ward 4 Councilor
Josh H. Turiel, Ward 5 Councilor
Beth Gerard, Ward 6 Councilor
Stephen G. Dibble, Ward 7 Councilor – Presiding

City Council Members Absent:

Also in attendance: Mayor Kim Driscoll, Planners Tom Daniel, Amanda Chiancola, and Mason Wells

Councilor McCarthy asks requests a run through the answers to questions brought up at the last meeting, before beginning discussion.

Councilor Furey comments that housing is a human right, noting the crisis, and compares Salem to Boston's Chinatown, which also must be protected. Developers must be part of the solution and this measure will be paramount. Elected officials must also be part of the solution.

Councilor Dibble notes that the 800 square foot number should be examined, along with the two year owner occupancy (o/o) requirement. He approves of prohibiting short term rentals. The Planning Board should check the wording on that, and affordability should also be addressed.

Mayor Driscoll and Amanda Chiancola outline key changes.

The current Accessory Dwelling Unit (ADU) Ordinance only permits them in R1 and only for caregivers and family members; only 7 have been approved and 3 of those were existing and legalized. A memo has been written and distributed outlining changes, which will open them up to non-relatives, and beyond R1 with some limitations such

as owner occupancy for 2 years and a limit of 800 square feet. The City is attempting to allow ADUs to be created, not making it harder for them to be created. They should be an accessory but have the flexibility to utilize the unique spaces in Salem. The IRS metric was used to determine 2 years of owner occupancy requirement, but this is open to discussion. She reiterates that rampant development of ADUs has not been the case in other communities that allow them; this is also why there is no affordability restriction. That would be difficult to enforce; many ADU, based on their size and layouts, don't lend themselves to very high rents, but owners will have to invest in them. We also want people to build these and not limit their flexibility.

There are protections in the R2 and R3 zones; many are nonconforming so any exterior work would require ZBA review. Checks and balances will preclude negative impacts.

Councilor Turiel is still concerned about the two year o/o requirement. Some two family properties are owned as investment properties, and he is concerned that ADUs will fall under that category and rents will go up. The Mayor clarifies that the owner must occupy the property, whichever unit they are in. Councilor Turiel feels this is a good change and that owners will find the investment worthwhile.

Councilor Dominguez notes the need for housing and wonders how affordability will be ensured. Mayor Driscoll replies that the practicality of the Ordinance is that owners can utilize the existing space; additions can be costly. If an affordability restriction was added to the process, the City would require that the owner only rent to someone with a certain income threshold, thus impacting the owner's ability to rent. We could also limit the rental rate, but this is difficult to differentiate what is an affordable rate. The availability of an additional unit in and of itself is helpful. Also, a 500-600 sf unit is very small; such units are generally rented at a lower cost, though this is not guaranteed. The difficulty in making these affordable is in monitoring who lives there (onus on the homeowner) or figuring what is "affordable" (onus on the City). Especially if owner occupied, we want owners to rent to someone they know and appreciate. Units are not a separate apartment; landlords and tenants will see each other regularly. Councilor Dominguez is still concerned about affordability. The Mayor notes the need to walk the line for encouraging creation of units, but limiting size. Illegal in-laws exist right now and generally rent for below market rate as they are below market conditions.

Councilor Madore notes feedback on the o/o requirement and feels it should be changed such that the holder of the lease must live in either the ADU or main unit. There are questions as to what happens if the owner changes jobs and must move, or if this move was temporary. There is discussion as to the possibility of requiring owner occupancy for a set time, then allowing the owner to move away and come back. The City does want to prevent "flipping."

DJ Napolitano asks if on the current ADUs built by family members, is there data on how much the creation of a unit costs? People think there will be hundreds within the first year or two, but it most likely costs tens of thousands of dollars so that is a limiting factor. Amanda Chiancola looked at this information via the valuations on building permits. Existing legalized units do not have a cost but we can obtain the cost on the new ones. One was \$50,000 but she will obtain additional data.

DJ Napolitano understands the argument for o/o issues and suggests that currently in R2 and R3, some buildings are used as investments. In R, some rent homes long term, but this is not as common. In order to see benefit from this, not allowing o/o in R2 R3 or allowing that 2-3 years will help drive numbers since investment properties have money to invest in ADU's. He suggests it perhaps requiring o/o in perpetuity in R1 as most people live in those homes. If they move, they would not keep the house as an investment, but would sell. The character of the neighborhood would also still be preserved. For R2 and R3, non owner-occupancy we should be allowed after a certain period of time. If owners have to move in to their investment property, they won't build an ADU. Also public transportation access matters; it is lacking in many areas of Salem. People will want to go where there is public transit; if they don't own a car, they probably can't afford higher rents.

Presiding Councilor Dibble suggests lumping RC in with R1.

Noah Koretz comments re affordability, that it would be helpful to frame the issue differently. There are three types: public housing, deed restricted (subsidies/credits received), and naturally occurring affordable housing, the latter due to unit location, size, and how it is fitted. All three create supply and diversity of housing. Salem needs a lot more of ALL of the above. For key reasons, the affordability in question is a #3 (naturally occurring). The reporting requirement will make deed restriction unreasonable. He fully supports ADUs but would not put a deed restriction on his property (a single family). Deed restricted units tend to be professionally managed in larger developments due to their business model. In this you are taking small unused spaces and creating more diverse housing options, which increase supply. This is not to say he is not in favor of the inclusionary housing ordinance, but affordability will not be addressed in one shot. This is a part of the overall solution.

Matt Smith seconds Noah's comments and says it is wrong to compare an ADU to an investment property; that is not why people build them, and they do not want to get around the system. They are not going to do this to charge exorbitant rents or do Air BnB's. These will be in less than ideal locations and not command high rent.

Ben Anderson asks, if in light of Councilor Turiel's comments, it is decided that o/o remains in perpetuity, what happens to the ADU upon sale of the property? He approves of the two year requirement; an owner could thus make an investment for a certain period of time, but also for the future of the property, which could be sold at a higher value. If limited to o/o, how does it revert if that is the intent? Mayor Driscoll answers that the goal is to have it go with the property, you own it, and it can remain when you sell it but property must continue to be o/o [by the new owner]. Amanda Chiancola outlines options on the memo, and recommends saying that upon sale, 2 year o/o starts again for the new owner. Also to consider might be a "temporary absence" clause. Ben Anderson likes the option of the 2 years starting over. By always limiting to o/o, investment dollars will not realize their potential. He notes that, inherently based on size and location, these will not be high priced units. The idea is to provide additional housing in the City of Salem. Rather than tagging on a lot of different options, other things in play that will help, such as inclusionary zoning.

President Presiding Councilor Dibble opens to the public.

George O'Brien of 5 Locust St., an R1 district is adamantly opposed, concerned that this proposal guts the zoning ordinance. He feels it removes the right to live in an R1 district, and that it will not work.

Elizabeth Wolfe of 95 Bay View Ave., opposed, is a 40+ year Salem resident and employee. ADUs are expensive to create; \$25,000 was spent for a family member to live there for 3 months. A retiree cannot afford to build an ADU. The Ordinance is supposed to assist seniors in remaining in home; it will not do this as it is cost prohibitive. ADUs will raise the property tax value of home and the renter will need to cover the difference. Tax rates and affordable housing are incompatible. Rents in Salem have never gone down; affordability will not happen.

Patti Moricillo, 53 Broad St. feels that ADUs can provide needed housing at a lower cost for graduates, parents, service workers, seniors, and empty nesters. She notes that we will all be older some day; some want to downsize but can't find accessible space. Rentals will provide extra money for those on fixed income allowing them to stay in Salem. These also provide a living space for grandparents, which is good for kids and families. This Ordinance is one option that should be **passed**.

Rolf Franke Otten 30-32 Beckford St., has a unit, but it is not o/o or family occupied. Even with the cost of building, he would not charge family more than his investment cost, and thus would give affordable housing to family members.

Erin Schaeffer, 22 Warren St. lives in an ADU in a historic home owned by a landlord who understands that offering below market rent means renters will stay. This allows those who love Salem to invest in their property. Affordability is important for seniors, especially those afraid of higher taxes and those who need to age in place. Ms. Schaeffer and her and wife earn great salaries, but cannot afford to purchase a house in Salem, having been outbid numerous times over the past 2 years. She shares some stories:

- Coworker's 50 year old mother is being evicted, lives in neighborhood, ADUs could help
- A couple she knows who lives in area, in a 900 sf apartment, was great starting out, but now has 2 kids but does not have the option to move, can't afford
- Varied types of housing are a must. Deed restrictions don't make sense but limit of size means market will work itself out and there will be more affordable options.

Josiah Fist 358 Essex St. is in favor. His house had an apartment that allowed 3 generations of family to live together. The difficulty is in economic and regulatory compliance issues. He feels that ADUs should not be limited just to family members, but the options are to open it up to investment properties, or not allow that, and have fewer units be built. He favors the perpetual o/o option and notes that short term rentals are allowed in the main unit now.

George Carey 112 Bay View Ave, is in favor. He is the owner and founder of Finz seafood restaurant & Sea Level Oyster Bar. He notes that this will help with affordability, workplace housing, seniors, and young adults losing hope. Having been an employer in Salem for 20 years, he notes that most employees live in town, and this is one way to help them, and ease traffic. He calculates that the payments for a \$25,000, four year loan are \$259 per month, so it is affordable to do. The list of seniors wanting affordable housing will only grow. Keeping them in their own housing is preferable. This is one tool to help address the issue.

Steve Kapantais of 23 Wisteria St. is in favor, but feel the ambiguous language must be clarified. The City cannot dictate rental rates or who rents units. However, the proposal contains language that tries to accomplish that. "The ADU will be rented at a moderate price, to a family with a moderate income." He is concerned by how to define "moderate," especially as boards and perspectives can change. This must be removed or clarified.

Mickey Northcutt, CEO of the North Shore Community Development Corporation, residing at 18 Peabody St. Salem, comments that this is one means of offering affordable options for people that can be built without waiting years for a subsidy. He is on the committee that makes recommendations (Affordable Housing Trust Fund Board), and tried to tailor this so that a small number of ADUs would be done by right, though it is hard to ascertain how many are possible. There is an extra layer of review for the majority of units. Getting them developed with private money is a good thing. Options for his own aging parents are needed. We know this is a thing, and the City is just trying to create a process for them to be legal. His mother would not qualify for NS CDC housing, for example, but also cannot afford rent in Salem. He has two new staff people starting Oct. 1, who want to move to Salem, both assuming it would be less expensive than Boston, but they are shocked at prices, even with a roommate situation. These are professionals making decent salaries, and this happens daily. Enough units to make a difference will be built, in all areas, but not an overwhelming number.

David Friedberg of 57 Britannia Circle, a Realtor, is in favor. The character of the community would be preserved b/c some units would have to come before the Planning Board and ZBA. Regarding affordability: If it costs \$50,000 to create a unit, at 5% the cost is \$200+ per month. Higher taxes are not a problem, since rent is only \$800; you are more than making coverage and have a positive cash flow. If elderly can be educated, those who want to stay in their homes can learn that they can get money. He works at Salem Five. Banks are happy to be involved. People have equity in homes, and it is a good opportunity b/c they will have additional value when they sell the home. R1 is a single family zone, not a 2 family zone, so an ADU there should remain such in perpetuity and not

become a two family. O/o will care enough to keep things reasonable, and not have high turnover. Deed restrictions are too complicated, with no inspection capability. Decommissioning a unit upon selling is also too difficult. If the unit can't be used for Air BnB, this would help. He tells an anecdote of an elderly neighbor who had to move, sold their townhouse and bought a property in Marblehead, which has first floor living space for their Mother in Law, who needs care. If allowed, they would have created an ADU and stayed in Salem. He notes that an ADU, like a 2 family, is an investment opportunity, and there will be income for someone who could otherwise never afford Salem. A young couple could afford a mortgage. He notes the situation in Brookline, who also needs such units. There was an amnesty period to make sure that illegal "in laws" were up to code. While realtors do want to sell for more money, this represents a small percentage, and he wants to see a more diverse community. He purchased a 640 square foot HOUSE in the Willows, which he will rent before downsizing and moving into it later.

Gary Gill of 12 Pope St., Ward 3, is in favor. He tells the anecdotes of guests who noted that they should have bought a house in Salem five years ago, and of a lady and her mother moving from Marblehead, who require an ADU for the mother's caretaker. He feels that affordability must be the biggest part of this, but Presiding Councilor Dibble note that affordability requirements are not up for discussion tonight.

Jeff Swartz of 23 High St. speaks on behalf of the Salem Chamber of Commerce, and is in favor of using this piece of the puzzle to improve affordability for owners and renters. ADUs would use existing public infrastructure, and improvements lead to increased value of properties and more tax value. This benefits businesses whose employees can live here. Having people who work in Salem, live in Salem helps with traffic and parking. A new Ordinance is needed to add small and moderately priced housing to the stock. He feels that the dimensional requirements, prohibition on the loss of trees, and limit of 800 square feet are fair.

Andy Knapp of 23 Linden St. is in favor, and hopes that units will be used by those intended but feels that the Ordinance does not do enough to prevent uses by people with less altruistic intent. He outlines his living situation and comments that elderly or adult children needing to move back could use ADUs. However, people who are simply interested in maximizing revenue, would also be interested in an ADU. The Ordinance has 5 stated purposes but can't predict what will happen. He feels it is too weak and outlines the worst case scenario. In requiring O/O for two years, it is really more like 18 months. The owner would have to occupy the main unit for 18 months, then also for the 6 months it takes to build an ADU. Then the property becomes a 2 unit rental property that can be rented to Salem State students (in both the main and ADU). Parking requirements would not be met, but there are lots of reasons they can be waived. He is also concerned about enforcement capabilities.

Cheryl Rafuse, 84 Barstow St. moved to Salem 5 years ago. She originally rented a studio, 400 square feet, with a ladder up to the bed loft for \$850 per month. The landlord had crossed out \$650 on the lease paperwork. At the time she thought it was highway robbery, but now thinks "dang, I never should have moved." Friends and colleagues live in situations with several roommates, and are now looking outside of Salem b/c there is nowhere to live. ADUs could help. They are good for elderly aging in place, but also renters fresh out of college. Diversity in housing is important.

Maggie Smith 10 Hancock St. #2 is in favor. She used to live in ADU in R1, the only way she could afford to live in that area. Community can be built around these units; she notes that she had dinner together with the couple whose house she lived in, she mowed their lawn, and they watched her cat, and made a connection. Older and younger populations benefit from interactions. She echoes the sentiment of finding an apartment below market rate in Salem 5 years ago. Even a few more ADU's/lower rate rental units would help.

Zachary Nix 8 Glendale St. #2 comments that rents keep increasing. He searched for an apartment for 6 months and took up a second job, and now works 7 days a week to afford a 2 bedroom apartment. He is in favor, noting that he can't experience what Salem has to offer b/c he is working too much in order to be able to afford to live here.

Alice Merkl 28A Federal St. Unit 2, is in favor of language in Ordinance, comfortable w/2 year o/o, and comments that this is a good step toward adding affordable housing. No language to enforce affordability is needed b/c such units will tend to be below market price, and usually people who do this have someone in mind to rent to, someone they know, that will inhibit rampant ADU development and high rents. She also asks Chamber to not add extra hurdles, so people can utilize the option.

Flora Tonhot, 30 Northey St. knows someone for whom it is prohibitively expensive to live in Salem, more so than in NY, as we do not have the extensive public transportation they do. She is in favor. People are one rent increase away from being homeless. She is disappointed that after all these testimonies certain Councilors will let the perfect get in the way of the good. Certain councilors will say that there is no housing problem, and she is frustrated. Passing the ordinance as is is preferable to doing nothing.

Melissa Faulkner 209 North St. Apt 1 is in favor but feels that rent control should be put in place. She asks if a tax incentive is possible. She has lived in a 600 sf unit with 5 kids, two of them under 5, and notes the school placement difficulties while looking for a place to live at reasonable rate. The landlord wants to renovate the unit and rent to her boys at a reasonable rate. Housing is a human need. She works 8-12 hours a day, and this is personal. While she does not qualify for food stamps, she does visit the food pantry. She asks for empathy, compassion, and understanding, noting that people matter. What are we teaching our youth when they watch mom struggle? She urges ADUs to be examined on a case by case basis, and eliminating the 2 year o/o requirement. Family connections could be maintained. With 9 people living in a 3 bedroom now, her family personally could benefit. She cites students living in their cars at Salem State. The Council should modify the ordinance to ensure it fairly represents owners and renters equally.

Jeff Cohen 12 Hancock St. has a 3 family, and rents to two young couples w/small children. We are not as a city realizing how people live and work. He agrees w/Noah Koretz's comments. Most development is of smaller units, and this hurts our rental availability. He is in favor.

Marsha Finkelstein 2 Clifton Ave. Comments that housing is a right; many who live here are transplants; she can't afford to live or purchase an apartment here. She shares hers with roommates to make it affordable. So many would come to live in our city if they had even a small space. Our Planning Board understands the nitty gritty and she trusts them to come up with the best possible laws to serve more people. When people want to come to Salem to live, rent or buy, the biggest hurdle is financial. If we spend so much time working on what's wrong with the ordinance, we miss the point. If we want to be the City of Peace, we must come together. This may not make a huge impact, but will matter to the few who are able to have that option. Don't let the perfect be the enemy of the good. We are turning people away for our community – do we want to do that? Taxes are unpopular, but they do fund services we all depend on. This will contribute to the tax base.

John Boris 5 St. is in favor. He helps families find housing, and has never seen it this bad.

Fawaz Abusharkh of 4 Harrison Rd. urges the Council to not lose sight of why we are doing this: affordability. What happens afterward may not be relevant. The o/o clause should be maintained so people can afford to stay in their houses. It should stay affordable even if you can't live in it. People will abuse/take advantage. It should not be about making a profit. There must be a way to enforce affordability. He feels family living there should count as "owner occupied."

Polly Wilbert 7 Cedar St. sent an email: we don't understand the kinds of properties we have in the City. Types of units:

R1: 5000

Condos: 4400

2 family: 1500

3 family: 537

Numbers are verified through property assessments. People don't realize that R1 houses outnumber condos. Condo associations will not add ADUs. She wonders how to incentivize your target, seniors, to create an ADU, maybe with a tax exemption or amnesty period to make it affordable for them. Be realistic about the handful of units that will be created. In Needham, in 2017 only a few ADUs created, and they are twice as wealthy as Salem, while their population density is the same. When a developer goes before the ZBA and takes 17 apartments off the market, we are kidding ourselves if we don't think property speculation is happening here. A developer purchased the property next door that had 3 apartment units for \$350,000 and sold each as a condo for \$350,000 per unit. This is reality. More on street parking in already overparked neighborhoods will make it worse. She also notes limited snow emergency capacity.

Cynthia Nina Soto 6 Laurent Rd. President, North Shore Association of Realtors in Beverly, is in favor.

- 37 out of 100 cities and towns around the Boston Area allow ADUs to be constructed and rented, most with significant restrictions.
- Another 31 municipalities allow temporary ADUs for relatives/caretakers
- 32 have no zoning for ADUs
- Few are being built legally due to restrictions, but illegal units could be hazardous re health and building code violations
- In the last decade, almost half of 100 Boston area municipalities have adopted a master plan housing plan recommending allowing ADUs
- 1 in 5 have their revised zoning to include ADUs (about half in past 10 years)
- Belmont, Swampscott, Hudson allow ADUs unrestricted to relatives
- Ipswich, Middleton and Milford revised from allowing a temporary family apartments to an unrestricted
- Lexington, Newton and Carlisle and a few others voted to allow ADUs in detached structures, and have made the process easier
- Hamilton used to allow ADUs on 10 acres or larger, now on any size lot

These scenarios illustrate that this can be done and we are not the first to examine this issue. ADUs provide units that can be integrated into existing neighborhoods and housing stock, to provide low cost housing alternatives, without changing the character of neighborhoods.

As a Realtor, she has access to certain data, which she presents:

- MLS: Over past 6 months, units under 1000 sf for rent in Salem: 71 units rented, in the range of \$1000-\$2650/month. Median was \$1700/mo. Cost is \$2.13 per sf to rent, with an average size of 800 sf
- She is familiar with illegal units but cannot market them, however they are being rented out far cheaper than the average market rent.
 - Some illegal units in the area cost \$1-\$1.50 per sf to rent, because they are in a basement or attic, not the most comfortable. This works out to \$1200 per month for an 800 sf unit
- Cost to build units: Cost vs. Value; cost is \$50-\$125/sf, or \$40K-\$100K to put in a unit
- Concerns about an ADU in a single family leading to the creation of a 2 family or a 2 family becoming 3 family: That does NOT happen; realtors and lenders cannot take your word for it, the realtor and lender must value the property as it is in the assessor's record. Even if the ADU is in 2 family, it is a 2 family with an in law, and the rent calculated for mortgage approval is for 2 rental units, NOT the ADU. The fear that they will become 3 or 4 families is unfounded, as this will not happen automatically. Homeowners would have to go through the process to meet all City ordinance requirements to become a 3 family, etc.

This is a common sense approach and she is in favor of passing the Ordinance

Mayor Driscoll and Amanda Chiancola reply to questions.

Zoning change and the concern that those R1 zones will lose their right live in an R1. This is still an accessory unit, small in size, and not everyone in R1 will create one; even in more affluent places, this does not happen.

Whether it must be the Owner that occupies or if it can be an immediate family member: The City will need to consider a discussion on ownership; we want ADUs to be created without roadblocks, and also want to close the public hearing, realizing that the Planning Board will discuss as well. Ownership is important, as people have said, but we don't want to be overly restrictive, thus preventing a potential homeowner from being able to recoup their investment and deciding not to move forward because of that. The goal is not to incentivize a speculative market, and the process must be beneficial to the City.

Regarding Air BnB, short term rentals: They are not allowed in the ADU, but are allowed in main house, as they are now. The intention was that the existing single family could be an Air BnB, and that will not be restricted. However you cannot create and rent out an ADU on Air BnB under the current ordinance as written. An Owner Occupant is allowed to rent out the main house as an Air BnB.

Moderate price/moderate income/enforcement? Language can be tweaked, and for this the City will rely on the Planning Board. Other communities use "moderately priced" but this can be examined. It is only stated in the purpose, with no requirement in creating an ADU that it be moderately priced. Matt Veno comments on this language, noting that it is not a standalone context item, and owners must address the affordability provision. Anyone who applies for a permit must say how they meet those requirements. One option would be to keep that language and add "to add housing options."

Carole Hamilton notes that that portion needs tweaking; possibly eliminate "moderate" to clarify.

Councilor Turiel asks, regarding o/o p. 7 option 3, if it would be possible to revise the language to require ownership but allow for temporary absences; he approves of this change. The memo mentioned is available on www.imaginesalem.org at the housing portal:
<https://static1.squarespace.com/static/58865d991b631b0c6d85ccd3/t/5d4c3b1b50c07f000162a7dc/1565276955910/Staff+Response+to+Questions+and+Comments.pdf>

Deed restrictions are not an option to enforce affordability.

There were questions about existing nonconforming units, i.e. a 5-family in an R2 zone. Amanda Chiancola notes that there is a difference as to whether or not they are illegal nonconforming. The Planning Board and City Council should consider if an ADU should be allowed in such a situation. Case by case specifics should be kept in mind, for example if there is a legal nonconforming 2 family in an R1 zone, and the owner wants to create an ADU for their disabled daughter. Mayor Driscoll comments that the owners would need to meet requirements and be able to fit without impinging upon existing zoning setbacks, and would at least need a special permit from the ZBA. Noah Koretz asks what percent of City is nonconforming. Most of the City was built before current zoning, so the discussion may be a waste of time because it is probably a very large percentage, if we are not going to allow ADUs in nonconforming units. Many neighborhoods do not comply with zoning.

Noah Koretz comments that his neighborhood would be good for ADUs, as it has off street parking, but many homes do not meet setback requirements, as they were built before those were in place. The Ordinance tries to have some as of right requirements, but if a property is already struggling to meet conformity, the homeowner will likely have to go to the ZBA for a special permit. If in a historic district, they will also have to go to the Historic Commission.

DJ Napolitano asks if a special permit would be required for an ADU proposed on a legal nonconforming property. If there are no violations of existing variances on setback, i.e. putting the ADU in the basement, and the

property has parking, etc. the ADU can be added as of right. If in an R2 but the home is a multifamily, if that basement becomes an ADU, the owner can build it by right if they meet the requirements. Owners can build by right no matter what zone you are in.

Other city and town ordinances were examined. Did they have fines for violations? The Ordinance requires a Certificate of Fitness, written with an escalation fee, which starts at \$50, with a failure to comply fee of \$50 per day that the unit is occupied without the Certificate. Other cities and towns do have affordability components, and some do have deed restriction but she this is not recommended. For example, the Owner gets a loan, has a deed restriction, must demonstrate need, and then it is difficult to rent the unit out since the occupant/renter must submit information on how much money they make. What if the household becomes overqualified, what do you do, displace that family? If overqualified they still may not be able to afford a market rate unit. Noah Koretz reiterates that no homeowner will accept a deed restriction, as they will not be able to sell the property.

DJ Napolitano comments that this is not a mechanism for affordability, that is on the Planning Board, who will consider inclusionary zoning, etc. To tell a private owner, "You are only going to be able to do this if you make it affordable, they are going to say, "I can't afford to build this unit," and definitely not if it must be affordable. The Federal government is not building more public housing, but affordability can be accomplished in a number of ways, of which this is only one. ADUs are not a silver bullet. Affordable deed restrictions work as a tool only in professionally managed buildings, not for homeowners. This is especially a concern for seniors; their paid off housing is the only asset they have left, and deed restrictions lessen the value of the house. Mat Smith comments that it is difficult enough for developers to make numbers work, so if applied to homeowners, ADUs will not happen.

Regarding the possibility of seniors who want to stay in house getting a tax break: The City would have to determine if this is feasible under state law. We just filed a request for Senior Circuit Breaker, so would have to seek special permission. We can provide guidance, and walk people through ADU process, what loans will cost, what rent can be, etc. The City may be able to set up a way to match those who need housing with those who have space to share. The Nesterly company is like match.com for seniors needing roommates.

Clarify not allowing units to become condo conversions: These are not separate units, cannot be transferred individually, and the building code treats it this way as well.

David Friedberg 57 Britannia Circle clarifies that he is against allowing homeowners to move into the ADU and rent out the main house as a short term rental (Air BnB). He notes that funding mechanisms are available for those with equity, and local banks want to help. Also a loan for construction is available from the bank.

Councilor Dominguez wants more transparency and wonders how to fix affordability.

Councilor McCarthy notes the purpose of the Ordinance; in any family, what happens when you/your parent gets older is a tough conversation, but is about dignity. The ability to have an elderly parent or relative move in, will allow them to maintain their dignity in their own space. This Ordinance would allow the family to to rent the space out to recoup the investment once the elderly family member no longer needs it. Options for overhoused seniors are also needed.

This will not solve the affordable housing crisis, but will give homeowners flexibility. Seniors may be house rich and cash poor, and this could help. This should be for homeowners, so language about o/o should be tweaked.

Councilor Milo asks how many units could be generated. She feels the Council is not seeing the whole picture; there are several permitted projects in the City that are not moving forward, for example the 117 units adjacent to the

Community Life Center, of which 11 units are affordable. Also, she feels that a view of the bigger picture, including the Inclusionary Housing Ordinance in the works, is needed to make a decision on this piece of the puzzle.

Mayor Driscoll:

- Notes that the MAPC report says: of 100 cities and towns in the metro area, 20-60 permits have been issued
- 7 permits issued here in Salem under the current ordinance; 3 existing units were made legal and 4 new approved
- If we are excited about 11 affordable units in a 117 unit building, any number is good, but we don't know how many this will generate.
- Some projects in the pipeline are on appeal, waiting, while some are nearing completion. Flynnntan is also redeveloping, as is Salem Oil & Grease. The units adjacent to the CLC are an exception. All large projects have deeded affordability requirements.
- Sequencing of providing affordability tools are coming from meetings.
 - The process started with the reuse ordinance, which is almost done, and that will provide affordability whether or not it has language b/c some properties are being developed by the CDC (Community Development Corporation)
 - Next up was this one, and ADUs were a desired focus.
 - Next was Inclusionary Housing Ordinance, which the City is trying to fine tune to present to the Council in fall.
 - These are all legislative efforts. The City is also looking at leveraging public land, assets that could drive down cost of housing. Land prices and construction costs dictate whether the City can build market rate or affordable units. About 6 sites have been identified w/assistance of MHP to do a tech feasibility analysis. Leftover land in the City is leftover for a reason. The new Housing Authority director is very much working toward developing affordable housing.
 - There is a supply issue and an affordability issue. Some ADUs will be affordable; if Cynthia Nina Soto's information is accurate, 800sf for \$1200 a month would be more affordable than section 8 or deed restricted units. This will help affordable housing. Even if we use all available avenues, we will STILL have a housing issue. Market rate development in Boston is developing micro units, and they sell. Some people will try to maximize what they get, and while we can't prevent it, if we don't allow that, we can't allow for the less than desirable, quirky units that are more affordable.
 - The other option is do nothing. This is a Smart Growth tool. VT and CA made ADUs by right statewide. This is among the easiest things we can do to tackle the housing crisis. We are trying to do it fast, but do it right while not creating more problems.

Councilor Milo thanks the Mayor for the update. The housing demand study only looks at people living here now, not those moving to Salem.

DJ Napolitano is displeased to hear members of council saying "we want transparency." They said same thing while debating the Overlay district, despite the fact that there were several joint, public meetings, etc. If the ADU, Inclusionary Zoning and Adaptive Ruse were all considered together, it would be so convoluted that it would not pass b/c no one would understand it. To do it piecemeal is the only way to do it, in order to have an intelligent discussion about how to move forward, with public input.

Also, a great tool was on the table to reuse buildings and to put a serious dent in affordable housing, but it did not go through right away. Other cities do not host as many meetings as Salem does to inform the public re zoning or other changes. Just on this ADU there have been more public hearings than in Everett. It is important to be transparent, but when tools are before us, don't lose the forest for the trees/don't let the perfect be the enemy of

the good. Trust the planning Board to address affordable housing. The hope is that the Immaculate Conception project passes in Sept. Tools to make it happen did not go through. Noah Koretz agrees w/DJ Napolitano, noting, to the Mayor's point, that we are dripping on an individual basis trying to protect a few people at a time from market forces we cannot control. Two and a half times the number of jobs were added in greater Boston than the amount of housing produced. Supply and demand mean we need all the tools at our disposal. Housing prices will continue to rise. Metrics here are more stark than anywhere except for San Francisco. There is only so much one City can do, but the Mayor is talking about a tool discussed with residents, that they said is a solution they want to see used to chip away at the problem. We don't have land left to build on, and while units in development are coming, finding ways to use existing spaces for additional housing is one of the only options.

Carole Hamilton notes that the housing toolkit must be diversified; there is no one way to provide affordable housing, so a bunch of little ways can get us there; this is one of them. Re transparency: When you have a public hearing, that is the purpose, this one on the piece of the puzzle has been as transparent as any she has seen. What we need is to get something passed to move forward.

Councilor Madore calculates that, as of the last public hearing, 52 people spoke, 77% in support of Ordinance, and she feels it should be passed. She is concerned that some councilors are not listening to the public, or not giving them enough credit. O/O and family member definitions should be considered.

Councilor Turiel notes re public comment: people come and speak on every topic at every opportunity; on this topic many people came that don't usually attend these meetings b/c this was personal, and they wanted to develop or live in an ADU. People who are strangers to this Chamber came in, and that means something. Councilor Turiel notes that valid questions and comments came up on all sides, and he appreciates the work on the previous response.

Presiding Councilor Dibble notes the two matters at hand.

Councilor McCarthy moves to close the public hearing on Section 370. The motion carries.

Councilor McCarthy moves close the public hearing on Section 370. The motion carries.

Councilor Turiel motions to refer both matters to the Planning Board for its recommendations, and the motion carries.

Councilor Furey motions to adjourn, and the motion carries.

The meeting ends at 10:18 PM

Respectfully submitted,
Stacy Kilb, Recording Clerk