

***ITEM #4** Provo City Council Office requests an Ordinance Text Amendment to Section 14.30.040 (Special Use Permit for Accessory Dwelling Unit) to remove previous legislation and replace it with new standards. Citywide application. Melia Dayley (801) 852-6136 mdayley@provo.org PLOTA20240275

Applicant: Provo City Council

Staff Coordinator: Melia Dayley

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is November 13, 2024 at 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.*

Relevant History: The Provo City Council motioned on January 9th and April 30th directing Council staff to review “supplemental ADU rules” including the extra living space, second kitchen agreements, occupancy and parking limits, as well as the City’s education/enforcement toolkit regarding ADUs and propose enhancements if deemed necessary.

Council staff held meetings with community members, Development Services and Legal staff, and Councilors and drafted several text amendments related to the Council motions.

During the August 20th and September 3rd Council Work Meetings, five text amendments were moved forward to be heard at a Council Meeting for final approval. Four of the five motioned amendments need Planning Commission recommendations before returning to the Council for a final vote.

Summary of Key Issues:

- Councilors reviewed the Special Use Permit process in 14.30 and possible amendments.

Staff Recommendation: Council staff recommends approval of this proposed amendment.

OVERVIEW

Council requested to review 14.30.040 two years after implementation. Council received feedback from neighborhoods, residents, and Development Services including Code Enforcement about the pros and cons of the permit process.

STAFF ANALYSIS

After review of all feedback and Council member policy decisions, the proposed ordinance removes half of the original special use permit process: the individual property pathway. Residents can still apply for ADU permitted use for their property through the signature and ordinance text amendment process. The individual pathway with administrative approval for an ADU permit that runs with the owner applicant is removed with this proposed amendment.

CONCLUSION

Council staff believe that this change is necessary to clarify the steps needed to apply for an ADU, and would recommend that the Planning Commission forwards a positive recommendation to the City Council.

ATTACHMENTS

1. Proposed Text Amendment

ATTACHMENT 1 - PROPOSED TEXT AMENDMENT

14.30.040

Special Use Permit for Accessory Dwelling Unit.

(1) A property owner, or the owners of multiple contiguous properties, seeking to allow an accessory dwelling unit on a parcel, or parcels, in an area where such units are otherwise prohibited by Provo City Code Chapter 14.30, ~~Provo City Code~~, may submit ~~a special use permit application~~ a text amendment application to the Development Services Department seeking ~~conditional approval of such use~~ to amend this Chapter in order to designate accessory dwelling units as a permitted use for all the applying properties. The application must comply with Provo City Code Section 14.02.020, except that:

(a) The specific filing fee for this type of application, as listed on the Consolidated Fee Schedule, is required instead of the standard amendment fee; and

(b) The application does not need to comply with Provo City Code Section 14.02.020(1), but instead must include the following:

(i) A list of addresses including the applying property, or properties, and all immediately adjacent residential properties. For purposes of this section, "immediately adjacent residential property" means any property:

(A) For which residential use is a permitted use; and

(B) That shares a common boundary with, is directly across from, is diagonally adjacent to, or is within the same cul-de-sac as an applying property, including any property separated from an applying property only by a local street, canal, right-of-way, or similar feature.

(ii) The names, addresses, and signatures of the owners of at least sixty-six percent (66%) of the properties described in Subsection (1)(b)(i), indicating that they are in support of the amendment; and

(iii) A completed rental dwelling license application that meets the requirements of Provo City Code Chapter 6.26 for each applying property.

(c) Submission of the signatures required by Subsection (1)(b)(ii) does not guarantee approval of the application. They serve to demonstrate a degree of neighborhood support to the Council and are required in place of the standard text amendment fee in order to have the application considered. If an applicant wishes to apply without the required signatures, the application must meet all requirements of Provo City Code Section 14.02.020(1), including payment of the standard amendment application fee and submission of a written petition to the Planning Commission meeting all the requirements in that Section. Final approval or denial of both types of application is at the sole discretion of the Provo City Municipal Council.

~~(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:~~

~~(a) The fee established for the application by the Consolidated Fee Schedule;~~

~~(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; and~~

~~(d) An application for a rental dwelling license meeting the requirements of Chapter 6.26, Provo City Code.~~

~~(3) *Review and Approval.* An application shall be reviewed by Development Services Department staff. The application shall be approved, and an accessory dwelling unit special use permit shall be issued if, but only if:~~

- ~~(a) The application meets all the requirements of Subsection (2) of this Section;~~
- ~~(b) The property for which the permit is sought meets all the standards for accessory dwelling units in Section 14.30.030, Provo City Code;~~
- ~~(c) The applicant qualifies for and receives a rental dwelling license; and~~
- ~~(d) The applicant signs, on a form authorized by the Development Services Department, an acknowledgement of, and promise to abide by, all Provo City ordinances and regulations related to the use of an accessory dwelling unit, including, but not limited to:
 - ~~(i) Either the main dwelling unit or the ADU must be occupied by an owner occupant;~~
 - ~~(ii) Off-street parking must comply with parking standards as outlined in Section 14.30.030, Provo City Code; and~~
 - ~~(iii) The property owner must have a valid rental dwelling license at any time the accessory dwelling unit is in use.~~~~

~~(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.~~

~~(Enacted 2022-46, Am 2024-03)~~