

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION TRAINING
COUNCIL CHAMBERS
August 27, 2024**

Present: Chair Michele Hollist, Commissioner Laurel Bevens, Commissioner Steven Catmull, Commissioner Nathan Gedge, Commissioner Sam Bishop, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, IS Senior Systems Administrator Phill Brown, IS Systems Administrator Shawn Adams, GIS Coordinator Matt Jarman

Others:

Absent: Commissioner Ray Wimmer

**6:54 P.M.
TRAINING**

A. PLANNING COMMISSION TRAINING (*City Planner Greg Schindler and Assistant City Attorney Greg Schindler*)

City Planner Greg Schindler reviewed his prepared presentation on Accessory Dwelling Units (Attachment A).

Assistant City Attorney Greg Simonsen reviewed his prepared presentation on Conditional Use Permits (Attachment B).

Training ended at 8:19 p.m.


This is a true and correct copy of the August 27, 2024 Planning Commission Training minutes, which were approved on September 24, 2024.

Cindy Valdez

South Jordan Deputy City Recorder

Accessory Dwelling Units

Internal Accessory Dwelling Units



or
Detached Accessory Dwelling Units
(Guesthouses)

**ONLY ONE ADU IS ALLOWED PER
QUALIFYING PROPERTY**

Utah State Code 10-9a-530

Internal Accessory Dwelling Unit


(IADU)

An internal accessory dwelling unit is an accessory dwelling unit created within the footprint of the primary dwelling for the purpose of offering a long-term rental of 30 consecutive days or longer.



An IADU is a **permitted** use in any area zoned primarily for residential use.

A municipality may not establish any restrictions or requirements for the







construction or use of one IADU within
a primary dwelling regarding:

1. The size of the internal IADU in
relation to the primary dwelling
2. Total lot size (exception)
3. Street frontage



A municipality may:

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4. Require a primary dwelling, regardless of whether the primary dwelling is existing or new, to include the construction of an additional on-site parking space for each internal accessory dwelling unit;
 1. Prohibit the installation of a separate utility meter for an internal accessory dwelling unit;
 2. Require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling and use regulation. primary dwelling as a single-family dwelling;
 3. Prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

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6. Prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;
 7. Prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence.




Detached Accessory Dwelling Unit (Guesthouse)



South Jordan City Municipal Code
Section 17.130.030.020.2.e







Standards for a Guesthouse:

1. The owner of the property must reside on the property and in either the primary dwelling or the guesthouse.
 2. Guesthouses are allowed only in the following predominately residential zones: A-5, A-1, R-1.8, R-2.5, R-3, R-4 and R-5.
 3. Approved guesthouses shall meet the requirements of the underlying zone.
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4. A guesthouse shall only be approved on a lot that is equal to or greater than 14,520 sq. ft.
 5. At least one off street parking space in addition to those already required for the primary dwelling, shall be provided and shall not render the required spaces for the primary dwelling inaccessible.
 6. Guesthouses shall comply with the required setbacks of the underlying zone for and accessory building, however, in no case shall a Guesthouse be located closer than 10 ft. from a side or rear yard.

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7. Guesthouses shall be designed and constructed to be compatible with the exterior of the primary dwelling (e.g., exterior materials, colors and roof pitch).
 8. No guesthouse shall have more than three bedrooms. The floor area of a guesthouse shall comprise no more than 35% of the living area of the primary dwelling or be greater than 1,500 sq. ft., whichever is less, unless, in the opinion of the Planning Commission, a greater amount of floor area is warranted.

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9. A guesthouse cannot be rented or offered for rental for a period of less than 30 consecutive days;

CONDITIONAL USE PERMITS IN SOUTH JORDAN, UTAH

THE DECEPTION OF DISCRETION

THE DECEPTIVE NATURE OF THE TERM “CONDITIONAL USE PERMIT.”

- 1. OFTEN THE INCORRECT ASSUMPTION OF THE GENERAL PUBLIC OR OTHERS UNACQUAINTED WITH CONDITIONAL USE PERMITS IS THAT THE APPLICANT IS REQUIRED TO PROVE THAT IT MEETS CERTAIN CONDITIONS BEFORE RECEIVING A PERMIT.
- 2. THE CORRECT ASSUMPTION IS THAT THE USE SHOULD BE ALLOWED SINCE THE ORDINANCE WOULD NOT PROVIDE FOR THE USE IF THE USE WERE NOT DEEMED DESIRABLE IN THE FIRST PLACE.
- 3. THE DECISION WHETHER THE USE IS APPROPRIATE IN THE ZONED AREA HAS ALREADY BEEN MADE BY THE CITY COUNCIL.

MUNICIPAL CODE 17.84.060 (PLANNING COMMISSION REVIEW AND ACTION)

- A. THE PLANNING COMMISSION SHALL APPROVE A CONDITIONAL USE PERMIT APPLICATION IF REASONABLE CONDITIONS ARE PROPOSED, OR CAN BE IMPOSED, TO MITIGATE THE REASONABLY ANTICIPATED DETRIMENTAL EFFECTS OF THE PROPOSED CONDITIONAL USE IN ACCORDANCE WITH APPLICABLE STANDARDS.
- B. THE PLANNING COMMISSION MAY DENY A CONDITIONAL USE PERMIT APPLICATION IF THE REASONABLY ANTICIPATED DETRIMENTAL EFFECTS OF A PROPOSED CONDITIONAL USE CANNOT BE SUBSTANTIALLY MITIGATED BY THE PROPOSAL OR IMPOSITION OF REASONABLE CONDITIONS TO ACHIEVE COMPLIANCE WITH APPLICABLE STANDARDS.

UTAH CODE 10-9A-507 (2)(A)

CONDITIONAL USES

- A LAND USE AUTHORITY SHALL APPROVE A CONDITIONAL USE IF REASONABLE CONDITIONS ARE PROPOSED, OR CAN BE IMPOSED, TO MITIGATE THE REASONABLY ANTICIPATED DETRIMENTAL EFFECTS OF THE PROPOSED USE IN ACCORDANCE WITH APPLICABLE STANDARDS.
- THE REQUIREMENT TO MITIGATE THE DETRIMENTAL EFFECTS DOES NOT REQUIRE ELIMINATION OF THE DETRIMENTAL EFFECTS.
- CONDITIONS ON A PROPOSED CONDITIONAL USE MUST BE STATED ON THE RECORD AND MUST REASONABLY RELATE TO MITIGATING THE ANTICIPATED DETRIMENTAL EFFECTS OF THE PROPOSED USE.
- IF THE DETRIMENTAL EFFECTS CANNOT BE SUBSTANTIALLY MITIGATED BY THE IMPOSITION OF REASONABLE CONDITIONS THE APPLICATION MAY BE DENIED.

HOW WILL THE DENIAL OF A CONDITIONAL USE APPLICATION BE REVIEWED BY UTAH COURTS? *DAVIS COUNTY V. CLEARFIELD*, 756 P.2D 704 (UTAH APP. 1988)

- DAVIS COUNTY PROPOSED USING A REMODELED HOME AS A CENTER FOR THE TREATMENT OF THOSE SUFFERING FROM SUBSTANCE ABUSE AND APPLIED FOR A CONDITIONAL USE PERMIT. THE PROPOSED HOME WAS ACROSS THE STREET FROM A JUNIOR HIGH SCHOOL. LOCAL RESIDENTS TURNED OUT IN FORCE AND OBJECTED “STRENUOUSLY” AND THE APPLICATION WAS DENIED.
- ON APPEAL THE UTAH COURT OF APPEALS OVERTURNED THE DECISION SINCE IT WAS ONLY SUPPORTED BY “PUBLIC CLAMOR.”

HOLDINGS OF THE UTAH COURT OF APPEALS IN DAVIS COUNTY V. CLEARFIELD.

- THE DENIAL OF A PERMIT IS ARBITRARY WHEN THE REASONS ARE WITHOUT SUFFICIENT FACTUAL BASIS.
- THE CONSENT OF NEIGHBORING LANDOWNERS MAY NOT BE MADE A CRITERION FOR THE ISSUANCE OR DENIAL OF A CONDITIONAL USE PERMIT.
- THE OPPOSITION OF NEIGHBORS IS NOT ONE OF THE CONSIDERATIONS TO BE TAKEN INTO ACCOUNT WHEN DETERMINING WHETHER TO ISSUE A DEVELOPMENT PERMIT.
- LOCAL GOVERNMENT MUST RELY ON FACTS, AND NOT MERE EMOTION OR LOCAL OPINION, IN MAKING SUCH A DECISION.

MORE HOLDINGS OF DAVIS COUNTY V. CLEARFIELD

- “WITH REGARD TO CONCERN OVER REAL ESTATE VALUES...NO STUDIES WERE MADE AND NO OPINIONS WERE GIVEN BY PROFESSIONAL REAL ESTATE APPRAISERS NOR WAS ANY CREDIBLE EVIDENCE OF REDUCED PROPERTY VALUES PRODUCED AT THE HEARINGS.”
- “[THE OPPOSITION] DID NOT HAVE FACTUAL SUPPORT IN THE VAGUE RESERVATIONS EXPRESSED BY EITHER THE SINGLE FAMILY OWNERS OR THE COMMISSION MEMBERS...[THE] REASONS DID NOT JUSTIFY DENIAL OF THE PERMIT EVEN THOUGH THEY WOULD HAVE BEEN LEGALLY SUFFICIENT HAD THE RECORD DEMONSTRATED A FACTUAL BASIS FOR THEM.
(EMPHASIS ADDED)

ADMINISTRATIVE DECISIONS MUST BE SUPPORTED BY “SUBSTANTIAL EVIDENCE.” WHAT IS SUBSTANTIAL EVIDENCE? UTAH CODE 10-9A-103 (70) SAYS:

- “SUBSTANTIAL EVIDENCE” MEANS EVIDENCE THAT:
 - A. IS BEYOND A SCINTILLA; AND
 - B. A REASONABLE MIND WOULD ACCEPT AS ADEQUATE TO SUPPORT A CONCLUSION.