

TITLE 5 AND ADUs AND A FEW OTHER THINGS

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2025 MEHA Title 5 Seminar

March 5, 2025 – Taunton

Discussion

- Greywater Systems
- Frimpter Method
- Affordable Homes Act
 - Guidance on Title 5 Compliance for ADU
 - Applicable T5 Provisions
 - Scenarios
 - Other Considerations
 - Frequently Asked Questions (FAQs)
- Questions
- Contacts

Greywater Systems

Greywater

Any putrescible wastewater discharged from domestic activities including but not limited to washing machines, sinks, showers, bath tubs, dishwashers, or other source except toilets, urinals and any drains equipped with garbage grinders.

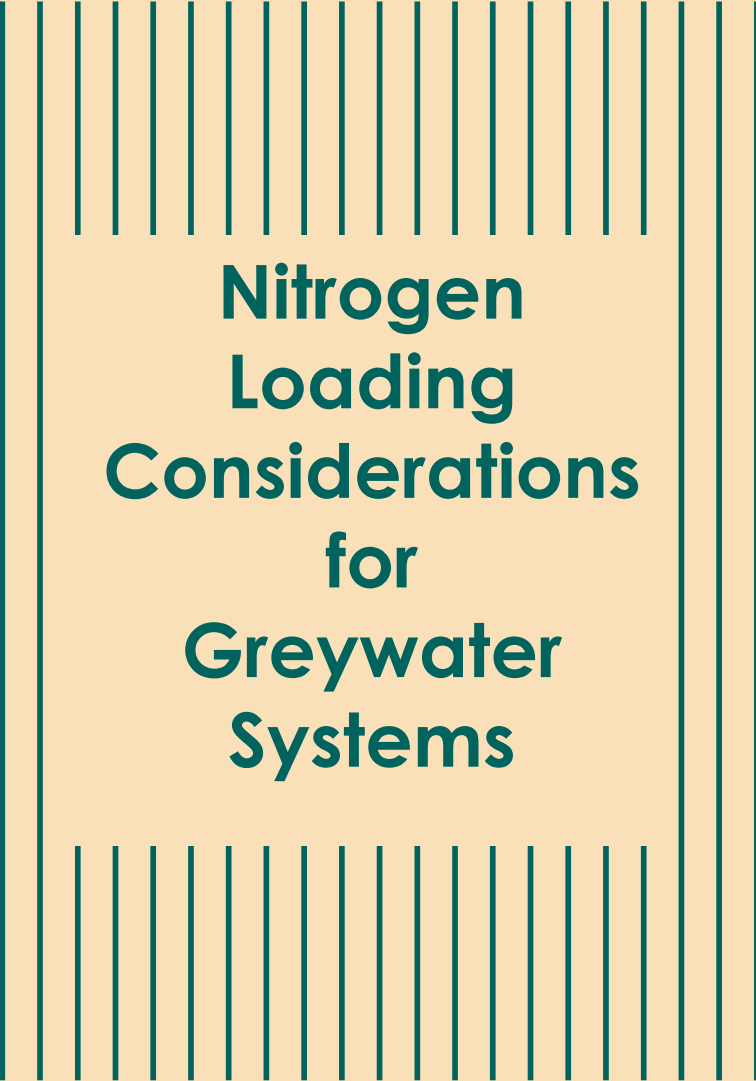
Greywater Systems – 310 CMR 15.262

If SAS is only for greywater:

- Up to 50% size reduction permitted for residential systems
- For residential new construction, must demonstrate a system in full compliance for entire flow is possible on the site
- Case-by-case reductions for commercial and public facility systems by MassDEP

Design allowances:

- For remedial upgrade, 2 ft or 3 ft separation to gw
- Septic tank or filter for a greywater system
- Commercial & public facility septic tanks shall be at least 2/3 regular size

A decorative graphic consisting of a series of vertical lines of varying heights and thicknesses, arranged in a pattern that frames the central text.

Nitrogen Loading Considerations for Greywater Systems

- Provided there is no discharge of blackwater:
 - Residential facilities with composting toilets and greywater systems in nitrogen sensitive areas may load at 660 gpd/acre.
 - Commercial and public facilities with composting toilets and greywater systems in nitrogen sensitive areas may load at 770 gpd/acre.
 - Annual inspections are required.
- Greywater systems for new construction or for increases in flow in nitrogen sensitive areas defined in 310 CMR 15.214 must comply with limitations in accordance with 310 CMR15.215.



Frimpter Method

- ❖ First developed in the 1980s
- ❖ Draws on statistics from a USGS groundwater monitoring well network
- ❖ Helps inform estimates of seasonal high groundwater elevations at a given site
- ❖ USGS study published in 2020 updated the data utilized by this method

A decorative graphic consisting of 20 vertical teal lines of varying heights, arranged in a slightly irregular pattern on the left side of the slide.

Currently MassDEP recommends the following S_R values:

7.96 ft – stratified drift aquifer on hills

4.25 ft – stratified drift aquifer in valleys

7.44 ft – glacial till aquifer near streams

16.74 ft – glacial till aquifer in uplands

For more information, please contact
MassDEP Drinking Water Program Director
program.director-dwp@mass.gov

Frimpter Method Links

USGS Site for current groundwater levels in New England

https://newengland.water.usgs.gov/web_app/GWW/GWW.html

USGS site for assistance in finding Frimpter values:

https://rconnect.usgs.gov/MA-high_gw/MA_high_gw.html

2020 updated Frimpter Report: <https://www.usgs.gov/centers/new-england-water-science-center/science/updating-a-method-estimate-probable-high>

MassDEP website page listing current water resources conditions and Frimpter Method input parameters: <https://www.mass.gov/doc/current-water-resources-conditions-and-frimpter-method-input-parameters/download>


Frimpter Method for Those in Barnstable County

- For Barnstable County there is a modified Frimpter method for seasonal high groundwater elevation estimation
- A step-by-step guide for estimating groundwater levels at the Cape may be found at: <https://www.capecodcommission.org/our-work/estimating-high-groundwater-levels/>

Title 5 and ADUs



A NON-STANDARD DISCLAIMER

- There is a lot of information contained in this presentation.
 - There likely will not be much time for questions.
 - Questions may be limited to general concepts and not to site-specific details.
 - Specific questions should be directed to email address provided.
 - MassDEP intends to release Guidance document and FAQ following coordination with EOHLC. FAQ will be updated periodically.
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Affordable Homes Act (AHA)

Chapter 150 of the Acts of 2024

AHA Basics

- Signed into law by Governor Maura Healey on August 6, 2024
- Section 8 allows the construction of Accessory Dwelling Units (ADUs) by right in single-family residential zoning districts
- Section 8 took effect on February 2, 2025
- Section 7 defines an ADU

Accessory Dwelling Unit (ADU), as defined by AHA:

A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that: (a) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building Code for safe egress; (b) is not larger in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and (c) is subject to such additional restrictions as may be imposed by a municipality including, but not limited to, additional size restrictions, and restrictions or prohibitions on Short-term Rental as defined in M.G.L. c. 64G, § 1; provided, however, that no Municipality shall unreasonably restrict the creation or rental of an ADU that is not a Short-term Rental.

AHA states:

*No zoning ordinance or by-law shall prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single accessory dwelling unit, or the rental thereof, in a single-family residential zoning district; provided, that the use of land or structures for such accessory dwelling unit under this paragraph may be subject to reasonable regulations, including, but not limited to, **310 CMR 15.000** et seq., if applicable.*

Guidance on Title 5 Compliance for ADUs

STILL UNDER DEVELOPMENT

Applicable Title 5 Provisions

Definitions – 310 CMR 15.002

Dwelling

“[a] building which is used, intended, or designed for human habitation, including but not limited, to houses, hotels, motels, apartments, mobile and modular homes and condominiums and cooperatives.”

Facility

defined, in part, as “[a]ny real property (including any abutting real property) and any buildings thereon, which is served, is proposed to be served, or could in the future be served, by a system or systems...”

New Construction

The construction of a new building for which an occupancy permit is required or an increase in the actual or design flow to any system or an increase in the actual or design flow to any nonconforming system or an increase in the design flow to any system above the existing approved capacity. New construction shall not include replacement or repair of a building in existence as of March 31, 1995 that has been totally or partially destroyed or demolished, provided there is no increase in design flow, no increase in design flow above the existing approved capacity to any system, no increase in the number of dwellings or dwelling units or no increase in the number of bedrooms in any dwelling or dwelling unit.

On-site System Disposal System or On-site Subsurface Sewage Disposal System or System

A system or series of systems for the treatment and disposal of sanitary sewage below the ground surface on a facility.

(a) The standard components of a system are: a building sewer; a septic tank to retain solids and scum; a distribution system; a soil absorption system containing effluent distribution lines to distribute and treat septic tank effluent prior to discharge to appropriate subsurface soils; and a reserve area.

(b) These terms also include tight tanks, shared systems and alternative systems. Unless the text of 310 CMR 15.000 indicates otherwise, these terms also include nonconforming systems.

Nonconforming System

Upgrade

“[a]ny system which is not in full compliance with the standards and requirements of 310 CMR 15.000 and for which a variance or local upgrade approval has not been obtained. Nonconforming systems include, but are not limited to, cesspools, privies, failed systems, and systems with a design flow above 10,000 gpd.”

[t]he modification of one or more components of an on-site system or the design and construction of a new on-site system which is intended to bring an existing system, including a nonconforming system, into conformance with 310 CMR 15.000...”

Scenarios

The addition of an ADU to an existing Facility meets the definition of New Construction if...

- ❖ It increases the total design flow to the Facility's septic system (calculated at 110 gpd/bedroom)
- ❖ Regardless of whether sanitary sewage from the ADU is discharged to the existing septic system, or to a newly proposed septic system serving only the ADU.

See definition of *on-site system* (system or series of systems serving a facility).

See definition of *new construction*.

If an ADU is proposed to discharge to an existing septic system serving a Facility that was constructed in full compliance with Title 5 and there will be an increase in the Facility's approved design flow (i.e., an increase in the number of bedrooms on the Facility), then:

The existing septic system must meet New Construction standards (i.e., be in full compliance with Title 5) for the total number of bedrooms on the Facility.

Existing Condition:

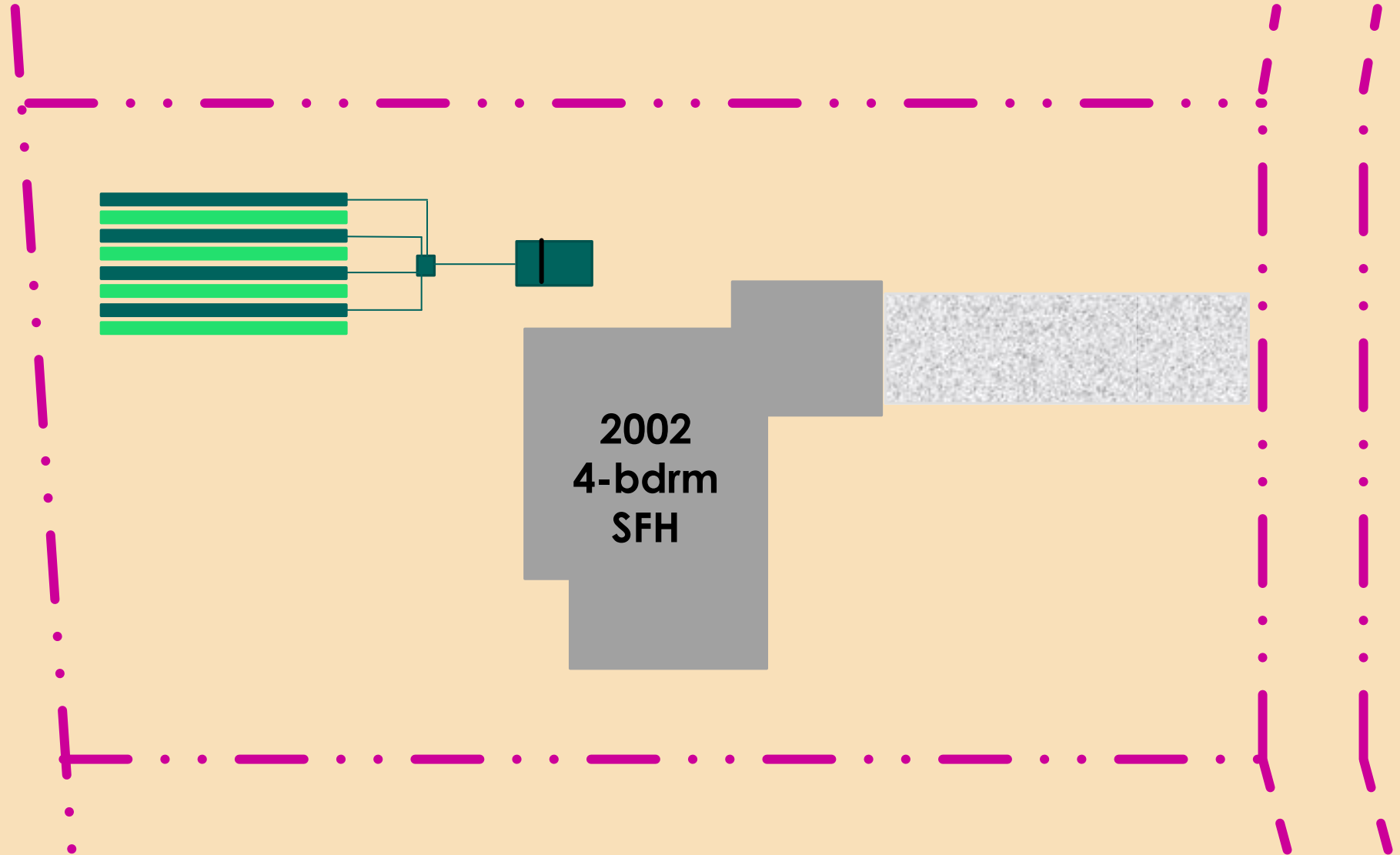
Circa 2002 4-bdrm single-family home designed for a garbage disposal

Proposal:

1-bdrm ADU connected to existing septic

Solution:

Septic system meets new construction for a 550 gpd system with reserve area



Existing Condition:

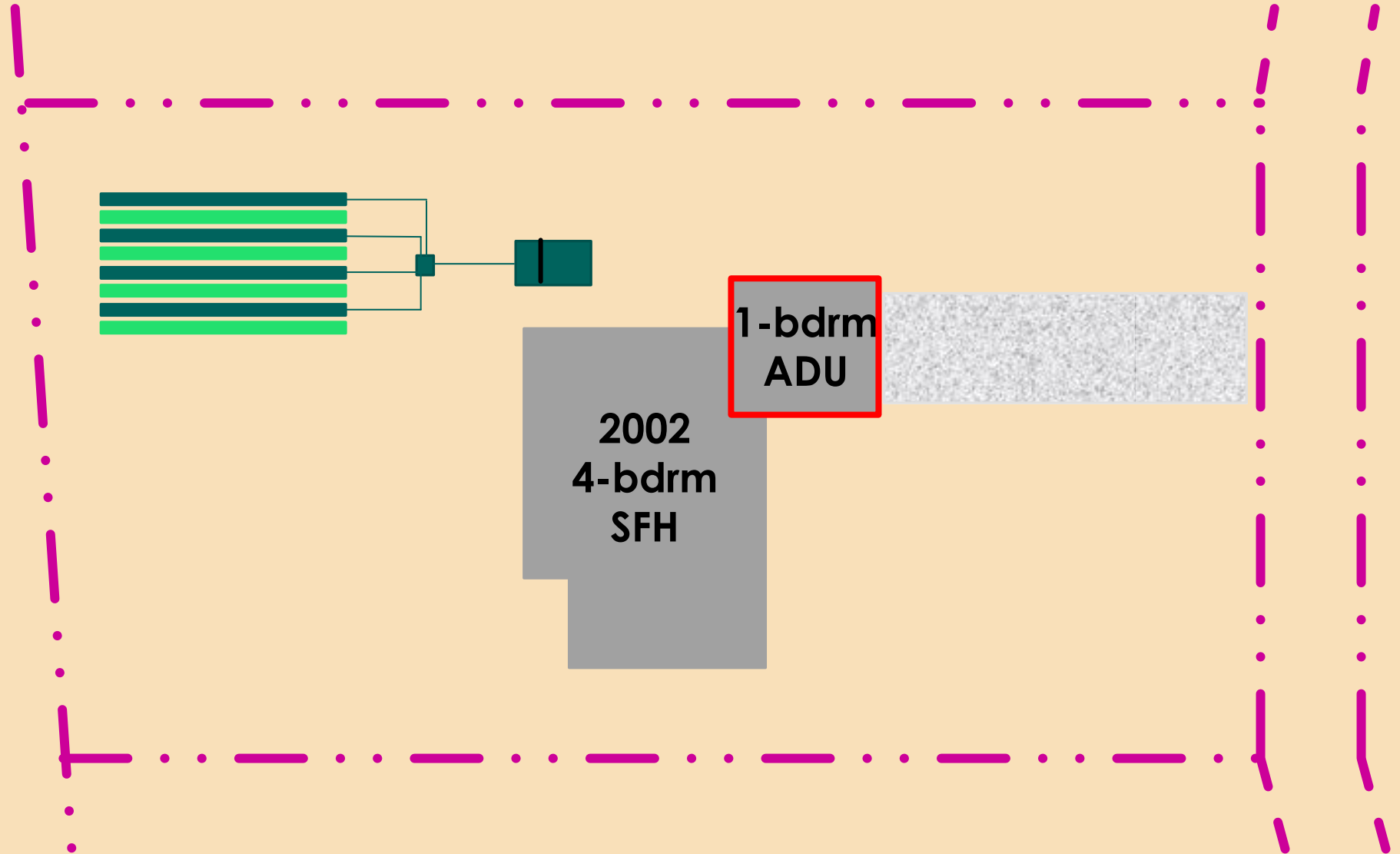
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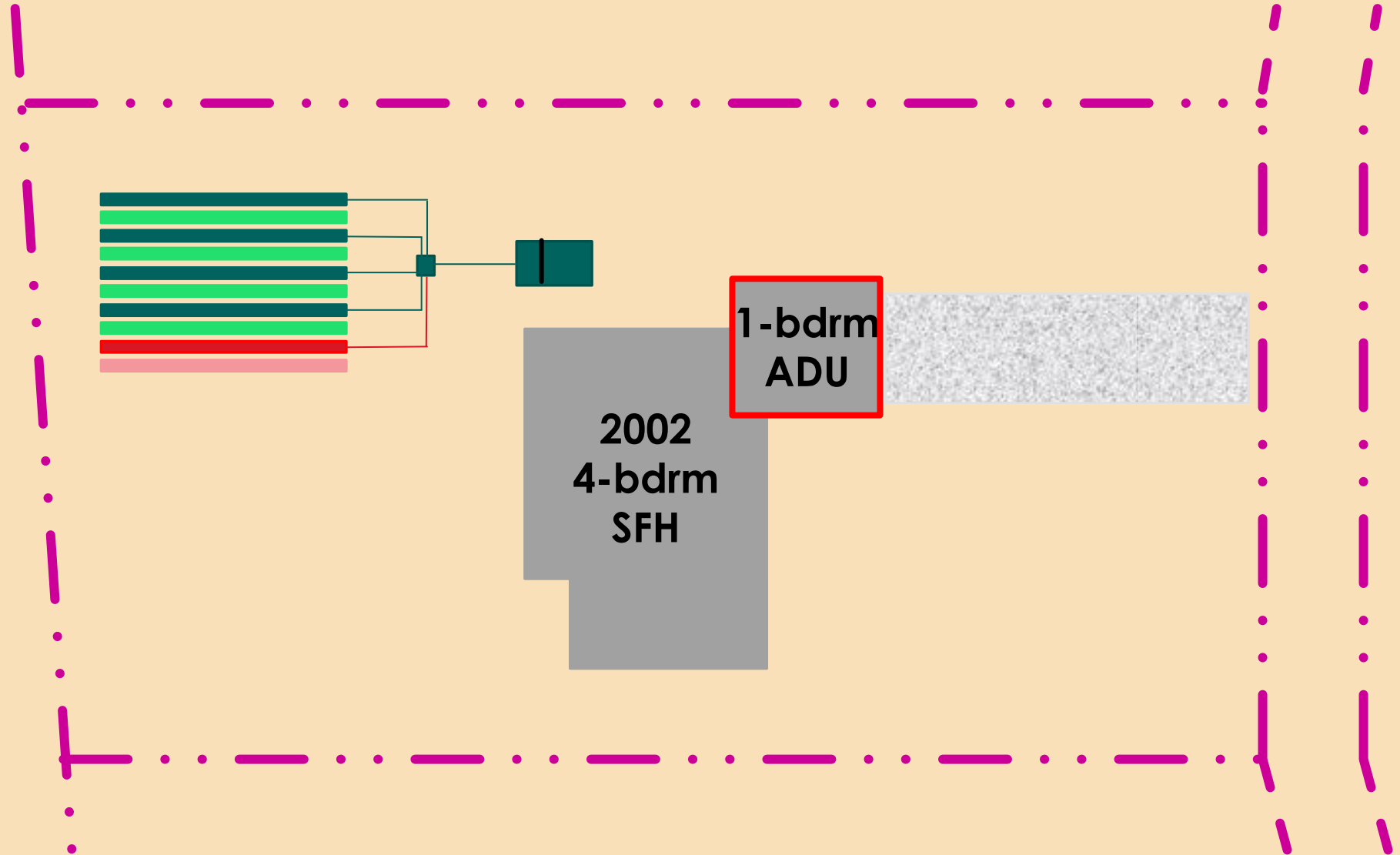
Circa 2002 4-bdrm single-family home designed for a garbage disposal

Proposal:

1-bdrm ADU connected to existing septic

Solution:

Septic system meets new construction for a 550 gpd system with reserve area



If an ADU is proposed to discharge to an existing septic system serving a Facility that was constructed in full compliance with Title 5 and there will be no increase in the Facility's approved design flow (i.e., no increase in the number of bedrooms), then:

Existing Condition:

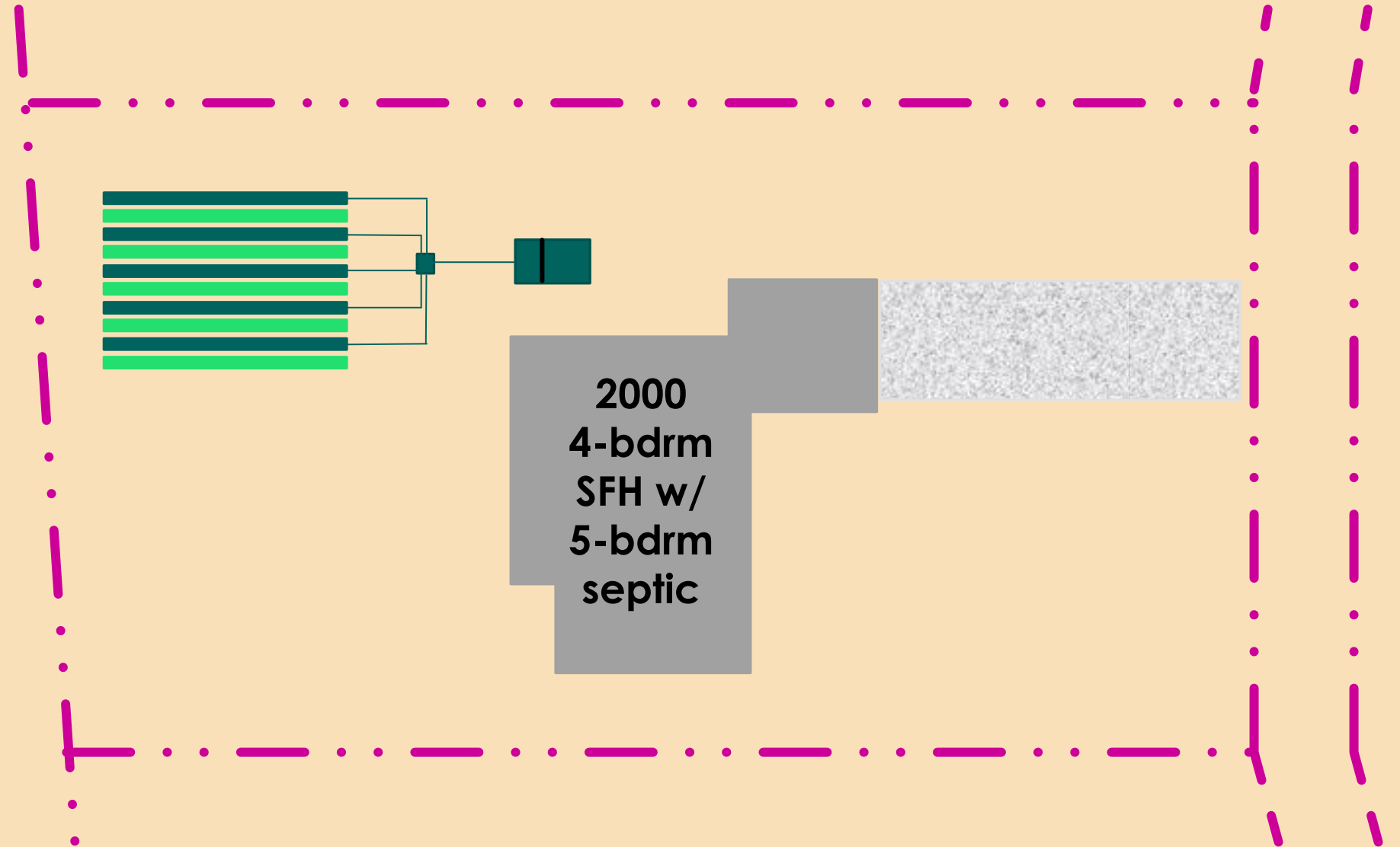
Circa 2000 4-bdrm single-family home with a 5-bedroom septic system designed for a garbage disposal

Proposal:

1-bdrm ADU connected to existing septic

Solution:

Just connect



Existing Condition:

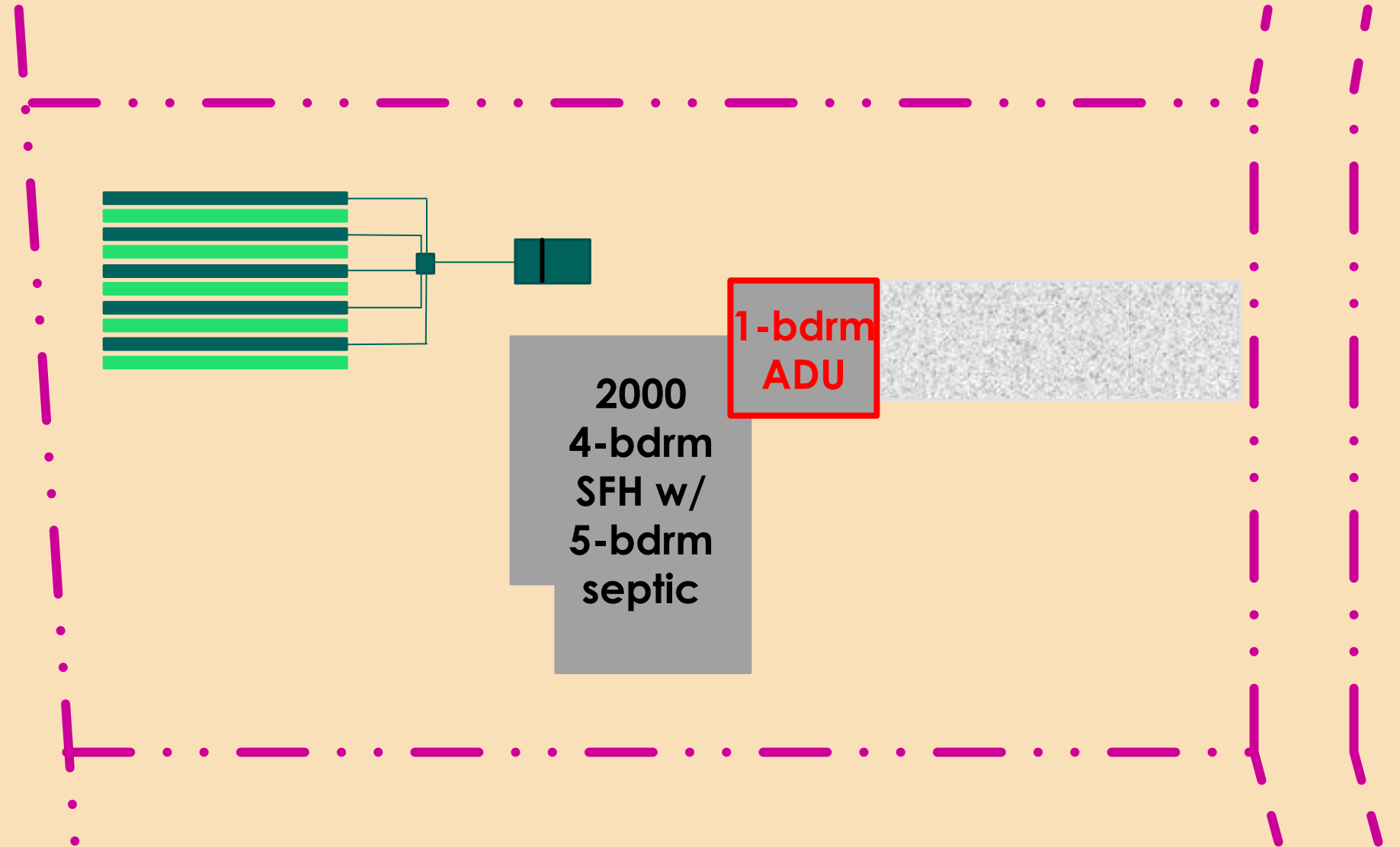
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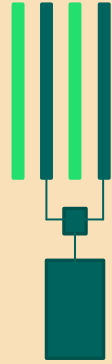


If an ADU is proposed to discharge to its own newly constructed septic system on a Facility and the existing septic system serving the single-family dwelling unit was constructed in full compliance with Title 5, then:

The proposed system must meet New Construction standards for the number of bedrooms in the ADU.

If each septic system only serves one dwelling unit, then a single compartment septic tank for each is compliant unless otherwise required because of garbage grinders, etc.

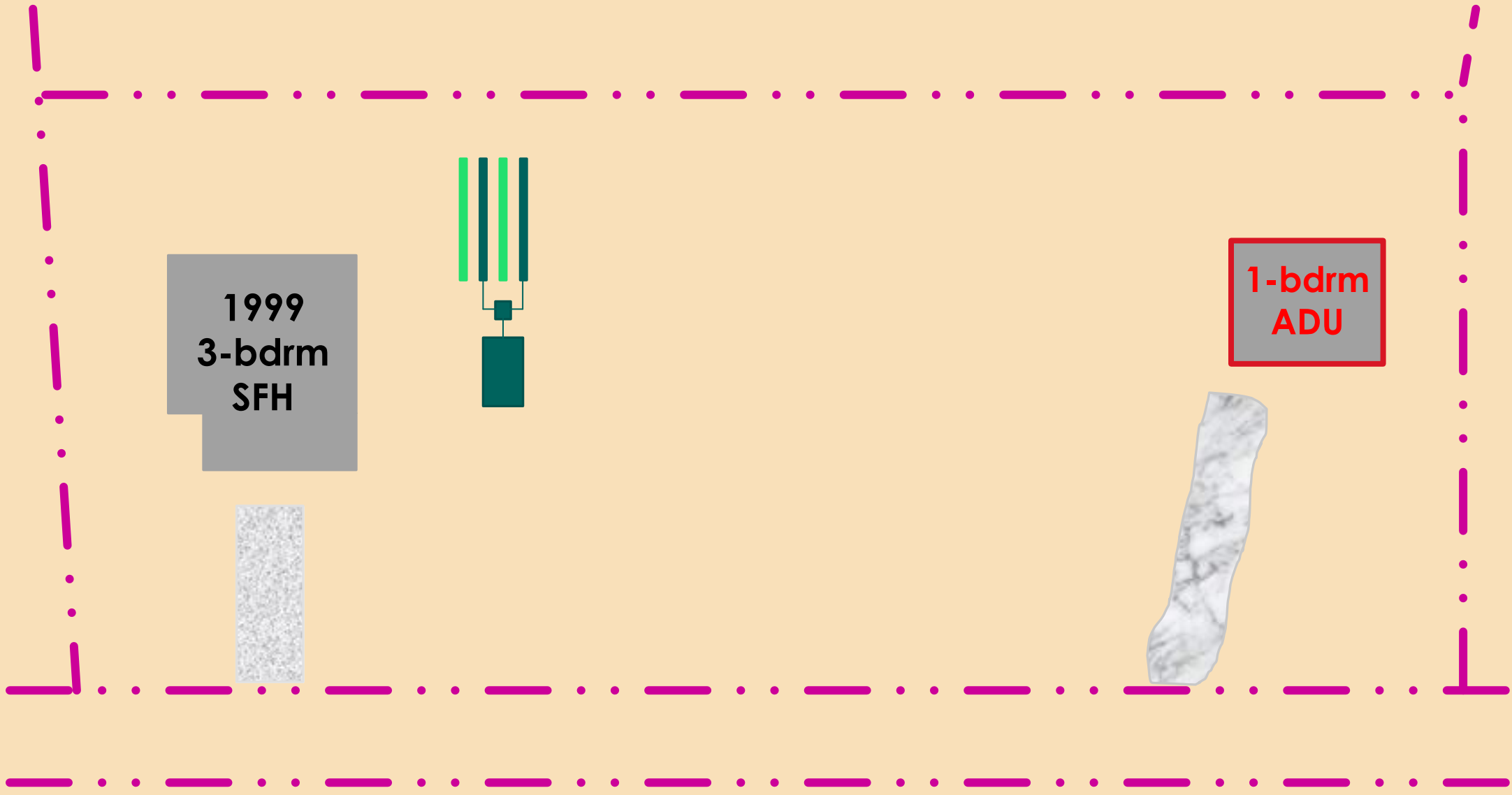
1999
3-bdrm
SFH



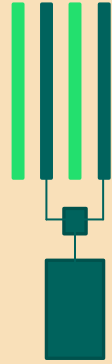
1999
3-bdrm
SFH



1-bdrm
ADU



1999
3-bdrm
SFH



1-bdrm
ADU



If an ADU is proposed to discharge to an existing Nonconforming System serving the single-family dwelling unit and there will be an increase in the Facility's approved design flow (i.e., an increase in the number of bedrooms on the Facility), then:

The existing septic system must meet New Construction standards for the total number of bedrooms on the Facility.

Existing Condition:

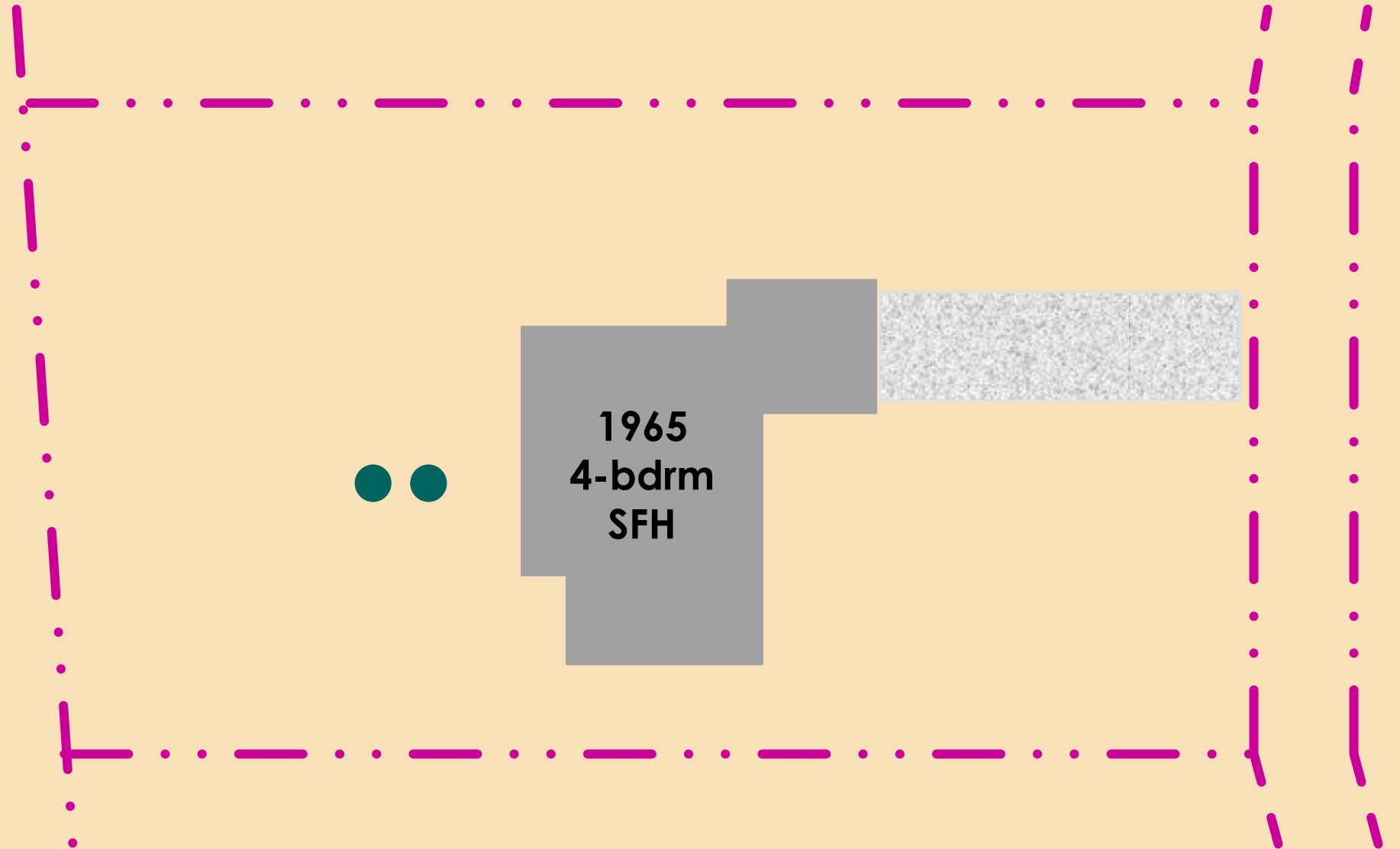
Circa 1965 4-bdrm SFH (original septic)

Proposal:

1-bdrm ADU connected to existing septic

Solution:

Septic system meets new construction for a 550 gpd system with reserve area



Existing Condition:

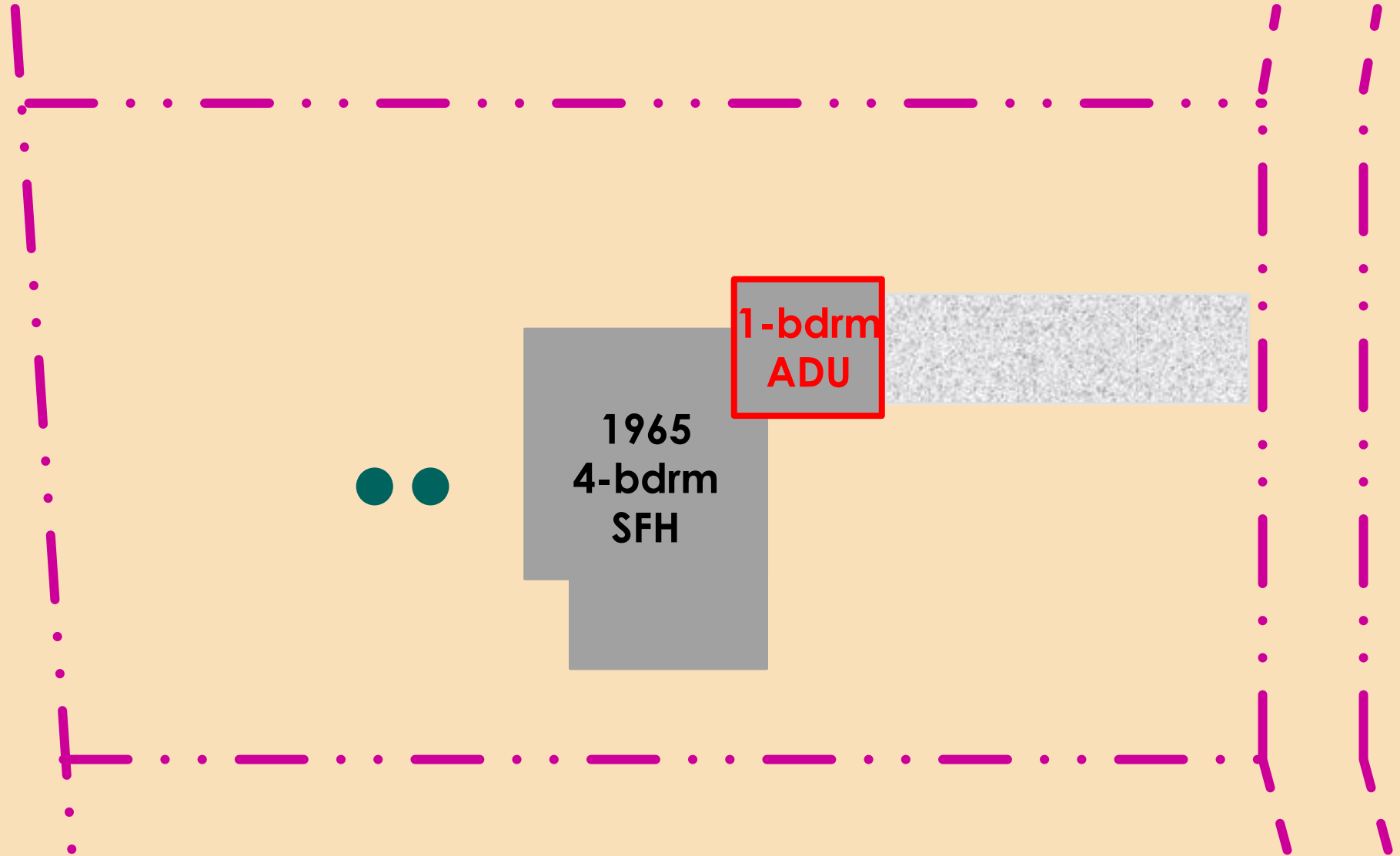
Circa 1965 4-bdrm SFH (original septic)

Proposal:

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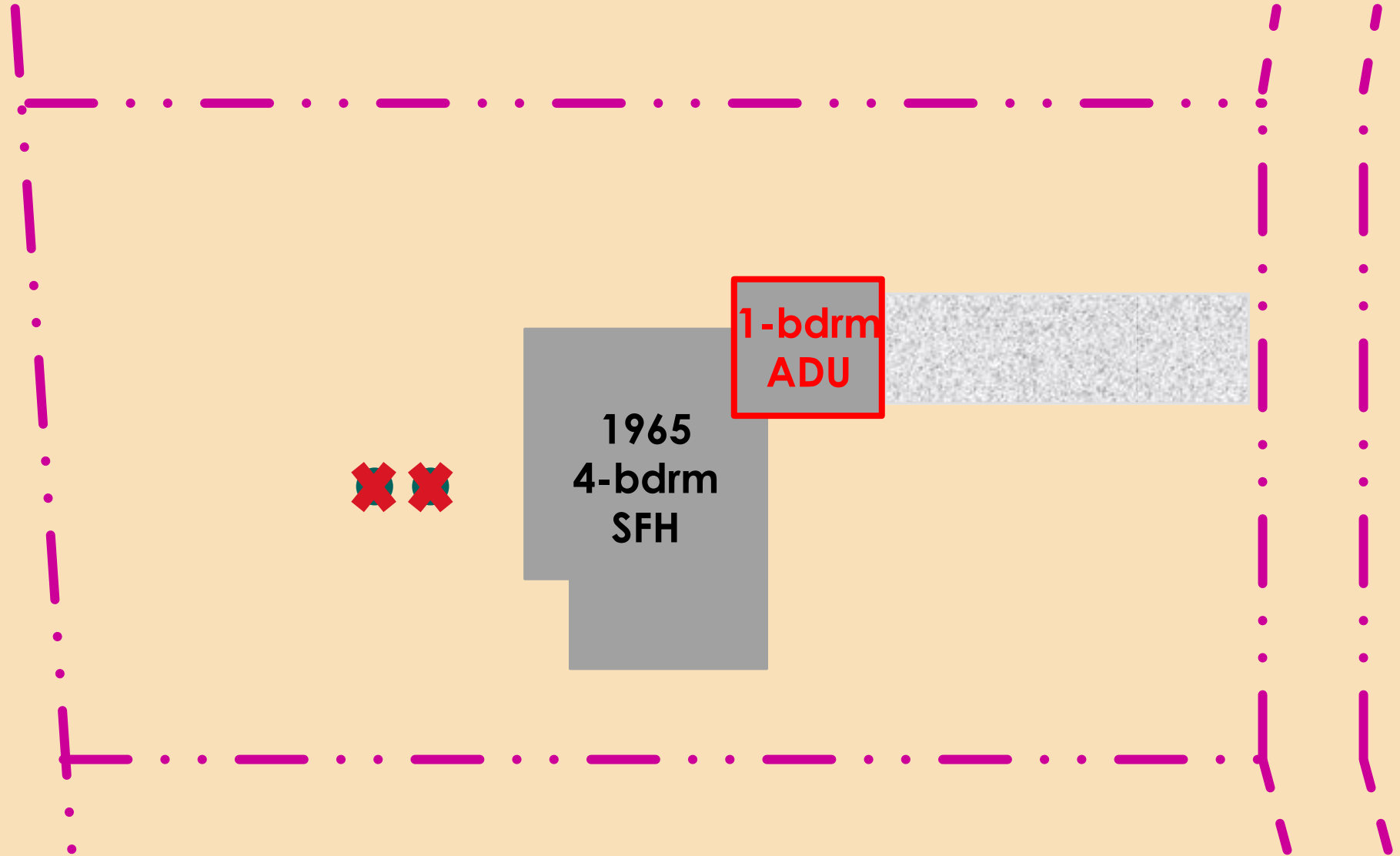
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Proposal:

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Solution:

Septic system meets new construction for a 550 gpd system with reserve area



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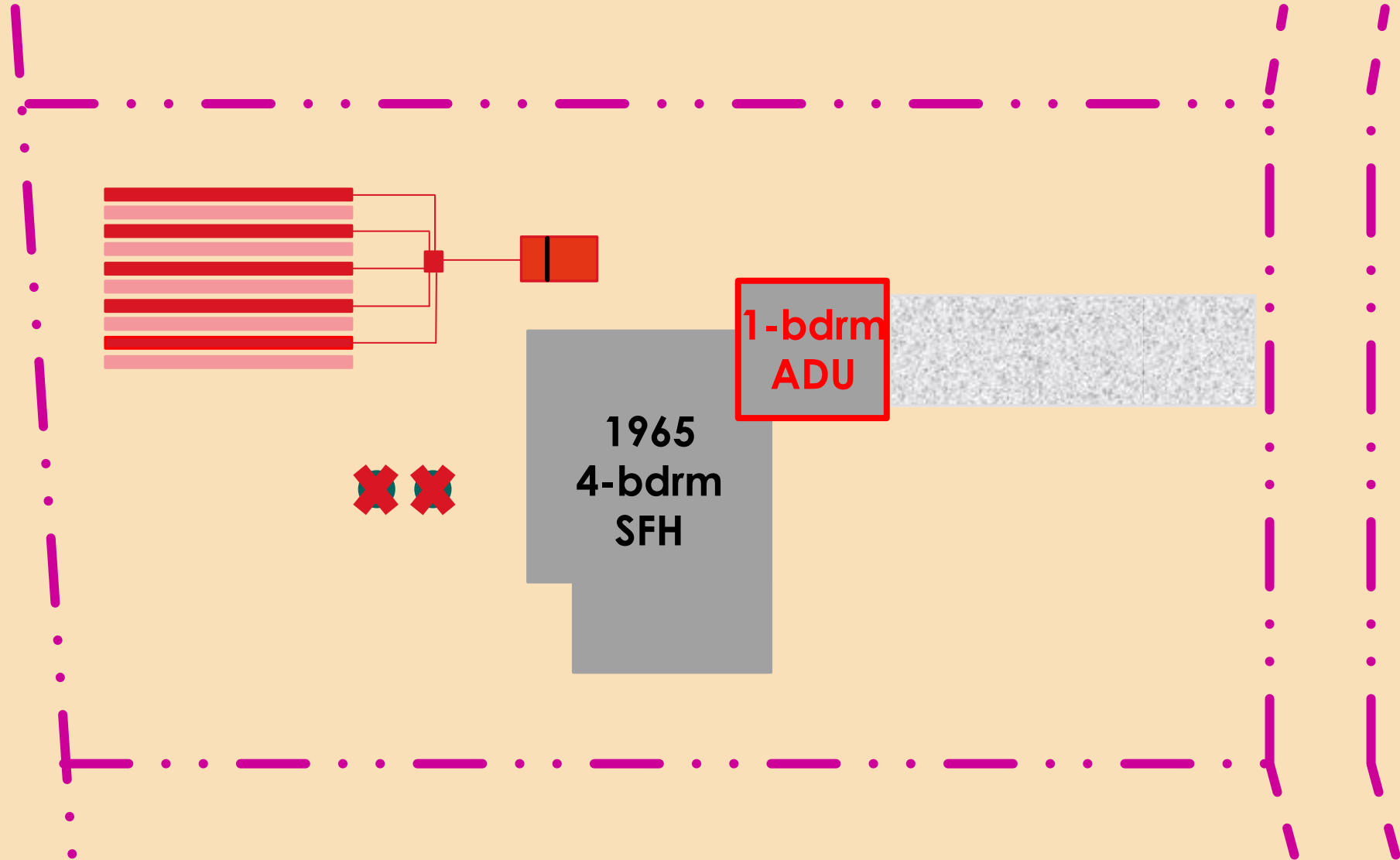
Circa 1965 4-bdrm SFH (original septic)

Proposal:

1-bdrm ADU connected to existing septic

Solution:

Septic system meets new construction for a 550 gpd system with reserve area



If an ADU is proposed to discharge to an existing Nonconforming System serving the single-family dwelling unit and there will be no increase in the Facility's design flow, then:

The existing septic system must be inspected and provided that it is not a cesspool, may be used.

If the existing septic system fails, it must meet be upgraded to maximum feasible standards for the total number of bedrooms for the Facility.

Existing Condition:

Circa 1980 4-bdrm
single-family home

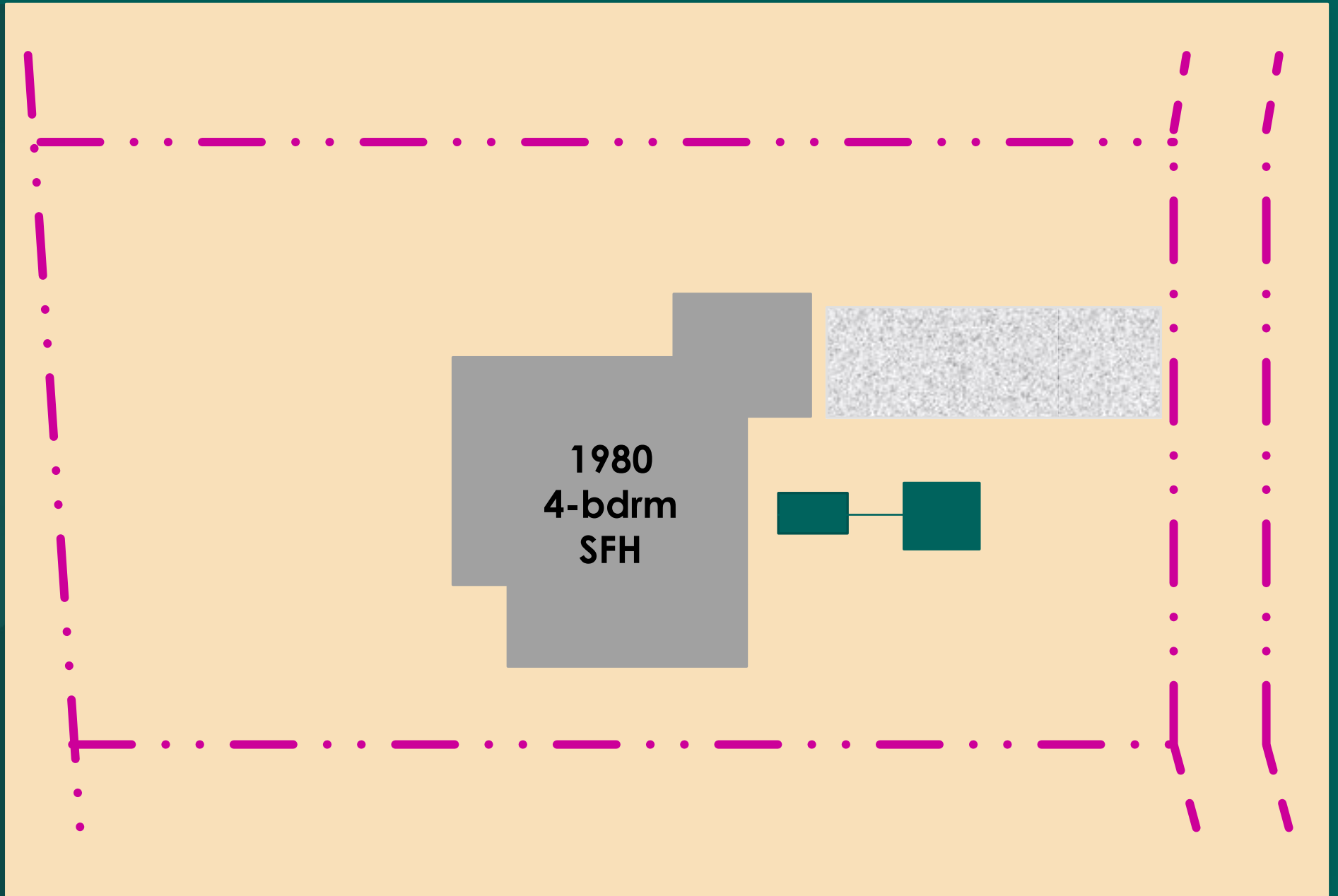
Proposal:

1-bdrm ADU connect
to existing septic

Existing 4-bdrm SFH
reconfigured
internally to a
3-bdrm

Solution:

System is inspected
Existing failed
Upgraded under
MFC



Existing Condition:

Circa 1980 4-bdrm
single-family home

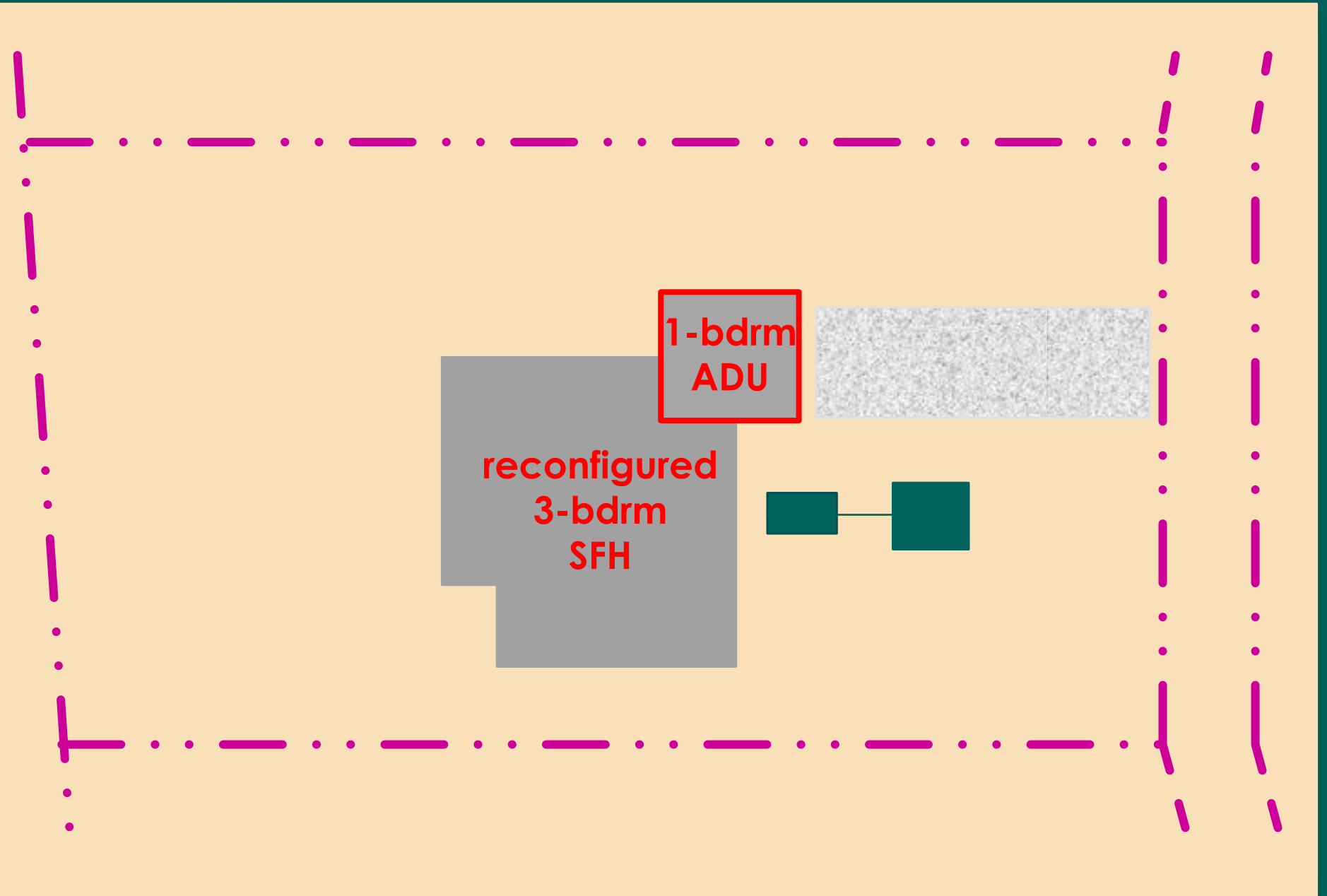
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Existing Condition:

Circa 1980 4-bdrm
single-family home

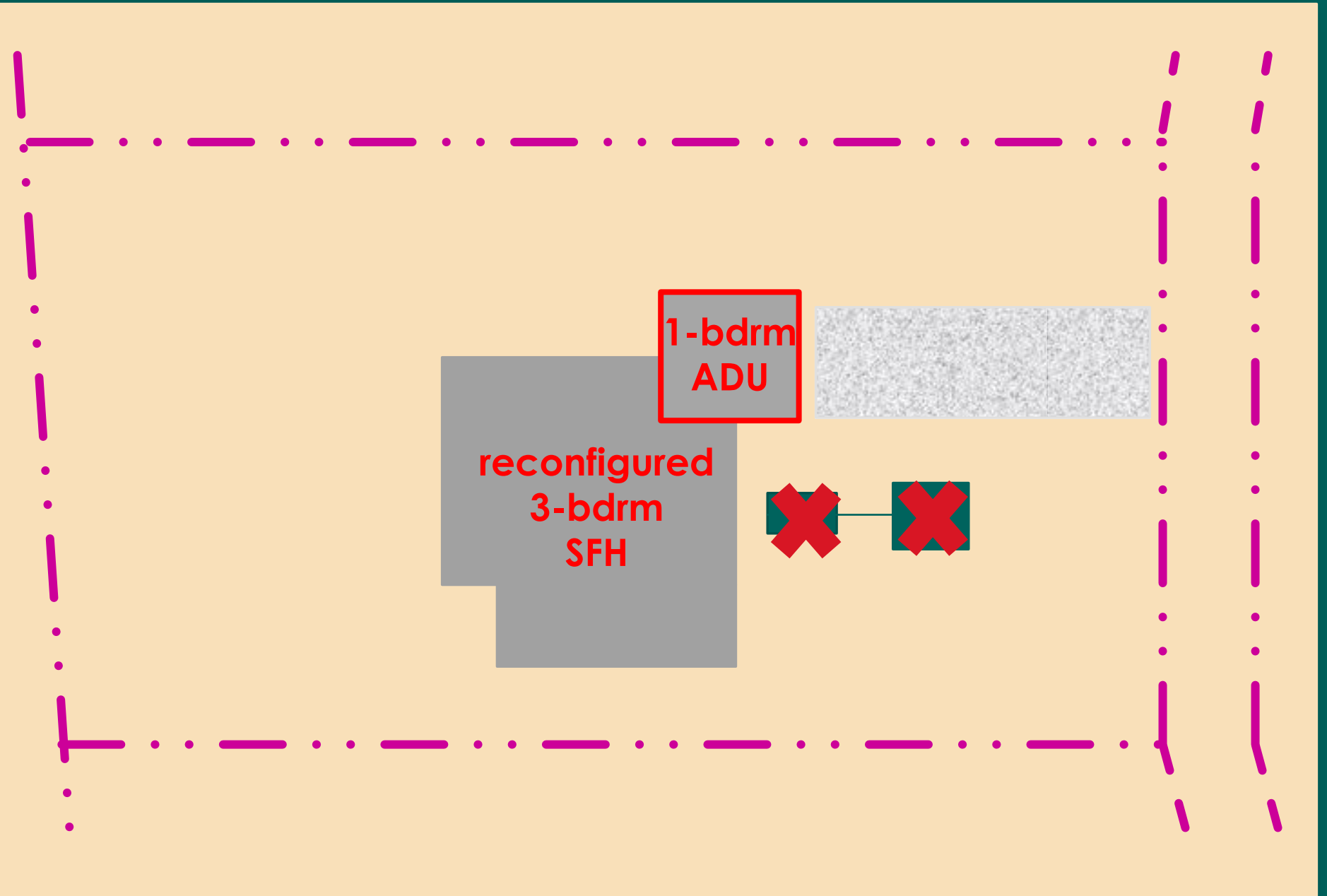
Proposal:

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Upgraded under
MFC



Existing Condition:

Circa 1980 4-bdrm
single-family home

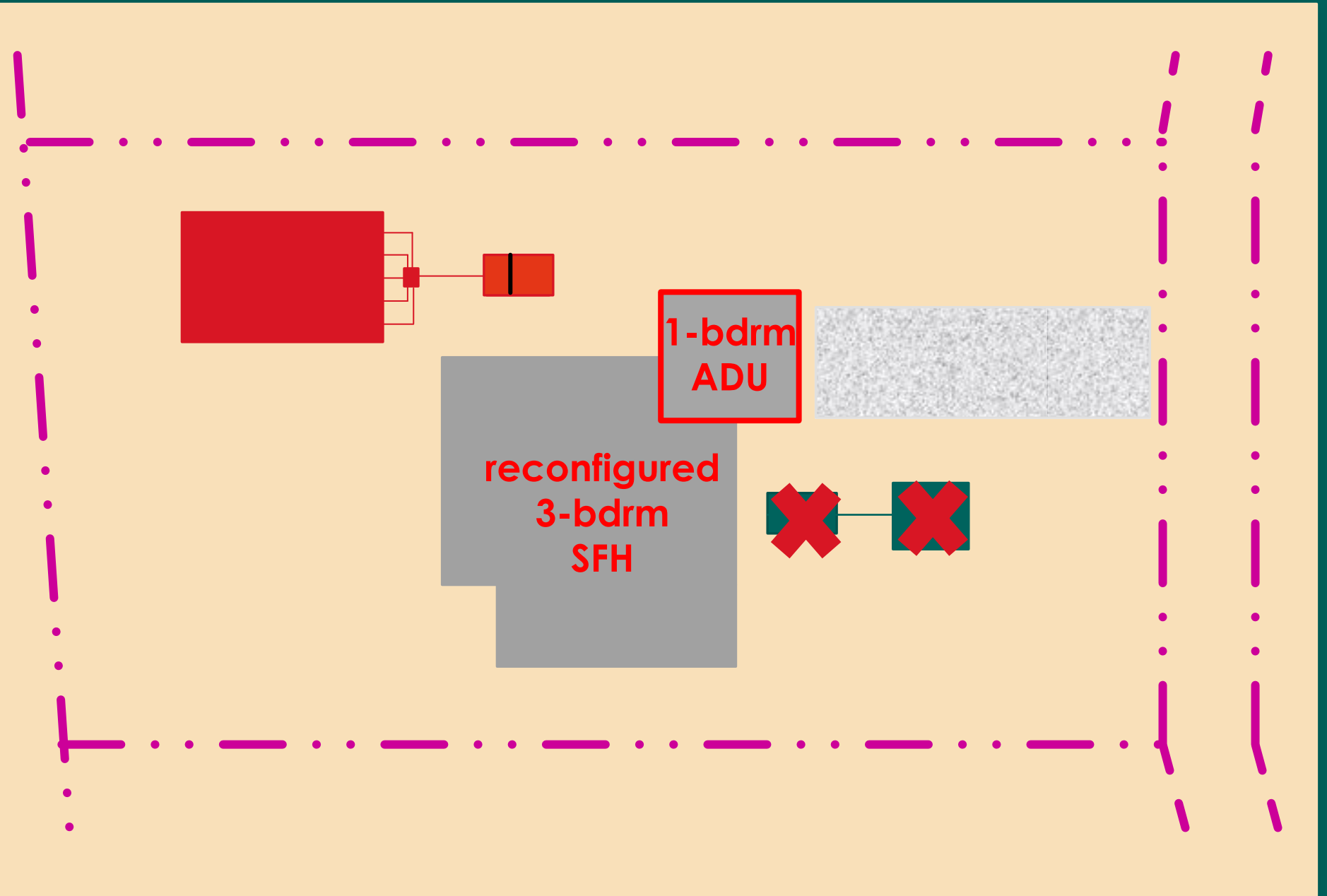
Proposal:

1-bdrm ADU connect
to existing septic

Existing 4-bdrm SFH
reconfigured
internally to a
3-bdrm

Solution:

System is inspected
Existing failed
Upgraded under
MFC





Additional Considerations

**310 CMR 15.203(2)
prohibits the
construction of a
single-family dwelling
with only one
bedroom**

Not applicable



The prohibition against constructing a one-bedroom single-family dwelling does not apply to the construction of an ADU on a Facility containing a principal dwelling because the overall Facility will contain more than one bedroom.

What if the proposed ADU will increase the number of bedrooms for a Facility designated as nitrogen sensitive under 310 CMR 15.214(1)(a) (Public and Private Water Supply Protection Areas)?



The Facility must comply with the requirements of 310 CMR 15.215(2)(b).

What if the proposed ADU will increase the number of bedrooms for a Facility designated as nitrogen sensitive under 310 CMR 15.214(1)(b) (Natural Resource Nitrogen Sensitive Areas)?



The Facility must comply with the requirements of 310 CMR 15.215(2)(a).

What if the proposed ADU will result in the same number for a Facility designated as nitrogen sensitive under 310 CMR 15.214(1)(a) (Public and Private Water Supply Protection Areas) but the septic system needs to be upgraded under MFC?

If the proposed ADU is to discharge to the existing septic system with no increase in Facility design flow but the system needs to be upgraded and the Facility is designated as nitrogen sensitive, then reference should be made to *Title 5 Program's Guidance on System Upgrades in Areas Subject to Nitrogen Loading Limitations*.

<https://www.mass.gov/doc/nitrogen-loading-limitations-system-upgrades-in-sensitive-areas-policy-brpdwmpep-p99-5/download>

Frequently Asked Questions (FAQs)

FAQ Document

- MassDEP solicited questions from CLPH and its members.
- Some questions were found to have already been answered within the drafted Guidance.
- Others have been included in the drafted FAQ document with the answers.
- The FAQ document will evolve over time with more questions added as appropriate.
- You will be contributing some today and in the coming weeks and months.



ADDITIONAL QUESTIONS ON ADUs

dep.title5@mass.gov

Start of Subject Line : ADU

MassDEP Regional Contacts

CERO

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NERO

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Martha Sullivan (SE MA)
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WERO

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MassDEP Title 5 Program Contacts

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I/A PROGRAM

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Harsha Prasad
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857-378-0935

STATEWIDE TITLE 5 HELPLINE: dep.title5@mass.gov

Thank You

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