

PLANNING COMMISSION MEETING
Tuesday, February 23, 2021 6:00 p.m.
Cedar Hills, Utah

NOTICE OF ELECTRONIC PARTICIPATION

This meeting was held electronically pursuant to Utah Code 52-4-207(4), and Mayor Andersen's February 19, 2021 written determination that conducting an electronic meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location.

Present: John Dredge, Vice Chair, Presiding
Commissioners: Jared Anderson, Tyler Dahl, Don Dolenc, Kathryn Newman, Steve Thomas
Absent/Excused: Jeff Dodge, Lori Anne Spear
Chandler Goodwin, City Manager
Jenny Peay, Planning Associate
Colleen Mulvey, City Recorder

1. Call to Order

Vice Chair John Dredge called the meeting to order at 6:00 p.m.

C. Dredge identified Commissioners Anderson, Dredge, Dahl, Newman, and Thomas as voting members.

2. Public Comment

No comments.

3. Review/Recommendation on amendments to City Code Title 10 Chapter 4 relating to Building Setbacks in Various Residential Zones

Chandler Goodwin stated this was a continuation from an item discussed in November. An individual wanted to place a living space above the garage in the rear setback. The code as it stood currently read that all buildings shall be set back no less than 25 feet from the rear lot line except where a garage is attached to the rear of the dwelling. The required setback for said garage may not be reduced to less than 12 feet as measured from the rear lot line to the closest part of the building. Currently the code was being interpreted as there being zero allowance to put a living space above the garage. Under the current code an applicant could also build a home up to 35 feet from the highest point of the front elevation to the top of the pitch on the roof. The applicant had asked that the code be reviewed and amended to allow for livable areas above the garage.

Mr. Goodwin stated there had been questions about what other communities were doing. C. Dodge had suggested a hybrid option where a livable space would be allowed but not over 100% of the garage area. They had looked at what other cities did, and they varied depending on what the individual communities wanted to see. Staff had come up with five options: 1) Make no change to the code; 2) Prohibiting living spaces above the garage; 3) Change verbiage to allow

living space above the garage area; 4) A hybrid option to allow for a living area providing it did not exceed 50% of the garage square footage and was at least 20 ft. from the nearest property line; and 5) Allow general exceptions to the rear setback requirements given by the Planning Commission.

Mr. Goodwin stated as it stood there were not very many homes that could do this under the current code. He felt that Option 5 would open rear yard development to everyone which made him hesitant. He would rather have Council and Planning Commission draft code that was very clear so it could be carried out by staff.

C. Thomas commented he thought Option 5 was too ambiguous. Mr. Goodwin stated he was leaning towards Options 2, 3, or 4.

C. Dahl said there was a house on Hawthorne Court with the same kind of issue. After subsequent discussion on that development, Mr. Goodwin stated the front setback would be determined by whatever street the house was addressed off of.

C. Thomas clarified they could do an accessory structure with a dwelling unit above it. Mr. Goodwin replied it would be possible to have a detached garage with an accessory dwelling unit above it and be within code. C. Thomas confirmed that it wasn't a health and safety issue having a dwelling unit closer. Mr. Goodwin said any building would have to meet fire code. C. Thomas said he did not have any issues with building space on top of a garage as long as it fit within the normal design parameters of a home. Mr. Goodwin commented that this particular property sat on a hillside so that was why he was insistent on a height restriction on the rear setback area. Another City Code required backyards be 50% landscaped so the entire backyard couldn't be turned into a garage. C. Thomas strongly agreed that they should be able to build living space within the garage footprint above it, so he agreed with Option 3.

C. Thomas commented that they were not extending it any higher than the existing structure; the only difference was that the wall would be a little closer in this particular setback. C. Dredge replied that the Code applied to everyone, not just this situation. Mr. Goodwin stated there were not very many lots this would affect depending on how the code was drafted. Option 5 had widespread consequences but written as any of the other options was very limited on who it would apply to. C. Dredge said they needed to choose between Options 2, 3, or 4.

C. Thomas stated they had fewer buildable lots than they used to and there was not a significant number of new home opportunities. People wanted to maximize the value of their home so these issues would continue to come up and he was worried about setting a precedence. There was further deliberation on the matter.

C. Anderson stated his concern was about the impact to the neighbors. He was leaning towards the Option 4 hybrid approach because it reduced the vertical allowance and kept the 20-foot setback. C. Thomas clarified that Option 4 read as it didn't matter what the shell looked like; they could have 50% living space. He said if they went with this option then they needed to be clear that the elevation of the building couldn't exceed a certain height.

Mr. Goodwin commented if the Planning Commission went with Option 4, he would ask that they table it and direct staff to work with the attorney to draft language which cleared up that issue. He had been working on a new land use element to present to the Planning Commission and the focal point would be redevelopment in the City, not on new development. He thought redevelopment was a major point of consideration in this conversation. He noted that HB82 required cities to allow Accessory Dwelling Units (ADU) throughout the City.

C. Thomas said this was an older home and people were going to want to do more expansions. The State was going to force them to allow more ADUs and he thought it was inevitable. C. Anderson asked if the ADU had to have a separate entrance. Mr. Goodwin replied he had not seen anything in the Code that required for a separate entrance, only that the City could not regulate the façade. He said that cities were working with a lobbying group to get HB82 changed because the primary problem would be parking.

C. Anderson said that in terms of this issue, they could build above their garage and call it an ADU. Mr. Goodwin said they currently allowed for ADUs to be built over garages because the State gave cities a menu of options to solve housing issues. Cities had to pick three and their demographics didn't allow for many of these options. Therefore, they could do a widespread allowance of ADUs. The only place ADUs were not allowed was in the PD1 zone.

C. Dahl asked if there were concerns about homeowners taking their whole roof off and adding another floor with a height restriction. Mr. Goodwin said not necessarily because the height was measured from the front elevation. C. Dahl stated he did not see an issue with Option 3. Reason being, there was enough language in the rest of the code that limited the usage of 50% of the backyard and other structures in the backyard.

C. Dolenc agreed it was not a safety issue, it was a privacy issue that blurred the distinction between an accessory structure and a principal structure. He didn't think that Option 5 provided for clear objective standards. C. Dredge said if they did not allow living above a garage, there was no point in going above 35 feet. Mr. Goodwin replied they could find a way to detach it from the home and still build a garage with a living space above it as an accessory building. C. Anderson suggested they could remove the reference to living area. There was discussion about verbiage.

C. Newman said Option 4 was her preference after the lawyers looked at it. Mr. Goodwin stated he would have legal counsel look at drafting language for Option 4.

C. Thomas asked if they had seen any preliminary sketches of this project. Mr. Goodwin replied he had only seen it in concept.

Jenny Peay stated when Mr. Belknap proposed this, there was a 15-foot easement in the back. If that easement wasn't abandoned, he couldn't go within it. Mr. Goodwin added there was a ditch easement which was an active ditch.

MOTION: C. Thomas – To table this item to allow staff time to make modifications.
Seconded by C. Anderson.

Yes - C. Anderson
C. Dahl
C. Dredge
C. Newman
C. Thomas Motion passes.

4. Discussion on amending language in City Code related to Easements and Accessory Structures

Ms. Peay said this had come up multiple times with property owners who wondered why they did not have the ability to place a structure on a public utility easement. Setback codes did not mention easements, so property owners were unaware of easement restrictions and staff was getting pushback on this. She went over easement purposes and read from code 54-3-7 related to public utility easements. At the time they had five instances that related to this type of issue, and they wanted to protect easements and the property owners. Staff was requesting direction in drafting language which would address City codes pertaining to this issue.

C. Dredge asked if the public utility easements were automatic on each property. Ms. Peay replied that it varied. C. Thomas asked if it was on the recording when the property was purchased. Ms. Peay replied yes, when they came in to apply for a permit, the first thing she would look at was the easements. C. Anderson commented this information would be on the title report for individual lots.

C. Anderson said he did not read sub 6 of the code as not being able to build on an easement. Ms. Peay replied if an easement has been abandoned, property owners could apply for an encroachment in order to move forward with a permit. C. Anderson stated the City could require the owner to sign an identification agreement relinquishing the City from liability. Ms. Peay replied that that exact language was on the letters of encroachment which were required to be submitted. Herriman City had some language that she liked and read their code. She thought they needed some type of language that would address this and would be more informational to property owners.

C. Thomas asked if this was just because people didn't know what an easement was, and they needed to help them understand it. Mr. Goodwin replied yes. He stated they recorded easements when the plat was approved for a subdivision and in many cases, there was nothing in those easements. He thought it was in the City's best interest to maintain the easements because projects come up that require the use of them.

C. Dahl commented that there was not a place to inform where to find easement information. Mr. Goodwin replied he thought that that was a reasonable thing to add to a building application. C. Dahl suggested adding language to point people to where they should be looking.

C. Dolenc thought disclosure was the best option and it was on the property owner to become informed and to submit a plan that was within compliance. Ms. Peay asked if they wanted to include language that would have an avenue for property owners. C. Anderson commented he thought it was reasonable to allow some exceptions.

Ms. Peay said this did not obscure future utilities from coming in and being able to use the easement. Mr. Goodwin commented not every easement was the same. He also didn't want to open it up to allow for everyone to build into easements because it created a lot of problems.

Ms. Peay commented a lot of time was spent educating homeowners on what they needed to do if an easement was abandoned, and it took a lot of effort of the homeowner to do that. They were trying to get away from staff helping with this and to leave the responsibility to the homeowner. Mr. Goodwin commented he liked language in Herriman City's code, but it was a blanket prohibition with an exception.

C. Anderson said if they were acknowledging the easement then they were building at their own risk. Mr. Goodwin replied in many cases he was okay with that, as long as the risk was identified, acknowledged, and reported. He thought these types of exceptions needed to be clearly identified. C. Anderson said a recorded document would bind all of these exceptions and it would be on the property owners. Mr. Goodwin liked the idea of the City pursuing the adoption of code similar to Herriman's. There was further deliberation on language.

ADJOURNMENT

This meeting was adjourned at 7:12 p.m. on a motion by C. Anderson, seconded by C. Thomas and unanimously approved.

Approved: May 11, 2021

/s/ Colleen A. Mulvey, MMC
City Recorder