

## PLANNING COMMISSION MINUTES

April 6, 2010

7:00 pm

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Ray Keller, Barbara Holt, Dave Badham, Michael Allen, City Council Representative Beth Holbrook, City Attorney Russell Mahan, Assistant City Engineer Lloyd Cheney, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Chairman Clark Jenkins welcomed all those present.

Michael Allen made a motion to approve the minutes for March 16, 2010 as written. Dave Badham seconded the motion and voting passed by majority vote. Barbara Holt and Ray Keller abstained from voting, neither one was present at the meeting.

**1. PUBLIC HEARING – Consider a variance from the provisions of Section 14-4-104 of the Bountiful Land Use Ordinance, and a lot line adjustment, located at 1312 E. 250 N., Kirk & Jamie Wersland, applicants.**

Kirt Wersland, applicant, was present. Aric Jensen explained that the Werslands are requesting a variance and a lot line adjustment to reduce a portion of an existing lot located in an R-3 zone designation to less than the minimum lot width requirement, as set forth in 14-4-104 of the Bountiful City Land Use Ordinance. Several years ago the Werslands purchased a large, irregularly shaped vacant building lot adjacent to another vacant lot. Since acquiring the property, a home was built on the adjoining vacant lot. During the construction process, the builder went bankrupt and the bank foreclosed on the property. The bank subsequently hired another builder to finish the project. The new builder excavated a portion of the Werslands property and built several retaining walls.

Approximately a year ago the Werslands discovered the problem and approached the City with a proposal to do a complex boundary adjustment that would include their property, the Bank property, and the property owner east of the Werslands. This proposal fell through when the adjacent property owner decided to not participate.

The Werslands attempted to convert the two parcels to a PUD to address the problem and also to construct an additional home on the property. This solution didn't work for multiple reasons, the first being that City Ordinances require a minimum of 4 acres for a PUD.

At this time the Werslands are proposing a lot line adjustment that would transfer the excavated areas and accompanying retaining walls to the Bank owned property, and that would transfer the uphill areas of the Bank owned property to them. The exchange is logical based on the contours of the ground, however, it would result in a pinch point where the Wersland's lot would only be approximately 50' wide, and the Ordinance requires 80'. This is the reason that they have come before the Commission requesting approval of a variance and a lot line adjustment.

Mr. Jensen referred to the Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances.

Mr. Jensen continued, saying that in regards to Section 10-9a-707 (2)(a)(I - v), Staff's opinion is that the petitioners have shown that they meet all of the necessary criteria such that the Commission may grant a variance. First, literal enforcement of the ordinance would create an unnecessary hardship for the Werlands by forcing them to possess a parcel of ground that has been artificially disturbed without their permission by a third party.

Second, there are special circumstances which apply to this property that do not apply to all other properties in this part of the City. First, the Werlands property is an irregular shaped lot whose buildable area is located in the middle of the block, and not immediately adjacent to the public street. Second, there is a substantial grade change between the lots, which in and of itself is not unusual, except that the Werlands property as currently plated cuts through the slope at an angle.

Third, this is not contrary to the general plan which calls for single family development, it does not create a new building lot or otherwise grant the various property owners any rights above and beyond those belonging to adjoining property owners, and approving the requested variance would provide substantial justice for the property owner.

Fourth, in regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Fifth, the proposed lot line adjustment would not create a new building lot and would not be contrary to any provision of the Land Use Ordinance, assuming the proposed variance is granted. Staff recommends the approval of the variance and a lot line adjustment for 1312 E. 250 N. subject to the following conditions:

1. Approve the variance from the Land-Use Ordinance regarding minimum lot width, for the reasons set forth in the staff report.
2. Approve the proposed lot line adjustment with the finding that no new lot is created and that both lots meet the minimum requirements of the Land Use Ordinance.
3. Verify with the surveyor that the east property line is set back from the retaining wall.

Kirk Wersland presented two letters, which Mr. Jensen read, one from each property owner in favor of the variance. Mr. Wersland noted that all property owners support this variance and lot line adjustment and are ready to sign any necessary papers.

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

Franklin Florry, residing at 1376 E. 250 N., is a neighbor and he supports the variance.

The public hearing was closed without further comments.

There was a discussion among the Commission and Mr. Wersland regarding his proposed plans for the property, which direction the home will face, and potential impact on neighbors.

Dave Badham made a motion to grant the variance and a lot line adjustment as presented in the survey and set forth in section 14-4-104, located at 1312 E. 250 N., based on the findings and conditions outlined by Staff. Barbara Holt seconded the motion and voting was unanimous in favor.

**2. PUBLIC HEARING – Continued from February 16, 2010 – Consider approving or disapproving a zone map amendment from Residential Foothill (R-F) to Residential Foothill Planned Unit Development (R-F-PDO) located at approximately 1200 E. Highland Oaks Drive, Autumn Wood Development, applicants.**

Chairman Clark Jenkins turned the meeting over to Aric Jensen to discuss the proposal.

Mr. Jensen presented a power point presentation explaining some changes from the previous proposal. After evaluating the costs for replacing the existing water tank, it is now proposed to leave the existing water tank and construct a new smaller tank at the top of the property. The new water tank will have more than enough water storage to supply water to this development and fire protection. By using the existing tank one of the building pads will be eliminated. There will be an access easement to the new water tank. On the site plan it shows an access road from the water tank over to Mr. Orvis's property. Staff recommends not approving this access. Staff and the Fire Marshall feel that this fire access is not necessary. It will create cuts into the hillside, erosion of the hillside, and it will encourage off road traffic which will add to the problem.

At this time staff believes that this item is ready for action by the Planning Commission, and has prepared a draft ordinance for its consideration. Mr. Jensen reviewed the proposed ordinance in detail with the Commission (attached to the minutes). If the Commission feels that this item is ready for action, then the Commission should recommend to the City Council approval of the proposed ordinance with amendments as appropriate.

Clark Jenkins explained to the public that any new comments or concerns are welcomed and will be heard. The Commission prefers not to review any past comments.

The public hearing was opened for comments or concerns.

The following individuals spoke with comments and concerns:

Tom Gyuro, residing at 3929 Mountain Oaks Dr.  
Lisa Serio, residing at 4067 Mountain Oaks Dr.

Their comments were as follows:

- This project does not enhance the value to the City or the neighborhood.

- Home and property values will decrease.
- The lots are not large enough for this neighborhood.

Bruce Baird, attorney for the developers, explained that this project will include the benefit of certainty and finality with the City. This will add an additional tax base, trail access, and conservation easements over a large portion of the property. These benefits and values will stand up in any court.

Pete Gilward explained that the fire and trail access will be determined when doing the final stages of planning. The developers are trying to create as little impact to the property as possible.

The public hearing was closed without further comments.

There was a discussion among the Commission in regards to the time frame for this project. The general consensus was that the project meets all current City Ordinances, and the revised plans will eliminate one building pad and prevent huge cuts and fills on the property. All infrastructure and water flow will be contained on site. All the homes are in a bowl area which will keep them off of the ridge area. The R-F Zone contains both single family lots and PUD's. This project will substantially enhance the area.

Michael Allen made a motion to recommend to the City Council approval of the proposed Zone Map Amendment from R-F to R-F-PDO, based on the findings of the attached proposed ordinance as outlined and with the following changes:

1. Change the number of building pads from 28 to 27 single family dwellings.
2. Three changes on the maps that form a part of the ordinance.
  - a. Change the wording from subdivision boundary to residential boundary.
  - b. In the foot note area the word "subdivision" be changed to "residential area".
  - c. The fire lane road at the end of the proposed water tank should be eliminated.

Beth Holbrook seconded the motion and voting was unanimous in favor.

### **3. Planning Director's report and miscellaneous business.**

Aric Jensen explained that Brian Knowlton would like to show the Commission a project he is considering. Mr. Knowlton has purchased the Bountiful Lumber property and would like to remodel the existing building for a Professional Office, as well as construct some other buildings.

Mr. Knowlton explained that Deseret Health Group would like to use the existing building for their corporate office. The present look of the building will remain with the reception area being a small historical museum for the main street area. On the west portion of the property would be a three story 10 plex for residential family use. It was suggested to build an infill structure between the Bountiful Lumber space and the existing building to the north. The new building will have retail/commercial on the main floor and residential on the upper floor/floors. The

parking requirements could create a problem with the current ordinance. If shared parking could be arranged, there should not be a problem with the parking.

The Commission agreed with the idea of using the existing building, having a use rather than an empty building, and a use that can help bring more people to the down town area.

Mr. Knowlton thanked the Commission for their time and said he will continue with his plans.

Meeting adjourned at 8:45 pm

