

PLANNING COMMISSION MINUTES

October 21, 2008

7:00 P.M.

SPECIAL FIELD TRIP

6:30 P.M.

Present: City Council Representative Beth Holbrook, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

With only one Commission Member present, the field trip was cancelled.

PLANNING COMMISSION MEETING

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Dave Badham, Ray Keller, Barbara Holt, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, Youth Council Representative Bryn Sieverts, and Recording Secretary Connie Feil.

Absent: Michael Allen.

Clark Jenkins welcomed all those present. There were several residents in attendance responding to a non-city endorsed flyer past out in the neighborhood. Mr. Jenkins yielded the floor to Aric Jensen to explain the proposed rezone and to address the misinformation given on the flyer. The flyer will be attached to the minutes.

Dave Badham made a motion to approve the minutes for October 7, 2008 as amended. Beth Holbrook seconded the motion and voting was unanimous in favor.

1. PUBLIC HEARING - Consider preliminary and final PUD plat approval for Liberty Court PUD located at 386 W. 400 N., Troy Burnett, applicant.

Troy Burnett, applicant, was present. Paul Rowland explained that in March of 1999 the Planning Commission and City Council approved the conversion of a six unit apartment project to a condominium development. The Liberty Court Condominium Association is now requesting that this condominium project be changed to a Planned Unit Development. While the difference between a PUD and a condo development is very subtle, the only real change is the name of the plat. Nothing changes with the floor plans, side yards, setbacks, parking, landscaping, etc.; only the name changes.

Changing this development from a condo to PUD will require a public hearing and a recommendation from the Planning Commission, and then an ordinance to vacate the existing condo plat and an approval of the new PUD plat by the Council. No other actions will be required. Since no construction work is involved, no construction bonding is needed.

Staff recommends preliminary and final PUD plat approval of the Liberty Court Planned Unit Development subdivision plat, located at 386 West 400 North, with the following conditions:

1. Have the Liberty Court Condo plats vacated by ordinance.
2. Submit a current title report.
3. Make minor changes per red lines.

The public hearing was opened for all those with comments or concerns.

Troy Burnett explained that there is a representative from the association with written approval from the residents. Mr. Burnett also mentioned that all of the units are being financed by the same bank, who will sign the final plat.

The public hearing was closed without further comments.

Barbara Holt made a motion to recommend to the City Council preliminary and final PUD approval for Liberty Court PUD subject to the three conditions outlined by Staff. Tom Smith seconded the motion and voting was unanimous in favor.

2. PUBLIC HEARING - Consider a Zone Amendment from RM-13 to PO located at 251 & 259 E. 500 S., Newport Enterprises/Steve Akerlow, applicant.

Steve Akerlow, applicant, was present. Aric Jensen explained that Steve Akerlow, representing Newport Enterprises Inc., is requesting a zone map amendment from Multi-Family RM-13 to Professional Office (PO) for 251 East and 259 East 500 South. Mr. Akerlow's proposal appears to be in harmony with the vision of developing professional offices along 500 South between 100 East and Orchard Drive. The one conflict is that Mr. Akerlow's client for the proposed development is an optometrist, which is not permitted in the Neighborhood Professional Office zone (PO-N), but is permitted in the regular Professional Office zone (PO). The petition is for the PO zone, and not the PO-N zone.

Whenever the Planning Commission considers a request for rezone, it shall review it in accordance with the provisions of *14-2-205 AMENDMENTS TO ORDINANCE AND MAP*, which are as follows:

- B. For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments shall not be made to this Ordinance or Map except to promote more fully the objectives and purpose of this Ordinance or to correct manifest errors.

Both the PO and PO-N zones were created to act as buffers between high intensity land uses such as commercial and light industrial, and lower intensity uses such as residential. As discussed in previous meetings, 500 South between 100 East and Orchard Drive is in a high intensity land use, and there needs to be a buffer between the road corridor and the existing residential uses to the north and south. In the Riley Court project, the City rezoned the four homes along 500 South to PO-N, a zoning designation created specifically for this corridor. The only reason the applicant has not petitioned to rezone his property PO-N is because the proposed use of an optometrist office is not currently permitted. In the Planning Commission meeting on October 7th, changes were discussed to the PO-N zone which would allow low-impact medical-type uses. The applicant would be willing to accept a PO-N zoning designation if the use of an optometrist office was allowed.

Mr. Jensen stated that in Staff's opinion both the PO and PO-N zones could work in this situation, although the PO-N zone is preferable because the allowed uses generally produce less vehicle traffic and because there are stricter design standards. If the PO zone designation were approved, it would have to be with strict conditions such as the following:

- a. All parking must be behind the front building setback
- b. The building must be constructed at the minimum front setback
- c. The building cannot exceed two stories and must be constructed to look like a large, single family home
- d. No signs shall be allowed except those permitted in the PO-N zone

One of the primary purposes of the Professional Office zones is to act as a buffer between high intensity and low intensity uses. The existing residential areas are low intensity uses and 500 South is a high intensity use, and developing professional offices in this area will improve the quality of the residential areas and improve the appearance and functionality 500 South.

Mr. Jensen explained that Staff has prepared two motions, depending on the findings of the Commission.

1. Recommend approval of the zone map amendment from RM-13 to PO-N for the properties located at 251 East and 259 East 500 South, as shown on the attached maps.

OR

2. Recommend approval of the zone map amendment from RM-13 to PO for the properties located at 251 East and 259 East 500 South, as shown on the attached maps, and with the following conditions:
 - a.. All parking must be behind the front building setback

- b. The building must be constructed at the minimum front setback
- c. The building cannot exceed two stories and must be constructed to look like a large, single family home
- d. No signs shall be allowed except those permitted in the PO-N zone

Mr. Jensen noted that there was an addressing error on the maps. More specifically, the correct properties were highlighted, however, there was a duplicated address on an adjoining property.

Steve Akerlow explained that his company agrees with the requirements and guidelines for PO-N zone. Mr. Akerlow has a client that desires to locate his optometrist business at this location but this type of business is not permitted in this zone. Mr. Akerlow feels that this professional office will be in harmony with the other professional offices along 500 South.

The public hearing was opened for all those with comments and concerns.

Joe Merlisky, residing at 160 E. 300 S., would like to know why this type of business wants to locate in a residential area rather than an area designated for a medical business. Mr. Akerlow stated that his client is now leasing an office in Bountiful but prefers to own his own building.

Jon Grundvig, residing at 450 S. 300 E., had concerns about fencing along his back property line, landscaping encroaching onto his property and his property taxes going up.

Phil Ford, residing at 390 S. 100 E., does not like the idea of having more commercial in a residential area. He feels that his property taxes have increased because he abuts a commercial zone.

Laurie Korst, residing at 205 S. 100 E., had concerns about the property values going down in the neighborhood because of more commercial/medical type businesses in a residential area.

Carlos Martines, residing at 175 E. 400 S., feels that the neighborhood is being encroached upon by the commercial businesses. He has concerns about the current traffic and that adding another business increases the traffic even more. Mr. Martines does not want any more commercial or apartments in the neighborhood.

Dixie Barber, residing at 390 S. 100 E., feels that everything which is beautiful in the neighborhood is being taken away by commercial businesses.

Barbara Holt explained the reasons and purpose for creating the Professional Office Neighborhood Zone along 500 South. She also explained the criteria for this zone and understands the concerns of the residents.

Pat McIntire, residing at 206 N. 100 E., feels that the concept of the proposal is not bad but she prefers to have this business in the downtown area or in the medical zone.

Ms. Kinghorn (produced and sent out flyers), residing at 487 S. 300 E., would like to know why any new business coming to Bountiful can't use the vacant buildings that already exist. She feels that a business has more authority to make changes than the residents. Ms. Kinghorn would also like to know why the City has the authority to make rules on how a property owner uses his/her property.

Judie Kinghorn, also residing at 487 S. 300 E., feels that allowing businesses to take over the homes on 500 South will look like 21st South in Salt Lake City, congested with only businesses and no more homes.

Nelson Barlow, residing at 266 E. 300 S., supports the zone change. He feels that having a Professional Office would create less impact on 500 South and the surrounding neighborhood. 500 South is too congested now without building a five-plex on this busy street. Mr. Barlow feels that the City has done a good job on 500 South.

Diane Tribble, residing at 540 Brentwood Circle, agrees with approval of the Professional Office and eliminating apartments.

Dr. Jerry Dugger, Chiropractor, is in the process of moving to an office at 184 E. 500 S., which is zoned PO-N. Dr. Dugger has a small practice and can't afford to move into a large complex. He prefers to conduct his practice in an area with the feel and look of a neighborhood, and he also wants to preserve the neighborhood appearance.

David Brant, residing at 435 S. 200 E., thinks that the widow living to the west will have noisy neighbors. Mr. Brant does not want the life style of the neighbors being disturbed by more businesses. He asked that the Planning Commission be mindful of the existing neighborhood.

Janene Lemmon, residing at 255 E. 400 S., prefers to allow Professional Offices rather than apartments. She asked to eliminate medical businesses that would create more traffic.

Mont Michelsen, residing at 560 Brentwood Cir., appreciates what the Planning Commission does for the City. Mr. Michelsen has concerns about the current properties that are in terrible conditions and the empty lots being used for selling cars, trucks, boats and junk. Changing this property for professional offices is a better use.

Robert McArthur, residing at 1867 S. 850 E., has three issues that he would like the City to consider which are: 1. The size of the footprint for a new building should not be any larger than what is in the neighborhood. 2. Be mindful of the impact created when a business abuts a residential home. 3. Be mindful of any business creeping into residential areas. Now is the time to preserve the neighborhood in this area.

Bob Rawlins, residing at 341 E. 200 S., feels that the medical profession should be doing business in the areas that are zoned for them and not scattered all over town. He also does not

like the large lighted signs that are in Bountiful.

Christine Brand, residing at 341 E. 200 S., had concerns that if this chiropractor business is allowed what happens in the future when he sells the property. Ms. Brand prefers to have a small medical business than apartments.

David Brant had concerns with the increase of traffic that this business will create on 500 South. The traffic on 500 S. is so great you cannot get across 500 S. traveling from North to South.

Robert Wilkes, Optometrist in Bountiful, currently rents his office space and would like to protect his business by owning his building. His goal is not to impact the neighborhood but preserve the neighborhood feel and look. Dr. Wilkes has 10 to 15 patients per day which will not impact the neighborhood. He will comply with all the requirements for the PO/PO-N Zone.

Joe Pearson would like more information in regards to any rezone in the Bountiful. He would like to have a map showing the location of the different zones in Bountiful. He was given the web site for Bountiful City which would give him the information he requested.

Patricia Folger, residing at 180 N. 100 E., commended the efforts of the Planning Commission for cleaning up the neighborhood. Ms. Folger has concerns with the creeping of businesses up 500 South. She would like the Planning Commission to consider where the growth for commercial businesses will stop.

John Taylor, residing at 165 E. 500 S., had concerns with a large new building that could be used for more than one business. If this is the case the neighborhood feel is gone and becomes commercial.

Ms. Kinghorn asked again for the date this property was rezoned for RM-13. She was told again that it has always been zoned multifamily. She questioned the Commission stating that it has been changed from single family to multifamily and she wanted to know why she was not informed of the change.

Charles Benson, property owner on 400 E. and along 500 S., stated to Ms. Kinghorn that this area has been zoned multifamily for many years. Mr. Benson had some concerns about spot zoning. He would like to know if the zone change is for this property or the whole area. He was told that any changes on 500 S. would be a case by case basis. The zone is allowed but by application only.

Virginia Dobbin, residing at 427 S. 400 E., had concerns about the future potential of property being bought and used for more commercial. She feels that her home has lost value because of the Iceberg across the street. A home was taken out for a parking lot and has created a negative impact on the surrounding homes. Ms. Dobbin commended the Planning Commission for cleaning up the old homes on 500 South. The neighborhood does not want any more changes.

A resident, who didn't identify herself, is upset that the old homes are being torn down for more commercial businesses. She feels that lighting from commercial businesses is taking away the privacy from the residential areas. One example is the lighting on the L.D.S. Temple.

The public hearing was closed.

Russell Mahan explained to those present that the Planning Commission only makes a recommendation to the City Council. The City Council will hold another public hearing and that body makes the final decision. The City Council will meet on October 28th at 7:00 p.m. in the Council Chambers.

There was a discussion among the Planning Commission regarding protection for the neighborhood by changing the RM-13, which has existed for years, to PO-N. The general consensus was that the PO-N or PO zone would be a better use for the neighborhood than the RM-13 zone.

Dave Badham made a motion to table this item until the next item has been discussed because it contained proposed changes to the PO-N Zone, that are relevant to the proposed rezone. . Barbara Holt seconded the motion and voting was unanimous in favor.

3. PUBLIC HEARING CONTINUED - Chapter 14 Land Use Ordinance text amendments.

The public hearing was opened for all those with comments and concerns.

Aric Jensen reviewed all the proposed recommendations and changes from the previous meeting held on October 7, 2008. The main issues are as follows:

Administrative Procedure Amendments

Clarification of when an appeal process starts and when a petitioner can re-file an application.

Multi-family Zone

Add a new subzone, RM-7, to fill in the gap between the R-4 and RM-13. This could allow future developments similar to Country Springs, without the risk of rezoning to RM-13 and having someone build a more dense development after the rezone is approved.

PO-N zone Refinement

1. The current ordinance only allows a 4 square foot bronze plaque mounted on the main building. This is not large enough for people driving down 500 South to locate a business, and creates an unsafe driving situation.
2. Low impact medical uses such as optometrists and chiropractors are interested in locating along 500 South. The Commission determined that the use was not as important as the design of the development and the amount of traffic generated.
3. The size and scale of buildings needed to be better defined and regulated.

Property Consolidation

If somebody owns two or more adjacent parcels and decides to build across them, those parcels shall be combined into a single parcel so that they cannot be separated except by a new subdivision plat meeting current ordinances. This will help reduce the number of non-conforming lots within the City.

Commercial Subdivisions

Allow fully improved private easements, maintained by an owner's association, to satisfy frontage requirements when subdividing commercial developments. This will allow individual businesses to own their buildings, even if they are in the rear of a commercial development.

Miscellaneous Corrections

There were several old code changes, which were just bookkeeping corrections such as definitions and release of bonds, that were up also updated.

The public hearing was closed without further comments.

There was a lengthy discussion regarding having all parking in the rear of the building, having a shared driveway for larger parcels or two parcels of property, having a maximum footprint for a new building, and protection for the neighborhood

After a discussion with each item, Barbara Holt made a motion to recommend to the City Council approval of the Chapter 14 Land Use Ordinance text amendments as discussed and recommended by Staff. Ray Keller seconded the motion and voting past by majority vote with Barbara Holt, Ray Keller, Tom Smith, Clark Jenkins and Beth Holbrook voting "aye." Dave Badham voting "nay" and stating that he was only opposed to the subdivision bonding issue.

2. **PUBLIC HEARING CONTINUED - Consider a Zone Amendment from RM-13 to PO located at 251 & 259 E. 500 S., Newport Enterprises/Steve Akerlow, applicant.**

There was a brief discussion before Beth Holbrook made a motion to recommend to the City Council approval of the zone change from RM-13 to PO-N at 251 & 259 E. 500 S. as recommended by Staff. Dave Badham seconded the motion and voting was unanimous in favor.

Meeting adjourned at 10:00 p.m..