

**Pleasant Grove City
City Council and Planning Commission
Joint Meeting Minutes
September 22, 2015
6:00 p.m.**

PRESENT:

Mayor: Michael W. Daniels

Council Members: Dianna Andersen
Cindy Boyd
Eric Jensen
Cyd LeMone
Ben Stanley

Staff Present: Scott Darrington, City Administrator
David Larson, Assistant to the City Administrator
Degen Lewis, City Engineer
Mike Smith, Police Chief
Corey Cluff, Deputy Fire Chief
Ken Young, Community Development Director
Tina Petersen, City Attorney
Barbara Johnson, Planning Tech
Royce Davies, City Planner

Planning Commission: Drew Armstrong
Lisa Coombs
Jennifer Baptista
Amy Cardon
Scott Richards
Peter Steele
Matt Nydegger
Dallin Nelson (arrived at 6:50 p.m.)

The City Council and staff met in the City Council Chambers at 86 East 100 South, Pleasant Grove, Utah.

1) **CALL TO ORDER**

Mayor Daniels called the meeting to order and noted that all Council Members were present.

2) **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Reagan Lindell.

3) **OPENING REMARKS**

The opening remarks were given by Planning Commissioner, Drew Armstrong.

4) **APPROVAL OF AGENDA**

ACTION: Council Member Jensen moved to approve the agenda. Council Member LeMone seconded the motion. The motion passed with the unanimous consent of the Council.

5) **CONSENT ITEMS**

- a) **To consider the approval of Payment Request No. 1 for the Condie Construction Company Inc. for the FY 2014-15 Sanitary Sewer Improvements Project.**

ACTION: Council Member Boyd moved to approve the consent items. Council Member Andersen seconded the motion. The motion passed with the unanimous consent of the Council.

6) **REVIEW/DISCUSSION ON ACCESSORY APARTMENTS**

Community Development Director, Ken Young, reported that the Planning Commission has discussed accessory apartments several times throughout the summer. Tonight will be an overview of what has been determined from those discussions.

City Planner, Royce Davies, explained that the Fire Department has indicated that accessory apartments have a Building Code that follows through with egress and stair tread. Smoke and carbon monoxide detectors should also be included. The Fire Department reported that fires in accessory apartments tend to result in more injury than loss of life. Mr. Davies noted that the State recently implemented new recommendations for egress; however, a municipality may not require physical changes to install an egress or emergency escape window in an existing accessory apartment. Therefore, the new recommendations will apply to new accessory apartments moving forward.

Mr. Davies presented the Planning Commission's report on accessory apartments. He explained that a purpose statement should address the characteristics an accessory apartment should maintain. They should be accessory to the primary use and not be obvious in appearance. With regard to property values, the Commission discussed the fact that property values with accessory apartments tend to increase. Staff had not been able to find supporting data relevant to how accessory apartments affect surrounding property values. However, in general when property value increases, it has a positive impact on neighboring properties. Much of the discussion on property values is based on perception.

The Commission did not feel that accessory apartments will create an increased usage and service provision for the City because utilities are metered. Increased use means increased cost to the property owner, thereby covering the impact. In response to a question from Council Member Andersen, Mr. Davies explained that increased utilities will not affect zoning.

Increases in crime are based on the number of people; however, crime is not inherently tied to a specific type of housing. Increased emergency services are largely based on the number of units compared to the number of people in a dwelling. In other words, just because there are more units in one structure does not mean there are inherently more people in the structure than in one with fewer units. The current City Code allows for an unlimited number of people to live in a single unit if they meet the definition of "family". City Attorney, Tina Petersen, defined "family" as anyone who is related by blood or marriage.

In discussing parks and recreation, discussions had taken place as to whether or not fees per household can be implemented in order to support the potential impact on the amenities. The Commission ultimately determined that it would be difficult to differentiate between people living in an accessory apartment as opposed to people living in a mother-in-law apartment. They decided that separate addresses should be required for accessory units. Furthermore, the Commission concluded that no fees other than building permit fees should be assessed.

One concern pertained to increased consumer spending in the City with no additional construction impact. This, however, is economically difficult to track. Staff could potentially compare census tracks with spending. Increased road use is likely to be minimal or so small as to be insignificant. Mr. Davies mentioned that additional parking requirements have been built into the ordinance. For an accessory apartment, there will only be two extra parking spaces allowed. Property taxes pay for schools and it is anticipated that accessory apartments will increase property values, thereby generating more taxes. Other than this it isn't likely that there will be a significant impact because most of the accessory apartment residents will be young couples with small children.

No impact fees should be assessed because impact fees relate to system improvements. Impact fees are automatically assessed for new construction and a home with a newly built apartment will be assessed accordingly. The Police Department suggested that enforcement be reactive or complaint based due to limited resources. A fine for failing to register an apartment should be enacted with an initial grace period of two years where the fine is not enforced. This should encourage existing owners to register their apartments. The City cannot reasonably expect to hire someone new to enforce the apartment laws with the current budget. The cost of additional enforcement would have to be funded by fees, which are likely to contribute to the problem of people failing to legalize their apartments.

Currently the City has no regulations in place for accessory apartments, which makes them difficult to manage. Overregulation, however, can also drive people to not legally register their apartments. Furthermore, because the City does not have strict regulations in place for mother-in-law apartments, which are allowed by City Code, it does not make sense to heavily regulate accessory apartments.

For older, existing situations, State law states that the City cannot regulate in terms of non-conforming dwellings with egress windows. City Code should be modeled after the State Code concerning non-conforming existing situations. A section in the Accessory Apartment Code could be added to exempt existing structures and apartments from the general guidelines laid out in the rest of the Code on a case-by-case basis. Life safety issues can be regulated by inspections. Liability for any damages that occur as a result of an accessory apartment will be borne by the property owner. The City would not have any liability for accessory apartments that have been inspected and approved by City personnel as meeting building Code requirements. There was discussion regarding how to make addresses visible. It was suggested that the main home and apartment be labeled as "A" and "B" directly on the home. Each specific address would need to be registered with the Post Office.

Mr. Davies mentioned several other recommendations from the Planning Commission. No fees other than for building permits should be assessed. Only one apartment should be allowed per property and detached structures should be permitted. The main home should be occupied by the owner, otherwise the accessory apartment becomes a duplex. The Commission was split between requiring zero and two spaces. Four members were in favor of requiring no additional parking. One member favored requiring one additional space and one other member favored requiring two additional parking spaces. Four off-street parking spaces are currently required for all single family homes in the City. Council Member LeMone recalled that a couple of years ago there was discussion about changing the ordinance to allow a resident to have a gravel side yard. Attorney Petersen remarked that while she remembers there being a discussion, she would need to research the decisions made.

Accessory apartments should have separate entrances for each unit that are accessible from the exterior of the structure and not through an internal access (such as through a garage). Planning Commissioner, Jennifer Baptista, commented that she argued against this recommendation, because she owns a home that could be classified as having an accessory apartment. However, it is a bi-level home with a main entrance that doesn't go into either level, but rather into a platform with stairs that go upstairs and downstairs. She also has one external exit that goes through a garage with an automatic door. Installing an exterior door would be a significant excavation and huge expense. If there are additional expenses associated with registering existing accessory apartments, the residents will not comply. Attorney Petersen explained the laws behind grandfathering in existing accessory apartments. Commissioner Armstrong commented that the Commission was concerned with how emergency services would access the accessory apartment without an external entrance and noted that there has been significant debate on the matter.

Living areas are required to have at least one kitchen and one bathroom. Last, utility meters should not be required to be separated by units, but be at the owner's discretion. Attorney Petersen stated that the City currently requires renters to have utilities remain in the property owner's name, thereby making the owner responsible for collecting the utility payment from their renter. Commissioner Baptista explained that some condominium units have one meter for several units, which makes it difficult to determine individual usage. If an owner opts to have a separate meter for their renter, it will be easier for them to break down the utility bill separately based on individual usage.

Deputy Fire Chief, Corey Cluff, used Commissioner Baptista's home as an example to explain that if there was a fire in her garage, the entrance to the accessory apartment would then be blocked. Alternatively, if there is a fire in the stairwell there won't be a way for residents to get out of the house.

Commissioner Baptista remarked that the City uses utility billing as an additional way of communicating with the public. She suggested that a second copy of the billing be printed for renter's living in accessory buildings.

The Council reviewed each of the items for additional discussion. Council Member Stanley questioned whether evidence could be collected on the effect accessory apartments will have on property values. Director Young reiterated previous comments made by Mr. Davies that accessory apartments will increase the value of homes, thereby increasing the overall property value in the neighborhood. Planning Commissioner, Scott Richards, added that homes with a walkout basement have more value, regardless of whether they are used as an accessory apartment.

Mayor Daniels was in favor of leaving the matter of whether to meter an accessory apartment up to the owner. He asked Deputy Chief Cluff to elaborate on whether accessory apartments attract more crime. Deputy Chief Cluff explained that they have never tracked crime associated with accessory apartments. Council Member Andersen stated that having owner occupied units will solve problems associated with crime.

Mayor Daniels summarized the items as they were presented. He asked if anyone had checked with the school district to see if they have any data on whether accessory apartments would have a significant impact. Teachers are very aware of the circumstances of their students. Commissioner Baptista remarked that the City should not dictate what the school district needs to do and explained that students are assessed per school not based on living conditions. There was continued discussion regarding impact fees. It was noted that impact fees only relate to new construction.

Mayor Daniels commented that the City should not create ordinances that they cannot and have no intention of enforcing. Police Chief, Mike Smith, spoke about the importance of creating ordinances as a way of addressing safety needs. Mayor Daniels explained that the City needs a method of providing adequate attention to certain complaints as well as the resources to cover associated costs. Staff and the Council discussed situations where an accessory apartment hasn't been registered within the two-year grace period. It was noted that the owner will receive a complaint and will then be fined.

Council Member Jensen described how Orem City deals with accessory apartments. Commissioner Richards suggested that applicants review a checklist upon registering their accessory apartments, thereby allowing them to indicate whether they meet the requirements. The owner should also have the ability to submit photos to the City. In the event that an emergency occurs and public safety personnel discover that the owner made false statements about their property, they can be fined accordingly. Commissioner Armstrong suggested that the City communicate these requirements and the registration process to the public.

Council Member Boyd was not optimistic that very many people with existing accessory apartments will come forward to legally register their apartments. There was debate about whether a grace period, fines, and enforcement will be an effective strategy to encourage citizens to register their apartments. Council Member Andersen suggested that the City communicate to the public that their primary intent in creating the ordinance is the health, safety and welfare of the community.

Attorney Petersen explained that the details of older, existing situations will get sticky, because the State Statute does not address all of the issues. She stated that there is a small section of apartments that if they were to come in to register, through the zoning verification process the City would find that they were legally established during the period of time when they were allowed in that zone. Other residents may also come in to register who had accessory apartments that were previously not legal, which will only be permitted in by meeting the requirements set forth in the new ordinance. Commissioner Armstrong read a statement directly from the State Statute.

With regard to permit and registration fees, Attorney Petersen stated that the Council needs to determine whether the City is capable of absorbing the additional man hours required to process the registrations on the current budget. Mayor Daniels suggested implementing a nominal business/administrative fee. Administrator Darrington stated that once the City knows at what level they will be processing registrations they can better determine a fee, if necessary.

Council Member Stanley asked why only one apartment will be allowed per property. Staff explained that this requirement will simplify regulation enforcement. Director Young added that the City needs to stick with the spirit and intent of the zone. Mayor Daniels agreed with Director Young and explained that as the economy changes so does land use and people's desires. Planning Commissioner, Amy Cardon, remarked that other cities do not allow accessory apartments. Others, however, have recently adopted similar ordinances to allow for low-income housing and FHA Home Mortgages. Commissioner Cardon pointed out that the Grove District is full of multi-family housing already.

Mayor Daniels expressed concern with off-street parking and mentioned that many of the parking issues in the City are for their families only. Some larger families have four or five cars. Mayor Daniels stated that this is no different from a home where there are two unrelated families living together. Commissioner Baptista mentioned that this was a subject of debate with the Commission and noted that she personally was in favor of not requiring additional parking.

Commissioner Armstrong was in favor of one additional space because he felt it would work better with the ebb and flow of the neighborhood. Attorney Petersen agreed. Council Member LeMone was also in favor of making additional parking a requirement. Mayor Daniels commented that there are very compact neighborhoods in Pleasant Grove, which makes them difficult for emergency vehicles to access. Council Member Boyd suggested that the term "additional" not be used and instead indicated that all parking has to be off the street. Parking space will then depend on the size of the lot.

Mayor Daniels asked Chief Smith if they would have the manpower to enforce a requirement of not allowing any off-street parking. Chief Smith responded that they probably couldn't enforce it

proactively, however, they could enforce the requirement on a complaint basis. He added that if the requirement will benefit the City, it should be put into the Ordinance. Director Young commented that there needs to be some measurement of a dwelling unit. He explained that there could be single renters in those apartments one year and another there could be an entire family move in. There was further debate and Council Member Boyd stressed that the accessory apartment needs to fit in with a single-family neighborhood. Planning Commissioner, Peter Steele, added that it will be difficult to enforce a blanket requirement of having no off-street parking. He opined that have a set amount of required off-street parking would be the most effective.

Jack Freeman gave his address as 450 East 100 North and expressed frustration with not being able to park in front of his own home, especially when his frontage is lined with other people's cars. He suggested that off-street parking be required for accessory apartments.

Mayor Daniels asked the Council if they feel that off-street parking should be provided as a requirement in the accessory apartment ordinance. Council Member Andersen was comfortable with the proposed wording. Council Members Stanley, Jensen and LeMone preferred that a minimum number of off-street parking spaces be required. Director Young explained that staff had been studying what other communities have done for several years and based on their experience and the requirements in other cities, staff recommended a minimum of two parking stalls be required. Council Member Boyd did not agree with requiring a minimum of two off-street parking spaces. The Council informally agreed 4-to-1 to include the proposed requirement. Attorney Petersen read the proposed ordinance.

Mayor Daniels explained that having separate entrances for each unit is essential to the health, safety and well-being of citizens and in certain emergencies could even be critical for saving lives. The Council unanimously agreed. The last item on the list, utility meters, was previously discussed as being left to the discretion of the property owners. The Council also unanimously agreed on this item. Director Young then read through the proposed ordinance and the Council Members were advised to make notes for staff. Attorney Petersen described the procedure for formally adopting the ordinance.

Attorney Petersen explained that she and Director Young will need to discuss how to classify and fine violations to the ordinance. Director Young added that violations will be handled on a case-by-case basis. Council Member Boyd asked who will enforce the ordinance, especially when a resident comes forward and whose home does not meet the requirements for an accessory apartment. Director Young stated that there may be some resulting uncomfortable political situations. The initial determinations, however, will first be made by the City's Building Inspectors and Community Development staff. Staff reviewed the timeline and process for formally adopting the ordinance moving forward. In the best case scenario, the ordinance could be adopted within one month. Mayor Daniels thanked staff for their research.

7) **NEIGHBORHOOD AND STAFF BUSINESS**

Staff shared updates pertaining to their respective departments. NAB Chair, Libby Flegal, asked when the Battle Creek Tennis Courts will be opened to the public. Mayor Daniels responded that as per communications sent to him, the ribbon cutting was moved to an unspecified date in

October. City Engineer, Degen Lewis, reminded the Council that they have two plats to sign tonight. Administrator Darrington reported that the first round of interviews for the Finance Director position would take place the following day.

8) PLANNING COMMISSION BUSINESS

Commissioner Baptista explained that since she was appointed she has attended several trainings in which Conditional Use Permits (CUP) have been discussed. In her trainings, she has learned that CUPs should be limited and noted that some cities don't issue them at all. She spoke with staff and the Commission on this issue and wanted to get feedback from the Council. She suggested that some of the City's ordinances be updated to eliminate some conditional uses.

Mayor Daniels referenced the Sheridan appeal and asked what the effect would have been had there not been a CUP in place. Attorney Petersen explained that for the last several years cities have been advised to go through their conditional uses in each zone and decide whether they should remain conditional, become permitted, or be omitted altogether. Community Development has been working on making those determinations for the City's ordinances.

Council Member Andersen suggested that certain Waivers of Protest also be reviewed, namely those pertaining to sidewalk, curb, and gutter. Commissioner Baptista added that in conducting research she discovered that 14 waivers have been issued since 2008. Commissioner Armstrong explained that waivers are in place as an exception to the rule because they make sense in certain circumstances. Commissioner Richards commented that sidewalks are assessed on a case-by-case basis. Mayor Daniels suggested that a separate discussion take place regarding Waivers of Protest. Attorney Petersen explained that Waivers of Protest were supposed to be a mechanism for equitable relief. While it is desirable to have sidewalks throughout the City, Waivers of Protest are beneficial in cases where it doesn't make sense for the City to require them. They are supposed to be used sparingly and not become an automatic exemption from the street improvement requirements.

Commissioner Coombs thanked everyone who supported the Heritage Jubilee. There was a very good turnout and several citizens have already inquired on next year's event.

Note: The Planning Commission was dismissed at 9:04 p.m.

9) MAYOR AND COUNCIL BUSINESS

Council Member Jensen thanked the Planning Commission for their hard work and research on accessory apartments. Council Member Andersen reported that she attended two events this week. The first took place at Culinary Crafts and the second was with the Economic Development Corporation Utah, which was also attended by Council Member Stanley. Council Member Stanley agreed that the EDCU event went well and suggested that the Council further discuss the EDCU in an upcoming meeting. Staff agreed to put the matter on a future agenda. Council Member LeMone noted that the PSBC Meeting scheduled for the following day was moved to Wednesday, September 30.

Mayor Daniels announced that Water Gardens received a call from Associated Foods and they will be make a presentation to their Managers the following Tuesday about going into their stores with Water Gardens popcorn, kettle corn, and theater corn beginning October 1. Once the popcorn gets into the warehouse it expands from 60 stores to possibly 500 stores throughout the Intermountain West.

10) DISCUSSION ITEMS FOR THE SEPTEMBER 29, 2015 MEETING.

Item 9A will be a public hearing to consider adoption of an ordinance to vacate the Millcreek North Plat "A" Subdivision. Engineer Lewis gave a brief overview of the item. Item 10A will be for an ordinance for the Mayor to sign a Franchise Agreement with Veracity Networks to install fiber optic connections to end users within the City's rights-of-way. Attorney Petersen explained that Veracity Networks is a wholesale provider of telecommunication services. They have submitted all of the necessary paperwork to the City. Item 10B will be for a final plat for Parkside Subdivision. Director Young explained that this will change the boundaries of one property to meet building requirements.

11) SIGNING OF PLATS

The following plats were signed: Muirfield Plats "A" and "B"

12) REVIEW CALENDAR

Mayor Daniels reported that he will be out of town on October 6, 2015.

13) ADJOURN

ACTION: Council Member LeMone moved to adjourn. Council Member Andersen seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council and Planning Commission Joint Meeting adjourned at 9:10 p.m.

Minutes of September 22, 2015 Joint City Council and Planning Commission were approved by the City Council on October 6, 2015.

Kathy T. Kresser, City Recorder

(Exhibits are in the City Council Minutes binders in the Recorder's office.)

Minutes of September 22, 2015 Joint City Council and Planning Commission were approved by the Planning Commission on October , 2015.

Barbara Johnson, Planning Tech