

*ITEM 3 Ruth Thomas requests an Ordinance Text Amendment to add 44 homes in the R1.8 (One Family Residential) Zone to Section 14.30.020, Provo City Code, to allow Accessory Dwelling Units as a permitted use for the geographical area approximately between 1100 East and 1260 East and 820 North to 930 North. Foothills Neighborhood. Mary Barnes (801) 852-6408 mabarnes@provo.org PLOTA20230035

Applicant: Ruth Thomas
Staff Coordinator: Mary Barnes

Relevant History: The applicant is requesting this ordinance amendment to extend the ADU overlay over a small section of the Foothills Neighborhood, effectively adding it to the permitted accessory apartment areas map found in 14.30.020. The applicant and the neighbors within this section have been pursuing this ordinance amendment for approximately five years. These properties are zoned R1.8. No other relevant history at this time.

Neighborhood Issues: A neighborhood meeting for the Foothills neighborhood was held in 2019 on this topic. The applicant is not required to appear in a neighborhood meeting again.

Summary of Key Issues:

- Subsection 14.40.030 (2)(b) states that areas designated as R1-8 are not permitted to have accessory dwelling units, except as shown in the "Areas Permitting ADUs" map.
- Subsection 14.30.050 (4) states that owners of multiple contiguous properties may submit a text amendment application to amend the chapter to allow ADUs as a permitted use for the subject properties.

Staff Recommendation:

That the Planning Commission recommend approval of the proposed text amendment to the Provo City Council.

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 10, 6:00 P.M.*
2. **Recommend Denial** of the requested ordinance text amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

OVERVIEW

The applicant is requesting an ordinance amendment to add a small section of the Foothills Neighborhood to the ADU overlay on the “Areas Permitting ADUs” map found in 14.30.020. This small section includes 44 houses on 820 N, 930 N, 1100 E, 1200 E and 1260 E. Please see figure 1 to see the subject area.

- The property is zoned R1.8, which requires a minimum 8,000 sq ft lot.
- The applicant has been working on getting this subject property added to the ADU map for multiple years.
- The code states that owners of multiple contiguous properties may submit a text amendment application to designate ADUs as a permitted use for all subject properties. This type of application requires signatures of at least 66% of property owners for the subject properties and the immediately adjacent residential properties.
- The applicant has provided signatures from 68% of the subject area and immediately adjacent residential properties. Therefore, the applicant has met the requirements set out in the code.

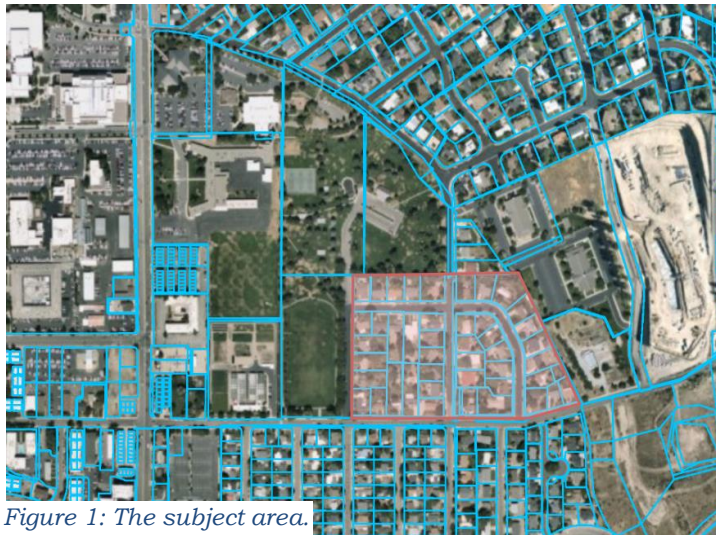


Figure 1: The subject area.

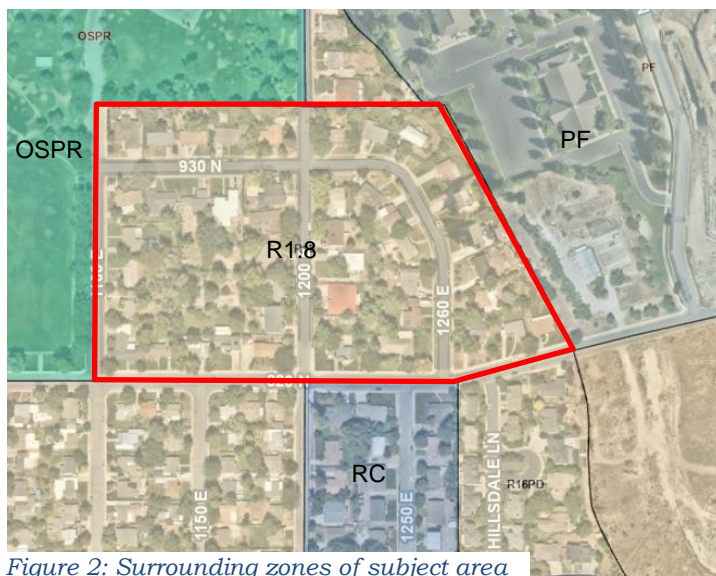


Figure 2: Surrounding zones of subject area

FINDINGS OF FACT

Context of the Ordinance Amendment

14.30.040 (4) states the following:

4. Application for a Permitted Use for Multiple Homes. Instead of submitting the special use permit application described in this Section, owners of multiple contiguous properties may submit a text amendment application to the Development Services Department seeking to amend this Chapter in order to designate accessory dwelling units as a permitted use for all the subject properties. Such an application shall follow the procedures in Section 14.02.020, Provo City Code, except that:
 - a. The filing fee specific to such an application shown on the Consolidated Fee Schedule shall be required rather than the standard amendment fee; and
 - b. The application need not comply with Section 14.02.020(1), Provo City Code, but instead must include the information described in Subsections (2)(b) and (c) of this Section.

14.30.040 (2)(b)&(c)

2. Application. Application for an accessory dwelling unit special use permit must be made on a form authorized by the Development Services Department and must be filed with that Department. The application must include:
 - b. A list of addresses including the property for which the permit is sought and every immediately adjacent residential property, as defined in this Section.
 - i. "Immediately adjacent residential property" means each and every property:
 - A. For which residential use is a permitted use; and
 - B. That shares a common border with, or is immediately across or immediately diagonal from, or that lies within the same cul-de-sac as, the property for which the permit is sought, including any property separated only by a local street, canal, right-of-way, or other similar feature from the property for which the permit is sought;
 - c. The name, address, and signature of the owners of at least sixty-six percent (66%) of the properties described in Subsection (2)(b) of this Section indicating that they are in support of the special use permit.

This code was adopted on October 18, 2022. The goal of this code was to be able to conditionally expand the permitted use of ADUs in areas primarily zoned for residential use throughout the city, with the permission of neighbors. This is the first multiple home ADU text amendment that Provo City has seen since the code was adopted.

Required Signatures

There are 44 properties within the subject area, and 15 immediately adjacent residential properties, as defined by 14.30.040 (2)(b)(i). Therefore, there are 59 total properties. Sixty-six percent of 59, or 39 property owners, are required to provide their name, address, and signature indicating that they are in support of this amendment. Please see figure 3 for a color-coded map

that indicates what is classified as a subject property, and what is an immediately adjacent residential property.

The applicant has provided the names, addresses, and signatures of 40 property owners for 40 properties. Seven of the 15 immediately adjacent property owners provided their signatures, and 33 of the properties in the subject area provided their signatures.

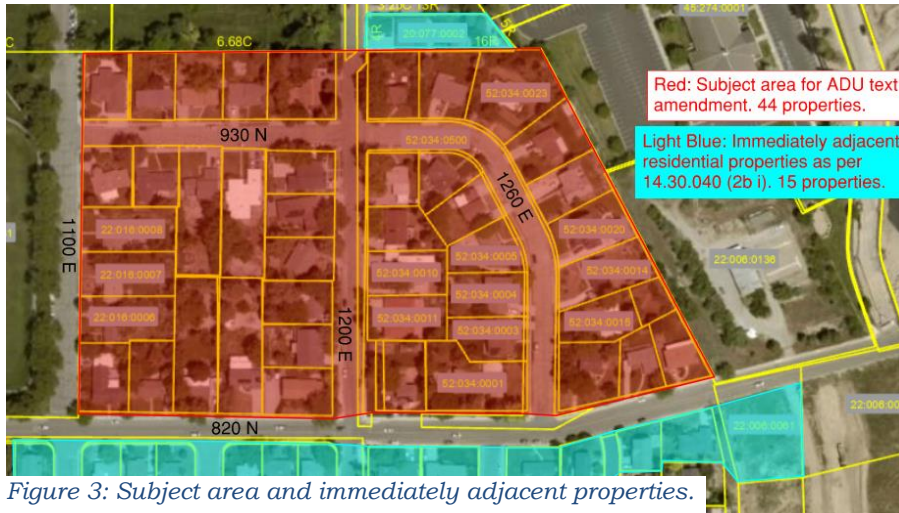


Figure 3: Subject area and immediately adjacent properties.

Impact

To be able to have an ADU in a home that is not within the ADU overlay, the property owner must submit a special use permit and meet all the requirements in the code. While this overlay would remove that obstacle for an ADU on a property in the subject area, it would still require a property owner to meet all the requirements found in 14.30.030, which include requirements regarding:

- Location
- Appearance
- Number
- Occupancy (as mentioned below)
- Parking (as mentioned below)
- Utility meters
- Addresses
- Outside entrances
- Building codes, and
- Rental Dwelling Licenses (as mentioned below).

Currently, there are 11 rentals in the subject area, according to city and county records. The applicant did not gather signatures from the rental property owners because they are harder to track down and because ADUs are not permitted in rental properties. While this ordinance amendment would extend the ADU overlay over all homes within the subject area, it does not permit the rental homes to have two units. Only owner-occupied homes are permitted to have an ADU.

To ensure that owner occupancy is sustained, there are existing requirements in the ADU code:

- An ADU rental dwelling license expires every year, which requires an owner-occupant to renew their license annually.
- The code requires the owner-occupant to provide at least two forms of address verification during the renewal process, including a current driver license, current vehicle registration, voter registration card, last filed state tax return, and/or last filed federal tax return. With this information, the zoning officer can verify owner-occupancy every year during the renewal period.

Another concern could be parking. ADU code states that at least 4 off-street parking stalls are required on a property with an ADU, two for the main home and two for the ADU. Additionally, this area requires parking permits for on-street parking, as mentioned in Title 9.88 of the Provo City Code.

STAFF ANALYSIS

General Plan

Provo City Code Title 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

1. Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
 - a) Public purpose for the amendment in question.

Staff response: The public purpose of the amendment is to increase housing supply and affordable housing options for future city residents. Additionally, it could provide housing options for current city residents, and raise property values within the subject area.

- b) Confirmation that the public purpose is best served by the amendment in question.

Staff response: By allowing ADUs in this area of the city, the housing supply and options for Provo residents has the potential to increase.

- c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

Staff response: The proposed text amendment is consistent with the General Plan housing goals, specifically to: "Allow for different types of housing in neighborhoods and allow for a mix of home sizes at different price points, including ADUs". Goal 1c states: "Continue to examine zoning solutions in certain locations to promote Accessory Dwelling Units in residential areas".

This text amendment would allow the owner-occupants within this subject area to have ADUs, which would allow for more housing diversity.

- d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

Staff response: Goal 1c of the housing chapter is indicated to have a "short" timing in the implementation matrix. According to the reading notes in the implementation matrix chapter, "short" timing is 1-3 years. This ordinance amendment is within that "short" period.

The action that is meant to begin the process of meeting this goal is as follows: "Continue to analyze the city zoning code and study requirements of other jurisdictions to find solutions to promote ADUs". After analyzing the Provo City Code, it is apparent that this amendment is a great solution to promoting ADUs in a small section of the Foothills neighborhood.

- e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

Staff response: Staff do not believe the proposed changes will hinder or obstruct the General Plan policies in any way; it will help to strengthen them.

- f) Adverse impacts on adjacent landowners.

Staff response: Any residential property with an ADU overlay must follow specific requirements as set forth in the City Code. The zoning laws have endeavored to address as many issues as possible. Adverse impacts would be noticeable if zoning and rental dwelling license laws were not being followed by the landlord and tenants. Provo City has an enforcement team that are willing to follow procedure and enforce the zoning code on landlords or tenants that are not in compliance with the code.

- g) Verification of correctness in the original zoning or General Plan for the area in question.

Staff response: This amendment will not affect the correctness of the zoning or general plan for these areas.

- h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Staff response: There is not a conflict. This area is shown as residential on the General Plan Land Use Map.

CONCLUSIONS

In conclusion, the applicant has met all of the requirements for this ordinance amendment. Staff recommends that the Planning Commission recommend approval for this ordinance amendment. Approval of this ordinance amendment will allow only owner-occupied properties in the subject area to have ADUs and provide a way for the residents in the subject area to increase their passive income and property values. The majority of residents in the subject area have indicated support for this amendment.

ATTACHMENTS

1. Proposed 14.30.020 Amendment

ATTACHEMENT 1 – PROPOSED 14.30.020 AMENDMENT (Shown in red)

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. Notwithstanding Section 14.30.010, Provo City Code, Utah Code Annotated Section 10-9a-530 allows the prohibition of accessory dwelling units in some areas zoned primarily for residential use. Accordingly, accessory dwelling units are prohibited in the following areas zoned primarily for residential use:
 - a. All Project Redevelopment Option (PRO) zones;
 - b. Areas designated RM, R16, R17, R18, R19, or R110, including such areas with the Performance Development overlay, except as shown in the map below:

