



Legislation Text

File #: CPC CA 20-00006, **Version:** 5

Ordinance No. 20-37 amending Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Family Suites

(Legislative)

Presenter:

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Summary:

City Planning staff met with the City Council to discuss accessory family suites, accessory dwelling units, and the accessory dwelling unit overlay on May 22, 2020. At that meeting, City Council expressed a general support for ordinances 1.1 *Accessory Family Suites* and 1.2 *Definitions and Accessory Dwelling Units*, but requested modifications to ordinance 1.3 *Accessory Dwelling Unit Overlay* regarding its applicability to new development and existing neighborhoods.

Following the work session meeting on May 22, 2020, City Planning staff broke the three proposed ordinances into three file numbers so that each could be acted upon independently. Though City Planning staff views the three ordinances as a package, having each ordinance attached to a separate file number would allow for one or two of the proposed ordinances to move forward if there were remaining concerns on a remaining ordinance. This memo is regarding accessory family suites.

Background:

The proposed draft ordinance for accessory family suites is attached for consideration, and no modifications to this ordinance were made between City Council Work Session on May 22, 2020 and the June 9, 2020 hearing.

As proposed, accessory family suites will be permitted by right in all zone districts where a detached single-family home is an allowed use. These types of units are permitted as part of a detached single-family residence and would not be allowed as part of an accessory detached structure. Currently a single-family home can be occupied by a "family" as defined in the zoning ordinance. A family is defined in Code Section 7.2.201 as:

FAMILY: As used in this Zoning Code, an individual, two (2) or more persons related by blood, marriage, adoption, or similar legal relationship, or a group of not more than five (5) persons who need not be so related, plus domestic staff employed for services on the premises, living together as a single housekeeping unit in one dwelling unit. The definition of "family" shall apply regardless of whether any member of such group

receives outside services for mental, emotional, or physical disability.

Staff is proposing the following definition for an accessory family suite:

ACCESSORY FAMILY SUITE: An accessory family suite may be made up of a room or group of rooms forming a single habitable area with facilities for one or more persons with provisions for living, sleeping, cooking, and sanitation, and is located within a principal single-family detached unit. An accessory family suite shall not be considered a separate dwelling unit for purposes of the Zoning Code provided all the requirements are met and the accessory family suite is in continual compliance.

As written, the addition of an accessory family suite would not allow a second family to occupy the property, because the accessory family suite does not constitute a second dwelling unit. The number of individuals who occupy the primary residence and the accessory family suite could not exceed one family as defined above. This would be regulated through a notarized and recorded affidavit assuring the property owner's awareness of the restriction. The recorded affidavit would be submitted with a building permit. The Development Review Enterprise (DRE) of the City Planning department would review building permits for these unit types.

If a property owner were to violate the occupancy limitation, they would be liable for potential code enforcement actions as outlined in Code Sections 7.5.1001 through 7.5.1012. Staff is not proposing there be a requirement for owner occupancy of a single-family dwelling with presence of an accessory family suite because the number of individuals allowed on the property is not changing from what is currently allowed and, currently, a single-family home may be rented out to a group of individuals meeting the same definition. Largely, this ordinance allows a single-family home to add a second kitchen with a permanent cooking appliance. This could allow for a couple to rent their family suite or primary living quarters to another couple with a child, or for a live-in nurse to have a kitchen in the accessory family suite when assisting an elderly couple.

Staff is proposing the following regulations for accessory family suites:

1. At least one additional off-street parking space must be added;
2. An accessory family suite may have an exterior access, but that access point cannot be located at the front of the primary residence. If an exterior access point is present, a 36-inch wide clear access path from the front property line must also be present;
3. An internal connection between the primary residence and the accessory family suite is required, but that internal connection may be locked;
4. The accessory family suite cannot be more than 50% of the gross floor area of the primary residence; and
5. Architectural design requirements.

Because the accessory family suite would not allow an additional family to occupy the property, and because of the internal connection requirement, PPRBD would not require the extensive renovations to an existing home between the two units.

Additionally, the ordinance proposes a restriction to prohibit the subdivision and sale of an accessory family suite from the principal dwelling unit. This would be enforced through a notarized and recorded covenant held by the City. Similar to above, if a violation of this requirement were to occur, actions

outlined in the zoning enforcement code section would be triggered.

Accessory family suites would be permitted in Planned Unit Development (PUD) zone districts as well, as long as single-family detached residential is an allowed use and the accessory family suite is located within a single-family detached home. Because the presence of an accessory family suite does not constitute a separate dwelling unit (and therefore an accessory family suite would not allow a second family to occupy the property), it is staff's judgement that the presence of an accessory family suite does not increase the density within a PUD which have a density cap.

The proposed architectural design requirements are as follows: an accessory family suite shall not involve design modifications to the exterior of the principal structure that indicates their presence from the front of the principal structure. Building additions shall be architecturally compatible with the principal structure. External stairs are not allowed to provide access to a second-story accessory family suite unless it is from a second-story deck.

Previous Council Action:

Staff briefed the City Council on the proposed ADU ordinance at a work session on June 10, 2019. The discussion revolved around accessory dwelling units in single-family zone districts and the several scenarios in which an ADU could be permitted on a property. From that meeting, City Planning staff took away the request to break down the potential options, scenarios, and routes to allowing accessory dwelling units in single-family zone districts. At the September 9, 2019 meeting, Council requested two town hall meetings to discuss ADUs directly with the public. Those two meeting have been held (November 19 and December 4, 2019). Mostly recently, City Planning staff met with the City Council to discuss ADUs at the January 27, 2020 meeting where staff received direction to produce the draft ordinances attached. Most recently, City Planning staff met with the City Council on May 22, 2020 to discuss the revised ordinances.

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

The City Planning Commission considered the proposed draft ordinances at its April 30, 2020 special hearing. The City Planning Commission voted unanimously to recommend approval of all three proposed ordinances (Ordinance 1.1, 1.2, and 1.3) without changes (8-0-1 Raughton absent).

There was dialog regarding the review authority of Accessory Dwelling Units in single-family zones, and whether there was a preference for the authority to lay with staff to administratively make decisions on such units. As discussed in this memo, Accessory Dwelling Units in single-family zones would require approval of a Conditional Use from the City Planning Commission. Staff explained that an administrative process was explored, however, creating that new process to review, publicly notice, and decide upon got convoluted. In order to streamline and still meet the requests made by City Council (requiring public notice), staff decided that utilizing a process which already exists within the Zoning Code was the best option.

Stakeholder Process:

A significant stakeholder process was undertaken prior to bringing the first ordinance version to the City Planning Commission for consideration, which included social media outreach; interviews with local radio and TV stations; attending various homeowner association and neighborhood organization

meetings; and presenting to other boards and commissions including the Historic Preservation Board and the Commission on Aging. Additionally, an ADU steering committee was formed and included Councilmember Gaebler, Planning Commissioner Graham, CONO (Council of Neighbors and Organizations), and ONEN (Organization of North End Neighbors), in addition to a few skilled tradespeople and property owners who recently constructed accessory dwelling units. Many of the recommendations made by this committee have been carried forward to the ordinance under consideration currently.

Three public open houses were held: February 20, 2019 at Deerfield Hills Community Center (southeast), February 25, 2019 at Prairie Hills Elementary School (north), and February 26, 2019 at the City Auditorium (central). Approximately 120 - 140 citizens participated in the public open houses. Comment cards were passed out at each meeting and attendees were encouraged to write any questions, concerns, or thoughts about the proposal and for Staff's attention. Then, two town hall meetings were held on November 19, 2019 and December 4, 2019 where members of the City Council heard from Colorado Springs residents directly.

Alternatives:

1. Approve the ordinance as presented;
2. Modify the ordinance;
3. Deny the ordinance; or
4. Refer the ordinance back to the City Planning Commission for further consideration

Proposed Motion:

Adopt an ordinance amending Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Family Suites

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