

LEWISTON CITY COUNCIL WORKSHOP AND SPECIAL MEETING AGENDA

CITY COUNCIL CHAMBERS, CITY HALL

TUESDAY, OCTOBER 9, 2018

6:00 p.m. Workshop

Pledge of Allegiance to the Flag.

WORKSHOP

1. Presentation by Andrew Kezulas and Mathew Braun: Change Attitudes, Change Actions, and Champion Recovery
2. Update on Possible Modifications to NCA Zoning District

SPECIAL MEETING

- ES-1. Executive Session to discuss Disposition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, OCTOBER 9, 2018
6:00 PM

1. Presentation by Andrew Kezulas and Mathew Braun: Change Attitudes, Change Actions, and Champion Recovery – 45 minutes.

Councilor Lysen has requested that a presentation by Mr. Kezulas and Mr. Braun be scheduled for the City Council. The focus of their presentation is on principles of opioid recovery and the social stigma issues associated with addiction. A copy of their presentation is attached.

2. Update on Possible Changes to NCA Zone – 15 minutes

At a recent Council workshop, there was a brief discussion of alternatives available to address the concerns that have been raised regarding the provisions of our land development code governing duplexes in the NCA zone. Due to time constraints, that discussion was cut short. Since then, Planning Staff have also discussed this issue with the Planning Board. We would like to continue the earlier discussion with the Council so that a fuller picture of Council interest can be provided to the Planning Board. Please see the attached information that was also provided to you prior to the last discussion of this issue.

3. Executive Session – Land Disposition

**Change Attitudes, Change
Actions, and Champion Recovery**

Andrew Kiezulas & Matthew Braun

Co-Occurring Collaborative Serving Maine
August 2, 2018

Disclosure

No commercial relationships to disclose

Today's Concepts

Social Cognition

Stigma

Recovery Principles

Implicit Bias

*Subtle cognitive process that influences decision making
below the conscious level*

Words Have Power



“Words have immense power to wound or heal...The right words catalyze personal transformation and offer invitations to citizenship and community service. The wrong words stigmatize and dis-empower.”

-William White
Author and

Recovery Advocate

Visit williamwhitepapers.com

Connotation

An emotional and imaginative association surrounding a word; a meaning given to a word through its use in a society or culture

Connotation = Meaning!

What is Our Message?

'Addict/Alcoholic'

'Substance Abuse'

'Sober'

'Drug Replacement Therapy'

What do you hear when these words are used?



What ideas and connotations do they carry?

Language in a Clinical Setting

- 500 doctoral-level clinicians exposed to a vignette:
 - had complied with treatment program requirements
 - After 30 days was found with 2 positive urinalysis
 - man used drugs/alcohol for past few years
 - now awaits his "appointment" with the judge
 - Court-mandated to treatment
 - program required abstinence
- "Substance abuser"
 - clinicians more likely to deny treatment
 - clinicians significantly more likely to judge person as deserving of blame and punishment
 - this effect is even stronger in the general public
- "Person with substance use disorder"
 - receive better treatment and more compassionate care



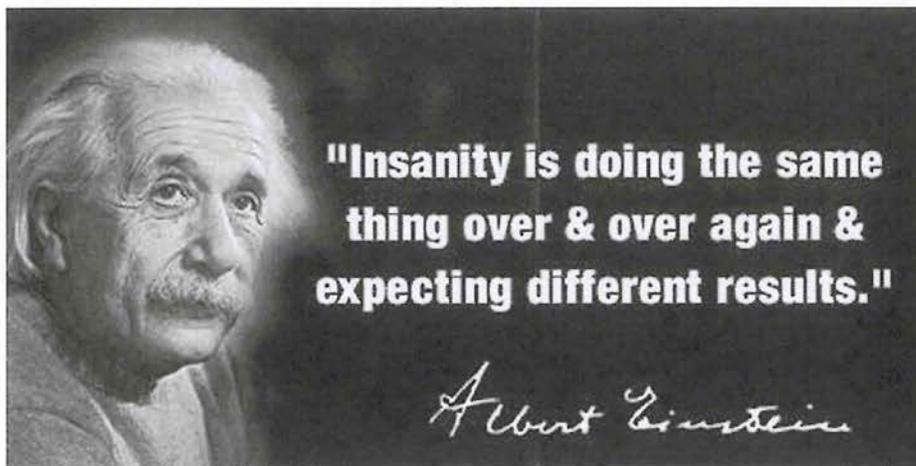
Stigma in Action

'stigmə/noun:

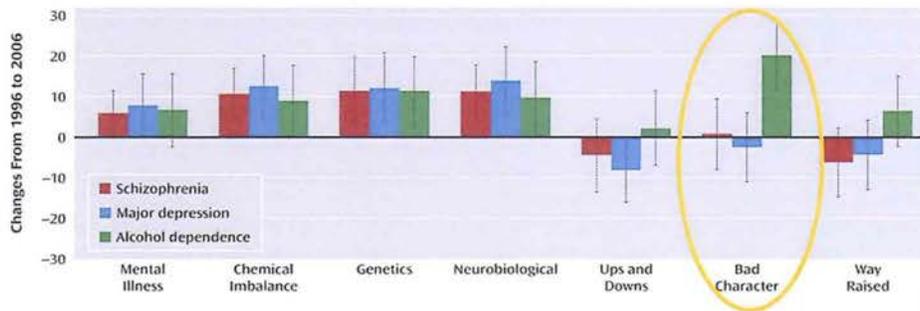
a mark of disgrace associated with a particular circumstance, quality, or person.

- Reduces a person to nothing more than their difficulties [stigma]
- Leads systems to withhold appropriate services [discrimination]
- Robs people of possible life opportunities
- Exposes people to preventable traumatic experiences

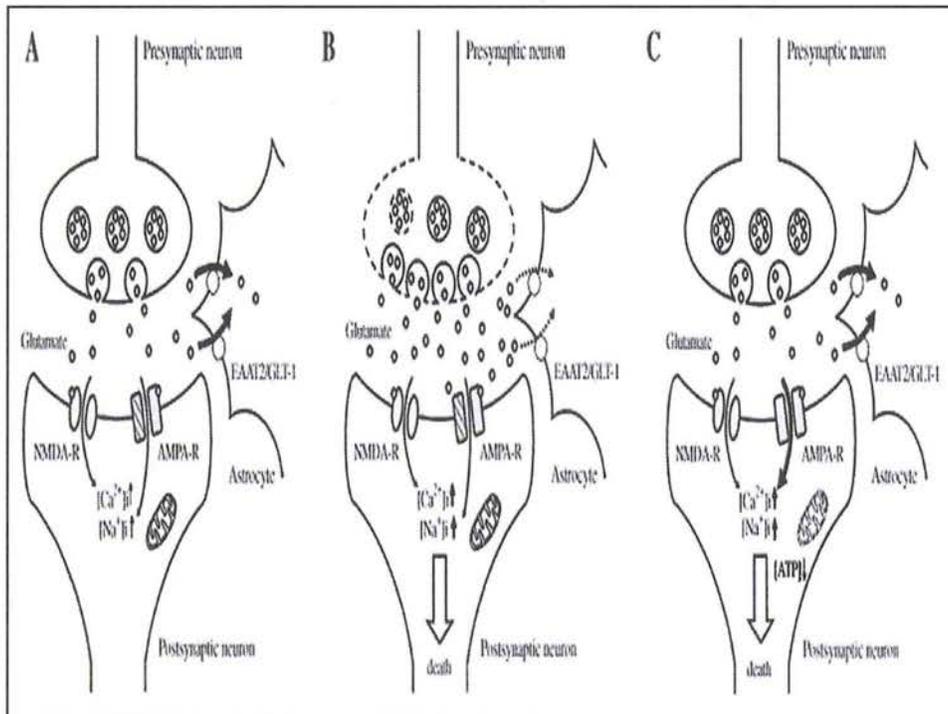
How have you or someone you know been stigmatized?



- > Despite increased agreement that alcohol addiction is biomedical, more viewed it also as due to "bad character"
- > Thus, while emphasizing biomedical, need to talk about addiction as treatable disorder, recovery is likely...



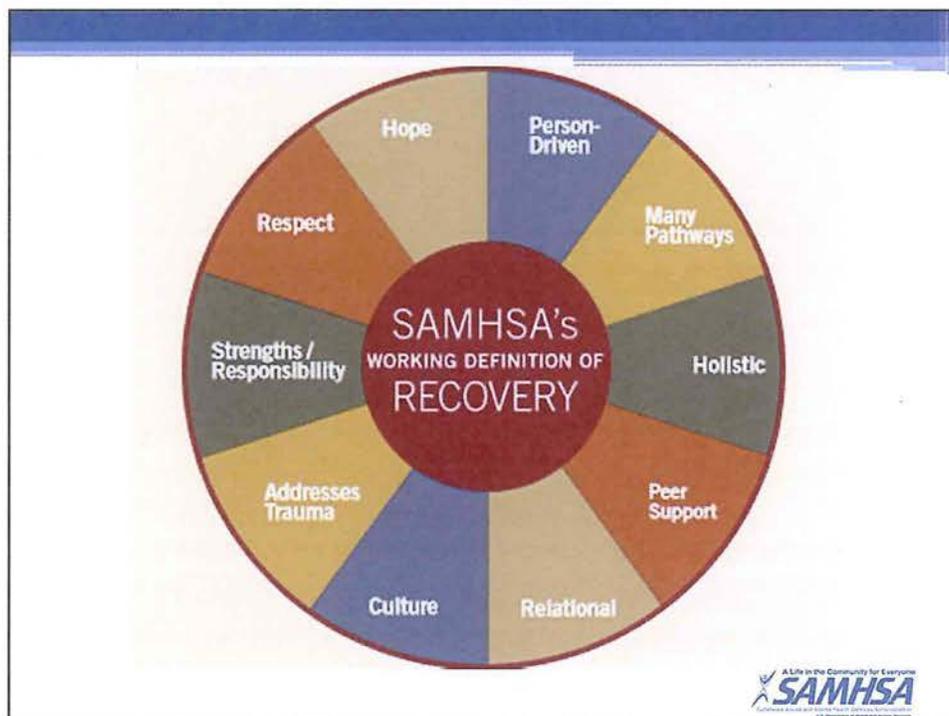
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Exploration of Concepts

• Recovery

- A process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential: SAMHSA, 2012
 - **Health:** overcoming or managing one's disease(s) or symptoms...and making informed, healthy choices that support physical and emotional wellbeing.
 - **Home:** a stable and safe place to live.
 - **Purpose:** meaningful daily activities (e.g job, school, volunteerism, etc.) and the independence, income and resources to participate in society.
 - **Community:** relationships and social networks that provide support, friendship, love, and hope.



Principles of Recovery - #1

Recovery emerges from hope

- Hope is the catalyst of the recovery process.
- People can and do recovery every day – despite significant internal and external challenges and barriers.
- This belief provides the motivating message of a better future.



Principles of Recovery - #2

Recovery is person-driven

- Individuals should define their own life goals and design their unique path(s) towards those goals. The power of choice is a powerful thing.
- Through leading their path, individuals can build on their strengths, find autonomy for themselves, and are, ultimately, empowered.



Principles of Recovery - #3

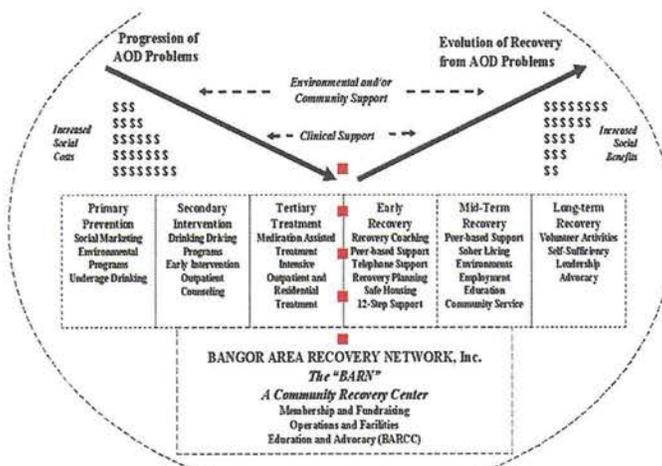
Recovery occurs via many pathways

- Individuals have distinct needs, strengths, preferences, goals, and backgrounds. Thus, pathways are highly personalized.
- Recovery is non-linear, characterized by continual growth and improved functioning that may involve unexpected course changes (positive or negative).
- Paths may include a variety of components...



A Recovery-Oriented System of Care: Bangor, Maine

BANGOR REGION PUBLIC HEALTH ADVISORY BOARD
Substance Abuse Task Force



Bangor Area Recovering Community Coalition
BARCC is a group of recovering individuals and their allies who advocate and support addiction recovery in the greater Bangor area.

Principles of Recovery - #4

Recovery is holistic

- Recovery encompasses an individual's whole life
 - Recovery Capital
 - 8 dimensions of wellness (next slide)
- Services and supports should be integrated and coordinated.
 - "Where [health care] is the most like a system is where we're most successful. **Having the right parts isn't enough. To become a system, those parts have to bridge in ways we aren't used to.** The ability to devise solutions is really critical."

~Atul Gawande, M.D., M.P.H



Eight Dimensions of Wellness



SOURCE: Adapted from Sapienza, M. (2003). A wellness approach. *Psychiatric Rehabilitation Journal*, 26(4), 311-315.



Principles of Recovery - #5

Recovery is supported by peers and allies

- Sharing experiences, knowledge, and skills with each other, as well as social learning, play an invaluable role in recovery.
- Peers encourage each other, providing a vital sense of belonging, supportive relationships, valued roles, and a sense of community.
- Peer supports provide important resources to assist people along their journeys of recovery and wellness.
 - YPR chapters, recovery coaches, recovery centers, etc.
- Professionals can also play an important role in the recovery process by providing clinical treatment and other services that support individuals in their chosen recovery paths.



Principles of Recovery - #6

Recovery is supported through relationships and social networks

- A presence and involvement of people in the community who believe in them
- Family members, peers, providers, work colleagues, faith groups, community groups, etc...
- They can come from anywhere



Principles of Recovery - #7

Recovery is culturally-based and influenced

- Culture and background – including values, traditions, and beliefs - are keys in determining a person's journey and unique pathway to recovery. Services should be tailored to be culturally competent.



Principles of Recovery - #8

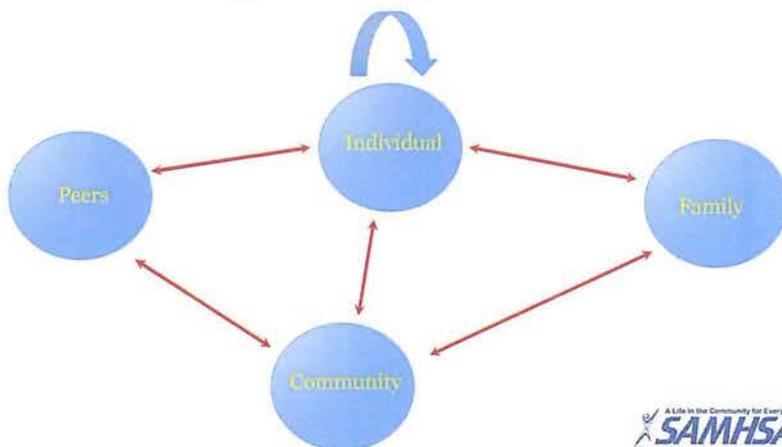
Recovery is supported by addressing trauma

- Trauma, in a variety of forms, is often a precursor to or associated with alcohol and substance misuse and mental health problems.
- Services and supports should be trauma-informed to foster safety (physical and emotional) and trust, as well as promote choice, empowerment, and collaboration.
 - If someone is reacting and not responding, there might be something going on... consider how your words may land on others



Principles of Recovery - #9

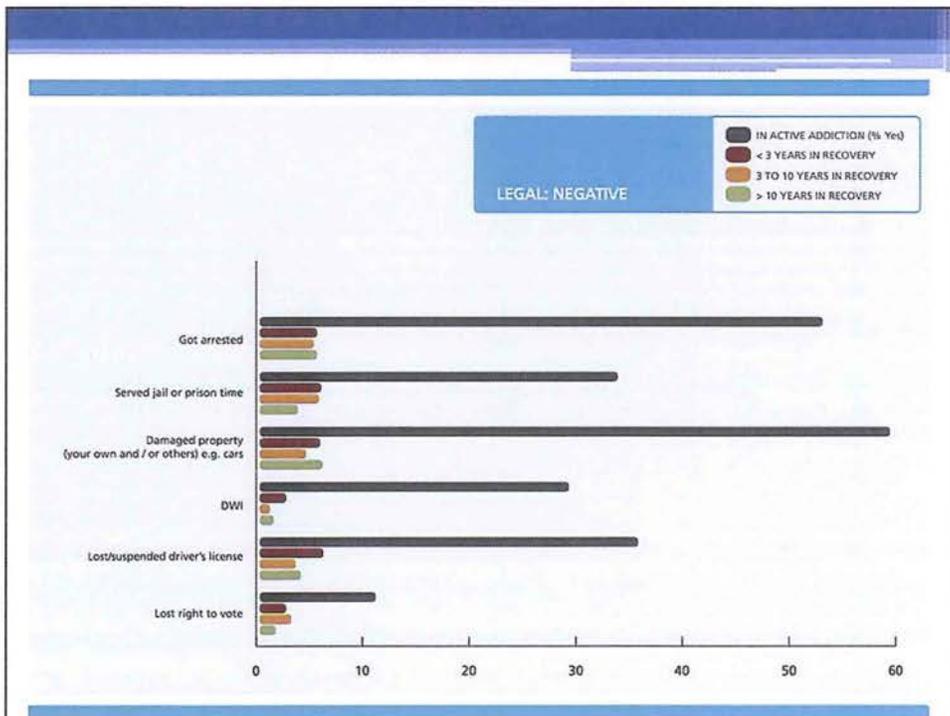
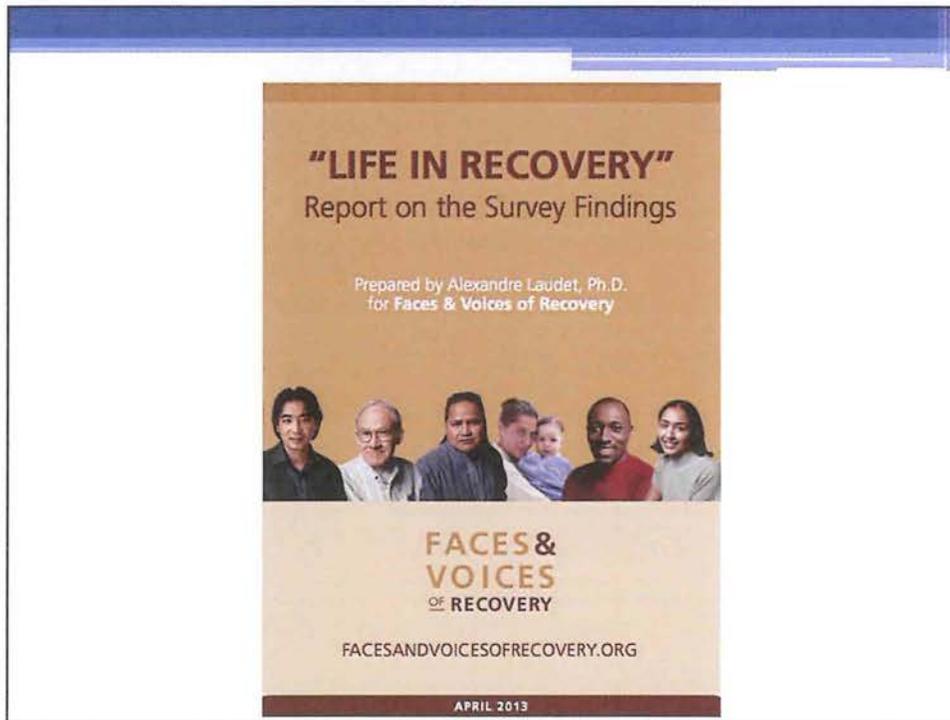
Recovery involves individual, family, and community strengths and responsibilities

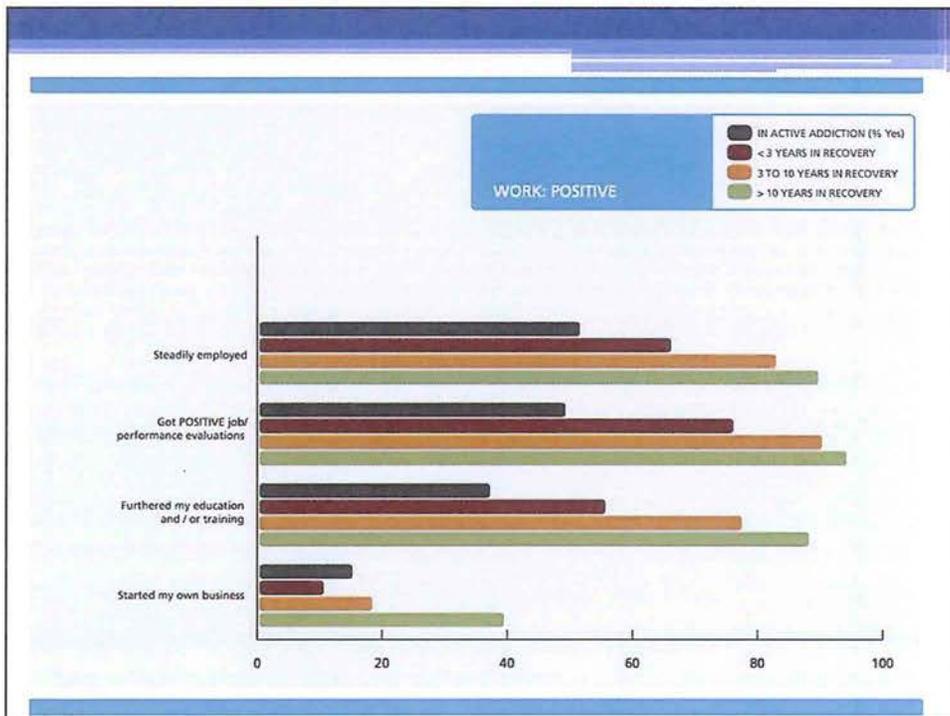
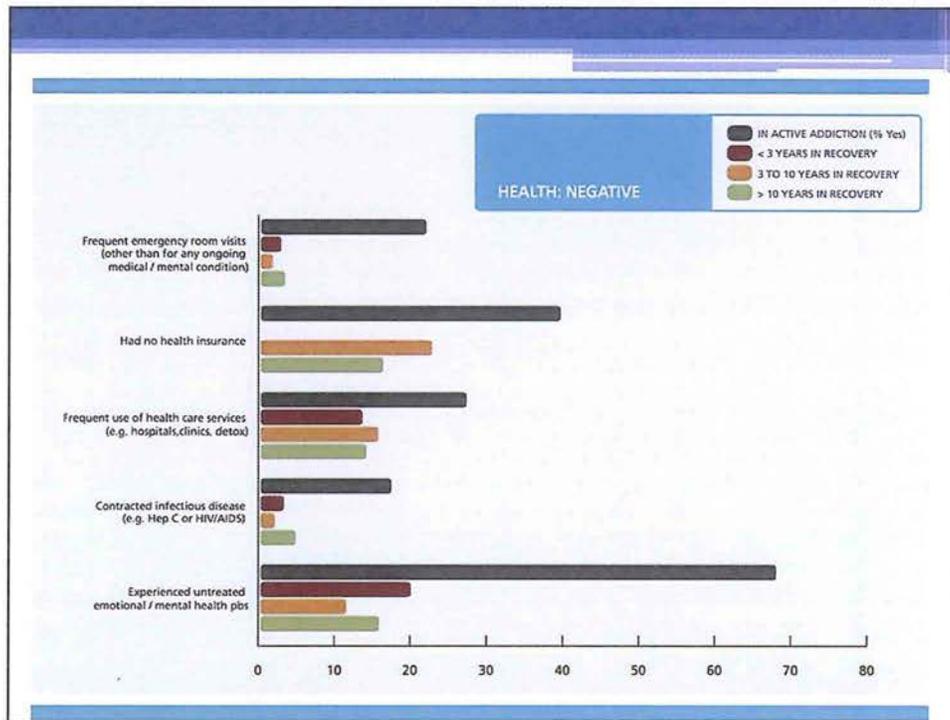


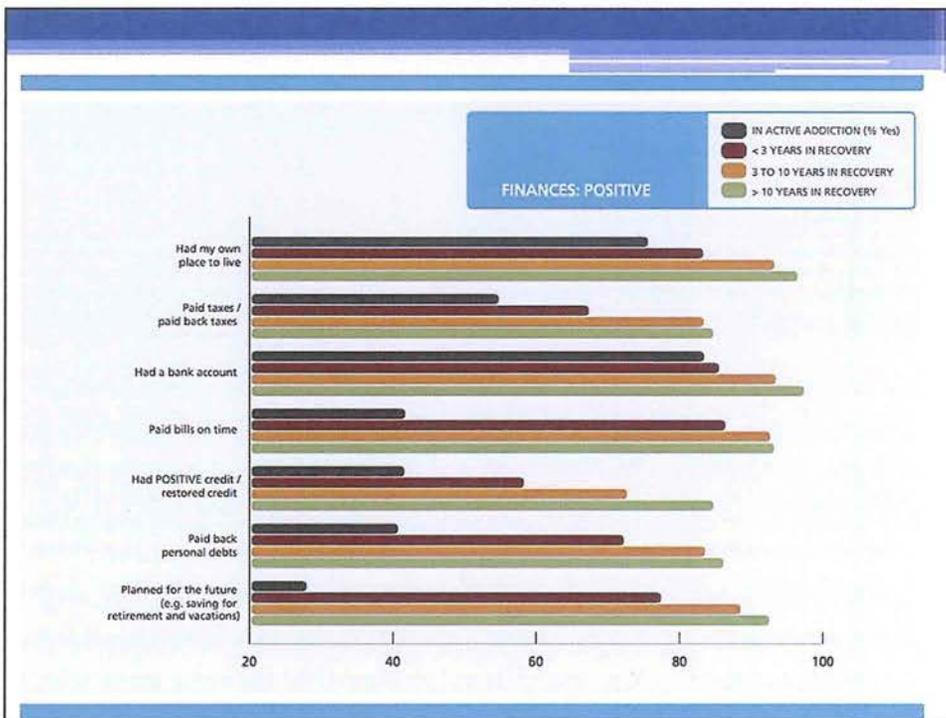
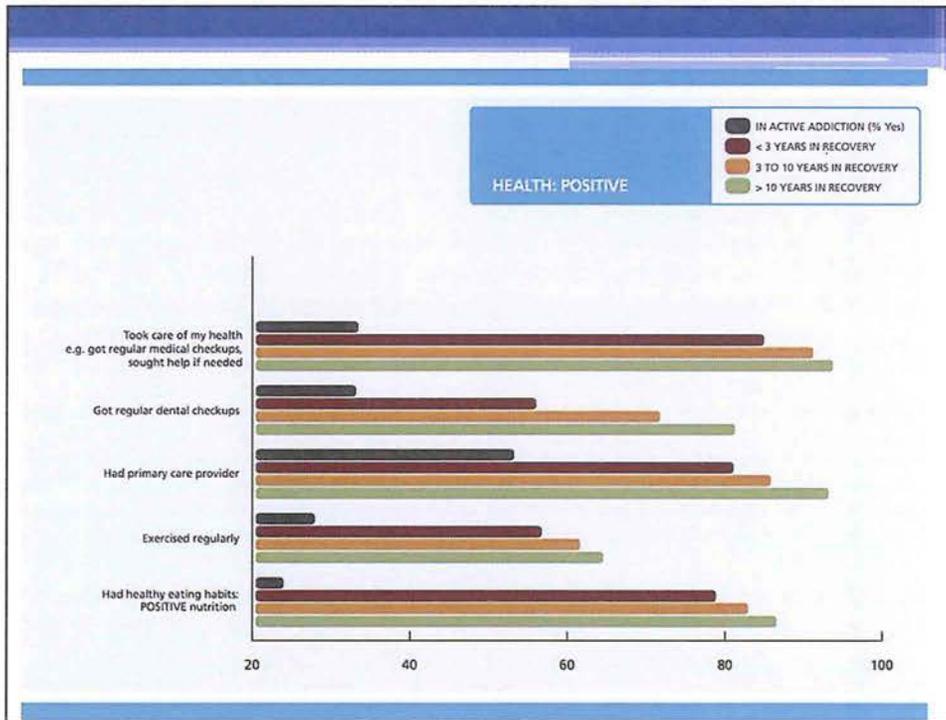
Principles of Recovery - #10

Recovery is based on respect

- Respect from **outside**: community, systems, and society at large should accept and appreciate people with SUD and in recovery.
 - including protecting their rights and eliminating discrimination
- Respect from **inside**: there is a need to acknowledge that taking steps towards recovery may require great courage. Self-acceptance, developing a positive and meaningful sense of identity, and regaining belief in one's self are particularly important, too.







Implications of these data

- ❖ A shift from active use to active recovery is good for individuals, families, communities, and the nation's health and economy
- ❖ We need to start using the benefits of recovery (not the magnitude of the problem) as a driving force for change

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CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Mayor Shane Bouchard and the Lewiston City Council

FROM: Douglas Greene, AICP, RLA; Deputy Director/City Planner

DATE: September 18, 2018

RE: Proposal to Minimize Conversions of Single-Family Dwellings into Two-family Dwellings in the Neighborhood Conservation "A" District

Back in May at the direction of the City Council, Staff was asked to review a section of the Zoning Ordinance that allows the conversion of single-family homes into two-family dwellings or the development of two-family dwellings on vacant lots in the Neighborhood Conservation "A" District (NCA). Concern had been raised the NCA District was being negatively impacted by conversions of single-family dwellings into two-family dwellings.

The Staff made a presentation at a June 12th City Council workshop. The presentation included statistics on the number of single-family homes, two-family dwellings, multi-family structures and other land uses including vacant land within the NCA District. A proposed text amendment was also provided that would remove the ability to convert single-family dwellings into two-family dwellings or develop vacant lots into two-family dwellings in the NCA District. After some discussion, the City Council asked Staff to look at other options to reduce or prohibit the conversions.

In developing options and recommendations, the Staff questioned and analyzed the directive:

- What is the purpose of the NCA District, as described in the Zoning Ordinance?
Sec. 6. Neighborhood conservation "A" district (NCA)
(a) Statement of purpose. The purpose of the neighborhood conservation "A" district is to promote neighborhood stability by requiring the development of new buildings or the reuse or conversion of existing buildings to conform to the type and density of housing existing within the immediate neighborhood. The standards of the district restrict housing to single-family detached dwellings unless the existing pattern of use in the immediate neighborhood is two-family or predominantly multifamily dwellings.
- What does the Comprehensive Plan recommend for neighborhoods?
2017 Comprehensive Plan- Strengthen Neighborhoods and Expand Housing Choices, Accessory Units
"An accessory unit is a flexible space that shares ownership, site, and utility connections with the principal building on the lot, but has its own entrance. Usually situated over a garage toward the rear of the principal house, the outbuilding increases privacy and enclosure in the backyard by screening the yard from the house next door. Accessory units are significantly different from the "bonus rooms" or in-law apartments that are found in conventional suburban subdivisions because they are not connected to the rest

of the house. Instead it is much more private—making it well-suited for use as a home office, guest room, or rental property. If rented out, the additional “eyes on the street” help make the neighborhood a safer and livelier place. In addition to providing a potential source of income for the primary mortgage holder, accessory units provide additional low-cost housing options within the community. In Lewiston, permitting accessory units would be a sustainable and cost effective way for the City to encourage affordable housing that complements the character of the existing neighborhoods, by putting the control in the hands of the residents. A program like this compels the City to encourage home ownership in the downtown.” (Legacy Lewiston-2017, pg. 177)

- Are two-family dwellings and multi-family dwelling units detrimental to neighborhoods in the NCA District? *In the Staff’s opinion, absentee landlords / property owners are the biggest threat to neighborhoods in the NCA District.*
- How many conversions of single-family homes into two-family dwellings have occurred in recent years; is it a problem? *Planning and Code Enforcement records indicate 3 conversions of single-family dwellings into two-family dwellings in the last 5 years.*
- What types of residential uses are currently allowed in the NCA District? *Single-family dwellings, two-family dwellings and in-law apartments are permitted uses in the NCA District. Two-family dwellings and in-law apartments have to meet specific criteria. (See Attachment 1 for two-family dwelling and in-law apartment criteria)*
- What are the differences between two-family dwellings, in-law apartments and accessory dwelling units? *The Staff has prepared a chart that compares the attributes of these residential types. (Attachment 2)*
- How would accessory dwelling units differ from in-law apartments?
 - *The size of the accessory dwelling unit would be limited to 600 square feet or 25% of the total habitable space of the dwelling*
 - *Accessory dwelling units would not require the formal documentation of family members being occupants*
 - *Both accessory dwelling units and in-law apartments must have one owner occupied unit*

Based on that evaluation, the Staff now presents 3 options for the Council to consider:

1. Create an overlay in the NCA District where single-family dwellings could be converted into two-family dwellings using the current criteria. Areas outside of the Overlay would no longer allow two-family dwelling conversions or development. Staff prepared a draft map that creates overlay districts based on concentrations of two-family dwellings. This greatly reduces the area in the NCA District where conversions could take place. The overlay areas are generally groupings of parcels where close to 50% of the lots are two-family dwellings or multi-family structures. (Attachment 3)
2. Do nothing. There have been only 3 conversions of single-family dwellings into two-family dwellings in the NCA over the last 5 years.
3. Prohibit the conversion of single-family dwellings into a two-family dwellings or the development of vacant lots into two-family dwellings in the NCA District and continue to allow in-law apartments.
4. Prohibit the conversion of single-family dwellings into a two-family dwellings or the development of vacant lots into two-family dwellings in the NCA District and either transition away from or prohibit in-law apartments and instead allow accessory dwellings units.

STAFF RECOMMENDATION:

Staff recommends **Option 4**. While there are few conversions of single-family dwellings into two-family dwellings in the NCA District at this time, removing that provision would help stabilize and protect NCA neighborhoods. Transitioning away from or replacing in-law apartments with accessory dwelling units would provide multiple benefits to the NCA District and property owners:

- Having one of the units be owner-occupied will promote better maintenance of the property and protect and strengthen neighborhoods
- Accessory dwelling units would provide additional income
- Accessory dwelling units fit in well with the current demographic trends of smaller families and an aging population
- Accessory dwelling units would not change the character of the neighborhood, it that they would essentially be required to meet all of the existing in-law provisions
- Accessory dwelling units would be easier to administrate than in-law apartments

Additional information on accessory dwelling units is provided in **Attachment 4**.

ATTACHMENT 1

Lewiston Zoning Ordinance:

The current criteria required to convert single family dwellings into two family dwellings reads as follows:

Article XII, District Regulations, Section 22, Land Use Requirements, Note 37

Conversions of Single Family Dwellings into Two Family Dwellings or the development of parcels into Two Family Dwellings in the Neighborhood Conservation "A" District (NCA)

(37) *A parcel may be developed with a two-family dwelling, only if both of the following criteria are met:*

- a. *More than 50 percent of the impacted properties that are developed contain residential structures with two or more dwelling units; and*
- b. *More than 50 percent of the adjoining properties that are developed contain residential structures with two or more dwelling units.*

An existing single-family dwelling may be converted to a two-family dwelling only if both of the following criteria are met:

- a. *Forty percent or more of the impacted properties that are developed contain residential structures with two or more dwelling units; and*
- b. *Forty percent or more of the adjoining properties that are developed contain residential structures with two or more dwelling units.*

The current In-law Apartment performance standards read as follows:

Article XII. Performance Standards, Section 11, In-law apartment standards.

An in-law apartment meeting the following standards shall be considered to be part of a single-family detached dwelling and shall not be considered to be a dwelling unit in terms of the space and bulk standards of article XI. In-law apartments shall be permitted only in those districts where they are allowed uses. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall meet the use and space and bulk requirements of article XI:

- (1) *The in-law apartment shall be accessory to the use of the premises as a single-family detached dwelling and only one in-law apartment shall be created as part of a single-family dwelling.*
- (2) *The in-law apartment shall be created within or attached to a single-family detached dwelling.*
- (3) *The person(s) occupying the in-law apartment must be a family member of the principal occupant(s) of the single-family home and the burden of proof of this relationship shall be on the homeowner.*
- (4) *The creation of the in-law apartment unit shall not alter the single-family character of the property. The following standards shall be met in creating the unit:*
 - a. *The in-law apartment must share a joint entrance with the single-family home and the in-law apartment shall not have a separate front entrance from the outside. A joint entrance shall consist of an enclosed structure with access to the in-law apartment and the single-family dwelling. Any second-story side entrance must be contained within the building envelope; and*

- b. *Provisions for one (1) additional parking space shall be made in conformance with article XII, section 17. However, no additional curb cuts or driveways may be created to facilitate the creation of the in-law apartment and any new or expanded driveway entrance curb cut on the property must not exceed twenty-four (24) feet in width.*
- c. *The habitable area of the in-law apartment shall not exceed 900 square feet and shall not contain more than two (2) bedrooms.*
- (5) *One of the units must be owner-occupied.*
- (6) *All applicable fire safety and egress laws must be observed in the creation of the in-law apartment.*
- (7) *There shall not be separately metered electric or water service for the in-law apartment.*
- (8) *In-law apartments on properties with private sewer shall comply with the State of Maine Subsurface Wastewater Disposal Rules for new or expanded systems, as applicable.*
- (9) *Evidence of documentation recorded in the Androscoggin Registry of Deeds identifying that the in-law apartment and the use of the in-law apartment must conform to the performance standards of Appendix A, article XII, section 11 of the Zoning and Land Use Code. Said evidence must be provided to the City prior to issuance of an occupancy permit for said in-law apartment.*

ATTACHMENT 2

Attribute Comparison of

Two Family Dwellings, In-Law Apartments and Accessory Dwelling Units

Attribute\Housing Type	Two Family Dwelling	In-Law Apartment	Accessory Dwelling Unit*
Zoning Status in NCA	Must Meet Criteria #	Permitted Use	Proposed as Permitted Use
Dwelling Unit as per Art. XI	Yes	No	No
Principle or Accessory use	Principle	Accessory	Accessory
Size	No Limit	900 sf.	600 sf.
Separate Entrance	Yes	No	No
Owner-Occupied Required	No	Yes For One Unit	Yes For One Unit
Family Member Required	No	Yes	No
Record Proof of Family/ Owner Occupancy	No	Yes	Yes for Owner Occupancy
Impact on Neighborhood Character	Noticeable From Street	No Exterior Impact	No Exterior Impact
Parking Required	2 Spaces Per Unit	1 Extra Space	1 Extra Space
Separate Kitchen	Yes	Yes	Yes
Number of Bedrooms	No Limit	Maximum of 2	Maximum of 2
Separate Utility Connection	Yes	No	No
Lot Size	Lot Size is Increased	Same as Single Fam.	Same as Single Fam.
Administration and Enforcement	Not Difficult	Difficult	TBD

* As proposed

See Article XI, Sec. 22, Note 37

Accessory Apartments Can Help Seniors Age in Place ¹

Your town can join Maine communities which have already improved housing options for elders who want to age in place. By adding a simple provision for accessory apartments to its zoning ordinance, your town or city can help elders and families live economically and maintain community ties.

Accessory apartments are complete dwelling units typically created from surplus space in existing homes, or sometimes as additions, or as freestanding cottages. Accessory apartment provisions in a zoning ordinance allow a small new dwelling unit to be added to existing single family house. Provisions can be written in a variety of ways, but typically include size limits, requirements for adequate sewerage and parking. Some towns require exterior design review and sometimes owner occupancy of either unit. Some provisions limit the occupancy of the accessory unit to relatives, but this is difficult to enforce.

An accessory apartment is an inexpensive option for both homeowner and renter. Because construction costs are lower than for free-standing rental units, the renter often gets an apartment at below market rates. Family members often pay a modest rent or nothing. The occupancy of the units often switches from renters to family and back again as ownership and family needs change.

People are living in larger houses with smaller households than they did 30 or 40 years ago. There are more single people living longer after their spouses die and because of divorce and later marriages. Families have fewer children and are left with a large empty nest after a few peak years.

When zoning prohibits legal accessory apartments, illegal make-shift arrangements often emerge with bar sinks and unsafe cooking appliances used to avoid the rules.

Accessory apartments rarely have negative impacts on neighborhoods and offer many benefits. In fact, after community officials and neighbors become familiar with accessory apartments, they tend to loosen zoning restrictions to allow them under more circumstances and encouraging them. Accessory apartments are a simple way to create owner occupied affordable housing without public subsidy or negative impacts.

The benefits extend to the homeowner, to the renter, and the community. Accessory units add affordable housing stock, especially for elders, without dramatically changing the nature of neighborhoods. Adding a few such units in a neighborhood can help build community and reduce sprawl, and help a person maintain a family home.

Benefits of accessory apartments:

- Benefits older homeowners, single parents, young home buyers, and the disabled.
- Produces extra income to help elder homeowner meet rising home ownership costs.
- Provide a means for adult children to give care and support to a parent in a semi independent living arrangement.
- Fosters better housing maintenance and neighborhood stability.
- Provides the opportunity for increased security and companionship for elderly and other homeowners.
- Increases the supply of affordable housing without government subsidies.
- Permits existing infrastructure to serve more people, rather than requiring the construction of new infrastructure.

(List adapted from Zoning for Accessory Dwelling Units, by Rodney L Cobb, Zoning News, APA , January 1997.

¹ From Maine Aging In Place Task- Planning Sub-Committee 2014

Accessory Dwelling Units:

A Smart Growth Tool for Providing Affordable Housing

By Jaimie Ross, President & CEO of the Florida Housing Coalition

An accessory dwelling unit (ADU) is a residential unit that is secondary to the primary residence of the homeowner. It can be an apartment within the primary residence or it can be an attached or freestanding home on the same lot as the primary residence. The concept of an accessory dwelling unit is to have an additional complete residence, meaning a place for sleeping, bathing, and eating independent of the primary home. An ADU is a tool for providing affordable rental housing and promoting smart growth. These smaller housing units are typically infill units built where there is existing infrastructure, making greater use of the already developed land.

The Value of an Accessory Dwelling Unit

An accessory dwelling unit creates affordable housing in two ways: the secondary (accessory) dwelling is a small rental unit that will ordinarily rent at a price within the means of lower income persons; at the same time, the rental income from the accessory dwelling unit can render the primary residence more affordable by virtue of the income it generates for the resident owner of the primary residence.

Ordinarily, the accessory dwelling unit is smaller than the primary residence of the homeowner. But, if permitted by the local government, the owner may choose to live in the smaller unit and rent out what was the primary residence. At first blush this arrangement may seem odd, but in the case of a family that now has a single elderly member living on a fixed income, this arrangement can provide the perfect affordable living solution; a more appropriately sized living space and a higher rental income.

AARP engaged the American Planning Association (see resources sidebar on page 20) to develop a model state act and local ordinance as a resource for meeting the affordable needs of elder Americans. ADUs are particularly well suited for lower income elderly because in addition to increasing affordability, the elderly homeowner may also obtain companionship and needed services from the tenant in the ADU. The use of ADUs can assist the elderly to “age in place”. An example of this cited in the Public Policy Institute publication is from Daly City, California:



This cottage is an example of a detached accessory dwelling unit built in the side/backyard with roof lines, colors, and architectural design that matches the larger primary home.



“One homeowner with Alzheimer’s was able to trade ADU quarters for medical services from an ADU tenant, a nurse, who was also delighted by the arrangements.”

Permitting accessory dwelling units is a way for government to create an environment in which the private sector can produce affordable housing, without having to invest public dollars. Removing the land use barriers which prevent accessory dwelling units from being built may be all that local government needs to do for affordable accessory dwelling units to be built. This is an example of how regulatory reform can increase the supply of affordable housing.

However, if the purpose in permitting accessory dwelling units is to increase the supply of affordable housing, local governments need to be thoughtful about the manner in which ADUs are permitted. Without conditions placed upon the use of ADUs, the garage apartment in an expensive or desirable area could end up an “illegal use” such as a Bed and Breakfast. If local governments want to encourage the production of ADUs for affordable housing, a loan program to assist the homeowner in developing the unit is an effective way of providing an incentive for development together with an assurance of affordability through a recorded land use restriction agreement made in conjunction with the loan.

Obstacles to Accessory Dwelling Units

Traditional “Euclidian” zoning separates land uses in a way that prohibits more than one single residence on a platted lot, regardless of the acreage. If two or more residences are situated on a single lot, they would need to be in a more intensive residential zone, such as one that permits duplexes or multi-family housing.

Some single family zoning may permit an accessory dwelling unit, but require that special circumstances be shown to warrant the use, such as a unit limited to use as a “granny

flat” or “mother-in law” suite to accommodate immediate family members. The local zoning code may also limit the accessory dwelling use by proscribing separate metering of the accessory dwelling unit. In short, there may be a number of land use regulations to overcome. Another obstacle to ADUs may be neighborhood or community resistance. The owners of single family homes may object to having renters in their neighborhood; they may fear increased traffic and parking, or perceive a threat to their property value.

Promotion of ADUs as an Affordable Housing Strategy

When the SHIP Legislation was adopted in 1992*, included in the list of regulatory reform items for consideration by all SHIP jurisdictions (all counties and entitlement cities in Florida), was permitting accessory dwelling units in all residential areas. Most jurisdictions did not opt to include this incentive, but a number of jurisdictions in Florida do make some provision for accessory dwelling units.

In 2004, Chapter 163 Florida Statutes, was amended to include Section 163.31771 entitled “Accessory dwelling units.” The law encourages local governments in Florida, especially those in urban areas, to permit accessory dwelling units in all areas zoned for single-

family residential use. The purpose of this legislation is to increase the production of affordable rental housing. To that end, the statute provides that “an application to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to extremely low income, very low income, low income or moderate income person or persons.” The statute also states that each affordable accessory dwelling unit shall apply toward satisfying the affordable housing component of the housing element in the local government’s comprehensive plan. Local governments in Florida are, of course, empowered to permit accessory dwelling units without this statute, but the statute brings this underutilized tool to the fore and makes

Permitting accessory dwelling units is a way for government to create an environment in which the private sector can produce affordable housing, without having to invest public dollars.

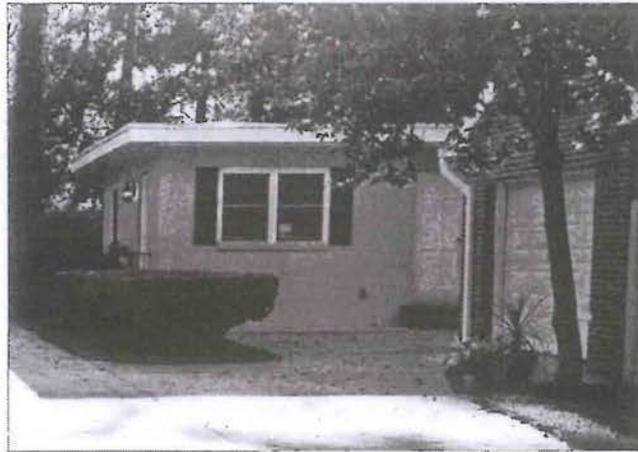
explicit the connection to local government comprehensive planning obligations.

Considerations for ADU Ordinances

Accessory dwelling units could be permitted without adoption of a separate ordinance by simply having accessory dwelling units enumerated as a permitted use within the single family residential use category. It is unlikely, however, that this will be the chosen vehicle, as it fails to provide the parameters for the development and use of accessory dwelling units, which are key to successfully balancing the production of affordable rental housing with the concerns of the existing single family homeowners.

Virtually all ADU ordinances require that the owner reside in either the primary or the secondary unit. But there are a number of issues that can be decided differently depending upon community needs. All programs for the development of ADUs should consider the following:

- **Conditional use or “by right”** – If the ADU is a conditional use, a public hearing would be required – this makes the process more difficult for the applicant, but provides a forum for input from the neighborhood. If the ADU is “by right” it is a permitted use and, provided the application meets the requirements in the ordinance, it will be approved administratively, without public hearing.
- **Permitting process** – To encourage the development of ADUs, local government can create a user friendly process for construction which includes expedited processing (a requirement under the SHIP program), a manual to help the homeowner, and a staff person charged with overseeing the program.



This is an example of an attached accessory apartment in the back of this single family home. Neither the accessory apartment or the off-street parking are visible from the front of the house.

- **Size regulations** – ADU ordinances commonly have a minimum lot size for the total parcel and a maximum ADU size. The goal is to maintain the aesthetic integrity of the single family neighborhood. Performance standards rather than arbitrary size limitations may better address neighborhood concerns.
- **Design requirements** – To ensure compatibility and maintain the aesthetic character of the neighborhood, an ADU ordinance may set forth minimum design standards and have architectural review requirements.
- **Parking requirements** – To avoid parking problems in an urban area, the ordinance may require that there be sufficient on-street parking or off-street parking, or may require that parking be at the back of the residence.
 - **Type of unit** – Different considerations may apply if the ADUs are within the primary residence, such as a basement apartment; attached to the primary residence, such as a garage apartment; or detached from the primary residence, such as a cottage.
 - **Occupancy restrictions**
 - Some ordinances may prescribe the maximum number of people who can live in the ADU or the type of renters, such as limiting the rental to relatives or the elderly.
- **Incentives to produce ADUs** – Loans for the production of the ADU may make it easier to monitor for affordability and assist the local government in directing applicants on its rental waiting lists to affordable ADUs.
- **Monitoring** – Some ADU programs have an annual affidavit requirement or other means for monitoring whether the ADU continues to be used in accordance with the local ADU requirements.



ADUs do not have to be an afterthought. New construction of single-family homes could also include construction of an ADU. "Carriage houses" accessible from alleys are commonly found in the "New Urbanism" or Traditional Neighborhood Design. But without an ADU ordinance requirement that these units be affordable, the carriage houses in this "new urbanism" community exceed affordable rents, as the desirability of the traditional neighborhood design development drives housing prices out of the affordable range.

One of the keys to a successful program is the information and technical assistance provided to the community and the prospective developer/owner of an ADU. To ensure the success of its program, Montgomery County, Maryland has a guidebook to assist applicants through the permitting process for accessory apartments. The County also assists the applicant by having a staff person assigned to help applicants through the process.

In 2004, the Environmental Protection Agency gave the city of Santa Cruz California the National Award for Smart Growth Achievement for its Accessory Dwelling Unit Policies and Regulations, which includes a manual for developing ADUs, including architectural designs. You can access the Santa Cruz manual and ADU prototypes on line at: <http://www.cityofsantacruz.com/home/showdocument?id=8875>

If your local government would like technical assistance to help develop an accessory dwelling unit ordinance or navigate the issues to be addressed with accessory dwelling unit ordinances, contact the Florida Housing Coalition at (850) 878-4219, or Jaimie Ross at ross@flhousing.org 

*Florida Statute 420.9076 (4) "At a minimum, each advisory committee shall make recommendations on affordable housing incentives in the following areas: (e) the allowance of affordable accessory residential unit in residential zoning districts.



JAIMIE ROSS

Jaimie A. Ross is the President & CEO of the Florida Housing Coalition. Ms. Ross served as the Affordable Housing Director at 1000 Friends of Florida, a statewide nonprofit smart growth organization, from 1991-2015. Prior to her tenure at 1000 Friends of Florida, Ross was a land use and real property lawyer representing for profit and nonprofit developers and financial institutions with a law firm in Orlando. Nationally, she serves on the Boards of Grounded Solutions Network and the Innovative Housing Institute. Ross is the past Chair of the Affordable Housing Committee of the Real Property Probate & Trust Law Section of the Florida Bar.

Resources for ADU Models

"Accessory Dwelling Units: Model State Act and Local Ordinance," Public Policy Institute, Rodney L. Cobb & Scott Dvorak, American Planning Association
http://assets.aarp.org/rgcenter/consume/d17158_dwell.pdf

Examples:

Massachusetts Smart Growth Toolkit Bylaws
<http://www.horsleywitten.com/services/planning/smart-growth-low-impact-development/>

Santa Cruz California ADU Manual
<http://www.cityofsantacruz.com/home/showdocument?id=8875>

State of Georgia
(Department of Community Affairs)
http://www.dca.state.ga.us/intra_nonpub/Toolkit/ModelOrdinances/TND_ModOrd.pdf

Municipal Research & Service Center of Washington "Accessory Dwelling Units Issues and Options"
<http://mrsc.org/getmedia/54c058a5-4c57-4192-a214-15f2fa5ac123/ADU30.pdf.aspx>

Vermont "Accessory Dwelling Units: A Guide for Homeowners"
http://accd.vermont.gov/sites/accd/files/Documents/strongcommunities/housing/2013Edition_Accessory_Apts_Brochure.pdf

Accessory Dwelling Units: Model State Act and Local Ordinance
<http://www.docdatabase.net/more-accessory-dwelling-units-model-state-act-and-local-ordinance-577683.html>

Accessory Dwelling Units Report to the Florida Legislature
http://landuselaw.wustl.edu/Articles/ADU_Report.pdf

City of Santa Cruz Accessory Dwelling Unit Development Program
<http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>

Accessory Apartments For Today's Communities

by Patrick Hare

Among the intractable problems that planning commissioners face is affordable housing.

There is a form of affordable housing that requires no tax subsidy, is integrated into single family neighborhoods, and is accepted in a growing number of communities. It is not a panacea, but it deserves more attention than it gets. What I am referring to is the accessory apartment or unit. [V]

A zoning amendment is often needed to permit accessory units, and, as I will discuss, the zoning process can be used to severely limit the installation of accessory units.

Interest in accessory units surfaced in the early 1980s, but they have almost been forgotten. This is probably because accessory units are installed one by one, providing little opportunity for ribbon cuttings.

How is it possible that accessory units can provide affordable housing with no subsidy?

Part of the answer lies in the fact that the baby boom has left behind an empty nester boom — families whose children have grown, and now find themselves with excess space in their homes. In addition, baby boomers generally have small families. As a result of these two facts, roughly one single family home in three has enough surplus space for a complete separate rental unit.

Accessory units do not require development of new land. In the case of accessory apartments, they don't even require much construction — and they cost only about one third that of conventional rental units to complete.

Accessory units provide older homeowners with added income, security, companionship, and, in the case of

the frail elderly, the ability to trade rent reductions for needed health and social services. This extra income can also be critical to a homeowner who has just retired, but must still pay high property taxes.

Accessory units can also provide first time homebuyers with rental income to help meet mortgage payments. They provide single parents, typically mothers, with rental income to help pay mortgages that assumed two incomes. They provide disabled homeowners or disabled adult children with privacy in close proximity to support.

My firm analyzed responses from forty-seven communities about their use of accessory units. We found that communities with zoning that does not put roadblocks in the way of homeowners seeking to install accessory units could expect to get about 1 accessory unit per 1,000 single family homes per year. [S]

This should be reassuring to planning commissions and neighborhood associations. It is hard to argue that this kind of installation rate — or even an installation rate two or three times higher — will have a major impact on a neighborhood. Any remaining fears can be reduced by adopting zoning provisions that prevent the concentration of accessory units in any given area. For example, Boulder, Colorado's zoning ordinance prohibits new accessory apartments when more than 10% of the homes within 300' of the applicant's lot line already have accessory apartments. Moreover, as far as I know, no community that has permitted accessory units has later revised its zoning code to prohibit them.

Over the long term an installation rate of 1 unit per 1,000 single family homes per year would result in a signifi-

cant increase in the production of affordable rental housing. In a town of 20,000 homes, 20 units a year would be created. In five years time, this could mean about 100 units. Nationally, the annual production of rental housing could be increased by about 14%.

Studies have shown that accessory apartments typically rent for below HUD fair market rents. They are also frequently rented to relatives at what housing advocates would call "deep subsidies," often rent-free.

Accessory units also support the evolving concept of "sustainable communities." They can help make better use of existing housing resources, while making homeownership possible for more young households. They can also help recreate the extended family. Finally, they can turn a house into a flexible resource that can provide either income or living space, as required by the owner at the time.

HELPING HOMEOWNERS WITH ACCESSORY UNITS

There is a need to help homeowners through the process of installing accessory units. Homeowners will typically need to deal with a wide range of concerns, only one of which is zoning approval. These concerns include: finding a remodeler or builder; making design decisions; finding financing; determining a rental rate; finding a tenant; managing the tenant; and dealing with tax and insurance issues. Put together, homeowners considering accessory units often see more problems than they can handle. [S]

Finally, many homeowners in existing single family districts view any proposed zoning amendments — including those to allow accessory units — as a potential threat. Zoning is seen as protect-

ing both the quality of families' lives and their largest financial asset. Amending single family zoning has to be done carefully, without the use of terms like "NIMBY." Homeowners' concerns can be quite legitimate, emotionally, even if they have little substance in fact or logic. They cannot be answered exclusively with a dispassionate presentation. Those who may directly benefit from accessory units should also be heard from: individual homeowners needing extra income to meet mortgage and tax payments; first-time homebuyers; single-parents; people with disabilities; and others.

Getting zoning amendments that permit accessory units should be possible in most communities. It is becoming harder to claim that accessory units will run down neighborhoods, when they are accepted in wealthier communities like Westport and Greenwich, Connecticut; Marin County, California; and Montgomery County, Maryland. In Westchester County, New York efforts to amend zoning to permit accessory units have been debated in twelve communities, and have been approved in eleven of them.

SUMMING UP:

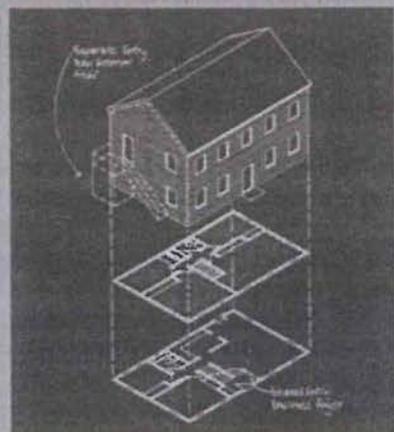
The success of many communities with accessory units over the last ten years makes it more difficult to argue against allowing accessory units in residential areas. Criticism will also be muted by the increasing evidence that accessory units help many homeowners and create affordable units with no taxpayer subsidy.

Patrick Hare is a planner living in Washington, D.C. His firm, Patrick H. Hare Planning & Design, does consulting, conducts seminars, and produces publications related to accessory units.



Glossary

Accessory apartments are complete, independent housing units created out of surplus space in single family homes. Accessory cottages are complete separate units installed on the same lot as a single family home. Together, the two housing types are known as accessory units. In California, they are known as *second units*, and in Hawaii, as *ohana* units.



Two Story House - Second Floor Conversion

Conversion of a second floor is another approach to creating an accessory apartment. Entry may be through a shared foyer at the front door, or a new exterior stair may be provided. From Creating An Accessory Apartment (cited in Resources). Additional illustrations and floor plans are in the book.



Barriers to Conversion

The survey, "Installations of Accessory Units in Communities Where They Are Legal," found three different kinds of zoning "barriers" to significantly reduce the number of accessory units installed:

- (1) zoning that only permits accessory units where the homeowner or tenant is elderly or disabled;
- (2) lengthy permit processing times; and
- (3) high zoning or building permit fees.



Pointing the Way

Planning commissioners can provide the leadership in bringing together the many groups that can help "package" the installation process for homeowners. These groups include remodelers, real estate agents, bankers, aging groups, single parent groups, hospital discharge planners, home health care agencies, new home builders, affordable housing groups, disabled groups, and others.



Resources:

Accessory Units: The State of the Art, by Patrick H. Hare Planning and Design, 1991. A series of four reports:

- (1) summary and synthesis of community experience;
- (2) annotated bibliography and resource guide;
- (3) model zoning ordinance with discussion of provisions; and
- (4) survey of installation rates.

Creating An Accessory Apartment, by Patrick H. Hare and Jolene Osler (McGraw-Hill 1986). Illustrations by Hattie H. Hartman. For ordering information, contact PHHPD, 1246 Monroe St. NE, Washington, DC 20017; (202) 269-9334.

"A Consumers Guide to Accessory Apartments (1987); "Echo [Accessory] Housing: A Review of Zoning Issues (1983);" and "Echo Housing: Recommended Construction and Installation Standards (1984)." All available at no charge from the American Ass'n. of Retired Persons, Publications, 601 E. St. NW, Washington, DC 20049; (202) 424-2277.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 9, 2018

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. ES-1

SUBJECT:

Executive Session to discuss Disposition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

GAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Disposition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.