



Provo City Planning Commission

Report of Action

October 23, 2024

***ITEM #2** Provo City Council Office requests an Ordinance Text Amendment to Section 14.34.450 (Elderly Persons - Extra Living Space) to update the age of applicability from 65 years old to 60 years old. Citywide application. Melia Dayley (801) 852-6136 mdayley@provo.org PLOTA20240273

The following action was taken by the Planning Commission on the above described item at its regular meeting of October 23, 2024:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Daniel Gonzales

Second By: Andrew South

Votes in Favor of Motion: Daniel Gonzales, Andrew South, Jeff Whitlock, Lisa Jensen, Adam Shin

Daniel Gonzales 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 a brief overview of the proposal and responded to Planning Commission questions regarding current code standards.

CITY DEPARTMENTAL ISSUES

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

NEIGHBORHOOD MEETING DATE

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

NEIGHBORHOOD AND PUBLIC COMMENT

- This item was City-wide or affected multiple neighborhoods.

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: None.

APPLICANT RESPONSE

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

- Melia Dayley verified that Provo Legal had reviewed the proposal and it is legally sound to require additional documentation.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Planning Commission noted concerns with the clarity of processes to review documentation of owner-occupancy, applicability of temporary leaves of absence in these situations, and expressed a desire for the code to be clearer on when and how code enforcement can review documentation for elderly persons.
- In the end, the Commission noted that lowering the age helps open extra living spaces for more individuals and that idea is supported by Development Services staff and the Planning Commission.



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 Development Services Department, 445 W Center Street, 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

14.34.450

Elderly Persons - Extra Living Space.

(1) Notwithstanding any contrary provision of this Title, one (1) or two (2) persons age ~~sixty-five (65)~~ sixty (60) or older who own and occupy a one-family dwelling located in an A1, RA, R1, or RC zone may allow two (2) additional persons over eighteen (18) years old and their minor children to occupy extra living space in the dwelling, subject to the provisions of this Section. For the purpose of this Section “extra living space” means any area within an existing structure originally constructed as a one-family dwelling which is made available by a resident owner for occupancy by the additional persons described above.

(2) Extra living space within a dwelling shall not be occupied as described in Subsection (1) of this Section unless each owner of the dwelling registers with the Development Services Department as provided in this Section. A registration shall be valid only if each registrant:

- (a) is age ~~sixty-five (65)~~ sixty (60) or older,
- (b) owns and continuously occupies the one-family dwelling where the extra living space is located, and
- (c) signs a notarized agreement, prescribed by Provo City, which provides that the dwelling unit will not be converted into two (2) or more dwelling units.
- (d) For the purpose of this Subsection:
 - (i) “continuously occupied” means the person actually inhabits the dwelling and has no other residence, and
 - (ii) “owns” means each person over ~~sixty-five (65)~~ sixty (60) who occupies the one-family dwelling:
 - (A) possesses fee title, either individually or as a joint tenant, to the property where the one-family dwelling is located, or
 - (B) is a trustee of a trust that owns the property and was created for the benefit of such person.
- (e) If two (2) persons together own and occupy the one-family dwelling, the registration shall be in the name of both persons.

(3) A dwelling with extra living space shall conform to the requirements of the zone where the dwelling is located, except as otherwise set forth in this Section. The following requirements shall also apply:

- (a) Extra living space shall be located within the dwelling and not within a garage or any accessory structure.
 - (b) Interior access shall be maintained between the extra living space and other portions of the dwelling.
 - (c) Exterior structural elements of the dwelling shall not be altered.
 - (d) No additional utility meters or outside entrances to the dwelling may be installed.
 - (e) City provided utilities and services, such as, but not limited to, power, sewer, water, and solid waste removal, shall be in the name of the property owner.
 - (f) The property address shall not be changed and no new address shall be created for the extra living space.
 - (g) The minimum number of parking spaces provided shall be as required by the zone where the dwelling is located, provided, however, that the number of off-street parking spaces shall be not less than the number of vehicles maintained on the premises.
- (4) An application to register extra living space under this Section shall include the following:
- (a) name and age of each registrant,
 - (b) address of the property where the dwelling with extra living space is located,
 - (c) the following documentary evidence which shows the property is owned and occupied by each registrant:
 - (i) copy of recorded deed, and
 - (ii) copies of any two (2) of the following documents which show the name of the registrant and the address of the property where the extra living space is located:
 - (A) voter registration card,
 - (B) Utah driver license, or
 - (C) current City utility bill,
 - (d) a sworn affidavit by each registrant stating that the registrant:
 - (i) is age ~~sixty-five (65)~~ sixty (60) or older,

(ii) presently resides on the subject property, and

(iii) has no other residence,

(e) payment of any applicable fee shown on the Consolidated Fee Schedule adopted by the Municipal Council,

(f) any other information reasonably required to enforce the provisions of this Section, and

(g) the agreement described in Subsection 14.34.450(2)(c) of this Section. Such agreement shall include provisions by which each registrant:

(i) certifies, to the best of the registrant's knowledge or belief, that the use and occupancy of the one-family dwelling conforms to applicable ordinance requirements, and

(ii) agrees to comply with the provisions of this Section and any other applicable provision of this Title or the Provo City Code.

(5) Upon receipt of a complete registration application and payment of any applicable fee shown on the Consolidated Fee Schedule adopted by the Municipal Council, the registration shall be accepted. Extra space within the dwelling may thereafter be occupied by not more than two (2) additional persons over eighteen (18) years old and their minor children.

(a) An inspection of the dwelling shall not be conducted as a condition of registration.

(b) The registration shall expire in one (1) year from the date of acceptance and may be renewed upon:

(i) written certification by each registrant that the requirements of this Section have been met and will continue to be met during the new term of the registration, and

(ii) payment of any applicable fee shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(6) A registration accepted pursuant to this Section:

(a) is personal to the registrant(s) to whom it is issued,

(b) shall not run with the land, and

(c) may be revoked upon noncompliance with the terms of this Section or any other applicable provision of the Provo City Code. Prior to revocation a registrant shall be entitled to an administrative hearing as set forth in Chapter 3.06, Provo City Code.

(7) Upon acceptance by the City of a proper registration, the registration and the agreement referenced in Subsection 14.34.450(2)(c) of this Section shall be recorded with the Utah County Recorder.

(8) Upon expiration or revocation of a registration, the occupancy of extra living space authorized by such registration shall be terminated and the one-family dwelling shall be occupied only as authorized in the zone where the dwelling is located. A kitchen located within extra living space may be retained as provided by the agreement described in Subsection 14.34.450(2)(c) of this Section. Upon reasonable notice, Provo City personnel shall inspect the premises to determine compliance with this Subsection.

(9) The Mayor may adopt any regulation which the Mayor deems necessary to enforce the provisions of this Section.