Removing Barriers to Backyard Cottages & Accessory Dwelling Units

Director's Report
May 2016

prepared for the
Seattle City Council

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Introduction

In September 2014, the City Council adopted Resolution 31547 directing the Department of Planning and Development (DPD) to explore policy changes that would increase the production of attached accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs or backyard cottages), including regulatory changes, incentives, and marketing and promotion. In October 2015, DPD released a report discussing a range of potential policy options that could help achieve this goal. Staff from the Office of Planning and Community Development (OPCD) then conducted several months of outreach and engagement with the public, current and prospective backyard cottage owners, and people who design and build backyard cottages.

In January and February 2016, Councilmember Mike O'Brien and OPCD co-hosted two community meetings to get feedback on a number of potential Land Use Code changes and solicit ideas and strategies for making it easier to create backyard cottages and ADUs. Attendees at these meetings weighed in on several potential policy options that would make it easier for people to create housing through backyard cottages and ADUs. Several presentation boards described the policy questions and provided space for people to respond and leave additional comments. OPCD staff also distributed and received hundreds of comment forms with these same questions. The OPCD website has a summary of the public input received throughout this process.

Based on this feedback, OPCD staff have prepared legislation for the City Council that would amend various provisions in the Land Use Code related to the creation of backyard cottages and ADUs. This report describes these amendments. In brief, this legislation would modify the development standards that regulate the siting, location, and design of backyard cottages; allow an ADU and a backyard cottage on the same lot; and change the parking and owner-occupancy requirements that

apply to both ADUs and backyard cottages. The proposal responds to identified barriers to creation of ADUs and backyard cottages and reflects the input that OPCD and Councilmember O'Brien gathered on these specific potential policy options during months of outreach and at the two public meetings in early 2016.

Background

Accessory dwelling units (ADUs) are separate living units generally located within a single-family house but also allowed in rowhouses and townhouses. They're sometimes referred to as mother-in-law units or granny flats. Since 1994, ADUs have been allowed on all single-family zoned lots, subject to certain requirements.

A detached accessory dwelling unit (DADU), often called a backyard cottage, is a room or set of rooms located in a separate structure from, but on the same lot as, a single-family home. In 2006, the City Council allowed backyard cottages in a pilot area in southeast Seattle. Due in part to the positive response from homeowners and neighbors, the City expanded the program in 2010 to allow cottages in Single Family Residential and Lowrise zones citywide.

As of December 2015, 221 backyard cottages had been constructed or permitted in Seattle, as shown in Figure 1, despite approximately 75,000 single-family lots that meet the eligibility criteria for a backyard cottage. Since 2010, annual production has averaged 34 backyard cottages; only once during this period have more than 40 been permitted in a single year.

Section 23.44.041 of the Seattle Municipal Code contains the regulations for accessory dwelling units. Under current regulations, a single-family lot can have an attached ADU, a backyard cottage, but not both. Except for lots in urban villages, one off-street parking space is

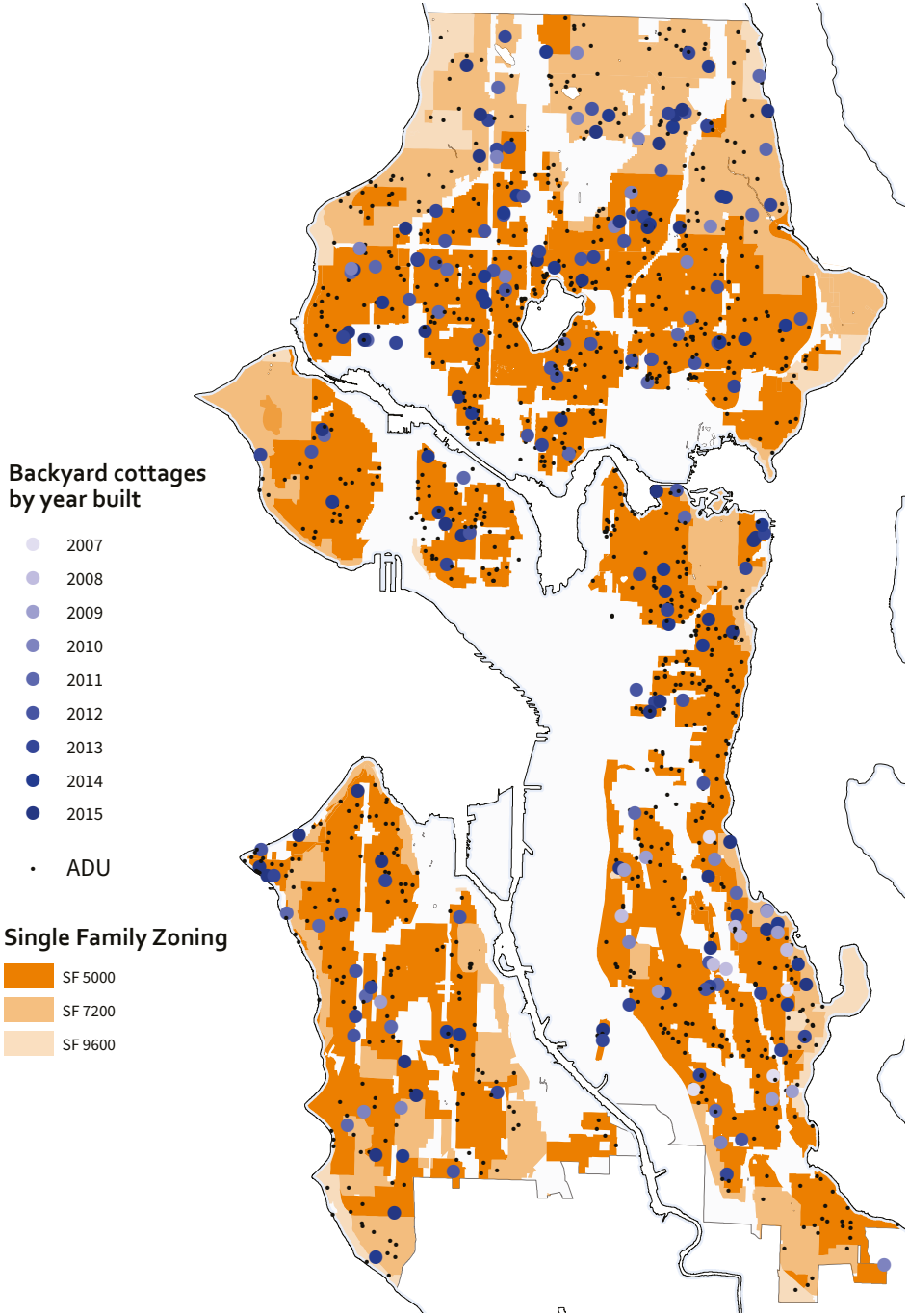

Figure 1. *Constructed and permitted ADUs and backyard cottages (as of December 2015).*

required when an ADU or backyard cottage is created. Under current regulations, a property owner must occupy either the main house or the accessory dwelling unit for six months of the year.

In addition to the requirements for all accessory dwelling units, backyard cottages must also meet additional development standards that regulate the scale of the structure and its location on the lot.

The City of Seattle Comprehensive Plan includes several goals and policies that address housing affordability, direct the City to encourage a diversity of housing options, and concern land use in single-family areas, such as:

- **Goal HG4:** "Achieve a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household types, household sizes, and cultural backgrounds."
- **Goal HG6:** "Encourage and support accessible design and housing strategies that provide seniors the opportunity to remain in their own neighborhood as their housing needs change."
- **Policy H18:** "Promote methods of more efficiently using or adapting the city's housing stock to enable changing households to remain in the same home or neighborhood for many years. Strategies may include sharing homes, accessory units in single-family zones, housing designs that are easily augmented to accommodate children ("grow houses"), or other methods considered through neighborhood planning."
- **Policy H20:** "Promote and foster, where appropriate, innovating and non-traditional housing types such as co-housing, live/work housing and accessory dwelling units, as alternative means of accommodating residential growth and providing affordable housing options."
- **Policy LU64:** "In order to create attractive and affordable rental opportunities and provide greater flexibility for homeowners, permit accessory dwelling units in single-family zones, subject to regulations design to limit impacts and protect neighborhood character."

Furthermore, the proposed Seattle 2035 Comprehensive Plan Update current under consideration by the City Council includes the following policies:

- **Policy H 3.4** directing the City to "Promote use of customizable modular designs and other flexible housing concepts to allow for households' changing needs, including in areas zoned for single-family use."
- **Policy LU 7.5** directing the City "Encourage accessory dwelling units and other housing types that are attractive and affordable to a broad range of households and incomes and that are compatible with the development pattern and building scale in single-family areas."

Summary of Proposed Changes

As summarized below, this Council Bill would make the following changes to the Land Use Code to modify regulations related to the creation of accessory dwelling units in single-family zones:

Allow an ADU and backyard cottage on the same lot

Currently, a single-family lot can have an ADU or a backyard cottage, but not both. This Council Bill would allow single-family lots that otherwise meet the standards of Section 23.44.041 to have an ADU and a backyard cottage. This does not change the current allowable building envelope in single-family zones. It modifies only the number of units allowed within that envelope. Structures on single-family lots would continue to be regulated by the maximum lot coverage limit and other development standards.

From the outside, a lot with a backyard cottage is not likely to look any different than a lot with an backyard cottage an ADU since the ADU would be located within the main house. Furthermore, the current household size limit would continue to limit the number of people that can live on the property. Each single-family lot can have only one

household, defined as up to eight people if any one of them is unrelated to the others.

Remove the off-street parking requirement

Current regulations require an off-street parking space for an accessory dwelling unit unless the lot is located in an urban village. This requirement can be waived only if the topography of or location of existing structures on the lot make providing the parking space infeasible. This requirement is in addition to the off-street parking space required for principal units on a single-family lot. The off-street parking requirement is frequently cited as a barrier to creating an ADU or backyard cottage.

This legislation would remove the parking requirement for ADUs and backyard cottages. On a single-family lot outside of an urban center or village, one parking space would be required for a single-family lot, including the principal dwelling unit and any accessory dwelling units. This would not alter the existing provision that prohibits removal of an existing required parking space for an accessory dwelling unit unless it is replaced elsewhere on the lot.

Matt and Amy Stevenson / CAST Architecture

As previously shown in Figure 1, ADUs and backyard cottages have historically been evenly dispersed throughout the city. There is no appreciable concentration of ADUs or backyard cottages in a single area, neighborhood, or zone. This distributed pattern of production is likely to continue such that the proposed change in the parking requirement is unlikely to have a perceptible impact on the supply of on-street parking, even if overall production of ADUs and backyard cottages increases as a result of this proposal. In some neighborhoods, on-street parking is abundant; in many areas where it is scarce, transit service is very good.

Portland, Oregon, is a useful case study. Accessory dwelling units in the Rose City are not required to provide off-street parking. Nevertheless, nearly two-thirds of ADUs there had zero vehicles parked on the street. In these cases, either tenants did not have a car, or the property owners voluntarily provided parking despite no requirement to do so.

Modify the owner-occupancy requirement

This legislation would maintain the existing requirement that a property owner occupy either the main house or the accessory dwelling unit. It would add a subsection stipulating that the owner-occupancy requirement terminates 12 months after the final inspection for the building permit for the ADU or backyard cottage. Thereafter, this change would allow the main house and any accessory dwelling units to be rented. For existing ADUs and backyard cottages whose building permit inspection is at least 12 months in the past, the owner-occupancy requirement would also terminate.

Modifying the owner-occupancy requirement would allow property owners who no longer want or are able to live on their property to move and rent their house and their ADU or cottage. However, maintaining the requirement for the initial 12-month period would prevent someone who does not live on the property from creating an ADU or backyard cottage, ensuring that speculative development interests are not able to develop single-family lots with ADUs and backyard cottages.

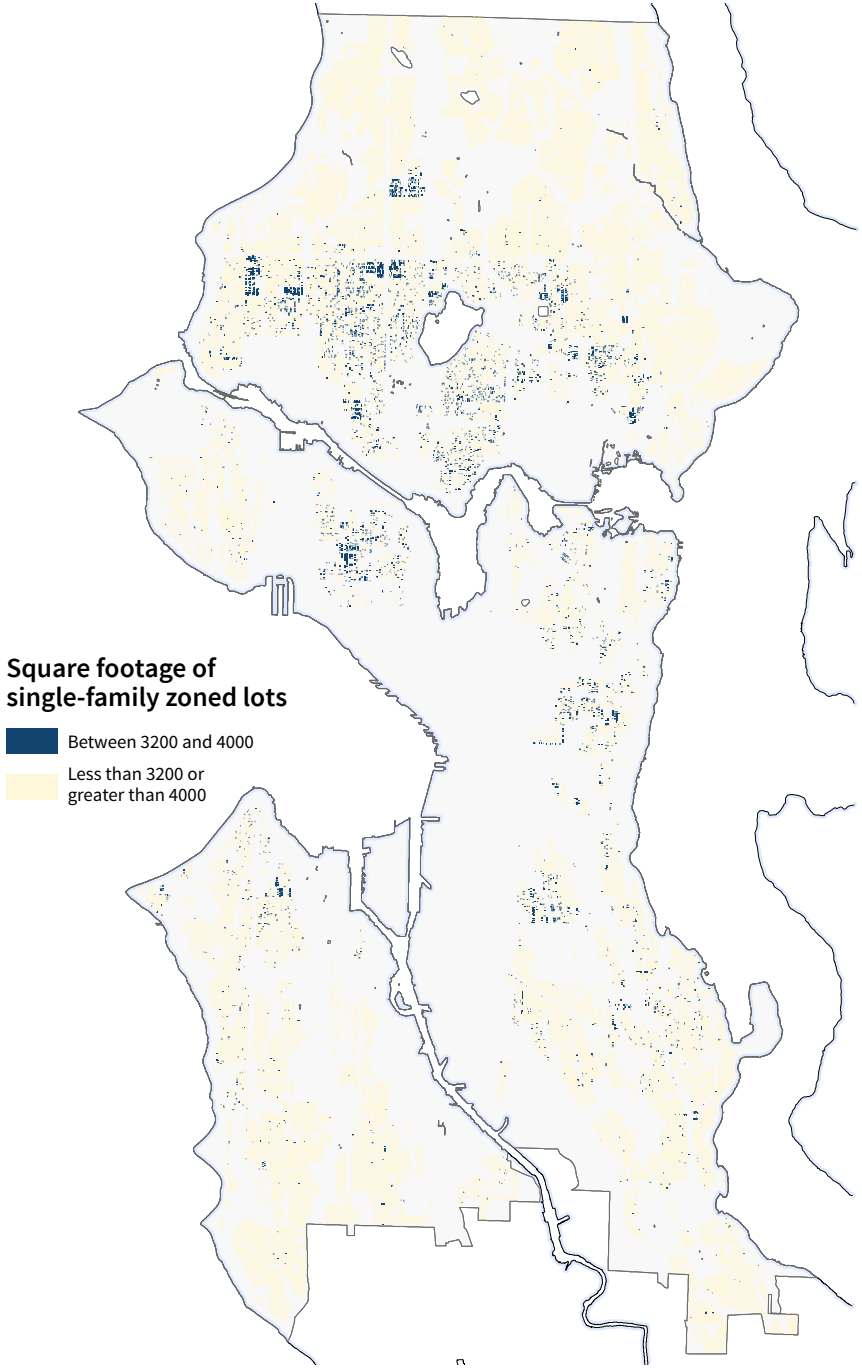

Figure 2. *Single-family zoned lots at least 3,200 and less than 4,000 square feet in area.*

When a single-family property with an ADU and/or backyard cottage is sold after the 12-month period has passed, the new owner can rent out the house and any accessory units without needing to be an owner-occupant. If the house is sold prior to the 12-month requirement being satisfied, the owner-occupancy requirement would be in effect until 12 months after the final inspection.

Reduce the minimum lot size for backyard cottages

Only lots 4,000 square feet and larger can have a backyard cottage under current regulations. This legislation would reduce the minimum lot size for a backyard cottage to 3,200 square feet. Approximately 7,300 single-family lots that currently do not have, but otherwise meet the criteria for, a backyard cottage would become eligible for one due to this change. As shown in Figure 2, many of the single-family lots between 3,200 and 4,000 square feet in area are in centrally located neighborhoods rich in amenities, services, and transit.

Other development standards, such as required yards, minimum separation between structures, and the maximum lot coverage limit, would continue to regulate the location and scale of backyard cottages. On lots under 4,000 square feet, the maximum lot area that can be covered — equal to 1,000 square feet plus 15 percent of the lot area — would limit the size, or in some cases outright preclude construction, of a backyard cottage. In some cases, a small lot could only accommodate a backyard cottage if the existing main house were relatively small.

While current regulations prohibit backyard cottages on lots under 4,000 square feet, there is no regulation preventing demolition and rebuilding of single-family houses on small lots. Allowing backyard cottages on lots between 3,200 and 4,000 square feet would provide another option for owners of these lots as they plan for changing household needs in the future.

Modify the maximum height limit for backyard cottages

This legislation would simplify and slightly increase the maximum height limit for backyard cottages. Under current regulations, the maximum height of a backyard cottage depends on the width of the lot. Current standards have five width categories despite negligible or nonexistent distinctions in the maximum height a cottage can be in three of the categories. As shown in Table 1, the proposal would simplify this standard to three categories: lots less than 30 feet, between 30 and 50 feet, and greater than 50 feet in width.

Compared to current standards, the proposed changes would add at most two feet to the base structure height limit. On the narrowest lots, a backyard cottage with a pitched roof could be at most 17 feet tall. On the widest lots — those more than 50 feet wide — a cottage with a pitched roof could be at most 25 feet tall. Cottages with shed or butterfly roofs are subject to a lower maximum height limit than cottages with pitched roofs. Figure 3 illustrates the current and proposed height limits for a typical 40-foot-wide lot.

Modify the rear yard coverage limit

Current regulations limit coverage of a required rear yard to no more than 40 percent. This legislation would allow an additional 20 percent coverage only for one-story backyard cottages (i.e., under 15 feet in height) to provide flexibility for property owners who may wish to design a cottage without stairs for mobility or universal design reasons.

Table 1: Proposed height limits for backyard cottages

Lot width (ft)	< 30	30–50	> 50
Base height (ft)	14	16	18
Additional height for pitched roof (ft)	3	7	7
Additional height for shed/butterfly roof (ft)	3	4	4

Current

MAXIMUM HEIGHT LIMITS

backyard cottage with shed or butterfly roof	**18 feet**
backyard cottage with pitched roof	**21 feet**
single-family house with pitched roof	**35 feet**

Proposed

MAXIMUM HEIGHT LIMITS

backyard cottage with shed or butterfly roof	**21 feet**
backyard cottage with pitched roof	**23 feet**
single-family house with pitched roof	**35 feet**

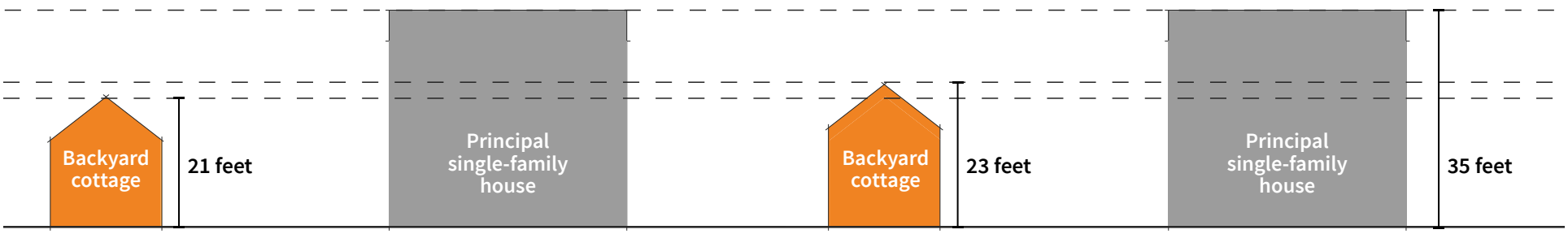

Figure 3. *Current and proposed maximum height limits for a backyard cottage on a 40-foot-wide lot.*

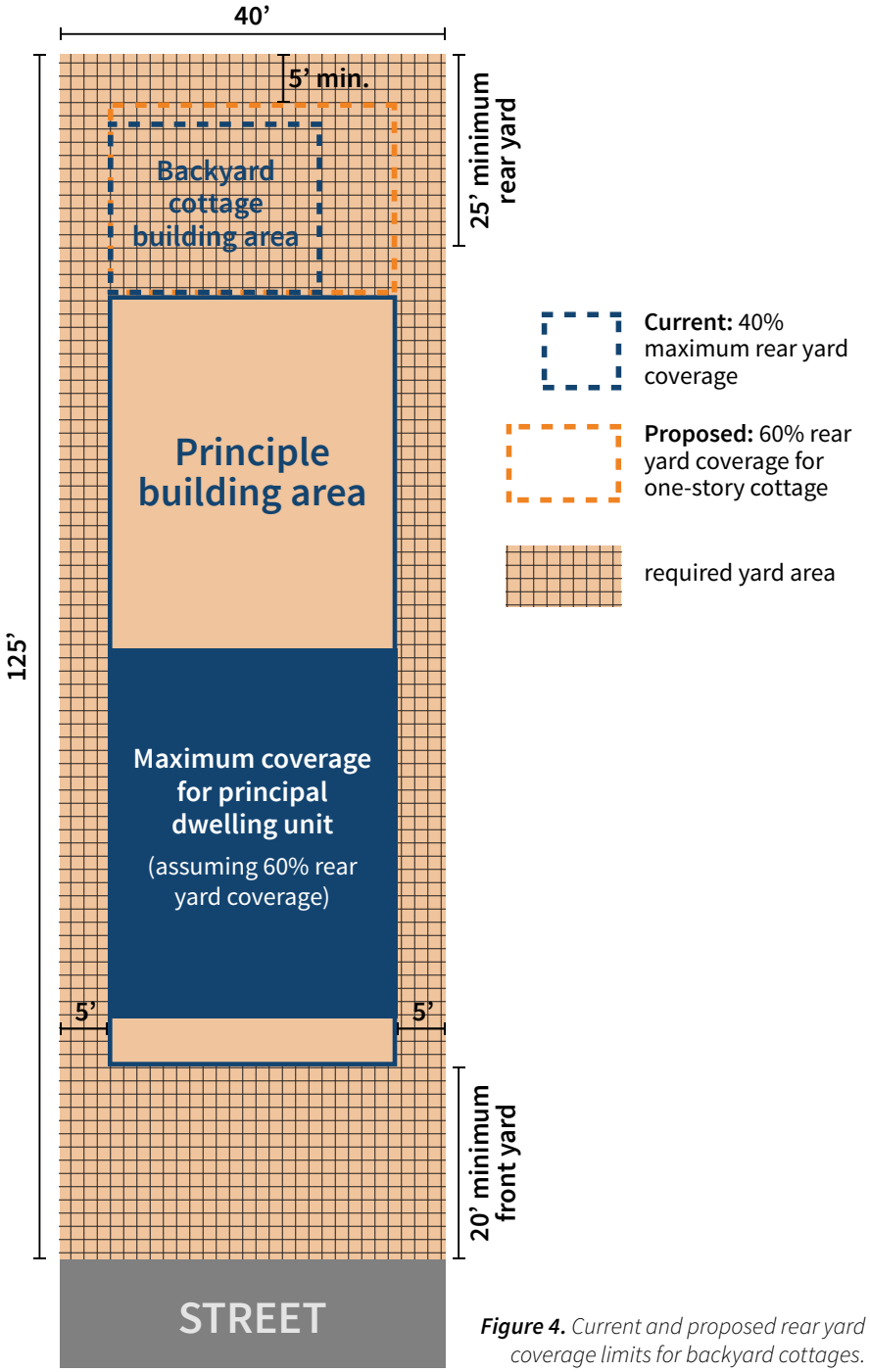

Figure 4. *Current and proposed rear yard coverage limits for backyard cottages.*

Except in the case of a one-story cottage, this legislation would not alter the rear yard coverage limit for the principal and other accessory structures, all of which would continue to be limited to no more than 40 percent coverage of the rear yard. This change applies only to backyard cottages under 15 feet in height, as shown in Figures 4 and 5.

Furthermore, this legislation proposes no changes to the overall lot coverage limit set forth in 23.44.010. This existing standard sets a limit on the amount of a lot that all structures can cover: no more than 35 percent coverage for lots 5,000 square feet and larger and 1,000 square feet plus 15 percent of lot area for lots under 5,000 square feet in area.

Modify maximum gross square footage limits

Currently, ADUs are limited to 1,000 square feet and backyard cottages to 800 square feet. This legislation would create a single square footage limit for both ADUs and backyard cottages at 1,000 square feet. The legislation also removes garage and storage space from counting towards the maximum gross square footage for ADUs and backyard cottages.

These changes would allow ADUs and backyard cottages to provide more livable area and increase the likelihood of two-bedroom backyard cottages more suitable to a broader range of households, including families with children. It could add flexibility particularly for backyard cottages built above garages since garage space frequently counts for over half of the allowable square footage under current regulations, substantially limiting the habitable size of the cottage.

A singular square footage limit rationalizes the standards for ADUs and backyard cottages: currently an accessory unit can be 1,000 square feet if built as an attached addition to a house but only 800 square feet if separated by only five feet as a backyard cottage.

As previously stated, several other dimensional requirements will continue to ensure that the location and scale of backyard cottages are

appropriate for and in context with the lot, even with a change to the maximum square footage limit. For instance, on smaller lots or where the principal dwelling unit is large, the lot coverage limit may not allow a 1,000-square-foot backyard cottage. The maximum height limit and required yards also constrain where and how large a cottage can be.

Add flexibility for location of entry to a backyard cottage

Current regulations prohibit entrances to a backyard cottage on the facades facing the nearest side or rear lot lines unless that lot line abuts a public right-of-way. This legislation would allow an entrance on any facade provided that the entrance is no closer than 10 feet to side or rear lot line, unless that lot line abuts a public right-of-way.

Allow certain roof features that add interior space

This legislation would allow certain roof features that accommodate windows and add interior space, such as dormers, clerestories, and skylights. These are already allowed for principal units in single-family zones but are currently not allowed for backyard cottages. Given the small size of backyard cottages, these features can add valuable additional livable space. None of these features is allowed to project above the ridge of a pitched roof. Similar provisions to what exist in the regulations for principal units in the standards for single-family lots would limit the size and location of such roof features on backyard cottages. Features that project from a roof would be limited to 30 percent of the roof area, for example, and subject to width and separation requirements.

Clarify standards for projections from backyard cottages

Under current regulations, certain exceptions from standard yard requirements that apply to principal units in single-family zones also apply to backyard cottages. However, referencing standards written for principal dwelling units leaves unclear exactly how these exceptions apply to a backyard cottage.

For example, the exceptions described in subsection 23.44.014.D.6 specify that external features like eaves may project no more than 18 inches into any required yard. When a backyard cottage is located entirely in a rear yard, however, it is not clear how this standard should be applied.

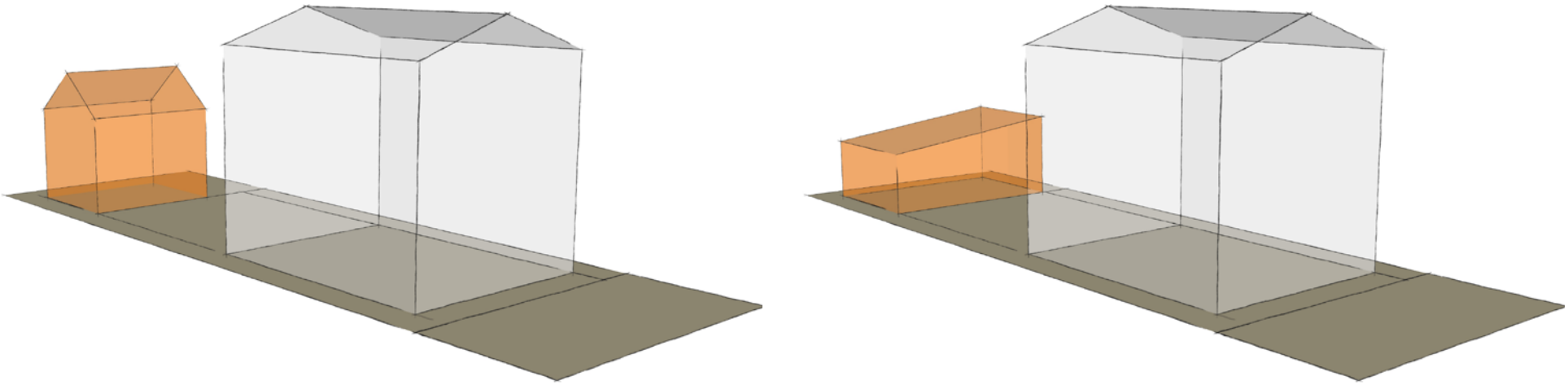

Figure 5. *The 60 percent rear yard coverage limit in the case of a one-story backyard cottage (right). Cottages taller than 15 feet remain subject to the current 40 percent rear yard coverage limit (left).*

This legislation would clarify standards for features on backyard cottages that project from a structure. These features would not be allowed within 3.5 feet of any lot line and would count against overall lot coverage according to the standards in 23.44.010. That section specifies that the first 36 inches of eaves and gutters that project from principal and accessory structures are not counted in lot coverage calculations.

Clarify regulations for accessory structures in required yards

This legislation would modify some of the language of the yard regulations in Section 23.44.014 to clarify that a backyard cottage is allowed in a rear yard provided it complies with other development standards. This amendment only clarifies current practice and is not a substantive change.

Modify definition of "Residential use"

Allowing both an ADU and a backyard cottage on a single-family lot necessitates a minor change to what constitutes a "Single-family dwelling unit" as described in the definition of "Residential use" in Section 23.84A.032. According to this definition, a single-family dwelling unit contains one dwelling unit, including an ADU and/or backyard cottage, if either or both exist.

Chrystine Kim / NEST Architecture & Design