



ALBANY COMMON COUNCIL
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE MINUTES
Alfredo Balarin, Chair

Meeting called by: Alfredo Balarin, Chair | Date: March 25, 2025 | Time: 5:27 pm

Committee Members Present: Balarin, Chair | Adams | Zamer | Hoey | Clarke

Council Members Present: Anane, Conti, Flynn, Keegan

City Personnel Present: Shaniqua Jackson (City Clerk), Bryan Jimenez (Legislative Director), Jake Eisland (Research Counsel), Alyssa Kamara (Junior Policy Analyst); Faye Andrews (Commissioner of Neighborhood and Community Services), Joseph Coffey (Commissioner of Water & Water Supply), Avi Epstein (Principal Planner), Bradley Glass (Planning Director), Joseph Gregory (Chief of Fire & Emergency Services), Richard LaJoy (Director of Buildings & Regulatory Compliance), Trey Kingston (Commissioner of Assessment), Robert Magee (Corporation Counsel), Jason Thomas (Assistant Corporation Counsel)

Minutes

Agenda Item(s):

- **ORDINANCE 68.121.24**
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PERMITTING ACCESSORY DWELLING UNITS
- **UPDATE FROM THE SPONSOR: ORDINANCE 17.53.24**
AN ORDINANCE AMENDING PART 3 (CABARETS) OF CHAPTER 111 (AMUSEMENTS), PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS), AND CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REVISING REQUIREMENTS FOR CABARET AND ACCESSORY ENTERTAINMENT

Public Comment:

- Bruce Mastrorovich, 152 Washington Avenue, Albany NY—Ordinance 68.121.24

Discussion:

- Council Member Alfredo Balarin moved public comment to a later point in the meeting.
- Council Member Alfredo Balarin asked invited city personnel to join the Committee and other Council Members in discussing Ordinance 68.121.24.
 - Commissioner of Assessment Trey Kingston discussed existing Accessory Dwelling Units (ADUs) within the City of Albany.
 - Commissioner Kingston shared concerns regarding the enforceability and verification of the requirements outlined in Section A(ii) of the legislation.
 - Commissioner Kingston noted his concerns regarding using “gross area” under subsections 6 and 7 of Section 2 of the ordinance; he suggested that the legislation may want to include an extra 10% in addition to 800 square feet of gross area outlined to properly account for living area.
 - Commissioner Kingston discussed difficulties in measuring the percentages of land use in a specific area, suggesting a clearer definition for a “rear” in subsection 7.

- Council Member Thomas Hoey asked Commissioner Kingston about the impact an ADU may have on an assessment. Noting possible Albany County tax exemptions, he additionally asked Commissioner Kingston for a rough estimation of the difference between a City and County tax.
 - Commissioner Kingston explained that due to the Office of Assessment's group appraisal process, a discussion on the impacts on the surrounding properties' assessments may be more relevant. He proceeded to explain that the construction of an ADU may result in a small percentage increase in the overall tax bill for the surrounding properties.
 - Commissioner Kingston also discussed his understanding of the County's work on finalizing a tax exemption for ADUs in specific scenarios.
- Council Member Hoey asked about how homeowners with an ADU could contest their assessment to which Commissioner Kingston explained possible evaluation processes that could be undertaken by the Department of Assessment.
- Council Member Richard Conti asked for clarification on if in-law apartments must be attached to the main structure to which Commissioner Kingston explained that it is not a codified requirement according to New York State Real Property Tax Law but assessment-related property classes imply in-law apartments are attached.
 - Council Member Conti asked if a detached ADU would classify as a two-family house to which Commissioner Kingston noted that the distinction between a two family house and an in-law apartment would be discretionary.
- Council Member Conti reiterated the previous discussion regarding the impacts of ADU construction on surrounding properties' tax bills to which Commissioner Kingston clarified that his evaluation was based on the assumption that parcels with ADUs will have a premium price.
- Council Member Sergio Adams asked Commissioner Kingston about how soon surrounding properties may see tax increases considering an assumedly slow uptake of construction of ADUs. Council Member Adams proceeded to ask about the impact of a tax increase on neighbors.
 - Commissioner Kingston explained that with one ADU, regardless of incredible premiums being paid, the increase would likely be less than \$100. He proceeded to explain that due to the group appraisal process, if there are few unique properties in an overall homogeneous neighborhood, they may be more severely impacted if they are assessed against a property with an ADU that sold recently. Commissioner Kingston noted that Council Member Hoey's ward (15) would likely not be impacted by numerous high-premium ADUs due to the ward's property composition.
- Council Member Deborah Zamer asked Commissioner Kingston about how other substantive improvements to homes, such as additions, may impact the appraisal process.
 - Commissioner Kingston explained how changes in square footage will impact the property owner but not the surrounding properties.
 - Council Member Zamer sought clarification regarding other scenarios that could impact appraisals the same way as Commissioner Kingston previously hypothesized ADUs could; Commissioner Kingston explained how in-law apartments may be a similar scenario, but the Office of Assessment is impacted by barriers to data. He clarified that similar scenarios would be additions that may be accompanied by an extra revenue stream.
 - Council Member Zamer inquired about the permissibility of the existing ADUs within the City to which Commissioner Kingston stated he was not sure.
- Council Member Conti asked about the enforceability of requiring ADUs to be homeowner occupied and how that provision may impact the sale of a property with an ADU.
 - Commissioner Kingston shared his research into the homeowner occupancy requirement, sharing his uncertainty regarding it's enforceability despite municipalities legislating similar requirements.
 - Council Member Conti requested further research into enforcement regarding the homeowner to be the primary occupant of one of the structures after being sold the property.
- Council Member Hoey asked Commissioner Kingston about the application of federal discrimination laws for those with two or more units to which Commissioner Kingston explained that the criteria is two or less units in New York State and the Federal standards outline four or

less units. Commissioner Kingston clarified that regardless, landlords cannot discriminate against tenants.

- Council Member Hoey requested additional legal research on this subject.
- Council Member Owusu Anane asked Commissioner Kingston to share any positive impacts the legislation may have on the City of Albany to which Commissioner Kingston noted that the purpose of his discussion was to clarify the legislation to prevent unexpected issues. Commissioner Kingston proceeded to discuss how ADUs would allow for more intergenerational housing and additional economic/business opportunity for new homeowners within the City of Albany.
- Council Member Zamer inquired if an ADU would undergo the same requirements as other properties, such as receiving a certificate of occupancy. She additionally asked if the requirements would differ for family members or tenant occupants.
 - Commissioner of Buildings and Regulatory Compliance Richard LaJoy noted that if a family member was occupying the ADU, they would not be required to get a Residential Occupancy Permit to which Council Member Zamer noted that the legislation may need to account for this.
- Council Member Alfredo Balarin invited Planning Director Brad Glass and Principal Planner Avi Epstein to present on Ordinance 68.121.24 and discuss with present Council Members and other City Personnel.
 - Council Member Hoey asked Principal Planner Avi Epstein about the population change to which Planning Director Glass noted that despite a stagnating population growth, the average household size is going down, indicating a demand for units.
 - Council Member Hoey asked about the Department of Planning's consideration of the City's emergency services' capacity to respond to the needs of a city with a growing population size. Principal Planner Epstein explained that the population growth has not affected capacity beyond the city's ability to accommodate.
 - Council Member Hoey disagreed, noting that AirBNB rentals impeding parking in the 15th ward indicates a need to address growth in the city. He then expressed his concerns about ADUs being similarly rented, further impacting traffic.
 - Principal Planner Epstein responded, noting that ADUs are a great way to add contextual housing options without increasing the amount of parking because they are among the lowest generators of additional parking. He also shared that due to the 800 square foot size limit, the amount of occupants of the space are also limited; smaller households typically have less dependence on vehicles.
 - Director Glass shared his support for Council Member Hoey's advocacy for sidewalks on Russell Road.
 - Council Member Hyde Clarke asked if the analysis undertaken by planning investigated how many properties could actually support a detached ADU. He noted his concerns about existing setback requirements limiting the amount of properties eligible.
 - Principal Planner Epstein noted that the department lacked the data to conduct such an analysis, however previous research supported his conclusion that there are likely more applicable properties that may convert an existing structure. He noted that the impending amount of ADU construction may be overstated as Colonie has constructed approximately fifty.
 - Council Member Clarke noted his concerns about the legislation's drafting and its cohesion with the comprehensive plan. He also expressed confusion regarding the ordinance's general allowance of ADUs. Council Member Clarke additionally asked if there are other sections of the Unified Sustainable Development Ordinance (USDO) that need to be amended to allow ADUs.
 - Director Glass shared that ADUs were proposed to be included in the USDO in 2017 and Albany is becoming an outlier amongst other municipalities in not allowing them, noting that Colonie passed legislation permitting ADUs in 2018. He proceeded to explain that the ordinance is consistent with the comprehensive plan.
 - Council Member Clarke reiterated his confusion regarding the legislation's drafting and emphasized his concerns about consistency across the entire USDO

- to which Principal Planner Epstein explained how the legislation coincided with existing standards. He noted that provisions could be adjusted if desired.
- Council Meghan Keegan responded to Council Member Clarke, to contextualize the legislation, noting the historical resistance to altering R1 districts within Albany.
 - Council Member Conti and Director Glass supported Council Member Keegan's claims; Council Member Conti noted that the proposition of ADUs were not rejected in 2017, the Council just was concerned about the Council's capacity to address the issue at that time.
 - Council Member Conti inquired about the definition of a "detached dwelling" and if a particular type of construction could be considered an ADU to which Principal Planner Epstein explained.
 - Council Member Hoey asked about how ADUs were implemented in Colonie to which Principal Planner Epstein shared that he believed that they were generally allowed in all districts besides heavily industrial or commercial areas. He noted that Troy has not seen a rush of applications for ADU constructions.
 - Principal Planner Epstein verified Committee Chair Balarin's statement that only one ADU would be allowed on a on a multi-unit property. Additionally, Council Member Balarin asked about the minimum size requirement for an ADU to which Principal Planner Epstein explained that although there is no minimum, the space would have to be habitable under Codes' standards. Director LaJoy explained what qualified as habitable.
 - Fire Chief Joseph Gregory noted a list of concerns and recommendations from the Fire Department, regarding access with firefighting equipment, limited separation between the primary residence and ADU, and clearly identifying occupant locations during an emergency.
 - Council Member Conti asked Chief Gregory about the difference in responding to fires in areas with different densities and building structures to which Chief Gregory discussed the importance of clearly identifiable dwellings during a fire.
 - Council Member Hoey asked about how ADUs will be provided addresses, citing concerns about emergency response accessibility. Chief Gregory shared that the ADU would become incorporated in their dispatch system. Director LaJoy noted that Codes requires separate living units to be clearly identifiable and numerated. Principal Planner Epstein noted that the Planning department sometimes works with the County's 911 dispatch for addressing units.
 - Director LaJoy noted that his primary concerns pertained to verifying who lives in the dwelling and when it is being rented to ensure they are following standards outlined by the department if they will not require ROPs. He also expressed concerns about the enforcement of the homeowner occupied requirement.
 - Council Member Keegan asked for clarification on if waiving ROP requirements for family members was part of local or state code to which Director LaJoy stated he believed it was part of the Unified Sustainable Development Ordinance. Council Member Keegan proceeded to discuss the body's ability to structure language that would remove ROP exemptions, requiring updated occupancy certificates for ADU rentals.
 - Council Member Keegan noted that requiring ROPs could resolve the presented concerns to which Director LaJoy shared his support for this provision.
 - Council Member Balarin shared his concerns about requiring inspections for family-occupied ADUs due to perceived government overstepping.
 - Council Member Conti asked for clarification on the family member rental ROP exception to which Director LaJoy explained that if one signs an affidavit stating their familial relation, Codes will not charge or require the ROP inspection.
 - Council Member Balarin shared that ROPs are a requirement for tenant evictions which would incentivize landlords to go through the ROP process.
 - Council Member Hoey asked about the enforcement of the "Grouper Law" to which Director LaJoy explained that upon legal advice, his department does not ask about familial relation but can approach overcrowding in other ways.
 - Council Member Hoey shared his concerns about ADUs being used as short-term rentals and how they will be regulated to which Director LaJoy shared that the primary way to verify short-term rental use is through owner confirmation.
 - Council Member Hoey asked about insurance requirements for rentals to which Director LaJoy expressed that there was no way to enforce rental insurance.

- Council Member Balarin inquired about the possibility of a provision that requires that only one of two dwellings on a lot with an ADU can be rented as to ensure the homeowner occupied unit would not be subject to an ROP inspection to which Director LaJoy confirmed said requirements already exist.
 - Council Member Balarin asked about the ability to limit the amount of ROPs to which Director LaJoy stated he was unsure.
 - Council Member Keegan inquired if the legislation already effects Council Member Balarin's request to which Director LaJoy verified but expressed concerns about enforceability of the homeowner-occupied requirement after a property changes ownership.
 - Council Member Conti reemphasized Council Member Keegan's point, illustrating that records indicating an existing ROP would preclude the issuance of another for a property after an ownership transfer and strengthen the enforceability of the provision.
 - Council Member Balarin asked if the legislation needed to clarify this point to which Council Member Zamer clarified that the issue with enforceability is in regards to those who do not comply with ROP requirements.
 - Council Member Hoey asked if the homeowner-occupied requirement would be included on the deed of a property to which Director Glass noted that mortgage companies typically check zoning compliance certificates to identify how a property can be used.
- Commissioner of Water and Water Supply Joseph Coffey noted that the department has no stance on the ordinance but would like to sell more water; he expressed the need to clarify the requirement for a detached ADU to require a separate meter water connection and sanitary sewer connection.
 - Council Member Hoey asked about the responsibility of replacing lead service lines to which Commissioner Coffey explained that the department would typically not be involved in the addition of a new structure, that all lead lines will need to be replaced, and reemphasized the need for separate connections.
 - Director LaJoy advocated for ADUs to have their own power sources.
- *Public comment was heard.*
- Council Member Sergio Adams provided an update on progress made on editing Ordinance 17.53.24.
 - Council Member Conti expressed his disappointment regarding the version of Ordinance 17.53.24 put forth by Council Members Flynn and Adams.

Adjourn:

Council Member Hoey moved to adjourn, duly seconded by Council Member Adams. The Chair declared the meeting adjourned at 7:29 PM.

Respectfully Submitted,
Alyssa Kamara
 Junior Policy Analyst