

**September 12, 2023
6:00 pm**

**MEETING LOCATION: NEW ANNEX BUILDING, 512 CHERRY AVE.,
BUILDING C, DAcono, CO, 80514. THIS MEETING WILL BE HELD IN
PERSON. THERE WILL BE NO REMOTE ACCESS.**

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

3.I. APPROVAL OF MINUTES FOR THE July 11th, 2023 MEETING

Documents:

[PCMM 7.11. 23.PDF](#)

4. GENERAL BUSINESS

4.I. Public Hearing And Consideration Of An Ordinance Amending Chapter 16 And 4 Of The Dacono Municipal Code To Allow Accessory Dwelling Units (ADUs) In Agricultural (A) Zone District.

Documents:

[STAFF REPORT AND DRAFT ORDINANCE.PDF](#)

5. CITIZENS TO ADDRESS COMMISSION

6. STAFF REPORTS

7. COMMISSIONER REPORTS

Shelly Kettering Kevin Plain Andrew Martinez

Stan Owens Don Clark

Joseph Westbrook, alternate Mitchell Rogers, alternate

8. ADJOURNMENT

**CITY OF DACONO
PLANNING COMMISSION MEETING MINUTES
Tuesday, July 11, 2023**

Members present: Kevin Plain, Chairperson
Stan Owens
Don Clark
Shelly Kettering
Joseph Westbrook

Members absent: Mitchell Rogers, excused
Andrew Martinez, excused

Staff present: Jennifer Krieger, Community Development Director
Mark Doering, Community Development Senior Planner
Donna Case, Community Development Technician

Member Owens made a motion to approve the minutes of the May 9th, 2023 Planning Commission Meeting . The vote was unanimous. Chairperson Plain declared the motion carried.

GENERAL BUSINESS

Public Hearing for PC Resolution 23-05, a Resolution Recommending Approval of the Proposed Industrial Use for Holmes Solutions at the Colorado National Speedway.

Chairperson Plain opened the public hearing.

Chairperson Plain asked if any Planning Commission Members had any disclosures regarding the public hearing, such as conflicts of interest or any ex-parte communications. Member Clark, no. Member Kettering, no, Member Owens, no, Member Westbrook, no, and Chairperson Plain stated he had none.

Jason Krall, Holmes Solutions, LP, 100 Arapahoe Avenue, Ste. 10, Boulder, CO, 80302, was sworn in by Secretary Donna Case and presented a report and was available for questions.

Member Kettering asked about the crane, where it was coming from and how it would affect the roads. Jason stated it's really about the ground pressure of the vehicle. She also asked about the chain link fence. Jason stated it would be between the two shipping containers in case they need to have equipment stored outside they would want to secure it. Member Kettering stated that she has concerns about the noise too.

Chairperson Plain asked about the sound of the crash, and Jason stated they are next to a racetrack and it's a good match because it's similar to those sites. Kevin also asked how many tests they did per day and Jason stated they do about one a week.

Member Clark asked if he called this a safer barrier and Jason stated yes. Guardrails/jersey barriers require a lot of maintenance after a crash, and he wanted to know if this one will. Jason said it would.

Member Kettering asked about the age of the vehicles. Jason stated they used older vehicles and that they need to meet certain safety standards. She also asked if this was a long-term plan, Jason stated that they would like it to be. Jason stated as long as the speedway is there they would like to be.

Mark Doering, Community Development Senior Planner, asked that the following be entered into public record: Application for Industrial Use, Application Materials, dated May 2023, Dacono Municipal Code and Zoning Map, and the Staff report dated July 11, 2023. Mark presented his report and was available for questions.

Member Clark asked who's going to monitor this project and Mark stated that would be something they would have to examine as part of their review.

Member Owens stated that he was leery of the word temporary. Mark stated that the definition in the building code is 180 days.

Member Westbrook asked about the containers and if there is a limit to that. Right now they are requesting two containers and wanted to know if they could have 10.

Jason stated that he couldn't see the need for over four shipping containers.

With no further public comment, Chairperson Plain closed the public hearing.

Member Owens made a motion to approve PC Resolution 23-05, a Resolution Recommending Approval of the Proposed Industrial Use for Holmes Solutions at the Colorado National Speedway. The vote was unanimous and Chairperson Plain declared the motion carried.

Public Hearing for PC Resolution 23-06, a Resolution Recommending Approval of Rezoning, Preliminary Plat, and Preliminary Development Plan for Certain Property known as the Daisy PUD.

Chairperson Plain opened the public hearing.

Chairperson Plain asked if any Planning Commission Members had any disclosures regarding the public hearing, such as conflicts of interest or any ex-parte communications. Member Clark, no. Member Kettering, no, Member Owens, no, Member Westbrook, no, and Chairperson Plain stated he had none.

Michael Eisenstein, 800 Main St., Louisville, CO, 80027, was sworn in by secretary Donna Case and presented a brief report.

Andrew Baker, 601 W 11th Ave., Denver, CO, 80201, was sworn in by secretary Donna Case and presented a report and was available for questions.

Member Kettering stated the infrastructure was her biggest concern and wondered where all the kids were going to go to school.

Jennifer Krieger, Community Development Director, asked that the following be entered into public record: Dacono Gateway Preliminary Development, dated June 16, 2023, Dacono Gateway Preliminary Plat, dated June 16, 2023, Rezoning Petition, Application and supporting reports, and Affidavit-public hearing notice. She then presented her report and was available for questions.

Member Kettering asked what the school district was saying about this project. Jennifer stated that we send the school district referrals for projects, and then the district makes the determination whether or not a cash-in-lieu would be accepted or if land needs to be dedicated. That is the district's decision not the City's. The district has decided that they wanted land for a future school site, and that's why you're seeing that this evening.

Member Kettering stated that Jennifer summed it up for her very nicely and wanted to know if the industrial was replaced with multi-family and Jennifer stated yes.

James Vinson, 5052 Liberty Ridge, Dacono, CO, 80514, was sworn in by Secretary Donna Case and stated that he felt the plan that included multi-family was a bad idea and was worried it would bring his property value down.

Michael Carpenter, 5055 Liberty Ridge, Dacono, CO, 80514, was sworn in by Secretary Donna Case and asked if the developers are going to maintain the views but wanted to know who are the views for the existing residents or the new residents.

June Kuzas, 5652 West View Circle, Dacono, CO, 80514, was sworn in by Secretary Donna Case and stated that they have their house for sale because they want to move somewhere warm, but expressed her concerns about her property value too.

With no further public comment, Chairperson Plain closed the public hearing.

Member Owens made a motion to approve PC Resolution 23-06, a Resolution Recommending Approval of Rezoning, Preliminary Plat and Preliminary Development for Certain Property Known as the Proposed Daisy Planned Unit Development. The vote was Ayes: Members Kettering, Owens, Westbrook and Plain. Nays: Member Clark.

Commissioner Reports: None.

Staff Reports: Jennifer stated there wouldn't be a Planning Commission meeting on August 8th, but there may be one on August 22nd.

With no further business, the meeting adjourned at 8:07 p.m.

Approved this 22nd day of August, 2023.



Meeting Date: September 11, 2023

Prepared By: Mark N. Doering, AICP, Senior Planner

Agenda Item: Public hearing and consideration of an Ordinance amending Chapters 16 and 4 of the Dacono Municipal Code to allow Accessory Dwelling Units (ADUs) in the Agricultural (A) Zone District

Summary Public hearing and consideration of amendments to Chapter 16 and Chapter 4 of the Municipal Code to allow for the construction of ADUs in the Agricultural (A) Zone District and to exempt ADUs from impact fees.

The Chapter 16 amendments would establish criteria regarding the construction of ADUs as an accessory use to a primary dwelling unit in the Agricultural District on a property and establish the standards around what is required for their construction.

Background The City currently does not have any regulations that will allow for an accessory dwelling unit to be built in addition to a primary residence on a property. Most residential properties in Dacono are developed with one dwelling unit on one property, or are developed with a multifamily building that allows for multiple units on a single property. Nationally, accessory dwelling units have become a more accepted land use that allows for a smaller unit to be built on single-family properties, even when they are in zone districts that allow for only one primary residence on a property. Communities have established regulations around those accessory structures to address how and where they can be built, and to what standards they are built to, in order to provide for more housing while also maintaining the character of single-family neighborhoods in a community.

Staff is proposing to create standards for ADUs in Dacono, initially in the Agricultural Zone District where properties are larger and have more room for their construction, and to use the proposed drafted regulations to help inform a broader approach in the near future to be used in the development of regulations for ADUs in other zone districts in the City. The intent of this approach is to have a change that can be implemented quickly, while also starting the discussion about a broader approach that could be applied to greater areas within the City.

Proposed Regulations **Proposed Section 16-600** Defines Accessory Dwelling Units, establishes the intent and purpose for the standards for ADUs.

Proposed Section 16-602 Provides the standards and requirements for ADUs in the Agricultural Zone District. It allows one ADU per lot and restricts ADUs to a site-built structure with a permanent foundation and utility connections. It also regulates off street parking, size, setbacks, height, location on the lot, design requirements, owner occupancy, outdoor space, and utility service requirements of ADUs.

It also allows City staff to infer if an ADU is being created or has been created through construction and complies with building codes. Lastly, it creates the requirement for a deed restriction to be recorded to prevent the ADU from being sold separately from the primary dwelling unit.

**Proposed
Section 16-604**

Certificate of Exception gives the ability for an existing ADU in the city that may have been created in the past the ability to be considered to become an ADU that meets the City's requirements.

**Amends
Section 4-108**

This section allows for an ADU to be exempted from impact fees to help maintain the affordability for ADUs.

**Amends
Section 16-274**

Amends the list of allowed accessory buildings and uses to include an ADU.

**Conformance
with the
Comprehensive
Plan**

The Comprehensive Plan identified guiding principles to provide direction for future land use and investment decisions. Four of the five guiding principles are applicable to the proposed regulations regarding Accessory Dwelling Units. They are listed below, with staff's analysis following each principle as to how ADUs help promote them:

1. Grow the City's economy through diversification of job and business opportunities, and balance growth through efficient development patterns.

Allowing ADUs in existing developed neighborhoods accommodates additional residential units without the need for significant expenditure on new public infrastructure.

2. New development and redevelopment will meet Dacono's expectations for excellence in design and the creation of places consistent with long-term economic viability.

The proposed ADU regulations establish the expectations for new accessory dwelling units in existing neighborhoods and provide the basis for evaluating the design and construction of new units and how they relate to the primary use and adjacent properties.

3. Today's neighborhoods remain vital and desirable places that meet the needs of existing residents and also appeal to future residents.

ADUs will allow existing residents to age in place and will allow for future residents to live in existing neighborhoods through the creation of new units in established neighborhoods that provide another smaller housing option in single-family areas of the City.

4. Housing choices available in Dacono are accessible and affordable to people at all stages of their lives.

Allowing ADUs will allow for smaller housing options that should result in more affordable options for those starting out their lives away from their parents as well as allowing for smaller units for property owners that may

not want to leave their neighborhood as they age, but no longer need to live in larger primary dwellings that can accommodate larger families.

Recommendation Staff recommends approval of amendments to Chapter 16 and Chapter 4 allowing Accessory Dwelling Units in the Agricultural (A) Zone District and adding standards for their construction.

ORDINANCE NO. xxx

AN ORDINANCE AMENDING CHAPTERS 16 AND 4 OF THE DACONO MUNICIPAL CODE TO ALLOW ACCESSORY DWELLING UNITS IN THE AGRICULTURAL (A) ZONE DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Chapter 16 of the Dacono Municipal Code is hereby amended by the addition of a new Article 26 to read as follows:

ARTICLE 26

Accessory Dwelling Units

Sec. 16-600. Definition, intent, and purpose.

(a) **Definition.** For purposes of this Article, an *accessory dwelling unit* or *ADU* is a dwelling unit on a residential lot that provides complete independent living facilities for one or more persons, and includes permanent provisions for living, sleeping, eating, cooking, and sanitation independent of the main dwelling. An accessory dwelling unit is a dwelling that is “subordinate” to the primary dwelling and may take the form of a mother-in-law apartment, basement unit, or a garage conversion integrated into the primary structure or is located in a separate outbuilding on the single-family property and that may not be sold separately from the primary dwelling unit.

(b) **Intent.** Accessory dwelling units are intended to:

- (1) Provide a mix of housing that responds to changing family needs;
- (2) Provide a means for residents, seniors, single parents and families with grown children to remain in their homes and neighborhoods and obtain extra income, security, companionship and services;
- (3) Provide a broader range of accessible and more affordable housing;
- (4) Create new housing dwelling units while respecting the look and scale of single-family detached neighborhoods; and

(c) **Purpose.** The purpose of this Article is to establish standards and procedures to facilitate ADUs in zone districts where they are authorized while

minimizing potential impacts from these conversions or additions on adjacent single-family uses.

Sec. 16-602. ADU standards and requirements.

Accessory dwelling units are permitted as an accessory use to single-family detached dwellings in the Agricultural (A) zone district, subject to the following conditions:

- (1) *Number allowed per lot.* One (1) accessory dwelling unit may be permitted per lot only when associated with a detached one-family dwelling. Accessory dwelling units are allowed only on lots used or developed as one-family dwelling units.
- (2) *Prohibited structures.* Manufactured homes, campers, camper buses, travel trailers, recreational vehicles, or any other structure not located on a permanent foundation with permanent utility connections as required by the building code are prohibited as accessory dwelling units.
- (3) *Development standards.* Any accessory dwelling unit must meet the same development standards required for the principal dwelling unit structure, except as provided herein.
- (4) Colors, materials and design of the ADU shall be substantially the same as the principal dwelling unit.
- (5) A certificate of occupancy will only be granted to an accessory dwelling unit after a certificate of occupancy has been granted to the principal dwelling unit;
- (6) *Existing or new development on lot.* No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is an accessory;
- (7) *Parking.* One on-site parking space shall be required for an accessory dwelling unit. Parking for the accessory dwelling unit is in addition to the required parking for the principal dwelling unit, as set forth in Chapter 16 Article 11 Section 16-280. The required parking space may be in tandem with other required spaces, but must be identified on a plot plan submitted with the building permit application.

(8) *Minimum Size.* Any Accessory Dwelling Unit constructed after the effective date of this ordinance shall be a minimum of 200 square feet in floor area.

(9) *Maximum Size.*

Lot Size	Maximum ADU Floor Area
6,000 square feet or less	600 square feet
6,001 – 12,499 square feet	850 square feet
12,500 – 43,559 square feet	1,000 square feet
43,560 square feet and larger	1,200 square feet

(10) *Site Standards:*

- a. Setbacks. Any detached accessory dwelling unit constructed after the effective date of this ordinance shall be subject to all yard and setback requirements applicable to the principal structure on the same lot. Where there is a conflict between the requirements applicable to a principal structure and an accessory structure, the more restrictive provision shall control.
- b. Prohibition in Street Yards. Any detached accessory dwelling unit constructed after the effective date of this ordinance shall not be located between the principal building and the lot line(s) abutting any contiguous public street, public right-of-way, or private street for the full width of the lot; provided, however, this prohibition shall not apply to detached accessory dwelling units located between the principal building and an alley or units located on a through lot.
- c. Height. The height of a detached accessory dwelling unit shall not exceed the lesser of:
 - i. The height limitations in the applicable zoning district; and
 - ii. The height of the principal structure on the zoning lot.

(11) *Design Standards.*

- a. Each ADU shall contain a kitchen equipped, at a minimum, with an oven, a stove, a sink, and a

refrigerator/freezer. The oven shall have a minimum capacity of 2.0 cubic feet and be installed in a permanent configuration with a slide-in appliance or installed and built-in into a wall cabinet. The stove shall have a minimum of two (2) burners. The refrigerator/freezer shall have a capacity not less than six (6) cubic feet. Countertop appliances shall not be allowed to meet the oven and/or stove requirements.

- b. Each ADU shall contain a bathroom equipped with, at minimum, a sink, a toilet, and a shower.
 - c. No ADU shall contain more than two (2) bedrooms.
- (12) *Owner occupancy.* The property owner, as reflected in title records and evidenced by voter registration, vehicle registration or other similar means, must occupy either the principal dwelling unit or accessory dwelling unit.
- (13) *Outdoor areas.* The site plan shall provide accessible outdoor space and landscaping for both the accessory dwelling unit and the principal dwelling unit.
- (14) *Utility service requirements.* Accessory dwelling units must be connected to the water and wastewater utilities serving the principal dwelling unit. Connections and fees shall be made in accordance with the City's municipal utility requirements as determined by the Community Development Director.
- (15) *Inference of ADU.*
- a. The City may infer the creation of an ADU in a primary structure and require compliance with this Article if actions indicate the intent to creation an independent dwelling unit or other similar arrangement for a separate dwelling unit by the presence of any of the following:
 - i. The existence of a separate exterior entrance to separate living space;
 - ii. The ability or practice of blocking access to the separate living space from the remainder of primary structure or vice versa;

- iii. The existence of secondary cooking facilities; and/or
 - iv. A separate living space that could be used for sleeping, either sanitary or cooking facilities, or both.
 - b. The City may infer the creation of an ADU in an accessory detached structure and require compliance with this Section if actions indicate the intent to creation an independent dwelling unit or other similar arrangement for a separate dwelling unit by the presence of any of a living space which could be used for sleeping, either sanitary or cooking facilities, or both.
- (16) Construction of an ADU must comply with all building codes adopted by the City.
- (17) *Deed restriction.* As a condition of issuance of any building permit for the construction of an accessory dwelling unit, the property owner shall file with the Weld County Clerk and Recorder, in a form acceptable to the City Attorney, a declaration of restrictions in reference to the deed under which the property was acquired by the current owner stating that:
 - a. The accessory dwelling unit shall not be sold separately from the principle dwelling unit, nor shall the lot on which it is located be subdivided unless such subdivision is approved pursuant to Chapter 17 of this Code;
 - b. The accessory dwelling unit shall be restricted to the approved size;
 - c. The certificate of occupancy for the accessory dwelling unit shall be in effect only so long as either the principal dwelling unit, or the accessory dwelling unit, is occupied by the owner of record;
 - d. The above restrictions run with the land and are binding upon any successor in ownership of the property;

- e. It shall be unlawful for any property owner not to comply with the deed restrictions; and
- f. The deed restrictions shall lapse upon removal of the accessory dwelling unit. To effect this intent, and upon verification of such removal, the City shall record appropriate documentation releasing such encumbrance. The property owner shall pay all required recording fees, and it shall be the property owner's responsibility to ensure that such recording is successfully completed.

Sec. 16-604 Certificate of exception.

(a) Accessory dwelling units constructed prior to the effective date of this ordinance do not qualify as non-conforming uses pursuant to Chapter 16, Article 14 of this Code because accessory dwelling units were not an allowed use in any zone district prior to the adoption of this ordinance.

(b) On or before December 29, 2023, any person who has constructed an accessory dwelling use in any zone district prior to the adoption of this ordinance may apply to the Community Development Director for a Certificate of Exception, which shall allow such accessory dwelling use to continue, subject to the same requirements and limitations as a nonconforming use and any conditions of approval as may reasonably be imposed by the Community Development Director.

(c) The Community Development Director shall issue such Certificate of Exemption upon a finding the applicant has demonstrated the accessory dwelling unit meets all the requirements of this Article, or that the accessory dwelling unit can meet the requirements of this Article upon satisfying certain conditions as may be imposed by the Community Development Director.

(d) Appeals from the determination of the Community Development Director and waivers from the physical requirements of this Article shall be made to the Board of Adjustment pursuant to Chapter 16, Article 17 of this Code. No use variances shall be granted by the Board of Appeals.

Section 2. Section 4-108(3) of the Dacono Municipal Code is hereby amended to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

Sec. 4-108 Exemptions.

The following types of development shall be exempted from the payment of the impact fees. Any claim for exemption shall be made no later than the time when the applicant applies for the first building permit. Any claim for exemption not made at, or before, that time shall be waived. The City ~~Administrator~~ Manager

or his or her designee shall determine the validity of any claim for exemption pursuant to the standards set forth below.

- (3) Accessory structures. Construction of unoccupied structures related to a residential dwelling unit and accessory dwelling units constructed pursuant to Chapter 16, Article 26.

Section 3. Section 13-1 of the Dacono Municipal Code is hereby amended by the addition of a new definition of “accessory dwelling unit” to read as follows:

13-1 Definitions.

As used in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise. Terms used by not defined herein shall have their common meanings, unless the context clearly indicates otherwise:

Accessory dwelling unit shall have the meaning set forth in Section 16-600(a).

Section 4. Section 13-4(f)(1) of the Dacono Municipal Code is hereby amended to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

Sec. 13-4 Water tap application; tap and meter requirements.

(f) The water tap and meter requirements shall be determined based on the dwelling, building, or unit type, as follows:

- (1) A separate water tap and meter shall be required for (i) each one-family dwelling, including mobile homes; (ii) each dwelling unit within a two-family dwelling; and (iii) each single-unit commercial building. For accessory dwelling units authorized pursuant to Chapter 16, Article 26 of this Code, water tap and meter requirements shall be made in accordance with the City’s municipal utility requirements, as determined by the Community Development Director based on the overall water consumption of the principal residence, water pressure, and ability to serve the ADU from the existing tap.

Section 5. Section 16-274 of the Dacono Municipal Code is hereby amended by the addition of a new subsection (d) to read as follows:

16-274 Accessory buildings and uses.

(d) Accessory dwelling units constructed pursuant to Chapter 16, Article 26.

Section 6. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 7. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 8. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED IN FULL this ____ day of _____, 2023.

PUBLIC HEARING AND SECOND HEARING WILL BE THE ____ DAY OF _____, 2023, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY AVENUE, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2023.

CITY OF DACONO, COLORADO

Adam Morehead, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. ____, **“AN ORDINANCE AMENDING CHAPTERS 16 AND 4 OF THE DACONO MUNICIPAL CODE TO ALLOW ACCESSORY DWELLING UNITS IN THE AGRICULTURAL (A) ZONE DISTRICT”**: Allows ADUs as an accessory use in the Agricultural zone district, subject to certain requirements, and allows for continuation of ADUs constructed without authorization prior to adoption of this ordinance if a certificate of exception is received from the City on or before December 29, 2023.