



Provo City Planning Commission

# Report of Action

October 23, 2024

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**\*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

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

## RECOMMENDED DENIAL

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

Motion By: Andrew South

Second By: Jeff Whitlock

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

Daniel Gonzales was present as Chair.

- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not 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 pathway process, a history of ADU regulations in Provo, and answered Planning Commission questions regarding options still available to citizens on ADUs, and numbers of applications since the two pathways were made available.

### 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 responded to questions on Council motivation for the changes, noting that multiple options were presented to the Council, but in the end, they voted to repeal the administrative pathway process for ADUs.
- Development Services staff responded to the Commission, verifying that the administrative process has not been an issue and was easy enough for staff to process.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission verified that these changes would only leave legislative options for citizens to establish ADUs where they are not already permitted, noting that is an unfortunate result of the proposal.
- Lisa Jensen shared concerns that the ADU process will be more difficult but moves the burden from staff to the Council. That it may be a longer process but would remove the ability for a few neighbors to stop establishment of an ADU. She noted the fee reduction is a positive part of the proposal.
- Andrew South shared his disappointment that ADUs aren't being supported by the Council, that this proposal goes against the goals of the General Plan, and that these changes could lead to less compliance because the process is too much trouble for the average citizen. He also noted that the past few years of administrative ADU establishments have not had adverse impacts on the community.
- Jeff Whitlock stated that these changes will make ADUs more difficult and doesn't like the ability for four Council members to deny someone an ADU, that the city is moving in the wrong direction with these changes.
- The Commission noted that data shows more need for tools to help the affordability of housing, not less; and that ADUs are an important part of housing supply and affordability strategies.

### FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

The Commission viewed this proposal as not being in line with the General Plan and believes that it is making housing less attainable for the community, and therefore, can not support it.



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Planning Commission Chair



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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

**14.30.040**

**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)~~