

PLANNING COMMISSION MINUTES

March 16, 2004

7:00 P.M.

Present: Chairman Mark Green, Vice-Chairman Larry Rigby, Tom Smith, Duane Gardner, Michael Allen, Clark Jenkins, City Council Representative Barbara Holt, City Attorney Rusty Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Mark Green welcomed all those present and introduced the Planning Commission Members. Mr. Green introduced and welcomed Aric Jensen as the new Planning Director.

Paul Rowland mentioned that Mr. Jensen has been with the City for two weeks. He comes with a background of planning and economic development via Centerville City, Davis County, West Valley and school before that. Mr. Jensen is originally from Santa Monica California so Mr. Jensen has some background outside of the Wasatch Front area but most of his professional career has been here and he is familiar with the area. He has been involved with the County, several planning issues which involve the entire county and Bountiful.

Duane Gardner made a motion to approve the minutes for February 17, 2004 as written. Tom Smith seconded the motion and voting was unanimous.

Conditional Use Permit

1. Conditional Use Permit to allow for a duplex conversion in the R-1-6.5 D and 236 E. 400 S., Michelle McLaughlin, applicant.

Michelle McLaughlin, applicant, was present.

Aric Jensen explained that the subject property is located in the former R-1-6.5 D zone, and application for a conditional use permit to convert to a duplex was made prior to the amendments to that zone. According to Mary Barnes, Code Enforcement Officer, the property has an existing, illegal basement apartment. The property has also been subject to recent code enforcement issues, most or all of which have been addressed at this point. Mr. Jensen presented pictures for the Planning Commission Members to review. Mr. Jensen then summarized his written staff report.

Michelle McLaughlin explained that when she purchased the property the apartment was already in place and she was unaware that it was an illegal apartment. The apartment was used as a mother-in-law apartment for her grandmother. Her children have lived there and she has had renters off and on. There is no change to the structure of the home. There is a fenced back yard and a separate two car garage and there is off street parking. Mrs. McLaughlin is asking for a conditional use to adapt it to a legal duplex.

Mrs. McLaughlin has owned the home for seven years and the apartment was in place about ten

years ago. It is about 700 sq. ft. and has one bedroom. The property was a mess as a result of her husband who, has been gone for five months and will not return. She has cleaned the property up and plans on doing more.

There was a discussion on a separate entrance, the use of the garage, and how long the unit has been used for an apartment. There is a separate entrance and right now the garage has been closed off for storage. Mrs. McLaughlin will clean it out if covered parking is required. There is enough space for parking after she pours cement for another pad. The apartment has been used for about 4½ years. When her husband was removed from the property, she received letters from Mary Barnes and realized that her husband had been corresponding for over a year. Mrs. McLaughlin did not know that anything was going on. Since her knowledge of the problem she has been cleaning up and making the adjustments.

The Public Hearing was opened for all those with comments and concerns.

Christine Brand, residing at 435 S. 200 E., is opposed to this request. Mrs. Brand was one of the citizens that canvassed the neighborhood earlier to remove the multiple family use from the area, and feels that it should not be allowed. She said that there are too many cars parked on the street, too many multiple family dwellings in the neighborhood and it devalues our properties. She feels that this request is totally wrong.

Judie Kinghorn, 487 S. 300 E., bought her property as a single family unit and little by little the single family dwellings are turning into duplexes. Mrs. Kinghorn did not receive a letter and would like to know who gets the letters.

Mrs. Kinghorn was told that the County Recorder's Office provides the names and addresses for everyone within 500 feet of the applicant. The City relies on the recorder's office to give the names. The City does not randomly pick out names.

Rusty Mahan explained that an ordinance change is before the City Council next Tuesday to repeal the Duplex Overlay. There is a moratorium in place now that you can't apply nor can the City take any applications to build any multiple family. This application was applied for before the moratorium was in place.

Mrs. Kinghorn feels that her neighborhood is becoming a low income housing district and it is not fair for the City to do this.

Mark Rollins, residing at 341 E. 200 S., explained that over time Mr. Rollins has watched mother-in-law apartments grow. In his neighborhood Mr. Rollins can name at least 6 homes that have converted the mother-in-law apartments into duplexes without permits.

Rusty Mahan explained that if there are illegal uses in their neighborhoods it needs to be reported. Once it has been established that it is illegal, action will be taken. The City has to rely on neighbors to help report and testify that they are illegal. The neighbors need to be the eyes and ears for the City.

John Grundvig, residing at 450 S. 300 E., explained that he helped deliver fliers on the rezone from multiple family to single family. In this process he discovered that about 3/4 of the homes are duplexes. He asked how many people are allowed to live in a duplex.

Rusty Mahan explained that there is no limit to the numbers in a family. The City doesn't limit the family size. If you are talking about unrelated people, like collage room mates, a dwelling can have a limit of four. We are talking about the building being converted to a duplex not the amount of people in a dwelling. Realtors have been told if a home is not a duplex they cannot sell as it as one.

Christine Brand mentioned that she has talked to several home owners that are against this proposal and will get those names if needed.

Nelson Barlow, residing at 266 E. 300 S., mentioned that a few years ago a builder built a tri-plex behind an existing house. The front yard is asphalt parking and the back yard is only about 12 feet deep. This two-story tri-plex now looks down into the back yards of five neighbors including himself. This tri-plex is the unit that started the petition to remove multiple family units. Now Mr. Barlow's neighbor, to the south, was granted by the City to convert his home into a duplex. Mr. Barlow has lost a lot of privacy in his back yard.

Mark Green had a letter given to him in opposition of this proposal.

The Public Hearing was closed.

Barbara Holt had a number of concerns and one comment. The moratorium was put in place on February 10, 2004 and this application is dated February 13, 2004.

Rusty Mahan explained that Mrs. McLaughlin had been talking with him and Mary Barnes for two months prior and brought in the application independent to the moratorium.

Mrs. Holt mentioned that she has driven past the property several times. In the reading the conditions of the Conditional Uses it has to meet several criteria. One being that the proposed use is necessary or desirable to provide a service that will contribute to the well being of the neighborhood. The proposed use will stress quality development and is compatible in harmony with the surrounding area and will not negatively impact existing services. Mrs. Holt feels that this proposal fails on both conditions. It competes with the legal duplexes in the area and this sort of thing is why this body deleted the duplex zone all together.

Barbara Holt made a motion to deny the Conditional Use to allow for a duplex conversion in the R-1-65 at 236 E. 400 S., based on the following findings:

1. The duplex use that is now proposed has existed illegally in the past. During that time the property has been badly maintained and has been a detriment to the neighborhood.

2. The duplex use apparently overwhelms the property because the parking of numerous vehicles from that use has become a nuisance.
3. In the requirements for approving a conditional use permit, under Section 14-2-206(A) the proposed use has not contributed to the well-being of the community but rather has been an undesirable presence in the neighborhood.
4. Under Section 14-2-204 (B) the proposed use has not been a quality development, and there has not been proper parking as required in the ordinance.

Duane Gardner seconded the motion. Michael Allen and Tom Smith abstained from voting. Motion passed by majority vote.

Subdivisions/Lot Line Adjustments

1. Consider Lot Line Adjustment for Sunset Hollow Plat B, amended, Lot #22, 23, 24 and 25, Dan & Malinda Jensen, applicants.

Malinda Jensen, applicant, was present. Aric Jensen explained that the applicants are requesting a lot line adjustment between Lot 22A and 23A, as shown on the proposed plat. However, there are some related items that need to be cleared up as part of this process.

The four lots in question, #22, 23, 24, and 25, were modified by metes and bounds description subsequent to the approval of the original subdivision plat. This was not accomplished through approved City process. As a result, Staff has requested that petitioners included the previous lot line adjustment that is currently on the County records, with the adjustment that they are proposing.

Staff has reviewed the proposed and existing lot line amendments and found that they meet City standards for size, shape, and frontage. Based on these findings, Staff is recommending approval of the proposed lot line adjustment and appendage changes.

Paul Rowland explained that the existing two homes, on Lots 23 and 25, were built over the original lot lines anticipating that lot 24 would be bought and split between the two owners. It has never been ratified and is now brought in to ratify something that has been in effect for ten years.

Duane Gardner made a motion to approve the lot line adjustment. Clark Jenkins seconded the motion and voting was unanimous.

2. Consider Lot Line Adjustment for Summerwood Subdivision, Lot #117 & #122, Boyer Co., applicants.

Dick Moffat, representing Boyer Co., and Jens Neilsen, applicant, were present. Mark Green explained that he has a professional relationship with the Boyer Co. and Mr. Moffat. Mr. Green is currently under contract with them in Farmington and it has nothing to do with Summerwood. Mr. Green will excuse himself if the Planning Commission wishes him to do so. Rusty Mahan mentioned that it is not a direct conflict and to go on.

Aric Jensen explained that the applicants are requesting a lot line adjustment that would result in a double fronting lot. In an attempt to remedy this situation, the applicant has suggested that a restriction be placed on lot 122 (the proposed double frontage lot) such that access could only be gained from one of the frontages.

Current City Ordinances do not allow double frontage lots, regardless of the conditions that the property owners are willing to be subjected to. Staff has discussed and suggested other lot line configurations with the applicants, however, they have asked that this alignment be presented to the Commission for review. Based on the proposed lot line as submitted, Staff recommends denial as it does not comply with City Ordinances regarding double frontage lots.

Rusty Mahan explained that under the Bountiful City Code it says that interior lots having frontage on two streets are prohibited except where unusual conditions make other design undesirable. Also under the State Code it says that the proposal has to meet two requirements. One, no new dwelling lot or housing unit will result. Two, the lot line adjustment will not result in a violation of the applicable zoning ordinance. Mr. Mahan's opinion is that the requested lot line adjustment does create an illegal lot under the City's ordinances.

Jens Neilsen explained that he has built a home on Lot 120 and because of privacy issues Mr. Neilsen purchased Lot 121. Mr. Neilsen is uncomfortable with not having any privacy with homes being built on the surrounding lots. He feels that he has to buy lot 117 and 122 to prevent losing his privacy. Mr. Neilsen is proposing to add the corner section of Lot 117 and add to Lot 122 so he does not have to take care of this section of property.

Mark Green explained to Mr. Neilsen that he himself mentioned one of the key issues, he does not want to take care of this section of property. This is the problem with double fronting lots. The owners will take care of the front yard but no one takes care of the back yard and no one takes care of the park strip.

Mr. Neilsen agreed with Mr. Green that he does not want to take care of the yard but the park strip should be covered by the Homeowners Association. The section in question is not a desirable part of property. Dick Moffit said that the piece of property will remain in its natural state. Mr. Moffit mentioned that it is greater than 25% slope and is an unuseable piece of property.

There was a discussion between Planning Commission Member and the applicants about double fronting property and the problems they cause, mainly no maintenance. The reason for the ordinance prohibiting double fronting lots is the lack of maintenance.

Rusty Mahan explained that the issue is not the park strip. The City has an ordinance prohibiting double fronting lots. The reasoning here is not the exception the ordinance is looking for.

Michael Allen made a motion to deny the lot line adjustment dealing with Lots 177 and 122 in the Summerwood Subdivision. Larry Rigby seconded the motion. Mark Green abstained from voting. Motion passed by majority vote.

3. Consider preliminary and final approval for a proposed 3-lot subdivision at 209 E. 2200 S., James & Arvilla Child, applicants.

Von Hill, Engineer, was present. Paul Rowland explained that Mrs. Child was granted approval for a lot split subdivision at this address during the summer of 2002. The original proposed subdivision was for two lots, one containing the existing house and garage with the other being the remainder of the unoccupied lot. Mrs. Child has not recorded the subdivision and is now requesting a different configuration. This proposal is for a three lot subdivision, the westerly lot having 10,438 s.f. and containing the existing house and garage, with the remainder of the property being divided into two roughly equal sized lots at 11,789 s.f. and 11,564 s.f. They all meet the requirements for frontage in the R 1-6.5 zone.

These lots front on 2200 South Street, which is an improved street. All utilities and improvements are already in place with the exception of the necessary laterals into the previously undeveloped garden plot which will be lots Two and Three. Because the street improvements are in place, no subdivision bond will be required. Since no detention is provided for the site, the developer will be required to pay the standard storm water impact fee of \$2,100.00 per acre. The deed to the existing property includes a section which goes out to the center of 2200 South Street. This will be dedicated to the city as a public street as part of the subdivision process.

Staff recommends that preliminary and final approval be sent to the City Council for the Arvilla Child Subdivision with the following conditions.

1. Payment of the following fees:

Storm Water Impact fee:	\$1,658.50
Subdivision Checking fee:	200.00
Subdivision Recording fee:	<u>50.00</u>
Total:	\$1,908.50

The water connection fees will be paid at the time the new building permit is issued.

2. Make minor corrections on final plat and supply the city with a current title report.

Larry Rigby made a motion for preliminary and final approval for a 3-lot subdivision at 209 E.

2200 S. subject to the conditions outlined by Staff. Clark Jenkins seconded the motion and voting was unanimous.

Site Plans

1. Consider preliminary and final site plan approval for 4 units on the southeast corner of 300 N. & 200 W., Robert Gibson, applicant.

Robert Gibson, applicant, was present. Aric Jensen explained that the applicant has given Staff a revised site plan, upgrading to the standards of the City. Mr. Gibson is proposing a 4 unit, townhouse-style condominium project on the northeast corner of 300 North and 200 West.

The applicant provided a revised site plan based on the recommendations made by Staff. Mr. Jensen confirmed that he had revised the revisions earlier in the week and that they conformed to his redlines.

Staff recommends increasing the vertical landscaping elements along 200 West to provide an appropriate buffer from the traffic on this street. Staff recommends a 4 foot high, 3 or 4 rail ranch-style fence, combined with the appropriate landscaping to reduce the impact of headlights and noise.

There was a discussion about the basements being finished and what problems it could create. Paul Rowland explained that if the basements are finished it would only add one parking stall. After the three bedroom requirement is made there is no more parking added.

Michael Allen made a motion to send to the City Council preliminary and final site plan approval for the condominium project on 300 N. & 200 W. subject to the following conditions:

1. Provide a storyboard showing how the site will meet the 50% brick, rock, or window provision of the Code,
2. Include a 7 foot PUE along both street frontages,
3. Submit a revised site plan and landscaping plan showing the changes recommended by Staff and the Commission,
4. Prepare and have approved a Condominium Plat ready for recording showing all common and semi-common areas as public utility easements,
5. Pay all required fees, post an approved subdivision construction bond and sign a development agreement with the City.
6. The condominium declaration impose a prohibition upon adding additional bedrooms to the two-bedroom units.

Tom Smith seconded the motion and voting was unanimous.

Joe Johnson, City Major, joined the meeting.

2. Consider lot split and amended site plan for 8 units on the southwest corner of 200 W. And 1000 N., Kevin Broderick, applicant.

Kevin Broderick, applicant, was present. Aric Jensen explained that Mr. Broderick has already received final site plan approval for a project on this site, but would like to substantially amend that final site plan. In addition, the applicant would like to divide the project into (2) separate parcels, with a private street down the middle which could be used as a future access to adjacent property. Staff is recommending approval of the site plan, but denial of the lot split, for reasons to be demonstrated.

The proposed amended site plan is almost completely different from the existing, approved plan. Mr. Broderick is proposing a private street, with four units facing the private street on either side. The units adjoining 200 West would have the front doors facing the street, with the garage and secondary entrance facing the private street. The units on the east side would have the front door and garage facing the private street. Each unit would have a single car garage, plus a paved driveway large enough for one vehicle. Mr. Broderick is also proposing six additional spaces, which are scattered throughout the project. This would meet the off-street parking requirements, which are: (2) spaces for every 2 bedroom unit, plus .25 spaces of visitor parking for each unit.

The existing, approved site plan contains 10 units, and includes a portion of an adjoining parcel. The amended site plan proposes only 8 units, and would not include the adjoining parcel. The existing approved site plan had several conditions placed upon the approval which carried over to this plan. Staff has included those provisions in its recommended action.

The landscaping plan was reviewed and redlined by Staff. Several of the proposed trees are not included in the adopted tree list, and the site was lacking one street tree. The plan will also need to be updated based on the final site plan approved by the Commission.

Mr. Broderick is requesting splitting the lot down the middle of the proposed private street, under the presumption that the street is actually a “common drive.” In Bountiful City Code, there is not a definition for common drive, however, a private street is defined as “A thoroughfare which is designated for private travel and is in private or public agency ownership over which access is legally denied to the public” Staff, including the City Attorney, discussed this issue and agree that a *common drive* refers to a shared curb-cut or access off of a public right-of-way. In this instance, the petitioner is proposing a private street, which essentially provides frontage to each unit just as a public street would. Furthermore, the definition of *driveway* (A private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which it is located) would not allow access to adjoining properties, i.e., it is limited to persons who live, own, or use the parcel on which it is located. Therefore, the petitioner can not use a common driveway to access buildings that are on a different parcel of land. However, a private street may be used to access adjoining parcels of land. In addition to these arguments, the R-3 zone requires 5' of landscaping between any off-street parking area and a property line, which effectively makes it impossible to split a driveway between two different parcels in the R-3 zone. Again, this confirms Staff’s opinion that a

“common drive” refers to a common curb-cut, as that would be located within the public R.O.W. and is not on either of the private parcels.

There was a lengthy discussion about the definition of a private driveway, a common driveway and what the difference is between the two and the problems that each can create in the future. Also, a discussion about apartments, a condominium project, and/or a PUD. Each lot has to be able to stand on its own. With a private driveway or common driveway it will not meet the ordinance.

The main reason for doing a lot split is the banks. The banks are imposing their own zoning laws by increasing the interest of a loan if more than four units. Time was spent on revising the exiting site plan without having a lot split.

Larry Rigby made a motion to deny the lot split requested and approve the site plan as one eight-plex lot with the following conditions:

1. Complete exterior elevations with area calculations for the stone/brick versus siding/stucco be provided at the time of application for a building permit.
2. The entire south and west lot lines to be fenced with a 6 foot solid barrier fence to within 30 feet of the sidewalk, at which point it transitions to a 4 foot high open style fence up to the sidewalk, subject to the approval of the Planning Director.
3. A dumpster enclosure of material matching the exteriors of the buildings to be provided, subject to the approval of the Planning Director
4. The landscape plan to be amended as per the approved final site plan, and to include trees from the adopted tree list, with Staff’s redlines.
5. Payment of the required fees:

Water impact fees (due with building permits) connection	\$1,838.00 per 1"
Sewer impact fees (due with building permits)	\$1,456.00 per unit
Power Fee per Bountiful Light and Power	
Storm Water Impact waived because of detention	
Any outstanding permit/process fees per the adopted fee schedule	
6. At least two 4 foot wide walkways be provided on the west side of the site between the sidewalk and the walkway connecting the front porches.
7. All building per IBC and city ordinance.

8. The east four-plex can be moved to the north by as much as ten feet.

Duane Gardner seconded the motion and voting was unanimous.

Miscellaneous

1. Adoption of written Conditional Use Permit on neighborhood pool.

Rusty Mahan explained that, in the past, when the Planning Commission granted a Conditional Use Permit it really wasn't a permit but an approval. Mr. Mahan is proposing to use an actual permit which he reviewed with the Planning Commission.

There were three revisions made and Mark Green made a motion to approve as amended. Barbara Holt seconded the motion and voting was unanimous.

Mark Green interrupted the meeting so that Major Johnson could speak to the Planning Commission. Major Johnson wanted to thank the Planning Commission for all that they do. Over the last month or so Major Johnson hadn't realized the burden that has been placed upon the members and staff. As a friend and the Major of Bountiful City, he says "Thank You." The staff and members were complemented on sticking to their guns and up holding the ordinances of Bountiful City.

2. Adoption of written Conditional Use Permit on hospital commercial PUD.

Rusty Mahan reviewed the Conditional Use Permit for the hospital commercial PUD. There were two revisions and Mark Green made a motion to approve as amended. Clark Jenkins seconded the motion and voting was unanimous.

Zoning Ordinance Amendments

1. Review zone text amendments to Multi-Family Zones.

Rusty Mahan mentioned that this item has already been discussed at a earlier meeting.

2. Review notice of approval for lot-line adjustment.

Rusty Mahan explained that this item has been discussed and the form has been used.

3. Planning Director's response and miscellaneous business.

Aric Jensen explained that if the agenda is light for the next meeting, he would like to address zoning text revisions. He then asked if the Planning Commission had any issues or items that they wanted him to be working on.

Michael Allen mentioned that he had attended the Rocky Mountain Land Use Institute Conference and Mr. Allen passed out some handouts to the Planning Commission Members.

Meeting adjourned at 9:05 P.M.