

## **MEMO**

TO: Boulder Mayor and Town Council

FROM: Lee Nellis, FAICP

DATE: November 13, 2021

### **RE: Amendments Required by Recent Legislation – First Installment**

Utah law now requires local governments to permit Internal Accessory Dwelling Units (IADUs) within the existing footprint of owner-occupied primary dwellings; which is to say, within the footprint of almost all detached single-family dwellings. Local governments may not require CUPs or other discretionary reviews of IADUs, but may impose a limited number of standards on them.

The Planning Commission began discussing this new law (including the exceptions allowed by the Legislature, none of which seem helpful for Boulder) and how the Town's zoning should be amended to comply in June 2021. It held a public hearing on draft amendments on November 11, 2021. There were no public comments. The Commission made one change to the draft, then voted unanimously to forward it to the Town Council.

These proposed amendments require no changes in the Town's general plan, which already encourages the provision of additional housing choices. The Planning Commission did, however, use its discussion of IADUs as an opportunity to also propose improvements in the regulation of External Accessory Dwelling Units.

#### **External Accessory Dwelling Units**

Boulder has permitted External Accessory Dwelling Units (EADUs) since Ordinance 2018-4 was adopted. I advised the Planning Commission to propose repealing and replacing that ordinance. It is inconsistent with the new state law and revolves around an unclear and unenforceable distinction between "rental" and "guest" ADUs. Its useful provisions have been incorporated into the amendments now before you. The result is simpler and easier to administer.

#### **Relationship to Short Term Rentals**

Probably the most important question about IADUs is whether they can be used as STRs. IADUs are, as defined by the new law, rented for 30 consecutive days or more. These proposed amendments make it clear twice (once in the definitions, once in the standards) that IADUs and EADUs may not be rented for less than 30 consecutive days. An STR may be created only using the procedures established specifically for that purpose.

#### **Housekeeping Amendments Included Here**

Figuring out how to handle accessory dwellings, led me to carefully read related definitions and ask the Planning Commission to propose a few "housekeeping" amendments.

- The existing definition of "accessory building" is way too restrictive for a rural, agricultural community. It limits accessory buildings to 1000 square feet and prohibits them having a

kitchen. That might be appropriate in some suburbs, but it eliminates the types of accessory buildings that would support ranch-based businesses. What if someone wants to raise, process, and sell chilis and beans? They're going to need a commercial kitchen that might not be in a principal building. What if a guest ranch wants to build a tack room and, while they're building, add an indoor recreation space for guests? That could easily be over 1000 square feet. These amendments fix this problem.

- These amendments eliminate a conflict between the definition of accessory use and the recently adopted standards for home businesses.
- I discovered that the ancient definition of "mobile home" in the existing ordinance is not consistent with the definition in state law. These amendments will correct that, too.
- I also realized that the current list of site plan requirements for CUPs does not require proof of ownership or of an owner's permission for a representative. That has been added.

Finally, the deadline for coming into compliance with the new state law is long past. The Legislature's expectations were not reasonable for a place like Boulder, but the Town Council should make these changes as soon as you can!