

Provo City Planning Commission

Report of Action

September 28, 2022

*ITEM #1 The Provo City Council Housing Committee is requesting approval of an Ordinance Text Amendment in Chapter 14.30, Accessory Dwelling Units. Citywide Application. Melia Dayley (801) 852-6136 mdayley@provo.org PLOTA20220263

The following action was taken by the Planning Commission on the above described item at its regular meeting of September 28, 2022:

RECOMMENDED APPROVAL

On a vote of 4:2, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Jeff Whitlock

Second By: Raleen Whalin

Votes in Favor of Motion: Jeff Whitlock, Raleen Whalin, Robert Knudsen, Andrew South

Votes Against the Motion: Melissa Kendall, Lisa Jensen

Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

- Melia Dayley gave an overview of the proposed changes and answered previous questions regarding current ADU allowances, potential ADU numbers, Provo rental rates, enforcement rates, and comparisons to other cities.
- Scott Johnson (Zoning Administrator) defined the process for ADUs and answered questions regarding enforcement procedures.
- Marcus Draper (Provo Attorney) detailed family definitions and parking regulations.
- David Day (Provo Engineering) responded to questions regarding increased infrastructure needs for detached ADUs, but had no issue with the current proposals.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- This item was City-wide or affected multiple neighborhoods.
- Multiple Neighborhood Chair(s) were present or addressed the Planning Commission.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Becky Bogdin stated that the changes would be okay if enforced, but shared opinion that the westside needs more “move-up” housing.
- Leo Lines shared concerns of high rental rates and a lack of enforcement, as well as parking concerns.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Melia Dayley responded to questions regarding occupancy of the ADUs, locations of ADUs, and reasons for proposals.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission agreed that the questions from the previous hearing had been answered.
- Melissa Kendall shared concerns of the effect on single-family neighborhoods and affordability. She hoped that an approval with a smaller percentage on the westside could be brought forward.
- The Planning Commission discussed the need to balance General Plan goals of affordability and housing stock with diverse housing options in neighborhoods. They found comfort that a rental license for ADUs would need to be renewed annually, which would help enforcement. They also recognized that the proposed limits are related to infrastructure limitations and trying to meet the goals of the City. There was concern expressed by some of enforcement driven by neighbor complaints and other existing sections of 14.30 (temporary leave, description of permitted areas, and occupancy limits).



Planning Commission Chair



Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Community and Neighborhood Services Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

Chapter 14.30 **ACCESSORY DWELLING UNITS**

Sections:

14.30.010 Purpose and Objectives.

14.30.020 Permitted Use of Accessory Dwelling Units.

14.30.030 Accessory Dwelling Unit (ADU) Development Standards.

**14.30.040 Designation of Permitted Use Areas of Accessory Dwelling Units –
ADU Restrictions**

Prior legislation: Ords. 1991-07, 1998-55, 2000-15, 2009-17, 2010-28, 2013-49, 2019-45.

14.30.010

Purpose and Objectives.

(1) The purpose of the accessory dwelling unit (ADU) development standards is to encourage promotion of an environment for family life by providing for the establishment of ADUs in conjunction with one-family detached dwellings on individual lots. These development standards are hereby established to promote the use of ADUs; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home owners; and to offer security against problems associated with frailty in old age.

(Am 2021-46)

14.30.020

Permitted Use of Accessory Dwelling Units.

(1) Notwithstanding the regulation of permitted uses in other chapters of this Title, the regulation of the permitted use of accessory dwelling units is governed by this Section.

(2) As required by Utah Code Section [10-9a-530](#), as amended, the use of an internal accessory dwelling unit in areas zoned primarily for residential use is a permitted use, except as otherwise provided in this Section.

(a) For purposes of this Section, the phrase “areas zoned primarily for residential use” means areas in the following zones: RA, R1, R2, LDR, MDR, HDR, CMU, VLDR, RM, RC, any Project Redevelopment Option (PRO) zone, and Specific Development Plan Overlay zones 2 through 5.

(3) Notwithstanding Subsection [\(2\)](#) of this Section, Utah Code Section [10-9a-530](#) allows the prohibition of internal accessory dwelling units in some areas zoned primarily for residential use. Accordingly, internal accessory dwelling units are prohibited in the following areas zoned primarily for residential use:

(a) All Project Redevelopment Option (PRO) zones, except: the High Density Mixed Use PRO zone, the Arbors on the Avenue PRO zone, the Independence Avenue PRO zone, the Hollows at Riverwoods PRO zone, the Liberty Place PRO zone, and the Spring Creek High Occupancy PRO zone;

(b) Areas in the Lakeview Fields (SDP-4) Specific Development Plan Overlay zone and the Villages at Celebration (SDP-5) Specific Development Plan Overlay zone;

(c) Areas designated R17, R19, or R110, including such areas with the Performance Development overlay; and

(d) Areas designated R16 or R18, including such areas with the Performance Development overlay, except as shown in the map below:



(4) Detached accessory dwelling units and detached accessory structures containing an ADU are a permitted use in those areas where internal ADUs are permitted under this Section.

(5) Notwithstanding Subsection (3) of this Section, the use of an internal accessory dwelling unit in areas zoned primarily for residential use is a permitted use in all areas west of Interstate Highway 15.

(Am 2021-46)

14.30.030

Accessory Dwelling Unit (ADU) Development Standards.

ADUs shall be subject to the following development standards:

- (1) *Number.* No more than one (1) ADU shall be permitted in conjunction with each one-family detached dwelling.
- (2) *Location.* ADUs may be located only:
 - (a) Over an attached garage, provided the ADU has access to required parking and does not otherwise disrupt required covered parking;
 - (b) Inside a one-family detached dwelling;

(c) In an addition to a one-family detached dwelling; provided, that the addition will not alter the one-family character of the building; or

(d) As a detached accessory structure or within a detached accessory structure located in the rear and/or side yard in accordance with the following requirements:

(i) The accessory structure in which the ADU is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be less than two hundred (200) square feet in area;

(ii) A detached ADU or a detached accessory structure containing an ADU shall be set back from any property line no less than ten (10) feet or the distance of the existing setback of the one-family dwelling from that same property line, whichever is less;

(iii) The accessory structure shall be architecturally compatible with the main dwelling;

(iv) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(v) The accessory structure must be approved for, and permanently connected to, all required utilities with a connection and meter independent and separate from the one-family dwelling; and

(vi) Shipping containers shall not be permitted for use as an ADU unless they can meet all building codes and are clad with materials similar to and architecturally compatible with those of the main dwelling.

(3) *Appearance.* The ADU shall not alter the appearance of the structure as a one-family detached dwelling and shall not resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The yard areas of the property shall be maintained free of weeds, junk, solid waste, or other materials constituting a violation of the Provo City Code. An ADU shall not be authorized on a property that has outstanding ordinance violations.

(4) *Occupancy.* A one-family dwelling with an ADU, which is authorized by and conforms to the requirements set forth in this Section, shall, for purposes of this Subsection, consist of two (2)

component parts: the main dwelling unit and the ADU. Those two (2) parts shall be occupied as follows:

- (a) Except as otherwise provided in Subsection [\(4\)\(d\)](#) of this Section, either the main dwelling unit or the ADU must be occupied by an owner occupant as that term is defined in Section [14.06.020](#), Provo City Code. If this requirement is not met, no ADU shall be permitted.
- (b) The occupancy of the main dwelling unit shall be limited to one (1) "family" as that term is defined in Chapter [14.06](#), Provo City Code, except that if the ADU is also occupied, the occupancy of the main dwelling unit may not include the two (2) additional related or unrelated individuals described in Subsection (b)(i)(B) of the "Family" definition in Section [14.06.020](#), Provo City Code.
- (c) The ADU shall not be occupied by more than ~~two (2)~~ [three \(3\)](#) related or unrelated adults, together with any minor children of those adults.
- (d) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning of the temporary absence and meets the following criteria:
 - (i) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or
 - (ii) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.
 - (iii) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.
- (5) *Parking.* A one-family dwelling with an ADU shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the ADU or the principal part of the dwelling unit. Parking spaces for a one-family dwelling with an associated ADU may be located on a

driveway in a required front yard, provided the driveway leads to the minimum number of required covered off-street parking spaces. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking shall comply with all other regulations of Chapter [14.37](#), Provo City Code.

(6) *Utility Meters.* A one-family dwelling with an internal ADU shall have at least one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. A detached ADU or a detached accessory structure containing an ADU must have its own separate meter, and each meter shall be in the property owner's name.

(7) *Addresses.* The ADU shall have its own address assigned by Provo City.

(8) *Outside Entrances.* Outside entrances to the ADU shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(9) *Internal Connections.* To the extent that such a requirement is not prohibited by the laws of the State of Utah, ADUs located inside a one-family detached dwelling or in an addition to a one-family detached dwelling must have an internal connection between the ADU and the principal part of the dwelling.

(10) *Building Codes.* All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed ADUs shall meet current building codes.

(11) *Rental Dwelling License.* In accordance with Chapter [6.26](#), Provo City Code, any person operating an ADU under this Chapter shall obtain a rental dwelling license (RDL). Such license shall be in addition to any building permits that may be necessary. Before a rental dwelling license for an ADU is issued, the applicant shall:

- (a) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

- (b) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.
- (c) Pay an application fee as shown on the [Consolidated Fee Schedule](#) adopted by the Municipal Council.
- (d) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a rental dwelling license for an ADU. Revocation shall be in accordance with the license regulations in Chapters [6.01](#) and [6.26](#), Provo City Code.
- (e) Notwithstanding Section [6.01.090](#), Provo City Code, the approval of a rental dwelling license for an ADU shall automatically expire one (1) year after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such rental dwelling license.
- (f) The owner shall cooperate with the Development Services Department or their designee in recording a deed restriction with the County Recorder evidencing the restrictions under which the ADU is constructed and occupied. This deed restriction shall run with the land as long as the property contains an ADU as provided in this Chapter.
- (g) The owner shall renew the rental dwelling license annually and confirm that the dwelling is the owner's primary residence by providing at least two of the following forms of verification: a current driver license, current vehicle registration, voter registration card, last filed state tax return, and/or last filed federal tax return.

(Am 2021-46, Am 2022-17)

14.30.040

Area of New Zone Overlay Districts

- (1) There shall be no minimum area for a new zone overlay district; however each petition for a new overlay district shall include a list containing the name, address, and signature of at least sixty-six percent (66%) of the owners of immediate properties who are in support of the adoption. For sake of this subsection, "immediate properties" shall include those properties that share a common border with, or are immediately across or immediately diagonal from the proposed zone overlay district, so as to only be separated by a street, canal, right-of-way, or other similar feature.