#### **AGENDA**

## JOINT OURAY CITY COUNCIL/PLANNING COMMISSION MEETING July 8, 2021

1:00pm - Work Session

# IN-PERSON MEETING – ALL PUBLIC WHO WOULD LIKE TO SPEAK SHOULD ATTEND IN-PERSON

320 6th Ave. - Massard Auditorium

## **ZOOM MEETING (FOR LISTENING PURPOSES ONLY)**

https://zoom.us/j/9349389230

Meeting ID: 934 938 9230 Passcode: 491878 Or dial: 408 638 0968 or 669 900 6833

- Changes to this agenda can be found on the bulletin board at City Hall
- Electronic copies of the Council Packet are available on the City website at www.cityofouray.com. A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Community Economic Development Committee, Beautification Committee, Tourism Advisory
  Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the
  agenda below for Council consideration

#### Work Session - 1:00pm

Joint Work Session of the Ouray City Council and Planning Commission to Discuss the Following:

- 1. Explanation and Discussion on Ex-Parte Communications Page 2
- 2. Discussion on Setting a Public Hearing Procedure Page 3
- 3. Discussion of Current and Possible Changes to Regulations Regarding Accessory Dwelling Units (ADUs) Page 5: PC Resolution of Proposed Changes/Page 11: Current Regulations

#### **Ex-Parte Communications**

Quasi-judicial actions apply general rules to a specific interest, such as a zoning change affecting a single piece of property, a variance, a conditional or special use permit, or a specific land use application. These actions involve a state or local law that require notice, a hearing and a determination after applying prescribed criteria to the individual facts of the case.

Ex-parte communications involve communications between a council member or planning commissioner, and a party or member of the public that takes place outside a noticed public hearing. These contacts deny due process to both applicants and opponents of the application because the other party is not present to hear and rebut statements made to the decision-maker. Engaging in *ex parte* contacts can invalidate the action of the body if it resulted in a denial of due process to the applicant and opponents.

If a council member or planning commissioner is called or personally contacted by the applicant, a supporter, or opponent and the matter is identified, he or she should immediately state that, it is improper to talk about the case, including visiting the site, conducting independent research, etc., outside the hearing room. People should be encouraged to submit public comment prior to the hearing or bring his or her points of view and provide testimony at the public hearing. Finally, the council member or planning commissioner should stress that by listening now, he or she might have to step down and not vote at the hearing.

#### PUBLIC HEARING PROCEDURE

- 1. The Mayor shall introduce the agenda item and is responsible for administering oaths and affirmations; receiving evidence; regulating the course of the hearing; setting the time and place for continued hearings after applicant agrees; limiting the number of witnesses; issuing appropriate orders that control the subsequent course of the proceeding; and controlling the decorum and conduct of the proceeding.
- 2. The Mayor shall ask each member of the governing body to disclose any conflicts requiring recusal, any personal or private interests not requiring recusal, or the specific substance of any ex-parte communications made by them.
- 3. The Mayor shall announce the sign-up sheet for public comment located at the entrance to the hearing room and the public may sign up to speak using the sign-up sheet until the hearing is open for public comment.
- 4. The Mayor shall announce all written public comment made by City residents or business owners or designated representatives received by the Friday prior to the hearing date are part of the public record and were included in the packet.
- 5. Rules for Hearing (to be read by the Mayor)
  - A. All questions and comments by applicant, staff, or the public shall be directed to the governing body.
  - B. No applicant, staff member, or the public will be subject to cross examination except by the governing body.
  - C. Public comments shall be taken at the hearing and are limited to five (5) minutes per household or business. Any unused time may not be given to another. Cumulative testimony may be limited or eliminated by the Mayor in his or her discretion.
  - D. If you are asked a question by the governing body, please respond to the question and refrain from adding additional comment beyond the answer to the question.
  - E. Disruptive behavior will not be tolerated and refusal to comply with these guidelines will result in a warning and subsequent removal from the meeting for non-compliance after the warning.
- 6. Hearing sequence
  - A. Staff presentation.

- B. Applicant presentation.
- C. Questions from governing body to applicant and/or staff.
- D. Public comment.
- E. Questions from governing body to applicant and/or staff after public comment.
- F. Rebuttal from staff.
- G. Rebuttal from applicant.
- H. Governing body deliberations (motion, second, discussion).
- 7. After a decision is made at the hearing, a written decision shall issue with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing within five (5) business days. The written decision shall be mailed (regular) to the last address furnished to the city by the Applicant. The decision shall be effective as to such Applicant on the date mailed or on such other date as is stated in the decision.
- 8. Unless otherwise provided by town charter, ordinance, or code or other law, the decision of the board is final subject only to judicial review pursuant to Colorado Rules of Civil Procedure 106(a)(4).

## PLANNING COMMISSION RESOLUTION NO. 2020-03 CITY OF OURAY, COLORADO

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OURAY MAKING A RECOMMENDATION TO THE CITY COUNCIL OF THE CITY OF OURAY TO APPROVE AN AMENDMENT TO SECTION 7-2 DEFINITIONS; 7-5-J-6 ACCESSORY DWELLING UNITS; SECTION 7-5-E-3 RESIDENTIAL DISTRICT R1; SECTION 7-5-E-4 RESIDENTIAL DISTRICT R2: AND TABLE 7-5-D DIMENSION REQUIREMENTS OF THE OURAY LAND USE CODE FOR THE PURPOSE OF INCENTIVIZING THE CONSTRUCTION OF ACCESSORY **DWELLING UNITS (ADU).** 

WHEREAS, The City Council has directed the Planning Commission to explore incentives to increase opportunities for residential construction within the City of Ouray; and

WHEREAS, the Planning Commission has recognized that the construction of accessory dwelling units help to diversify the housing stock on existing and already developed properties for communities that are limited in land available for construction; and

WHEARAS, the Planning Commission has held multiple work sessions with staff to identify the needed changes and limitations within the current ADU regulations; and

WHEARAS, the Planning Commission also feels that while allowing incentives to encourage the construction of ADU, they must also place restrictions on the units to ensure that the purpose of these incentives are fulfilled and monitored over time; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Ouray hereby makes a recommendation of approval to the City Council to amend the Ouray Land Use and Development Code as outlined in the attached Exhibit A with the following conditions:

- 1. That the amendment require owner occupancy in at least one of the residential units for properties within the R1 zone district: and
- 2. That the planning commission meet with staff on August 18th to provide staff with further direction regarding the lot coverage requirements for lots not meeting the minimum lot size.

**ADOPTED** by the Planning Commission of the City of Ouray at its regular meeting on August 11, 2020 by the following vote:

AYES:

5

NOES: ABSENT:

0

ABSTAIN: 0

APPROVED:

coloda, Chairman

ATTEST:

Beverly Markensen, Deputy C

## Exhibit A

## Proposed Amendments to Ouray Land Use Code

#### **Section 7-2 Definitions**

Accessory Dwelling Unit means a dwelling unit that contains no less than 300 sq. ft. and no more than 1,200 sq. ft. of floor area and is located on the same site as, but has a separate entrance from, a single-family or duplex dwelling.

## Section 7-5-J-6 Accessory Dwelling Units

Accessory Dwelling Units ("ADU") are intended to provide workforce housing for long-term occupancy. ADU which meet the criteria of this Subsection may be allowed as an accessory use to a principal residential unit in the R-1, R-2, C-1 and C-2 districts provided that such ADU conform to the applicable requirements of said Districts and Table 7-5-D (subject to exceptions listed below).

- a. An ADU can only be proposed when a primary dwelling unit exists or is proposed as a part of the same building permit. ADUs may be attached or detached to the principal residential unit. Only one ADU is permitted per property.
- b. The ADU may not exceed 1,200 square feet of living area, excluding garage floor area.
- c. Table 7-5-D exceptions. An ADU may be constructed on any sized lot, and does not need to meet the density requirements of the zone district. The ADU living area will not apply to the maximum square footage per lot, and is exempt from the maximum site coverage requirement. ADU's built upon existing structures shall be allowed to expand the maximum site coverage up to 10% above the maximum limit for that zone district.
- d. One off-street parking space shall be provided for the ADU in addition to any other required off-street parking. An exemption to this requirement may be approved administratively. When considering the exemption staff shall use the following criteria:
  - i. Limitation of site conditions preventing off-street parking
    - 1. The property cannot reasonably accommodate an off-street parking space without violating other code requirements or negatively impacting the design of the site
  - ii. Availability of on-street or other public parking within proximity of the proposed ADU
    - 1. Access and route between the ADU property and parking space
    - 2. Availability and frequency of the parking space use
  - iii. Condition of parking spaces within the area
    - 1. Compliance with section 14-8 Parking Requirements and any other on-street parking requirements of the city.
    - 2. The parking stall shall not obstruct pedestrian or automobile traffic patterns
- e. The accessory dwelling unit may be served off of the water and sewer taps for the principal residence, in which case it shall not be subject to additional investment fees, and the primary residence and accessory dwelling unit shall be charged as a duplex for water and sewer service rates.

- f. Prior to issuing a building permit for a new ADU, the property owner shall enter into a deed restriction or land covenant in a form set forth by the City that is recorded in the Ouray County Clerk and Recorders Office. The deed restriction shall require the following:
  - i. The ADU shall be rented out long-term for a period of 90 days or greater, and be rented out to a person who is working 32 hours or greater in either a business within Ouray County, or be working remotely (telecommuting) for a business that is located outside of the city; and
  - ii. The accessory dwelling unit must be owned together with the principal residential unit, and the lot or parcel upon which they are located, in undivided ownership; and
  - iii. The restriction shall be set in perpetuity.
- g. A dwelling unit constructed as a principal single-family home, which meets these criteria, may be converted to an accessory dwelling unit following construction of a new principal dwelling unit.

#### 7-5-E-3 Residential District R1

7-5-E-3-d-iii-2 Maximum Floor Area

- A. On properties within the boundaries of the Ouray Local and National Historic District as shown on Official Zoning Map, the maximum floor area gross shall not be more than 10% greater than the average floor area of primary structures on lots located on the block front or 4,260 sq. ft., whichever is less. Accessory buildings or structures shall be excluded from the average floor area calculation.
- B. On properties not within the boundaries of the Ouray Local and National Historic District, maximum floor area gross shall be 4,260 sq. ft.
- C. Accessory dwelling unit floor area shall not be included in the maximum floor area limit as an incentive to constructing and providing such units.

## 7-5-E-4 Residential District – High Density – R2

7-5-E-4-e-iii-2 Maximum Floor Area

- A. On properties within the boundaries of the Ouray Local and National Historic District, as shown on Official Zoning Map, the maximum floor area gross shall not be more than 10% greater than the average floor area of primary structures, on lots located on the block front, or 4,260 sq. ft., whichever is less. Accessory buildings or structures shall be excluded from the average floor area calculation.
- B. For all other properties not within the boundaries of the Ouray Local and National Historic District, the maximum floor area shall be 10,650 sq. ft.
- C. Accessory dwelling unit floor area shall not be included in the maximum floor area limit as an incentive to constructing and providing such units.

## **Table 7-5-D Dimensional Requirements** (Please refer to following pages)

	Parks Developed (P1)	Park Conservation (P2)	Residential (R1)	Residential High Density (R2) South of Skyrocket	Residential High Density (R2) North of Skyrocket	Commercial District (C1)	Commercial District – Industrial (C2) South of Skyrocket	Commercial District – Industrial (C2) North of Skyrocket
Minimum Lot Area	Not applicable	Not applicable	7,100 s.f.*	7,100 s.f.*	7,100 s.f.*	3,500 s.f.	7,100 s.f.*	7,100 s.f. for any use
Maximum Density	Not applicable	Not applicable	3,500 s.f/D.U.*	2,370 s.f./D.U.* 790 s.f./L.U.	3,550 s.f./D.U.* 1,183 s.f./L.U.	Not applicable	3,550 s.f./D.U.* 1,183 s.f./L.U.	3,550 s.f./D.U.* 1,183 s.f./L.U.
Minimum Front Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less. All other blocks: 15 ft.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less. All other blocks: 15 ft.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less. All other blocks: 15 ft.	Average of the existing building front setbacks or 5 ft, whichever is less, except: No minimum setback for lots on or within the Ouray Commercial Historic District and for lots on U.S., Highway 550, between 9th Avenue and south boundary of Sampler Mill site, the front setback equal to the average of the existing building front setbacks along the same block or 10 feet, whichever is less.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less. All other blocks: 15 ft.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less. All other blocks: 15 ft.
Minimum Side Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	5 ft.	5 ft.	5 ft.	5 ft., except: No minimum setback for lots on or within the Ouray Commercial Historic District	5 ft.	5 ft.
Minimum Rear Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Maximum Roof Eaves	Not applicable	Not applicable	Extend no more than 1 ft., into the	Extend no more than 1 ft, into the	Extend no more than 1 ft., into the	Extend no more than 1 ft., into the	Extend no more than 1 ft., into the	Extend no more than 1 ft., into the

<sup>\*</sup>Does not apply to accessory dwelling units (ADU). An ADU can be proposed on any size lot and does not count towards the maximum density.

	Parks Developed (P1)	Park Conservation (P2)	Residential (R1)	Residential High Density (R2) South of Skyrocket	Residential High Density (R2) North of Skyrocket	Commercial District (C1)	Commercial District - Industrial (C2) South of Skyrocket	Commercial District - Industrial (C2) North of Skyrocket
			required setback, never extend beyond property line	required setback, never extend beyond property line	required setback, never extend beyond property line	required setback, never extend beyond property line	required setback, never extend beyond property line	required setback, never extend beyond property line
Minimum Floor Area	Not applicable	Not applicable	Must comply with current Building Code adopted by City	Must comply with current Building code adopted by City,	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.
Maximum Floor Area	Not applicable	Not applicable	Ouray Local and National Historic District: 10% greater than the average of other structures on the block front or 4,260 sq. ft., whichever is less All other properties: 4,260 sq. ft.	Ouray Local and National Historic District: 10% greater than the average of the primary structures on the block front or 4,260 sq. ft., whichever is less All other properties: 10,650 sq. ft.	10,650 s.f.t.	Ouray Commercial Historic District and Fronting Highway 550; 9,585 s.f. per 25 feet of frontage on Highway 550 of the lot on which the building is located. All other properties: 9,585 sq. ft.	15,000 sq. ft.	15,000 sq. ft.
Maximum Site Coverage	5%	5%	30%,*	50%*	40%*	90%	50%	40% for residential use 50% for mixed use 60% for commercial use
Maximum Building Impervious Surface Site Coverage	Not applicable	Not applicable	80%	80%	80%	100%	80%	80% for any use
Maximum Height	20	10	30	35	35	35	35	35
Maximum Size for Accessory Buildings	Not applicable	Not applicable	Accessory Use to Single Family Dwelling: 600 sq. ft.	Accessory Use to Single Family Dwelling: 600 sq. ft.	Accessory Use to Single Family Dwelling: 600 sq. ft.	Not applicable	Accessory Use to Duplex: 600 sq. ft. Accessory Use to Multi-Family Dwelling: 800 sq. ft.	Accessory Use to Duplex: 600 sq. ft. Accessory Use to Multi-Family Dwelling: 800 sq. ft.

<sup>\*</sup>ADU meeting section 7-J-5-6 does not contribute to maximum square footage requirements. ADU constructed onto a second story of an existing structure allows for a 10% increase in the maximum site coverage requirement.

## Ouray Land Use Code (OLUC) Current ADU Regulations

## Section 7-2 Definitions

**Accessory Dwelling** means a dwelling unit that contains no less than 300 sq. ft. and no more than 1000 sq. ft. of floor area and is located on the same site as, but has a separate entrance from, a single-family or duplex dwelling.

## Section 7-5 Zoning Regulations

## Section 7-5-J-6 Accessory Dwelling Units

Dwelling units which meet the criteria of this Subsection may be allowed as an accessory use to a principal residential unit in the R-1, R-2, C-1 and C-2 districts provided that the dwelling units conform to the applicable requirements of said Districts.

- a. The **accessory dwelling** unit must be constructed in accordance with applicable requirements of Code adopted by the City pursuant to Chapter 6 of Ouray Municipal Code. It may be attached or detached to the principal residential unit. Applicable dimensional requirements for a single family dwelling as set out in Table 7-5-D must be met for the premises.
- b. One off-street parking space shall be provided for the accessory unit in addition to any other required off-street parking.
- c. The accessory dwelling unit may not exceed 1,000 square feet of living area.
- i. One of the dwelling units on the property must be, and remain, owner occupied. If the other dwelling unit is rented, a minimum of a 30-day rental period shall be required by written lease.
- d. The **accessory dwelling** unit must be owned together with the principal residential unit, and the lot or parcel upon which they are located, in undivided ownership.
- e. The **accessory dwelling** unit may be served off of the water and sewer taps for the principal residence, in which case it shall not be subject to additional investment fees, and the primary residence and **accessory dwelling** unit shall be charged as a duplex for water and sewer service rates.
- f. The burden shall be upon the owner of any **accessory dwelling** unit to provide adequate proof to the City that the criteria of this Section are met. In the event that the City determines that the criteria have not been shown to be satisfied the unit may not be occupied as a residence.
- g. A dwelling unit constructed as a principal single-family home, which meets these criteria, may be converted to an **accessory dwelling** unit following construction of a new principal dwelling unit.

#### 7-5-E-3 Residential District R-1

7-5-E-3-d-iii-2 Maximum Floor Area

- A. On properties within the boundaries of the Ouray Local and National Historic District as shown on Official Zoning Map, the maximum floor area gross shall not be more than 10% greater than the average floor area of primary structures on lots located on the block front or 4,260 sq. ft., whichever is less. Accessory buildings or structures shall be excluded from the average floor area calculation.
- B. On properties not within the boundaries of the Ouray Local and National Historic District, maximum floor area gross shall be 4,260 sq. ft.

## 7-5-E-4 Residential District – High Density – R2

7-5-E-4-e-iii-2 Maximum Floor Area

- A. On properties within the boundaries of the Ouray Local and National Historic District, as shown on Official Zoning Map, the maximum floor area gross shall not be more than 10% greater than the average floor area of primary structures, on lots located on the block front, or 4,260 sq. ft., whichever is less. Accessory buildings or structures shall be excluded from the average floor area calculation.
- B. For all other properties not within the boundaries of the Ouray Local and National Historic District, the maximum floor area shall be 10,650 sq. ft.

## **Dimensional Requirements – Table 7-5-D**

Please refer to the following pages

	Parks Developed (P1)	Park Conservation (P2)	Residential (R1)	High Density (R2) South of	Residential High Density (R2) North of Skyrocket			Commercial District – Industrial (C2) North of Skyrocket
Minimum Lot Area	Not applicable	Not applicable	7,100 s.f.	7,100 s.f.	7,100 s.f.	3,500 s.f.	7,100 s.f.	7,100 s.f. for any use
Maximum Density	Not applicable	Not applicable	3,500 s.f/D.U.	2,370 s.f./D.U. 790 s.f./L.U.	3,550 s.f./D.U. 1,183 s.f./L.U.	Not applicable	3,550 s.f./D.U. 1,183 s.f./L.U.	3,550 s.f./D.U. 1,183 s.f./L.U.
Minimum Front Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less.  All other blocks: 15 ft.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less.  All other blocks: 15 ft.	of the existing setbacks on the block front or 15	ft. whichever is less, except: No minimum setback for lots on or within the Ouray Commercial Historic District and for lots on U.S. Highway 550, between 9th Avenue and south	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less.  All other blocks: 15 ft.	On blocks where building front setbacks vary, the minimum front setback shall be equal to the average of the existing setbacks on the block front or 15 ft., whichever is less.  All other blocks: 15 ft.

						existing building front setbacks along the same block or 10 feet, whichever is less.		
Minimum Side Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	5 ft.	5 ft.	5 ft.	5 ft., except: No minimum setback for lots on or within the Ouray Commercial Historic District	5 ft.	5 ft.
Minimum Rear Setback	As determined by Planning Commission pursuant to Section 7-5-E-1-c	As determined by Planning Commission pursuant to Section 7-5-E-2-c	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Maximum Roof Eaves	Not applicable	Not applicable	Extend no more than 1 ft., into the required setback, never extend beyond property line	Extend no more than 1 ft., into the required setback, never extend beyond property line	Extend no more than 1 ft., into the required setback, never extend beyond property line	Extend no more than 1 ft., into the required setback, never extend beyond property line	Extend no more than 1 ft., into the required setback, never extend beyond property line	Extend no more than 1 ft., into the required setback, never extend beyond property line

Minimum Floor Area	Not applicable	Not applicable	Must comply with current Building Code adopted by City	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.	Must comply with current Building code adopted by City.
Maximum Floor Area	Not applicable	Not applicable	Ouray Local and National Historic District: 10% greater than the average of other structures on the block front or 4,260 sq. ft., whichever is less All other properties: 4,260 sq. ft.	Ouray Local and National Historic District: 10% greater than the average of the primary structures on the block front or 4,260 sq. ft., whichever is less All other properties: 10,650 sq. ft.	10,650 s.f.	Ouray Commercial Historic District and Fronting Highway 550: 9,585 s.f. per 25 feet of frontage on Highway 550 of the lot on which the building is located. All other properties: 9,585 sq. ft.	15,000 sq. ft.	15,000 sq. ft.
Maximum Site Coverage	5%	5%	30%	50%	40%	90%	50%	40% for residential use 50% for mixed use 60% for commercial use

Maximum Building Impervious Surface Site Coverage	Not applicable	Not applicable	80%	80%	80%	100%	80%	80% for any use
Maximum Height	20	10	30	35	35	35	35	35
Maximum Size for Accessory Buildings	Not applicable	Not applicable	Accessory Use to Single Family Dwelling: 600 sq. ft.	Accessory Use to Single Family Dwelling: 600 sq. ft.	Accessory Use to Single Family Dwelling: 600 sq. ft.	Not applicable	Accessory Use to Duplex: 600 sq. ft.  Accessory Use to Multi-Family Dwelling: 800 sq. ft.	to Duplex: 600 sq. ft.