

CITY OF PRESTON PLANNING AND ZONING MEETING
September 13, 2023

ATTENDANCE The following Board members were present: Chairman Adrienne Alvey, Commissioner Steve Call, Commissioner David Cole, Commissioner Richard Swainston.

Staff present: Shawn Oliverson, Tyrell Simpson, Becky Cox, Jared Coburn, Dan McCammon.

Meeting was called to order at 6:00 P.M. by Chairman Adrienne Alvey.

**REVIEW &
APPROVAL
P&Z MINUTES
8/9/2023**

Commissioner Call moved to approve the minutes of August 23, 2023 as written. Commissioner Cole seconded the motion. Motion passed by unanimous vote.

**FINAL PLAT:
FELLOWS
LANE**

City Engineer Tyrell Simpson stated that the three-lot development meets all of the requirements for a minor subdivision. The developer has met the requirements for the improvement bond and the sidewalk bond and those will be paid before final approval by city council. The developer has decided not to do an HOA and will designate five shares of water to each lot and the delivery system will be put in as part of the development.

Commissioner Cole made a motion to recommend to city council approval of the final plat for Fellows Lane Estates. Commissioner Swainston seconded the motion. Vote was unanimous.

**CHRIS &
JEANINE GROLL
ACCESSORY
DWELLING
UNIT**

City Development Director Shawn Oliverson explained that city council asked Planning and Zoning Commissioners to review the Groll's Airbnb rental to determine if it should be classified as an accessory dwelling unit. The Groll's have applied for a business license to run short term rentals, but city council wanted clarification on the unit that is a basement apartment.

The basement apartment is separated from the main floor of the house by a staircase with a door and has its own access from outside. There is sufficient parking. The commissioners discussed the definition of accessory dwelling unit found in the code and the fact that this fits under that definition but could also be considered an accessory apartment. There are also requirements in the code for an accessory dwelling unit that wouldn't apply to an accessory apartment, such as not being more than 1200 square feet and requiring a six-foot fence around the perimeter.

City Attorney Jared Coburn stated that the way the code reads, accessory dwelling unit (ADU) is an umbrella term for two different things: a secondary dwelling unit that is a separate structure and an accessory apartment that is within the house. He stated that the short-term rental code does not preclude needing to comply with the accessory dwelling unit code and that they may have to evaluate these units on a case-by-case basis on whether they need to comply with short-term rental and ADU code and need approval for both. He also reminded the commissioners that in this case they are strictly deciding whether or not the basement rental falls into the classification of an accessory dwelling unit.

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Chris Groll stated that they use the basement as part of their living space when it is not being rented, that they access their furnace and water heater from the basement and it is essentially a part of their house, but when they do have renters, they are able to close the door and close off the basement from the main level.

Jeannine Groll read from the Idaho State Code that prohibits cities from banning short term rentals. Attorney Coburn stated that although it does state that it goes on to state that cities can have reasonable regulations.

Commissioner Swainston stated that if it is not an ADU then there is nothing in the short-term rental code that prohibits it. Mr. Oliverson stated that to be in compliance as a short-term rental they need a business license but if it is an ADU then they also need approval for the ADU.

The commissioners discussed some of the complaints that had been received about the property and the fact that the code has provisions for properties that have complaints made against them. They also discussed that the property has to be in compliance with the HOA and the city is not the enforcer of HOA rules.

Chairman Alvey asked Mayor Dan Keller to make some comments on why city council wanted P&Z to look at this. Mayor Keller stated that the city council had received some complaints about the property being used as a rental and when a business license was applied for, they had some questions on whether the property was considered an ADU and if they needed a permit to have an ADU. City council has asked P&Z to determine if this should be classified as an ADU and if they need to apply for permission to have an ADU.

The commissioners discussed that not all short-term rentals are classified as an ADU, there are short-term rentals that do not need to apply as an ADU. In this situation they could rent the basement under the short-term rental code with just a business license. If they determine that this is an ADU then does everyone with a short-term rental have to apply for an ADU also. Commissioner Swainston reminded them that all they are being asked to do in this case is determine if the basement rental is an ADU. Commissioner Call stated that he feels they need some time to make this determination and think about the effects of the decision.

Commissioner Swainston made a motion to recommend to city council that this should be classified as an ADU. Motion died for lack of second.

Commissioner Call made a motion to table the decision while they gather more information and have more commissioners in attendance. Commissioner Cole seconded the motion.

Vote went as follows:

Commissioner Call	<u>Aye</u>
Commissioner Alvey	<u>Aye</u>
Commissioner Cole	<u>Aye</u>
Commissioner Swainston	<u>Aye</u>

Motion passed by unanimous vote.

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CALENDARING Chairman Alvey stated that they will revisit the decision on the Groll's property at the next meeting and also discuss needed changes to the short-term rental and accessory dwelling unit codes.

ADJOURN Meeting was adjourned at 7:05 P.M. by Chairman Alvey.

Becky Cox

Adrienne Alvey, Chairman