

**City of Taylorsville
Planning Commission Meeting Minutes
August 24, 2021
Pre-meeting – 6:30 p.m. – Regular Session – 7:00 p.m.
2600 West Taylorsville Blvd – Council Chambers**

Attendance:

Planning Commission

Kent Burggraaf – Chair
David Wright - Vice Chair
Don Quigley
Lynette Wendel
Marc McElreath
Gordon Willardson
Don Russell

Community Development Staff

Wayne Harper - Director
Jim Spung – Senior Planner
Karyn Kerdolff- GIS Planner (Excused)
Stephanie Shelman – Deputy City Attorney
Jean Gallegos – Admin Assistant/Recorder

BRIEFING SESSION – 6:30 P.M.

1. Briefing Session – Conducted by Mr. Jim Spung.

Mr. Spung advised that the Utah Legislature earlier this year passed a bill saying cities must allow Accessory Dwelling Units (ADU's). The biggest change is ADU's no longer require Conditional Use Permits and are now Permitted Uses. In lieu of the Conditional Use Permit, there will be clear standards in place for the ADU which will be discussed in the regular session tonight, including that the owners must still get a rental license and a building permit for structural changes. Also, the State of Utah says that cities can prohibit ADU's on lots smaller than 6,000 square feet, they cannot be used for short term rentals, the owners must reside in the main house and a mechanism must be in place to insure each property when sold has a record of it being an ADU. The Planning Commissioners had several questions including parking requirements, allowable sizes of these units, why the need for business license and building permit which **Mr. Spung** answered saying all these issues will be addressed this evening in the regular session and review of the proposed draft zoning amendment.

PRESENT: Ernest Burgess, Anna Barbieri.

REGULAR SESSION – 7:00 P.M.

Commissioner Burggraaf called the meeting to order and introduced the Planning Commissioners and Staff who were present. He explained how the meeting would proceed and asked for discussion or a motion relative to the Consent Agenda.

CONSENT AGENDA

2. Review/approval of Minutes for June 22, 2021.

MOTION: Commissioner Quigley – I will make a motion to approve the Minutes for June 22, 2021 as presented.

SECOND: Commissioner Russell

VOTE: All Commissioners voted in favor. Motion passes unanimously.

ZONING TEXT AMENDMENT

3. File 12Z21. City of Taylorsville – Recommendation to the City Council for a Zoning Text Amendment to Sections 13.070.020; 13.08.020; 13.09.030; 13.10.020; and 13.11.010, Related to Accessory Dwelling Units (ADUs), Extended Living Areas, Guesthouses, and Corresponding Definitions. (Presenter - Jim Spung/AICP/Senior Planner)

3.1 **Mr. Spung** presented this item. The City of Taylorsville is requesting a text amendment to the Taylorsville Land Development Code to align with recent legislation passed by the Utah Legislature, Utah Code  Surrounding the ADU changes mostly. He gave the definition for Accessory Dwelling Unit (ADU) as: A self-contained dwelling unit that is incorporated within the single-family dwelling that maintains complete independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation (i.e., separate kitchen). An ADU is part of the single-family dwelling and is not a duplex or multi-family unit. These are referred to in current code as accessory apartments, which needs to be changed to ADU. He presented a Summary of Current Code – pt. 1 and 2 as follows:

- Allowed with administrative conditional use permit (ACUP) in all residential zoning districts (except RM and MH).
- ACUP approval in the Mixed-Use (MU) zoning district.
- Requires owner occupancy.
- Only allowed in detached single-family dwellings (not mobile homes).
- Must retain single-family dwelling appearance.
- Separate utility meters/addressing prohibited.
- Requires residential rental license (business license).
- Must comply with building code.
- Must provide one off-street parking space (in addition to required parking for main dwelling).
- Entrance located on the side or rear of dwelling.
- Maximum size of 30 percent of dwelling floor area.
- Limited to two bedrooms.
- ACUP non-transferrable.
- Review after two years.
- Other requirements or conditions as approved.



3.2 He reviewed contents of House Bill 82:

- New standards are in Utah Code 10-9a-530.
- Legislation requires all municipalities to allow internal ADU's in all single-family residential zoning districts.
- Limits local authority to regulate internal ADU's.
- Goes into effect October 1, 2021.
- Under House Bill 82, Local government can still regulate the following:
 1. Prohibit short-term rentals in ADU's;
 2. Require owner-occupancy in ADU's;
 3. Prohibit detached ADU's;
 4. Prohibit ADUs on lots smaller than 6,000 square feet;
 5. Prohibit separate utility meters;
 6. Require licenses/permits; and
 7. Prohibit the creation of ADU's within a residential zoning district covering an area equivalent to 67% or less of the total area in the city if the main campus of a state or private university with 10,000+ students is located within the city.

3.3 **Mr. Spung** reviewed the proposed standards as:

- “Accessory apartment” will now be “accessory dwelling unit (ADU).”
- ACUP approval no longer required – permitted in all residential zones.
- Only allowed in detached single-family dwellings (not duplex, triplex, apartment, mobile homes, etc.).
- Requires evidence of owner occupancy.
- Only allowed on a lot containing 6,000 square feet or more.
- Must retain single-family dwelling appearance.
- Separate utility meters/addressing prohibited.
- Must provide one off-street parking space (in addition to required parking for main dwelling).
- Requires residential rental license (business license).
- Requires building permit.
- Clarified business licensing requirements.
- ADUs shall not be used for short-term rentals (i.e., rental less than 30 consecutive days)
- Identified specific building code requirements.
- Requires a notarized affidavit recorded with Salt Lake County.
- Updated definition for “dwelling;” “dwelling, duplex;” and “dwelling, single-family.”

3.4 **Mr. Spung** listed and discussed requirements the Building Department needs at a minimum for an ADU as follows:

1. Living facilities including permanent provisions for living, sleeping, eating, cooking, and bathing (IRC 202-definitions).
2. A 32” wide side hinged door leading to the public way without requiring travel through a garage. (IRC 311. 1 & 2)
3. Wall and floor/ceiling fire separation between units with at least ½” gypsum or equivalent. (IRC 302.3 amended exception #3).
4. Access to the plumbing, HVAC and electrical controls for the ADU (IRC 1305.1 & 2005.2.1)
5. A written statement from an HVAC professional stating the HVAC system is sufficient for the ADU and the primary dwelling (IRC 1103.8 and 1105.4)
6. Separation of electrical systems. The branch circuits supplying the ADU must be accessible to its occupants (IRC 3705.8)
7. Sleeping rooms with emergency openings. (IRC 310.1)
8. Interconnected smoke and carbon monoxide detectors (IRC 314.2.2 & 315.2.2 and state amendments).
9. A building permit for the installation of any of these features and any other construction related to the ADU. All construction must meet current building codes.



3.5 **Mr. Spung** discussed proposals for extended living areas and guesthouses:

1. “Extended living areas” = Additional and Accessory Facilities within its’ own structure with kitchen, bathroom and sleeping areas, designed for temporary use by an extended family members for medical and economic reasons on a non-rental basis, and in compliance with the standards as set forth in this title. That definition also includes kitchen and living quarters for domestic staff or other personnel typically employed in household maintenance, i.e., maid, butler, gardeners, etc. That sounds like an internal ADU to him, just that the occupancy is different there because it is an employment type rather than a third party person paying rent. It is also an antiquated type of use. Staff is proposing eliminating “Extended living areas” entirely and if someone wants an independent living area in the home they would need to get a permit for an ADU and could then be legally rented or not rented out. 

2. Reorganized and reworded standards related to “guesthouses.” Right now there is a lot of duplication and organization of the code is a little confusing. So guest house standards have been moved all under one section specifically for guest houses.
3. Reduced the overall area permitted for a guesthouse from 75 percent of the footprint area of the primary dwelling to 50 percent. That is a substantive change being incorporating in the amendment for guest houses. He read the current definition of guest house as: “Attached living quarters located within the accessory building that is subordinate to and located on the same premises with, a primary dwelling, occupied solely by members of the family and temporary guests. Such facilities shall not be rented independently from the main dwelling.”
Another standard that has changed for guest houses is that it will be a different document to be notarized and recorded with Salt Lake County, basically saying that a guest house is approved and cannot be used as a rental, with certain applicable standards applied. 

3.6 **STAFF RECOMMENDATION:** Staff recommends the Planning Commission forward a positive recommendation to the City Council to amend the Land Development code related to accessory dwelling units (ADUs), guesthouses, extended living areas, and corresponding definitions, as specified in the Staff Report.

3.7 **DISCUSSION:**

3.7.1 **Commissioner Willardson** asked if there was a limit on the number of people allowed therein. **Mr. Spung** replied there can be no more than three unrelated people, or a family (regardless of the number). That was a concern for **Commissioner Willardson** with regard to migrant families often comprising several persons and felt that should be governed somehow.

3.7.2 **Commissioner Wendel** said she believed that it would help the City not only in tracking the ADU’s for the purpose of wanting to know what is going on in the City but be in compliance with the Moderate-Income Housing Plan that must be done every year. She felt a true ADU number would also help. It would be showing additional funding for transportation and other issues that are necessary for the City by showing that there are ADU’s available. She had a question of when there are other exterior and separate structures what was the largest footprint a shed or a work shop could have on properties right now? When talking about the 75 percent and coming down to 50 percent, she had already seen some properties with very large workshops and sheds thereon. **Mr. Spung** answered there are two different standards, one under the Accessory Building Standards for the City. There is a standard for lots that are less than 15,000 square feet and there is a standard for lots larger than 15,000 square feet. For lots that are less than 15,000 square feet the maximum area is 576 square feet or a conditional use permit may be obtained which would allow up to 25 percent of the rear yard area. That is basically everything from the back of the primary dwelling to the rear property line and on both side yards. That could turn out to be a pretty large structure, depending on how large the yard is. Lots that are larger than 15,000 square feet would allow up to 854 square feet or with a conditional use permit, 25 percent of the rear yard area. He mentioned that if a conditional use permit is chosen, if they opt to go bigger or taller, there are additional architectural standards that apply to where they cannot just have a huge metal shed in the back yard. The architecture has to resemble the home and be of different materials other than metal. He has received many phone calls from individuals wanting to put a huge steel shed in their back yard with a conditional use permit and he has to tell them no because it must be architecturally compatible. That would make it considerably more expensive to do and does discourage people from going that route. 

- 3.7.3 **Commissioner Willardson** suggested instead of reducing the percentage they should come up with the square foot allowance instead. Potentially there could be someone with a very large house who could build an accessory building as big as a normal house on the property. **Mr. Spung** advised that was an option but there are other standards that would potentially limit the size, i.e., they can't have more than one bedroom for instance. That is something the Commission could recommend to the City Council but there would need to be a specific number with which the Commission is comfortable . 
- 3.7.4 **Commissioner Burggraaf** pointed out that HB -82 defines "internal" accessory dwelling and that is how it is referred to throughout that bill. He wondered if it doesn't make sense then, instead of referring to just accessory dwelling unit to actually add the word "internal" just as HB-82 has.
- 3.7.4.1 **Mr. Spung** advised that it does make sense but Staff's thinking was that no type of "external" accessory dwelling unit is allowed in Taylorsville, so an ADU is only internal. That the standards could be revisited to include external ADU's but differentiate the terminology. It would not be a problem to do that now.
- 3.7.4.2 **Commissioner Burggraaf** said that he felt if it is done now, it would save having to potentially amend those sections in the future. Especially since during the work meeting there had been a discussion of in the future possibly having to come back and change from guest houses to external ADU's. To eliminate the problem of having to go back and change all sections where reference is made to accessory dwelling unit that perhaps it is better to just do it now and make it consistent with HB-82 definitions. He expressed concern that HB-82, which the Commission is making the changes to, be compliant with references definitions for "internal" rather than saying just ADU's, Accessory Dwelling Units more generally.
- 3.7.4.3 **Mr. Spung** added that how that would be accomplished and still have the generic term "Accessory Dwelling Units" and identifier to say "internal" or "external" would be in the definition say, "Accessory Dwelling Units, Internal. In the Land Use Tables it would be the same and when "External" is added it would have a separate definition on the separate line in the Use Tables. In the text itself, it could be specified as "Internal ADU".
- 3.7.4.4 **Commissioner Burggraaf** added that State Code has that defined similar to what Mr. Spung just proposed. He had another question concerning the Staff proposal essentially putting the onus on the applicant, owner of the property to record an affidavit. In looking through HB-82 he felt it did not seem the City is allowed to require that. HB-82 allows for the City to record a notice but HB-82 essentially really restricts what the City can and cannot do about the ADU's and to have the owner be required to record an affidavit goes beyond the permitted actions in HB-82. When looking at the recording options in HB-82 under Subsection 6 dealing with recording the notice and what that notice requires, it specifically references what the City has to include in that notice, not an individual. Looking at Subsection 4L it indicates what the City may do. He felt that needs to be looked at and Land Use Code 13.11.010 needs to be changed to say the City will or the City may record a notice. He suggested running that past the City Legal Department. If the Commission is going to make a recommendation to the City Council that that paragraph be changed so that the City may record a notice as permitted by statute, Staff and the Legal Department should wordsmith it within that context. That is just so that the

Commission is not recommending something that technically goes against HB-82 as an added requirement not allowed for.  **Commissioner Burggraaf** then commented, relative to guest houses saying they will probably need to be revisited as potentially an external ADU and suggested leaving the 75 percent change alone until that has been done. That gives an extra reason to come back and would be a different way of defining the space allowed by way of square footage, which he felt requires more thought and consideration. For now, he suggested copying over guest houses the way it currently is. 

- 3.7.5 **Commissioner Quigley** said Staff had interchanged the terms one third acre or 15,000 square feet, which is a conflict of terms because 15,000 square feet is greater than one third acre. A third of an acre is 14,520 square feet. He wanted to know if Staff is saying a third of an acre or saying something greater than a third of an acre. He did not know where the term 15,000 square feet came from, other than just rounding up. He favored it being one third of an acre and suggested changing that to 14,520 square feet so it coincides with a third of an acre rather than rounding it up to 15,000. He said it was a personal thing for him because he lives on a lot that is greater than a third of an acre but would not fit the 15,000 number. His lot size is 14,810 square feet and he would be really upset if he came in here to do a tiny house in the back yard and found out he was 190 square feet short because the City rounded it up to 15,000 square feet. If the City is going to use the standard of a third of an acre, then why not use the correct square footage of 14,520 square feet, then there is no argument.
- 3.7.6 **Mr. Kerdolff** addressed that issue saying that to be clear, the third of an acre language appears specifically for “guest houses”. That square footage is for the section of residential accessory structures.
- 3.7.7 **Commissioner Quigley** said he understood that and realizes that tonight the session is just for ADU’s and is on board with that. He was in favor of not complicating it with the discussion on guest houses, which will come later on. He assumed that Staff just wants to get this done in order to meet the October 1st timeline to update the ADU language in the City Code.
- 3.7.8 **Mr. Spung** said that was correct. He said in looking at the draft text, letter C #2, right now the Code does say one third of an acre – at least a third of an acre is required in order to have a guest house, which was recommended to be changed to 15,000 square feet or more. Just to clarify, because there is the R-1-15 zone which would require at least a 15,000 square foot lot, so Staff did catch that and wanted to clarify that in the standards. That change could be held off until the full revisit of the guest house portion. It is somewhat inconsistent where it generally refers to square feet but then this standard refers to acreage. 
- 3.8 **Commissioner Burggraaf** opened the public hearing and since there was no one wishing to speak in favor or opposition to this application, and Staff informed him they had received no E-Mails with this regard, closed the public hearing and opened it to the Planning Commission for discussion or a motion.
- 3.9 **DISCUSSION:**
- 3.9.1 **Commissioner Wright** said from a discussion standpoint, the Commission needs to come back and decide what would be right to approve now, if anything. There are a couple of nomenclature items that from discussion he has heard this evening, the Commission agrees might be problematic. One of those items is the “internal” versus “external” ADU. He would like to add the “internal” item on

there to the document if it goes forward with the rest of the item as is. He was of the opinion that the other items are of less importance at this time.

3.9.2 **Commissioner Burggraaf**  wanted to make sure this change aligns with the State Code. He suggested that the Commission might adopt what Staff is proposing with the caveat that Staff goes back through the Legal Department and appropriately inserts the word “internal” where it needs to be. It may be that there is still a general definition for Accessory Dwelling Unit but that it is also clearly identified that the section is addressing “internal” ADU’s. **Mr. Spung** said that it could make sense that under 13.11.010(B) right now just has the general terminology and could be clarified to have Letter (B) and everything under that is standards for internal accessory dwelling units and later when this is brought back, it would likely be Letter (C), to indicate “external” dwelling units. **Commissioner Burggraaf** said that would be fine as long as the correct sentiment is clearly conveyed. He felt Staff, as opposed to the Commission, should go through it word for word indicating which one ought to be “internal” versus “external” or ADU’s generically is preferable to assure it aligns with State Code. He suggested an adjustment to paragraph 13 as was mentioned by Staff previously to be wordsmithed again to align with State Code essentially stating, “The City may record a notice detailing that an internal accessory dwelling unit exists as permitted by HB-82.” He also suggested that tonight if this is adopted that there is the caveat added that no modification be made from 75% to 50% for guests houses at this time. Since guest houses are going to be revisited in the future, include whether it will be square footage or percent at that time. 

3.10 **MOTION**  **Commissioner Wendel** - I move that we send a positive recommendation to the City Council for a zoning text amendment for Sections 13.07.020; 13.08.020; 13.09.030; 13.10.020; and 13.11.010 related to accessory dwelling units, extended living areas, guesthouses, and corresponding definitions, according to Staff’s Recommendations and Findings and including Commission recommendations adding the word “internal” everywhere that would be compliant with HB-82 to make sure we designate the accessory dwelling units. To make sure that we change the verbiage from, “The property owner will be filing an affidavit regarding the ADU’s” and that the City may be recording it. And we will not be making the changes to the guesthouse area amount from 75% down to 50% for further consideration by the Planning Commission on definitions for guesthouses in the future.
SECOND: Commissioner McElreath
VOTE: All Commissioners present voted in favor.

CITY COUNCIL MEETING DISCUSSION: **Commissioners McElreath** and **Burggraaf** gave their reports during the pre-meeting for City Council meetings they attended.

ADJOURNMENT: By motion of **Commissioner Wendel**, the meeting was adjourned at 8:06 p.m.

These Minutes were prepared and submitted by:

Jean Gallegos, Admin Asst, Recorder for the
City of Taylorsville Planning Commission

Approved in meeting held on