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Adams County Development Standards and Regulations Official Code Interpretations Manual

**Community and Economic Development Department
Updated 5/26/2022**

Per section 1-01-09-05 of the Adams County Development Standards and Regulations, the Director of Community and Economic Development shall provide interpretations to the regulations upon request. The following interpretations are organized by the chapter the specific section is found in the Development Standards and Regulations.

1-01-09-05 THE DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

The Director of Community and Economic Development shall interpret these standards and regulations to reflect the purpose and intent of protecting the health, safety, and welfare of the public.



COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT

OFFICIAL CODE INTERPRETATIONS MANUAL

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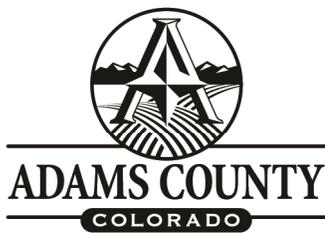
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MEMORANDUM

To: Jill Jennings-Golich, Director of Community and Economic Development
From: Greg Barnes, Planner III
Cc: Christine Fitch, County Attorney
Jennifer Rutter, Development Services Manager

Subject: Two-Family Dwellings in the Residential-2 Zone District

Date: December 5, 2019

BACKGROUND

Two-family dwellings are a permitted use in the Residential-2 (R-2) zone district. The Adams County Development Standards and Regulations currently state that there is a minimum lot size of 9,000 square feet for two-family dwelling lots (and a minimum of 4,500 square feet, if each dwelling is located on its own lot). There has been some confusion amongst staff as to whether lots created legally within Adams County may have some nonconforming status to build two-family dwellings if they are on lots that are smaller than 9,000 square feet.

HISTORICAL CONTEXT

After reviewing over 80 years of Adams County regulations, it has been determined that the minimum lot size for two-family dwelling lots within the R-2 zone district have been:

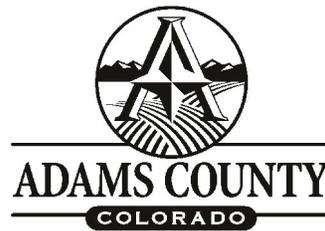
1946-1993	9,000 square feet (4,500 per dwelling)
1993-1999	7,000 square feet (4,500 per dwelling)
1999-current	9,000 square feet (4,500 per dwelling)

Based on this research, it does not appear that lots of less than 9,000 square feet in area that were created between 1946 and 1993 as well as between 1999 and 2019 have any legal nonconforming status that will allow a two-family dwelling to be constructed. However, it may be possible that 7,000-9,000 square foot lots created between 1993 and 1999 may have some legal rights to develop two-family dwellings. Lots created before 1946 have an uncertain status.

DIRECTOR'S DECISION

For consistency purposes, it is official policy of the Community and Economic Development Department (CEDD) that two-family dwelling construction within the R-2 zone district only be allowed on lots of 9,000 square feet or greater (or at least 4,500 square feet per dwelling).

Based on the County's recent inventory of housing needs, the CEDD will consider an amendment to the Adams County Development Standards and Regulations that allow for greater flexibility to construct two-family dwellings within the R-2 zone district in the near future.



To: Jessica Melton on behalf of Marco Linares
Adams County Community & Economic Development Staff
From: Jill Jennings Golich, Director
Date: August 5, 2019
Re: Request for interpretation regarding use in the C-4 Zone District

Per Adams County Development Regulations Section 1-03-01 and 3-05-02, the Director of Community and Economic Development is allowed to interpret the text of the development regulations. A request was made on allowing a proposed plumbing and heating business to locate in a C-4 zone district and whether that falls within the allowed use of office and service businesses.

The customer states that the property will be used for office and meeting space for the residential plumbing and heating business, along with storage of materials for the plumbing parts, and serve as a dispatch for staff to turn in paperwork and restock supplies for their trucks.

Applicable code provisions

1. Purpose of the Commercial-4 District (C-4) in Section 3-22-01
 - a. The purpose of the Commercial-4 District is to serve as a general retail and service district designed to provide services and products for both the general and traveling public in a regional context.
2. Definition of Offices in Section 11-02-396
 - a. This use category includes: banking and other credit agencies (offices only); security, commodity brokers and services; insurance carriers; real estate; holding and other investments; business services; and medical offices.
3. Definition of Heavy Retail and Heavy Services in Section 11-02-276
 - a. This use category includes: all activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products that would be considered as light or heavy industrial shall be prohibited in this use. For example, while auto or engine repair is permitted, the storage and disassembly of vehicles and the re-assembly of various parts are considered heavy industry. Junkyards are also considered heavy industry. Heavy retail and heavy service uses include retail and/or service activities that have large amounts of exterior service or storage areas or partially enclosed structures such as: automobile dealers; automotive repair except top, body, upholstery repair, paint, and tire retreading shops; automotive services except wrecking or towing storage yards; mobile home and manufactured housing dealers with mobile home sales office; auto/truck rental/leasing; cold storage; cabinet manufacturing with sales; radio and TV broadcasting station; flea market; firewood sales, storage, and splitting; and pawn shops.
4. Definition of Services in Section 11-02-493
 - a. This use category includes a wide variety of personal and commercial services. This category does not include those services serving customers in vehicles, such as drive-up

banking facilities, but shall include uses such as commercial services and personal services.

5. Definition of Light Industrial in Section 11-02-315

- a. This use category includes: manufacturing, processing, storage transportation, construction, repair and wholesale uses such as: general building contractors; special trade contractors; dairy and food processing and manufacturing facilities;; textiles and apparel; lumber, building materials, and wood products; furniture and fixtures; paper products, except mills; printing and publishing; drug manufacturing; leather and leather products, including tanning and finishing; fabricated metal, sheet metal shops, metal products manufacturing; electric and electronic equipment, including electronic distribution and electrical industrial; instruments and related products; meat processing and packaging, excluding meat packing and slaughter; miscellaneous manufacturing industries; local and interurban passenger transit; trucking and general warehousing, including ministorage; transportation services; wholesale trade (durable and non-durable); fuel and ice dealers; welding repair; automotive repair, including top, body, upholstery repair, paint, and tire re-treading shops; special warehousing and storage; auto towing and storage yards; recreational vehicle storage; dry cleaning plants; auction houses without livestock; and bus repair.

Discussion

Does the proposed use meet the definition of the use category of office or services?

The plumbing and heating business will be providing office space for staff to answer phones and dispatch staff to residential homes to resolve plumbing and heating issues. The business will be storing plumbing and heating materials initially in a shed and in the future in a new building. The proposed location is where staff will be dispatched from for service calls. While there will be offices at the location, the offices are being provided to serve the plumbing and heating business. Based on the information provided by the business, the use itself is not in alignment with the definition of the office use category found in Section 11-02-396.

Another category of allowed uses in this zone district is that of heavy retail and heavy services. Per the definition in Section 11-02-276, the proposed use is not consistent with this use category.

The proposed business is providing a personal and commercial service and so it does meet the definition in Section 11-02-493 of a service use. The business will be providing plumbing services through an office housed on the property. The business has proposed that its use will contain minimal outside storage and mainly be used as a “hub” to dispatch parts and employees to various service calls in the area.

However, when looking at the Light Industrial use category in the Use Chart found in Section 3-07-01, one will see that a use falling under that category is ‘Special trade contractors’. This term is not defined in the Adams County Development Regulations, but Section 11-01 notes that ‘all words, terms, and phrases shall be construed and understood according to the common and approved usage of the language, unless otherwise defined’. Since the term ‘special trade

contractors' is not otherwise defined, it's common usage is such that its an establishment providing general contractor and/or building construction services for residential, industrial, or commercial uses for things such as electrical work; plumbing, heating, air-conditioning; general building contractors; carpentry and floor work, etc. The use of special trade contractors is not an allowed use in the C-4 zone district.

Based on the description of the proposed activities and that there will be no fabrication of parts or large outdoor storage yards, the use seems more in keeping with the definition of the Services category found in Section 11-02-493. A typical special trade contractor or general building contractor will have a large outdoor yard where they are storing, manufacturing and/or processing materials or goods which is not the case here. The impacts to surrounding properties will be minimal, and is in keeping with other allowed uses and the purpose of the C-4 zone district.

Interpretation

Per Adams County Development Regulations 1-03-01 and 3-05-02, the Director of Community and Economic Development finds this interpretation to be consistent with the intent of the regulations and the purpose of the C-4 zone district as described in Section 3-22-01. The proposed use may fall under the Services use category and must ensure compliance with the following:

- all requirements for said use within the C-4 zone district, and
- the Commercial Use performance standards found in Chapter 4, including the standards for the Services use found in Seciton 4-09-02-20 which prohibit any amount of accessory outdoor storage.

Should the nature of the proposed use change such that outdoor storage or large trucks (beyond the size of a typical box truck) are required, then this use can no longer be classified as a service use.

To: Adams County Community & Economic Development Staff
From: Jill Jennings Golich, Director
Date: August 14, 2019
Re: Request for interpretation regarding use of terms 'principal dwelling unit' and 'primary dwelling unit' regarding Accessory Dwelling Units

Per Adams County Development Regulations Section 1-03-01 and 3-05-02, the Director of Community and Economic Development is allowed to interpret the text of the development regulations. Clarity is needed regarding language contained in Chapter 4 Section 4-03-04-02-01-5-c for both attached or internal and detached accessory dwelling units (ADUs) related to the use of 'principal dwelling unit' and 'primary dwelling unit', and what is included in the calculation when an ADU must not exceed 40% of the primary or principal dwelling unit.

Applicable code provisions

1. Purpose of an Accessory Dwelling Unit (ADU) in Section 4-03-04-02-01
 - a. The purpose of the accessory dwelling unit (ADU) provisions are to: (1) provide homeowners with an opportunity for companionship and security; (2) better utilize existing infrastructure and community resources; (3) provide a housing type that responds to changing needs and lifestyles (e.g., small families, retirees, caretakers); (4) add to the County's stock of affordable dwelling units; and (5) protect neighborhood character and stability by ensuring that visible ADUs are compatible with surrounding land uses.
2. Development Standards related to size found in Section 4-03-04-02-01-5-c
 - a. Attached or Internal. ADUs shall not exceed 40% of the principal dwelling unit in addition to the underlying development standards for the lot, including, but not limited to, lot coverage, height and setback requirements for the zone in which they reside.
 - b. Detached. ADUs shall not exceed 1,500 square feet residential floor area or 40% of the primary dwelling unit's gross floor area, whichever is less.
3. Definition of Dwelling Unit, Accessory (ADU) in Section 11-02-171
 - a. A subordinate dwelling unit added to, created within, or detached from a single family structure with a separate entrance that provides basic requirements for living, sleeping, eating, cooking and sanitation. A single family structure with an accessory dwelling unit is not considered to be a two-family dwelling or duplex. If the ADU is adjoined to or placed atop an unoccupied structure, such as a garage or covered porch, the garage or covered porch shall not be included in the gross floor area counted towards the ADU. Storage and mechanical space, including utility rooms and closet space, associated with the ADU shall be counted towards the floor area calculation.
4. Definition of Floor Area, Residential in Section 11-02-238
 - a. Total area of a dwelling excluding basement, carport or garage.

Discussion

The intent of the development standards related to size are to limit the amount of area of an ADU relative to the structure to which it is accessory. In Section 4-03-04-02-01-5-c two different terms are used which are intended to mean the same thing – principal dwelling unit and primary dwelling unit. These terms are not defined in Chapter 11. Section 11-01 notes that 'all words, terms, and phrases shall

be construed and understood according to the common and approved usage of the language, unless otherwise defined'. Since the terms 'principal dwelling unit' and 'primary dwelling unit' are not otherwise defined, the common usage is such that both terms mean the main structure that a person or person(s) is residing within that provides basic living accommodations.

Regarding how to determine the allowed maximum size of the ADU, the development standards for size for a detached ADU refer to the primary dwelling unit's gross floor area. In this case, staff should refer to the definition of 'floor area, residential' in Section 11-02-238 which means the 'total area of a dwelling excluding basement, carport or garage'. The development standards for size of an attached or internal ADU makes no reference to either gross floor area or floor area, residential. However, that language should have been included. Therefore, when determining the maximum size of an ADU, one should look at the entire size of the primary dwelling unit excluding the basement, carport or garage.

For an attached or internal ADU, the maximum size of the ADU shall not exceed 40% of the principal dwelling unit's residential floor area in addition to the underlying development standards for the lot, including, but not limited to, lot coverage, height and setback requirements for the zone in which they reside.

For a detached ADU, the maximum size of the ADU shall not exceed 1,500 square feet or 40% of the primary dwelling unit's residential floor area, whichever is less.

Example

1. Internal ADU being located in the basement
 - a. Principal dwelling unit floor area = 2,000 square feet on floors 1 and 2 (does not include the square footage of the basement per the 'floor area, residential' definition)
 - b. ADU maximum size = 40% of 2,000 square feet = 800 square feet
2. Detached ADU being located above a garage
 - a. Primary dwelling unit floor area = 2,000 square feet on floors 1 and 2 (does not include the square footage of the basement per the 'floor area, residential' definition)
 - b. Detached garage floor area = 600 square feet (this square footage isn't included per the definition of ADU in Section 11-02-171)
 - c. ADU maximum size = 1,500 square feet or 40% of 2,000 square feet, whichever is less
 - i. Maximum size = 800 square feet

Interpretation

Per Adams County Development Regulations 1-03-01 and 3-05-02, the Director of Community and Economic Development finds this interpretation to be consistent with the intent of the regulations and the purpose of the accessory dwelling unit per Section 4-03-04-02-01.

For an attached or internal ADU, the maximum size of the ADU shall not exceed 40% of the principal dwelling unit's residential floor area in addition to the underlying development standards for the lot, including, but not limited to, lot coverage, height and setback requirements for the zone in which they reside.

For a detached ADU, the maximum size of the ADU shall not exceed 1,500 square feet of the residential floor area or 40% of the primary dwelling unit's residential floor area, whichever is less.



To: CED Staff
From: Jenni Hall, Director of Community & Economic Development
Date: May 25, 2022
Re: Interpretation of Use – Oil and Gas Cryptocurrency / Digital Currency / Electronic
Currency Mining

Per Adams County Development Standards and Regulations Section 1-03-01 and 3-05-02, the Director of Community and Economic Development is allowed to interpret the text of the development regulations. Section 3-06 describes the use categories defined by the Adams County Development Standards and Regulations, which are meant to detail the permitted uses within each zone district and overlay zone district. Uses not described in that section are not necessarily excluded, and the Director of Community and Economic Development may determine whether an unidentified use is substantially similar to an identified permitted or conditional use. Further, Section 3-05-01 states that “[n]o use not specifically permitted or conditionally permitted in a district shall be allowed unless the Director of Community and Economic Development determines the use is similar to an expressly permitted use.”

The County’s Oil & Gas Liaison has provided a written description of a new use witnessed by the Oil & Gas Inspectors in the field at 13350 Imboden Road:

- Installation of a large generator and shipping container containing Cryptocurrency / digital currency / electronic currency mining operations.
- Natural gas being produced from the wellhead is being used to power the generator that runs the computers.

Discussion & Interpretation

Per Section 4-02-01, a change in use of property occurs whenever the essential character or nature of the activity conducted on a property changes. All changes in use require zoning review and building permit approval. Section 3-06 describes the use categories, which detail the permitted, conditional, and prohibited uses in each zone district. None of the use categories are similar to the described use of a trailer full of computers powered directly by a producing well.

Section 3-05-01 states that “[n]o use not specifically permitted or conditionally permitted in a district shall be allowed unless the Director of Community and Economic Development determines the use is similar to an expressly permitted use.” In this instance, the use is not substantially similar to any of the uses in the use chart. Further, the Director has determined that the described use is prohibited.

Understanding that Cryptocurrency / digital currency / electronic currency mining is a developing technology and growing in popularity, this department will endeavor to develop regulations to allow it in certain zone districts with proper permitting and performance standards to mitigate any potential off-site impacts.

To: Planning & Development Staff
From: Jennifer R. Hall, Director
Date: April 11, 2022
Re: Director Interpretation Regarding Accessory Dwelling Units for a Principal Industrial Use

Per Section 1-03-01 and 3-05-02 of the Adams County Development Standards & Regulations, the Director of Community and Economic Development is authorized to interpret the text of the development regulations. Clarity is needed regarding language contained in Chapter 4 Section 4-03-03-02-01 for accessory dwelling units (ADUs) as it relates to a caretaker dwelling on a property with a principal industrial use.

Applicable code provisions

1. Purpose of an Accessory Dwelling Unit (ADU) in Section 4-03-03-02-01 (1.)
 - a. The purpose of the accessory dwelling unit (ADU) provisions are to: (1) provide homeowners with an opportunity for companionship and security; (2) better utilize existing infrastructure and community resources; (3) provide a housing type that responds to changing needs and lifestyles (e.g., small families, retirees, caretakers); (4) add to the County's stock of affordable dwelling units; and (5) protect neighborhood character and stability by ensuring that visible ADUs are compatible with surrounding land uses.
2. Applicability in Section 4-03-03-02-01 (2.)
 - a. One ADU on an existing legal lot is permitted as an accessory use to single family residential uses in any zone districts, in addition to legal nonconforming single-family structures in those zones as allowed by these regulations. As the purpose of an ADU is to be an accessory use/structure to a primary dwelling, an ADU shall not be platted for individual sale through the condominium platting process.
3. Definition of Dwelling Unit, Accessory (ADU) in Section 11-02-177
 - a. A subordinate dwelling unit added to, created within, or detached from a single-family structure with a separate entrance that provides basic requirements for living, sleeping, eating, cooking and sanitation. A single-family structure with an accessory dwelling unit is not considered to be a two-family dwelling or duplex. If the ADU is adjoined to or placed atop an unoccupied structure, such as a garage or covered porch, the garage or covered porch shall not be included in the gross floor area counted towards the ADU. Storage and mechanical space, including utility rooms and closet space, associated with the ADU shall be counted towards the floor area calculation.

Discussion

Section 4-03-03-02-01 (2) specifically states that one ADU on an existing legal lot is permitted as an accessory use to the *single-family residential uses in any zone districts*. Furthermore, the definition for an ADU discusses the dwelling unit will be subordinate to a single-family structure. The development standards do not consider ADUs to be utilized as an accessory use to any use other than a single-family residential use.

Interpretation

Per Adams County Development Regulations 1-03-01 and 3-05-02, the Director of Community and Economic Development finds this interpretation to be consistent with the intent of the regulations and the purpose of the accessory dwelling unit per Section 4-03-03-02-01.

The intent of accessory dwelling units is to be an accessory use to single family residential uses in any zone district. This would also apply to legal nonconforming single-family structures in those zone districts allowed by the Adams County Development Standards and Regulations.

The option for a variance from these Regulations would not be applicable due to variances only being considered for deviations from dimensional requirements or performance standards, not uses (Section 1-02-03-12-01).