

Provo City Planning Commission

Report of Action

August 13, 2025

***ITEM 5** Christina Gibson requests an Ordinance Text Amendment to Provo City Code 14.30.020 in order to allow an Accessory Dwelling Unit on property in the R1.10 (One Family Residential) Zone, located at 3080 N Bannock Drive. Indian Hills Neighborhood. Jessica Dahneke (801) 852-6413 jdahneke@provo.gov PLOTA20250238

The following action was taken by the Planning Commission on the above described item at its regular meeting of August 13, 2025:

RECOMMENDED APPROVAL

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application

Motion By: Lisa Jensen

Second By: Joel Temple

Votes in Favor of Motion: Melissa Kendall, Matt Wheelwright, Joel Temple, Lisa Jensen, Daniel Gonzales, Barbara DeSoto, Jonathan Hill

Johnathan Hill was present as Chair.

- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not 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

- A neighborhood meeting was held on 07/16/2025.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was present /addressed the Planning Commission during the public hearing.
- Rhoda Gaufin mentioned that this item went to a neighborhood meeting and the vote was 24 in favor 5 against. She also stated that she is aware of other properties doing this illegally. She stated that if she had tried to buy the home she is in now 30 years ago she could not have afforded it. She was aware that there are many properties doing this illegally and it didn't feel right to punish the applicant for taking the legal route

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:

- Lee Farnsworth stated that the area was built as a single-family dwelling, and he was concerned that allowing an ADU would change the neighborhood from a single-family neighborhood.
- Pam Jones was concerned that Bannock Drive is not a good street for an increase in parking. She supports the

idea of an ADU, but she does not feel that Bannock Drive is the best place for it.

- Brittany Thorley said that she is a neighbor of the property and signed in support of the ADU. She agreed with some concerns regarding parking and encouraged the city to evaluate the situation along the whole road. She also stated the signature form should be evaluated as it seemed like she was just signing to agree for the current property owner, not all future property owners.
- Jennifer Napp stated that she was in a similar situation years ago and that she would not have been able to afford the whole home but renting out an ADU allowed her to be in the home and her family to grow. She is in support of an ADU at the location.
- Adam Shin stated that this is a good example of what an ADU should be meant to enable allowing a young family to grow into a home and creating an additional avenue for people to get into home ownership.

APPLICANT RESPONSE

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

- The applicant stated that the purchase of the home is a long-term investment.
- The applicant mentioned that the zoning laws changed as they were in escrow from an administrative process to the legislative process.
- The applicant pointed out that they provided all the other required documents just not tax information.
- When asked by Commissioner Hill why not wait to bring this forward when you could wait to bring it forward until all the requirements of owner occupancy could be met. The response was to be in compliance with the code and give the opportunity to grow in the house.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Kendall asked for clarification if this would allow all future property owners to have an accessory dwelling unit at the property. Staff explained that it makes it possible for any future property owners to apply for an accessory dwelling unit at the property, but each future owner would have to show they meet the rest of the code requirements for 14.30 before an accessory apartment would be approved.
- Commissioner Jensen asked how the city measures a Bonafide intent. Staff stated that by requiring documentation at a later date we can see if the property owner has made the property their primary residence
- Commissioner DeSoto asked for clarification regarding the previous process for establishing an ADU. Staff explained that previously there was an administrative process, but as the code has changed the two options for establishing an ADU outside of the areas shown in 14.30.020 is to do an ordinance text amendment or rezone the area. Commissioner DeSoto expressed that the current process should be evaluated to create a process that is simpler for owners to accomplish.
- Commissioner Wheelwright pointed out that the property owners have could upload tax documents showing they did not make any claims regarding income or depreciation because they have not owned the property long enough to submit taxes including this property. Doing that would meet the requirement.
- Commissioner Temple pointed out that there is a difference between the ordinance text amendment and establishing an ADU. He and commissioner Kendall asked if there are two different processes why is the City recommending denial at this point. Staff stated that the goal was to avoid creating a precedent for approving an ordinance text amendment for a property that does not meet the requirements of the code.
- Commissioner DeSoto stated that she supports making sure that sham transactions are hindered, but this situation seems like there is a strong intent to be owner occupied and stay that way. She feels that this is a bigger issue than just this item that will go to council. She also feels that the process for getting an ADU approved needs to be evaluated to create a process that is more attainable
- Commissioner Kendall asked if the property could meet the parking requirements and if code now allows them to live in the basement unit instead of the main unit. She also asked if there was a process that approves on the condition of uploading additional documents at a later point.
- Commissioner Gonzales asked how staff feels about if there was a way to say enough of the documents have been uploaded that it can be passed forward. Director Peperone explained that citizens, as well as City Council, have expressed ongoing concerns about non-owner occupied ADUs. As such, thoroughly documenting owner occupancy requirements is staff's main priority when it comes to establishing new ADUS.

- Commissioner Jensen pointed out that many people have mentioned they are aware of illegal ADUs in the area and if the process is so difficult that people are just doing it illegally Planning Commission should look at and interpret the intent of the ordinance not just the language of the ordinance.
- Commissioner Temple asked questions regarding the process for renewing the ADU and if they have to upload documents every year at renewal. Staff explained that they do not ask for documents unless staff has been made aware of a possible violation.
- Commissioner Gonzales stated that the process needs to be evaluated since so many people are aware of property owners doing it illegally.
- Commission Kendall stated that she would like to see a process that allows a temporary approval so the property owners have the opportunity to show they will meet all the requirements, but something that can be revoked if after a certain amount of time the property is still not in compliance.
- Commissioner Wheelwright stated that if there are more illegal ADUs than legal ones it means the process for ADUs needs to be evaluated, but feels that the loophole of the applicant's tax documents not showing and deductions regarding the property means that they meet the requirement of the code. He thinks even if they can't currently meet the requirement for the license, recommending approval for the ordinance text amendment so they can establish an accessory apartment as soon as possible after meeting the code requirements.
- Commissioner Jensen stated that if the Planning Commission is going to recommend something different than the staff report they need new findings but thinks that the loophole pointed out by Commissioner Wheelwright can work as the new findings.

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

The Planning Commission made a recommendation for approval of the ordinance text amendment provided there is follow up in one year to evaluate if the applicant still meets the owner occupancy requirements. This finding is based on their interpretation of the owner occupant definition found in 14.06.020 stating that the second owner on title cannot provide tax documentation showing that he has not taken any deductions since they have not owned the property long enough for it to be included on any tax documentation.



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 the Development Services Department, 445 W Center Street, 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

An amendment to the map of areas permitting ADUs as found in 14.30.020 to be expanded to include the property at 3080 N Bannock Dr.

