

RESOLUTION NO. 2010-01

WHEREAS, on December 18, 2001, the current City of Dayton Zoning Ordinance was enacted; and,

WHEREAS, prior to the enactment of the current City of Dayton Zoning Ordinance, the City's zoning code set the maximum accessory building height at 25 feet and defined "Building or structure height" as the measurement from finished grade to the highest point of the structure or building roof; and,

WHEREAS, when the current City of Dayton Zoning Ordinance was enacted, the maximum accessory building height was changed to 10, 20 and 35 feet (depending upon the distance from the property line) but the old definition of "Building or structure height" was retained ; and,

WHEREAS, on August 14, 2009, a building permit was issued for an accessory building on real property located at 616 E. Dayton Avenue, Dayton, Washington; and,

WHEREAS, the lot in question is zoned Urban Residential in the City of Dayton; and,

WHEREAS, between August 14, 2009 and September 2, 2009, the question arose whether the proposed accessory building complied with the City's height requirements; and,

WHEREAS, the Planner discussed the height requirements with the property owner, his representative and the City's Building Official; and,

WHEREAS, the Building Official explained that historically DMC 5-12 building height has been interpreted as being measured from the finish grade of the building to the top of the wall plate line; and,

WHEREAS, the rationale for this interpretation was that City of Dayton lots are on the average 60 feet wide and application of DMC 5-12.050 "Building or structure height" definition as written – measuring "height" from finished grade to the highest point of the structure – would result in exceptionally narrow structures or flat roofs; and,

WHEREAS, exceptionally narrow structures and flat roofs are not desirable outcomes from a planning, development or structural perspective; and,

WHEREAS, when considering DMC 5-12 as a whole, there is an ambiguity in the interpretation of the definition of building height.

WHEREAS, the Planner (and her predecessors) have consistently interpreted DMC 5-12.050 "Building or structure height" definition to mean the distance from finish grade of the building to the top of the wall plate line.

WHEREAS, there are several documented examples of building permits issued in the City of Dayton that represent structures permitted when the structures were located within 10 feet or less of the property line and the structure height was more than 10 feet in height when measured from the finish grade of the building to the highest point of the structure or building roof ; and,

WHEREAS, ultimately, the building permit was issued for the construction of an accessory building – located less than ten feet from the side yard property line – measuring ten feet in height from the finished grade to the top of the wall plate line

WHEREAS, on October 27, 2009 Ms. Laura Ferguson filed a Land Use Petition in Walla Walla Superior Court and later amended her Petition on November 23, 2009.

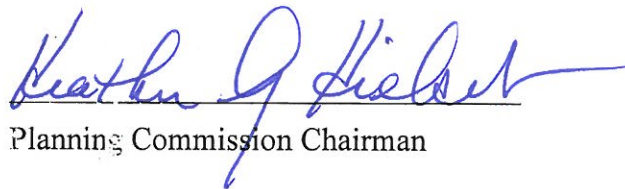
WHEREAS, the relevant issue raised by Ms. Ferguson’s petition was whether the City of Dayton planning official abused her discretion in interpreting DMC 5-12 to allow the construction of an accessory building – located less than ten feet from the side yard property line – measuring ten feet in height from the finished grade to the top of the wall plate line; and,

WHEREAS, on October 30, 2009, an occupancy permit was issued by the City of Dayton for the accessory building; and,


WHEREAS, on March 8, 2010, by letter, Ms. Laura Ferguson requested the Planning Commission’s review of the City Planning Official’s interpretation of DMC 5-12. pursuant to DMC 5-12.840.

NOW THEREFORE, the Dayton Planning Commission of the City of Dayton, Washington finds that as a result of the 2001 adoption of the current City of Dayton Zoning Ordinance, application of DMC 5-12.050 “Building or structure height” definition to new construction is ambiguous when taken with DMC 5-12 as a whole; application of DMC 5-12.050 “Building or structure height” as written would result in exceptionally narrow structures or flat roofs; both are an undesirable result; the City Planner’s interpretation of DMC 5-12 is consistent with historical interpretation thereof; and the City Planner’s interpretation of DMC 5-12 is supported by fact and application. The Dayton Planning Commission of the City of Dayton, pursuant to the authority granted in DMC 5-12.840 hereby affirms the City Planner’s interpretation of DMC 5-12 and recommends the amendment of DMC 5-12.050 “Building or structure height” definition to the Dayton City Council.

PASSED by the Dayton Planning Commission this 20<sup>TH</sup> day of JULY, 2010.

  
Planning Commission Chairman

Attest:

  
Trina Cole, City Clerk-Treasurer