

PAYSON CITY  
PLANNING COMMISSION MEETING  
Payson City Center, 439 W Utah Avenue, Payson UT 84651  
Wednesday, April 12, 2017 7:00 p.m.

CONDUCTING John Cowan, Chair

COMMISSIONERS Kirk Beecher, Adam Billings (7:02 p.m.), Ryan Frisby, Taresa Hiatt, Harold Nichols (7:11), Blair Warner

STAFF Jill Spencer, City Planner  
Kim Holindrake, Deputy Recorder

CITY COUNCIL Linda Carter

OTHERS Cory Broadbent, Ronald Spencer, Chris Hein, Irvin Matthews, Melissa Hein, Chris Hermanson

1. Call to Order

This meeting of the Planning Commission of Payson City, Utah, having been properly noticed, was called to order at 7:00 p.m.

2. Roll Call

Five commissioners present.

3. Invocation/Inspirational Thought

Invocation given by Commissioner Warner.

4. Consent Agenda

4.1 Approval of minutes for the regular meeting of March 22, 2017

**MOTION: Commissioner Beecher – To approve the minutes from March 22, 2017.** Motion seconded by Commissioner Warner. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

5. Public Forum

No public comment.

6. Review Items

6.1 PUBLIC HEARING – Review and recommendation regarding a request for approval of an accessory living unit located at 1039 South 530 West in the R-1-9, Residential Zone

Commissioner Cowan stated the public hearing was continued from the March 22, 2017 meeting.

#### Staff Presentation:

Jill Spencer reported this item is an approval of an accessory unit in an existing structure located at 1039 South 530 West in the Carriage Place subdivision, which is west of Payson Junior High. The application was submitted on January 18, 2017. The planning commission conducted a public hearing on February 22, 2017 with a lot of feedback from the residents in attendance. The commission forwarded a recommendation of denial to the city council. The applicant was not in attendance at that meeting because he had not been informed of the meeting, which is a requirement of state law. Because of the notification error, the decision was made to begin the process again and provide the applicant a proper opportunity to present the request and address questions. The item was rescheduled with the planning commission on March 22, 2017, but the applicant was out of town. The planning commission opened the public hearing and continued it to this meeting. Courtesy notices were sent to surrounding property owners.

The overlay zone request is a legislative decision of the city council. The planning commission is not obligated to recommend approval, and the city council is not obligated to approve the request. The applicant must show that the purposes and objectives of the overlay zone have been satisfied. The applicant's proposal is to correct an existing zoning violation by obtaining approval of the RMO-A Overlay Zone. The approval process follows a staff review, recommendation by the planning commission, and a legislative decision of city council as the land use authority.

The proposed staff conditions for consideration include compliance with the adopted regulations and building codes. Staff found the basement completion and possibly the detached garage did not receive a building permit or inspections. If the city council finds this is an appropriate use in this location, inspections still must be completed and any required improvements/alterations completed. Any other zoning violations must be corrected. Depending on the decision of the city council, a notice will be filed with Utah County stating the conditions of approval; or if denied, a certificate of present condition will be filed indicating it is a single-family home.

#### Applicant Presentation:

Cory Broadbent stated he is here representing the property owner and Unity Property Management. The property owner is anxious to get the issue resolved. The property was purchased in 2016. It was found these things were not addressed. The property was built in 1999, and some time thereafter the accessory unit was installed along with the garage. From that point on it has been used as an accessory living unit, which has been about 10 years. The current renters, both upstairs and down, have been living there in excess of three years each. They all wish to remain living in the home. He hopes to address some of the concerns addressed by the neighbors such as cars and parking. Prior to being notified of problems with the property, the accessory garage was being used by a cabinet maker. They are now out of the facility, and all the materials and equipment is gone. It is now open for parking for the accessory unit. There are now at least seven or eight parking spaces provided at the home. One purpose for an accessory living unit is to bring existing units into compliance with the city. They have not been looking for any additional use or demands on the property. It is important to look at the code sections that govern the RMA-O Overlay Zone. Section 19.6.9 of the Payson City code was adopted in 2012 to address these types of situations. It states the unit has to be a single, architectural unit, which this home is. Second the appearance of the structure has to remain as a single-family residence including the landscaping. Third Section 19.6.9.5 states building permits must be obtained and the inspector at the expense of the applicant can require additional correction to

meet code, which the property owner welcomes to comply. They believe the structures are built to code. Section 19.6.9.6 addresses required improvements. *1. There must be at least two hard surfaced, off-street parking spaces for each residential unit.* The property has two in front of the garage, two in the garage, two in the accessory garage, and one maybe two along the side of the accessory garage. *2. Existing utility laterals and service connections will need to be inspected.* They believe these laterals are functioning appropriately and welcome any verification. *3. Curb, gutter, and sidewalk must be installed.* As you can see, it is on both sides of the property. *4. The address for each unit must be clearly visible.* They are willing to do this. *5. Proper existing from each unit must be independently provided.* This is a key issue brought up by residents and members of the commission. The front of the home is accessed by 530 West and used by the occupant upstairs. The accessory unit is the basement and is accessed from 500 West through a back entrance. These two different access points should satisfy the city's goals. The last section of the code (19.6.9.7) addresses four points. One is off-street parking requirements, which has been addressed. Two is maintenance of the property. They believe the property is maintained and commit to do so. Three addresses the recording of the accessory living unit with the county, which they agree with. Fourth deals with satisfaction of any conditions imposed by the city council. This is what they are hoping to complete tonight. Some of these conditions were included in the staff report. They are requesting a recommendation of approval contingent upon satisfaction of conditions. Ultimately they want to be good neighbors.

Commissioner Beecher stated item 3 on the staff conditions addresses the coverage of the accessory unit cannot exceed 50% and just the building is 34%. The garage then exceeds the 50%. Also the garage is only a single-car garage with a single, narrow door.

Cory Broadbent stated as far as the 34% and 50%, that's correct. He hopes this is something that can be worked around. When the property was purchased, the garage was there. They are open if there are things that can be recommended or required to either remove portions of the concrete or enhance landscaping to offset this. The property was purchased as a rental. They checked the title report. The title company said it was approved for its intended uses so they did not do their work. The property owners were surprised when they received notification from the city. There are no other rentals in this subdivision but about a half mile away. In January 2015 the commission received an application just like this where the applicant was purchasing the property for a rental and had many of the same concerns and issues. The commission recommended approval to the city council.

Commissioner Hiatt stated she understands this subdivision contains small lots and was intended to be single-family homes. The overlay is intended to be owned by the property owner and then have someone living with them. The owner needs to live there. She feels with title insurance, the property owner could go back on the title company who didn't do their due diligence if this doesn't work out in the property owner's favor. She is concerned that there wasn't a permit for the garage, and it is located up against the fence, which she questioned if it was legal.

Commissioner Beecher clarified that the application from January 2015 was going to be owner occupied.

Cory Broadbent stated they could pursue those avenues with the title company. The home could also be rented as a single-family residence. This would not necessarily lessen the impact or change many things. In fact it would not allow the city to require certain things. They want to be a good member of the community for a long time to come. They have approached the city and are willing to do what

needs to be done to at least comply with the city code. He verified that there is no living unit in the garage.

Jill Spencer stated that there was no permit for the basement but needs to research if there was a permit for the garage. The garage should be five feet from the property line. Any current zoning violations will need to be corrected.

#### Public Comments:

Ronald Spencer stated he lives in the first home on the left entering the development. His concern is with fire and access to the development. There is only one ingress and egress. This will make the property commercial; a rental on top and bottom is commercial. If this is approved, he proposes that Payson and the owners pay for an additional access in and out of the development to help the situation. Secondly, as a fire fighter, he would never enter the home from the back where there is parking on the side of the accessory garage. It is an unsafe condition for fire fighters. When cars are parked there, there is no way through. He found there is a second family living upstairs. This makes two families living upstairs and two downstairs even though they are related. He tries to keep the roads clean, and it is still difficult to keep the roads clear. People park next to his home at night because they can't enter the development. He questioned who will enforce the rules required by the city. Will it be the residents? It isn't fair and harder on the residents. This is a safety issue. The garage isn't to code, which is 30 feet tall and too close to the road.

Chris Hein stated the property owner is responsible for their investment. It isn't the city's responsibility or the neighborhood. They need to right the wrong. When they sell the home, they will come out just fine. He looks forward to the new family. There are lots of trucks and cars parked along the home; it's very crowded. They said they want to be good to the city, but on February 22nd it was noted that they had emptied the garage. On March 22nd he spoke to the renters in the garage and asked if they knew the property had been cited. They hadn't heard. The garage renters were moving as recently as last night. The owners have not been following what has been asked of them. The state property rights ombudsman website opinion 93 states, *the existence of similar ordinance violations or negligent enforcement in the past does not excuse any violations, but the remedy or penalties for a violation may be mitigated.* The property owners have the burden of proving the use was established and allowed under zoning regulations and has been continuously maintained. This means the city doesn't have to recommend approval just because the property owners were negligent in the past. He is not against the RMO-A Overlay. It has good reasons, and he believes the intent was meant for owner occupied. This is an over under duplex minus it doesn't have separate utilities.

Irvin Matthews stated he bought his home about one year ago in the neighborhood. He is concerned about giving an exception for one person because it will move to another, another, and another.

Melissa Hein stated her concern is with the parking on the back garage on 500 West because it's a major road. This winter she saw several problems with them backing out blind because of the fence. It creates a real hazard for people. She saw an almost accident and then a car get stuck in the snow. While there are parking spaces, it is a safety issue. The road is already a difficult road to maneuver on. Cars park along the street right up to the stop sign.

Jill Spencer read a response from Jennifer and Silver Cloud. *We live directly across the street to the West of the home we are discussing. We will not be able to attend the public hearing tonight but we*

*still want to voice our opinion. We are completely against having this home rezoned. We bought our home in a single family neighborhood and that's how we want it to stay. We already have too many people in our tiny cul-de-sac, too many cars, and even some homes (including this one) where the owners don't keep their properties looking nice. This one in particular usually has junk out front alongside the house or by the curb. The yard isn't kept up by the renters. It brings down the value of our property. And in most cases this is the way renters are, it's not their home so they don't really care. The Polynesian family upstairs recently moved in another family (their relatives), we have no idea how many people were living upstairs but it was too many. We heard (my daughter is friends with one of the kids) they moved out. Why were they able to just move people in? Where was the owner of this home? Where was the Property Management company? Their garage was completely full because they moved this family in, so everyone had to park outside in the driveway and on the street. We are already jam packed in here as it is. I am including some pictures we have taken of the trash and the extra vehicles, and the extra family moving in.*

**MOTION: Commissioner Beecher – To close the public hearing.** Motion seconded by Commissioner Warner. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols, Blair Warner. The motion carried.

Commission Discussion:

Commissioner Cowan reviewed the options for motions. He stated he can't see remanding it back to staff at this point. Several questions have been raised that have raised questions in his mind. He is concerned with the apparent building and remodeling of these buildings without permits, and the rental of the units without receiving approval as an RMO-A Overlay Zone. Even though it has been historically rented, it is still against the code and laws of the city. To continue it would still further encroach on the laws of the city.

Commissioner Billings stated it's important to note that regardless of what is done to the property, the garage needs to be torn down to bring the property into compliance.

Commissioner Hiatt stated owner occupied is the only way, which was the intent of the ordinance. The property was bought as an investment. It could be sold to someone to use as an owner occupied. This is a subdivision made for single family housing and not duplexes, which is how she envisions it. She agrees the garage in the back should still come down.

Commissioner Nichols agreed. He understands that the title company didn't give the correct information, but it's not the responsibility of the city. The city has ordinances and laws to keep order. This same subject has come up before, and it is very disturbing that people just do what they want without permission from the city. It creates problems and makes the city out to be the bad guy. He personally feels it was meant to be single family or owner occupied.

Commissioner Beecher stated his biggest concern is the way it exceeds the coverage on the lot and the fact that the access out off the back is horrid. Engineering wise it is a nightmare; an accident waiting to happen. It is a designed accident. He is not for access out the back. If all the access for the RMO-A Overlay Zone was out the front on the dedicated road for that lot, it would make more sense.

**MOTION: Councilmember Warner – To recommend denial to the city council of the overlay zone and that we include the public input from the February 22<sup>nd</sup> meeting for the record.**

Motion seconded by Commissioner Nichols. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols, Blair Warner. The motion carried.

6.2 Review and recommendation regarding a request to amend a conditional use permit for Heritage Village Assisted Living Center located at 1173 S Turf Farm Road (8:03 p.m.)

Staff Presentation:

Jill Spencer stated the name of this project has changed to Orchard View Assisted Living and Memory Care Center. The applicant has been granted a conditional use and is asking to amend it to allow additional beds. The initial approval was for a 65-bed facility. The request is to increase it to 90 beds. This will allow for dual rooms for couples. The site has been rezoned for this use and is consistent with the South Meadows Specific Plan. Site plan approval has also been granted. The commission recently reviewed an ordinance amendment to increase the number of beds per acre, which the city council approved. The applicant has been working with staff on the site plan requirements. The commission needs to determine whether the additional beds will change the current conditions of approval, or will there be any additional conditions of approval. The staff's only concern is off street parking. The current conditions of approval should be included in the amended approval along with any additional conditions to ensure potential negative impacts will be mitigated.

Applicant Presentation:

Chris Hermanson stated he owns two other assisted living centers, one in Elkridge with 33 beds and one in Spanish Fork with 96 beds. At the time of approval, the ordinance allowed 20 beds per acre. They have added some square footage to the building to make some rooms larger. The state requirement for two beds is 200 square feet of living space. They will maintain 65 beds but are looking at adding some square footage to rooms and an Alzheimer and dementia unit in the bottom. The request is for 90 beds. Payson City was the lowest for beds per acre. The number of staff will vary. The state requires 1 staff to 16 resident ratios. He based it on the acuity of the individuals. They have home care and hospice coming in also to assist residents. He likes to over staff. There will be 6 to 10 staff on a daily basis.

Commissioner Beecher stated the staff will take up 1/3 of the parking stalls. He questioned if there will be enough parking between the staff and visitors attending.

Chris Hermanson stated he's never had an issue with parking. There are rare occasions with staff meetings or Christmas parties. The couple rooms vary from a one-bedroom studio to two-bedroom studios. All the rooms vary in size to accommodate everyone's needs. They have planned items such as miniature golf. The footprint of the building has pretty much stayed the same with the addition of four feet on the front and back. This facility will have 90 beds with 65 rooms. All the necessary arrangements and adjustments have been made to the plans. This is a perfect location in relationship to the LDS Temple, shopping, and freeway access. It will make this a great addition to the community.

**MOTION: Councilmember Beecher – To recommend to the city council to modify the conditional use permit from 65 beds to 90 beds in this facility.** Motion seconded by Commissioner Nichols. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols, Blair Warner. The motion carried.

## 7. Commission and Staff Reports (8:24 p.m.)

### Joint Work Session

The joint work session with the city council on land use and infrastructure planning was a good meeting. The mayor and city council are interested in having additional joint work sessions. The consensus of the meeting was to get the general plan prepared.

### Staff Replacement

Interviews have been conducted for the planner II position and the position has been offered. Hopefully by the next meeting or following meeting, they will be present.

### Signal Light

The signal light is going in at SR-198 and 1400 West.

### May Meetings

The second meeting in May falls on graduation for Salem, Spanish Fork, and Springville. Staff needs to know if the commission will have a quorum. Four commissioners will not be present so the meeting will be cancelled.

### Downtown Area

Landowners in the downtown area are interested in developing parcels. The city needs to determine the vision of downtown. The primary question to answer is what is downtown. The commission will have a general discussion at the next meeting. Some property owners are interested in mixed use with commercial on the main and possibly two stories of residential above. The other item to address is architecture.

### New businesses

Farr's Ice Cream should be under construction soon. KFC is building near Walmart.

### Motor Cross

A post was seen on the city website for a motor cross. Payson previously worked with Utah County and Rocky Mountain ATV for a motor cross at West Mountain by the land fill. They tried to get through the NEPA requirements for a portion on the BLM lands. After six years the city and county walked away. Business owner would still like to see it as well as Payson City. Commissioner Ellertson was a great ally for the project. It must be an old post.

## 8. Adjournment

**MOTION: Commissioner Beecher – To adjourn the meeting.** Motion seconded by Commissioner Warner. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols, Blair Warner. The motion carried.

The meeting adjourned at 8:42 p.m.

/s/ Kim E. Holindrake  
Kim E. Holindrake, Deputy City Recorder

PAYSON CITY PLANNING COMMISSION MEETING – PUBLIC COMMENT  
FEBRUARY 22, 2017

PUBLIC HEARING – Request for recommendation of approval for use of the RMO-A, Accessory Living Unit Overlay Zone for Utah County Parcel 36-771-0029 located at 1039 South 530 West in the R-1-9, Residential Zone

Public Comment:

Ronald Spencer stated he has lived in the front house entering the Carriage Subdivision for seven years. He is concerned with the safety of the people around there. He put up a fence and couldn't have a 6-foot fence without a 30-foot leeway from the road. The garage doesn't have that clearance and allowing parking there is a safety concern. Also there will be an increase of traffic. They propose parking in the back, but there will be increased parking in the front with family parties. The winter has been rough because the far end of the road is a hill. The biggest problem is there isn't a second entrance or exit on the road. They should agree to buy property and make an exit for people and emergency use. Garbage and salt truck have gotten stuck at the bottom of the hill in the winter. Payson City need to help this development. Most of the houses are only six feet apart. He can't park a four wheeler on the side of his house, and he has the largest property there. He is willing to work with them, but there are a lot of people coming in and out.

Chris Hein stated he lives in the neighborhood. There are eight families who bought properties here. We bought in a single-family residential area. The city ordinance states the purpose of this ordinance is to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the citizens of Payson City. This proposal just doesn't fit. He would love to see a single family move into this home. He doesn't want to see this change into a rental. The ordinance points out the purpose is to lesson congestion on the streets, prevent overcrowding of the land, provide adequate light and air, secure safety from fires, floods, and other natural hazards and dangers, protect and improve property values, promote attractive, planned and well managed development. He doesn't see this proposal meeting those requirements. The biggest issue is density. This neighborhood is the densest area in Payson with over 102 people. Further in the ordinances in the R-1-9 section, the minimum lot size is 9,000 square feet. This lot is 6,800 square feet, which is below the minimum and they want to add a second family. Another place mentioned the frontage for a duplex being 100 feet. The width of this lot is 28 feet. He asked that it be kept single family.

Kyle Deans clarified that the lot size for this development was approved with more density as a PRD. The majority of the time when amenities are added, additional density is allowed within this zone. The part regarding the frontage of a duplex or twin home is a different part of the ordinance and doesn't apply here.

Marlayne Harward stated she lives two doors down. She agreed with the previous statements. This is a small neighborhood with few parking spaces. The woodworking shop has not moved out. The home is being rented out to three people.

Diane Adams stated she lives in the house where her entrance is by the back road where the garage is located. Parking is really a problem. They have adult teenage children living there. The boy there is trying to raise his siblings to prevent them from going to foster care. There are three cars in the



driveway at all times. They park in front of her house. It is a big problem. If they are working in the garage on their business or have company, they are parked everywhere. They park from the stop sign to the garage, and it isn't safe.

Silver Cloud stated he lives directly across the street from this house. He agrees with what has been said such as parking and it's not zoned correctly. It shouldn't be changed.

Deans Stucker stated he lives in the neighborhood. There are excessive cars in the neighborhood and on the back street. It is dangerous at times driving on the road. He agrees with everyone else.

Marduk Gomez stated he has lived here since 1999 and agrees with what has been said. He built here because he wanted the area to be single family and a save small community. The area is already packed with cars.