

## PLANNING COMMISSION MINUTES

June 4, 2013

7:00 p.m.

Present: Vice Chairman Dave Badham, Planning Commission Members Michael Allen, Sean Monson, Von Hill, City Council Representative Beth Holbrook, City Attorney Russell Mahan, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Absent: Chairman Tom Smith, Sharon Spratley and City Engineer Paul Rowland.

Vice Chairman Dave Badham welcomed all those present.

### 1. Approval of the minutes for May 7, 2013.

Michael Allen had a question about the motion made on Lodder Automotive. Dave Badham made a motion to table this item for further review. Voting was unanimous in favor.

### 2. Consider preliminary and final commercial site plan approval for Timberline Custom Carpentry located at 466 W. 1000 N., Brad Hutchings, applicant.

Brad Hutchings, applicant, was present. Aric Jensen gave a visual presentation explaining that Mr. Hutchings is requesting preliminary and final site plan approval for a 5,600 sq ft accessory warehouse/manufacturing structure located in the Heavy Commercial (C-H) zone. The site is approximately 1.1 acres, triangular in shape, and is abutted on the west by I-15, on the south by 1000 North, and on the east by a single family residential neighborhood. There are two existing buildings on the site; a 5,400 sq ft block of storage units, and a 6,500 sq ft office/manufacturing building.

Approximately five years ago, the Planning Commission and Council granted site plan approval for the proposed structure, but it was never built and the approval has since lapsed.

There haven't been any substantive changes to the Land Use Ordinance relevant to this proposal since it was last considered by the Planning Commission and City Council. In past reviews, the principal issue of concern regarding this structure was the amount of onsite parking. This proposal shows 19 stalls, just as was approved previously.

Landscaping, drainage, utilities, and other improvements are all existing with exception of the area adjacent to the proposed structure. The missing improvements will need to be constructed in conjunction with the new building.

The building itself is a typical warehouse structure constructed of the same color of concrete block as the showroom and as shown in the attached drawings, but without the split-faced block. Typically staff would recommend that the building have an upgraded façade similar to the

showroom; however this structure will not be readily visible to the public or surrounding property owners, and there is no justification for the added expense.

Staff recommends preliminary and final site plan approval for the Brad Hutchings/Timbermill Cabinets site with the following conditions:

1. Make any redline corrections.
2. Pay any required fees.

After a brief discussion Von Hill made a motion to recommend to the City Council preliminary and final site plan approval for 466 W. 1000 N. with Staffs recommendations. Beth Holbrook seconded the motion and voting was unanimous in favor.

**3. Consider vacating Lot 5 of Village on Main Commercial Subdivision and consider preliminary and final commercial subdivision plat approval for Pages Lane Commercial Subdivision, located at 59 W. Pages Lane, Grant Bailey, applicant.**

Grant Bailey, applicant, was present. Aric Jensen gave a visual presentation explaining that in March 2006, the City council gave final approval for the Village on Main Street Commercial Subdivision, a mixed use development built on just over 12 acres at the corner of Pages Lane and Main Street. The largest lot holds the mixed residential/commercial building and is surrounded by 5 smaller commercial lots fronting on both Main Street and Pages Lane. Since 2008, two of the five lots have been occupied by a fast food restaurant and a credit union with the remaining three lots remaining vacant. Dr. Bailey has purchased Lot 5 and now wishes to divide it into two separate parcels.

Lot 5 is located on the north side of the Village on Main development, fronting Pages Lane, and contains 1.165 acres. Dr. Bailey is proposing a two lot subdivision of the existing Lot 5, one of which will contain 0.692 acres and the other will contain 0.473 acres. His intention is to build a dental office on the larger lot, and then hold or sell the other lot. Both of these lots will have legal frontage on Pages Lane and exceed the minimum size requirements. Any development of the two lots will be required to conform to the cross parking and access agreements of the existing Village on Main Street Subdivision.

With this being a lot division in an existing subdivision, sewer, culinary water, and irrigation water are all stubbed into the lot or are located in the existing development and can be reached without cutting into the public street. All of the storm water requirements are still handled by the overall Village on Main improvements.

Even though the lot is being vacated out of the existing subdivision and then subdivided, it is still part of the overall development and therefore must continue to be part of the association which oversees maintenance of the area, and must continue to be subject to the cross access and parking agreements for the entire site.

Staff recommends preliminary approval of the village on Main Street Commercial Subdivision Phase 2 with the following conditions:

1. Any and all redlines be corrected.
2. Provide a current Title Report.
3. Payment of all required fees.
4. Provide evidence that the subdivided parcels remain a part of the overall Village on Main association.
5. Change the name on the proposed plat to **Village On Main Commercial Subdivision Phase 2.**

There was a discussion regarding the cross access and parking agreements.

Sean Monson made a motion to recommend to the City Council preliminary and final commercial subdivision plat approval for Pages Lane Commercial Subdivision subject to the conditions outlined by Staff. Beth Holbrook seconded the motion and voting was unanimous in favor.

**4. PUBLIC HEARING – Consider granting a variance to allow building in a required front yard setback, located at 3430 S. 400 E., Jim & Barbara Morrison, applicants.**

Jim & Barbara Morrison, applicants, were present. Mr. Morrison explained that he is applying for a building permit to correct a significant design failure incurred at the time the home was built in 1977. The home was built at the same time that Bountiful City was extending 400 East into the North Canyon areas. The garage was to be built facing east with the driveway access directly onto the new extension of 400 East. The final street grade was much too high to allow this. The garage door had to be relocated to the north with a curved driveway. As a result, the garage cannot accommodate two full size cars as originally designed.

After consulting with architects and contractors, the best solution is to construct a one care garage addition to the north side of the home. It has been designed to be unobtrusive and sit low in the ground. The roof deck is accessible from the master bedroom. It does not obstruct the view of any neighbor and the design matches the home and is protected by mature trees and shrubs.

Mr. Morrison is requesting a 5' variance from the code to permit construction of a one car garage/deck addition to his home. He feels that it is necessary because it will:

- Correct existing design which has functionally been only a one car garage due to poor coordination with Bountiful City at the time of 400 East extension.
- Allow two cars to be garaged year around, especially in the winter.
- Allow additional driveway space so that visitors won't have to park on the street in the winter.

The Morrison's feel that this is not a self imposed issue, but was caused by an action of the City or the road contractor.

Aric Jensen gave a visual presentation as he explained that the applicants desire to construct a second attached garage on their property is to remedy an existing situation. The home was designed with a two car garage that was supposed to exit directly eastward to 400 East Street. However, the floor level of the garage is substantially lower than the grade of the street, and such a driveway configuration is not possible. To remedy the situation, the applicant's contractor modified the structure so that the garage exited to the south with the driveway curving east to access 400 East Street at a lower elevation. While this modification provided navigable access to 400 East, it also entailed a narrower garage door because the garage structure isn't as wide on the south side.

After more than 30 years of living in the home, the applicants would like to add a single car garage on the south side of the home in what is their existing front yard setback, so that they can park at least two typical sized cars out of the weather. At the time the home was constructed, the City required a minimum 30' front setback, which this structure currently meets. Since that time, the Ordinance was modified and currently only a 25' front yard setback is required. The applicants' desire is to construct an attached garage 20' from the front property line that, due to the rotation of the home, would be 18' wide at the front and taper to 12' wide in the rear.

The issue is to determine if the hardship is self-imposed. A letter has been received (which is attached to the minutes) from the applicants explaining how they believe they meet the criteria for a variance as set forth in Utah Code 10-9a-702. In the letter the applicants claim that the hardship was created as a result of 400 East Street being constructed higher than the dwelling. However, City records indicate that the subdivision plat and road cross-sections were approved prior to issuance of the building permit, and so the more likely scenario is that the contractor either didn't survey the property properly or didn't review the subdivision plans and built the footings and foundation too low. This is an important point because a construction error is a self created or self-imposed hardship, while an action of the City after an approval is not.

If the Commission determines that the hardship was not self-imposed, then there is probably sufficient reason to grant a variance based on the facts. However, if the Commission determines that the hardship was self-imposed, then it cannot grant a variance of any kind. Regardless, the proposed garage addition contains a "pop out" or "bay" feature that is unnecessary for the function of the garage and should be denied.

Mr. Jensen asked the Commission Members to discuss the variance request and determine whether the existing hardship was self-imposed or created by an action of the City. If the hardship was self-imposed, then they should deny the request. If the hardship was created by the City, then they should approve the request for a variance to construct a single car garage as shown on the proposed site plan with the following conditions:

1. The structure shall not exceed a single story in height,
2. No roof, canopy, wall, or other structure shall be built on top of the addition,
3. At no point shall any part of the structure be closer than 20' to any property line,

4. All redline corrections; including elimination of the proposed “pop out” shall be made as required by staff prior to the issuance of a building permit.

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

Dr. Myrne Riley, residing at 3402 S. Lexington Dr., explained that the proposed garage will face the front of his home. The Morrison’s take care of their yard and the colors will blend with the existing home. The proposal will not impact his property and he supports the approval of the variance, as long as the “pop out” is removed.

The public hearing was closed without any further comments.

There was a lengthy discussion regarding the time frame from the time of the road construction to the building of the home. Mr. Jensen mentioned that in a matter where there is a 50-50 decision between the property owner and ordinance, Staff typically finds in favor of the property owner.

Beth Holbrook made a motion to grant the variance to reduce the front yard setback to 20’ and build a single car garage as shown on their site plan based on the findings that the hardship was not self-imposed. Dave Badham seconded the motion and voting passed by majority vote 4-1 in favor with Sean Monson voting nay.

5. **PUBLIC HEARING – Consider a zone map amendment from General Commercial (CG) to Residential Multi-Family (RM-13) for property located at 2110 South Orchard Dr., and from Mixed Use Residential (MXD-R) to Residential Multi-Family (RM-19) for property located at 2050-2092 S. Orchard Dr., Wilson Properties, applicants.**
6. **Consider conceptual site plan review for a multifamily residential development located at 2050-2092 and 2110-2132 S. Orchard Dr., Wilson Properties, applicant.**

Items 5 & 6 are being heard at the same time.

Sharm Smoot and Michael Deamer, applicants, were present. Aric Jensen gave a visual presentation as he explained that Mr. Sharm Smoot is requesting a zone map amendment from General Commercial (CG) to Residential Multiple-Family (RM-13) and from Mixed-Use Residential (MXD-R) to Residential Multiple-Family (RM-19). This is a variation on the proposal that was considered by the Commission two months ago but was ultimately denied by the City Council on a vote of 4 to 1.

In its denial, several Council members expressed an underlying concern that any change in zoning from commercial to multi-family would have a negative effect on the community and would preclude the revitalization of the area as a neighborhood commercial center. The current proposal would simply exacerbate the situation by precluding even more commercial development. Based on the Council’s action and comments, the staff recommendation is to deny the proposed zone map amendments.

Staff recommends that the Planning Commission deny the proposed rezone (zone map amendment) with the following findings:

1. The City Council is the legislative body of the City and establishes public policy,
2. The City Council voted on May 14, 2013, to deny a similar proposal,
3. In its action on May 14, 2013, several Council members stated that they did not want to preclude future commercial development in the area by rezoning properties for residential uses.
4. This proposal would preclude the use of the subject properties for commercial activities.

Russell Mahan explained that when a request for a rezone has been denied the applicant cannot come back and ask for the same rezone for one year. The previous proposal was from General Commercial to RM-19 and the present proposal is from General Commercial to RM-13. The request that is being proposed now is for a different zone which means the proposal can be heard.

Sharm Smoot explained that the existing Hostess building was built over 50 years ago and has some serious structural problems. Mr. Smoot would prefer to remove the building since there is no demand for any additional commercial in this area. Bountiful has ample commercial space throughout the City. Mr. Smoot feels that when the City Council made their decision on denying the previous proposal, they didn't understand the full intentions of what was being proposed. In the future, Mr. Smoot will request the approval of the rezone and the site plan together.

Mr. Smoot mentioned that this project will resolve a lot of issues with this property, such as replacing the driveways, repair the sidewalk and clean up the empty lot. The landscaping will be similar to their project on 2600 S.

Michael Deamer explained that they have no intentions of building any structures higher than the 35' allowed by ordinance. They also have no intentions of making a road onto Penman Lane and there will be no impact to Penman Lane. There was a bond that has been posted that is available to do repairs and maintain the existing property to the north. The final project will be upscale condo's/apartments and will improve the area. The schools will not be affected by the additions of the apartments. In fact, the school could use the additional students.

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

The following are the names of those present with their comments and concerns:

- Kathy Lunceford, speaking for the townhome property owners located at 2050 S. Orchard Drive.
- Eleanor Brainard, residing at 2080 Orchard Dr.
- Robert Hunter, residing at 334 Parkview Circle.
- Teresa Nelson, residing at 2029 Penman Lane.
- Jeff Colbert, residing 2043 Penman Lane.
- Jeff Colbert, representing Larry Lindeburg, residing at 2057 Penman Lane.

Linda Thornell, residing at 2158 Penman Lane.  
Jennifer Parker, residing at 2072 Orchard Dr.  
Summer Martin, residing at 2630 Orchard Dr.  
Kim Miller, residing at 2019 Orchard Dr.  
Benjamin Farmer, residing at 2078 Orchard Dr.  
Greg Harrison, owner of apartments to the north of this project.  
Aric Jones, architect for this project.

Their comments and concerns were as follows:

Can't sell townhomes because of the condition of the adjacent property.  
It's time that the townhome project get cleaned up and completed.  
Commercial property is an asset to Orchard Drive, but multi-family is not.  
This project will affect the schools.  
Improvements will enhance the area.  
Townhomes/condos are OK, but the area doesn't need more apartments.  
Would like to have rezoned to single family residential homes, not apartments.  
There were about half of those present that support the rezone. They feel that it will improve the neighborhood. The other half feel that it will negatively impact the neighborhood.

The public hearing was closed without further comments.

There was a lengthy discussion among the Commission and the developer. Some of their opinions were:

Commercial uses may not be viable at this time but sometime in the future Orchard Drive will be able to support it.  
Commercial uses may be a long time coming.  
It would benefit the City to get this property cleaned up and repaired.  
City Council feels that changing Commercial to Residential will have a negative effect on the neighborhood.

Sean Monson made a motion to recommend to the City Council a favorable recommendation for the proposed rezone for 2110-2132 S. and 2050-2092 S. Orchard Dr. as submitted by Wilson Properties. Beth Holbrook seconded the motion and voting failed 2-3 with Sean Monson and Beth Holbrook voting nay and Michael Allen, Dave Badham and Von Hill voting nay.

Russell Mahan explained that there is no need for a negative motion and that this will move forward to the City Council, which at that time they will decide to accept the negative vote or schedule a public hearing to consider it further.

- 7. PUBLIC HEARING – Consider granting a Conditional Use Permit to expand the existing Riley Court Independent Living and to convert the Park Apartments into an Independent Living Center, located at 517 and 555 S. 100 E., Marv Blosch, applicant.**

Von Hill recused himself from this item. Marv Blosch, applicant, was present. Aric Jensen gave a visual presentation as he explained that Mr. Blosch is requesting approval for an expansion of the existing Riley Court independent living center and for the conversion of the adjacent Park Apartments to an Independent Living Center. Riley Court and Park Apartments are adjacent to each other and are located within an RM-13 zoning designation, which allows thirteen residential dwelling units per acre.

This was before the Planning Commission on March 05, 2013 at which time there was some confusion as to the applicant's request. After holding a public hearing at which several individuals spoke, the Planning Commission instructed the applicant to revise his application and return at a future date. At this time the applicant has resubmitted his application, and staff has provided new notice to the public.

The applicant's request is three-fold: First, to receive conditional use approval to expand Riley Court onto a new property located to the east; Second, to convert the adjacent Park Apartments to an Independent Living Center use; and, Third, to receive site plan approval for the new addition and the inclusion of Park Apartments into the Riley Court site.

The site plan provided by the project architect shows the entire project area, (including the adjacent Park Apartments and two homes converted to professional buildings, all of which are owned by the applicant and share parking/driveway improvements). In the bottom left-hand corner of the site plan is a table that includes parking, landscaping, unit, and other pertinent calculations. The following paragraphs will refer to the calculations within this table.

First, the entire project area, excluding the converted offices, is shown as 3.30 acres, which would allow a maximum of 43 unrestricted multi-family units (apartments or condominiums). The applicant is proposing a mix of 66 independent living units, some with kitchens and some without. Based on the density conversion table contained in Chapter 5 of the Land Use Ordinance, the applicant is proposing the equivalent of 38 unrestricted multi-family units.

Second, the units in "The Park" (Building D) are currently senior apartments, and the applicant's proposal is to convert these to independent living units by instituting an age restriction and by allowing the occupants to use all of the common facilities at Riley Court. The only barrier from accomplishing this objective is a large series of storage units/garages between the two buildings. After reviewing the site plan with the applicants, staff believes that a walkway can be constructed from the east side of the Park Apartments almost directly to the common area entrance and the new addition through an area of parking lot that is currently used for snow plow and salt storage.

Third, the total number of units has been reduced from 70 to 66, which resolved a parking discrepancy that existed in the previous plan and brings the proposal into compliance.

Fourth, in regards to the building elevations, there was significant discussion at the March 05 meeting regarding the height of the proposed addition in relationship to the adjoining properties.

In addition to reducing the total number of units, the applicant has also proposed to eliminate the upper floor of the new addition that distressed the adjoining property owners.

Fifth, the building materials and landscaping will be similar to the existing Riley Court facility. As required, the applicant has provided building elevations and a landscaping plan. Of note, at the March 05 meeting the property owners to the south expressed concerns about the loss of a mature tree that appears to be located partially on the subject property or that might be affected by the applicant's proposal. If the tree is trespassing on the subject property, then the applicant has the right to trim it or remove it as the case may be. Regardless, the proposed landscaping plan shows four new trees between the new addition and the property to the south.

Sixth, as mentioned at the March 05 meeting, the applicant is proposing only an emergency egress on to 200 East and a fence and gate to encourage residents and visitors to park primarily within the designated off-street parking areas. While some citizens expressed concerns about parking issues on 200 East, it is dubious that many visitors or residents will park along 200 East if the only way to open the gate and door is from the interior.

Lastly, regarding civil improvements, all utilities are readily available on site or in the adjacent streets. However, there is a power line that currently runs between the existing Riley Court building and the triplex that serves at least two other properties. This line will need to be rerouted at the direction of the Bountiful Power Department.

Staff recommends approval of a conditional use permit for the expansion of the Riley Court Independent Living Facility and for the Park Apartments to an Independent Living Facility with the following conditions:

1. Riley Court and Park Apartments shall be combined into a single parcel, or a P.U.D. subdivision plat shall be recorded in which the Riley Court and Park Apartments properties are integrated and share all common areas.
2. A deed restriction, whose form and contents shall be approved by the City Attorney and Planning Director, shall be signed by the property owner and recorded on the title of the subject properties, limiting their use to an Independent Living Facility.
3. The project shall be constructed in accordance with the proposed plans and any redline corrections that are part of the final approved site plan.
4. Any and all fees are paid.

#### Second Motion

Staff recommends preliminary and final site plan approval with the following conditions:

1. All conditions of the Conditional Use Permit are complied with.
2. Any and all redline corrections are completed prior to issuance of a building permit.
3. Any and all building and site improvements are constructed per the approved plans.
4. Any and all fees are paid.

Marv Blosch explained that there is a demand for this type of development. Riley Court is a wonderful project with wonderful people who live there. Mr. Blosch would like to include the Park Apartments with Riley Court because of the age of residents that live there. The average age at the apartments is 60 and the age at Riley Court is 74. So to combine these two facilities as independent living center will be a benefit to the community as well as for his development. Mr. Blosch has met with the neighbors and feels that the issues that were discussed at the last meeting have been solved.

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

The following are those present with their comments and concerns:

Amy Arbuckle, residing at 548 S. 200 E.  
Chris Anderson, residing at 521 S. 200 E.  
George Sieb, residing at 699 S. 200 E.  
Dennis Welker, residing at 600 S. 200 E.

Their comments and concerns were as follows:

Concerns with the height of the building which has been solved.  
Concerns with visitors parking on 200 East rather than in their parking lot.  
The residents will be asked to have all visitors not to use 200 East.  
Neighbors still feel that there is not enough parking for their residents and visitors.  
Concerns with additional traffic on 200 East and fire access.  
Seems to be a good use for this location and a benefit to the neighborhood.  
Concerns with the infrastructure in this area.

The public hearing was closed without further comments.

Marv Blosch thanked all those with their comments. He explained that there are power lines that run through the back yards of the homes on 200 East. All traffic access will be on 100 East and only fire and emergency access will be on 200 East. All units are on a sprinkling system. Mr. Blosch feels that this development will be an improvement to the community.

Michael Allen made a motion to grant the conditional use permit as outlined by Staff. Sean Monson seconded the motion and voting was unanimous in favor.

**8. Consider amended site plan approval for Riley Court and the Park Apartments Independent Living Center, located at 517 and 555 S. 100 E., Marv Blosch, applicant.**

Sean Monson made a motion to recommend to the City Council amended site plan approval for Riley Court and Park Apartments Independent Living Center, located at 517 and 555 S. 100 E. based on the conditions outlined by Staff. Beth Holbrook seconded the motion and voting was unanimous in favor.

**9. Planning Director's report and miscellaneous business.**

Mr. Jensen mentioned that on June 18<sup>th</sup> there will be a meeting.

Meeting adjourned at 9:45 pm