



SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN
COMMUNITY DEVELOPMENT
DIRECTOR

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

MEMORANDUM

May 17, 2018

To: Planning Commission
From: Community Development Department
Subject: Wen Juan Accessory Apartment
410 East 8800 South
(Historic Sandy, Community #4)

CUP-04-18-5386
Zoned R-1-7.5(HS)

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject property.*

PROPERTY CASE HISTORY	
Case Number	Case Summary
SUB-01-15-4092	Watterson Flats Subdivision – 6-Lot Residential Subdivision with a TND Overlay

DESCRIPTION OF REQUEST

The applicant, Wen Juan Mao, is requesting a Conditional Use Permit to allow for an 776 square foot basement accessory apartment on the property located in Historic Sandy at 410 East 8800 South. The property is 0.13 acres (5,663 square feet), and is located in the R-1-7.5(HS) zone district. Surrounding homes are single-family homes zoned R-1-7.5(HS). The property is part of the Watterson Flats Subdivision that was approved by the Sandy City Planning Commission on April 2, 2015, with a Traditional Neighborhood Development Overlay Zone (TND).

The proposed accessory apartment will be entered from the rear yard (south side of the home), with a 50-foot long paved sidewalk connecting the accessory apartment to the front driveway. An off-street parking stall is already installed on the east side of the existing driveway (*See Exhibit #1 – Application Material*). The parking stall is 8’ x 24’10” (199 square feet). The finishing of the basement was permitted (RESB-05-16-13558) as part of the original home construction, and a final inspection was conducted by staff on October 11, 2017.

The initial intent of the applicant was to construct an accessory apartment that occupied the entire basement (1,545 square feet) to provide a space for immediate family to reside.

Circumstances have changed, and the applicant is proposing to rent the basement to future non-related tenants through the conditional use permit process.

Prior to applying for the conditional use permit, staff inspected the property and found the existing basement apartment to be too large per Section 15A-11-01.C.2 of the Sandy City Development Code, which requires accessory apartments to comprise no more than 30 percent of the building's total floor area or not exceed 800 square feet.

In order to comply with this requirement, the applicant pulled a building permit (RESB-06-17-16025) to reduce the size of the apartment from 1,545 square feet to 776 square feet to meet the Sandy City Development Code. Further, the applicant will be installing a fire rated door in the basement hallway upon acquiring a conditional use permit, to ensure that future tenants only have access to 776 square feet of the basement.

ANALYSIS

Per Section 15A-11-01 of the Sandy City Land Development Code, the purpose of the accessory apartment standards are to:

Provide regulations and design standards for accessory apartments related to single-family dwellings in residential zone districts. The accessory apartment enables housing units to be available to moderate income households, provide economic relief to homeowners who might otherwise be forced to leave a neighborhood, and make living units available for households at a variety of stages of the life cycle.

A. General Requirements. The following requirements must be met in order to have either an accessory apartment, extended living area, or a guesthouse.

1. **Residence Required.** The owner(s) of the residence shall live in the dwelling in which the accessory apartment/extended living area was created, and a letter of application sworn before a notary public shall be provided by the owner(s) stating that such owners will occupy the said dwelling, except for bona fide temporary absences. For a guesthouse, the property owner shall live in the primary dwelling unit on the same premises that a guesthouse is proposed.
2. **Number Permitted Within Each Single Family Dwelling.** Only one accessory apartment/extended living area shall be created within a single family dwelling, and said area shall clearly be a subordinate part of the dwelling. The accessory apartment/extended living area shall not occupy any accessory buildings. No lot or parcel shall contain more than one guesthouse.
3. **Home to Retain Single Family Dwelling Appearance.** The accessory apartment/extended living area shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family residence, including retention and enhancement of landscaping. A guesthouse shall be designed and constructed as to be compatible with the architectural components of the primary dwelling unit (e.g., exterior materials, color, and roof pitch).

4. **Utility Meters and Addressing.** It shall be prohibited to install separate utility meters and separate addresses.
5. **Building Code Compliance Required.** The design and size of the accessory area shall conform to all applicable standards in the City's adopted Fire, Building, and Health Codes. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment, extended living area, or guesthouse.
6. **Parking.** At least one off-street parking space shall be available for use by the occupant(s) of the accessory apartment, extended living area, or guesthouse. This space shall be in addition to those required for residents of the main portion of the dwelling and shall comply with the City's adopted residential parking standards. Any additional vehicles of the occupants must be accommodated on-site. On-street parking shall be reserved for visitors only.
7. **Mobile Homes.** It shall be prohibited to construct an accessory apartment/extended living area within a mobile home.
8. **Transferability.** Upon sale of the home or change of primary occupant, the approval for an accessory apartment/extended living area shall expire, that is, the approval is not transferable.

B. Additional Requirements for Approval of an Accessory Apartment. Accessory apartments are allowed only with approval of a Conditional Use. Such use shall not exempt the applicant from meeting other applicable ordinances, covenants, codes, or laws recognized by Sandy City. The following standards must be met in order to grant a Conditional Use:

1. **Entrances.** All entrances for an accessory apartment shall be located on the side or in the rear of the dwelling.
2. **Maximum Size Permitted.** In no case shall an accessory apartment comprise more than 30 percent of the building's total floor area nor be greater than 800 square feet nor have more than 2 bedrooms, unless, in the opinion of the Planning Commission a greater or lesser amount of floor area is warranted by the circumstances of the particular building. An accessory apartment is a complete, separate housing unit that shall be within the original dwelling unit.
3. **Occupancy Restrictions.** The occupants of the accessory apartment shall be related to each other by blood, marriage, or adoption; or up to two unrelated individuals who are living as a single housekeeping unit. The occupants of the accessory apartment shall not sub-lease any portion of the accessory apartment to other individuals.
4. **Recordation.** Approval for an accessory apartment shall be recorded with the Salt Lake County Recorder's Office, including any special conditions of approval

to guarantee compliance with the approval. A copy shall be kept on file with the Building Department.

5. Duration of Approval.

- a. **Approval Non-Transferable.** Upon sale of the home or change of primary occupant, the Conditional Use shall expire and is not transferable.
- b. **Length of Approval - Renewal Options.** The effective period of the Conditional Use for accessory apartments shall be two years from the date of the original approval. At the end of every two years, renewal may be granted upon receipt by the Director of certification by the property owner that the property remains the principal residence of the owner, and that all other original conditions continue to be met. Notification shall be sent to the owner for response. Failure to obtain such certification may be the basis for revocation of the Conditional Use. The Planning Commission, in its sole discretion, may require a new application and a demonstration of compliance with all conditions necessary for a Conditional Use.

6. **Other Requirements.** Any other appropriate or more stringent conditions deemed necessary for accessory apartments in protecting public health, safety, welfare, and the single family character of the neighborhood shall be established by the Planning Commission.

NOTICE

A neighborhood meeting was held on Wednesday, April 18, 2018. No neighbors attended the meeting. Prior to the neighborhood meeting, staff received a number of phone calls and emails regarding this application. Concerns raised by neighbors were regarding density in the neighborhood and adequate off-street parking for the property. Two of these emails have been included with this staff report (*See Exhibit #2 – Emails*). Notices were mailed to property owners within a 500-foot radius of the subject parcels in advance of the Planning Commission meeting as per Sandy City Land Development Code requirements.

STAFF CONCERNS

To address neighbors' concerns regarding off-street parking for the property, staff went to the site to measure the dimensions of the available parking to ensure compliance with Section 15A-11-01. There is no residential parking dimension standard in the Sandy City Land Development Code. Thus, staff compared what is on site with the commercial parking standards found in Section 15A-24-10 of the Sandy City Land Development Code. The commercial parking stall dimension standard is 9' x 20' (180 square feet). The existing three parking stalls are narrower than the commercial parking standard by approximately 1 foot. The average off-street parking stall for the site is 8'4" x 24'10" (205 square feet). The dimension of the driveway is 16'9" x 24'10" (415 square feet), with an 8' x 24'10" parking stall for the accessory apartment. The total driveway dimension, with the off-street parking stall is 24'9" x 24'10" (614 square feet).

Though the parking stalls on-site are narrower by approximately 1 foot of the commercial standard, staff has determined that there is still adequate parking for the site. To illustrate this, staff parked the property with three vehicles and took a picture to show that the property could be parked in compliance with Section 15A-11-01 of the Sandy City Land Development Code. Staff feels that the proposed parking will still allow sufficient space to maneuver in and out of the property, and allow enough space for the opening of car doors (*See Exhibit #3 – Parking Study*).

COMPLIANCE WITH SECTION 15A-33-04

Staff response in *italics*.

Conditions. In order to achieve compliance with the standards set forth herein, the City may impose conditions, which address standards 15A-33-03 “A” to “O”, as contained in the Sandy City Development Code. This proposed conditional use meets or satisfies all of Conditions “A” through “O”, except the following conditions, which merit discussion or additional consideration by the Planning Commission:

A. Size, configuration and location of the site and proposed site plan layout.

The applicant, to comply with Section 15A-11-01(C)(2) of the Sandy City Land Development Code, has reduced the basement apartment from 1,545 square feet to 776 square feet.

D. Design, location and amount of off-street parking, loading areas and solid waste disposal and collection areas.

The applicant, to comply with Section 15A-11-01(6) of the Sandy City Land Development Code, has installed an 8’ x 24’10” (199 square foot) parking space on the east side of the existing driveway.

O. Such other conditions determined reasonable and necessary by the City to allow the operation of the proposed conditional use, at the proposed location in compliance with the requirements of this Code.

That the applicant complies with all Building & Safety, and Fire & Life Codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission grant Conditional Use Approval for an accessory apartment to Wen Juan Mao, located at 410 East 8800 South subject to the following three findings and four conditions:


Findings

1. The proposed use meets the intent of the accessory apartment section of the Sandy City Land Development Code.
2. The applicant understands and is willing to comply with the Sandy City Land Development Code and conditions of approval.
3. That the applicant has provided adequate off-street parking per Section 15A-11-01.B.6 of the Sandy City Land Development Code, with a total parking area of 614 square feet including an 8’ x 24’10’ off-street parking stall.

Conditions

1. That the applicant complies with all Building & Safety, and Fire & Life Codes.
2. That the applicant be responsible for meeting all provisions of the Sandy City Land Development Code, and all conditions of approval imposed by the Planning Commission.
3. That a fire rated door be installed in the basement to section off a portion of the basement to bring the accessory apartment below the 800 square foot maximum per Section 15A-11-01-.C.2 of the Sandy City Land Development Code.
4. That this Conditional Use Permit be reviewed upon legitimate complaint.

Planner: 

Reviewed by: 

Wade Sanner, Planner

File Name: S:\USERS\PLN\STAFFRPT\2018\CUP-04-18-5386 Wen Juan Basement Apartment

Exhibit #1 – Application Material

Conditional Use Permit Application Explanation

Date: 4/5/2018

From: Wen Juan Mao

Phone: (801) 635-7042

E-mail: wenjuanmao@hotmail.com

Address: 410 E 8800 S, Sandy, UT 84070

To: Wade Sanner, AICP Planner

Sandy City Community Development

10000 Centennial Parkway, Sandy, UT 84070

Phone: (801) 568-7250

Dear Mr. Sanner,

I would like to apply for a conditional use permit for my basement apartment at my residence located at 410 E 8800 S, Sandy, UT 84070.

When my son and I purchased this newly constructed single-family home for our personal residence in 2017, the basement was not finished at that time. My brother and his family mentioned that they would like to move into this house with us when they move here from China. So, we hired a licensed general contractor to build a basement apartment for us. The general contractor followed all the required building code guidelines and our basement has passed all the inspections by Sandy City.

Recently, my brother told us that they would like to buy a house for his own family in the future. So, they might be staying with us for a shorter time than they originally planned.

Since my brother and his family will not stay at my house permanently, I would like to apply for a conditional use permit so that I can rent my basement apartment to others when my brother and his family move out in the future.

I have enough off-street parking space and a separate entrance to the basement. My basement apartment has a living room, a kitchen, a bathroom, a bedroom, and a laundry room for my future tenants to use.

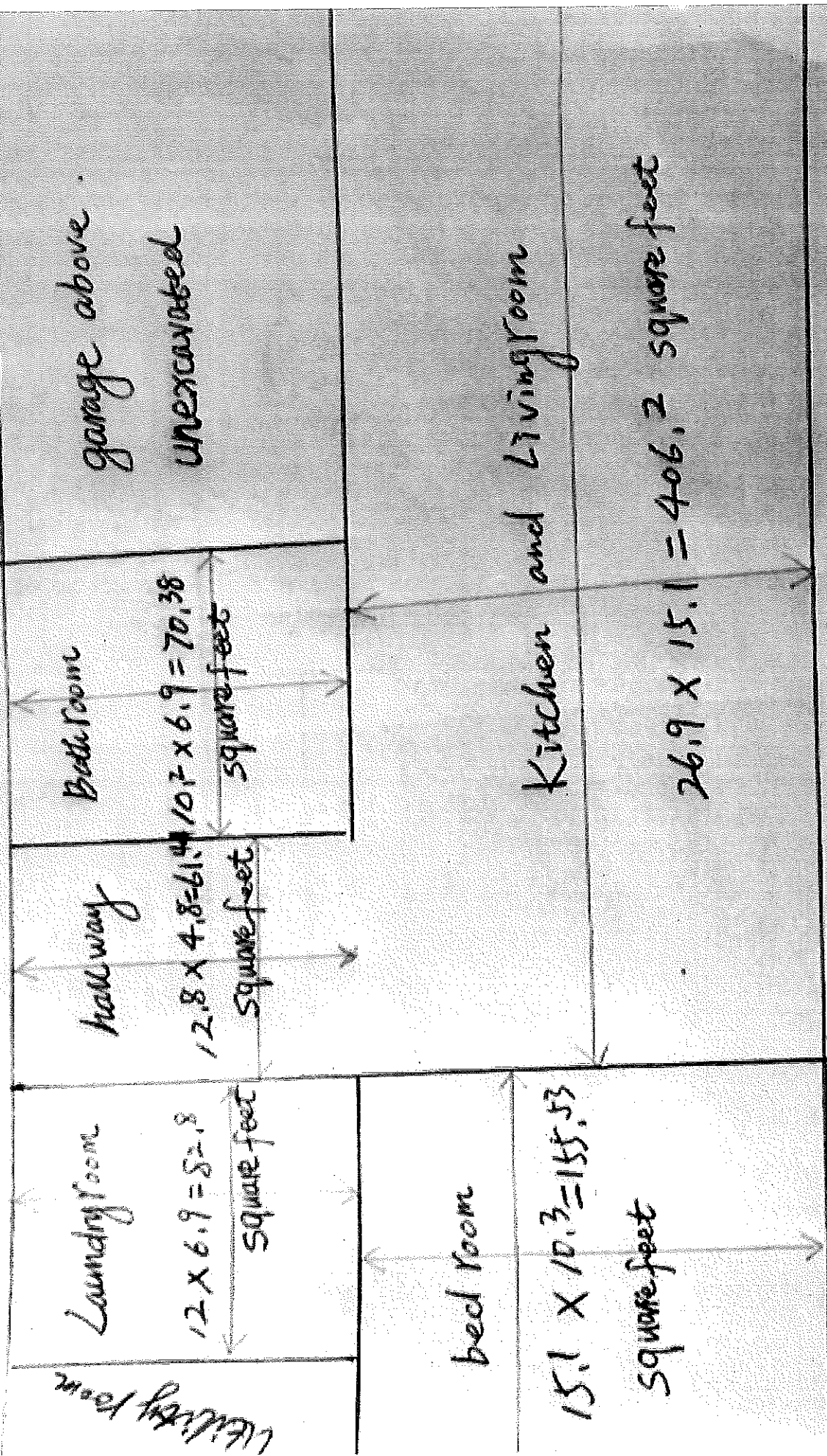
In an effort to comply with the basement apartment total square feet requirement. We will section off a portion of the basement apartment with a fire rated door in the hallway of the basement to comply with the basement apartment provision. The basement apartment will be approximately 800 square feet.

For your reference, I have attached a separate paper to show the layout and the measurements of my basement apartment. Thank you.

Sincerely,

Wen Juan Mao

From wall to wall 410E 8800S



Total: 776.4 square feet

Exhibit #2 – Emails

Wade Sanner

From: Wade Sanner
Sent: Wednesday, April 18, 2018 2:51 PM
To: 'Jody Jenkins'
Subject: RE: Conditional use permit for Wen Juan

Jody,
Thank you for your email regarding this application. I will make sure that your concerns are addressed to the Planning Commission. Let me know if I can help with anything.

Thanks,

WAde



sandy.utah.gov

Wade Sanner, AICP
Planner

10000 S. Centennial Pkwy. | Sandy, UT 84070
o: 801.568.7269
wsanner@sandy.utah.gov



From: Jody Jenkins <jodyjenkins@live.com>
Sent: Wednesday, April 18, 2018 1:46 PM
To: Wade Sanner <wsanner@sandy.utah.gov>; Brooke Christensen <beb.christensen@gmail.com>
Subject: Conditional use permit for Wen Juan

I live across the street from this location at 441 E. 8800 So.,
I have a major concern regarding the parking for this area in regards to the request made by Wen Juan for a conditional use permit for a basement apartment. There are a total of 5 homes in this subdivision and if all 5 want to do the same thing there is not enough room for parking. I hope Sandy City Development will consider also that this is very near to the elementary school and we do not need the additional traffic and parking situation.

Thank you

Sent from [Mail](#) for Windows 10

Wade Sanner

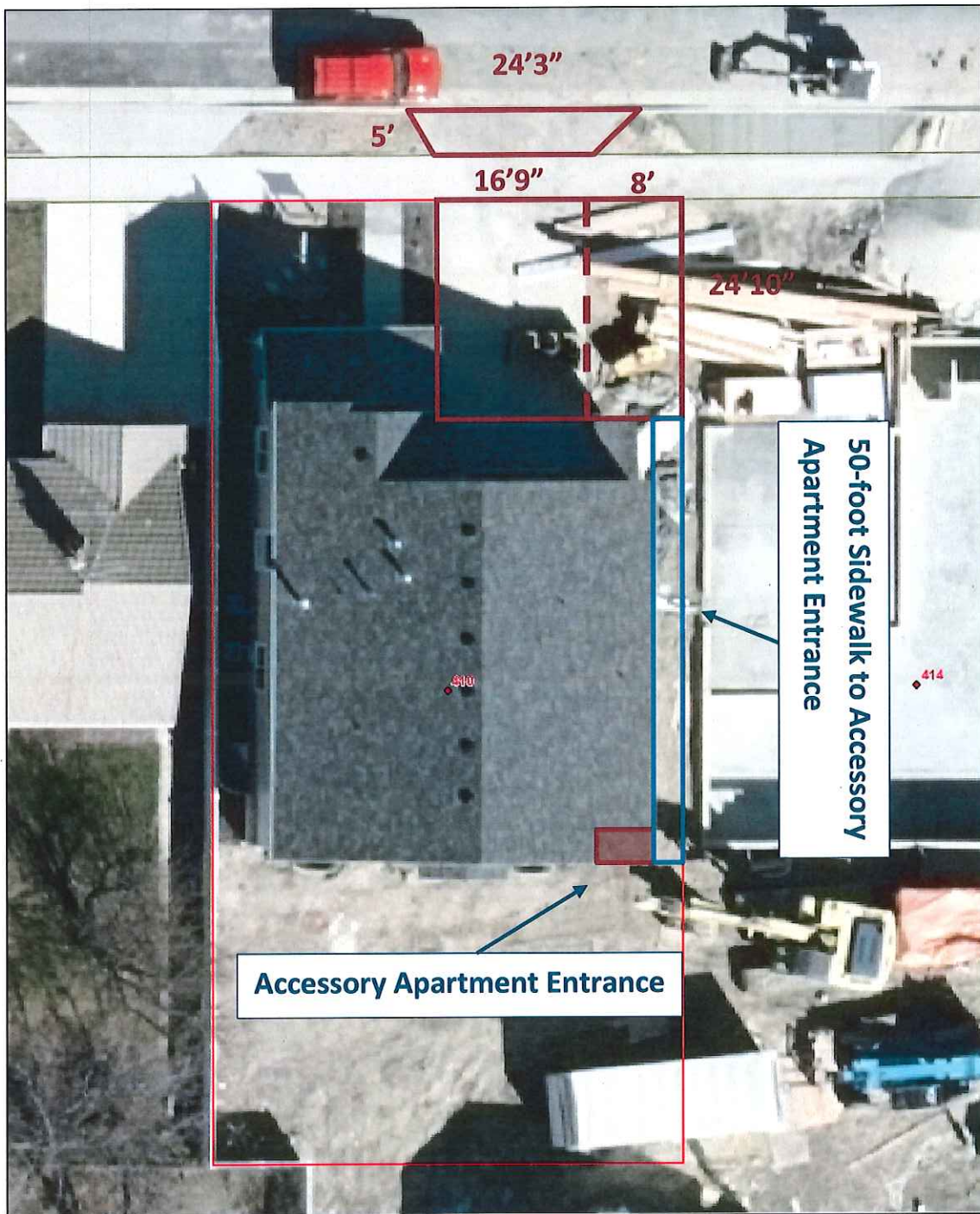
From: Kirsten Capunay <kirstencapunay@gmail.com>
Sent: Wednesday, April 11, 2018 5:17 PM
To: Wade Sanner
Subject: RE: Wen Juan Basement Apartment 410 E 8800 S

RE: Wen Juan Basement Apartment 410 E 8800 S

I am a resident in historic Sandy (8816 S 360 E) with kids attending Sandy Elementary. The dwelling in question was sold as single family unit. Residential only. I do not think it right to change these to apartments now. The lots are already fuller than what we wanted. 8800 South is already too busy with unmanned crosswalks our kids have to cross to get safely to school. There is no additional parking at those houses so the tenants will be parked in the street; adding to the danger of cars not seeing the kids trying to cross there. I'm sure they will "promise" they'll let their tenants park in their garage or parking lot, but once its done that's it and there's no way to enforce it. What about the guests they have there as well? It will increase traffic and street parking on an already busy road. Its also against what the homes and lots were originally intended to be: Single family dwellings. I am strongly against allowing them to convert any part of those homes into apartments. Thank you so very much for your time and consideration on this matter, as well as the notification you sent.

Sincerely,
Kirsten M Capunay
385-695-4337
8816 S 360 E Sandy, UT
KirstenCapunay@gmail.com

Exhibit #3 – Parking Study



0 4 8 16 24 32 Feet



Total on-site parking available will be 614 square feet of the front yard. Access to the apartment will be via a 50-foot long sidewalk which runs along the east side of the home.



Off-street parking stalls will include 3 stalls totaling 614 square feet. Notice the adequate spacing between vehicles. In and out movement is tight for the Stall 1 but movement can be completed utilizing the existing curb cut.