

## PLANNING COMMISSION MINUTES

April 16, 2013

7:00 pm

Present: Chairman Tom Smith, Vice Chairman Dave Badham, Planning Commission members Michael Allen, Sean Monson, Sharon Spratley, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland and Recording Secretary Connie Feil.

Absent: Planning Director Aric Jensen and Von Hill.

Chairman Tom Smith welcomed all those present.

### 1. **Approval of the minutes for March 19, 2013.**

Beth Holbrook made a motion to approve the minutes for March 19, 2013 as amended. Dave Badham seconded the motion and voting was unanimous in favor.

### 2. **Consider final subdivision plat approval for Steele Subdivision located at 810 E. 500 S., David Hansen, applicant.**

David Hansen, applicant, was present. Paul Rowland explained that on March 19, the Planning Commission reviewed and recommended approval of a revised version of the 5 lot configuration that included a Phase 1 and a Phase 2 plan. The proposal before the Commission at this time is final approval of the Phase 1 plat for the Steele Subdivision.

The Phase 1 plat consists of 3 lots – a new lot on Cedar Circle that includes the existing swimming pool, a lot encompassing the existing duplex on the corner of 500 South and Cedar Circle, and a new lot facing on to 500 South. All of the proposed lots meet the minimum requirements of the zone. Nothing has changed with the sewer, culinary water, storm water runoff, sidewalks, irrigation water or utilities as presented with preliminary approval.

Mr. Rowland stated that the only issue with the existing pool on Lot 101 is an issue for the following reasons: First, the water, power, and drain laterals all currently run from the existing Hansen residence located in Phase 2. Second, the Land Use Ordinance does not allow ancillary uses on a residential lot without a primary use (residential dwelling).

To address the utility lateral issue, staff recommends two options. One, a metes and bounds easement in benefit of Lot 101 be recorded on the Hansen property, covering the existing utility laterals serving the pool. Two, Mr. Hansen constructs new utility laterals on Lot 101 and connects the pool to those laterals.

To address the use of the pool without a primary structure, staff recommends a note on the subdivision plat stating that the pool cannot be used except in conjunction with a primary use (residential dwelling). This would allow Mr. Hansen to continue to use the pool until the lot is sold, and would allow an adjacent property owner to purchase the lot and use it in conjunction with his residential dwelling.

Staff recommends final approval of the Steele Subdivision Phase 1 with the following conditions:

1. Correction of any and all redlines.
2. Provision of a current Title Report.
3. Payment of the required Storm Water Impact Fee
4. The requirements of the Bountiful Storm Water Ordinance are met
5. A note is placed on the Plat stating that the existing pool on Lot 101 shall not be used unless a single-family residential dwelling is constructed on the Lot or the Lot is used in conjunction with an adjoining property that is improved with a residential dwelling, per BCLUO 14-4-105 J.

Mr. Hansen mentioned that all conditions have been met except the title report which Mr. Rowland stated that he had received that report.

Michael Allen made a motion to recommend to the City Council final approval for Steele Subdivision Phase 1 subject to the conditions outlined by Staff. Sean Monson seconded the motion and voting was unanimous in favor.

**3. PUBLIC HEARING – Consider granting a Conditional Use Permit and preliminary and final site plan approval for Starbucks located at 416 W. 500 S., Adam Hawkes, applicant.**

Adam Hawkes and Dan Vanzelen, representing Starbucks, were present. Paul Rowland explained that Mr. Adam Hawkes is requesting a conditional use and site plan approval for a Starbucks coffee shop, which is classified as a fast food restaurant with drive through. The Planning Commission opened the public hearing on March 19, 2013, and a motion was made to continue the conditional use permit review and to consider it jointly with site plan review.

The proposed Starbucks coffee shop would be located near the intersection of 500 South and 425 West, in an area that is currently a parking lot. The subject property already has a drive access onto 500 South and onto 425 West, and so no new accesses are necessary. The applicant is proposing to close one access and modify another. The proposed use does not appear to warrant any conditions to make it compatible with the existing uses in the area. There are no recommended conditions associated with the conditional use permit.

Because the proposed building will be located in the existing parking lot, the total number of parking stalls available on the site will be reduced. As part of the review, the Planning Commission specifically requested that a site plan showing the parking for the entire property be included as part of the site plan submittal. The Commission received a copy showing the proposed parking configuration as well as area/landscaping calculations for the entire property. The intention of the property owners is to limit the use of Building #1 to activities “which require large display areas but generate light traffic demands”, as set forth in section 14-18-107 A. of the Land Use Ordinance.

9. Furniture and Appliance Store, Hardware Stores or Other Similar Uses Which Require Large Display Areas But Generate Light Traffic Demands. One (1) parking space for each five hundred (500) square feet of floor area.

Given the design of the building and its historical use as a sporting goods store, this is an appropriate classification of the building. With this reduction in required stalls, the site plan shows two stalls beyond the 81 required for the entire site.

There is not a storm drain system in either 500 South or 425 West, and so the applicant is proposing to sheet-drain the entire Starbucks site into the landscaping located to the west and south. This is a legitimate proposal as long as a swale or similar detention facility is constructed. The proposed development will decrease the overall amount of hard surfacing (and therefore runoff) on the site, and will actually bring the entire site into compliance with the minimum percentage of landscaping required (15%).

The landscaping plan meets the minimum requirements for trees, shrubs, and percentage of landscaping required. There is an issue with the location of trees within the clearview area at the intersection of 500 South and 425 West. There is also an existing pole sign on the property located at that intersection. The current proposal shows a monument sign in that location which would cause the same conflict as the street trees.

The applicant will need to get approval to close one of the accesses and to narrow the other on 500 South. As the proposal is to eliminate an existing drive access and to reduce the width of another, it is anticipated that UDOT will grant approval.

Dan Vanzelen agreed with the Planning Commission that a sign would not be installed. The existing faces on the pole sign may be modified, but no new faces may be added. He also mentioned that they will comply with whatever is necessary to meet the requirements of the City.

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

The public hearing was closed without any comments.

There was a discussion among the Commission regarding the roof drainage from the roof of Starbucks and how to drain all water from the project to the street.

Staff recommends granting the conditional use permit and recommend site plan approval for Starbucks Coffee, located at approximately 416 West 500 South, with the following conditions:

1. The Starbucks structure be constructed in conformance with the approved site plan and building elevations.
2. The parking configuration for the entire 1.85 acre parcel is implemented as shown on Sheet AS100.
3. The onsite storm drain system is approved and/or revised as required by the City Engineer.
4. UDOT grants written approval for the driveway modifications on 500 South.
5. The City Engineer determines that the existing pole sign is not a safety hazard, or the sign is relocated outside of the clearview area or to another location to the satisfaction of the City Engineer.

Sharon Spratley made a motion to recommend to the City Council to grant a Conditional Use Permit and preliminary and final site plan approval for Starbucks located at 416 W. 500 S. subject to the conditions outlined by Staff and the following addition:

6. The Conditional Use Permit be prepared and recorded at the county recorder's office including the condition that the use of Building 1 be limited to activities "which require large display areas but generate light traffic demands", as set forth in section 14-18-107 A. of the Land Use Ordinance.

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

**4. PUBLIC HEARING – Consider a zone map amendment from General Commercial (CG) to Residential Multi-Family (RM-19) located at 147 W. 300 S., Larry DePaix, applicant.**

Sharon Spratley recused herself from this item.

Larry DePaix, applicant, and Robert McArthur, architect, were present. Paul Rowland explained that Mr. DuPaix is requesting a zone map amendment from General Commercial (CG) to Residential Multiple-Family (RM-19) for the property located at 147 West 300 South. The property is approximately 0.5 acre in size and is currently improved with a single-family residence. While the property is currently zoned for commercial uses, there is no indication that it has ever been used for anything other than residential purposes.

The existing family dwelling is in salvageable condition, but the ordinance does not allow new residential units to be added to an existing property unless the property is at least 2.0 acres in size. The applicant's intention is to demolish the existing home and to construct three new townhome style dwelling units. The maximum density in the RM-19 zone for parcels less than

1.0 acre in size is seven (7) units per acre, and so a maximum of four (4) units would be allowed on this property, even though the applicant currently intends to only build three.

Mr. Rowland explained that, until 2009, having a tri-plex or larger was required to have one access which was used by everyone, three driveways were not allowed. Since the change, any townhome type developments are allowed if the traffic is less than 1000 vehicles per day. Mr. Rowland had a traffic count done which resulted in 896 vehicles per day. This type of development is allowed under the ordinance.

The property is surrounded by existing commercial and residential uses and could be used for either commercial or residential purposes without negatively impacting the neighborhood. Due to its midblock location on a minor street, the best use of this property is residential or professional office, and not retail.

The subject parcel of ground is currently zoned General Commercial (CG) but has never been used for commercial purposes and isn't well situated for most commercial uses. The applicant's request to change the zoning to RM-19, similar to adjacent properties on the east and south, is reasonable and there isn't any apparent justification to deny the request.

Russell Mahan explained that the voting is for the rezone only not a site plan approval. The presentation of the site gives an idea of what will be proposed in the future.

Staff recommends approval of the proposed zone map amendment from General Commercial (CG) to Residential Multi-Family (RM-19).

Larry DePaix presented a picture showing the property with the existing empty home and shed. He explained that he wishes to remove the home and garage (shed) and replace it with three townhomes with attached garages. Mr. DePaix plans on living in one of the units and the units will be condos so the residents will own their unit.

Robert McArthur explained that he is considering buying and living in one of the units. He feels that this project will enhance the area and the architecture of the units will bring the residential home feel back to the neighborhood.

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

The following are the names of those with concerns:

Scott Bradburg, residing at 148 W. 400 S.  
Philip & Christin Snow, residing at 2033 Bountiful Blvd.  
Claudia Lindeburg, residing at 2057 Penman Lane.

Their comments and concerns were as follows:

This is a great opportunity to reclaim the residential areas of Bountiful.  
This project is a great buffer to separate commercial from residential.

It is a good thing to bring more families into this area.  
Replacing the old structure will compliment the area.  
One comment doesn't like replacing the commercial with residential.

The public hearing was closed without further comments.

After a brief discussion Michael Allen made a motion to recommend to the City Council a zone amendment from General Commercial (CG) to Multi-Family (RM-19) as recommended by Staff.

Sean Monson seconded the motion and voting was unanimous in favor.

**5. PUBLIC HEARING – Consider a variance to allow a fence higher than 4ft as required by the fencing requirements of the Bountiful City Land Use Ordinance located at 559 Chelsea Dr., Alan Jacobs, applicant.**

Alan & Linda Jacobs, applicants, were present. Paul Rowland explained that Mr. Alan Jacobs is requesting a variance from the provisions of sections 14-16-110 (A.) and (B.) of the Bountiful City Land Use Ordinance, such that he may construct a fence closer to the front property line than currently allowed by ordinance. The subject property is an abnormally wide and shallow lot (approximately 240 ft wide, and averaging about 80 ft deep), with about 23 ft of elevation change (fall) between the front and rear property lines

In 2012, the applicant obtained a building permit to construct a series of retaining walls in an attempt to stabilize and more fully utilize the long but shallow side yard area on the east side of the existing dwelling. His current proposal is to build a six foot tall privacy fence along the top of the highest retaining wall, approximately nine (9) feet from the sidewalk/property line and at grade with the sidewalk. This is inconsistent with the Land Use Ordinance, which allows a maximum three (3) feet high solid or four (4) feet high open style fence within the front setback area. The front yard setback for the subject property is twenty (20) feet, due to the steepness of the lot. The applicant has provided a written explanation (which will be attached to the minutes) of why he feels the Commission should grant him a variance to construct a six (6) feet high fence approximately nine (9) feet from his front property line.

Mr. Rowland explained that in regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioner has shown that he meets all of seven necessary criteria such that the Commission may grant a variance. First, literal enforcement of the ordinance would create an unnecessary hardship for the applicant by requiring him to build his privacy fence at the base of the retaining wall, where it is essentially useless.

Second, the subject property is approximately 240 feet wide and 80 deep, meaning that the vast majority of the usable yard space is located in the front and side yards, and not in the rear yard as is typical in this area. Also, the lot changes approximately twenty three (23) feet in elevation between the front and rear property lines. There are no other lots in the general vicinity that are even remotely similar in configuration.

Third, the proposal is not contrary to the general plan which calls for single family development, it does not create a new building lot, 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, approval of the requested variance would not allow any additional uses not already permitted within the R-3 Single-Family zone, and would not be contrary to any provision of the Land Use Ordinance other than the fence location provisions.

Sixth, the location of the fence at the top of the retaining wall and not at the base makes sense both from a privacy and a safety standpoint.

Seventh and lastly, a setback of nine (9) feet from the sidewalk for the distance shown on the proposed fence plan is sufficient for landscaping and pedestrian comfort.

Staff recommends approval of the proposed variance request with the seven findings set forth in the staff report, and with the following conditions:

1. The retaining wall and fence shall be fully installed within one year of this approval date.
2. At no point is the fence closer than nine (9) feet to the existing sidewalk location.
3. The fence shall not exceed six (6) feet in height.
4. The fence shall be a mix of solid and partially obscuring materials similar to the illustration provided by the applicant.

Alan and Linda Jacobs explained that they have made some massive improvements to this property such as removal of trees, building retaining walls and new landscaping. With the removal of the trees, it has created a safety issue with the steep drop off being only 9 feet from the sidewalk. They have a small granddaughter living at the home which brings concerns that a 4 ft fence isn't tall enough to keep her or other children from climbing it and falling down the steep slope. The missing trees have also created a problem with not having any privacy in their yard. They would prefer to have a 6 ft. solid fence rather than the 4 ft. with the 2 ft topper. Their main concerns are with providing a private and safe place for their family.

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

The following are the names of those with concerns:

Rex Haddon, residing at 823 Chelsea Dr.  
Hugh & Lois Williams, residing at 571 E. Chelsea Dr.  
Ronald Mortensen, residing at 583 Chelsea Dr.

Their comments and concerns were as follows:

Residents agreed there is a safety issue which would require a fence.  
They don't object to a 4 ft. white vinyl fence but 6 or 8 ft is too high.  
They do object to a 130 feet long solid fence which is not good for the Chelsea Cove Subdivision.

A solid fence would take away the neighborhood feel and is against the subdivision protective covenants.

Residents agree that the property has been upgraded which now blends with the subdivision.

They have concerns with the winds from the canyon destroying the fence.  
Concerns that the fence will be covered with graffiti.

The public hearing was closed without further comments.

The Commission discussed the height and type of fence to be used and concerns for the safety of the applicants' family and those walking on the sidewalk.

Michael Allen made a motion to approve the variance to allow a 6 ft. fence (4 ft. solid with a 2 ft. open top) along the front yard sidewalk and provide appropriate landscaping between the sidewalk and fence. Motion is based on the conditions outlined by Staff. Sharon Spratley seconded the motion and voting was unanimous in favor.

**6. Update on the status of the Bountiful House conditional use permit and site plan request.**

Russell Mahan explained that Bountiful House was to submit additional information regarding their Conditional Use Permit. Rather than submit the required information they have gone to the Office of Property Rights (OMBUDSMAN) for an advisory opinion. Mr. Mahan has received a letter and will respond and will keep the Commission informed with any further information.

**7. Consider preliminary and final (2) lot commercial subdivision plat approval for Lodder Automotive located at 560 S. 500 W., John & Scott Lodder, applicants.**

The applicants were not present so this item was tabled for a future date.

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

There was no further business to report.

Meeting adjourned at 8:55 pm