



# Consolidated Land Use Board Minutes

October 24, 2024

5:30 PM

City – County Complex, Community Room

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## 1. Roll Call

In attendance: John Kalmon, Becky Moores, Caitlin Chiller, Frank O'Connor, Torrey Lyons (non-voting City Commission Representative) and Baily Goodwine. Goodwine chaired the meeting. Absent- Jessie Wilcox and Forrest Huisman. Staff: Jennifer Severson, Planning Director.

## 2. Approval of September 11, 2024 Minutes

Goodwine motioned to approve; Kalmon seconded motion. Motion passed 5-0 (O'Connor abstained- was absent for September meeting).

## 3. General Public Comment - None

## 4. Planning Items - None

## 5. Zoning Items

### **A. ZONING TEXT AMENDMENT – Update Chapter 30 related to Accessory Dwelling Units (ADUs) and Duplexes as mandated by 2023 Montana Legislative Actions. Action Requested.**

Severson introduced the proposed amendments and explained that these went before the City Commission for first reading in January 2024 but did not proceed, at the direction of the Commission, because a judicial injunction was granted to stay the implementation pending a lawsuit. The stay was lifted recently and these are now state law. Other than a few minor additional changes, these text amendments are proposed to bring city code into compliance with state law. Duplexes are allowed anywhere single family residential (SFR) uses are allowed. Duplexes now allowed in R-I and RMO districts; all other zones already allow duplexes where SFR allowed. ADUs are now allowed anywhere a SFR exists. ADUs now allowed in CBD if SFR exists on parcel- already allowed in other districts that allow SFR uses. Technically ADUs are allowed in zones that do not allow SFR under Table 30.41 (I, LI and NC); however, City's GIS confirmed there only one or two SFRs that currently exist in NC- none exist in I or LI. Removes requirements for parking, impact fees and design tied to ADUs (city doesn't require design consistency anyway). Severson anticipates this will not significantly increase density beyond what current code allows. Although general impact fees can no longer be assessed for ADUs, if the existing utility lines to the property need to be upsized, fees will be assessed for that.

Additional revision beyond state mandates is that ADUs only apply to single family dwellings; ADUs shall not apply to existing two-family or multifamily dwellings. ADU can be added to SFR to create a duplex. This change is in response to feedback from the City Commission in January 2023.

Table 30.51 is revised to reflect that no on-site parking is required for an ADU. Additionally, ADU allowable size has changed. ADUs can now be 1,000 square feet or 75% of size of primary dwelling, whichever is less.

Chiller asked if, since duplexes are now allowed in RMOs, would a developer be allowed to come in and build all duplexes. Severson stated that only one of the existing mobile homes communities in the City is zoned RMO, and confirmed that it is possible that a developer could turn a mobile home community into a community of duplexes. Chiller also asked how the removal of on-site

parking requirements for ADUs will affect neighborhoods that already have issues with street parking. Severson said she doesn't anticipate the additional on-street parking that may result will not significantly impact traffic or the transportation network; however, if on-street parking availability becomes scarce in residential neighborhoods, the city would explore ways to address the issue. Chiller also asked about addressing requirements for ADUs. Severson confirmed addressing is not tied to zoning but that ADUs are addressed separately from the primary residence. Chiller asked how the term "single family" is looked at when considering how many people live in a single-family dwelling and how that may impact density and the City's ability to provide services. Severson confirmed that the city does not track how many people live in a single-family dwelling but that the size limitation for ADUs inherently limits how many bedrooms are in an ADU. Chiller asked about fire hazards/ safety; Severson confirmed this is looked at during building permit review.

Kalmon questioned if the City's sewer and water infrastructure can support the additional density allowed by the ADU changes. Severson stated that Public Works is examining available infrastructure capacity as well as condition to assess where improvements are needed. Severson stated that the ADU change is unlikely to overtax current infrastructure but mentioned that, through the zoning code update in progress, additional density allowances may be introduced into the code. The City will continue to assess infrastructure needs to determine where improvements are needed. Severson also stated that from recent discussions with the Public Works Director Shannon Holmes, there are less concerns about capacity than conditions of the existing infrastructure, especially in the older parts of the city.

Goodwine asked about what Impact Fees are used to fund. Lyons stated that the fees are essentially used to pay for all of the city services a household would use (water, sewer, trash). Goodwine asked how the City will cover these costs since they can no longer be assessed on new ADUs. Lyons confirmed that it could result in a different level of services the City is able to provide. Severson stated that the intent of this legislation is to provide opportunities for more affordable housing options. Severson confirmed Livingston is not able to raise funds through use of a resort tax as the upper population limit for towns to have a resort tax is 5,000 and Livingston has a population higher than 5,000.

Kalmon inquired if impact fees might have to be increased to cover the cost of services. Lyons stated that impact fees collected from other development than ADUs can be used to cover the cost of city services. Kalmon stated that he thinks it's likely impact fees for other developments might eventually have to increase to address the shortfall caused by not being able to collect impact fees from ADUs. Lyons noted that several ADUs were built in his neighborhood before the state law to waive all impact fees for ADUs went into effect, and he believes the development of new ADUs in town may be response to real estate market conditions rather than waiving impact fees.

O'Connor questioned if funds collected from various impact fees can be used elsewhere to fund services. Lyons said it will be challenging to identify funds to replace lost ADU impact fees but the City Manager is skilled in Finance and Lyons is confident the City will find ways to compensate for the loss of ADU impact fees.

Moore asked about the requirement in SB528 to require a will serve letter and whether the city has option of not providing that letter for an ADU if city infrastructure becomes overburdened. Severson stated the City must provide services to parcels located within City limits and it is not optional. Lyons stated that the City doesn't have the ability to evaluate impacts of individual ADUs or a single residential unit on the services the City is able to provide to the community. Lyons said these are all important considerations and the City will need to look at the aggregated impacts of new development on the City's utility systems and services within the limitations of the state mandate to waive impact fees.

Moore asked if the state restriction on design consistency for ADUs with the primary dwelling will conflict with recently passed Gateway Overlay District design requirements. Severson said it's

unlikely to conflict as the Gateway Overlay District is focused on commercial development and there are not many residential dwellings in the overlay district so likely won't be many ADUs built in the Overlay District.

Lyons asked for clarification about the location of ADUs on lots. Severson confirmed the zoning code currently requires the ADU to be located to the rear of the primary dwelling. Lyons stated that there are several historic houses in town that are located on the rear of the property (closer to the alley than the street) and any ADU would need to be located near the street (i.e. in front of the primary dwelling). Severson said that language in the code will be evaluated during the code update process so that there is more flexibility for ADU location on lots to better align with recommendations in the Growth Policy related to supporting additional housing.

**General Public Comment (45:23 minutes)** – Jamie Isaly (27 Flynn Creek Road)- stated that ADUs can be configured several ways with primary unit- as an addition, separate, above, etc. He said typical residential impact fees are about \$12,000 and that ADU impact fees average around \$6,800 before the state law changes. He stated that detached ADUs must still pay costs to connect to water and sewer services.

Katherine Daly for Park County Housing Coalition (no address given)- provided background on state mandated ADU changes; ADUs are included as Tool #8 in Park County Housing Action Plan; recent research recommended actions to support ADU development- include remove regulatory barriers, create new financing pathways and homeowner education – this latest state legislation on ADUs is part of broader strategy to promote development of variety of housing options, one of which is ADUs. Average household size in Park County are ~ 2 people so many small households in Park County; currently lacking smaller house sizes that will meet needs of Park County small households. ADUs will be predominantly used for small households (1 or 2 people), which will limit the impacts of additional density from ADUs. ADUs are a flexible way to support multi-generational families living near each other, provide additional income to people impacted by higher property taxes so they can remain in place as well as supplementing retirement income. Providing this opportunity to encourage ADUs can be looked at as an investment by the City in our residents and the future of their families and the ability of the community to support all ages/ stages of life with relatively 'gentle' density impacts. This all adds to livability and vibrancy of Livingston. Noted that City included limitations in code update to limit ADUs to single family dwellings to remain consistent with current zoning code density allowances.

**O'Connor made motion to recommend the City Commission adopt Zoning Text Amendments as proposed in the Staff Report; seconded by Chiller. Motion passes 5-0. (57:08 minutes)**

#### **6. Board Comments (57:22 minutes)**

Lyons expressed his appreciation for tonight's discussion and will let Commission know the Consolidated Land Use Board held a thoughtful and thorough public hearing on the agenda item.

#### **7. Adjournment (6:36 pm)**