

CITY COUNCIL COMMUNICATION



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ITEM NUMBER: 6.B

SECOND READING:

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TYPE OF ITEM: Study Session

PRESENTED BY:

Erin Fosdick, Planning, Erin.Fosdick@longmontcolorado.gov

Ava Pecherzewski, Planning, Ava.Pecherzewski@longmontcolorado.gov

Don Burchett, Planning, Don.Burchett@longmontcolorado.gov

SUBJECT/AGENDA TITLE:

Discussion and Direction on Accessory Dwelling Units (ADUs)

EXECUTIVE SUMMARY:

The City has allowed Accessory Dwelling Units (ADUs) in residential zoning districts since 2001. Approximately 130 ADUs have been permitted in the City; many of these have been permitted in the Prospect neighborhood. The following table shows a breakdown of ADU permit activity by year:

Permit Year	Total Permits Issued	Total Issued In Prospect
Prior to 2010	60	46
2010	1	1
2011	6	5
2012	5	4
2013	7	6
2014	3	1
2015	5	3
2016	5	4
2017	10	7
2018	8	5
2019	9	2
2020*	10	4
Total	129	88
<i>*Through September 2020</i>		

Recently, there has been increasing interest in ADUs, which has resulted in neighbors raising concerns about specific code requirements and the approval process.

This communication will cover:

- current code requirements,
- the development review process,

- concerns that have been raised, and
- potential options for moving forward.

COUNCIL OPTIONS:

1. Direct staff to make specific changes to the Land Development Code regarding Accessory Dwelling Units.
2. Do not direct staff to make changes to the Land Development Code.

RECOMMENDED OPTIONS:

Provide direction to staff on how to proceed.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

None identified.

BACKGROUND AND ISSUE ANALYSIS:Overview

An accessory dwelling unit (ADU) is defined as “a second dwelling unit, either within or added to an existing single-family detached dwelling, or, in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent, living facility with provision for cooking, eating, sanitation and sleeping.” Although ADUs have been part of the City’s housing stock for some time, they were not formally included in the Land Development Code until the 2001 code update

ADUs, sometimes referred to as carriage houses, can be a useful tool for including additional housing types in a neighborhood without changing the character of a neighborhood. Although technically not missing middle housing, ADUs can increase housing access and affordability and can help residents age in place. Recognizing some of these benefits, a policy addressing ADUs was included in the city’s comprehensive plan in 1995; which laid the foundation for codifying ADUs.

Prior to the 2001 code update there was no formal mechanism to permit an ADU, although they did exist in some areas of the City. They were also included as part of the Mill Village and Prospect developments, specifically called out in their overall development plan. Over the past two decades, about 130 ADUs have been permitted throughout the City. It should be noted that approximately 74% of the ADUs permitted have been in the Prospect and Mill Village neighborhoods. Attachment 1 shows the location of ADUs throughout Longmont and when they were permitted.

The City is also in the process of creating a pilot program to allow property owners to use pre-approved ADU plans and get some fee waivers if they commit to making their ADU

affordable for a set amount of time. This is an attempt to continue to diversify housing stock and increase affordable options for residents. There is also a benefit to property owners of additional rental income. Community Services and Planning are in the process of finalizing the details of this. Depending on what changes, if any, Council directs staff to make to the ADU regulations, this program can likely be ready to launch by the end of the year.

Current Code Requirements

Accessory Dwelling Units are permitted in most residential districts within the City, as well as the Mixed Use – Downtown and Agricultural zones. ADUs are only permitted as accessory to single-family detached homes.

As an accessory use, ADUs are subject to two sets of regulations, general accessory use standards, and use specific standards. Below is a summary of the two sections that apply; see Attachment 2 for Section 15.04.040 detail:

- *Location and Use.* ADUs are permitted on lots with single-family detached homes. They can be integrated into the main house (e.g. basement ADU) or located in a detached, accessory structure (e.g. above a detached garage or in a separate structure), The ADU must be on a permanent foundation.



ADU in a separate detached structure (single lot)



ADUs above detached garages

- *Number and Size of Accessory Units.* The code allows for one ADU on a lot; the ADU must be less than half the size of the main house and cannot be taller than the main house.
- *Setbacks.* There are front, rear, and side setback requirements for new detached ADUs, ADUs located in an existing detached structure (e.g. detached garage), and attached ADUs.
- *Limit on Sale, Tenancy and Occupancy.* A property owner is required to live in either the ADU or the main house.

In addition, compatibility with surrounding properties is a general requirement for all development applications. This can be a challenging criterion to address, as it can be somewhat subjective. The specific requirements are in section 15.02.055 (Attachment 3).

Development Review Process

Currently, the code allows ADUs to be reviewed through a site plan waiver (SPW) process (Code Section 15.04.040.C.1.e), unless they are included in an approved site plan like in Prospect, where they go straight to building permitting. The site plan waiver process is similar to a full site plan review process, but slightly more abbreviated the SPW process does not require public noticing. Site Plan Waivers are administratively reviewed by the development review team consisting of Planning, Engineering, Fire and LPC. For a site plan waiver to be approved, it must meet the development standards for ADUs as noted above, the common review criteria for site plans in 15.02.070.C (Attachment 3) and, must also meet the development review team's standards, which include:

- Electric capacity
- Utility needs
- Drainage impacts
- Parking
- Building compatibility and architectural design
- Setbacks
- Height

In 2018, as a result of concerns raised regarding the permitting of ADUs without adjacent property owner notification, the Planning Director required Staff to begin sending written notification to adjacent property owners and to post a sign in front of the subject property when a SPW for an ADU was under review. The notification radius extends to the whole block around the subject property, including all properties on the opposite side of the street for the whole block. This noticing process allows the neighbors an opportunity to provide feedback on the proposed ADU. If the property happens to be within the Historic Eastside, staff also reaches out to the Historic Eastside Neighborhood Association (HENA) to request input and feedback from that neighborhood.

Though staff cannot deny an application if it meets City standards, staff can require an applicant to provide design enhancements that would meet neighborhood compatibility criteria if neighbor feedback suggests it and it is warranted. An application can also be denied by the Director or an application can be elevated to the planning commission for their consideration.

Input from the Community

For nearly 20 years, a few ADUs have been permitted each year. As stated previously, many of these have been in Prospect where they were planned from the beginning. There has been

an uptick in the number of ADUs going through the process in the past few years in other areas of the City. This may be due to increasing housing costs, changing demographics, shifting preferences, or other factors. Recently there have also been concerns brought up by residents, especially in the City's historic districts. Some of the issues brought up have included: neighborhood compatibility, setbacks for detached ADUs, ADU height, ownership/residency requirements, cost, and process; these are discussed in greater detail below.

- **Neighborhood Compatibility** – A few residents, including members of the Historic Eastside Neighborhood Group (HENA), have expressed concern with architectural compatibility, increased density, removal and or modifications to historical structures, specifically those that are not designated as landmarks, but that contribute to the district's character. The code does contain compatibility requirements, but concerns have been raised that these standards are too subjective and some ADUs are not compatible with existing Single-Family Residential neighborhoods.
- **Setbacks** – Some ADU's constructed in new structures have raised concerns with neighbors due to their distance away from other properties. The development standards allow ADUs to be constructed five-feet from a side property line and 10-feet from a rear property line. ADU's constructed in existing structures do not typically raise the same concerns.
- **Height** – While the height of the ADU's are now limited to be no higher than the principal structure, the style of the unit can still make the ADU seem larger than the principal home. For example a 1 and ½ story home and a two-story ADU over a garage may have the exact same height, but visually the two-story garage appears larger. Some residents have raised concerns that these types of ADUs are not compatible due to their perceived increased height.
- **Ownership and residency requirements** – As noted above, the property owner is required to live in either the principal dwelling unit or the ADU. There have been a few complaints of owners not fulfilling this requirement; however, as with any other residency requirement, this condition is difficult to enforce. There have also been complaints on the other end of the spectrum that a property owner should be able to use their property as they see fit and should not be forced to live in one of the units.
- **Cost** – Since an ADU is considered a legal, separate dwelling, all impact and development fees associated with a residential unit are required to be paid. In addition, modifying a building to meet building code for a separate living unit in a single structure is an involved process, with numerous requirements (i.e. a basement

apartment is much more costly than a simple remodel or basement refinish). Some residents have indicated that these fees are excessive.

- **Development Process** – The vast majority of applicants for ADUs are private homeowners, not professional land developers. Staff has received some feedback from frustrated homeowners about the level of detail and processing time to gain approval of an ADU – before they can even submit building permit plans. With the additional requirement of written notification to neighbors and sign posting, coupled with the many requirements from the development review team on the plans, frustrated homeowners wonder why this isn't a more streamlined process.

Staff is interested in feedback from Council on what, if any changes, should be pursued. While ADUs are a small portion of overall residential building permits (9 of 947 in 2019 and 10 of 718 through September 2020), there has been concern expressed by several residents about the process and the code requirements. ADUs can be a tool to diversify housing stock, increase access to housing, provide a more affordable option, and provide opportunities for additional income. They are also a housing type that can encourage aging in place. However, it is important that the process and standards are in alignment with community expectations. Staff is interested in feedback from Council on if code changes should be pursued? How can Longmont encourage housing diversity and affordability, while respecting neighborhood character? Council could consider:

- Changes in specific areas (e.g. historic districts, specific zoning districts)
- Changes to specific standards (e.g. height, setbacks, etc.)
- Changes to process
- Changes to compatibility standards

If Council directs staff to look at changes, staff would also be interested in understanding what type of community involvement effort should be undertaken. To date we have heard from a small subset of residents.

ATTACHMENTS:

1. Map of Permitted ADUs in the City of Longmont
2. Land Development Code Section 15.04.040 Regarding Development Standards for Accessory Uses, including ADUs
3. Land Development Code Section 15.02.055 - Common Review Criteria for All Application Types and 15.02.070 - Review Standards and Procedures for Specific Minor Development Applications