



MINUTES OF THE CITY OF WEST JORDAN
CITY COUNCIL and PLANNING COMMISSION JOINT MEETING

Wednesday, March 31, 2021 - 5:30 pm
Approved April 28, 2021

West Jordan City Council Chambers • 8000 S Redwood Road • West Jordan, UT 84088

COUNCIL: Chair Zach Jacob (joined at 5:50 p.m.), Vice-Chair Kelvin Green, Chad Lamb, Christopher McConnehey, David Pack, Kayleen Whitelock, and Melissa Worthen

PLANNING: Ammon Allen, Pamela Bloom, Trish Hatch, Kent Shelton, Jay Thomas, Matt Quinney

STAFF: IT Director Robert Allred, Council Office Director Alan R. Anderson, Deputy Public Works Director Isaac Astill, Mayor Dirk Burton, City Planner Larry Gardner, Community Development Director Scott Langford, Chief Administrative Officer Korban Lee, IT Administrative Assistant Rachel MacKay, Assistant City Attorney Duncan Murray, and City Attorney Robert Wall

PUBLIC: Agustin, Ann Marie Barrett, Chris Trevino, Kaylen Nichols, Matt

1. CALL TO ORDER

Vice Chair Green called the work session to order at 5:30 p.m.

2. PLEDGE OF ALLEGIANCE

Vice Chair Green led participants in the pledge of allegiance.

3. DISCUSSION ITEMS

a. Internal Accessory Dwelling Units

City Planner/Zoning Administrator Larry Gardner commented that the City Council and Planning Commission had discussed accessory dwelling units several times in the last two years. He explained that HB82, passed in 2021, required that cities allow internal accessory dwelling units. He provided the following definitions:

Internal accessory dwelling unit (IADU) – an accessory dwelling unit created: within a primary dwelling; within the footprint of a primary dwelling and is rented 30 consecutive days or longer.

Primary dwelling – a single-family dwelling that: is detached; and is occupied as the primary residence of the owner of record.

External accessory dwelling unit (EADU) – an accessory dwelling unit created on the property separate from the primary dwelling and on the same lot and is rented 30 consecutive days or longer.

Mr. Gardner explained that under HB82, IADUs could be a permitted use in a residential zone without an ordinance, or cities could address the following ADU issues by ordinance:

- Prohibit ADU issues
 - Mobile homes
 - Properties with failing septic tanks
- Size of Lot/Zoning issues
 - Prohibit IADU on lots less than 6,000 sq-feet

- Prohibit EADU on lots ____ sq-feet or less.
- Parking issues
 - One additional on-site
 - What to do when vehicle space converted to living space
- Meter/Design issues
 - Separate meters
 - Appearance of primary dwelling
- Rental/Licensing/Liens issues
 - Owner occupied primary residence
 - Business License
 - Rent >30 days
 - Hold a lien if violation
 - Record a notice with County Recorder

Council Member McConnehey left at 5:38 p.m., and returned at 5:44 p.m.

Mr. Gardner explained an IADU unit shall comply with all applicable building, health, and fire codes. The following “may nots” were outlined:

- A municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:
 - The size of the internal accessory dwelling unit in relation to the primary dwelling;
 - Total lot size; or
 - Street frontage.
- HOAs cannot prohibit IADUs

Council Member McConnehey left the meeting at 5:44 p.m., and returned at 5:52 p.m.

Council Office Director Alan R. Anderson and Mr. Gardner shared results of a survey regarding ADUs participated in by the City Council and Planning Commission in April of 2020.

- In which zones should ADUs be allowed?
 - Majority response (60%): All zones that permit single-family homes
- Should ADUs be limited to lots that are 40,000 square feet or larger, regardless of which residential zone?
 - Majority response (92%): No

The City Council and Planning Commission participated in a new survey with the following responses:

Prohibit Internal ADUs if the lot containing the primary dwelling has ____ sq-feet or less?

- Prohibit IADUs on lots <6,000 sq-feet (R-1-6): 2 votes
- Prohibit IADUs on lots <8,000 sq-feet (R-1-8): 3 votes
- Multiple individuals said they would prefer a “none of the above” option

Council Member Pack said he believed whether or not an ADU would work depended on the individual lot. Commissioner Bloom commented that according to statistics she had checked, ADUs tended to be under 1,000 square feet, with parking needed for two vehicles maximum. Council Member Lamb said he disagreed, stating that he had noticed three or four cars parked on the street at properties with a basement ADU.

Council Member Worthen asked if the City would be able to allow IADUs regardless of lot size as long as off-street parking were available. Mr. Gardner responded that scenario would be acceptable under the law. Commissioners Bloom and Quinney, and Council Member Pack said they agreed.

Council Member Whitelock pointed out that the law only allowed a city to require one off-street parking space.

Chair Jacob joined the meeting at 5:50 p.m. Council Member McConnehey left the meeting at 5:54 p.m., and returned at 5:57 p.m.

Chair Jacob asked why the City did not address all vehicles parked on the street if having vehicles parked on the street were a problem. The group continued to discuss parking. Mr. Anderson summarized that consensus seemed to be in favor of allowing IADUs on any lot size as long as required off-street parking were provided.

- **Prohibit External ADUs if the lot containing the primary dwelling has ___ sq feet or less?**

Commissioner Quinney said he believed the City should allow EADUs to provide more housing options if EADU requirements could be met and off-street parking provided. Council Member Worthen said she agreed and added that the use would need to be conditional depending on whether or not an EADU fit on a lot. Council Member Pack said he agreed. Commissioner Quinney suggested focusing on the setbacks rather than the size of the lot.

Mr. Anderson said the consensus seemed to be in favor of allowing EADUs in all residential zones if setbacks and off-street parking requirements were met, without focusing on the size of the lot.

- **Completely prohibit Internal and External ADUs in mobile homes?**

The Council and Planning Commission discussed the question of ADUs in mobile home parks, including concerns related to utility stability, fire safety, and definition of mobile home. Mr. Gardner emphasized that a mobile home was temporary in nature, not on a foundation. He read aloud a definition of mobile home from City Code, “a transportable factory-built housing unit built prior to June 15, 1976, in accordance with the State of Utah Mobile Home Code, which existed prior to the Federal Manufactured Housing and Safety Standards Act.” He explained that manufactured homes were in a different category.

Vice Chair Green stated mobile homes built prior to 1976 were not built to current standards. He said he did not know why the City would allow an IADU to be built inside a structure where construction standards were unknown. He suggested the City prohibit IADUs in mobile homes, but allow EADUs subject to current standards and the owner granting permission.

Council Member McConnehey said he would be comfortable prohibiting ADUs in mobile homes at that time to allow time to move on to other substantial issues. Chair Jacob said he supported moving on, but was in favor of allowing ADUs in mobile homes, with the belief that the City would never receive an application. Council Member McConnehey responded it was easier to open the issue up than try to close it down later. Commissioner Quinney said he would agree with prohibiting ADUs on mobile home lots knowing the issue could be revisited if an individual brought new evidence for consideration.

Commissioner Allen expressed the opinion that an EADU on a privately owned lot with a mobile home should be considered under the same rules as the previous discussion. In the case of a mobile home park owned by a specific entity, he said it seemed to him that everyone with a unit in the park already qualified as an EADU.

- **Prohibit Internal and External ADUs for lots with primary dwelling unit serviced by failing septic tanks?**

Council Member Pack asked if the City would be able to mandate that an ADU would not be allowed without a working septic tank. Mr. Gardner reminded the group that an IADU was now a permitted use. Assistant City Attorney Duncan Murray stated that if an ADU were prohibited in situations with a failing septic tank, individuals would be able to repair a septic tank and reapply to the City. CAO Korban Lee commented there were over 100 properties in West Jordan using illegal septic tanks close enough to a sewer system line that the properties should attach to the system. He recommended not allowing an ADU on a property close enough to be attached to a sewer lateral until the property was attached. Council Member McConnehey suggested requiring a legal conforming sanitary sewer system capable of handling anticipated capacity. The possibility of requiring an inspection was discussed.

- **Do you wish to require Internal ADUs to have one additional space as included in HB82?**
 - Yes, add one additional off-street parking per ADU: 10 votes
 - No, do not require additional off-street parking per ADU: 1 vote

Mr. Anderson showed results of a public survey regarding whether ADUs should be required to have off-street parking, with a majority of responses in favor of requiring off-street parking. He shared Council and Planning Commission April 2020 response to the question, “how many required off-street paved parking spaces should be required per ADU”, with a majority in favor of basing off-street parking requirements on the number of bedrooms in an ADU. Mr. Anderson stated HB82 limited parking requirements for an IADU to one off-street parking space.

Commissioner Shelton commented that two off-street parking spaces were required for a single-family residence. With a two-car garage and driveway, a residence already had four off-street parking spots, so many properties would already meet the one off-street parking requirement for an ADU. Council Member McConnehey said his concern was someone wanting to turn their garage into an ADU. Council Member Whitelock pointed out that parking requirements needed to be general because they would apply to any future owners/residents of a property. Mr. Gardner clarified that a two-car garage would satisfy City Code for required parking, but a driveway would not. HB82 would allow the City to require one additional off-street parking space that would not block existing required parking.

Chair Jacob said it sounded like a single-family property needed to have at least three off-street parking spots to have an ADU. Mr. Gardner said HB82 allowed the City to require one additional space, but did not require the City to require one additional space. Chair Jacob suggested it was more of a parking enforcement issue. Council Member Whitelock asked when the City would have enough police officers to stay on top of parking enforcement issues. She said she was in favor of requiring property owners to provide a parking space if they rented out part of their home. She pointed out that responses on the resident survey overwhelmingly supported requiring additional parking for an ADU. If a property already had three or more off-street parking spaces, the one additional parking space requirement would already be met.

Vice Chair Green spoke in favor of clarity, and asked if the additional off-street parking for an ADU would be required to be poured concrete. Council Member Worthen said she did not think the additional off-street parking should be required to be concrete. Commissioner Allen said he did not care if the off-street parking was gravel, pavers, concrete, etc. Council Member McConnehey said he did not think the off-street parking should be required to be concrete, and said he felt the question asked was poorly worded. He suggested City Code should ensure sufficient parking.

- **For Internal ADUs, replace parking spaces contained within an ADU converted garage/carport with same number of on-site parking spaces?**
 - Yes, ADUs built in converted garages/carports require replacement of parking spaces on-site: 6 votes
 - No, ADUs built in converted garages/carports do not need to be replaced: 3 votes

Mr. Anderson said resident survey results indicated off-street parking was a priority. Responding to a question from Chair Jacob, Mr. Gardner explained that in non-ADU situations, the City required replacement of parking spaces on-site to approve a garage conversion.

- **For Internal and External ADUs, prohibit the installation of separate utility meters?**

Mr. Anderson showed City Council and Planning Commission responses from the April 2020 survey regarding whether or not ADUs should have a separate utility meter and address: (6) 46% responded yes, (5) 38% responded no, and (2) 15% responded it did not matter.

Chair Jacob expressed the opinion that home owners should not be prohibited from installing separate meters. Vice Chair Green explained that prohibiting a separate meter would protect the single-family nature of a home. Mr. Gardner explained that the wording of the questions was taken straight from the statute. He commented that once a separate meter was added to a dwelling, it was forever changed from single-family in nature to a duplex. He said the reasoning of the Legislature was that if the ADU was “accessory”, it should all act as one unit. Mr. Gardner said, in his professional opinion, he would prohibit the installation of separate utility meters. With the Legislature having taken away some of the control from cities, he encouraged the Council to maintain some control to preserve the quality of neighborhoods in the City.

Mr. Anderson summarized that the majority were in favor of prohibiting installation of separate utility meters.

- **For Internal ADUs, require the design to not change the appearance of the primary dwelling as a single-family dwelling?**
 - Yes, require the design to not alter the appearance of the primary dwelling: 3 votes
 - No, allow alterations to the appearance of the primary dwelling: 2 votes
 - Other: 2 votes

Mr. Anderson showed Council and Planning Commission responses from the April 2020 survey regarding whether or not IADUs should have an entry into the living space which is visible from the public right of way, with a majority (57%) having responded it did not matter. Regarding whether or not ADUs should be required to be architecturally compatible with the principal dwelling, 40% (6) indicated yes, 40% (6) indicated no, and 20% (3) indicated it did not matter.

Council Member McConnehey said he did not believe the City should regulate design for ADUs beyond existing residential design standards.

Council Member Whitelock said her concern with ADUs was making sure public safety were aware when there were two dwellings on one lot. Mr. Gardner responded that requiring a license could help.

Mr. Anderson shared results of the citizen survey regarding whether or not a property owner should be required to live on-site, with a majority of responses in favor of a property owner needing to live on-site. In the April 2020 survey of the City Council and Planning Commission, 53% (8) indicated no, a property owner should not be required to live on-site (either in the principle dwelling or accessory dwelling), and 40% (6) indicated yes.

Responding to a question from Council Member Pack, Mr. Anderson stated the question applied specifically to properties with an ADU. Council Member Pack said he wanted to be sure there was a distinction between an ADU rental property and a rental home.

Vice Chair Green stated HB82 specifically defined IADUs as owner-occupied. He stated that if a property owner were allowed to rent out both a primary dwelling and an ADU, the property would

become a duplex. Commissioner Quinney commented that inflation was outpacing income. He referred to rising housing prices, and said he did not believe the City should require an ADU property to be owner occupied, as long as the rentals and property were well maintained. Council Member Whitelock repeated that a majority of public respondents indicated ADU properties should be owner occupied. She stated not requiring ADU properties to be owner occupied would be doing away with single-family neighborhoods.

Vice Chair Green pointed out that the purchaser of an ADU property would be aware of the owner-occupancy requirement for the ADU. Commissioner Bloom argued there would only ever be one or two properties with an ADU in any neighborhood, so the rentals would not be overwhelming. Chair Jacob stated if they did not want to have two families living on the same property, ADUs should not be allowed at all. He commented the City already had problems with absentee landlords, which was a code enforcement issue.

Vice Chair Green said it was his understanding that EADUs would be addressed by the Legislature in the next session. Mr. Anderson said the question was whether the Council and Planning Commission wanted to include EADUs as part of the ordinance that would be prepared in response to HB82. He said the group response was split with five in favor and five against. Commissioner Allen said he thought it made sense to say no at that point and include EADUs later if the Legislature made it necessary.

In April of 2020, 67% (8) of the Planning Commission and Council responded that ADUs should be required to be part of the Good Landlord program, 25% (3) responded they should not, and 8% (1) responded it did not matter.

- **For Internal and External ADUs, require the owner of the primary dwelling to obtain a business license to rent the ADU?**
 - Yes, require a business license: 7 votes
 - No, do not require a business license: 1 vote

Commissioner Quinney believed requiring a business license would give the City a better ability to enforce that the properties were maintained. Chair Jacob commented that landlords were currently required to have a business license.

- **For External ADU, prohibit the rental of ADUs for a period of less than 30 days?**

Responding to a question from Chair Jacob, Assistant City Attorney Duncan Murray explained that short-term rentals were governed differently than ADUs. City Attorney Rob Wall stated that short-term rentals were prohibited by Code in West Jordan. He said the 30-day limit was included by the Legislature because nation-wide data indicated 30 days seemed to be the threshold at which short-term rentals became less responsible. He said software was available that allowed cities to daily check short-term rental websites looking for short-term rentals without a business license. He said cities could not prosecute a homeowner for advertising on a short-term rental website; however, a city could prosecute if a homeowner did not have a business license. Community Development Director Scott Langford said short-term rentals had not been a problem issue in the City.

Commissioner Lamb left the meeting at 7:31 p.m., and Commissioner McConnehey left the meeting at 7:35 p.m.

Chair Jacob suggested making City Code consistent, prohibiting the rental of Internal and External ADUs for a period of less than 30 days. A majority of those present appeared to agree.

Responding to a question from Commissioner Quinney, Chair Jacob stated that HB82 prohibited use of an Internal ADU for a short-term rental. Mr. Wall added that the Legislature had not prohibited short-term rentals in general. Mr. Anderson commented that short-term rentals would not solve the

affordable housing issue. Commissioner Bloom said she believed ADUs would help with the affordable housing issue by providing income for the owner of the property.

Chair Jacob noted that the results for the question indicated they think ADU rentals should be for any amount of time.

- **For Internal ADUs, adopt a policy to be able to hold liens?**
 - Yes: 7 votes
 - No: 3 votes

Mr. Murray explained the statute would allow the City to establish a process to hold a lien against a property as an enforcement mechanism.

- **For Internal and External ADUs adopt a policy to record a notice with the County Recorder?**
 - Yes: 7 votes

Mr. Murray spoke in favor of adopting a policy to record a notice with the County Recorder. He explained the City may prohibit the creation of an Internal ADU within a zoning district covering an area that was equivalent to: 25% or less of the total residential area in the municipality that was zoned primarily for residential use. The City's residential zoning districts covered percentage areas as follows:

- R-1-10 = 50.5% of residential zoned area;
- R-1-8 = 23.9% of residential zoned area; and
- Rest of residential zoned areas are all less than 25% of residential zoned area.

In PC zones, ADUs could be allowed as part of a development agreement.

Mr. Murray explained that if an owner of a property violated any of the provisions of the section or ordinance adopted, the municipality could provide a written notice of violation; hold a hearing and determine a violation occurred; and all established hearing processes before the Administrative Law Judge would be followed.

Council Member Lamb rejoined the meeting at 7:50 p.m.

Vice Chair Green spoke in favor of seeking compliance rather than focusing on violations.

The next steps for the City would be to revise or rewrite an ordinance proposal regarding IADUs and EADUs based on City Council and Planning Commission direction that was compliant with law; hold a public hearing for a recommendation from the Planning Commission; and hold a public hearing before the City Council.

IOZ Code 13-6K-2 - City / Peterson Properties

Community Development Director Scott Langford explained the IOZ was a tool the Council could use to leverage high value areas around transportation corridors. He said a question for discussion was whether the City needed to maintain area A. He emphasized that any changes made should be made in a way that would not hamstring current applications.

Vice Chair Green suggested the Council eliminate area A, eliminate anything that was not vacant or City-owned property in the eastern part of area B, eliminate the portion of area B west of Mountain View, and rezone the property between Papa Pitas and the UPNL parcel M-1. Council Member Whitelock said she concurred. Chair Jacob commented that the property suggested for M-1 was part of the area previously discussed with potential for an auto mall. He said he would not want to abandon the possibility of an auto mall. Vice Chair Green responded that M-1 could be rezoned for

an auto mall, but said he did not think an auto mall was likely with existing development in Herriman.

Chair Jacob said he was not sure he was in favor of completely eliminating area A because he liked having options. Mr. Langford said the purpose of the IOZ was to facilitate development around interchanges, and pointed out on a map a portion of area A already identified for high intensity use with a TOD overlay. Chair Jacob suggested reducing area A to the unoccupied portion.

Mr. Langford stated the majority of vacant land in area B was owned by the City. He explained that current regulations did not allow area C to receive IOZ overlay independent of area B. Vice Chair Green said he believed area C should be able to be developed independent of area B. Chair Jacob said he did not want area C to develop under an IOZ and area B to not.

CAO Korban Lee suggested moving the boundary between areas B and C to 9000 South. Chair Jacob said he believed that would be a good compromise. Vice Chair Green said he agreed, and added that areas B and C should be independent. Chair Jacob and Vice Chair Green discussed existing areas B and C.

Council Member McConnehey rejoined the meeting at 8:14 p.m.

Commissioner Hatch expressed support for whatever was best for the City economically. Chair Jacob said he agreed, and said he believed that meant leaving as many options on the table as possible. Vice Chair Green spoke of potential development applications, and expressed support for making the process easier. Council Member Worthen said she agreed with making the process easier.

Mr. Lee discussed potential development applications with the Council and Planning Commission. Vice Chair Green and Chair Jacob both expressed support for placing limits on where high-density residential could be developed.

Mr. Langford said Staff would work on proposed language. Chair Jacob requested Staff take the language to the Land Use Subcommittee for review prior to presenting it to the Council.

b. Code Deficiencies

Council Member McConnehey said reports regarding updates to Code would be provided at a future Council meeting. Council Member Pack said he wanted to make sure the Planning Commission felt respected by the City Council, and expressed appreciation for the Commissioners.

4. ADJOURN

Council Member Jacob moved to adjourn the meeting, and Council Member Green seconded the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 8:26 p.m.

I, Cindy Quick, hereby certify that the foregoing minutes represent an accurate summary of what occurred at the meeting held on March 31, 2021. This document constitutes the official minutes for the West Jordan City Council and Planning Commission Joint Meeting.

Cindy M. Quick, MMC
Council Office Clerk

Approved this 28th day of April 2021