

BOARD OF ADJUSTMENT STAFF REPORT

PLNBOA2008-00731

Yousef Sokhanvar Unit Legalization

1321 East 400 South

December 15, 2008



Planning and Zoning Division
Department of Community and
Economic Development

Applicant

Yousef Sokhanvar.

Staff: Nick Norris 535-6173
email: nick.norris@slcgov.com

Tax ID: 16-04-301-017

Current Zone: R-2 Single and
Two Family Residential

Master Plan Designation

Central Community Master Plan
Low density residential (1-15
dwelling units per acre)

Council District

Council District 4, Luke Garrott

Lot Size

2,613 square feet

Applicable Zoning Regulations

Salt Lake City Code:

Section 21A.24.110

Section 21A.52.060

Section 21A.52.100E

Notice

- Published in paper on November 26, 2008.
- Mailed on November 26, 2008.
- Property posted on December 5, 2008
- Posted on City and State website on November 26, 2008

Attachments

- A. Site Plan
- B. Abutting Property Owner Signatures
- C. Community Council Info
- D. Permit History
- E. Polk Directory Research
- F. Photographs

Request

Yousef Sokhanvar is requesting that the Board of Adjustment legalize two dwelling units located in a single structure at 1321 East 400 South. The city recognizes the building on the property as a single family home. There are no building permit records for the property. The Board of Adjustment has the final decision making authority for special exceptions.

Potential Motions

Approval

From the evidence and testimony presented and pursuant to the plans submitted, I move that the special exception to allow the legalization of the additional dwelling unit located at 1341 East 400 South be granted based on the following:

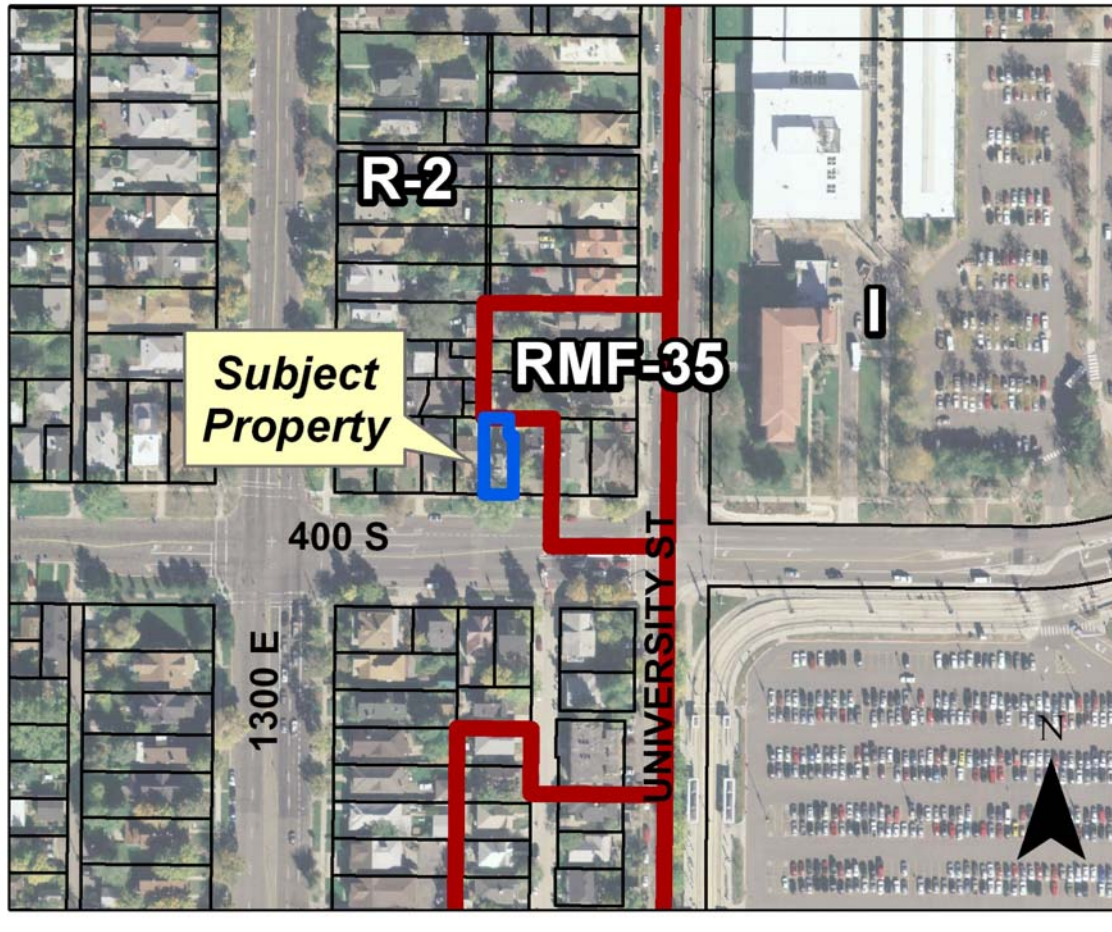
1. The legalization of the additional unit is in compliance with district purposes;
2. The legalization of the additional unit will not diminish the value of neighboring properties;
3. The legalization of the additional unit will have no material adverse impact upon the character of the area;
4. The legalization of the additional unit is compatible with the surrounding development;
5. There are no significant natural, scenic or historic features on the lot;
6. There will be no air, water, soil or noise pollution associated with the legalization of the additional unit; and
7. The legalization of the additional unit meets the additional standards for unit legalizations found in Section 21A.52.100E (2) of the Zoning Ordinance.

Denial

From the evidence, testimony, and plans presented, I move that the special exception to allow the legalization of the additional unit located at 1321 East 400 South be denied for the following reason:

1. The proposal does not meet the general standards of approval for a special exception because the use is not compatible with the surrounding neighborhood and will create an adverse effect upon the character of the area; and
2. The proposal does not meet all of the additional standards for unit legalizations found in Section 21A.52.100E of the Zoning Ordinance.

Vicinity Map



Analysis

Background Information

Salt Lake City currently recognizes the use at 1341 East 400 South as a single family dwelling unit. The applicant is requesting a special exception to legalize an additional dwelling unit. The Salt Lake County Assessor's Office indicates that it was built in 1905 as a single family residence. The additional dwelling unit was built prior to 1970. Salt Lake City has no record of the structure's conversion to or use as a duplex. However, in 1993 when the City was inspecting the property after a fire, the inspector noted "Orig permit voided, duplex, major fire damage." The applicant provided Polk Directory research which indicates the excess dwelling unit first appeared in or around 1930 (see Exhibit C). The chronology is as follows:

- 1925 to 1930: one listing
- 1930 to 1976: two listings
- 1979: one listing
- 1981 to 1985: two listings
- 1987: no listings
- 1989: vacant
- 1990: vacant (permit to board building issued)
- 1993: one listing, Building permit issued for repairs from fire.
- 1995-1997: one listing
- 1998-2005: two listings, but not verified through Polk
- 2006-2007: two listings

The Polk Directory research indicates that the structure has been used as a duplex since 1930, with the exception of 1979 and the period between 1987-1997 when the structure was vacant or had one listing. Since 1998, the applicant claims that the structure has been used a duplex, but has indicated that this has not been verified through the Polk Directory. The subject property contains 2,613 square feet, which is below the minimum lot size for two family dwellings in the R-2 zoning district.

Comments

Public Comment

This property is within the East Central Community Council's area. On July 12, 2005 Alan Michelson in the Building Services Division wrote to Chris Johnson, chair of the East Central Community Council, informing her of the request to legalize the dwelling unit. On June 1, 2006 the Loggins Merrill, the Vice Chair of the East Central Community Council responded and raised the following concerns with the subject property:

- Inappropriate neighborhood signatures
- Incomplete signature log
- Persistent weeds and overgrowth
- Inadequate parking

The Community Council stated "we rely on the City to ensure Mr. Sokhanvar's compliance with all City ordinances and policies."

The applicant received the signature of two of the abutting property owners. According to the applicant, the property owner at 1319 East 400 South was not available to sign the appropriate form. Since that time, the property at 1319 East 400 South has changed owners. No additional information has been submitted verifying that the owner of the house at 1319 has reviewed the proposal and has no objections.

Department Comments

The Transportation Division reviewed the parking layout and had the following comments:

The site plan submitted does not allow proper access to the second parking stall. The stairs and a corner of the house impact the 3:1 taper area as shown on the redline PDF drawing attached.

General Standards of Review

Per Section 21A.14.060B (1), for routine and uncontested matters, if all of the required signatures are not obtained, the matter can be considered a special exception by the Board of Adjustment. The standards of review for a special exception are set forth in Section 21A.52.060 of the Salt Lake City Zoning Ordinance. The standards are as follows:

- A. Compliance With Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.**

Analysis: The purpose of the unit legalization ordinance is to protect Salt Lake City's housing stock while protecting the life, safety, health and quality of neighborhoods and residents. The purpose of the R2 zoning district is "to preserve and protect for single family dwellings the character of existing neighborhoods which exhibit a mix of single and two family dwellings by controlling the concentration of two family dwellings." This is done by limiting the number of two family dwellings that can be adjacent to each other (max of two) and per block face (no more than three). The block face contains

two zoning designations, R2 and RMF-35. The two eastern most properties on the block face are zoned RMF-35 and contain multi-family dwellings. The property at 1309 East 400 south contains a duplex. The underlying zoning of the subject property allows two family dwellings provided the lot contains a minimum of 8,000 square feet. However, there is evidence that the building in question has contained at least two dwelling units as far back as 1930 with a period of approximately 10 years from 1987-1997 where the structure was vacant or only one unit was occupied.

B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

Analysis: The subject property is in the R2 zoning district and the proposed use of the property is consistent with the purpose of the zone. However, the subject property does not meet the dimensional requirements for two units as outlined in Section 21A.24.110 of the Zoning Ordinance. The East Central Community Council did not support the request to legalize the additional dwelling unit, citing failure to abide by several City ordinances and policies. The property lacks the ability to provide adequate off street parking for two dwelling units under the 1970 standards. However, the on street parking is by permit which reserves the on street parking for residents of the area. One of the abutting property owners has not signed the consent form, indicating that the applicant has not discussed the matter with the neighbors or the neighbor refused to sign the form.

C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.

Analysis: The proposed use is in keeping with the character of the area (a mix of single-family and multi-family dwellings). Although there is evidence that the structure has been used as a duplex in the past, there is a history of ordinance violations on the property and the Community Council reports a number of issues with the property. Most notably is the lack of off street parking on the subject property. Off street parking is limited in the area, particularly on this block face, due to the mix of land uses, the time period that the neighborhood development, and the narrow dimension of the lots (only three lots on the block face have a frontage over 50 feet). In order to acquire an additional off street parking spot, an easement was recorded granting the subject property access across approximately 4.5 feet of property and the right to use a portion of the existing garage in the rear yard for parking. However, the property that granted the access right did not have enough legally located off street parking to give up in order to accommodate parking on the subject property. The second garage is also located approximately eleven feet from the structure and is situated in such a manner that it is impossible to back out of the garage.

D. Compatible with Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

Analysis: It is characteristic of the neighborhoods adjacent to the University of Utah to have single family dwellings that have been modified to accommodate additional dwelling units. The historic zoning designations and the current zoning in the area reflect this. Even though the duplex would not meet the lot size requirements for two units in the R2 zone or have adequate off street parking as required under today's requirement, the earliest evidence of this use predates this requirement. Lack of parking was one reason the East Central Community Council gave for not supporting the proposal.

E. No Destruction of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

Analysis: The subject property is located within the University Historic District. However, the proposal would legalize a second unit on the property and does not involve the alteration of historic material. Any alteration to the exterior of the property would require a certificate of appropriateness.

F. No Material Pollution of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.

Analysis: The use is an additional dwelling unit in a zone that allows two family dwelling units. No potential material, air, water, soil, or noise pollution is evident with this proposed use and development.

G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to Section 21A.52.100 of this Chapter.

Analysis: Additional standards are found in Section 21A.52.100E(2) and discussed below in “Specific Standards of Review”.

Specific Standards of Review

Per Section 21A.52.100E (2), the Board of Adjustment may authorize a special exception legalizing an excess number of units beyond what is currently recognized by the city for a property. The following standards apply for additional units constructed prior to 1970 without a building permit.

1. The excess dwelling units were constructed before 1970 and have been continuously used as dwelling units.

Analysis: The Polk Directory indicates two-family occupancy beginning in 1930 and continuing until 1987. From 1987 to 1997 the evidence provided indicates that only one of the units was occupied. In 1990, a permit to board the structure was issued by the City, indicating that the entire structure was vacant. This was also indicated in the Polk Directory, which from 1987-1993 listed the property as vacant.

2. The Building Services and Licensing Division has certified:

A. That the building and units substantially comply with life and safety codes or will be brought into substantial compliance pursuant to building permits which have been applied for and paid for;

Analysis: If the legalization is approved, the applicant must obtain building permits to correct any life and safety code issues that are not compliant with current standards.

B. That off-street parking has been hard surfaced and, further, to the extent space is available on the property, the 1970 parking standards have been complied with. An alternative parking requirement, as outlined in Section 21A.44.030 of this Title, shall be provided prior to the approval of any unit legalization application if the applicant cannot satisfy the parking that was required at the time the excess units were created;

Analysis: There is a garage in the rear yard of the subject property. The property line runs down the middle of the garage. The western half of the garage provides one off street parking stall. The 1970 parking standard required one stall per unit and that each stall shall be located on the same property as the use. The eastern half of the garage containing one parking stall is located on an adjacent property, although an easement has been granted to use the parking stall.

C. There are not any open zoning violations with this office.

Analysis: According to the Housing and Zoning Enforcement Division, the subject property does have open zoning violations related to parking that have not been remedied.

3. The owner has applied for an apartment license if the building contains five (5) or more dwelling units.

Analysis: The building only contains two dwelling units, so an apartment license is not required.

Attachment A
Site Plan

Attachment B
Abutting Property Owner's Signatures

Attachment C

Community Council Info

Attachment D

Permit History

Attachment E
Polk Directory Research

Polk Directory Research

(summarized by staff)

Year	Number of Units	Occupants
1925	One	Unknown
1930	Two	Eugene Larsen; Peter A Nielson
1932	Two	Peter A Nielsen; Mrs. Day Elnora
1936	One	Jacob John
1939	Two	Leland Larsen; Albert Wilkins
1940	Two	Leland Larsen; Robert A. Anderson
1941	Two	Robert A Anderson; Paul Dove
1942	Two	Robert A Anderson; Selig Bass
1944	Two	Robert A Anderson; David E Burgi
1946	Two	Robert A Anderson; Chas H Keyson
1948	Two	Robert A Anderson; Chas H Keyson
1949	Two	Chas H Keyson; Heinz m Sillert
1955	Two	Alice Shoman; Jerry Ryberg
1959	Two	Donald King; Don A Adam
1960	Two	Antony W. Stocks; Hugh G Stocks
1964	Two	John Bertnes; basement vacant
1965	Two	John S Lee; Michael McDonald
1967	Two	Helen Lacy; Michael McDonald
1968	Two	James R. Scarth; Michael McDonald
1970	Two	Main floor vacant; Shelley Miles (basement)
1972	Two	Preston Freeman; Shelley Miles
1973	Two	Preston Truman; Ronald Ison
1975	Two	Preston Truman; Pam Hamblen
1976	Two	Preston Truman; Kevin Voorhes
1979	One	Terry Phidias
1981	Two	Preston Truman; Terry Eheids
1982	Two	Preston Truman; Down Winder Nuclear Testing Study
1983	Two	Preston Truman; Down Winders Nuclear Testing Study
1985	Two	Preston Truman; Down Winders Nuclear Testing Study
1986	One	Vacant; Leah Pappas
1987	Unknown	No Return
1987	Zero	Vacant
1989-90	Zero	Vacant (Boarded in 1990)
1993	One	Unit 1: remodeling; Yousef Sheshkalani
1995	One	Yousef Sheshkalani; Unit 2: remodeling (Not verified in Polk)
1998	Two	Lida Moazosi; Yousef Sheshkalani (Not verified in Polk)
2000	Two	Bahram Nouzari; Yousef Sheshkalani (Not verified in Polk)
2001	Two	Yousef Sheshkalani; Erik Bird (Not verified in Polk)
2003	Two	Yousef Sheshkalani; Sam Schmidt (Not verified in Polk)
2005	Two	Seung Hoon Yoo, Mathew Mayhugh; Shimoto Kazuma (Not verified in Polk)

Cole Research
 (Number next to name indicates the year occupant moved in)
 (Summarized by staff)

Year	Number of Units	Occupants
2002	Two	J Chowdry; Gauri Seshadri
2003	Two	Rabab Azimi (2000); J Chowdry (2001); Yousef Sokhanvar (1996) Lida Moazozzi (1996)
2004	Two	J Chowry (2001); Uosef Sokhanvar (1996); Sam Schmidt
2005	One	Kazuma Shimoto
2006	One	Kazuma Shimoto
2007	Two	Xicoyong Lai; Yousef Sokhanvar 91996

Attachment F

Photographs