

# Barriers to Urban Infill in URC

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Example: Can we add a third unit in the attic of an existing 2-family home in URC?



# 42/44 Day Ave

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- Table of Use Regulations (Section 350):
  - Up to 3-family dwellings allowed by right
  
- Table of Dimensional Requirements
  - Multifamily housing 3 stories or less:
    - 6,000 sf min. lot size per unit
    - 100' min. frontage
    - 20' min. front setback
    - 40% min. open space
  
- 42 Day Avenue Lot Size: 10,000 sf
  - @ 6,000 sf per unit, just one unit is allowed
  
- Can we add a third unit in the unfinished attic? No
  
- Could we build our second unit today? No
  
- Can we keep our existing nonconforming second unit? Yes, we are grandfathered as a legal nonconforming use

# 42/44 Day Ave

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## ➤ However....

- Although our house is a legal nonconforming structure because it was built prior to the establishment of the present zoning ordinance, the ordinance does “apply to any change or substantial extension of such use” (350-9.2)

## ➤ So, can we expand our second (nonconforming) unit into the unfinished attic?

A preexisting nonconforming structure or use may be altered as-of-right if (350-9.3):

- The expansion/change itself meets all the dimensional and use requirements of the current zoning.
  - 42/4 Day: 2<sup>nd</sup> unit doesn't conform to minimum lot size requirements
- The change makes a preexisting nonconforming residential use into a conforming residential use
  - This would allow us to convert the house back to a single family
- The expansion is for residential use and does not extend further than the existing non-conforming structure.
  - Expanding within existing structure, so we can expand based on this provision.
- Other options we would have if that hadn't worked: Get a finding by ZBA that would not be more detrimental to neighborhood than existing nonconforming use, Obtain a variance if change creates new violation

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## Does Open Space Residential Development provide any options?

- No, in URC, OSRDs require at least 3 continuous acres of land
- Side Note: Maximum allowed densities for an OSRD in URC are substantially less than max allowed densities for each lot on URC:
  - OSRD allows 4.4 units/acre in URC, and 5.06 units per acre with the maximum density bonus for affordable housing units
  - URC provisions allow 1 unit / 6,000 sf of lot, or 7.26 units / acre

## Do Planned Unit Developments provide any options?

- No, In URC, PUDs require at least 4 contiguous acres of land

## Do Accessory Apartments provide any options?

- No, in addition to a number of constraints/deterrents to building this type of unit to add value to a home, they are allowed only for single family homes

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## Can the Sustainable Growth Overlay District help us?

- No, although the two “Subzones” within this district allow for higher density than is allowed in URC, this district is used exclusively for 40R zoning and only applies to two specific parcels off Burts Pitt Rd and Prince St
  - Subzone A: Single Family Residential - Up to 8 dwelling units per acre
  - Subzone B: Multifamily Residential with Mixed Use - Up to 21 units per acre
  - 40R Zoning: Districts that allow high density residential in a smart growth location according to the state’s 40R Smart Growth and Housing Production provisions. Development / infrastructure improvements in these districts are eligible for tax increment financing.

## How about Transfer of Development Rights?

- No, TDRs are allowed only by special permit from Farms, Forests and Rivers District to the Planned Village District (Hospital Hill)



# 42/44 Day Ave

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- So, since we can't create a third unit, should we expand the second floor unit into the attic?
  - Would cost nearly as much as developing it into a full third unit
  - Incremental difference of rent much smaller than adding third unit
  - Result would be a very large, expensive rental unit with 4 bedrooms & 2,200 sf. This might be harder to rent. Would we limit renter population to well paid professionals and to groups of college/grad students? Would high expense of unit make it difficult to find and keep long term tenants?
  - Conclusion: Probably not worth it. Let's build a ping pong table instead.

# Lessons Learned: Barriers to Urban Infill in URC

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Density Notes: URC is Northampton's highest density residential district, yet....

- 1 unit / 6,000 sf of lot = 7.26 units / acre
- Sustainable Northampton: 12 units per acre is min. target density in urban areas! Many older neighborhoods already have these densities but our zoning no longer allows us to build the traditional neighborhoods that we admire.
- If you have a  $\frac{1}{4}$  acre lot (10,890 sf), you cannot add a SECOND unit, which requires 12,000 sf
  - Why are there so many two-family homes? They are grandfathered!
  - Note: Owner-occupiers do have the option of adding an accessory apartment, but this option is fairly restrictive

Side Note on Mixed uses: Very little allowed by right, but a number of possibilities allowed by special permit

- Allowed by right: Home offices (cannot see clients, no signs permitted, no goods can be sold)
- Allowed by special permit: Home occupations, bed and breakfasts, lodging houses, mixed-residential work space, mixed/residential retail service, commercial uses, community centers, schools.

# Another Example in URC

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For Sale: 50 Market St, Commercial Lot, Zoned URC, \$300,000

- Lot Size: 6,534 SF (.15 acre)
- Grandfathered auto shop, licensed by city, 1 bay garage / 2 offices, 20 parking spaces
  - Commercial uses not allowed in URC – so, no expansion of the structure allowed for commercial use , can obtain a variance if qualifies as a “preexisting nonconforming retail use” (350-9.3 A(9))
  - Can change commercial use from auto repair, but would need to obtain a finding from the ZBA (350-9.3 A(8)) that the change “will not be more detrimental to the neighborhood than the existing nonconforming nature of the structure, lot and or use.” Conditions may apply. (350-9.2 B).
  - If change use to residential, only one unit could be built here due to lot size, despite the fact that this lot is large enough to park 20 cars!





# Barriers to Urban Infill: Commercial Development

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- In almost all cases, zoning for commercial uses in General Business and Highway Business is same or less restrictive than in Central Business and Neighborhood Business
- Design standards apply only to Central Business

Should it be easier to develop commercial uses in GB/HB than CB/NB if we want businesses to be located where they can be reached without a car? Both zoning and design standards make it easiest/cheapest to develop outside the urban area.

Are our zoning regulations pushing commercial establishments to the outskirts, resulting in auto-oriented development patterns?

# Barriers to Urban Infill: Parking

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In Central Business:

Most Residential Uses: 1 space per 1,000 square feet of floor area. Max 1 per dwelling unit.

In All Other Districts:

Most Residential Uses: 1 space per 500 square feet of floor area. Max 2 per dwelling unit.

Example 42/44 Day:

IF we had 3 units (1300 sf, 1200 sf, 800 sf), we would need to provide 6 parking spaces, while still meeting the 40% open space requirement. Doesn't account for: small size of 3<sup>rd</sup> unit, proximity to bus stop (less than 1 block), proximity to bike path (1.5 blocks), or abundance of street parking in neighborhood (3 street spaces in front of house).

Conclusion: On smaller urban lots, even if we change the lot size requirements, meeting the high parking requirements along with the minimum open space requirements could prohibit new dwelling units from being added.

Note: Site plan approval process allows parking requirements to be reduced by 20% and special permit process allows for further reduction of parking requirements.