Staff Report

December 5, 2022

To: Mayor Billick and Town Council

From: Mel Yemma Long Range Planner III and Nick Catmur Planner I

Thru: Troy Russ, Community Development Director

Subject: Work Session: Heated and Plumbed Accessory Building and Dwelling Units Zoning Code Update

---

Summary: As part of the affordable housing emergency, on September 7, 2021, the Town Council instituted a moratorium on accepting applications for reviewing, approving, or issuing permits for heated and plumbed accessory buildings for 12 months. The moratorium was extended for an additional six months on August 15, 2022. To end the mortarium, the Town intends to initiate a community outreach process consistent with the Compass decision-making framework, along with data analysis, to understand heated and plumbed accessory building's impact on the Town's housing stock and consider updates to the Town's zoning regulations. During this effort, staff will also facilitate an examination of how the Town's regulations regarding heated and plumbed accessory buildings support the Town's Climate Action Plan, which was adopted with Resolution 25, Series 2019.

This Council work session will kick off this process of addressing this challenge by reviewing, discussing, and confirming the first two steps of the Compass decision-making framework:

1) Define the challenge and develop a goal statement
2) Commit to a community engagement strategy

Step 1: Define the challenge and develop a goal statement: The Town has long enacted regulations to preserve community character and protect the local economy by providing resources for affordable housing. In 2018, the Town established two housing goals of achieving 75% full-time occupancy and 30% of units in the Town being deed restricted. Housing availability and affordability reached a crisis level in 2021, resulting in the Town Council declaring a housing emergency. The housing emergency spurred acceleration of the Sixth & Butte housing development and Paradise Park buildout; but, recognizing that these projects wouldn't alone meet the Town's housing goals, the Town Council placed a moratorium on accepting and processing applications for heated and plumbed accessory buildings to examine if updates to the Town's zoning code could further incentivize the construction of accessory dwelling units.

Since 2019, when Town Council approved Resolution 25, Series 2019 endorsing the declaration of a climate emergency and reaffirming Crested Butte's Commitment to Climate Action, the Town as enacted policies and regulations intent on reducing Greenhouse Gas (GHG) emissions consistent with the Town's Climate Action Plan. Given that the heated and plumbed accessory buildings development regulations are being examined, staff recommends these regulations be assessed in their ability to contribute to the Town's Climate Action Plan and its stated goal of reducing the overall community's GHGs by 25%.

Lastly, since the moratorium was enacted, the Town completed and adopted the Community Compass, the Town's Comprehensive Plan. Within the Compass's five-year Strategic Plan, the document has the following goals and strategies which emphasize the importance of the Town addressing this challenge:

1) **Approach community challenges through active collaboration and public engagement.**
    a. Commit to utilizing the Compass decision-making and community engagement framework.
2) **Enable people who live and work here to thrive.**
    a. Pursue infill development and increased density opportunities in the Town to increase workforce housing, childcare, and local essential goods and service options which are compatible with our character.
    b. Deploy programs and update policies that ensure our neighborhoods are full of neighbors.
    c. Identify opportunities to promote affordability for residents and businesses to ensure community members can continue to stay in the place they've chosen to build a life or business in.
3) **Act on the urgency of climate change and prepare for the changes we expect from it.**
    a. Integrate climate action into all Town regulations, operations, and capital investments and commit the necessary resources to do so.

About Accessory Dwelling Units (ADUs): Allowing and incentivizing ADUs has been an important component of the Town's affordable housing history and strategy. In 1990, the Town amended the zoning and land use code to allow the construction of new ADUs and remodeling of accessory buildings into ADUs for the deed restricted use as a long-term rental. Since then, ADUs have been incentivized through reductions in tap fees and the institution of the Town's Resident-Occupied Affordable Housing (ROAH) policy. Residential homes that construct an ADU receive a discount of 2/3 of the cost of the Town's tap water and wastewater fees ($19,562 discount in 2023) and are not required to pay the Town's Resident-Occupied Affordable Housing (ROAH) fee. Homes that do not construct an ADU are required to pay their ROAH fee. The residential ROAH fee is calculated by home size and a per square foot cost which varies based on home size. The fee ranges from $1.40/sf for homes smaller than 500sf to $5.50/sf for homes larger than 4,500sf. Fees collected range between $7,500 - $12,500 depending on the home and accessory structure size. As of the end of 2022, there are 93 ADUs throughout the Town that are deed restricted to be long-term rentals.

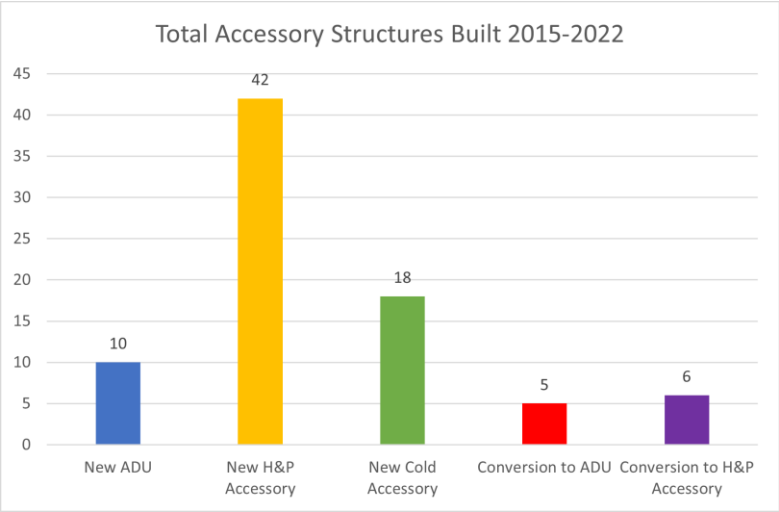
About Accessory Buildings: There are currently 196 cold garages or heated/plumbed accessory buildings in the Town. In 2000, the Town began allowing a new land use regarding "accessory building, non-residential use, heated and/or plumbed". This category of accessory building is typically a heated garage and/or an office space or studio. There are currently 66 heated and/or plumbed accessory buildings in the Town. Staff has consistently seen a demand for more of this land use over the past five years above cold accessory buildings or ADUs (see chart below).

The Town has also consistently needed to issue violations (culminating in 10 violations in the past three years) to residences with heated/plumbed accessory buildings that were illegally converted to a bedroom/living space for house guests.

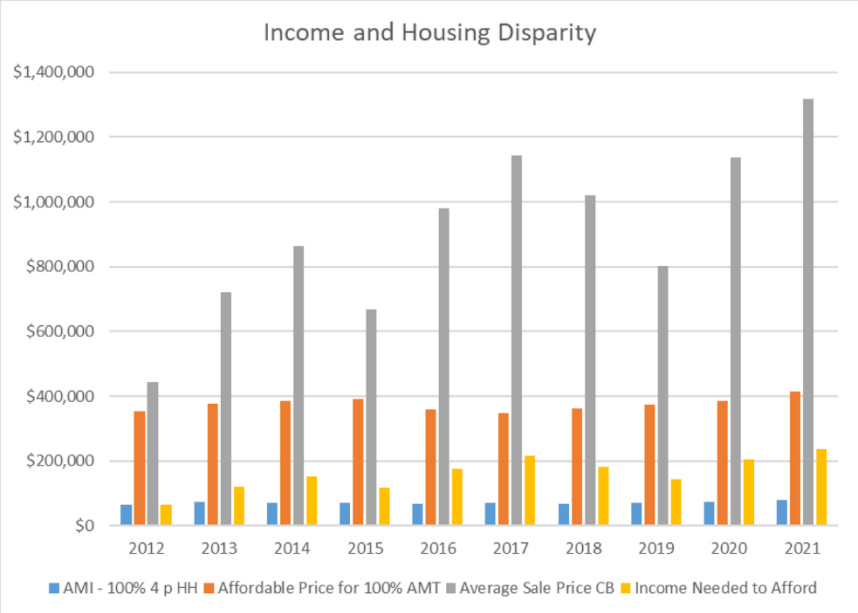
There are a couple of concerns related to heated and plumbed units being illegally converted to living spaces for house guests. The most pressing concern is life safety. Illegal conversations involve installation of high capacity electric or gas lines, along with additional plumbing without permits. This work is never inspected and presents real dangers to the inhabitants and neighborhoods.

During the moratorium, out of eight single family residential development applications three built

accessory dwelling units, four built cold garages, and one showed evidence of waiting to build a heated/plumbed accessory building once the moratorium ends. Staff also observed one existing heated/plumbed accessory building approved for conversion to an ADU and one existing single-family residence get approval for a cold accessory building.



Increasing real estate prices have also negatively influenced the number ADU's being constructed in town. In the 1990s and early 2000s, home prices were more attainable by the local work force and ADUs represented opportunities for homeowners to supplement their income and offset mortgage costs. However, since 2012, the average home prices in Crested Butte have exceeded the local's median income's ability to afford purchasing them. Furthermore, typical rents collected from an ADU's long-term rentals stopped making meaningful off-sets to mortgage costs. New home buyers no longer needed ADUs and their rental income to help finance their mortgage. Subsequently there has a big decline in the number of new ADUs being built.



Challenge Context: As mentioned earlier, this challenge associated with the role of heated/plumbed accessory building is part of a larger comprehensive affordable housing strategy. Specifically, this challenge relates to ending the moratorium by considering changes to the Town's zoning code when it comes to where/under what circumstances different types of accessory structures and dwelling units are allowed (or required) in certain zone districts.

Going forward, how ADUs and heated and plumbed accessory buildings are regulated and incentivized could significantly impact the town's housing stock and its ability to provide workforce housing options. The following table shows the number of lots in town that could construct an ADU.

Zone District	# Residential Lots	# Lots with DR ADUs	# Lots with Non-DR ADUs	# Lots with Cold Acc Bldg	# SFR Lots w/out an accesory building	# Vacant Lots (SFR)	# of SFR Lots which could have a new ADU
TOTAL	759	85	17	263	336	58	TBD

It is important to note that this update will not include considerations of density/FAR bonuses, setback or building height changes, or other changes to the Town's existing 'yard and bulk' regulations. It is staff's recommendation that all form-based code amendment incentives that could influence the character of the community be considered during the upcoming Town-wide infill/density study (beginning January 2024). The infill study will include a far more robust community involvement effort than can be generated through this heated and plumbed accessory structure discussion.

In addition, the Town is in the process of commissioning a study to update the Town's ROAH ordinance which will update fees charged to residential homes that provide affordable housing. Through the Good Deed program, the Town and its regional partners will take input from this effort to look at ways to better incentivize building ADUs and converting existing accessory structures into ADUs.

Overall, this process focuses on considering changes to the Town's heated/plumbed accessory building regulations to end the moratorium, which will act as an important puzzle piece with the other ADU incentive considerations that will occur throughout 2023 and 2024.

The following draft goal statement focuses on this scope of this effort and intends to be discussed and refined with the Town Council at the December 5th work session.

DRAFT Goal Statement: To come out of the moratorium, the Town is examining the Town's heated and plumbed accessory building regulations under the guidance of the decision-making framework of the Community Compass to determine if or how the zoning code should be modified to align with the community's housing needs and GHG emission expectations, regarding:

- The role different accessory structures play in the Town's built environment.
- Promoting further construction of accessory dwelling units within the Town's neighborhoods.
- Reducing or mitigating the carbon footprint of heated and plumbed accessory dwelling units

Step 2: Commit to a community engagement strategy: Based on the scope of this project, staff feels it is best to target feedback for this evaluation on three specific community groups. The three target groups for feedback would include property owners who submitted development permit applications for accessory buildings structures before the moratorium on heated and plumbed accessory buildings was put into place

(January 2018 - September 2021), property owners who have submitted development permit applications for accessory buildings during the moratorium (October 2021-November 2022), and property owners who have open lots or space on their lots that could accommodate an accessory building.

Staff will use contact information from development applications on file to reach out directly to the first two groups listed above with a request to take a customized Town's feedback survey. Staff will also release the survey to the public to collect responses from the third group mentioned above. The survey will be structured in a way to easily separate all the results between the different groups. With the release of the survey to the public it will give others a chance to voice their opinion on the topic, allowing Town Council to consider their feedback alongside that of the targeted groups.

Staff would like direction from Council on whether they think focus groups meetings with the different groups should be undertaken or if the information from the survey of the various groups will be enough feedback to inform a decision? If staff is directed to facilitate focus group meetings, staff will include a question in the survey asking people if they would like to be part of such a group with a predetermined date/time. Staff's hesitancy on hosting these individual meetings is the limited time frame in which to conduct them, and the quick turnaround to compile meeting feedback and survey results into draft success measures for the January 17 work session.

Proposed community engagement schedule:

Phase 1: Work session and Survey

-December 5th council work session
-December 6th Release survey and publish on website
-December 26th survey closes
-Week of December 27th-30th compile survey results

Potential Phase 2: Targeted feedback (to be discussed during work session)

-Week of January 3rd Targeted focus group meetings
-January 9 work session packet due with survey results, meeting feedback, and draft success measures

Phase 3: Decision-making (BOZAR & Town Council)

-January 17th Council work session: review success measures & alternatives
-January 31st BOZAR consideration & referral (per chapter 16 process)
-February 6th First reading of ordinance
-February 21st Public hearing of ordinance & end of moratorium

* If the community and Council give staff direction to just allow the moratorium to end with no changes to the current regulations no meetings beyond the January 17th work session will be necessary. The moratorium will simply end, and development applications will resume status quo.

Step 3: Develop success measures: The Compass decision-making framework was established to help Town Council make value-minded decisions. The community's values identified in the Compass play a key role in this step of the framework. Success measures are needed to guide creation of alternatives and are intended to be developed by filtering the community's values from the Compass through the challenge and goal statement.

Potential Success measures might include:

1. Be accountable to our town's housing needs and limited development space and increase the annual construction rate of ADUs by:
    a. Raising property owner awareness that providing a living space may be the only way to have a heated and plumbed accessory structure'?.
    b. Encourage more ADU construction and conversion through better and more streamlined incentive programs.
    c. Increasing the accountability of rental tenants.
    d. Town assistance in finding and managing rental tenants.
    e. Town financial assistance in the approval and construction of ADUs.

2. Reduce the Town's carbon footprint by:
    a. Not allowing the heating of non-livable open spaces such as garages. OR limiting the allowable size of heated and plumbed accessory buildings.
    b. Charging REMP fees for the heating of non-livable open spaces such as garages. OR setting above code requirements for heated/plumbed accessory buildings.

Next steps: The December 5th work session will focus on reviewing and refining steps 1 and 2 of the Compass decision-making framework with the Town Council. From there, staff will initiate the remainder of the framework, beginning with a targeted survey to sculpt draft success measures with the community, and soliciting feedback regarding why different types of accessory structures have chosen to be built and what the inhibitors of building ADUs exist. As a next step, staff will then refine the success measures and draft alternatives, which will be vetted with the potential focus groups, BOZAR, and Town Council.