

**PAYSON CITY PLANNING COMMISSION  
MEETING MINUTES  
May 13, 2015**

**REGULAR SESSION – CITY COUNCIL CHAMBERS**

**CALL TO ORDER:** 7:10 p.m.

**ROLL CALL:** Chairman John Cowan; Commissioners Harold Nichols, George Van Nosedol, and Ryan Frisby; City Councilmember Kim Hancock; Planner Jill Spencer; Zoning Administrator Jon Lundell; Councilmember Mike Hardy and Commissioners Kirk Beecher and Blair Warner excused.

**INVOCATION:** Commissioner Nichols

**CONSENT AGENDA**

- Approval of minutes for the regular meeting of April 22, 2015.

*Motion by Commissioner Nichols to approve the minutes for the regular meeting of April 24, 2015. Seconded by Commissioner Van Nosedol. Motion carried.*

**PUBLIC FORUM**

No public comment.

**REVIEW ITEMS**

**PUBLIC HEARING – REQUEST BY MARY PENDLETON FOR APPROVAL OF AN ACCESSORY LIVING UNIT IN THE EXISTING RESIDENTIAL STRUCTURE LOCATED AT 1532 S GOOSENEST DRIVE IN THE MH-2, MOUNTAIN AND HILLSIDE ZONE.**

*Motion by Commissioner Frisby to open the public hearing. Seconded by Commissioner Nichols. Motion carried.*

Planner Spencer presented information from the following staff report.

**Background**

The applicant, Mary Pendleton is requesting approval for use of the RMO-A, Accessory Living Unit Overlay Zone for the existing residential structure located at 1532 S. Gooseneast Drive in the MH-2, Mountain and Hillside Zone. The dwelling is located on Utah County Parcel #30-073-0240 which contains 2.12 acres adjacent to additional acreage owned by the applicant (total of approximately 30 acres). Access to the site is obtained from a long gravel driveway from Gooseneast Drive and there are multiple off-street parking spaces on the site. Payson City utility services are not available in the area; therefore the structure is served by on-site systems (well and septic tank) and the SESD power system.

The basement level of the dwelling is completely finished and designed as an accessory living area and over the years has been used as living quarters for members of the applicant's family. As in the past, the applicant intends to only use this apartment for family members; however, in order for the new tenant (son) to receive housing assistance through the Utah County Housing Authority, a letter from Payson City is required that acknowledges the accessory living unit and grants authorization to use the basement level for this use. It should be noted that if the use of the overlay zone is granted, Payson City cannot limit the use of the accessory living unit to only family members of the property owner.

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. Prior to forwarding a recommendation to the City Council, the Planning Commission is required to hold a public hearing in order

to receive input from the public in relation to the proposal of the applicant. 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 the existing single family dwelling.

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 portion of the structure and the basement level 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 Planning Commission and 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, there is 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. City ordinance requires two (2) off-street parking spaces for each unit. Following an inspection of the site, staff has determined there is ample parking for the proposed use. The site includes an attached two-car garage, a carport designed for three cars, a detached accessory building with a single bay, and other hard surface and gravel areas.
3. A building permit must be obtained for any building alterations associated with zoning compliance and 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.

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.

Mary Pendleton stated that she needs the approval to get assistance from the Utah County Housing Authority for her disabled son. He has been living in Provo but his doctor stated that it would help in his treatment if he were living with family.

*Motion by Commissioner Nichols to close the public hearing. Motion seconded by Commissioner Van Nosdol. Motion carried.*

Public hearing closed at 7:20 p.m.

*Motion by Commissioner Frisby to recommend approval of the accessory living unit finding that it does not impact the neighborhood, and does not conflict with the general plan. Motion seconded by Commissioner Nichols. Motion carried.*

## REVIEW AND RECOMMENDATION REGARDING A REQUEST FOR APPROVAL FOR A CONDITIONAL USE PERMIT TO CONSTRUCT AN ACCESSORY BUILDING IN THE FEMA FLOODPLAIN.

Planner Spencer presented information from the following staff report.

### **Background**

The applicant, Mark Davis is seeking a recommendation of approval from the Planning Commission and approval from the City Council to construct an accessory building on Utah County parcel #08-128-0003 located at 190 East 600 South in the R-1-9, Residential Zone. The applicant is proposing to construct an accessory building measuring 30' by 75' for a total of 2,250 square feet behind the existing single family dwelling on the site. In accordance with Section 19.6.25.2 of the Zoning Ordinance, a conditional use permit is required because the structure is proposed on property identified by the Federal Emergency Management Agency (FEMA) as a special flood hazard area (Zone A1 on the Flood Insurance Rate Map).

In order to obtain a conditional use permit, the applicant will need to appear before both the Planning Commission and the City Council to discuss the proposed conditional use permit. Although the Planning Commission is not required to hold a public hearing, a recommendation from the Planning Commission is required before the City Council makes a final decision on the request. A public hearing will be conducted prior to the final decision of the City Council. Proper notice of the hearing will be provided before the public hearing, including courtesy notice mailings to the surrounding property owners.

### **Analysis**

Uses designated as conditional uses require special consideration from the Planning Commission and City Council. These uses may or may not be appropriate in particular locations or without the applicant mitigating

potential negative impacts. The Planning Commission and the City Council must evaluate the appropriateness of designated conditional uses on a case by case basis. The conditional use permit procedure allows the City Council to approve, deny, or conditionally approve any request for a conditional use permit based on the criteria found in Chapter 19.13 of the Zoning Ordinance.

The City Council will need to review the proposed conditional use considering the criteria and factors set forth in Chapter 19.13.6. The validity of the permit will be conditioned upon strict compliance with applicable City ordinances, the approved project plan, and any additional conditions or requirements imposed by the City Council. The City Council shall be the final authority for all applications for Conditional Use Permits. The following factors shall be weighed and considered when determining whether a Conditional Use Permit application should be approved, approved with conditions or denied:

1. Harmony of the request with the general objectives of the General Plan, Zoning Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.
3. Development or lack of development adjacent to the site.
4. Whether or not the request may be injurious to potential development in the vicinity.
5. Present and future requirements for transportation, traffic, water, sewer, and other utilities.
6. Suitability of the specific property for the proposed use.
7. Number of other similar conditional uses in the area and the public need for the conditional use.
8. Economic impact on the neighborhood.
9. Aesthetic impact on the neighborhood.
10. Safeguards to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor.
11. Attempts by the applicant to minimize other adverse effects on people and property in the area.
12. Impact of the proposed use on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area.

Following review of the application for consistency with the development ordinances of Payson City and in consideration of the criteria and factors set forth in Chapter 19.13.6, staff would suggest that the following conditions of approval be considered by the Planning Commission and City Council.

1. The structure must be constructed with appropriate flood-proofing methods and must be at least one foot above the base flood elevation as indicated on the Flood Insurance Rate Map produced by FEMA. A registered professional surveyor or engineer will need to certify that the flood-proofing methods for the structure meet adequate flood criteria.
2. Section 19.3.1 of the Zoning Ordinance requires the installation of curb, gutter, and sidewalk along the frontage of 600 South with the construction of the detached accessory structure. Furthermore, the ordinance would require the installation of roadway improvements along the frontage of the unimproved 300 East right-of-way. Staff is preparing amendments to various sections of the Municipal Code that would modify these regulations. However, the amendments have not been considered or approved by Planning Commission and City Council. The applicant is responsible to complete the improvements unless the ordinance is amended and a deferral is authorized by written agreement.
3. The Peteetneet Creek channel traverses the subject parcel and creates additional challenges to improving the site.
  - a. The site plan prepared by the applicant suggests the accessory structure will be placed near the Peteetneet Creek channel. The applicant will need to work with the City Engineer to determine the appropriate setbacks from the waterway.
  - b. The applicant will need to provide information regarding proposed access to the accessory building. Approval of a conditional use permit is not authorization to use the unimproved right-of-way or to enclose, pipe, or create new crossings over the Peteetneet Creek channel.
  - c. Any proposed alteration of the Peteetneet Creek channel will require additional approvals from Payson City.
4. A building permit must be obtained prior to any work on the site to accommodate the proposed accessory building.

These items represent the issues staff has identified following a review of the applicable ordinances and resolutions of Payson City and the Conditional Use Criteria established in Chapter 19.13 of the Zoning Ordinance. If the items above are satisfied, staff would suggest that the site will be improved in a manner consistent with the regulations of Payson City.

### **Recommendation**

The Planning Commission will need to determine if the proposed conditional use is an appropriate use in this location and consistent with the development goals of the City. Following a review of the site plan, application materials, and the contents of this staff report, the Planning Commission may:

1. Remand the request back to staff for further review. This action should be taken by the Planning Commission if it is determined that there is not enough information provided by the applicant in order for the Planning Commission to make a well-informed decision.
2. Recommend approval of the request as proposed. If the Planning Commission chooses to recommend approval of the conditional use as proposed staff would suggest that an opportunity to require the applicant to satisfy the requirements of the development ordinances of Payson City and mitigate any potential adverse impacts will be missed.
3. Recommend approval of a conditional use permit with the conditions proposed by staff or more or fewer conditions. Staff would suggest that if with satisfaction of appropriate conditions, the requirements of the development ordinances of Payson City can be satisfied and proper development of the property will occur.
4. Recommend denial the request. This action should be taken if the Planning Commission determines that the adverse impacts of the proposed conditional use cannot be mitigated by the applicant.

Any recommendation of the Planning Commission should include findings that indicate reasonable conclusions for the recommendation.

Chairman Cowan asked for clarification of the requirements of a flood plain regarding the base flood elevation in relation to the lowest floor slab.

Commissioner Nichols asked where the existing bridge is located. He also asked how high the ground would need to be raised to be above the based flood elevation.

The applicant, Mark Davis pointed out where the location of the crossing is and stated that the ground is already above that elevation.

Commissioner Frisby asked if the trees had to be removed to build the building.

The applicant stated that he would not need to remove any trees. He stated that he will be removing an existing shed that is on the western side of the property.

Chairman Cowan asked for the history of the property owners and when 300 East is planned to be constructed.

The applicant gave a brief history to his knowledge.

Planner Spencer gave some background regarding existing conditions of the roadway and the neighboring properties. She stated that it is unknown when that would go in due to the lack of development within the area.

Councilmember Hancock asked if the right of way for 300 East between 600 and 700 South was narrower within this area.

Chairman Cowan stated that it is a standard width and agrees that a deferral agreement should be arrange for the curb, gutter and sidewalk.

Planner Spencer stated that Commissioner Beecher recommended in an email that the structure should be moved to the western side of the property.

Commissioner Frisby asked what the proposed use of the building was going to be.

The applicant stated that he was going to use it to work on his personal vehicles.

*Motion by Commissioner Nichols to recommend approval of the conditional use permit with a recommendation to defer the installation of curb, gutter, and sidewalk. Motion seconded by Commissioner Frisby. Motion carried.*

Chairman Cowan asked for recommendations from the city engineer regarding the amendment to the city ordinances regarding the deferral of curb, gutter and sidewalk.

#### COMMISSION AND STAFF REPORTS

Planner Spencer gave a brief review of the agenda for the next planning commission.

Commissioner Frisby asked for an update on the status of the north Main Street I-15 interchange Environmental Impact Study.

Planner Spencer stated that the consultants have compiled 20 different design options for the interchange. They are in the process of refining what would be the best option. The study suggests that many sections along Main Street and SR198 would be failing within ten years and the study shows some possible solutions for SR 198 near downtown Payson.

Commissioner Nichols asked if there are any plans to place a light on 800 South and 930 West.

Planner Spencer stated that according to Utah Department of Transportation, the traffic load at that intersection did not warrant a traffic light at this time.

Chairman Cowan stated that 22,000 people attended the Payson LDS Temple open house on the previous Saturday.

*Motion by Commissioner Van Nosal to adjourn.*

Meeting adjourned at 7:46 p.m.