

Payson City Council Staff Report, October 21, 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, Brandon Rindlisbacher is requesting approval for use of the RMO-A, Accessory Living Unit Overlay Zone to allow an accessory living unit in the dwelling being constructed at 665 West 1100 South in the R-1-9, Residential Zone. The parcel (Utah County Parcel #34-059-0015) was recently purchased by Brandon and Shalee Rindlisbacher and a building permit has been issued for the construction of a single family dwelling on the site. As explained in the written explanation prepared by the applicant and attached to this report, the applicant is prepared to complete the necessary improvements (i.e. exterior entrance, fire separation, separate water heaters and HVAC systems) to accommodate a separate dwelling unit in the basement of the structure if the request is approved.

In order to obtain approval of the RMO-A, Accessory Living Unit Overlay Zone, the applicant must receive a recommendation from the Planning Commission and approval by the City Council. Both the Planning Commission and City Council are required to hold a public hearing and consider public input prior to reaching a recommendation or decision, respectively. The Planning Commission considered the request on September 23, 2015 and forwarded a recommendation of approval to the City Council. The findings of the motion are included in the recommendation portion of this staff report. The public hearing has been properly noticed and courtesy notices have been mailed to the appropriate property owners.

Analysis

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 a single family dwelling. It should be noted that the ordinance was created to provide a tool to correct potential zoning violations, not to increase the number of basement apartments throughout the community. To date, all requests for use of the RMO-A Overlay Zone have been processed to correct zoning violations. The City Council will need to determine if the overlay zone should be used for new construction projects.

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.

By definition, an accessory living unit is "...a second living unit within a single family dwelling which is accessory to the single family and is an architectural and integral part of the single family dwelling." Approval of an accessory living unit does not change the single family classification of the structure. Rather, the unit is an extension of the single family home and must remain a function of the single family dwelling. To that end, the connection between the main level of the structure and the basement cannot be blocked off and separate utilities to the accessory living unit are not allowed.

The application was reviewed for compliance with Title 19, Zoning Ordinance (November 5, 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. Accessory living units are intended to provide an ancillary living quarter without full services such as cooking and laundry facilities. In this instance, the applicant is proposing a second kitchen area and separate laundry facilities so it needs to be clearly reiterated, and understood by the applicant, that any approval for an accessory living unit is not authorization for use of the structure as a duplex. The connection between the main portion of the structure and the addition must remain open and no separate utilities are allowed.
2. 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 off-street parking for the main level will be accommodated in the two (2) car garage and the applicant is proposing a hard surfaced driveway that will accommodate two (2) uncovered tandem parking spaces west of the structure 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.
3. 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.
4. If the overlay zone is approved, a notice that outlines any special conditions of approval to guarantee compliance with the approval will be filed in the office of the Utah County Recorder. Conversely, if the request is denied, a Certificate of Present Condition will be recorded to reiterate the classification of the structure as a single family dwelling.

The 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

On September 23, 2015, the Planning Commission, following a public hearing, recommended approval of the request contingent upon the satisfaction of staff conditions and with an additional condition that the structure (one unit) must be occupied by the owner of the property.

The City Council 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 City Council may:

1. Remand the request of the applicant back to staff or the Planning Commission for further review. The City Council should select this option if it is determined that the applicant has not provided enough information to formulate a well-informed decision.
2. Approve the request for use of the overlay zone as proposed. Staff would suggest that if the City Council approves 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. Approve the request for use of the overlay zone contingent upon the satisfaction of conditions. Staff would suggest that if the City Council recommends approval of the use of the overlay zone contingent upon the satisfaction of appropriate conditions, the applicant will be required to use the property consistent with the regulations of the development ordinances of Payson City and in a manner that will benefit the community.
4. Deny the use of the overlay zone. The City Council should select this option if it is determined the proposed accessory living unit is not appropriate in this location or the applicant is unwilling or unable to satisfy the regulations of the Payson City development ordinances and the land use goals of the City Council. Denial for the use of the overlay zone shall not constitute a takings claim because the applicant will not be denied the ability to use the property in accordance with the underlying zone.

The decision of the City Council, whether in favor of the request or in opposition of the request, should include findings that indicate reasonable conclusions for the decision.