

**PAYSON CITY PLANNING COMMISSION
MEETING MINUTES
January 14, 2015**

REGULAR SESSION – CITY COUNCIL CHAMBERS

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Chairman John Cowan; Commissioners Blair Warner, Harold Nichols, George Van Nosdol, Kirk Beecher, and Ryan Frisby; City Councilmembers Kim Hancock and Mike Hardy; City Attorney Mark Sorenson; City Planner Jill Spencer; Zoning Administrator Jon Lundell; Commissioner Todd Cannon unexcused.

INVOCATION: Commissioner Warner

NEW BUSINESS

- Introduction of Ryan Frisby, newly appointed member of the Planning Commission.

CONSENT AGENDA

- Approval of minutes for the regular meeting of October 8, 2014.
- Resolution: Establishing the dates and time for the regular Planning Commission Meetings in 2015.

Motion by Commissioner Beecher to approve the minutes for the regular meeting of October 8, 2014. Seconded by Commissioner Van Nosdol. Motion carried.

Motion by Commissioner Warner to approve the resolution establishing the dates and time for the regular Planning Commission meetings in 2015. Seconded by Commissioner Beecher. Motion carried.

PUBLIC FORUM

No public input.

REVIEW ITEMS

PUBLIC HEARING: REQUEST BY JULIE NIELSON FOR USE OF THE RMO-A, ACCESSORY LIVING UNIT OVERLAY ZONE TO ACCOMMODATE AN ACCESSORY LIVING UNIT IN THE EXISTING RESIDENTIAL STRUCTURE LOCATED AT 1406 S HWY 198 IN THE R-1-9, RESIDENTIAL ZONE.

Motion by Commissioner Beecher to open the public hearing. Seconded by Commissioner Van Nosdol. Motion carried.

Planner Spencer presented information from the following staff report.

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.

Commissioner Warner asked if the home and apartment are currently occupied.

Planner Spencer stated that they are currently occupied. However the applicant is going to occupy the upstairs portion of the structure.

Commissioner Nichols expressed concern regarding the conditions of the accessory apartment. He is concerned for the health and safety of the occupants because he is aware of sewer backing up into the apartment as well as the water heater flooded the apartment. He asked the applicant if there are any plans to upgrade the apartment.

Planner Spencer stated that the sewer lateral had been repaired.

Commissioner Warner asked if the current owner was the one that added the apartment.

Planner Spencer stated that it is unknown when the apartment was created.

Commissioner Nichols stated again that his main concern is the safety of the tenants in the basement apartment.

Planner Spencer stated that the building inspector will be doing an inspection to determine if there are any building code violations associated with the home and what improvements would need to be made to bring the apartment into compliance. She also stated that she has had discussions with the applicant about the timing of the required improvements. She will not be able to make the needed improvements until she has approval from the city and has purchased the property.

Chairman Cowan asked if there had been discussion of a bond to ensure that the improvements are installed within a timely manner if the city council approves the overlay.

Planner Spencer stated that could be done. She stated that they could also work with the city attorney to draft an agreement between the applicant and the city that would incentivize the installation of the required improvements.

Commissioner Warner asked if there would be any issue with getting permission for a second driveway off of state road 198.

Planner Spencer stated that there is an existing curb cut for the second driveway. If the curb cut is changed in any way then the applicant would need to work with Utah Department of Transportation to make those changes.

The real estate listing agent asked what the requirement would be for the off-street parking for the accessory apartment would be.

Planner Spencer stated that off street parking is required to be outside of the property setbacks.

Commissioner Beecher stated that there would be 25 feet of hard surface for the driveway to a 20 foot by 20 foot pad to meet the code requirements.

The applicant gave some history of the purchasing of the property. She stated that there are 5 bedrooms upstairs and the basement apartment. She stated that the appraisal came back as a single family home with an accessory apartment and for a lending company to approve the mortgage the use needed to meet the zoning. She has worked with Utah County to determine if there was any record that they had indicating that the apartment was constructed legally. Utah County was unable to find any documentation stating that it was done legally. She is making this request so she can get the funding to make the purchase.

Commissioner Frisby asked if Planner Spencer had informed the applicant of the requirements for landscaping.

The applicant stated that she was surprised with and had concerns with landscaping requirements. She described placing a fence along the north side of the property to enclose the side and back yard of the properties and they place rock landscaping in portions of the front yard. She stated that her time frame for a decision is February 15.

Commissioner Cowan stated that a bond would be in place to ensure that the landscaping would be installed in a timely manner.

Planner Spencer stated that with the overlay zone, the Planning Commission and the City Council has the ability to place conditions on the approval that could address the landscaping requirements.

Chairman Cowan stated that it needs to be landscaped but does not think that the planning commission needs to say how it is done.

There was a question from the audience if that lot was part of the Maples at Brookside Home Owners Association (HOA).

Planner Spencer stated that she was unsure if the home was included in the HOA. Typically existing homes are excluded from subdivision documents.

Commissioner Beecher stated that similar situations have required covered parking for the accessory unit. Has the applicant considered this requirement?

The applicant stated that her husband has a contracting background and would be able to construct the covered as well as make the needed improvements inside the apartment.

The applicant stated her ideal improvements would be to construct a privacy fence along the north property line and landscape the front yard with rock. She stated that the hard surface driveway and parking are a concern due to the cost of the property.

Planner Spencer stated that the hard surface parking is the ordinance and that cannot be changed.

Commissioner Beecher stated that the hard surface parking needed to extend from the roadway to the parking area. The design of the driveway needs to allow for the 2 off street parking to exit without the other needing to be moved.

Nancy Despain stated that she is a resident of the maples subdivision and stated that she supports the applicant. She stated that 5 years ago she constructed an accessory apartment in her basement and thought that she did everything according to the rules. She found renters for the upstairs and then was contacted by the HOA stating that it accessory apartments were not allowed. She stated that owner occupy accessory apartment is a need housing option in the neighborhood to serve lower income individuals. She is concerned with the safety of the tenants of apartments in older homes. She stated that she feels that the city or the HOA should not be able to say who can live within a private home if everything is built to code.

Jim Durrant stated that landscaping should be done with more rock than grass due to the water shortage.

Motion by Commissioner Nichols to close the public hearing. Seconded by Commissioner Beecher. Motion carried.

Commissioner Cowan stated he believes that the planning commission should recommend approval with conditions.

Planner Spencer stated that based on staff conditions covered parking is optional and that landscaping needs to ensure that the front and side yard are landscaped properly.

Commissioner Nichols asked what the time frame is to have the landscaping completed for a typical single family home.

Zoning Administrator Lundell stated that it would be required once the pressurized irrigation is turned on in the spring.

Planner Spencer stated that a bond is required during this time as well.

Motion by Commissioner Beecher to recommend approval to the RMO-A overlay zone to the City Council with the recommendation contingent on the completion of staff conditions, hard surface off street parking, a determination of the appropriate landscaping for the east and north side of the property, a determination by staff of the appropriate timing of the landscaping and review by staff of the applicability of the HOA to the lot. Seconded by Commissioner Nichols. Motion carried.

COMMISSION AND STAFF REPORTS

Planner Spencer requested feedback on plans for a holiday party for the Planning Commission. She will be contacting the commissioners to begin planning an event. She also gave an update on the current planning projects. They include:

- The South Meadows Planning Area
- I-15 Environmental Impact Study
- Hollow Park Master Plan
- Regional active transportation plan with south Utah County

Annual land use training presented by Payson City Attorney Mark Sorenson. The topics discussed include:

- Utah Open and Public Meetings Act
- Case studies regarding the content of motions
- How to handle and respond to public clamor
- Summary of records that are applicable to GRAMA requests

Motion by Commissioner Beecher to adjourn.

Meeting adjourned at 9:20 p.m.