

Provo City Planning Commission Staff Report
Rezone
Hearing Date: January 14, 2009

Agenda Item: 3*

Applicant: Provo City Municipal Council

Staff Coordinators: Mark Boeckel, Jim Bryan

Property Owner: Various

Parcel ID#: Multiple

Current Zone: R1.6(A) and RC

Proposed Zone: R1.6

General Plan Des.: R

Acreage: approx. 165 acres

Number of Properties: 400+

***Council Action Required:** Yes

REQUEST

Provo City requests rezoning of all properties in the Dixon Neighborhood located between Center Street and 500 North, 500 West and I-15, currently zoned R1.6A (One Family Residential Accessory Apartment Overlay) Zone and RC (Residential Conservation) to the R1.6 (One-Family Residential) zone. *Dixon Neighborhood* 08-0010R

CURRENT LEGAL USE

The proposed rezone area contains a variety of land uses including one family dwellings, owner occupied one family dwellings with accessory apartments, two family dwellings, as well as other residential uses.

RELEVANT HISTORY

The rezone area was historically comprised of a variety of residential zones which accounts for its current housing diversity. The majority of the higher density residential zones in the Dixon Neighborhood were rezoned to RC (Residential Conservation) in 2002.

NEIGHBORHOOD ISSUES

Based on the report of the Neighborhood Chair, a neighborhood meeting to discuss the item was held on October 2, 2008, and the majority of the neighbors in attendance at the meeting were supportive of the rezoning.

STAFF REPORT SUMMARY OF KEY ISSUES

The request complies with the General Plan goals for the Dixon Neighborhood and will serve the public purpose.

RECOMMENDED ACTION

1. **Recommend Approval** of the proposed rezoning, as presented in the Staff Report or with changes. *This action would be consistent with the recommendation of the Staff Report. Any changes should be stated with the motion.*

ALTERNATIVE ACTIONS

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is February 11, 2009, 5:00 p.m.*

3. **Recommend Denial** of the proposed rezoning. *This would be a change from the Staff recommendation; the Planning Commission should state new findings*

OVERVIEW

Judy Kelsch, Dixon Neighborhood Chair is requesting the rezoning of approximately 165 acres of property located within the Dixon Neighborhood boundaries. This area contains approximately 468 residential units. The properties are currently located in either the R1.6(A) (One-Family Residential, Accessory Apartment Overlay) zone or the RC (Residential Conservation) zone. The applicant's request is to change the zoning to the R1.6 (One Family Residential) zone which permits a one family dwelling on each property.

According to the application, the purpose of changing the zoning is to discourage future higher densities and residential conversions of existing homes by removing the option of having an accessory apartment which is permitted by the current zoning.

GENERAL PLAN POLICIES

The properties in question are designated on the General Plan Map as R (Residential). The properties are under the General Plan Policy guidelines for the Central Area and Dixon Neighborhood Policies. The request to rezone the properties is in compliance with these policies. Those policies are as follows:

Central Area Guiding Principles, Policies, and Goals

Of policies #1 through #15, policy #1 and #2 are listed as they are believed to be relevant to this application.

1. *Increase owner-occupancy of dwellings, re-establishing the one-family dwelling as the principal residential use except where designated for campus-oriented redevelopment in Joaquin's South Campus Planning Area.*
2. *Accessory apartments within owner-occupied, one-family dwellings are acknowledged as one of a number of tools, where these accessory apartments exist legally, in support of achieving home ownership and owner occupancy.*

Dixon Neighborhood

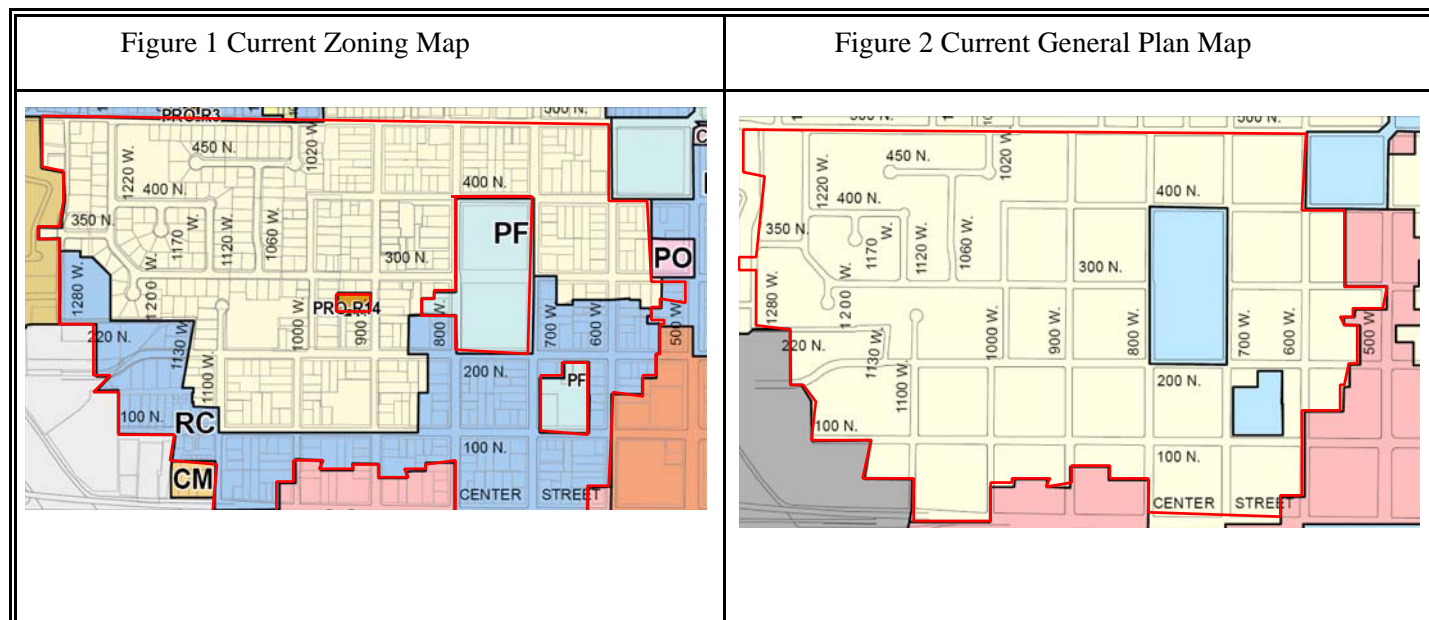
Of the 7 policies listed for the Dixon Neighborhood, only policy #1 is listed since it is the only policy believed to be relevant to this application.

1. *Protect viable, significant areas of one-family structures in areas designated as Residential (R).*

FINDINGS OF FACT

1. The current zoning designations for the properties in question are R1.6(A) (One Family Residential) or RC (Residential Conservation) as shown in Figure 1. The current General Plan Designation for the properties for which a rezone is requested is R (Residential) as shown in Figure 2. This request does not include five properties that are located along 500 West and are currently zoned RC. These properties were excluded from this application since the general plan designation for those properties is C (Commercial).
2. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of zoning map amendments:
Upon receipt of a petition by the Planning Commission, the Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010 of this Title and may approve, conditionally approve, or deny the preliminary project plan. Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
 - (a) *Public purpose for the amendment in question..*
 - (b) *Confirmation that the public purpose is best served by the amendment in question.*
 - (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*
 - (d) *Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.*
 - (e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.*
 - (f) *Adverse impacts on adjacent land owners.*
 - (g) *Verification of correctness in the original zoning or General Plan for the area in question.*
 - (h) *In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.*
3. There are a variety of residential types of uses existing within the proposed rezone area. The majority of the properties are one-family dwellings however, based on information submitted by the Neighborhood Chair, there are 53 owner occupied one-family dwellings with accessory apartments, 69 two family dwellings, and 68 one family dwellings converted to two family dwelling use. This documentation has not been verified by staff, but is used for informational purposes.

4. If the proposed rezone is approved, all legally established homes with accessory apartments, two family dwellings or any other legal residential uses other than One-Family Dwellings would become nonconforming. All uses that are operating illegally would continue to be subject to enforcement and legalization would not be an option for these uses.



STAFF ANALYSIS

This proposal has been reviewed for compliance to the guidelines listed in 14.02.020(2), with the following findings as a result:

- (a) ***Public purpose for the amendment in question.*** The applicant indicates that the public purpose of the proposed rezone is to promote a family-life type of environment in the neighborhood and reduce future illegal conversions.

Staff Analysis: Staff acknowledges that one family dwellings that contain an accessory apartment are often used as illegal two-family dwellings. Not allowing additional accessory apartments may result in fewer properties being used as illegal two-family dwellings.

- (b) ***Confirmation that the public purpose is best served by the amendment in question.*** As stated in the application, the neighborhood already contains numerous one-family dwellings that would be too small to accommodate an accessory apartment and still be used as housing for a family. Numerous homes throughout the neighborhood already contain nonconforming accessory apartments that could still be used by current or future owner occupants.

Staff Analysis: Staff agrees that the public purpose is best served by the amendment in question since it should help restrict the number of new illegal two-family dwelling conversions. The proposed rezone would only prohibit the creation of new accessory apartments and Senior Citizens that meet all requirements of Section 14.34.450, Provo City Code would still be able to apply for extra living space in their owner occupied residence.

- (c) ***Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*** The proposed amendment is compatible with the General Plan policies, goals, and objectives for the Dixon Neighborhood and Central Area. The relevant policies are outlined in the General Plan Policies section of this report. Policy #2 of the Central Area does state that accessory apartments may be used as a tool to help promote owner-occupancy but does not require the Accessory Apartment Overlay zone apply to any particular portion of the Central Area neighborhoods.

- (d) ***Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.*** There are no timing or sequencing provisions for removal of the Accessory Apartment Overlay zone or application of the R1 zone to the Dixon Neighborhood.

- (e) **Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.** The proposed rezone should support attainment of the General Plan's articulated policies.
- (f) **Adverse impacts on adjacent land owners.** The proposed amendment would not create adverse impacts on adjacent land owners. The proposed amendment should help decrease the number of illegal two-family dwelling conversions and therefore have a positive impact on surrounding landowners.
- (g) **Verification of correctness in the original zoning or General Plan for the area in question.** The zoning and general plan designation for the properties is verified as correct.

NEIGHBORHOOD MEETING:

Judy Kelsch, the Dixon Neighborhood Chair, reported that a neighborhood meeting about the proposed rezone was held on October 2, 2008. The neighborhood chair reported that nine people attended the neighborhood meeting and three people called her by phone to discuss the proposed amendment. Of the thirteen people that made contact with the neighborhood chair by phone or at the meeting, ten were in support, one was uncertain about their position, and one was against the proposed amendment.

CONCLUSIONS

Based on the findings outlined above, Staff concludes that rezoning the properties outlined in Figure 1 from both the R1.6(A) (One-Family Residential, Accessory Apartment Overlay) zone and the RC (Residential Conservation) zone to the R1.6 (One-Family Residential) zone would be consistent with the General Plan policies for the Dixon Neighborhood and that the proposal best serves the public purpose. Staff concludes that all residential uses other than one-family dwellings would become nonconforming as a result of the proposed zoning change.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend that the Municipal Council rezone approximately 165 acres of the Dixon Neighborhood from both the R1.6(A) (One-Family Residential, Accessory Apartment Overlay) zone and the RC (Residential Conservation) zone to the R1.6 (One-Family Residential) zone.

ATTACHMENTS

1. Zoning Map of the General Area
2. Information submitted by the applicant

November 3, 2008

Dear Provo City Council Members,

I am writing this letter to request the removal of the "A" overlay from the Dixon Neighborhood, R1-6 (A) zone, also the Residential Conservation zone to be change to the R1-6 zone.

Reason for this request:

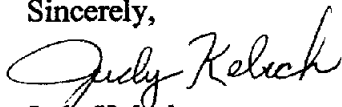
- * Family life will be encouraged.
- * There are already a good number of family residences.
If they are divided into two units they would be to small for a family with more than one or two children to be accommodate.
- * If someone wants to buy a house with an accessory there are plenty already established for there choosing.
- * With the passing of the senior accessory units the elderly are provided for.

At the neighborhood meeting nine people attended, three called by phone and talked to me. One was against, one didn't know how he felt and ten were in favor of this change.

If this change is established in the Dixon Neighborhood you will provide the encouragement and promotions of an environment for family life, what it was always meant to be.

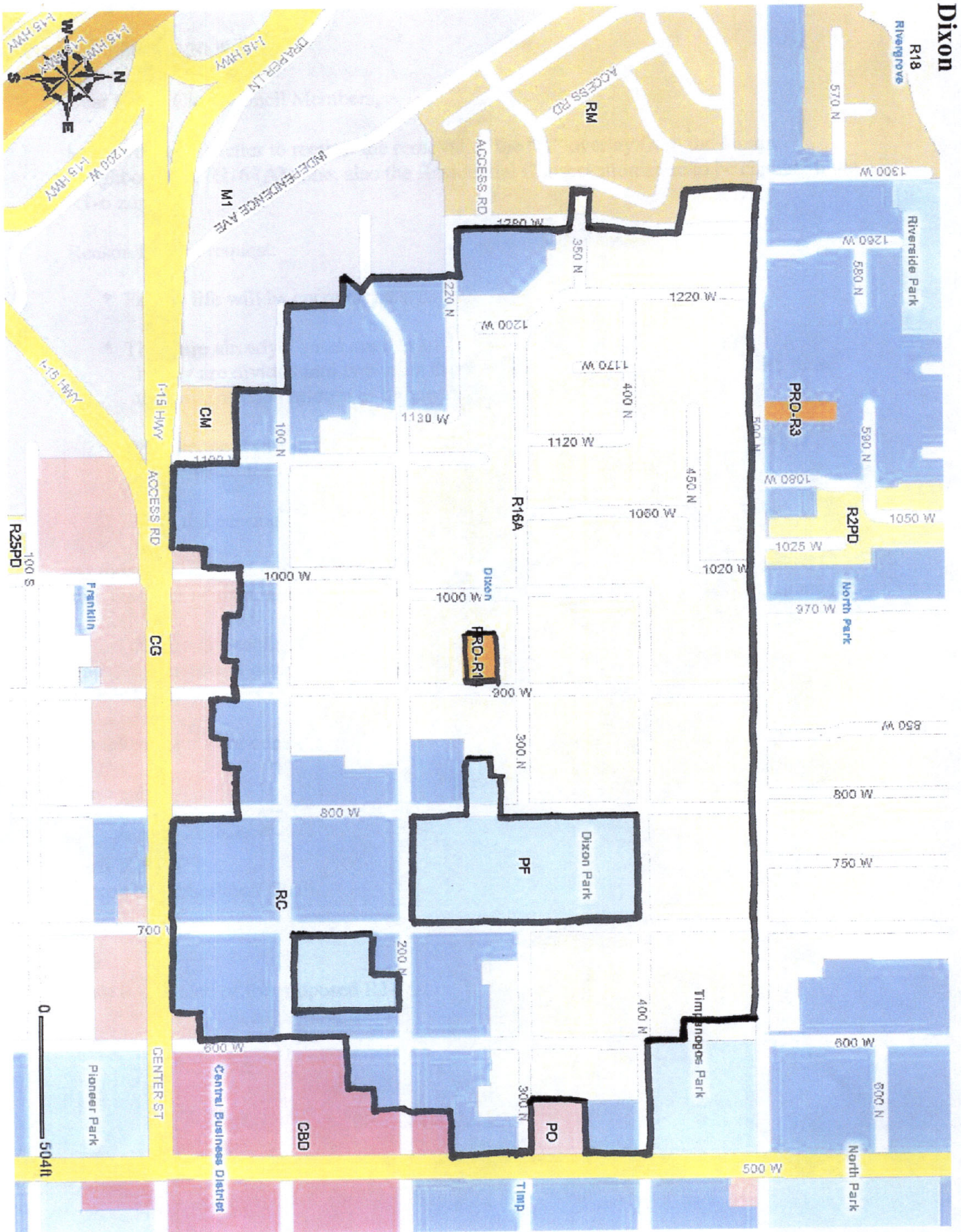
Thank you for your consideration of these two changes.

Sincerely,



Judy Kelsch
Dixon Neighborhood Chair

Map is included of the proposed R1-6 zone



Dixon

R18
Rivergrove

Riverside Park

PRO-R3

R2PD

North Park

PRO-R1

Dixon Park

Timpanogos Park

PO

RC

CBD

Central Business District

Planer Park

Franklin

CM

CG

R2SPD

R18

RM

R16A

R16B

R2PD

R2S

R3

RC

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Portion of minutes from November 11, 2008 Work Session (minutes not yet approved)

2. Council Discussion

a. Dixon Neighborhood Request

A letter from Judy Kelsch requesting Council to remove the A Overlay in the Dixon Neighborhood was discussed. Three years ago the Administration and Council suggested that citizens come up with "no-cost" kinds of ideas and recommendations to improve their neighborhoods. These recommendations could then be brought to Council for consideration. The recommendation from the Dixon Neighborhood is that the Council initiate a proposal to the Planning Commission to change their Neighborhood from a R1.6A zone to a R1.6 zone. There are 283 one family residential dwellings in Dixon, 53 owner occupied single family dwellings that have an accessory apartment, 54 absentee owner single family rentals, 69 two family residential dwellings that were built as duplexes, and 68 single family homes converted to a duplex use. Altogether there are 400 single family homes that are single family homes and 68 two family homes that are duplexes. If the current owners have a rental license and the A Overlay comes off, they would be "grandfathered" in through non-conforming use status to legal use. The neighborhood proposal is to become a single family R1.6 zone. Dixon needs the Council to vote to initiate the application which would then go to the Planning Commission. The public discussion would then begin and details would be worked out . This is the end result of neighbors trying to find ways to encourage and promote a family-life kind of environment they want in their Dixon Neighborhood. They want to discourage density and any more conversions.

COUNCIL MEMBER JOHNSON MOVED IN FAVOR OF THE PROPOSAL BY DIXON NEIGHBORHOOD TO REMOVE THE A OVERLAY AND BECOME A R1.6 ZONE.
COUNCIL MEMBER DAYTON SECONDED. MOTION PASSED 6:0. COUNCIL MEMBER CLARK EXCUSED.