

### Planning Commission

### STAFF REPORT

### CASEFILE 22-PA-01

**Date:** April 7, 2022

**Staff:**  Scott Edelman

 Community Development Director

**Proposal:** Jefferson County is considering adopting standards that would allow accessory dwelling units on properties in certain zones that meet the criteria of Senate Bill 391.

**SUMMARY**

In 2021 the Oregon Legislature passed Senate Bill 391 (SB 391), authorizing counties to adopt code language to permit accessory dwelling units (ADUs) on lots meeting certain minimum requirements in “areas zoned for rural residential use.” The legislation was formalized in Oregon Revised Statute (ORS) 215.495. This applies to the following county zones in Chapter 3 of the Jefferson County Zoning Ordinance:

Section 304 – Rural Residential (RR-2, RR-5, RR-10, RR-20)

Section 305 – Service Community (SC)

Section 306 – Existing Rural Development (ERD)

\*Section 318 – Crooked River Ranch Residential (CRRR)

\*Section 319 – Three Rivers Recreation Area Zone (TRRA)

Section 345 – Blue Lake Zone (BL)

*\*Note: this current proposal does not include the unincorporated communities of Crooked River Ranch or Three Rivers (Section 318 and 319). The county intends to work with these communities to conduct outreach with and gather information/input from the residents before determining how to proceed in these areas.*

The following findings are intended to demonstrate compliance with the minimum location, lot dimension, and site development standards prescribed in SB 391. The county cannot adopt more lenient standards but does have the ability to increase the requirements, restrict ADUs to specific areas, adopt more stringent standards, or otherwise limit development of ADUs in all or any portion of the county.

**APPLICABLE STANDARDS**

I. Oregon Revised Statute (ORS) 215.495

II. Oregon Statewide Planning Goals

III. Jefferson County Zoning Ordinance, Chapter 8 Amendments

**FINDINGS OF FACT**

**I. Oregon Revised Statute (ORS) 215.495**

**215.495 Accessory dwelling units in rural residential zones.** (1) As used in this section:

      (a) “Accessory dwelling unit” has the meaning given that term in ORS 215.501.

      (b) “Area zoned for rural residential use” has the meaning given that term in ORS 215.501.

      (c) “Single-family dwelling” has the meaning given that term in ORS 215.501.

**FINDING 1:**

**The proposed amendments include these definitions as stated above, with direct references to ORS 215.501. Therefore, the proposed amendments are consistent with these definitions.**

      (2) Consistent with a county’s comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:

      (a) The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137;

      (b) The lot or parcel is at least two acres in size;

      (c) One single-family dwelling is sited on the lot or parcel;

      (d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

      (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;

      (f) The accessory dwelling unit will not include more than 900 square feet of useable floor area;

      (g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;

      (h) If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;

      (i) No portion of the lot or parcel is within a designated area of critical state concern;

      (j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;

      (k) The lot or parcel and accessory dwelling unit comply with rules of the State Board of Forestry under ORS 477.015, 477.025 and 477.027;

      (L) Statewide wildfire risk maps have been approved and the accessory dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area; and

      (m) The county has adopted land use regulations that ensure that:

      (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;

      (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and

      (C) If the accessory dwelling unit is not subject to ORS 477.015, 477.025 and 477.027, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers.

**FINDING 2:**

**The proposed amendments include all of the language above related to minimum lot and site development requirements as stated above verbatim. Therefore, the proposed amendments are consistent with these definitions.**

      (3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.

**FINDING 3:**

**The proposed amendments include a restriction prohibiting an ADU from being used for a vacation occupancy, as defined by ORS 90.100 by including the following requirements:**

**(a) The occupant rents the unit for vacation purposes only, not as a principal residence;**

**(b) The occupant has a principal residence other than at the unit; and**

**(c) The period of authorized occupancy does not exceed 45 days.**

      (4) A county that allows construction of an accessory dwelling unit under this section may not approve:

      (a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

      (b) Construction of an additional accessory dwelling unit on the same lot or parcel.

**FINDING 4:**

**The proposed amendments include the language above related to land divisions and limitation to a single ADU verbatim. Therefore, the proposed amendments are consistent with these definitions.**

      (5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

**FINDING 5:**

**The proposed findings include language requiring an ADU be served by the same water supply source or water supply as the existing single-family dwelling, in accordance with this allowance. The Planning Commission has the option of recommending this requirement be eliminated or altering it in some way in accordance with the law.**

      (6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

**FINDING 6:**

**ORS 537.545 (1) deals with exempt uses under state groundwater laws. This provision is included verbatim in the proposed amdendments.**

      (7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit. [2021 c.396 §2]

**FINDING 7:**

**The purpose of the public hearing before the Planning Commission is to solicit public input in regard as to whether or not the county should allow ADUs in all or any of the zones allowed under the provisions of ORS 215.495. As with the majority non-prescriptive state laws, the county may adopt standards that are more stringent, but not more lenient.**

**II. Oregon Statewide Planning Goals**

Goal 1 - Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

**FINDING 8:**

**Jefferson County uses its adopted Citizen Involvement Program in all phases of the ongoing planning processes in the County. The purpose of this staff report, as well as the public meeting(s) of the Planning Commission in which this amendment is being considered, is to provide a forum for public comments which is consistent with the county’s Citizen Involvement Program. Staff finds the process is consistent with Goal 1.**

Goal 2. Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land to assure an adequate factual base for such decisions and actions.

**FINDING 9:**

**As demonstrated in this staff report, the county is following the Oregon’s Statewide Planning Goal requirements for an amendment to the county zoning ordinance, including providing the required notice of Proposed Plan Amendment 35 days prior to the first evidentiary hearing which was submitted on January 20, 2022. Staff finds the process is consistent with Goal 2.**

Goal 3. Agricultural Lands. To preserve and maintain agriculture lands.

**FINDING 10:**

**SB 391 specifically limits code amendments allowing ADUs to areas “zoned for rural residential use.” This excludes agricultural lands. Staff finds the proposed amendments are consistent with Goal 3.**

Goal 4. Forest Lands. To conserve forest lands.

**FINDING 11:**

**SB 391 specifically limits code amendments allowing ADUs to areas “zoned for rural residential use.” This excludes forest lands. Staff finds the proposed amendments are consistent with Goal 4.**

Goal 5. To conserve open space and protect natural and scenic resources.

**FINDING 12:**

**As proposed, ADUs would be permitted outright in the appropriate zones through the same review process as a single family dwelling (SFD). In accordance with this, they would be required to meet the same standards that apply to a SFD related to protection of open space and natural and scenic resources. Staff finds the proposed amendments are consistent with Goal 5.**

Goal 6. Air, water and land resource quality. To maintain and improve the quality of the air, water and land resources of the State.

**FINDING 13:**

**As proposed, ADUs would be permitted outright in the appropriate zones through the same review process as a single family dwelling (SFD). In accordance with this, they would be required to meet the same standards that apply to a SFD related to protection of air, water and land resource quality. Staff finds the proposed amendments are consistent with Goal 6.**

Goal 7. Areas subject to natural hazards. To protect people and property from natural hazards.

**FINDING 14:**

**As proposed, ADUs would be permitted outright in the appropriate zones through the same review process as a single family dwelling (SFD). In accordance with this, they would be required to meet the same standards that apply to a SFD related to areas subject to natural hazards. Staff finds the proposed amendments are consistent with Goal 6.**

Goal 8. Recreational needs. To Satisfy the recreation needs of the citizens of the state and visitors, and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.

**FINDING 15:**

**The allowance of ADUs on properties will not have a significant impact on the needs of the county for recreational facilities. Staff finds the proposed amendments are consistent with Goal 8.**

Goal 9. Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.

**FINDING 16:**

**The development of ADUs will provide additional housing opportunities in the county, including housing available for the workforce. Staff finds that the allowance of ADUs is consistent with Goal 9 as it will support economic development.**

Goal 10. Housing. To provide for the housing needs of the citizens of the state.

**FINDING 17:**

**Allowance for ADUs in areas zoned for rural residential uses will provide an additional housing option that is not currently available. Staff finds that the proposed amendments are consistent with and support Goal 10.**

Goal 11. Public Facilities and Services. To develop a timely, orderly and efficient arraignment of public facilities and services to serve as a framework for urban and rural development.

**FINDING 18:**

**SB 391 limits ADUs in a number of ways, including location and size. These limitations are intended, in part, to ensure an additional dwelling constructed under the provisions is truly “accessory” to the existing home. While it is unknown as to how many ADUs would ultimately be constructed, it is not anticipated that there will be a significant impact on rural public facilities. Staff finds the proposed amendments are consistent with Goal 11.**

Goal 12. Transportation. To provide and encourage a safe, convenient and economic transportation system.

**FINDING 19:**

**Similar to Finding 11, due to the limited nature of ADUs approved in compliance with SB 391, ADUs are not anticipated to have a significant impact on the county’s transportation system. Staff finds the proposed amendments are consistent with Goal 12.**

Goal 13. Energy Conservation. To conserve energy.

**FINDING 20:**

**While additional rural housing options have the potential to increase vehicle miles traveled, there are no other energy usage impacts of significance. Considering the restrictions on ADUs around size and distance from the existing home, there are likely to be efficiencies gained in comparison if two full size homes were constructed to house the same occupants. Staff finds that the proposed amendments will not significantly increase energy usage and, therefore are not in conflict with Goal 13.**

Goal 14. Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside Urban Growth Boundaries, to ensure efficient use of land and to provide for livable communities.

**FINDING 21:**

**The limitations placed on ADUs by SB 391 are intended, in part to maintain the rural character of the land on which they are constructed. Lot and building size restrictions will limit the impact of ADUs on the surrounding rural lands and will not impede the efficient future transition of land from urban to rural use. Staff finds that the proposed amendments are consistent with Goal 14.**

**III. Jefferson County Zoning Ordinance, Chapter 8 Amendments**

SECTION 801 – Authorization to Initiate Amendments

A. An amendment to the text of this Ordinance may be initiated by the Board of Commissioners, the County Planning Commission, or by the Planning Director.

**FINDING 22:**

**The proposed amendments are being authorized by the Planning Director.**

SECTION 802 – Authorization to Approve or Deny Proposed Amendments

Proposed amendments will be reviewed by the Planning Commission at one or more public hearings, in accordance with the procedures in Section 903.5. The Planning Commission decision on the proposed amendment will take the form of a recommendation to the Board of Commissioners. The Board of Commissioners will hold a public hearing on the proposed amendment, in accordance with the procedures in Section 903.6, and may approve, deny, or modify the proposed amendment. In the case of an amendment to change an Urban Growth Boundary, the Board of Commissioners and City Council may hold a joint public hearing. Both governing bodies must approve the proposed change in the Urban Growth Boundary for it to be approved.

**FINDING 23:**

**The purpose of the public hearing before the Planning commission is to review the proposed amendments, provide an opportunity for public comment, and make a recommendation to the Board of Commissioners.**

**CONCLUSION:**

Based on the above findings, staff finds the proposed amendments to the Jefferson County Zoning Ordinance, related to ADUs, to meet all applicable requirements of SB 391, the zoning ordinance, the Jefferson County Comprehensive Plan, and Oregon’s Statewide Planning Goals.

Respectfully submitted,



Scott Edelman Date

Community Director

Jefferson County

EXHIBITS:

Exhibit A – Proposed Amendments to the Jefferson County Zoning Ordinance

Exhibit B – Oregon Revised Statute (ORS) 215.495