

Provo City Planning Commission

Report of Action

March 27, 2024

*ITEM 3 Ruth Thomas requests an Ordinance Text Amendment to add 44 homes in the R1.8 (One Family Residential) Zone to Section 14.30.020, Provo City Code, in order to allow Accessory Dwelling Units as a permitted use for the geographical area approximately between 1100 East and 1260 East and 820 North to 930 North. Foothills Neighborhood. Mary Barnes (801) 8526408 mabarnes@provo.org PLOTA20230035

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 27, 2024:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Robert Knudsen

Second By: Barbara DeSoto

Votes in Favor of Motion: Robert Knudsen, Lisa Jensen, Jeff Whitlock, Jonathan Hill, and Barbara DeSoto.

Jeff Whitlock was present as Chair.

- Includes facts of the case, analysis, conclusions, and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- This application affected the Foothills Neighborhood. The Foothills Neighborhood discussed this topic in May and November 2019, and once again in November 2020. The applicant was not required to appear at another neighborhood meeting.

APPLICANT PRESENTATION

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- The applicant started by acknowledging that this is the first multiple homes application that has appeared before Planning Commission, so this will be a pilot program of sorts. It will also provide great localized benefits to the neighborhood.
- This has been an active discussion in the neighborhood for 5 years. Some reasons for this application include:
 - This section of the neighborhood has a few conflicting zoning requirements, including grandfathered ADUs, overlapping zoning, etc. This will help to clean that up, making it so that ADUs are simply allowed by right.

- It will also make expectations very clear for people that are moving into the neighborhood, especially into the houses that have grandfathered ADUs. It will reduce any confusion.
 - In 2020, rental homes in the neighborhood created a mini housing bubble that made houses difficult to buy. This would hopefully encourage more owner-occupants to move into the neighborhood.
 - A section of Wasatch neighborhood to the immediate north of the property has had an ADU overlay since the 2000s. Since the ADU overlay was added, this section of the Wasatch neighborhood has seen a shift into more owner occupancy and relatively stabilized home prices. This is encouraging to the neighbors in the subject area, because the lot sizes and houses are similar, and the Wasatch neighborhood is directly adjacent.
 - The applicant explained that the reason for this change, as mentioned in the Wasatch Neighborhood meeting minutes, is that an ADU overlay made zoning enforcement easier. ADUs could be easily cross-referenced with parcel records.
- The applicant stated that the neighbors in the subject area are not expecting a large increase in the number of ADUs with a possible approval of this proposal. This is due to the nature of the existing homes, slab foundations, smaller back yards, etc. The applicant expects a modest increase in ADUs, then a steady increase if residents decide to upgrade their homes or redevelop their properties.
- The grandfathered ADUs that do exist within the subject area are within the homes of residents with fixed incomes, who use the ADUs as a supplement to their income.
 - The applicant conducted a small survey of rental rates within these grandfathered ADUs. The owner occupants rent the ADUs at below market rates to cater to students and other micro-populations. The applicant recognized that lower rental rates are not guaranteed within the subject area, but they are the current norm.
- The reason why the neighbors in the subject area decided on a group application rather than individual applications is because the subject area wants to ensure that things are clear to any new neighbors. It will also help to ease zoning enforcement.
 - The reason why this application took a while to get before the planning commission is because it is extremely time-consuming to get 66% of property owner signatures.

NEIGHBORHOOD AND PUBLIC COMMENT

- The neighborhood Chair was present and did address the Planning Commission during the hearing. McKay Jensen expressed support for the amendment and the neighborhood.
- The neighborhood Vice-Chair was present as the applicant.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- *Craig Carlile, Foothills Neighborhood.* There is pressure for any area that surrounds BYU Campus to become student housing. Joaquin Neighborhood has become what it is today because people opened their houses to students. The ADU Overlay in this area could be a great idea, but it is the camel's nose in the tent. Because of the proximity to BYU, Mr. Carlile is concerned that this area will become another Joaquin. ADUs will increase property values.
- *Paul Evans, Pleasant View Neighborhood.* Pleasant View has had the ADU overlay for 40-50 years. One of the challenges regarding owner occupancy is individuals that purchase the home and then put their child as an owner or trustee, therefore the child becomes the owner. The basement is rented out, and it becomes a de facto student duplex. Mr. Evans stated that code enforcement cannot handle this, and that it is a real issue.
- *Richard Snyder, Wasatch Neighborhood.* As the property owner directly north of the subject area, Mr. Snyder is very concerned about the character of the neighborhood changing from single family. Student rentals in this area are rampant. The subject area is adjacent to a park and religious property, so the applicant did not have to get signatures from many adjacent residential properties. This means that there was not as much input for the ordinance amendment. It skews it and makes it easier for this property to meet the criteria without involving more people. Mr. Snyder was also worried that residents in the subject area may get an ADU then sell the property to someone else. This will turn into a nightmare of enforcement and violates the purpose of single-family dwellings.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

After staff presentation:

- Commissioner Whitlock asked about Short-Term Rentals, and if they allowed ADUs. He also requested follow-up information on the City's recent discussions on Short Term Rental enforcement.
- Commissioner DeSoto expressed concern about when a home with a legal ADU is sold to a rental company. In that case, city enforcement could be difficult. Commissioner DeSoto also requested information on what the enforcement consequences are, and concern about increasing property values too much. With higher property values, owner occupants may charge an increased rent from the ADU tenant, which would not be affordable housing.

After public comment:

- Commissioner Jensen stated that the owner occupants within the subject area are in favor of the amendment. These are the only property owners permitted to have an ADU. Wasatch Neighborhood to the north is already within the ADU overlay. The presence of the park and the religious property is a strength, as there are less adjacent existing residential properties that could be impacted.
 - Commissioner Jensen also expressed concern about raised property values. An ADU does not address affordability, it could allow an owner occupant to bring in income that will help to pay for the expensive home.
 - Commissioner Jensen acknowledged the issue that Mr. Evans brought up about owner occupancy, and how the enforcement loopholes then fall on neighbors to complain.
 - Commissioner Jensen said that the parameters in the code should be sufficient to ensure that an ADU is rented out correctly. People who don't want to comply with the code will try to have an ADU, whether there is an overlay on the subject area or not. This will make it slightly easier for people who will follow the code to have an ADU.
- Commissioner Hill expressed he has major misgivings about ADUs, but this area might be a good place for ADUs. ADUs bump house prices, they do not improve affordability. There are always conflicting opinions, i.e. it increases affordability but raises house prices, or it increases housing supply but no one is going to put an ADU in. They are not the solution to the housing crisis. However, in this situation, the applicant had to follow the special use permit requirement for the entire subject area. It's clear that two thirds of the people within the subject area and immediately adjacent area want this amendment.
 - Commissioner Hill added that this area is a little more isolated from other neighborhoods, simply due to the park and the church property. This is positive, it means less potential impact on surrounding neighborhoods. The neighborhood to the north already allows this, so it essentially creates a continuous overlay. It is not an island.
 - In general, ADUs are not great. But in this case, the neighborhood supports it, so this is the type of place where the city can support it as well.
- Commissioner DeSoto agreed that there is not one solution to housing. But, with these little pieces of ADU overlay, housing supply will increase and at least some people will be able to find a place to live. Commissioner DeSoto also acknowledged the issue that Mr. Evans brought up. Not sure if anything can be done, but it does come down to trusting that most property owners will respect their neighbors and the law.
- Commissioner Whitlock stated that great points have been made. This is a simple issue, the city passed a code which was in response to state law, which was in response to housing crisis in the state. The applicant is following the code, so the planning commission must forward approval. Anything else would be irresponsible.
- Commissioner Jensen recommended a more intensive ADU and Short-Term Rental education campaign or program to staff. As more people learn about ADU requirements, they may realize that they are not in compliance and try to fix it. Many people may have automatically added ADUs to their home when the State came out with new ADU legislation, because they only know that half of the story. Residents and city officials need to be able to trust the system. Part of the problem with these widespread zoning violations is education. Talk about ADU requirements in neighborhood meetings, so that people can educate their neighborhoods. It could make enforcement easier.
 - Commissioner DeSoto agreed, saying that there will always be people who will not pay attention to the rules. But increased education could reach the neighbors that are being affected by illegal ADUs,

empowering them, and helping them have the tools necessary to know if someone is out of compliance. It also allows them to know what their resources are.

- Commissioner Jensen added that when more people that understand the rules, less pressure is on one person within a neighborhood to complain. If the whole neighborhood understands the code, then a good percentage of the neighborhood works together to make sure the code is followed.
- Commissioner Whitlock stated that he understands public concerns. All the issues described could come down to enforcement, which needs to continue to improve. When thinking of ADUs, there are two things that come to mind. First, the supply and demand question. Provo cannot fix the housing supply issue, but we can provide additional options. More ADUs mean more options. It provides more housing supply, and a smaller square footage would be more affordable. Second, the debate seems to be that the ADUs will not help affordability for a homeowner, but it will increase value for an investor. Either way, there will be a return and I'd rather the homeowner get the return, which will then be re-invested into the community.
 - Commissioner Hill responded saying that ADUs increase the number of purchasable units by zero. This is a small rental unit. As families grow, they need more space. It creates an affordable option, but at the cost of larger families, who must move out of the city as they grow.
 - Commissioner Whitlock explained that the applicant is saying that because ADUs are required to be owner-occupied, we are creating an incentive for more homeowners to live in their houses and create more owner occupation in neighborhoods.



Planning Commission Chair



Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center St., Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

Exhibit A

14.30.020 Permitted Use of Accessory Dwelling Units.

1. Notwithstanding the regulation of permitted uses in other chapters of this Title, the regulation of the permitted use of accessory dwelling units is governed by this Section.
2. Notwithstanding Section 14.30.010, Provo City Code, Utah Code Annotated Section 10-9a-530 allows the prohibition of accessory dwelling units in some areas zoned primarily for residential use. Accordingly, accessory dwelling units are prohibited in the following areas zoned primarily for residential use:
 - a. All Project Redevelopment Option (PRO) zones;
 - b. Areas designated RM, R16, R17, R18, R19, or R110, including such areas with the Performance Development overlay, except as shown in the map below:

