



City of Colorado Springs

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Meeting Minutes - Draft Planning Commission

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**Phone: +1 720-617-3426
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Thursday, April 30, 2020

8:30 AM

Council Chambers

Accessory Dwelling Units

6.F. [CPC CA
20-00006](#)

Discussion of amendments to Chapter 7 (Planning, Development and Building) of City Code pertaining to accessory family suites, accessory dwelling units, and the accessory dwelling unit overlay.

(Legislative)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

Peter Wysocki, Director of Planning and Community Development

Staff presentation:

Hannah Van Nimwegen, City Planner, presented a PowerPoint with the scope and intent of this project, as well as updates from the inception of this item.

Summary of Ordinances:

Ordinance 1.1 - Accessory Family Suites:

- Introduces accessory family suites as secondary living areas (which may contain a full kitchen) integrated within and with a connection to the principal residence. No more than one family may live on the property.

Ordinance 1.2 - Definitions & Accessory Dwelling Units:

- Existing definitions are being adjusted and new definitions are being added.
- Introduces ADUs into single-family zones through the Conditional Use process allowing two families to occupy the property. In single-family zones, only integrated ADUs are permitted.
- Relaxes requirements for detached ADUs in two-family, multi-family,

and some commercial zone districts.

Ordinance 1.3 - ADU Overlay Zone:

- Introduces an overlay zone intended to be used in conjunction with new residential development.

Questions:

Commissioner Hente asked if it was only in single-family zoning that the property owner must occupy.

Ms. Van Nimwegen said the answer to that lies between the differences of the Accessory Family Suite and the integrated Accessory Dwelling Unit. For the Accessory Family Suite, the City is not proposing owner occupancy because the number of individuals who could potentially live on this property is not increasing. The City would allow two kitchens in the home and thought it was appropriate to not require the property owner to occupy it since they would not be increasing the number of individuals who could potentially live within their home as far as the zoning code.

However, after being approved for a conditional use, an Integrated Accessory Dwelling Unit allows a second family in single-family zones. So, if someone were approval for the conditional use and a second family moved onto the property, the City would require the property owner to occupy either the ADU or the primary residence.

We would not be requiring owner occupancy in two-family or multi-family because the property owner is not currently required to occupy those districts and that would not change. It really applies to integrated units in single-family districts.

Commissioner Hente asked if the fire separation and separate mechanical, electrical, and plumbing systems was across the board even for Family Suites. Ms. Van Nimwegen explained that for Family Suites, since it is limited to one family and the requirement for an internal connection, the Pikes Peak Regional Building department determined that the separation would not be required.

Commissioner Hente said he was unsure what was meant by the fire separation, and separate mechanical, electrical, and plumbing systems. Commissioner Hente asked if that was on the Family Suite?

Ms. Van Nimwegen said with the Accessory Family Suite, due to limiting the property occupancy to one family and because of the internal connection, the Pikes Peak Regional Building Department determined that the one-hour fire rated assemblies and the separate air, mechanical, and plumbing systems would not be required.

Commissioner Almy asked if there was an existing large property with outbuildings like a barn including an apartment above it, or a garage with an apartment above, or even in historic neighborhoods where there is a carriage house, could they be appealed or get a waiver to be included in the two categories of Family Suite or Accessory Dwelling Unit?

Ms. Van Nimwegen gave the scenario of single-family zoned area and there is an existing detached structure that someone would like to turn into a family suite, or a detached ADU, there is a process called a use variance and if somebody were hoping to convert their carriage house into an ADU to allow a second family to move in, they would have to get approval of a use variance, which would be approved through the City Planning Commission, just like a conditional use would. The difference between the use variance and the conditional use is that it would be requesting a variance to the use section of the code. It is different that a non-use variance, which is really four dimensional standards such as setbacks, etc...

The conditional use process is like a conditionally permitted term where as long as you meet certain criteria, you are conditionally allowed in that district, but the use variance puts the onus on the property owner to show why they should vary from the use section of code. The avenue is different than the conditional use process. Ms. Van Nimwegen said if someone had an existing structure, there would be a potential to justify a use variance, although every case is different.

Commissioner Rickett asked if there are properties already being used like apartments (Old North End), or have second families in a carriage house, anything with those existing conditions, would the Planning Commission have to hear those cases if the people want to continue to rent those properties?

Ms. Van Nimwegen said if they are legally permitted now before the ordinance takes effect, then they would be grandfathered in. If they were illegally done and Code Enforcement issued a citation, they would have to come into compliance, which would mean they would have to come before the City Planning Commission for approval of the use variance, if it is a detached structure.

Commissioner Rickett asked if this was something that could be done administratively or does it have to go through a hearing? Ms. Van Nimwegen said the administrative process was explored, but the further along it got, the more it was mimicking the process for a conditional use except for the review authority. It was determined that it was appropriate to move forward with the conditional use versus the administrative process.

Commissioner Rickett said he could see the potential for a lot of conditional use

permits being heard by Planning Commission when these ordinances go into effect and wanted to know how we would handle this.

Mr. Peter Wysocki said he did not think this scenario would occur on a frequent basis because they still had the option of the Family Suite.

Commissioner Rickett said he was not concerned the Family Suite but more of the ADUs that are out there that are not compliant. Mr. Wysocki said ADUs in R-1 are currently not permitted, so there should not be that many cases.

Ms. Meggan Herington, Assistant Director of Planning and Community Development, explained in the 1926 timeframe in the Old North End, before zoning, a person could have a main home and a parish home. Some of those are still being used today. In the 70s, the City adopted the R1-6000 zoning district, but in these situations, there is already a carriage home and a main home. Those are in use today, as is, in that legal non-conforming capacity. Whereas now, in that R-1 zoning district, they would not be permitted. So we have that situation today where the carriage house is not permitted in the zone but it continues to exist and it's in use as a legal non-conforming. The City does not plan to take that away and nor would people have to come into conformance with this new code if they are already in that situation.

Supporters:

Elam Bocckvar-Klein, co-founder of Colorado Springs Pro-Housing Partnership

- Commended Commissioners and City Staff for understanding the gravity of the housing crisis and how zoning code exacerbated the situation
- Believes ADUs and Accessory Family Suites are a necessary first step
- Adding more housing types and more neighborhoods, increasing the number of affordable options city wide and easing the gentrifying strain on some communities to absorb new development
- This is what the City's own strategic plan mandated we do
- We support the proposed package of ordinances currently before the Commission
- Want to ensure that the ordinances are able to realize as much of an impact on our affordable housing crisis as possible

Nick Strincion (unsure of spelling), Pleasant Valley resident

- Had questions on the family suite and integrated accessory dwelling units tying into existing utilities. Would this require a separate water tap and sewer tap and would we have to pay the tap fees to be able to tie those units into the existing home's sewer and water tap?
- Ms. Van Nimwegen explained the Family Suite is not required to have

separate mechanical, electrical, air, or plumbing systems. It is also not required to have a separate water meter and can use the existing system. However, if someone wanted their own separate tap, as of January of 2019, Colorado Springs Utilities did reduce the fee for a separate tap for accessory dwelling units. Ms. Van Nimwegen was not sure if that would apply to accessory family suites and would have to check with utilities. So as far as ADUs go, the fee was reduced, and for an integrated unit and a family suite, there is no requirement to have a separate water meter or tap, but there is a requirement to have separate air, mechanical and of those systems for an ADU.

Sarah Rogers, resident near Quail Lake Park

- In a situation where she needs an accessory family suite for her mother who was recently widowed
- Would like to create an integrated family suite to allow mom to have a separate living area, bathing facility, as well as a full kitchen since she enjoys cooking
- Sees that a number of families who have family members that need special care
- Would like for herself to be able to age in place and have a caregiver who would have their own space
- Does not want to see outward appearances change, but in support of integrated living facilities or family member within their own single-family homes
- Really wants to see the ability to have a second kitchen

Liam Reynolds, renter near the Old North End

- In support of the ordinances
- Growing population and a zoning code that doesn't allow for the construction of housing to accommodate that growing population

Opponents:

Barbara Frisbee, Old North End resident

- Does not want this happening just because the rest of the country is supporting ADUs
- Density is not an issue here, the city extends practically 15 miles
- The Old North End neighborhood has car after car parked on the street because of the apartments
- Old North End lots are small
- Parking and traffic would cause a bad situation
- It would destroy the character of the neighborhood
- Ms. Frisbee is very much against it

- Doesn't make sense to have parents or an older couple on the property, or disabled child. It just doesn't flow very well

Laura Skring (spelling unknown)

- Does not have any particular issue with integrated units
- Bought a home with the assumption that these would be single-family residences
- This is an attempt to subvert the rights of property owners
- Will be more traffic, more parking, more noise and will change the character of the neighborhood
- Affect property values
- Affect personal pleasure of our properties

Richard Sullivan

- The three different levels of occupancy can be done with a conditional use
- The conditional use requires posting and a hearing where neighbors have an opportunity to make their input
- Costs involved with an 550 square foot ADU would make a monthly rent payment at \$1500, which is not affordable rent (costs: construction costs, Regional Building Department requirements, utility development fees, lending criteria, taxes, insurance and utilities)
- Cost burden for an accessory dwelling unit is twice that of the HUD fair market rent standard for a one-bedroom apartment in Colorado Springs
- ADUs are a solution looking for a problem

Dutch Schultz, President of the Old North End

- Intention is not what is important, it is the result that actually comes out of this
- Old North End shares the desire to allow the mother-in-law into the house with a little separate unit kitchen
- All should be a conditional use where the use goes away when the mother-in-law goes away or the owner changes. That makes it simple and then you don't have a problem with the ADU morphing into a rental unit
- Old North End master plan calls for controls on density and specifically calls for restrictions such as this
- How does adding a parking space applies where there is no requirement for one anyway
- Make sure people buying in a strictly single-family zone know if they are in the overlay zone

Questions of Staff:**Rebuttal:**

Ms. Van Nimwegen clarified the role of the conditional use and the parking.

- Conditional Use
 - Runs with the property and the use itself is not necessarily tied to a specific occupant
 - Example: if a family member passes away and the family no longer has a need and they move somewhere else, the conditional use does not go away. The conditional use would continue to apply to the property
- Parking
 - There are requirements for parking, but the Old North End is different because it is a historic neighborhood
 - Old North End was developed under a different zoning code under different requirements
 - A single-family home does require one off-street parking space
 - Would require an additional garage space, or;
 - An additional driveway space, or;
 - If there is a detached unit, it can be a space off to the side, a paved space or something along those lines

Mr. Peter Wysocki said the majority of the City Council wanted a concept that would allow homeowners the ability to provide a separate “living area” for a family member in need without excessive processing, such as a conditional use. The Council sees rental ADUs different from the area of a home where an aging parent or family member can live.

The Council wanted two separate options to give homeowners. If the homeowner wanted a true ADU to rent, then it would need to go through a public hearing process and that would run with the land and there would not be this issue of enforcement when the family member would move out. If the homeowner wanted a space for a family member to live, then they'd be allowed a Family Suite by right.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Rickett thanked the staff for their hard work for this long process and said they have done a fantastic job.

Commissioner McDonald thanked Ms. Van Nimwegen and said this has been a long time coming and it is a lot more organized and structured than it was previously. Commissioner McDonald thanked the staff and appreciated all the

hard work, and said she was happy with what she heard today.

Motion by Commissioner Rickett, seconded by Commissioner McDonald, to recommend to the City Council adoption of ordinances amending Chapter 7 (Planning, Development and Building) City Code defining and establishing standards for accessory dwelling units, accessory family suites, and an accessory dwelling unit overlay zone. The motion passed by a vote of 8:0:1:0

Aye: 8 - Vice Chair Hente, Commissioner McMurray, Chair Graham, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

Absent: 1 - Commissioner Raughton