

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
SEPTEMBER 24, 2020

Case No. 174-2020

A request by Wesbury Construction Company, Inc. (Applicant) on behalf of Owen Skinner (Owner) for a conditional-use permit (CUP) to allow for an accessory dwelling unit on property zoned R-1 (one-family dwelling district) and addressed 300 South Glenwood Avenue.

MS. LOW: May we have a report, please.

Staff report was given by Brad Kelley of the Planning and Development Department. Staff recommends approval of the requested conditional use permit to allow an ADU on property addressed as 300 South Glenwood Avenue.

MS. LOE: Thank you. Before we move to questions for staff, I'd like to ask any Commissioner who has had any ex parte prior to this meeting related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Seeing none. Are there any questions for staff? I see none. With that, we will open up the floor for public comment.

PUBLIC HEARING OPENED

MS. LOE: If anyone does have any comments that they would like to share on this case, they can come forward and share those now. I see none -- no public comments. So we'll close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commissioner discussion? Mr. Stanton? If my fellow Commissioners don't have any additional comments, I'd like to make a motion.

MS. LEE: Go for it.

MR. STANTON: As it relates to Case 174-2020, I move to approve -- move to approve the conditional-use permit to allow an accessory dwelling unit on property addressed as 300 South Glenwood Avenue.

MR. MACMANN: Second.

MS. LOE: Second by Mr. MacMann. We have a motion on the floor. Any discussion on that motion. I have some discussion. The note we have before us talks about the reason for building this is for allowing occupancy of unrelated individuals in a detached structure. And while I don't have any specific concern with that, I do have a concern with if both structures were rented to nonowners in an R-1 district, and this is something I have brought up on ADUs as a conditional use in R-1s in previously. And the two previous applications we had; the owners did identify that they intended to occupy one of the structures. So I'm afraid I wouldn't approve this one without adding a condition that one of the structures

were occupied by the owner. Mr. MacMann?

MR. MACMANN: I am aware of and share your concerns. However, the way this particular portion of the UDC is written, it seems to allow that. I don't agree with that. That's not my recollection of what we passed. We've had this discussion at great length with staff, and I would suggest, and this is -- we can address this further down the line, that we need to, as a body, discuss this, because I find the -- what is written does not reflect my recollection of the intent. Mr. Stanton and I have had this discussion, also.

MS. LOE: I agree, and I re-read the regulations for conditional use and we can consider, and it was shown, if you can bring that slide back up. The last item is proposed variance will not cause any adverse impact on neighboring properties, surrounding properties. I believe allowing both of the properties to be rented out would cause an adverse effect if that became a pattern in an R-1.

Mr. Stanton and then Mr. --

MR. STANTON: Madam Chair, I definitely agree. I hate to say this.

MS. LOE: Yes.

MR. STANTON: That's why we had the public hearing and we didn't see any opposition, written or verbal.

MS. LOE: I -- I

MR. STANTON: This is the kind of avenue for that to happen, but I do agree. And I don't remember -- you know, I don't have the Code in front of me, but, yeah, that would be a problem. But that's why we have conditional use.

MS. LOE: It is conditional use.

MR. STANTON: We can address each case individually. And I do agree with you that I would be welcome to an amendment to my motion if we want to do some kind of language in there.

MS. LOE: Okay. Let's see what the rest have to say. Mr. MacMann, then Ms. Carroll, and then Mr. Toohey.

MR. MACMANN: I'm going to hold my powder for a minute because I've already spoken once. Please go on.

MS. LOE: Ms. Carroll?

MS. CARROLL: So the question I would have, looking for a win-win in Mr. Stanton's tradition, I'm wondering if the applicant is present, because you may have something to say. We haven't had a chance to hear from the applicant. Perhaps the concern that you have might be expounded upon.

MS. LOE: Thank you for that idea. Any additional ideas? Ms. Burns?

MS. BURNS: This would be -- thank you. Mr. Kelley, you referenced three neighborhood associations that have been notified. Is this property in a neighborhood association?

MR. KELLEY: I believe so, yes, ma'am. It's in the Historic West Broadway Neighborhood Association.

MS. BURNS: And did you -- are you familiar with their neighborhood covenants, if there any, that

might pertain to rental options versus owner occupied on a property that has two units?

MR. KELLEY: To be honest, no.

MS. BURNS: Thank you.

MS. LOE: Mr. Toohey?

MR. TOOHEY: So I lived in a subdivision essentially a block away from a major university that had lots of these types of situations. And a lot of times, that larger dwelling was rented by a family of someone who was temporarily working at the university for a short period of time, and these actually options were -- were great for them. So I'm not sure it's as much of a problem as we're thinking because of the size of the first dwelling compared to the smaller dwelling.

MS. LOE: Mr. Stanton?

MR. STANTON: Mr. Toohey, I think the issue is in itself of both of them potentially being rented by a nonowner.

MR. TOOHEY: Yeah. That's the way -- that's the way these situations were, too.

MR. STANTON: So we get into -- now we get into the mucky water of where we're at with the short-term rental. Now who is going to -- who do we call the cops on? Who -- who bites the bullet when something goes wrong? I mean, we get into that whole conversation if both of them are rented by two different occupants or the primary renter does not have direct supervision over the accessory; you see what I'm saying? I mean, and I agree, you know, maybe it's not that bad, but Mr. MacMann brought up a good point. We need to look at that because this -- this could be a problem.

MS. LOE: Ms. Russell?

MS. RUSSELL: As far as the motion on the floor, we can either vote it up or down. I think with a conditional use, we really don't have to amend anything. I agree with Ms. Carroll, if the applicant was here, we could get an answer. But there's a motion. We can vote it up or down. We don't have to worry about an amendment.

MS. LOE: Mr. MacMann?

MR. MACMANN: To your concern and to Commissioner Carroll's point, I'm sure this is fine with the applicant. Individuals who would have concerns would be neighborhood members. And I would comment that there are -- I'll put this delicately -- similar structures quite nearby, and I'm not sure if they are structured as we would want them to be. So I think the situation already exists. I haven't seen titles. I'm kind of with Ms. Russell. I say we -- and I agree with you, that's our -- that's our health, safety, and welfare out on the CUP, you know. We could say, aaah, this doesn't work. But I move that we -- I think that we should just go ahead and take our vote and then see where we go from there.

MS. LOE: Can we open the floor back up to public discussion during a motion or do we have to close the motion to open the floor back up?

MR. ZENNER: I would suggest you can probably suspend -- suspend discussion on your motion and open the floor back up for public input, close public input again, and then resume your discussion based on any additional information.

MS. LOE: All right. We're going to suspend discussion on the motion at this time. We're going to open the floor back up to public comment.

PUBLIC HEARING OPENED

MS. LOE: If Mr. Skinner is present, if you could come up and perhaps provide some input on this we might -- we would appreciate it.

MR. SKINNER: I would be more than happy to do whatever I can to answer any questions. For background on my side, I'm --

MR. STANTON: Need your name and address.

MS. LOE: I'm sorry.

MR. SKINNER: Yeah. Sure. My name is Owen Skinner, and I live at 300 South Glenwood Avenue. I work at the University of Missouri within the Vet School. I'm a tenure track assistant professor. I'm not planning on heading anywhere anytime soon. I do live in the property -- the main property on Glenwood Avenue. So certainly at this -- at this point, I have no intention of renting that property out to anyone else.

MS. GEUEA JONES: Can you lean forward? I'm sorry. I'm back here and I can't hear you.

MR. SKINNER: Yes. Oh, I'm terribly sorry.

MS. LOE: But you do intend to occupy one of the two residences?

MR. SKINNER: Yes. Yeah. The main house, yeah.

MS. LOE: Would you be amenable to adding that as a qualification?

MR. SKINNER: Yeah. If -- if that's -- if that's what you feel is appropriate, then I don't think that would likely change things on my side.

MS. LOE: If -- it's -- it's a point of discussion amongst the Commission that, just so you understand our background, we've had -- you're the third one that's come forward. This was something that was originally in the language. It's -- it was left out. We're under discussion whether it needs to come back, and we're concerned about setting a precedent and making it difficult to bring it back in. Hence, the -- the sort of hurdle with you coming forward and not having it in there.

MR. SKINNER: I see.

MS. LOE: So if you are amenable to adding it, it would be one less hurdle should we decide to reintroduce it.

MR. SKINNER: So just -- just for clarification, that would mean that further down the line, say I were to move to another city and I wanted to keep possession of the property and rent it out, I would only be able to rent out the property as a whole as opposed to renting out the conditional-use property and the main house separately?

MS. LOE: So one -- one way we could phrase it is that -- or one thing we've considered is that it has to be -- that the primary renter could rent the accessory unit, that someone -- the primary occupant has to -- so, Mr. MacMann, did you have a thought on that?

MR. MACMANN: I do have a thought on that. Hello, Mr. Skinner. Thank you for doing some

clarification for us. I'm assuming that you won't be hired away by some other university and move tomorrow. He's going to have several options. It's a condition-use permit. He can come back to us, maybe looking at Liaison Zenner over there, maybe we will have rectified some of this at the time, and there may even be a different or the same set of rules if and when you ever do decide to move. So you would probably -- to answer your question fully, I would strongly suggest that if you choose to follow the course that you've laid out as a scenario, that you come back to the City and say, hey, can I do this?

MR. SKINNER: So from -- yeah. I don't think any objections on -- on my side in that case.

MS. LOE: We appreciate that. Ms. Carroll?

MS. CARROLL: Thank you for your flexibility, and that definitely goes a long way to assuage some of my fears about this. And just knowing that the primary owner plans on dwelling for now clarifies some things for me.

MS. LOE: Any additional questions for this speaker? I see none. Thank you, Mr. Skinner, for coming up.

MR. SKINNER: Thank you.

MS. LOE: Any additional comments while the public comment is back open? Seeing none, we'll close that.

PUBLIC HEARING CLOSED

MS. LOE: And we are going to go back our motion -- reopen the motion. Mr. MacMann?

MR. MACMANN: Is it the feeling of staff and the Commission that Mr. Stanton's motion needs an amendment? Did I follow that correctly?

MS. LOE: Ms. Russell?

MS. RUSSELL: You can either amend his motion, which requires a separate vote, and then you vote on the motion as amended.

MR. MACMANN: Or withdraw and resubmit.

MS. RUSSELL: Or you can withdraw the motion and phrase a new one.

MR. STANTON: I'll withdraw the motion and we'll just recraft one.

MS. LOE: Mr. MacMann?

MR. MACMANN: If there are no further questions, I have a motion. In the matter of Case 174-2020, the approval of an ADU on 300 South Glenwood, I move to approve with the following caveat: that the owner of the property be one of the -- be occupants of one of the properties. That's a fluid -- I -- that's deliberately worded. Follow? People follow me on that?

MR. ZENNER: Do you mean the dwelling units, sir?

MR. MACMANN: Yes, sir.

MR. ZENNER: Thank you. So the clarification would be is that the owner would need to be an occupant of one of the dwelling units?

MR. MACMANN: Dwelling units, yes, sir.

MR. STANTON: I second that.

MS. LOE: A second by Mr. Stanton. We have a motion on the floor. Any discussion on that motion? Mr. Toohey?

MR. TOOHEY: So this situation is exactly what I was talking about. So say this individual goes and does a training or a sabbatical for one year somewhere else. They essentially probably will have to sell the dwelling and then come back, even though they plan on coming back anyway because they don't have that option to rent both dwellings now. Does that make sense?

MS. LOE: They could rent the primary dwelling.

MR. TOOHEY: They could, but, I mean, you've tied their hands when they're only going to potentially -- I mean, I saw this all the time when I was a kid growing up and it's in essentially a college environment a block away from a university, which this essentially is. So that's -- this is exactly what I was talking about.

MS. LOE: Mr. Stanton?

MR. STANTON: Mr. Toohey, what do you suggest? We're -- as a body, we're not supporting freestyle, free -- will he rent to -- rent to whoever. That's not where -- we had the extended discussion about that. So what's your win-win?

MR. TOOHEY: I think you just leave it alone. I mean, I don't understand why you would take -- why you would potentially have to force someone to potentially sell their house because they don't have another option.

MS. LOE: Mr. Stanton?

MR. STANTON: I think you're getting a little extreme because we just -- we discussed this about the -- the primary dweller and, I mean, we're -- I'm not in a position to support anything that would set a precedent to make this where the accessory and the primary can be rented separately by two different entities. That was a big discussion when we were discussing the ordinance and the ADU. Just vote -- we can just vote on this and we can go from there.

MS. LOE: Any additional discussion? Ms. Carroll?

MS. CARROLL: Towards Mr. Toohey's comments, every time I have gone for a training or a sabbatical as an employee of the University, my rent in the town where I went at the university where I went to train was covered by my grant funding, and I did not have to rent out my dwelling, my primary dwelling. Now I'm sure that there are other situations that may arise, but I -- I think that this is in line with the intent of the ordinance that was passed for ADUs. And if that's what the Commission wants, and the applicant is amenable to this scenario, I -- I don't see a problem with that.

MS. LOE: Any additional comments? Mr. Stanton?

MR. STANTON: And this goes back to the spirit of what the ADU was supposed to be for.

MR. ZENNER: If I may?

MS. LOE: Mr. Zenner?

MR. ZENNER: I weighed into this discussion somewhat gently. I realize the Commission has a concern about multiple tenancies on a particular parcel of property. The property has to be owned by an

individual. The dwelling units that would be on this property are owned by someone. How that property is occupied, however, is something that the Code does not address. We do not draw the distinction between tenancy in our zoning districts. You can rent your home out to a maximum number of individuals. What the ADU standards specifically indicate as the first condition in the ADU, no more than two dwelling units, including the accessory, may be permitted on a single lot. That is the first criterion of the ADU. It does not speak to the issue of tenancy of those units. It speaks to the fact that there is a maximum of two. Now I think you are correct in the assessment that under the health, safety, and welfare related matters of the conditional use, the concern about the impact of density within a particular neighborhood needs to be taken into account. But the fact that the way that the -- the way that the use-specific standards are written, a maximum of two dwelling units can be permitted on a single lot. And what we do as part of our evaluation when we look at what the character and the caring capacity is of a lot is part of how we evaluate is the ADU appropriate or not. And I think that that's part of where our analysis is coming from when we look at the impact that this ADU has and how it fits into the character. Is this an existing garage with a hobby room above it that currently is being proposed to be converted? You have one owner of the property. That ownership will stay the same. And to Mr. Toohey's point, if he should leave on a sabbatical and he wants to rent his home, which he may or may not have to do, he has the ability to do, but he is the underlying landowner. He's not selling his home to somebody else while he's away. He owns the land; he controls the property. Now is he available to be able to be reached at all hours of the day if the neighbors complain? We can't control that today, but that is why we have our Office of Neighborhood Services through which the properties would have to be registered. So there is a check and a balance here, and the way that the Code is currently written, and we can discuss how the Code needs to be written, but the way that the Code is currently written, it says that you can't have more than two dwelling units on a single parcel of property regardless of what it is zoned. So we evaluate based on then the life safety and the other land-use compatibility criteria, and that is how we arrived at this recommendation, that is how we have arrived at other recommendations as it relates to this. I just thought I would point that out before we potentially set a precedence about how you want to proceed. My suggestion to you, if you are uncomfortable with the idea that this is not an appropriate location for this type of dwelling unit to be added into the fabric of this neighborhood, do not add a condition that then may create another problem later down the road. Vote to deny the request in a whole, and then we can discuss the actual need to amend the text. As difficult as that may sound and as tough as that may sound, that may be a much more appropriate course of action to take than to let's not continue to try to manipulate the way that the language is written if it's not the way that you want.

MS. LOE: The original ordinance for the ADU included R-1 and R-2 zoning. It also included the language that one of the units needed to be occupied by an owner -- the owner. We went over that for weeks. And we finally realized that we could not require an owner in an R-2 dwelling to be occupied by an R-2 owner. So we decided instead of changing that to remove the requirement from R-1, and with that, we did not have to require the owner to occupy one of the units. If we're going to bring this back into

R-1 with a conditional use, it's completely appropriate to reconsider one of the units being owner occupied, as was originally in the ordinance.

MR. ZENNER: And all I would like to express, and that is the prerogative of the Commission, our analysis is based upon its compatibility based on lot area and the other existing conditions within a neighborhood.

MS. LOE: Understood. This is conditional use, and that is the history of this ordinance in this community. Ms. Geuea Jones, did you have any additional comments?

MS. GEUEA JONES: I would just like to say that I -- I appreciate the ability to amend this because, as Commissioner Stanton has repeatedly said, we should try to find win-wins, and I think the only other option would be to deny this altogether. And so I -- I just wanted to express my appreciation for having the option to let this owner do what he wants to do, which we all agree is what our original intent was.

MS. LOE: Ms. Carroll, did you have any additional comments?

MS. CARROLL: I do not have any.

MS. LOE: No. Okay. Mr. Stanton?

MR. STANTON: So this seems like a win-win still. If the owner is on sabbatical, he leaves, he still owns the property and wants to rent it, he can still do so, and it meets Mr. Toohey's criteria. Correct? I can rent that as I own that property?

MR. TOOHEY: Not if he has the other dwelling in a lease, then he does not have that option.

MS. CARROLL: The caveat that I recorded was --

MS. LOE: Ms. Carroll?

MS. CARROLL: The caveat that I recorded was the owner of the property must be an occupant of one of the dwellings. Was that what was intended?

MR. MACMANN: That is what -- what was intended.

MS. LOE: Any additional discussion on this motion? Mr. MacMann?

MR. MACMANN: Regardless of previous commentary and in regards to further history, if Council doesn't like this, they can change it, but I think that we have stayed to the spirit of what we discussed and what we had hoped for, and I think we should go ahead and vote.

MS. LOE: If there's no further discussion, Ms. Carroll, may we have roll call, please?

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. MacMann, Mr. Stanton, Ms. Geuea Jones, Ms. Rushing, Ms. Russell, Mr. Toohey, Ms. Burns, Ms. Carroll. Motion carries 9-0.

MS. CARROLL: We have nine to approve.

MS. LOE: Motion carries. Recommendation for approval with condition will be forwarded to City Council.