



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: October 5, 2010

TO: Planning Commission

FROM: Ernie Duarte
Executive Secretary

SUBJECT: Proposed Land Use Code (LUC) Amendment – Group Dwellings

Issue – This item is scheduled to give staff the opportunity to update the Planning Commission on a proposed code amendment for group dwellings.

Recommendation – Staff recommends that the Planning Commission set this proposed text amendment for study session and public hearing on November 2, 2011. Staff will provide the draft amendment to the Planning Commission not later than October 15, 2011. The proposed amendment will be scheduled for Mayor and Council Study Session on October 12, 2011, for discussion and direction to the Planning Commission. A public hearing at the Mayor and Council will be scheduled as soon as possible following the Planning Commission public hearing and recommendation.

Background – On January 18, 2011, the Zoning Administrator was requested by Joan Hall and Jefferson Park Neighborhood Association (“Hall/JPNA”) to make a determination as to whether the use of certain buildings in the Jefferson Park area constituted a group dwelling use that was not permitted in the R-1 zone. The original determination, issued by the Zoning Administrator on March 14, 2011, found that the use of those buildings was that of a group dwelling and was not permitted in the R-1 zone.

The determination was appealed to the Board of Adjustment by both the property owner and Hall/JPNA and a hearing was scheduled for July 27, 2011. At the time set for the hearing of the appeal, both appellants and the City requested a continuance so that all parties could engage in mediation of their differences regarding the use and development of these structures. As a result of this mediation both parties agreed that the Zoning Administrator would vacate the March 14th determination and the pending appeals. They would be replaced with a new, revised determination. That revised determination was issued by the Zoning Administrator on September 28, 2011 (see attached). This determination is to be used as the basis of the proposed Land Use Code amendment.

Attachments: Revised Determination dated September 28, 2011



CITY OF
TUCSON

PLANNING AND
DEVELOPMENT
SERVICES
DEPARTMENT

ZONING
ADMINISTRATION
DIVISION

September 28, 2011

Minnette Burges
Law Offices of Minnette Burges
177 N. Church Avenue, Suite 808
Tucson, AZ 85701

Russell E. Krone
Thompson-Krone, P.L.C.
6303 E. Tanque Verde Road, Suite 210
Tucson, AZ 85715

Subject: Zoning Administrator Determination on Group Dwellings.

Dear Ms. Burges and Mr. Krone,

I was previously asked by Joan Hall and Jefferson Park Neighborhood Association ("Hall/JPNA") to make a determination as to whether the use of certain buildings owned by Michael Goodman ("Goodman") known as Goodman developments constituted a group dwelling use that was not permitted in the R-1 zone. My determination issued on March 14, 2011, found that the use of those buildings was that of a group dwelling and was not permitted in the R-1 zone. My determination further stated that it applied only to the use of the structures and not to the approval of building plans for the structures or future structures.

Goodman appealed in case C10-11-06 the portion of the determination that found his buildings were used as a group dwelling and Hall/JPNA appealed in Case C10-11-07 the portion of the decision that found that the building plans were not plans for group dwellings. At the time set for the hearing of the appeal, both appellants and the City requested a continuance so that all parties could engage in mediation of their differences regarding the use and development of these structures.

As a result of that mediation process, the parties have agreed to a framework for continuing to pursue resolution of their differences. That framework calls for the vacation of the prior determination and the issuance of this new determination.

I therefore vacate the determination dated March 14, 2011 and issue this determination to replace it, both effective Sept. 28, 2011.

A group dwelling in the R-1 zone consists of the following:

1. The occupancy on an R-1 lot by 5 or more persons who are unrelated is a group dwelling. Related persons are those who are related by blood or by law or legal custody.

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Minnette Burges
Russell E. Krone
September 28, 2011
Page 2

2. This determination shall be applicable to all new construction and any change of the use of existing R-1 dwellings having less than 5 unrelated persons after September 28, 2011.
3. Existing structures in the R-1 zone for which there is documented use for occupancy by 5 or more unrelated persons prior to Sept. 28, 2011, shall be allowed to remain as a matter of equity subject to the Zoning Administrator determining upon the filing of any complaint if it is necessary to condition the continued use in order to preserve compatibility of behavior associated with the dwelling with the purpose and intent of the R-1 zone. This paragraph shall apply to properties where building plans have been submitted to the City prior to the date of this determination.
4. A copy of this determination shall be provided to persons applying for a single family residential permit in the R-1 zone.
5. Based upon the agreement of the parties to this determination, the time period for the filing of any appeal shall be tolled until either party or the Zoning Administrator provides written notice to all other parties that the period for tolling has ceased. Any appeal shall be filed no later than 30 days after the receipt of the written notice ending the tolling period.

This zoning determination constitutes precedent pursuant to Tucson Code §23A-31 and a copy of this determination shall be maintained in the City Clerk's office and available to the public.

I may be contacted at 837-4902 or at craig.gross@tucsonaz.gov for further information or assistance.

Sincerely,



Craig L. Gross
Deputy Director/Zoning Administrator
Planning and Development Services Department

- C: Mike Rankin, City Attorney's Office
Mike McCrory, City Attorney's Office
Paul Loucks, Mesch, Clark and Rothschild, P.C.