

CITY OF SOUTH JORDAN
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS

September 8, 2015

Present: Chairman Russ Naylor, Commissioner Sean D. Morrissey, Commissioner Mark Woolley, Commissioner Richard Feist, Planner Brad Sanderson, City Planner Greg Schindler, Staff Attorney Steven Schaefermeyer, Deputy Recorder Cindy Valdez

Absent: Commissioner Beverly Evans, Commissioner T. Earl Jolley

Others: **Brent Pugh, Chelsey Pugh, Charles Rappley, Judy Young, Doris Marillo, Brent Anderson, Bart McQueen.**

6:30 P.M.

REGULAR MEETING

I. GENERAL BUSINESS

A. Welcome and Roll Call

Chairman Naylor welcomed everyone present.

B. Motion to Approve Agenda

Commissioner Woolley made a motion to approve the September 8, 2015 Planning Commission Agenda. Commissioner Morrissey seconded the motion. Vote was unanimous in favor; Commissioner Evans and Commissioner Jolley were absent.

C. Approval of the Minutes from the Meeting held on August 25, 2015

Commissioner Morrissey made a motion to approve the August 25, 2015 Planning Commission meeting minutes as printed. Commissioner Feist seconded the motion. Vote was unanimous in favor; Commissioner Evans and Commissioner Jolley were absent.

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. Staff Business

None

B. Comments from Planning Commission Members

None

III. CITIZEN COMMENT

Chairman Naylor opened the Citizen Comment. No speakers. He closed the Citizen Comment.

IV. SUMMARY ACTION

None

V. ACTION

None

VI. PUBLIC HEARINGS AND POTENTIAL **ADMINISTRATIVE ACTION ITEMS

**Administrative Action = Less Discretion, Substantial Evidence (Objective Standard)

- A. **Issue:** **H & R BLOCK**
 CONDITIONAL USE PERMIT – OFFICE SERVICE
Address: 11501 South 4000 West
File No: CUP-2015.12
Applicant: Joshua Binkley, SJ Marketplace LLC

Planner Greg Schindler reviewed background information on this item.

Joshua Binkley, 11501 S. 4000 W. South Jordan Utah 84095 – said I think Planner Schindler did a great job reviewing this project, so I really don't have anything more to add.

Chairman Naylor opened the Public Hearing to comments. There were none. He closed the Public Hearing.

A.2 Potential Action Item – (See VI.A.1)

Commissioner Feist motioned to approve application CUP-2015.12 to allow H&R Block to operate an office located at 11501 S. 4000W. Commissioner Woolley seconded the motion. Roll Call Vote was 4-0 unanimous in favor; Commissioner Evans, and Commissioner Jolley were absent from the vote.

- B.1 **Issue:** **ARTIFICIAL TURF**
 CONDITIONAL USE PERMIT
Address: 3673 West Falcon Meadow Way
File No: CUP-2015.11
Applicant: Alberto Burga

Planner Brad Sanderson reviewed back ground information on this item.

Chairman Naylor said is there a concrete mow strip that separates what they are proposing?

Planner Sanderson said there is a line there, but I don't know if it is a mow strip or not I think you will need to ask the applicant for verification.

Commissioner Morrissey said what I read is that there is a (tree strip) in the park strip area with natural grass.

Planner Sanderson said when this subdivision was approved it was not a PUD, so this is a conditional use on its own. There was a development agreement that was approved as part of this subdivision, but there is nothing that requires any kind of specific landscaping. However, there is an approved set of civil plans that states there needs to be sod, or trees in the park strip area, but the private area would fall under the code and ordinance that I read to you earlier.

Commissioner Feist said I read that there was a 10 to 20 year warranty, and then I read there was a 15 year warranty, does this meet the requirement?

Planner Sanderson said the warranties do range, but they generally are about 15 years, and one of the provisions or conditions is that the applicant provides us with the warranty. I would think that 15 years or higher would be acceptable.

Doris Marillo, 3673 West Falcon Meadow Way South Jordan, Utah 84095- I am Alberto Burga's sister and I am here to speak for him. This is a new home in a new area and my brother would like to put artificial turf in the front yard because he is working most of the time and found that turf would be convenient and looks nice.

Chairman Naylor said are you planning on putting in a concrete mow strip?

Ms. Marillo said no.

Chairman Naylor opened the Public Hearing to comments. There were none. He closed the Public Hearing.

Commissioner Woolley said the ordinance will allow turf in the front yard and side yard, but because of the previous development agreement the park strip needs to be standard sod, is that correct?

Planner Sanderson said that was not the development agreement it was the civil plans that were approved by staff.

Commissioner Feist said is there something that needs to be required for the warranty to be valid long term? I know that usually a company has a requirement for the installation of the product in order for the warranty to be valid, and if they don't, then maybe it maintains its integrity without a mow strip.

B.2 Potential Action Item – (See VI.B.1)

Commissioner Feist motioned to approve File #CUP-2015.11 for a Conditional Use Permit, for artificial turf within the front yard of residence located at 3673 West Falcon Meadow Way, subject to the (8) provisions by staff; and that the install conforms with the manufactures warranty agreement and installation instructions. Commissioner Morrissey seconded the motion. Roll Call Vote was 4-0 unanimous in favor; Commissioner Evans and Commissioner Jolley were absent from vote.

C.1 Issue: ACCESSORY LIVING UNIT - GUESTHOUSE
Address: 1962 West Ingot Way
File No: ALU-2015.16
Applicant: Brent & Chelsey Pugh+

City Planner Sanderson reviewed background information on this item.

Brent Pugh, 1962 Ingot Way South Jordan, Utah 84095- said I think Planner Sanderson did a great job of explaining the application.

Chairman Naylor opened the Public Hearing.

Brent Anderson, 1806 Lawrence Circle South Jordan, Utah 84095- said I really am not here for the Ingot Way property, but I would be remiss if I didn't try to address the accessor building that you approved along

Lawrence Circle. The accessory building that has been approved along Lawrence has caused a great deal of problems within the neighborhood. We once were a very tight knit community, and now there are neighbors talking about law suits, and they are trying to re-do the CC&R's. I am a residential appraiser, and if I would have bought an acre property I would have wanted my quiet enjoyment. Part of having my quiet enjoyment is not having it be densely used. I think that just because these properties are larger you want to put these accessory apartment/buildings there, and if you are going to allow this type of development to take place you will see the property value diminish.

Chairman Naylor said it is the City Council that passes these ordinances so if you disagree with the rules that we operate by, then I would suggest that you contact your councilman and see if you can't entice him to do some legislation that will adjust, or do away with the accessory units. If they are meeting the requirements there is no reason we can deny it.

Mr. Anderson said when you approved this, you approve it so that 2 adults could reside there, and I know there are 4 people living in the accessory unit on Lawrence Circle. If the City is going to put certain restrictions then there should be something in place to enforce that.

Chairman Naylor said if there are things that you do not believe are meeting the code restrictions then let our staff know so that it can be addressed by our code enforcement.

Mr. Anderson said I depend on ordinances, and I read ordinances, so when you don't even mention this overlay zone in your ordinance it causes a great deal of confusion. When you re-draft these ordinances you need to make sure the reader can understand what you are going to do.

Chairman Naylor closed the Public Hearing.

Chairman Naylor said I think looking at this structure they are not changing anything, but adding the dormers and I think that makes this structure more attractive.

Commissioner Morrissey said this meets all of the requirements so I don't have any objections to approving this.

C.2 Potential Action Item – (See VI.C.1)

Commissioner Woolley motioned to approve File No. ALU-2015.16 for a guest house at 1962 West Ingot Way with the (3) recommendation by staff. Commissioner Morrissey seconded the motion. Roll Call Vote was 4-0 unanimous in favor; Commissioner Evans and Commissioner Jolley were absent from the vote.

D.1 Issue: ACCESSORY LIVING UNIT - GUESTHOUSE
Address: 1863 West 9640 South
File No: ALU-2015.10
Applicant: Dave Webster

Planner Greg Schindler reviewed background information on this item.

Bart McQueen, 1863 W. 9640 S. South Jordan, Utah 84095- said I really don't have anything more to add to the presentation that was given by City Planner Greg Schindler.

Chairman Naylor opened the Public Hearing.

Brent Anderson, 1806 W. Lawrence Circle South Jordan, Utah 84095- said my concern is the trend that is occurring. All of the sudden we have these individuals that in essence want to build duplexes. If this trend continues there are going to be problems, and this is manifesting by what has happened so far. I know of two individuals who have moved because of an accessory building. One of the individuals was on the ARC Committee and he was threatened with a lawsuit. The other individual that lived behind them have moved. I think to approve and continue this trend is detrimental to not only this neighborhood, but also to South Jordan. I would encourage you to please re-examine your plan.

Chairman Naylor said I would like to reiterate that what we are presenting tonight meets all of the requirements. I think that the last item we approved did fit the property better than this one, but it still meets all of the requirements of our ordinance. I would encourage you to take your concerns up with the City Staff, or with the City Council who has some authority to change this if you feel that strongly about it.

Judy Young, 1863 Lawrence Circle South Jordan, Utah 84095- said I know that you are going to tell me there is nothing that we can do about this situation, but I do agree with everything that Mr. Anderson said previously. I have lived on Lawrence Circle for about a year and I have heard all about the problems that we have had. When I moved to Lawrence Circle I came from a condo development and I was on the HOA committee, so I don't want to come to a nice neighborhood and all of the sudden it becomes a bunch of rental units. I know that coming from that kind of environment we dealt with a lot of renters, and that seemed to be the people with the most problems in the community, and I would hate for that happen here. That is my concern and I wanted to voice my opinion.

Charles Rappley, 1913 W. Lawrence Circle South Jordan, Utah 84095 – said what I have to say is for general consumption, so I hope the folks will understand the concerns and the feelings of the neighborhood. I have (2) concerns:

1. I absolutely object to a (2) story accessory building. If they are going to have accessory buildings that they will not only keep them in the confines of the property, but they will keep as a (1) story building.
2. I object to them turning our ½ acre neighborhood into a ¼ acre neighborhood. We didn't move there to be in a high density neighborhood. We move there to have space and a quiet neighborhood.

I realize that nothing can be done at this time, but I would hope that in the future we can do something to preserve a ½ acre neighborhood.

Chairman Naylor closed the Public Hearing.

Chairman Naylor said I don't think this fits the property, it seems awfully big.

Commissioner Morrissey said I was looking at the ordinance and there is part of it that could be read two different ways according to how we want to interrupt it. The structure itself is required to be no more than 1500 sq. ft. in the living quarters, so I guess we would have to determine how that is interpreted. I just looked at the last proposal regarding the barn and it is worded differently regarding the 1500 sq. ft. accessory unit. I am confused regarding the verbiage in the 2 different staff reports.

Chairman Naylor said I think staffs interpretation of the 1500 sq. ft. applies only to the living unit.

City Planner Schindler said yes, that is what it says.

Commissioner Morrissey said is there a legal interpretation?

Staff Attorney Steven Schaefermeyer said this is a new structure and the other application was for an existing structure, so I will ask staff if this application was required to have a conditional use permit.

City Planner Schindler said it meets all of the codes for an accessory structure, which according to the code does not require any review if the accessory structure is less than the footprint of the main structure. The main structure in this case is 2837 sq. ft., and this one is 2354 sq. ft., so the structure itself should not require any Planning Commission Review. Pertaining to the ordinance the accessory unit portion of the accessory structure does not exceed 1500 sq. ft. so, the way I am reading it I am trying to figure out why it is before you in the first place.

Staff Attorney Steven Schaefermeyer said the part that you do not have before you is that it only comes before you if it is greater than 35%, so it would come down to the administration interpretation. I don't know that there is a clear answer in your staff report, and I don't know that I have the information before me tonight to give you clear direction.

Chairman Naylor said I don't know how you feel about this, but I would hate for this to be something that every Planning Commission meeting we are going to have another person coming in wanting to do another accessory building on their property based on how liberal our ordinance is. I think I would like to have our City Council take another look at this with a recommendation from the Planning Commission that this is something that we may not want to continue to do.

Commissioner Woolley said when I think of accessory living structure unit, I think of a studio, and on this one we are talking 3 bedrooms, a bathroom. This is like a full blown residence. When I look at the footprint on the site plan, the plan that we are looking at has to be modified because the setbacks are incorrect. They have been redlined, so the structure has to be narrowed, or has to be moved over. I am struggling with this one because of the size. I am wondering if that is why it is here tonight, because it truly did not come through as a plan at the same time as the home, and on one set of plans, it came in after.

Commissioner Feist said is there something in the code about accessory structures being 60% and less granted approval of up to 100% of the main structure?

Planner Sanderson said it depends on the zone.

Staff Attorney Steven Schaefermeyer said City Planner Schindler and I got on the same page and the reason this does not require a conditional use permit is because a conditional use permit is only required in the R-1.8 Zone. A condition use permit is only required in the R-2.5, R-3, R-4, R-5 and R-M zone.

Planner Sanderson said in section C. 17-130-030-020 the very last sentence says: "All guest houses require approval by the Planning Commission", so that is why it is before you tonight.

Staff Attorney Steven Schaefermeyer said the additional restriction that is placed on accessory living units is that you can have up to (4) addition related persons, or (2) additional unrelated persons to the others that are allowed in the other home structure.

Commissioner Morrissey said where is the interpretation of the 1500 sq. ft. coming from?

Staff Attorney Steven Schaefermeyer said there seems to be quite a bit of back and forth on the interpretation of the ordinance. The person who may officially interpret the ordinance is Brad Klavano who is the

Development of Services Director, if you feel that you need more clarification you can direct staff to have him put the interpretation in writing.

Commissioner Woolley said I would like some clarification on the ordinance, are we counting the footprint including the garage?

City Planner Schindler said I think we are looking at (2) different things here, and we probably should not have put anything in the staff report about the footprint, because it doesn't have anything to do with the proposal at all. It doesn't matter how big the footprint of that house is, or the garage, or if has an accessory unit or not, because it does not require your review or approval. What pertains is how big the living space is in that house, versus living space in the accessory living unit.

Commissioner Woolley said with all due respect I have to disagree, and I will tell you why. I think we have to understand the numbers, and I do not have them in front of me, but the ordinance says: "35% of the living space for the accessory building." If you take out the living unit part of it because this is a new unit being built, does it meet the requirement?

City Planner Schindler said it does not say 35% of the space or the new building, it says: "for the accessory living unit."

Commissioner Woolley said it says: "The maximum size of the floor space of the accessory living unit will comprise of no more than 35% of the living area of the primary dwelling."

City Planner Schindler said, but we don't know what the size of the primary living area is because it is not in the report, so if that is not enough information to go on then maybe it needs to be tabled.

Commissioner Woolley said we are going to have more of these come forward and I think it is important that we understand what that interpretation is, and if that is how the ordinance reads, then we need the information from staff letting the Planning Commission know if this ordinance meets the requirement, or if it does not.

Staff Attorney Steven Schaefermeyer said there has been quite a bit of discussion about what you are actually reviewing, and because this is a new building, and it is an accessory living structure you can review the exterior appearance, and the architectural compatibility, and additional requirements based on public health, safety, and welfare.

Chairman Naylor asked if this will go to the Architectural Review Committee.

City Planner Schindler said we don't have any code that requires it to go to the Architectural Review Committee.

D.2 Potential Action Item – (See VI.D.1)

Commissioner Woolley said although staff has given us great information tonight and I appreciate it. I think there is enough confusion on my part that I would like to move that we table this item, and instruct staff to:

- 1. To get a determination from the Development Services Director (is the 1500 square feet the entire accessory living unit, or is it just the live-able in-closed structure)**

2. Staff to look at the rest of the information, so that the data we are getting on the square footage mirror's what we need to enforce on the ordinance, and bring it back to the Planning Commission.

Commissioner Feist seconded the motion. Roll Call Vote was 4-0 unanimous in favor; Commissioner Evans and Commissioner Jolley were absent from the vote.

City Planner Schindler said I know it is too late to include in your motion, but is it your intent to have this come back on the next Planning Commission Meeting on Tuesday September 22, 2015?

Chairman Naylor said yes.

Commissioner Woolley said is it appropriate tonight for us to go ahead with our business and have a discussion to craft a recommendation to City Council?

Chairman Naylor said yes we can do that.

Commissioner Woolley said when Mr. Anderson spoke earlier what touched me was, when I think of an accessory unit, I think of a studio where your college student lives, or a newly married couple, or something of that nature, rather than a full blown rental. I think that part of what we asked the City Council to do is re-address this. I know we have looked at this and improved it immensely, but we have also left some gaps that need to be addressed. I love the concept. I just think we need to draw the lines as to what the definition of an accessory living unit is, and keep it from being a full blown rental.

Chairman Naylor said I don't think it was ever the intent to have duplexes.

Commissioner Morrissey said I was thinking along the same lines, I was also touched when Mr. Anderson spoke about his concerns. I have to agree with Mr. Anderson, it does feel like a misrepresentation. If I had moved in and that had happened, I think I would be a little frustrated with the situation, especially not being sophisticated in zoning and ordinances, because most people that move into new homes do not have that sophistication. They are going to move in thinking this is a single family area and believing that their best interest is going to be served in that area based on what they see. There is not going to be a notice from anyone else, not the seller, and not the City. It is one of two ways for me, we either limit it, or we provide a requirement to provide notice somehow when people move into those areas. I don't know which way to go because I have never recommended this kind of change before, so I lean on everyone else here for the experience they have had with these types of ordinances. I don't have that kind of experience. My (2) recommendations are that we:

1. Limit the scope
2. Provide an additional requirement on noticing

City Planner Schindler said I think the enforcement is going to be difficult. The reason this ordinance was put in the first place was because we found there were hundreds of homes that were renting part of their homes, but we had no proof, and we are not allowed to enter into the home to prove they have renters there. The only time we could really have any proof is when they would put up a 2nd mail box, so that is when we can get warrants and enter the property. A lot of times it is Missionaries, and that is illegal, but with this ordinance they could have other people living on the property because they have increased the number of people.

Commissioner Woolley said I lived in a community years ago that was not in Utah, and they grappled with this same challenge, and with the same enforcement of it. This is so difficult because you have those

that will be honest and follow the rules, and you have those that aren't, and that makes it very difficult. The maximum square footage they had was 1000 square feet and (2) bedrooms. That was the rule they had come up with. One of the first homes my wife and I lived in after we were married was an accessory living unit. It was a cottage and the entire thing was about 700 square feet, and it was great. If we don't restrict it down we are going to have a lot of just under 1500 square foot accessory units. I don't think we are against accessory units, but the size needs to be proportionate to what we are looking at.

Chairman Naylor said on this particular property, half the structure is a garage, and they obviously already have a garage.

City Planner Schindler said it was considered before to reduce it to 60% in the R-1.8 zone as well, but that would probably make the majority of accessory garages in the R-1.8 zone non-conforming. There are some garages in the City that are as big as the home and actually there are some that are bigger, but when they addressed the situation on Lawrence Circle that was taken away, and there is no more opportunity to have the larger garages.

VII. PUBLIC HEARINGS AND POTENTIAL *LEGISLATIVE ACTION ITEMS

*Legislative Action = More Discretion, Reasonably Debatable (Subjective Standard)

None

ADJOURNMENT

Commissioner Woolley made a motion to adjourn. All Commissioners were in favor. The September 8, 2015 Planning Commission meeting adjourned at 8:02 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez.

This is a true and correct copy of the September 8, 2015 Planning Commission meeting minutes, which were approved on September 22, 2015.

Anna M. West

South Jordan City Recorder