

**PAYSON CITY PLANNING COMMISSION
MEETING MINUTES
April 22, 2015**

REGULAR SESSION – CITY COUNCIL CHAMBERS

CALL TO ORDER: 7:02 p.m.

ROLL CALL: Chairman John Cowan; Commissioners Blair Warner, Harold Nichols, George Van Nosedol, Ryan Frisby, and Kirk Beecher; City Councilmember Kim Hancock; Planner Jill Spencer; Trista Bishop taking minutes. Councilmember Hardy and Commissioner Todd Cannon excused.

INVOCATION: Commissioner Frisby

CONSENT AGENDA

- Approval of minutes for the regular meeting of March 25, 2015.

Motion by Commissioner Frisby to approve the minutes for the regular meeting of March 25, 2015. Motion seconded by Commissioner Beecher. Motion carried.

PUBLIC FORUM

No public comment.

REVIEW ITEMS

PUBLIC HEARING – REQUEST BY SHAYNE CRAPO FOR APPROVAL OF AN ACCESSORY LIVING UNIT IN THE EXISTING RESIDENTIAL STRUCTURE LOCATED AT 803 NORTH 600 EAST IN THE R-1-75, RESIDENTIAL ZONE.

Motion by Commissioner Beecher to open the public hearing. Motion seconded by Commissioner Warner. Motion carried.

Public hearing opened at 7:05 p.m.

Planner Spencer presented information from the following staff report.

Background

The applicant, Shayne Crapo is requesting approval for use of the RMO-A, Accessory Living Unit Overlay Zone for the existing residential structure located at 803 North 600 East in the R-1-75, Residential Zone. The parcel (Utah County Parcel #35-088-0007) was purchased in 2013 by Burntol LC and the applicant (Manager of Burntol LC) has completed various cosmetic improvements to the structure. The applicant has received an offer to purchase the property contingent upon approval of the overlay zone request.

Sometime between 1997 and 2002, the structure was modified to include a large addition to the back of the structure. A building permit was not obtained from Payson City. Therefore, staff is unaware of the construction was completed properly. The applicant has been informed of the situation and that additional inspections are necessary to ensure the structure is compliant with the adopted building codes. The applicant is responsible to complete any necessary upgrades, regardless of the City Council's decision regarding the overlay zone request.

The addition area consists of three (3) bedrooms, two (2) bathrooms, a kitchen, separate HVAC, and is accessible to the main portion of the structure by a doorway. The layout and improvements imply that the area has been used as a separate living unit in the past; however, there is no record that the area was used for this purpose or that a second unit was legally authorized. The applicant has indicated a willingness to improve the structure consistent with the adopted building codes and correct the zoning violations.

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 addition 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. A building permit was not obtained for the building addition; therefore inspections were not completed. The Payson Building Inspector will need to evaluate the structure to determine if improvements are necessary to ensure the building is a safe environment for the inhabitants of the structure. 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.
2. 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 so it needs to be clearly reiterated 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.
3. 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.
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. All improvements must be completed in accordance with the applicable regulations, ordinances, and codes adopted by Payson City.
6. 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 Utah County Recorder's Office.

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.

Chairman Cowan asked if they requested covered parking if the setback requirements could still be met.

Planner Spencer explained that in the overlay zone there is some leeway with parking in the setback.

Commissioner Nichols said it looks like the addition is connected to the house. He wondered if non-related individuals would be living in the accessory unit.

Planner Spencer mentioned that the applicant and the potential buyers are present for any questions the Commission might have.

Mr. Shayne Crapo, applicant, representing Burntol LC, the owner of the property explained that they bought the place in disrepair. They have put a lot of money into it to make it a nice place to live. They realized the addition that had been done previously was done without permits. He mentioned that they originally wanted to sell it as a single family home but due to the uniqueness of the home it has become quite difficult. The potential buyers would live in the accessory unit and rent out the front of the home.

Commissioner Beecher asked what he means by unique.

Mr. Crapo explained it is unique because of the way it is designed. He mentioned that the building inspector has been out to make sure that the addition meets the setbacks and it does. He feels like the best solution for the way the home is designed is to allow an accessory apartment.

Commissioner Van Nosedol asked about the parking; it looks like they would be parking on top of each other.

Planner Spencer said that a parking stall needs to be 8 ½ feet by 18 feet.

Mr. Crapo said that they would have to pour some additional concrete to meet the parking requirements.

Commissioner Frisby mentioned that there is a power box near where the parking would need to be and it would be tight.

Mr. Crapo explained that the parking is a good distance away from the transformer.

Planner Spencer said that maybe the additional parking stall would be better on the north of the existing concrete.

Commissioner Frisby asked if there was room to add a parking stall on the north side.

Mr. Crapo said that would be possible.

Commissioner Warner asked if the curb cut along the road could be widened.

Mr. Crapo said that it is possible it would just cost more money.

Mr. Aaron Webb, prospective buyer said that they are planning on living in the accessory apartment and renting out the front. There are currently renters in the front and they are planning on letting them stay. They plan to do some beautification to the yard and make it a nice place to live.

Commissioner Harold asked how many bedrooms were in the accessory apartment.

Mr. Webb said three (3) bedrooms.

Commissioner Beecher asked Planner Spencer what the difference between this and a duplex is? The only thing he can see is the fact that they don't have separate utilities.

Planner Spencer explained that when they adopted the accessory living unit overlay zone it was really intended for existing structures that were out of compliance and they were trying to create a way homeowners could bring the home into compliance.

Planner Spencer read in a letter from a resident unable to attend the meeting:

Council and Mayor,

Regarding the house at 803 N 600 E and the motion to re-zone for an accessory apartment.

I have lived in the neighborhood for 16+ years, part of the reason I chose this neighborhood is because it is zoned as a single family dwelling. An area that I would like to raise children.

I am opposed to it being re zoned or any other exception to allow this to be used as an accessory apartment rental.

There are a couple of reasons I am opposed,

First is the concern of how it would likely make a negative impact on the value of my home and the difficulty in selling my home should I decide to.

There is also the likelihood that it would not just be that residence renting out accessory apartments, it would turn into several homes adding several rentals in the area which would attract temporary residents rather than someone who would take pride in the home and the neighborhood.

This particular residence has been rented out numerous times and has been a known drug house for at least the last 12 years. The current renters seem to have the impression that this continues to be a party house, As recently as Spring Break weekend there were numerous vehicles in and out of that home at all hours of the night, revving their motors when they would leave and return and playing their music loud. The people there were loud and boisterous in and out of the house and dancing around the light pole like it was a stripper pole. This went on until well after 2:00 AM. The last thing we would want is another rental to add more partiers.

This needs to remain zoned as a single family dwelling, to change it would satisfy few and negatively affect the remaining neighbors.

Would you want this in your neighborhood?

*Thank You!
Scott Taylor*

Ms. Kathy Adams resident at 816 North 600 East agrees with what Mr. Taylor wrote in his letter. She says that she has a hard time seeing to back out of her driveway because the current renters have a lot of visitors and they are always parking in front of her house blocking her view. She feels like it should be a single family dwelling. She explained that originally the accessory unit was built on the house to accommodate the previous owner's grandmother and ever since they moved there have been renters in the house. She said that it is a known meth house and they have even had to quarantine the house before due to the meth.

John Hathcock lives in the neighborhood on the corner. This house and the current renters have been a problem for the last 11 or 12 years. They have completely gutted the house twice because of the meth use. There are 10 to 12 cars there every night being loud and partying. He explained that he is a retired veteran with post traumatic stress and he doesn't need a lot of noise and nonsense.

Planner Spencer explained that it is the applicant's responsibility to demonstrate to the Planning Commission that the use of the overlay zone is appropriate use of dwelling.

Commissioner Nichols asked if there were two separate renters currently in the home.

Mr. Crapo said yes. He said it is tough because he doesn't know the intent of the original homeowner. He said that in his opinion a mother-in-law unit is different. This has a full kitchen not a kitchenette and a completely separate entrance. It is not really set up like a normal mother-in-law apartment. He doesn't want this neighborhood to be turned into a ghetto. He would appreciate it if they would take this into consideration.

Mr. Webb explained that his was not aware of the drug issues and he would like to know what is going on there. He would like to know how he could get more information on this as far as police reports etc.

Planning Commission directed Mr. Webb to talk to the police department to see what information he could obtain in regards to this address.

Mr. Webb said these are definitely not the kind of people he wants living in his home. He wants it to be a nice, legal, family home.

Commissioner Nichols asked if this home could be sold as a single family home without the accessory apartment approval.

Mr. Crapo said that this is what they have been trying to do but it is difficult because of the way the home is designed and now they have interested buyers and the dwelling would be owner occupied. He said that as far as the activities of the current tenants in the house it is news to him, they do background checks on all their renters and if there is something crappy going on there he doesn't want it either.

Commissioner Nichols asked Mr. Crapo where he lives.

Mr. Crapo said he lives in Delta but they have an office in Delta (listen to the tape – his office is in Utah Valley somewhere).

Commissioner Nichols asked how long the current renters have been in the home.

Mr. Crapo explained not very long, they are fairly new renters.

Motion by Commissioner Nichols to close the public hearing. Motion seconded by Commissioner Frisby. Motion carried.

Public hearing closed at 7:49 p.m.

Chairman Cowan explained that the fact that this is a duplex or an accessory apartment doesn't mean it's a bad thing. He mentioned that there are single family dwellings with bad renters in a lot of neighborhoods. The fact that this is going to be owner occupied is a pretty good safeguard.

Commissioner Nichols said that he can see both sides of the situation. He is confused how the parking issue is going to be resolved and would like to remand it back for additional information.

Commissioner Warner said that this is a difficult situation and if this proposal were to come in as a request to build the accessory unit for a mother-in-law situation he would like to grant the request with conditions to fix the curb cut.

Commissioner Beecher agrees with Commissioner Warner that they can't deny it based on who the current renters are. He feels like the parking situation can be resolved. He would prefer at least one (1) covered parking stall for the second unit.

Commissioner Nichols asked Planner Spencer if he were a homeowner and his mother-in-law wanted to live with them and he came in and got a building permit to do an addition if that would be considered an accessory unit.

Planner Spencer explained that it would be considered a single family home until the appropriate processes have been followed to make it an accessory unit.

Commissioner Van Nosedol asked if either of the units is handicapped accessible.

Mr. Crapo said he doesn't really know what is considered handicapped accessible and what is not.

Ms. Adams said that it would be a different situation if they had to live there. She believes Mr. Crapo is talking until he is blue in the face because he doesn't have to live there.

Councilmember Hancock mentioned that there is not a City Council meeting next week because it is a 5th Wednesday so the application could be discussed again at the next Planning Commission meeting if the item were remanded.

Commissioner Warner explained to Commissioner Frisby that they have in the past made recommendations to the City Council for things that they are concerned about.

Motion by Commissioner Nichols to deny the request for the accessory living unit finding that it is a single family neighborhood and based on information received tonight it was built for that intent and to keep the neighborhood a single family neighborhood. Motion failed for lack of a second.

Motion by Commissioner Frisby to recommend approval of the accessory living unit, upon conditions that covered parking, the curb cut and the transformer be addressed and that staff conditions are met. Motion seconded by Commissioner Warner. Voting aye: Commissioners Frisby, Beecher, Warner, and Van Nosedol. Voting nay: Commissioner Nichols. Motion carried.

Chairman Cowan explained that the City Council is not obligated to agree with their recommendations.

DISCUSSION REGARDING THE BOUNDARIES OF A PROPOSED ZONING MAP AMENDMENT ALONG 100 NORTH BETWEEN 600 EAST AND 1000 EAST.

Planner Spencer explained the request. She said that staff is proposing to modify the boundaries of the commercial zone on the south side of 100 North by following property lines instead of cut through the middle of them. She would like some clarification from the Planning Commission before she sends out the notices to the property owners and schedules a public hearing.

Chairman Cowan said that the whole south end of some of the blocks really isn't viable to commercial anyway.

Commissioner Beecher said that staff should send out letters to the property owners and get their opinions and plan for their properties. He asked why we would want to zone the Peteeetneet as residential, what if it burns down and the city decides they don't want to re-build it, wouldn't it be better to have it as commercial.

Planner Spencer said that eventually they would like to have a public facilities zone for the city properties and parks. She asked if they would like to even address the Peteeetneet property right now or just leave it as it is.

Planner Spencer said that she will notice this as a re-zone and then she will send a more detailed letter to the residents inviting them to come and share their opinions.

COMMISSION AND STAFF REPORTS

Planner Spencer informed them of the items on their next meeting.

Commissioner Beecher asked if staff has provided our concerns to FEMA regarding their proposed flood zone.

Planner Spencer said yes we did and they have to go back to the drawing board for a number of reasons. Now all of the cities will have to be evaluated in Utah County, not just the five (5) cities that the consultants originally proposed.

Planner Spencer asked if they were going to have a quorum on May 27, 2015 because of high school graduation.

Everyone said that they will be here so they will have a meeting on the 27th of May.

Planner Spencer said that they should've had on their agenda tonight the bylaws to review and the appointment of the Chair and Vice Chair but she will put this on their next agenda.

Motion by Commissioner Beecher to adjourn.

Meeting adjourned at 8:37 p.m.