

PLANNING COMMISSION MINUTES

January 21, 2003

7:00 P.M.

Present: Chairman Dick Dresser, Clark Jenkins, Michael Allen, Larry Rigby, Duane Gardner, City Council Representative Barbara Holt, City Attorney Rusty Mahan, City Engineer Paul Rowland, Planning Director Blaine Gehring, and Recording Secretary Connie Feel.

Absent: Vice-Chairman Mark Green.

Dick Dresser welcomed all those present and introduced the Planning Commission members. Clark Jenkins made a motion to approve the minutes for December 3, 2002 as amended. Larry Rigby seconded the motion and voting was unanimous.

Conditional Use Permits

1. Consider granting a Conditional Use Permit for the conversion of a single family home into a duplex at 89 W. 1200 S. in the R-1-6.5 (D) Zone, Thomas Smith, applicant.

Thomas Smith, applicant, was present. Blaine Gehring explained that a (D) behind a single family zone here in Bountiful stands for a "Duplex Overlay Zone." What this allows property owners to do is convert an existing single family residence to a duplex by conditional use permit. It is not a traditional duplex zone allowing for the new construction of duplexes.

Mr. Smith has so petitioned the Planning Commission to convert an existing home at 89 W. 1200 S. into a duplex. He has been under construction for the remodel of the home as a single family dwelling for several months and has made the decision to make some slight modifications to make it a duplex for his daughter and mother to live in.

There are only a couple of requirements that need to be met for this to be eligible for conversion: (1) a minimum lot size of 10,000 square feet and (2) adequate off-street parking for two dwelling units. The lot is .25 acres or 10,890 square feet. The recent remodeling has produced two single car garages with a parking stall in front of each. A duplex may have tandem parking stalls. All construction to date has been done by building permit with all appropriate inspections.

Mr. Gehring mentioned that at the time he received phone calls about the permit it was for a remodel. During the building process Mr. Smith submitted an application for a duplex. There have been two letters received, one in favor and one against the duplex.

Thomas Smith explained that he purchased the home as an investment but now his daughter is living in the home. After taking out a permit for remodel he discovered that the zoning had a Duplex Overlay. Knowing this, he decided to build an addition onto the back for his mother. Mr. Smith has worked hard to make the home look like a single family residential not as a duplex.

The existing house has two levels. The addition is to the side and in the rear on one level and has a two car garage. In the beginning the home was to be remodeled with one additional wall that would connect the back door of the existing house to the new family room, making it one house. After looking into the Duplex Overlay it was decided to make two independent living spaces. One for his daughter and one for his mother. After his mother passes on he can rent the space.

The building permit was amended.

The Public Hearing was opened for those present with comments.

Jeffery Johnson, residing at 73 W. 1200 S., is against this permit. Mr. Johnson explained that he has invested time and money into his home to stay in the neighborhood. Mr. Johnson feels that Mr. Smith is changing the character of the neighborhood by making a duplex. Mr. Johnson feels that Mr. Smith has never intended to use it as a single unit and now is trying to push the duplex in. This has caused mistrust and Mr. Johnson feels betrayed. Homes on both sides of Mr. Johnson have basements which could be used as a duplex. The City prohibited them from using them. Mr. Johnson submitted a letter from a neighbor in favor of the improvements but against the duplex.

Richard and Chris Brierley, residing at 76 W. 1200 S., are in favor of the improvements but object in the manner in which it was done. Mr. Smith has stated to several residents that there was going to be an addition to the existing home. Never did he say it was going to be a duplex. A lot of the homes in this area were purchased and upgraded because it was a nice residential area. The residents are aware that there are existing duplexes. Mrs. Brierley is concerned that Mr. Smith went through all of the back doors to make this project look like an addition to the existing home, not to be rented out and certainly not presented to be a duplex. Mrs. Brierley feels that Mr. Smith has built the duplex first then applied for the permit. There has been some underhandness with this project and the property values will go down.

Aaron Fergusson, residing at 34 W. 1200 S., is also against the duplex. Mr. Fergusson is in favor for the improvements on the house, a beautiful job has been done. Mr. Fergusson lives across the street from an improved duplex and you do know that it is a duplex. Not so much from the appearance but the additional cars and traffic. Mr. Fergusson feels that Mr. Smith has made a mockery of the Planning Commission by building a duplex with a single use building permit. This hearing should have been heard a year ago early in the building stages, not now. If the City allows the change to a duplex after it is built what will stop the next person from doing the same thing. Mr. Fergusson feels that Mr. Smith's intentions were to build a duplex.

Matt Lund, residing at 86 W. 1200 S., is against the duplex for the same reasons as the other neighbors. Mr. Lund feels that he has been lied to about the remodel being a single family now it is a duplex. Mr. Lund does not want additional cars and traffic in the neighborhood.

Alan Jacobs, residing 101 W. 1200 S., is also against the duplex for the same reasons as presented.

Dick Drescher presented a letter from Mrs. Eddie Jones, residing at 56 W. 1200 S., stating that if all rules are followed she does not disapprove of the duplex.

The Public Hearing was closed.

Larry Rigby mentioned that looking at the before and after pictures, there is a great improvement to the area. If the ordinance is followed correctly the improvements can be done with the duplex overlay zone. The improvements look well constructed and should attract good renters because of the improvements and the location. This will be an improvement to the neighborhood.

Michael Allen asked Rusty Mahan for his opinion on the comments expressed tonight and if there are any legal concerns?

Rusty Mahan mentioned that there are no legal concerns. This proposal is not illegal. Mr. Mahan hears the concerns about applying for one thing and has been done something else. As far as a legal reason to turn the proposal down, Mr. Mahan cannot see one. Mr. Mahan read the requirements for granting a conditional use. There is no legal reason for approving or disapproving of the permit. Mr. Mahan also read Section 14-4-117 Special Duplex Overlay Zone.

Barbara Holt mentioned that she drove around the area to see if there was a pattern for duplexes in this area. If there are any duplexes on this street, they are not visible. Mrs. Holt has some concerns about Mr. Smith applying for one permit and installing two meters then changing the permit.

There was a lengthy discussion on why the Duplex Overlay was created and where they are located.

Larry Rigby is hoping that this issue is not tripping over personalities. What should be considered is if this property conforms and is realistic with the ordinance. Mr. Rigby mentioned that he is a property appraiser and people think that a duplex is poison. Some duplexes can be, but look at the before and after of this property. Mr. Rigby feels that this is an upscaled duplex and has no problem with granting it.

Duane Gardner is uncomfortable with the way the procedure has been done on this proposal. Mr. Gardner will vote against it.

Barbara Holt made a motion to deny granting a Conditional Use Permit for conversion of a single family home to a duplex. Duane Gardner seconded the motion. Voting was two for the motion and four against the motion.

Larry Rigby made a motion to grant a Conditional Use Permit for the conversion of a single family home into a duplex. Michael Allen seconded the motion and voting passed by majority vote. Voting was four for the motion and two against the motion.

Subdivisions

1. Consider preliminary subdivision approval of the Pine Circle Subdivision located at 725 E. 900 S., Dave Ellis, developer.

Larry Rigby excused himself from this item since he appraised this property. Dave Ellis, developer, was present.

Paul Rowland explained that this proposed 5-lot subdivision is located on the north side of 900 North at about 700 East. The proposed subdivision is a large previously un-subdivided piece of ground with a single house, and contains 1.80 acres. The proposal is to subdivide the ground so that the one existing single family house located on the ground will be located in one of the proposed lots with the proper side yards and setbacks. The subdivision consists of four additional lots fronting onto a new cul-de-sac which is only just over 200 feet long with the single house currently occupying the property being located on the largest of the lots. All setbacks and side yards requirements are met for the house with the proposed lot line configuration.

The proposed subdivision is located in an R-1-6.5 area which requires only 6,500 square feet per lots with 70 feet of frontage at the required setback. All of the proposed lots easily meet these requirements. The property slopes gently from east to west with very little change in elevation north to south. Because the property will be required to drain to 900 North Street, the cul-de-sac will need some fill at the north end. This will make lots 2 and 3 ideal for walk out basement houses and the road will have the very gentle slope of about 1%.

Because the new road is being built between two existing houses, there is a narrow parcel of land on the east side of the road adjacent to the neighbors to the east. This 13 foot wide strip of land will need to be disposed of in such a manner that it does not end up as an empty no-man's land.

While Lot 3 and lot 4 have much more than the required frontage and area, their configuration is such that allowing a 20 foot front yard setback may be preferable. While this will move them a little closer to the street, it will allow them to stay a little farther from the four houses along 1050 North which back onto this property.

Dave Ellis explained that he and an engineer met with Mr. Boris Osojnak, owner of the property at 745 E. 900 N., to explain about the 13 foot stripe of property. Mr. Osojnak has agreed to take this piece of ground since he is using the property. Mr. Osojnak's only concern was to be able to keep the old wall.

Mr. Ellis explained that the existing home at 695 E. 900 N. needs some major repairs. It is estimated that after repairs the home could sell for about \$320,000.00. It is hoped that the new homes will be in the range of \$200,000.00. The homes will be about 2,000 foot homes.

Staff recommends that the Planning Commission send a favorable recommendation for preliminary subdivision approval of the Pine Circle Subdivision with the following conditions:

1. Design of the public improvements to meet Bountiful City Standards.
1. All requirements of the City Ordinances be met in the preparation of the final construction plans and the Final Plat.

An additional condition needs to be added:

3. The extra strip of land on the east side of the new cul-de-sac be eliminated from the plat to avoid confusion as to its status.

Clark Jenkins made a motion to grant preliminary approval of Pine Circle Subdivision subject to the recommendations from Staff with the additions of the following:

3. The extra strip of land on the east side of the new cul-de-sac be eliminated from the plat to avoid confusion as to its status.
4. Lots 3 and 4 be approved with a 20-foot front setback.

Duane Gardner seconded the motion and voting was unanimous.

2. Consider final subdivision approval of the Club House Court Subdivision located at 2475 S, Bountiful Blvd. Keith Duerden, developer.

Clark Jenkins excused himself from the meeting.

Jack Balling, engineer and representing Keith Duerden, was present. Paul Rowland explained that this proposed 4-lot subdivision is located on the east side of Bountiful Blvd. at 2475 South. This proposed subdivision is lot 1 of Maple Hills Subdivision no. 2, Plat A, and contains 3.90 acres. The lot is directly north of the practice green and driving nets at the Bountiful Ridge golf course, and currently has one single family house located on what would be one of lots in the proposed subdivision.

The Developer has prepared construction drawings and subdivision plat in accordance with City requirements and the conditions of the preliminary approval and are now ready for final subdivision approval.

Because this ground is a lot in an existing subdivision, the lot will need to be vacated from Maple Hills Subdivision.

Jack Balling mentioned that a survey was made on the location of the utilities. The utilities are located about 10 feet to the north of what the City shows and will be recorded properly.

Staff recommends that the Planning Commission send a favorable recommendation for final subdivision approval of the Club House Court (Keith Duerden) Subdivision with the following conditions:

1. Provide a current title report.
2. The Developer sign a Development agreement with the City.
3. Post the proper bonds and pay the required fees.
4. Make minor corrections to the construction drawings and plat, and present a signed mylar copy of the plat for recording.

Michael Allen made a motion to grant final approval of Club House Court Subdivision subject to the recommendations from Staff and the addition of the following:

5. There be proper vacation of the new subdivision from the existing subdivision.

Duane Gardner seconded the motion and voting was unanimous.

Dick Drescher welcomed the Blazer Scouts that were present.

3. Consider conceptual subdivision approval of a lot split creating a two-lot subdivision at 3123 S. Crest View Circle, Harv Jeppson, developer.

Shane and Tracy Hadley, owners, were present. Paul Rowland explained that in light of the Council's recent decision to establish a policy restricting the splitting of lots in existing subdivisions, this proposal is being presented for conceptual approval prior to any great amount of money or time or effort being expended.

The home owners at 3123 S. Crest View Circle are requesting a conceptual review and approval to create a lot-split subdivision out of this lot. The existing lot is actually a double fronting lot that was approved and developed in the unincorporated county area in 1942. It fronts on Crest View Circle, backs onto Orchard Drive and contains 20,000 square feet (100'x200'). This area is an R1-6.5 zone which requires only 6,500 sf for the min. lot area with 70 ft of frontage.

The plat plan shows how an existing house and garage sit on the lot and how the proposed lot can be split off with its frontage on Orchard Drive. The aerial photo also shows that the adjacent lot was split previously as well as the lot three houses south. Because Orchard Drive is a busier street, Harv agrees that any house built on the lot should have a circular drive. With 100' of frontage, there is plenty of room to accommodate a drive that provides a way to pull out onto Orchard Drive going forward.

Rusty Mahan passed out copies of the policy for splitting of lots in existing subdivisions to the Planning Commission Members. It was mentioned that each application for the vacation of a subdivision lot will be considered on an individual basis.

There was a discussion on where the drainage will go. Mr. Rowland explained that all lots in the City have to drain to an approved drainage facility. The home will be required to drain out to

Orchard Drive.

Because this lot has the ability to be split with the newly created lot having frontage on an existing street, away from all of the neighbors and both new lots exceed the minimum requirements of the zone, Staff recommends that the Planning Commission send favorable recommendation to the City Council for Conceptual Approval of this lot split.

Barbara Holt made a motion to sent a favorable recommendation to the City Council for conceptual approval of a lot split creating a two-lot subdivision at 3123 S. Crest View Circle.

Larry Rigby seconded the motion and voting was unanimous.

Zoning Ordinance Amendments

1. Consider miscellaneous amendments to the Zoning Ordinance concerning setting public hearings for Zone Change and Pole Signs in C-R, C-G and C-H Zones.

Blaine Gehring explained that there are a few zoning ordinance amendments which need to be corrected. They are essentially “housekeeping” types of changes. The first is changing the wording to Section 14-2-105 G. dealing with the setting of a public hearing for zone changes. The City Council is allowed to consider a hearing for a zone change even if an unfavorable recommendation is sent from the Planning Commission. The problem with the current wording, according to the City Attorney, is that the Council needs to find a proposed amendment “desirable” in order to set that hearing. This in essence calls for a finding which is unnecessary. The proposal would change the wording as follows:

G. The City Council shall determine if a public hearing should be scheduled to consider the zone change or Ordinance amendment. Concurrence by the City Council with an unfavorable recommendation of the Planning Commission shall constitute a denial of the application, and no public hearing shall be held. If the recommendation is favorable or if the City Council determines the proposed amendments ~~to be desirable~~ **should be considered** despite an unfavorable recommendation, a public hearing shall be scheduled. Notice of public hearing shall be:

The second amendment deals with freestanding or pole signs in C-R, C-G and C-H zones. Mr. Gehring recently reviewed and application for a new sign for the Wonderbread Thrift Store on Orchard Drive. The proposal did not show a 2 foot setback from property line. It was then called to Mr. Gehring’s attention by the sign contractor that that was not a requirement under the new sign ordinance. It is a requirement under the Monument Sign provisions but not the pole sign. There needs to be an amendment to the ordinance to put that language in as follows:

Under Section 14-19-111 A.3., change to read:

3. Freestanding or Pole Signs. Sign area as per table 19-2 -r a sign area of 60 square feet 15 additional square feet per tenant not to exceed 100 square feet total for

each multi-tenant building or site with a minimum of 100 feet frontage. Maximum height of 15 feet. Minimum ground clearance of 8 feet from street grade to bottom of sign. Maximum pole width of 2 feet. Minimum setback of **2 feet from property lines and a minimum of** 10 feet from any residential use or zone. Signs shall be engineered to withstand 100 MPH wind loads. Sign permit required.

And, under Section 14-19-112 A. change it to read:

3. Freestanding of Pole Signs. Maximum sign area of 60 square feet for first 100 feet of lineal street frontage plus 1 square foot for each lineal foot of frontage over 100 to a maximum ground 160 square feet total (See Table 19-2). Maximum height of 30 feet. Minimum ground clearance of 8 feet from street grade to bottom of sign. Maximum pole width of 2 feet. Minimum setback of **2 feet from property lines and a minimum of** 10 feet from any residential use or zone and located at least their height in distance from side property lines in order to prevent damage to adjacent land in case a sign is toppled by accident or an act of nature. Signs shall be engineered to withstand 100 mph wind loads. Sign permit required.

The last amendment deals with one sentence in Section 14-8-114 in the C-G Zone dealing with parking. That sentence reads: "Parking spaces shall not be provided within a required front yard or side yard adjacent to a street." Parking has been allowed behind the 10 foot landscaping. In Section 14-9-114 (C-R Zone) and in Section 14-10-114 (C-H Zone) neither of these sections require that there be no parking in required front or side yard setback adjacent to streets. In most cases, that is where the parking is best and most desirable. Section 14-8-114 should be amended as follows:

14-8-114 PARKING, LOADING, AND ACCESS

Each lot or parcel in the C-G Zone shall have, on the same lot or parcel, automobile parking sufficient to meet the requirements as set forth in Chapter 18 of this Ordinance. All parking spaces shall be paved with asphaltic cement or concrete, and shall be provided with adequate drainage as approved by the City Engineer.

~~Parking spaces shall not be provided within a required front yard or side yard adjacent to a public street.~~

There was a discussion on each item and decided to have Rusty Mahan reword and clarify about the pole signs, and parking spaces shall not be allowed behind the first 10 feet of required landscaping. The changes will be presented back to the Planning Commission for approval or disapproval.

Barbara Holt mentioned that minutes from the City Council meetings could be submitted with the Planning Commission packets so members will know the results from the meetings.

Meeting adjourned at 8:45 p.m.