



Legislation Text

File #: CPC CA 20-00088, **Version:** 2

Ordinance No. 20-39 amending Part 5 (Overlay Districts) of 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 Dwelling Unit Overlay

(Legislative)

Presenter:

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Peter Wysocki, Director of Planning and Community Development

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 the accessory dwelling unit overlay.

There was discussion regarding ordinance 1.3 *Accessory Dwelling Unit Overlay* and its applicability to new development. Expressed was a general concern regarding when an ADU Overlay may be considered for an existing area, and if a minimum size threshold, or some other defining characteristic, should be established in order to avoid a “spot zone” of the overlay. At this meeting, staff committed to bringing forward a suggestion for the Council to consider to the June 8, 2020 Work Session. Ordinances 1.1 *Accessory Family Suites* and 1.2 *Definitions and Accessory Dwelling Units* an unchanged from the May 22, 2020 work session meeting.

Background:

The proposed draft ordinance for the accessory dwelling unit overlay is attached for consideration, modifications to this ordinance were made between City Council Work Session on May 22, 2020 and the June 9, 2020 hearing which are discussed further below.

The purpose of the accessory dwelling unit overlay zone is to provide flexible housing options in a neighborhood while ensuring the overall character of the development is consistent with the base zone. The ADU overlay may be used in conjunction with the zoning of new residential development

or a development containing a mix of residential and other land uses.

All ADU development standards outlined in Ordinance 1.2 shall be met unless otherwise established within a Planned Unit Development (PUD) zone. The PUD should establish whether integrated and/or detached ADUs are permitted in addition to other development standards if more or less restrictive than what is outlined. ADUs within the overlay zone shall be considered permitted by right and shall not be subject to the conditional use process as outlined in Ordinance 1.2. Additionally, properties zoned with the overlay shall not be subject to the owner occupancy requirement or the limitation to one family occupying the entire property unless otherwise stated in a PUD zone.

As discussed at the May 22, 2020 work session of the City Council, minimum size thresholds for the ADU overlay have been added to the ordinance as well as language clarifying that the intent of the overlay is to be used on undeveloped parcels and not on existing, developed land. Some language was borrowed from the existing Design Flexibility Overlay Zone (DFOZ), code section 7.3.502. The minimum size threshold of 10 acres is a generally accepted minimum size of a zone district which cannot be considered a “spot zone.” However, other factors come into play including potential undeveloped infill areas which may be less than 10 acres, in which case the proposed over district must have distinct, identifiable boundaries. City staff is also proposing an absolute minimum overlay size of three acres which is the average size of a square block near downtown or in Old Colorado City. The language added to the ordinance reads:

“The overlay district shall be made up of contiguous parcels of land which are undeveloped and under a single or common ownership. The minimum size of the overlay district shall be 10 acres. A smaller district may be considered if that area has identifiable boundaries. These boundaries may include roadways that are classified as Collector or larger, open space and/or greenways, or adjacency to a multi-family or commercial zone district boundary. In no instance shall an overlay district be smaller than 3 acres.”

City Planning staff believes this language clarifies where the ADU overlay can be utilized. For existing developed residential areas, City Planning staff recommends the proposed Conditional Use process be utilized by individual property owners.

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 Part 5 (Overlay Districts) of 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 Dwelling Unit Overlay

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