

## *Payson City Planning Commission Staff Report, January 14, 2015*

### *Request for Approval of an Accessory Living Unit in the R-1-9, Residential Zone*

#### **Approval Process:**

Development Review Committee:	Technical and Administrative Review
Planning Commission:	Recommendation to City Council
City Council:	Approval or Denial (Legislative Action)

#### **Background**

The applicant, Julie Nielson is requesting approval for use of the RMO-A, Accessory Living Unit Overlay Zone for the existing residential structure located at 1406 South SR 198 in the R-1-9, Residential Zone. The parcel (Utah County Parcel #46-516-0029) was included in the Dry Creek II Annexation recorded on February 21, 1995 and subsequently included in Plat A of the Maples at Brookside Subdivision. The property is currently owned by Ocotal-Utah LLC and the applicant intends to purchase the property if the overlay zone request is approved by the City Council.

The structure has accommodated two (2) living units for many years; however, there is no record that the second unit was legally authorized. To obtain the necessary funding to purchase the property, the applicant has requested a letter from Payson City acknowledging approval of the second residential unit. Staff is unable to provide this letter because there is no legal evidence that the second unit was approved by Payson City or Utah County prior to annexation. Therefore, staff recommended the applicant apply for use of the RMO-A Overlay Zone to correct the potential zoning violation.

The RMO-A, Accessory Living Unit Overlay Zone regulations were introduced and adopted by the City Council on May 16, 2012 in accordance with Section 19.2.8 of Title 19, Zoning Ordinance. The relatively new ordinance provides a process to accommodate an accessory living unit in an existing single family dwelling, if deemed appropriate by the City Council. Moreover, the ordinance provides a procedure for owners of unauthorized accessory units to correct potential zoning violations. With the new provisions in effect, the applicant is requesting approval for use of the RMO-A Overlay Zone to accommodate an accessory living unit in the existing single family dwelling.

#### **Analysis**

In accordance with Section 19.6.11.1 of the Payson City Zoning Ordinance, the RMO-A Overlay Zone is established to conserve and protect the residential atmosphere and character of established neighborhoods and to maintain desirable, attractive, and safe places to live throughout the community. Approval of an overlay zone is similar to a zone change request and the City Council is under no obligation to approve the use of the overlay zone. The applicant must demonstrate the proposed use (accessory living unit) is appropriate in a particular neighborhood and will further the land use goals established by the City Council.

As indicated in the written request provided by the applicant, the structure is already built and functioning as a single family dwelling with an accessory apartment. There are two (2) separate utility accounts (one for each unit) and a landlord agreement is in effect for the structure. Moreover, the structure has two (2) gas meters, two (2) electrical meters, and two (2) garbage cans. Staff would suggest that these factors should be considered as support for the accessory living unit.

The application was reviewed for compliance with Title 19, Zoning Ordinance (August 6, 2014) and other applicable requirements of the Payson Municipal Code. Staff would suggest the City Council consider the following requirements as conditions of approval of the application.

1. Adequate off-street parking will need to be provided on the project site. City ordinance requires two (2) off-street parking spaces for each unit. The applicant is proposing to utilize the existing two-car garage for the single family dwelling and two uncovered parking spaces south of the structure for the accessory living unit. The Planning Commission and City Council may require covered parking for the accessory living unit. The on-site parking must be consistent with the applicable requirements of Section 19.6.11 and Chapter 19.4 of the Zoning Ordinance. At a minimum, the driveway and parking area for the accessory living unit will need to be hard surfaced with asphalt or concrete.
2. The connections to the public utility services (i.e. power, wastewater, drinking water, pressurized irrigation) must satisfy the current standards of Payson City. The applicant is responsible for payment of connection fees and/or impacts fees, if applicable.
3. The pipe and excess concrete in the gutter along SR 198 will need to be removed and the gutter repaired and the drive approach constructed consistent with the construction standards of Payson City and/or the Utah Department of Transportation (UDOT), as applicable. The applicant is responsible for any approvals and permits required by UDOT to complete any work in the SR 198 right-of-way.
4. All areas not used for building or parking will need to be landscaped prior to occupancy of the accessory living unit. The landscaping shall be maintained using an automatic sprinkling system.
5. A building permit must be obtained for any building alterations associated with the accessory living unit. Any alterations and improvements must be consistent with the regulations of the adopted building and fire codes.

The Planning Commission and City Council may require additional information in order to make a well-informed decision or impose additional conditions to ensure the project is consistent with the land use ordinances and the development goals of the City.

### **Recommendation**

The Planning Commission will need to review the RMO-A Overlay Zone request for consistency with the requirements of the land use ordinances of the City. Following a public hearing, the Planning Commission may:

1. Remand the request of the applicant back to staff for further review. The Planning Commission should select this option if it is determined that the applicant has not provided enough information to formulate a well-informed decision.
2. Recommend approval of the request for use of the overlay zone as proposed. Staff would suggest that if the Planning Commission recommends approval of the use of the overlay zone as proposed, an opportunity to require the applicant to satisfy the regulations of the Payson City development ordinances will be missed.
3. Recommend approval of the request for use of the overlay zone contingent upon the satisfaction of conditions. Staff would suggest that if the Planning Commission recommends approval of the use of the overlay zone contingent upon the satisfaction of appropriate conditions, the applicant will be required to improve the property consistent with the regulations of the development ordinances of Payson City.
4. Recommend denial of the use of the overlay zone. The Planning Commission should select this option if it is determined the proposed accessory living unit is not appropriate in this location.

Any motion of the Planning Commission should include findings that indicate reasonable conclusions for their recommendation to the City Council.