

PLANNING COMMISSION MINUTES

April 6, 2004

7:00 P.M.

Present: Chairman Mark Green, Clark Jenkins, Duane Gardner, Tom Smith, Michael Allen, City Attorney Rusty Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Absent: City Council Representative Barbara Holt and Vice-Chairman Larry Rigby.

Mark Green welcomed all those present and introduced the Planning Commission Members. Mr. Green welcomed Michael Wells, Boy Scout, and explained the purpose and function of the Planning Commission.

Duane Gardner made a motion to approve the minutes for March 16, 2004 as amended. Clark Jenkins seconded the motion and voting was unanimous.

Site Plans

1. Consider preliminary and final site plan approval for a community pool at 4531 S. Spring Meadow Drive, Bountiful Meadows Community Pool Association applicant.

Maunette Bacon, President of the Bountiful Meadows Community Pool Association, was present. Frank Linthorst, representing Ivory Homes, was also present.

Aric Jensen explained that the Bountiful Meadows Community Pool Association has received conceptual approval and a conditional use permit for a neighborhood pool. They are now applying for preliminary and final site plan approval. There have been some revisions made by staff. Mr. Jensen then summarized his written staff report and reviewed the drawings.

There was a discussion about the bylaws and the conditions placed with conceptual approval. Mr. Jensen had copies of recorded bylaws, pool rules and contract, which he gave to Mr. Mahan for his further review.

Michael Allen made a motion to recommend to the City Council preliminary and final site plan approval for a neighborhood pool at 4531 S. Spring Meadow Drive. Duane Gardner seconded the motion and voting was unanimous.

Mark Green excused himself from the following items due to a conflict of interest. Mr. Green assigned Clark Jenkins to act as chairman for the duration of the meeting.

Subdivisions

1. Consider lot line adjustment for lots 503 & 504 of Hidden Lake at Summerwood Estates

Subdivision Phase 1, Ronn Marshall, developer.

Ronn Marshall, developer, was present. Mark Green joined Ronn Marshall at the table.

Aric Jensen explained that the applicant is requesting a lot line adjustment which would reduce the size of lot 504 to approximately 0.8 acres, and increase the size of 503 to 2.6 acres. At the time this subdivision was platted, the minimum lot size was 20,000 sq ft (approximately ½ acre). Current standards require a minimum lot size of 1 acre. Since this is not a subdivision and there are no new lots being created, Staff is comfortable with recommending a lot line adjustment as long as it meets the standards at the time it was approved. Staff has reviewed a topographical map of the subdivision and verified that there is still sufficient building area for a reasonable sized home on the site.

Michael Allen made a motion for approval of lot line adjustment for lots 503 & 504 of Hidden Lake at Summerwood Estates Subdivision Phase 1 as requested. Tom Smith seconded the motion and voting was unanimous.

Clark Jenkins suggested combining the two following items since both developments abut each other.

2. Consider final plat approval for Hidden Hollow at Hidden Lakes P.U.D., Ronn Marshall, developer.
3. Consider preliminary plat approval for Hidden Lake at Summerwood Estates Phase 6 amended, Ronn Marshall, developer.

Ronn Marshall, developer, was present. Mark Green joined Ronn Marshall at the table.

Aric Jensen explained that it is being proposed to reduce the number of lots from 12 lots to 11 lots for Hidden Hollow at Hidden Lakes PUD. Mr. Marshall would like to transfer a portion of the previous lot 709 (now 708) to a lot in Hidden Lakes Subdivision PH6. The net result of these changes would be an increase in lots 707, 708 and 709 and no other changes to any of the other lots or the proposed road.

Hidden Lake at Summerwood PH6 was originally approved for three lots. During the course of the City Council review, Mr. Marshall decided to change the subdivision to two lots. The City Council granted the final approval based on either two or three lots. Mr. Marshall is now proposing to amend PH 6 to add property from the Hidden Hollow at Hidden Lakes PUD and revert PH 6 to three lots. The City has changed the subdivision ordinance and the lots may not meet the new minimum size requirements. Hidden Lake Drive was constructed in 2001-2002 and all the utilities were stubbed in for three lots, as per the conceptual and preliminary subdivision granted by the Planning Commission. Staff's opinion is that the Planning Commission has the authority to either deny the application based on the fact that it doesn't comply with current ordinances, or approve the amended preliminary plan based on the fact that it is consistent with the approved conceptual and preliminary plans on record.

Rusty Mahan explained that this proposal allows for some discretion. He quoted a section of Staff's report starting with "So, Staff's opinion is that the Planning Commission has the authority to either deny the application based on the fact that it doesn't comply with current ordinances, or approve the amended preliminary plan based on the fact that it is consistent with the approved conceptual and preliminary plans on record." Mr. Mahan's feels that if the Planning Commission wants to be liberal in extending or grand fathering, an argument is to be made in support of that. If the Planning Commission feels that, since the ordinances have changed, this proposal does not meet the requirements, an argument can be made in support of that. The law, under these conditions, does not absolutely require the Planning Commission to do one or the other.

Paul Rowland explained that the portion of the ordinance that this proposal does not now meet is the minimum lot size. Minimum lot size is based on the average slope of the entire development, not just this one piece.

Mark Green mentioned that the total square footage of the three lots is over 133,000 square feet, and so they average one acre. Furthermore, gerrymandering the lot lines would leave a gap of property not attached to another piece of property.

Ron Marshall explained that he is not asking to change the ordinance nor to set a precedence. He has a subdivision that has been approved under the old foothill ordinance and is asking to reallocate some space not asking for more. Mr. Marshall has never asked for more than what the ordinance would allow and has cut back on the density throughout the development. He wants to make a better subdivision with affordable lots that meet the ordinance.

There was a lengthy discussion on whether this proposal falls under a grandfather clause or under the new ordinance. This is a unique situation and a reasonable argument can be made to sustain a decision going either way. A reasonable argument could be made that it is grandfathered. A reasonable argument could also be made that since it is a new subdivision it has to meet current ordinances.

Rusty Mahan suggested further review, and to table the items until March 20, 2004 for Staff and the Planning Commission members to study the issues.

Michael Allen made a motion to table items #2 and #3 to analyze the questions that have been raised. Duane Gardner seconded the motion and voting was unanimous.

Meeting adjourned at 8:00 P.M.