



Meeting Date: January 13, 2022

AGENDA MEMORANDUM

To: Planning Commission

From: Brad Boland, AICP, Planner II, Development Services

Title: Use by Special Review – 5069 Bear Paw Drive Accessory Dwelling Unit

Executive Summary

The applicants, Mike and Jennifer Kelly, are requesting approval of a proposed accessory dwelling unit at 5069 Bear Paw Drive. A proposed addition to the existing home would create a 1,556 square-foot accessory dwelling unit. As the proposal adds additional square footage to the home, a Use by Special Review approval is required per the accessory dwelling unit regulations adopted in January 2018.



Figure 1: Vicinity Map

Background

Existing Conditions and Surrounding Uses

The property is located within the Meadows Third Amendment Planned Development, a residential development. The home was built in 2004 and is similar in architectural style as the surrounding homes.



Figure 2: Existing Home

Zoning Regulations

The Meadows Planned Development and Zoning Regulations was originally approved in 1984. The Meadows Third Amendment Planned Development Amendment and Zoning Regulations was approved in 2003. The Meadows Third Amendment Planned Development Amendment and Zoning Regulations do not expressly prohibit accessory dwelling units, therefore are an allowed use per the Town's accessory dwellings unit regulations (Castle Rock Municipal Code Section 17.61).

An accessory dwelling unit (ADU) is a secondary/smaller, independent residential dwelling unit located on the same lot as a stand-alone single-family home. The accessory dwelling unit may be internal to the single-family home (i.e. a finished basement with a separate entrance) or detached from the single-family home (i.e. an apartment over a detached garage). Town

Council approved new accessory dwelling unit regulations in January 2018 to permit and regulate accessory dwelling units across the Town unless expressly prohibited in a PD. The intent of permitting accessory dwelling units is to provide (i) alternative housing options to make more efficient use of existing housing stock and infrastructure, (ii) flexible use of space for property owners, and (iii) a mix of housing types that responds to changing family dynamics. Because accessory dwelling units do not require additional land, they can be incorporated into established neighborhoods more easily than other forms of housing. Approval of a Use by Special Review is a requirement for any new structure containing an accessory dwelling unit or expansion of an existing structure for the purposes of an accessory dwelling unit.

Discussion

Design

A 100 square foot addition is proposed for 5069 Bear Paw Drive for the purposes of adding a kitchen to the existing basement. The kitchen will be added to the north west corner of the basement. In addition to the proposed kitchen, 1,456 square feet of the basement has been finished to include a bedroom, office, and living room. The addition of a kitchen to the basement would create an accessory dwelling unit. The proposed accessory dwelling would total approximately 1,556 square feet and would be accessed from the rear of the house in addition to being accessible from within the house. The 100 square foot expansion fills in the bottom north west corner of the house. The west elevation includes stone veneer, used in various places on the house, at the bottom and the same siding as the rest of the house is used on the upper portion of the elevation surrounding a new window. On the north elevation the same siding as the rest of the house is used.

A building permit for a basement finish was issued to the applicant that allowed them to finish the basement and build the expansion without the kitchen.

Development Standards

The proposed addition to the home meets the required setback and height requirements of the Meadows Third Amendment Planned Development and Zoning Regulations.

Notification and Outreach

Public Notice

Public hearing notice signs were posted on the property on December 27, 2021. Written notice letters were sent to property owners within 500 feet of the property, at least 15 days prior to the public hearings.

Town staff published notice of the Planning Commission public hearing on the Town's website and provided information about the proposal on the Town's *Development Activity* interactive map.

Neighborhood Meetings

A neighborhood meeting was held on December 2, 2021 virtually on Webex. Four people attended the meeting and stated that they had no concerns about the proposal. A second neighborhood meeting will be held on January 12, 2022.

Analysis

This independent staff analysis takes into account the representations made in the application and attachments submitted to date.

Accessory Dwelling Units Regulations and Restrictions and Analysis 17.61.050

- A. A building permit meeting all Town regulations must be obtained for all Accessory Dwelling Units.
- B. The Town may issue a building permit authorizing the construction and use of an Accessory Dwelling Unit, provided the following conditions apply:
 - 1. Number. No more than one (1) ADU may be created or maintained on a single lot or tract.
 - 2. Owner Occupancy.
 - a. The property owner, as evidenced in the Douglas County public records, must occupy either the Primary Dwelling Unit or the Accessory Dwelling Unit, or both.
 - b. In the event the property is not owned by a natural person(s), then an individual with ownership or direct interest in the entity, as demonstrated to the Director, may be considered a property owner.
 - c. The Director may waive this Owner Occupancy requirement for temporary absences of less than one (1) year provided that the owner has maintained the permitted use for a minimum of two (2) years and submits proof of temporary absence.
 - 3. Dual Rental Prohibited. At no time may both the Primary Dwelling Unit and Accessory Dwelling Unit be renter occupied. Prior to issuance of a building permit for an ADU, the property owner shall record a deed restriction, in a form acceptable to the Director, prohibiting the concurrent renting of both the Primary Dwelling Unit and the Accessory Dwelling Unit.
 - 4. Subdivision. Accessory Dwelling Units may not be subdivided or otherwise conveyed into separate ownership from the Primary Dwelling Unit on the lot or tract.
 - 5. Utilities.
 - a. No separate water or sewer taps will be allowed for the ADU.
 - b. All billing for water, sewer and storm water services will be billed to the Primary Dwelling Unit account holder. As a condition to issuance of a building permit, the account holder shall certify to the Town that they will be responsible for all utility charges incurred by the ADU.
 - c. Should an ADU require the enlargement of the Primary Dwelling Unit's existing water tap, the applicant shall pay the incremental System Development Fees (as set forth in Chapter 13.12 of the Code) based on the new tap size, together with any connection fees.

6. *HOA Compliance.* It shall be the obligation of the property owner to obtain compliance with any homeowner association requirements for the ADU. The Town will not independently verify such compliance.
7. *Design.* An ADU shall be designed to maintain the architectural design, style, appearance and character of the Primary Dwelling Unit, and must be consistent with the existing façade, roof pitch, siding, eaves, window treatment and color of the Primary Dwelling Unit. The ADU shall be permanently affixed to an engineered foundation. All district zoning regulations applicable to the construction and placement of structures shall apply to ADUs.
8. *Size.* The floor area of an ADU located interior to the Primary Dwelling Unit shall not exceed fifty percent (50%) of Primary Dwelling Unit. The building footprint of a detached ADU or a new ADU addition to the Primary Dwelling Unit shall not exceed eight hundred (800) square feet, unless the PD zoning regulations establish a different limitation, in which event the PD zoning regulations governing size shall apply.
9. *Entrance.* If an ADU is created by an addition to an existing Primary Dwelling Unit that requires a new separate outside entrance, only one (1) entrance may be located visible from the street upon which the property is addressed. The additional entrance may be located on the side of, or in the rear of the Primary Dwelling Unit.
10. *Deviation from stated conditions.* A request for deviation from the applicable regulations to install features that facilitate access and mobility for disabled persons shall be considered by the Board of Adjustment pursuant to Chapter 17.06 of the Code.
11. *Pets.* The restriction on the number of animals allowed under the Code shall be per lot, irrespective of the number of dwelling units located on the lot.
12. *Prohibited structures.* Mobile homes, recreational vehicles and travel trailers are prohibited as Accessory Dwelling Units.

The proposed accessory dwelling unit meets the above stated conditions. The proposed accessory dwelling is proposed to be 1,556 square feet, which is smaller than 50% of the existing home and the footprint of the addition does not exceed 800 square feet. The proposed addition is consistent with the existing façade as the proposed addition matches the existing siding and color of the house and the same brick veneer. The exterior entrance of the accessory dwelling unit faces away from the street and view of the addition from the street.

Use by Special Review Review and Approval Criteria and Analysis 17.39.010

In addition to the criteria set forth in Section 17.38.040, Use by Special Review applications shall also be evaluated under the following criteria:

- A. *Demonstrates design compatibility with the scale, architectural character and other prominent design themes found within the surrounding neighborhood.*
- B. *Demonstrates compatibility of the proposed use with existing and planned uses on adjacent properties.*
- C. *Mitigates adverse impacts or nuisance effects such as, but not limited to, visual impacts, noise, vibrations, light intensity, odors, loitering or level of outdoor activity, hours of operation or deliveries.*
- D. *Will not result in undue traffic congestion or traffic hazards. Adequate off-street parking must be provided. Pedestrian access must be adequately addressed*

when this type of access is identified as a significant component or need of the proposed use.

E. Provides adequate landscaping, buffering and screening from adjacent and surrounding uses of potential impact.

The proposed ADU is compatible with the surrounding single family neighborhood as it does not change the scale of the existing home which is comparable to the surrounding homes and the proposed architecture blends with the existing home which is of the typical style found in the neighborhood. The use will not have adverse impacts on the area, nor create undue traffic congestion. In addition, by meeting the specific criteria for an accessory dwelling unit, the proposal has met the general approval criteria for a use by special review.

Budget Impact

Development of the property will generate review fees and building permit fees.

Findings

All staff review comments have been addressed. Town staff has found that the proposed Use by Special Review for 5069 Bear Paw Drive addresses the following:

- Generally conforms with the objectives of the Town Vision and the Comprehensive Master Plan,
- Meets the requirements of the Meadows Third Amendment Planned Development and Zoning Regulations, Amendment No. 1,
- Meets the review and approval criteria of the Municipal Code, Accessory Dwelling Units Chapter 17.61 and Use by Special Review 17.39.

Recommendation

Staff recommends approval of the Use by Special Review

Proposed Motion

Option 1: Approval

"I move to recommend approval of the Use by Special Review to Town Council."

Option 2: Approval with Conditions

"I move to recommend approval of the Use by Special Review to Town Council, with the following conditions:" (list conditions)

Option 3: Continue item to next hearing (need more information to make decision)

"I move to continue this item to the meeting on _____, 2022."

Attachments

Attachment A: Plot Plan

Attachment B: Elevations

Attachment C: Floor Plan

Attachment D: Neighborhood Meeting Summary – December 2, 2021