

Subject: Number of ADU Uses Allowed with One Single Unit Dwelling Use
Date: Thursday, December 07, 2017

To All Zoning Permitting Staff & Teams:

In answer to the question posed whether the Denver Zoning Code permits the establishment of more than one Accessory Dwelling Unit use as accessory to a primary Single Unit Dwelling in a zone district other than an SU zone, please see my determination/interpretation below.

1. **Conclusion:** Only one Accessory Dwelling Unit use is permitted as accessory to a primary Single Unit Dwelling use in all zone district where the ADU use is allowed. This finding applies whether the one ADU use is located on the same zone lot as the primary Single Unit Dwelling use or located on a related Carriage Lot.

2. **Relevant Code Provisions:** This interpretation is based on an interpretation of the following Denver Zoning Code (“DZC”) provisions:
 - a. An Accessory Dwelling Unit (ADU) use is an accessory use permitted in some zone districts, including the U-TU zone districts. An ADU use may be established only as accessory to a primary Single Unit Dwelling use.
 - b. An “accessory use,” which is defined to mean “A **subordinate use, clearly incidental** and related to the primary use of land, and, unless otherwise permitted by this Code, located on the same zone lot as that of the primary use.”
 - c. The general allowance for all accessory uses in DZC Section 11.7.1.1 states: “Accessory uses shall be **clearly incidental, subordinate, customary to, and commonly associated with** operations of a primary use.
 - d. The definition of “Accessory Dwelling Unit” in Section 11.12.7.1 states: “A **second** dwelling unit located on the same zone lot as a primary single unit dwelling use.”
 - e. The use limitation applicable to an ADU in Section 11.8.2.1.A.1 states: “**An** Accessory Dwelling Unit is permitted as accessory only to a primary Single Unit Dwelling use according to the following requirements,....”

3. **Findings of Fact:**
 - a. In Denver, a single ADU use is common and customary and arguably incidental and subordinate to one primary Single Unit Dwelling use.
 - b. On the other hand, it is not common and customary in Denver to have more than one ADU use accessory to the same Single Unit Dwelling use.
 - c. Moreover, particularly in a SU and TU zone district, having more than 2 dwelling units on a zone lot (or on a zone lot + Carriage Lot), whether the dwelling unit is primary or accessory, is not common and customary.
 - d. Finally, having more than 1 accessory dwelling unit associated with one Single Unit Dwelling use could turn “incidental and subordinate” on its head, particularly in cases where the combined floor area of multiple accessory dwelling units are close to or greater than the floor area of the primary dwelling unit use.

4. Findings of Law:

- a. Based on the relevant code provisions and my findings of fact, I find that the definition of the use “Accessory Dwelling Unit” in Section 11.12.7.1 and the general allowance for ADUs in Section 11.8.2.1, with their respective use of the words “second” and “an”, point to an intent to allow only one ADU use with any one primary Single Unit Dwelling use.

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