

**MINUTES OF THE CITY OF HOLLADAY
PLANNING COMMISSION MEETING**

Tuesday, January 23, 2024

5:30 p.m.

City Council Chambers

4580 South 2300 East

Holladay, Utah

ATTENDANCE:

Planning Commission Members:

Dennis Roach, Chair

Paul Cunningham

Jill Fonte

Angela Gong

Brian Berndt

Ginger Vilchinsky

City Staff:

Carrie Marsh, City Planner

Ann Frances Garcia, Economic Development
and Housing Manager

Brad Christopherson, City Attorney

WORK SESSION

Chair Dennis Roach called the Work Session to order at approximately 5:34 p.m.

The agenda items were reviewed and discussed. Chair Roach reported that there is one item on the Regular Meeting agenda, Text Amendment for Chapter 13.14.031 – Accessory Building Units.

City Planner, Carrie Marsh, asked whether Commissioners had questions about the proposed changes to Chapter 13.14.031. She reported that there was previously a discussion about the proposed Text Amendment in the fall. Some changes have been made since that time. The language defines owner occupancy, which is consistent with the Home Occupations language, so there is a formal definition in both sections. Commissioner Cunningham asked about the definition. He pointed out that the actual owner never has to live in the home as long as someone is there who is related by blood, marriage, or adoption. Ms. Marsh explained that owner-occupancy can be difficult in terms of enforcement. However, there is a property ownership affidavit, listing the owner and the agent. A lot of properties in Holladay are owned by LLCs or the property is put in a family trust. Having consistency about what a family member is defined as will be beneficial.

The other notable addition to the proposed Text Amendment is the addition of standards for the conversion of an existing accessory building. The direction from the City Council was to include standards in the code to address conversion. Ms. Marsh reported that the lot minimum size of half an acre or twice the minimum lot size was removed. The reason that was removed is that there is a guesthouse allowance on properties that are half an acre or larger. It is also consistent with the polling data from when the accessory dwelling unit (“ADU”) text was done in 2021. She clarified that the Planning Commission did not initially include that qualification when the recommendation was made to the City Council, but it was added by the Council after the hearing.

There was discussion about the reason for the proposed Text Amendment. Ms. Marsh explained that the State is looking at the actual application of the Moderate-Income Housing strategies. There are several strategies outlined in order to meet Moderate-Income Housing goals. In the reporting for Moderate-Income Housing, the State wants to see that the City is taking action on those. The strategy outlined in the Staff Report is to reduce regulations related to ADUs. Commissioner Jill Fonte wanted to know if the proposed amendments will essentially allow ADUs on smaller properties than what is currently allowed in the community. Ms. Marsh confirmed this.

Commissioner Ginger Vilchinsky shared information about a previous application. Three different owners came in together because there was a desire to rezone. However, those properties were not large enough to have an ADU. With this Text Amendment, she believed those owners will be able to build an ADU. Ms. Marsh discussed the three properties. One has an existing detached accessory building that has a studio or basement unit. It cannot currently be used as an ADU, so it is considered bonus space. Amending the text to allow the conversion of existing accessory buildings to dwelling units will allow the property owner to make that conversion. As for the other two properties, one is 0.40 acres and the other is 0.30 acres.

City Attorney, Brad Christopherson, noted in the past, the Legislature mandated that out of several different Moderate-Income Housing strategies, a certain number need to be selected as part of the Moderate-Income Housing Plan. He read from 10-9a-403 – General Plan Preparation:

- A Moderate-Income Housing Element that:
 - Provides a realistic opportunity to meet the need for additional moderate-income housing within the municipality during the next five years.

Mr. Christopherson explained that there is also a reporting requirement. The initial requirement was to have a Moderate-Income Housing Plan, but after that, there was also a requirement to report back on progress made. That is what the proposed Text Amendment relates to. It does not simply have to do with a previous application that came before the City, but with the City taking action.

Economic Development and Housing Manager, Ann Frances Garcia, stated that she is available to answer questions about the Moderate-Income Housing goals and the direction received from the City Council. Ms. Garcia reported that there were 26 strategies to choose from and the City chose six. There need to be actions associated with each strategy. The revision to the Moderate-Income Housing Plan was approved in February 2023. Reporting was due August 1, but it was a challenge because it was only possible to report on actions completed from the date the plan was approved.

Commissioner Fonte asked about the six options that were selected from the possible 26 strategies. Mr. Christopherson explained that Holladay is mature and near build-out. As a result, adopting some of the other strategies would be very difficult. Commissioner Fonte asked about the penalties for non-compliance. Mr. Christopherson reported that it impacts access to the Olene Walker Housing Loan Fund and transportation funding. The penalties are increasingly more punitive the further out a community is from compliance. Ms. Garcia clarified that it is possible to apply for transportation dollars if a city reports on five strategies. If there is not a plan or report that is in compliance, there are some associated fees. Mr. Christopherson noted that there is a per-day fine

for communities that are found to be out of compliance. That being said, there are some requirements, like a city having a certain population size, before those penalties are triggered.

Commissioner Angela Gong noted that the Staff Report includes a table that talks about active permits for ADUs. The numbers did not seem high. She wondered what level of demand there will be if the Text Amendment moves forward. Ms. Marsh believed there will be an increase similar to what was seen with internal accessory dwelling units (“I-ADU”). It is unlikely that there will be a significant increase, but there will likely be some increase in the amount of ADUs.

Commissioner Cunningham asked if apartment complexes and the Holladay Hills area contribute to the commitment to Moderate-Income Housing. Ms. Marsh confirmed that those units contribute. There was discussion about rezoning. Ms. Marsh explained that there will always be rezoning applications, especially in built-out communities. There will also be discussions about areas that will eventually transition into higher uses, which is standard across all cities. Ms. Garcia discussed the Moderate-Income Housing Progress Report. It is done on an annual basis. There needs to be proof that progress is being made and some form of affordability is being provided.

Commissioner Gong asked for a definition of moderate. She pointed out that moderate income in Holladay is likely to be different than it is in some other communities. There was a desire to understand whether the idea of moderate is relative to the average housing price. Ms. Garcia confirmed this and explained that it is based on the area median income (“AMI”). The AMI of Salt Lake County is \$106,000. 80% and below that number is considered to be moderate.

Chair Roach believed that if the Text Amendment is approved, the intent is to allow external accessory dwelling units (“E-ADU”) to be created with defined parameters. He wondered whether that will open the door for new development to come in and put a row of houses on small lots and then put rental units behind each one. Ms. Marsh noted that it is possible, but unlikely. She pointed out that ADUs may actually make it easier for people to purchase homes and stay in them longer.

Commissioner Fonte wanted to know how much choice the City has when it comes to the proposed Text Amendment. Ms. Marsh confirmed that there are choices available to the City, but noted that the pressures will increase in the future. That being said, even if changes are made to the language, it does not necessarily mean there will be a rush of applications for ADUs. Commissioner Fonte thought someone could buy land, build small homes, and build small ADUs. She has seen this happen in communities in California, where there are a lot of buildings and no places to park. Those types of changes can happen slowly over time. It is important to preserve what is special about Holladay and consider the future impacts of these types of amendments. Commissioner Cunningham did not know why the City is in such a rush to change the ordinance. If the Text Amendment is approved, Holladay will be one of the first cities to move ahead on this.

Chair Roach closed the Work Meeting at 6:03 p.m.

CONVENE REGULAR MEETING – Public Welcome and Opening Statement by Commission Chair.

Chair Roach called the Regular Meeting to order at approximately 6:03 p.m.

PUBLIC HEARING

1. Text Amendment – Chapter 13.14.031 – Accessory Building Units. Review and Make a Recommendation to the City Council on Proposed Amendments to Title 13 of the Holladay City Code, Land Use and Development Regulations as they Relate to Accessory Dwelling Units. Item Reviewed as a Legislative Action, According to Procedures set forth in Holladay Ordinance §13.07.

Discussions about the proposed Text Amendment to Chapter 13.14.031 – Accessory Building Units continued from the Work Session. Chair Roach noted that during the Work Session, concerns were expressed about the intent and the scope of the amendments. Commissioner Vilchinsky referenced the previous rezone application that was mentioned during the Work Session. Many members of the public spoke out about that application and expressed concerns. She is uncertain about recommending changes to the text knowing that residents are in opposition.

Commissioner Brian Berndt wondered if a Building Permit for an accessory building would be issued if the lot coverage, setbacks, and building separation requirements were met. Ms. Marsh confirmed that a Building Permit for an accessory building would be issued in that instance. Commissioner Berndt wanted to understand the concerns about the proposed Text Amendment. Since the ordinance outlines specific requirements for these types of units, to some degree, the impacts will be mitigated. Ms. Marsh explained that the intention is to mitigate potential issues. It is already possible to have accessory buildings. If something is going to be used as a dwelling unit, then offsetting the impacts of that use needs to be taken into account. She suggested considering the impacts of an I-ADU versus an E-ADU. The parking impacts will be the same for both. The main difference is that an E-ADU can result in dwelling units closer to property lines.

Commissioner Berndt asked if it makes sense to require ADUs to have the same setbacks as the primary unit. Ms. Marsh confirmed that there are cities that do this. Commissioner Berndt noted that the Text Amendment allows for the conversion of existing accessory buildings. Even if those were legally non-conforming, those accessory buildings can still be modified under this proposal. Ms. Marsh confirmed this but noted that if someone wanted to add a second level to the accessory unit, there will still be a graduated height requirement that needs to be met.

Commissioner Berndt worried about the conversion of existing accessory buildings. Ms. Marsh explained that Staff's preference for E-ADUs is to have them meet the standards. For an existing building on a property, it might make sense to not allow dwelling space in the existing building, but allow it to be added onto the existing building as long as it meets the standards. Commissioner Berndt believed that suggestion meets the intent of the Legislature's goals. That approach will protect neighborhoods, but will also work towards the goal of additional housing stock. He thought it made sense for the City to move forward that way rather than simply allowing conversion.

Chair Roach shared an example scenario and referenced the greenhouse on his lot. It is an existing accessory building. If this Text Amendment passed, as currently drafted, it would theoretically be possible to put a two-story building in his backyard as long as the windows did not face the neighbors and it is not taller than his existing house. Ms. Marsh clarified that it depends on the

setbacks. If a second level is added, it still needs to meet the graduated height requirements. Additionally, if the footprint is close to the property line, it is not possible to add a second story.

Chair Roach understood the intention of what was proposed in the Text Amendment. He also agreed that there needs to be more housing to accommodate the population growth. For the Butternut Road rezone that was rejected previously, he was not as concerned about the properties that were less than half an acre, but there was a house with a mother-in-law apartment. Since that mother-in-law apartment did not open into the home, but on the side, it was not allowed to be used as a dwelling unit. He felt it made sense to have language to address those kinds of issues.

Ms. Marsh shared an option for second levels. It is possible to allow single-level ADUs within a closer setback. If there was a desire to add a second level, then it would need to meet the setbacks required for a main structure. Commissioner Fonte believed there was a difference between building a separate structure and building a separate structure that someone will live in. She thought the discussion on this matter might need to be continued so more information can be presented. She understands that there is an issue that needs to be addressed, but she wants to consider all of the different alternatives. What has been presented is just one possible solution.

Commissioner Gong likes the idea of ADUs because ADUs increase density while maintaining a residential feel. She has questions about interactions with neighbors, so the suggestion about single-level ADUs with a closer setback, as proposed by Ms. Marsh, is something she is interested in hearing more about. Commissioner Gong likes the idea of converting existing structures, as that makes ADUs more accessible, but some implications need to be considered.

Commissioner Gong referenced the Butternut Road rezone proposal. At that time, many residents came to share comments about traffic. She acknowledged that as the population continues to grow, traffic will increase and parking will become more difficult. There is some uncertainty about how to address that because there will be more people and more vehicles as a result. Ms. Marsh discussed public transportation opportunities. She noted that smaller units sometimes limit the number of vehicles. If the ADU only provides one parking spot, but someone has multiple vehicles, it is unlikely that the ADU will be selected by that person. Chair Roach asked about the primary concerns Commissioner Gong has. She explained that one of her primary concerns has to do with maintaining a sense of privacy if ADUs are permitted to be closer to the property lines. One way to address that is to keep the ADUs lower in height so it is not as intrusive to neighbors.

Commissioner Vilchinsky appreciated the comments shared by Commissioner Gong. However, she purchased her home in Holladay, because it is a large lot with outdoor living space. All of her neighbors have detached garages that are within three feet of her property line. One of her neighbors has two accessory buildings. If those neighbors are allowed to turn the accessory buildings into ADUs, that will dramatically impact her life. She understands that people should be able to use their properties, but feels it needs to be done in a way that does not negatively impact neighbors. Chair Roach asked whether the surrounding properties are half-acre lots. Commissioner Vilchinsky reported that there are smaller lots. The two houses next to her home are larger lots, but the ones in the back are smaller. Commissioner Gong understood the concerns expressed.

Chair Roach wondered whether a lot size restriction might ease the concerns expressed by Commissioner Vilchinsky. For instance, if only the larger lots next to her home were permitted to have ADUs rather than all of the smaller lots as well. Commissioner Vilchinsky reported that some of the neighboring homes have I-ADUs. Ms. Marsh clarified that only one ADU is permitted, so both an I-ADU and E-ADU are not allowed. Commissioner Cunningham believed there are informal moderate-income housing units in the City that are not registered. Ms. Marsh confirmed that likely people are renting out basements without an ADU license. If the license is not obtained, there is no way for the City to know that the unit is being rented out.

Ms. Marsh reported that there is a maximum accessory building footprint. It is possible to alter that to be smaller for an E-ADU. She explained that it currently scales based on the property size. Structures will also be regulated by lot coverage. Structures can only cover a certain percentage of the property. Even with Conditional Use Permits, it is not possible to go over the lot coverage percentage. She shared information about the setback distance for main structures and discussed the possibility of the Planning Commission limiting E-ADUs to the building footprint of the main structure. Chair Roach asked if there is a minimum setback between the main structure and the E-ADU. Ms. Marsh stated that the Building Code requires there to be five feet.

Information about lot coverage was shared with the Commission. Ms. Marsh explained that it is the percentage covered by all structures. On a lot that is less than 10,000 square feet, the structures can only cover 35% of the lot. Chair Roach pointed out that this does not include any of the cement hardscape associated with the house, as the measurement relates to the roof structure. Ms. Marsh reported that the rear yard is limited to 25%, so it is not possible to cover more than 25% of the rear yard. She next shared the accessory building footprints permitted. For a one-quarter-acre property, the maximum would be 850 square feet. If there was a desire to build something with a larger footprint than that, there would need to be a Conditional Use Permit. She informed the Planning Commission that 850 square feet is generally about the size of a small two-bedroom apartment.

Chair Roach referenced the draft language for the Text Amendment and asked if it requires the same setbacks. Ms. Marsh explained that the setback information was shown on Lines 44, 45, 46, and 47. The Commission can alter Line 47 if there is a desire to limit the E-ADU to a single level within a certain distance. Commissioner Vilchinsky reiterated that her concerns have to do with the non-conforming accessory buildings. Commissioner Cunningham asked if it is possible to have language that makes it clear that the Text Amendment does not legitimize or legalize an existing non-conforming accessory building. Ms. Marsh reminded those present that the City Council directed Staff to look at the conversion of existing accessory buildings.

Ms. Marsh asked if there are standards the Planning Commission believes can offset the impacts of conversion. Commissioner Cunningham did not believe the burden should be placed on the impacted neighbor. The neighbor should not have to install a higher fence or add additional landscaping. Ms. Marsh explained that there can be standards placed on the property owner.

Chair Roach reported that he has a legal non-conforming shed that is less than one foot away from the fence. If he chose to convert that because no doors or windows are facing the neighboring property, that would impact neighbors. He wanted to know if there is a way to alter the language so it states that existing structures converted to dwelling units must be within certain setbacks. Ms. Marsh noted that it could state that dwelling space cannot be added within that structure, but an area can be added onto that structure that is compliant with E-ADU requirements.

A recent example scenario was shared. Ms. Marsh reported that there was a permit for an enclosed swimming pool within the accessory building setback. Next to that, a pool house was built. The original plan had a bedroom, kitchen, and bathroom in the pool house. The applicant was close enough on the setback that it met the standard for an accessory building but did not meet the standard for an ADU. In a situation like that, something needs to be recorded against the property to state that it cannot be used as an ADU. Chair Roach explained that the Planning Commission is not opposed to E-ADUs, but there is a desire to make sure that whatever is permitted does not create issues for neighbors. He asked if the owner-occupant can live in an accessory unit and rent out the main structure. This was confirmed. Ms. Marsh explained that this allows people to stay on their property. Someone can rent the main house while the owner lives in the accessory unit.

Previous poll results were shared with the Commission. One question was: “In which zone should ADUs be permitted?” The result was single-family zones with 10,000 square foot lot sizes or larger. Commissioner Cunningham wanted to know if the proposed language had to apply to all zones or if it could apply only to zones with larger lots. He pointed out that the smaller the lot sizes, the bigger the problems could be. The impact of additional density on smaller lots is more noticeable. Commissioners discussed the minimums required to subdivide a property.

Commissioner Cunningham suggested that the Commission open and close a public hearing on this matter. He also suggested that the discussion be continued to a future meeting. It seems that there is more discussion that needs to be had and additional language that needs to be drafted by Staff. Ms. Marsh asked if there is anything specific that the Commission wants Staff to work on. Commissioner Berndt asked that a copy of the proposed Text Amendment language be shared with Commissioners in a format that can be edited. He asked that Commissioners be allowed to add comments directly to the document. The comments can be reviewed at the next meeting.

Commissioner Cunningham asked whether one off-street parking spot should be required. He noted that parking is a significant issue. Ms. Marsh explained that currently, the code states that one parking spot is required for an ADU. That is true whether there is an I-ADU or E-ADU. If the Planning Commission wants to change it so that it ties into the off-street parking requirements, that is controlled by the number of bedrooms. There was support expressed for that approach.

Chair Roach reviewed the notes he took during the Planning Commission Meeting. Based on the discussions, the Commission is interested in looking at lot size restrictions, and height restrictions (Line 47) so there is a single-level, and parking requirements to match the off-street language.

Ahead of the next meeting, Ms. Marsh offered to look at how many properties have accessory buildings on them and roughly how many of those could convert. Mr. Christopherson shared

information about moderate-income housing needs and future growth. Ms. Garcia shared the Moderate-Income Housing Plan and reviewed the other strategies the City has chosen. Those strategies include Strategy E, Strategy F, Strategy H, Strategy L, Strategy O, and Strategy P.

Chair Roach opened the public hearing. There were no comments. The hearing remained open.

Commissioner Cunningham moved to CONTINUE the public hearing and the application to amend 13.14.031 and associated definitions of Accessory Dwelling Units of the City of Holladay Land Use code, to the next regularly scheduled meeting. Commissioner Fonte seconded the motion. Vote on Motion: Commissioner Vilchinsky-Aye; Commissioner Cunningham-Aye; Commissioner Fonte-Aye; Commissioner Gong-Aye; Commissioner Berndt-Aye; Chair Roach-Aye. The motion passed with the unanimous consent of the Commission.

ADJOURN

Chair Roach moved to ADJOURN. The motion was not seconded. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at approximately 7:05 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held Tuesday, January 23, 2024.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: **May 21, 2024**