

Bountiful City
Planning Commission Minutes
May 19, 2015
6:30 P.M.

Present: Vice Chairman – Dave Badham; Planning Commission Members – Mike Allen, Von Hill, Sean Monson, and Sharon Spratley; City Council Representation – Richard Higginson; City Attorney – Russell Mahan; City Engineer – Paul Rowland; City Planner – Chad Wilkinson; and Recording Secretary – Darlene Baetz

Excused: Chairman – Tom Smith

1. Welcome and Introductions.

Vice Chairman Dave Badham opened the meeting at 6:30 pm and welcomed all those present.

2. Approval of the minutes for May 5, 2015.

Richard Higginson made a motion to approve the minutes for May 5, 2015 with the addition of “Commission Members asked the Power Department to work with Ms. McClellan to let her choose the color of the fence facing her property.” on page 2. Von Hill seconded the motion.

Voting passed 6-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson and Spratley voting Aye.

3. Consider approval of Findings of Facts for approval of a variance to the fence height and setback standards of the zoning ordinance in order to construct a solid screening wall around an existing power substation located at 252 West 1800 South, Bountiful City Power Department, applicant.

Mike Allen made a motion to approve the findings for a variance to the fence height and setback standards of the zoning ordinance in order to construct a solid screening wall around an existing power substation located at 252 West 1800 South as drafted by staff. Sharon Spratley seconded the motion.

Voting passed 6-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, and Spratley voting Aye.

4. Consider approval of Findings of Facts for approval of a for a variance to the fence height and setback standards and the lot coverage standards of the zoning ordinance in order to construct a solid screening wall around the expanded use at 198 South 200 West, Bountiful City Power Department, applicant.

Richard Higginson made a motion to approve the findings for a variance to the fence height and setback standards and the lot coverage standards of the zoning ordinance in order to construct a solid screening wall around the expanded use at 198 South 200 West as drafted by staff. Von Hill seconded the motion.

Voting was 6-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, and

Spratley voting Aye.

- 5. Consider approval for a Conditional Use Permit letter in written form for an expansion of the existing utility facility located at 198 S 200 West onto property zoned R-4 located at approximately 300 W 300 South, Bountiful City Power Department, applicant.**

Sharon Spratley made a motion to approve a Conditional Use Permit letter in written form to expand the existing utility facility located at 198 S 200 West onto property zoned R-4 located at approximately 300 W 300 South with the one condition outlined by staff. Richard Higginson seconded the motion.

Voting was 6-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, and Spratley voting Aye.

- 6. Consider preliminary and final approval of the 4-unit condo Villas at Stone Springs PUD plat at 1692 North 200 West, Robert Gibson, applicant.**

Robert Gibson was not present. Paul Rowland presented the staff report.

Mr. Robert Gibson is requesting preliminary and final PUD plat approval for a four unit (two duplexes) PUD on the 0.52 acre parcel located at 1692 N. 200 West St. This development was granted preliminary and final site plan approval as a multi-family development on February 26, 2013 with the anticipation that when construction had proceeded to a point the request would be made for a PUD plat.

The first building is under way and Mr. Gibson would like to record a PUD (condo) plat to sell individual units. He has submitted a plat for consideration of that approval. The site improvements will be constructed by the time this plat is ready to record, there will not be a requirements for a bond for the driveway, parking lots improvements and surface improvements.

Recommend to the City Council final PUD plat approval for The Vilas of Stone Springs PUD with the following conditions:

1. Complete all red-line corrections.
2. Provide a current title report.
3. Payment of all Fees.

Richard Higginson made a motion to recommend final approval to the City Council with the three conditions outlined by staff. Sean Monson seconded the motion.

Voting was 5-0-1 with Commission Members Allen, Badham, Higginson, Monson, and Spratley voting Aye and Von Hill abstaining.

- 7. Consider a final site plan approval for Renaissance Plaza, Medical Office Building at 214 West 1500 South, Renaissance Towne Center, Bruce Broadhead, applicant.**

Bruce Broadhead, owner and Aric Jensen representing Renaissance Towne Center was present. Chad Wilkinson presented the staff report.

The applicant, Renaissance Town Properties LLC, is requesting final site plan approval for an approximately 28,000 square foot medical office building located in the C-G zone within the Renaissance Towne Center commercial mixed use planned unit development (PUD) Phase 2.

The proposed site plan received preliminary approval from the Planning Commission on April 7, 2015. The applicant has prepared utility, grading and landscape plans along with a final landscape plan. The existing site was previously developed and the utility and drainage plans are straightforward.

The applicant proposed the use of planter boxes in place of park strips along 1500 South along with concrete running up to the back of curb. This model is consistent with other areas within the PUD which have wide sidewalks and tree grates instead of park strips. The applicant also proposed to enhance the landscaping on the east of the building to include additional trees and shrubs. The location of the proposed building will require the removal of some mature trees on site and will be replaced with new trees. Because of the number of utilities running within this right of way area, the conditions of approval require the removal of this proposed concrete.

The expansion of the building square footage on site will have some impacts to parking and traffic. The impacts are consistent with development of a commercially zoned property.

Staff Recommends approval of the request for preliminary site plan review subject to the following conditions:

1. Complete any and all redline corrections.
2. In conjunction with submittal of building permit submit a final landscape plan meeting the requirements of Chapter 16 of the Bountiful City Zoning Ordinance and consistent with the original PUD approval. The landscape plan shall include the following:
 - i. An irrigation plan showing how all areas of landscaping, including the proposed planter, boxes will be provided with irrigation.
3. In conjunction with submittal of building permit, submit a lighting plan showing compliance with Section 14-15-107 of the Zoning Ordinance.

Richard Higginson made a motion to recommend approval to City Council for final site plan approval for Renaissance Plaza, Medical Office Building at 214 West 1500 South, Renaissance Towne Center with the three conditions outlined by staff. Von Hill seconded the motion.

Voting was 5-1 in favor with Commission Members Allen, Badham, Higginson, Hill, and Monson voting aye with Sharon Spratley voting nay.

8. PUBLIC HEARING - Consider amending the provisions of Chapter 7 of the Bountiful City Land Use Ordinance related to shared and joint use off-premise parking in the Downtown (DN) Zone.

Andy Hulka, Assistant Planner presented the staff report.

The Planning Department has been approached by property owners with concerns about difficulties in developing their Downtown properties due to the parking regulations in the Land Use Ordinance. It is proposed that adjustments be added to the Downtown Zone chapter in the Land Use Ordinance, which would allow for off-site parking where there is ample space in nearby lots or where uses with differing peak parking demand can share parking.

The Downtown Zone is subject to the parking regulations contained in Chapter 18 of the Land Use Ordinance, Motor Vehicle Parking and Access Standards. Currently the ordinance calls for specific numbers of parking spaces depending on each lot's use. The code allows possible reduced parking for mixed uses and staggered operational shifts, but otherwise there is no flexibility on the number of required spaces in any zone.

The 2009 Downtown Master Plan notes that the small downtown lots have historically been a limiting factor to development. Because several property owners have suggested that they could develop their property with adjustments to the parking requirements, the Planning Department has drafted changes to the zoning ordinance to assist with this issue. Shared off-site parking would allow expansion of existing business in the downtown area and make effective use of valuable downtown space.

The proposed ordinance will have an impact on the development of the Downtown Zone. The ordinance will allow for expansion of existing downtown businesses while providing efficient use of land.

Staff recommends that the Planning Commission recommend approval of the proposed text amendment to the City Council.

Chad Wilkinson clarified that the staff recommended that parking be within 500 feet with cross agreements/approvals. Sean Monson would prefer to see less than 500 ft. Mr. Mahan stated that this is for Commercial properties only and not for Residential properties.

Vice Chairman Badham opens and closes Public Hearing at 7:04 p.m.

Commission Members and Staff discussed the administration of the parking agreements for the businesses and how much time/manpower will be used to maintain the agreements. Mr. Higginson voiced his agreement to this project to encourage downtown growth.

Russell Mahan clarified that using RDA parking for the purpose of calculations did not confer a right to that parking space.

Sharon Spratley made a motion to recommend approval of the proposed text amendment Section 14-7-120 of the zoning ordinance to the City Council as written with clarification regarding RDA Properties. Von Hill seconded the motion.

Voting was 5-1 in favor with Commission Members Allen, Badham, Higginson, Hill, and Spratley voting Aye. Sean Monson voted nay.

9. PUBLIC HEARING - Consider adding an additional Section to Chapter 14 Supplementary Development Standards of the Bountiful City Land Use Ordinance governing Short-Term Rentals.

Taylor Jensen presented a summary of the staff report (the full staff report follows).

The proposed amendment would allow for short-term rentals in residential zones within Bountiful City. Short term rentals are usually defined as rentals occurring for less than one month, which is the typical minimum length of a standard home rental.

Currently the City Code states that any use not listed herein is also expressly prohibited. As Short-Term Rentals are not expressly listed they have been interpreted to not be allowed within the City. This issue of short term rentals was brought up most recently in the early 1990's related to the establishment of Bed and Breakfast uses in single family residential zones and the City Council at the time expressed that they felt short-term rentals such as bed and breakfast uses fell under the classification of Hotel "A building designed or used as the temporary abiding place of individuals who are lodged, with or without meals, for compensation" using this definition the city currently only allows short-term rentals in zones that allow for hotels.

The current review of short term rentals was spurred by a number of complaints received by the planning department regarding short-term rentals in the City. In the time since the issue was first raised, the Planning Department has monitored short-term rental websites (such as AirBnB) and has seen a number of properties consistently listed for short-term rental. The City Council directed staff to draft standards that would allow for short term rentals under certain conditions. The attached ordinance text amendment has been modeled on other cities that currently allow for short-term rentals. The ordinance requires among other things a license and approval from the City. In the case of single family residential zones, the proposed ordinance requires a conditional use permit approved by the administrative committee. It should be noted that current noticing standards for administrative committee hearings do not include a mailed notice, but instead include a sign posted on the property 10 days in advance of the hearing.

This item has been reviewed by the City Planner, and the City Attorney.

The attached proposal would allow for short-term rentals in Residential Zones through a short-term rental license, the process will include approval by the planning department for properties located in Multi-family zones, and will require an Administrative Committee approval of a Conditional Use Permit with a public hearing in Single-Family Zones. The potential for impacts to existing single family residential neighborhood includes increases in traffic, noise, and parking. The proposed ordinance has attempted to mitigate these impacts through the adoption of regulatory standards.

Recommend that the Planning Commission forward a recommendation of approval the proposed ordinance modification allowing for short-term rentals.

Mr. Jensen noted the city has received complaints regarding a rental property on Scenic Circle Drive. Mr. Wilkinson explained this property is in R-F Zone. Ms. Spratley inquired regarding short-term rental complaints. Mr. Jensen explained there have been multiple complaints against one property and against another property which the city has never been able to prove is a short-term rental (property has been watched on KSL). Regarding the property on Scenic Circle Drive, Mr. Jensen explained the owner lives in Russia and a property manager is involved. Complaints have been received by the city after long weekends. That is what led to the need for a possible ordinance to regulate short-term rentals. The City Council has given direction for Planning & Zoning to draft a code to address the issue. The city is proposing that a permit be required for short-term rental in a multi-family zone. That is something that could be done over-the-counter by Staff.

Mr. Mahan clarified this would be a permitted use in a multi-family zone. Mr. Higginson pointed out it would still require a business license. Mr. Jensen said that in single family zones the city would still require a Conditional Use Permit, going through the Administrative Committee for that. The city would require a three-day minimum stay with a twenty-eight day maximum (which, at that point, it would be considered a normal rental and not require a special permit).

Mr. Jensen outlined standards for the short-term rentals which would be: noise restrictions during quiet hours, property must be brought up to code, no signage except that approved by the city which would include an on-call number (calls go to the property owner or manager and calls received must be responded to within two hours), limit rental occupancy to two adults and two children per room with a maximum of twelve people per unit, parking would have to be off-street.

Mr. Hill inquired if Bountiful ordinance parallels Cottonwood Heights' ordinance. Mr. Jensen said that Cottonwood Heights has a lot of short-term rentals and he had paraphrased much of their language.

Mr. Mahan explained that in 1993 there was a request made to have a bed and breakfast and the City Council did not want to approve this in a single family zone. The source of the complaints in this instance was it was rented out to several single guys, not related, with several cars. That type of use violates the family definition. Added to the problem is the issue of renters who don't care. Most of us have done this type of rental, and it is a nice thing. Bountiful is not a resort town, but short-term rentals seem to be the wave of the future. Ms. Spratley commented that she has rental property in St. George and their code has a 30 day rental minimum. If anyone is renting less than 30 days they are violating the code.

Mr. Allen asked what the sanction is if they don't respond to the two hour phone call Mr. Jensen explained they could lose their short-term rental permit. If a property owner should lose their permit, they cannot reapply again for two years.

Vice Chairman Badham opened and closed the Public Hearing at 7:20 p.m. without comment from the public.

Ms. Spratley asked regarding the draft of the Bountiful City short-term rental ordinance as it relates to the Cottonwood Heights ordinance and wondered if it is a city wide ordinance. Mr. Jensen explained that Cottonwood Heights only allows the short-term rentals in multi-family zones and doesn't allow anything in single family zones. Regarding Sandy, they limit the rentals mostly to multi-family zones. Mr. Wilkinson explained that Murray has also dealt with the issue. Ms. Spratley inquired if this is the proper vehicle for controlling short-term rentals and should we be opening up that gate to allow for short-term rentals at all in single family zones. Is there another vehicle that might be more effective than this? Mr. Mahan wondered about limiting short-term rentals to multi-family zones. Ms. Spratley noted that people who are renting out their home might be in violation of the ordinance. Mr. Mahan responded in the affirmative, but noted that the City Council asked that something be brought to them which would allow this but it has not been voted on. Mr. Wilkinson noted that at this point it is just something to consider.

Mr. Mahan stated that at this point the city is looking for opinions from the Planning Commission regarding the issue and if some are against it. That's what the Council felt before, back in 1993 with the bed and breakfast.

Mr. Allen stated that he feels uncomfortable having this in single family but are pushing it on to multi-family. Mr. Badham noted that he has rented a short-term rental and ended up with two families in a home with two vehicles and that sort of thing goes against the single family use. The question was raised, should we even allow the rentals in multi-family zones. Mr. Badham reiterated that Bountiful is not a resort and that in his experience with short-term rentals there are several participating groups who are all renting and there is an expectation that most are on vacation and the tolerance level is different than it would be if someone were renting in a residential neighborhood.

Mr. Jensen pointed out that several of the Bountiful short-term rental properties are owner occupied and they rent out private rooms. Mr. Mahan stated that ordinance language might be drafted to limit the rental to rooms and not the whole unit. Ms. Spratley asked about the difference between someone who rents out their basement and gets shut down by the city, and a short-term rental business.

Mr. Mahan pointed out that the interesting thing about this type of business is that in every other type of business the operator is on the premises, but this is the only business where the business is conducted and the owner is gone. The reason for the two hour response requirement is for someone on the Wasatch Front to be able to respond quickly to problems.

Mr. Badham pointed out that in most home occupation businesses the key element is they should be transparent and the public should not know they are there. He believes the short-term rental business model goes against what the city has been promoting.

Ms. Spratley expressed concern about the administrative time involved as it would involve a lot of regulation. Mr. Wilkinson replied that there aren't that many of them out there, but with the contact number at the home, these would be self-enforced.

Mr. Allen asked if the city would send a letter to those advertising short-term rentals informing them if the ordinance is passed. Mr. Wilkinson said that those who have been contacted were told it is not a legal use, it is not allowed. Mr. Allen asked if the business stopped.

Mr. Jensen said that this is kind of a legal gray area because Sandy has a similar ordinance and they said that anything that is not expressly permitted is prohibited. They were challenged in court and actually lost because it is a single family home and one family is living there at a time so it meets that code. With our code as it currently is, we don't have the legs to code enforce on this like we need to.

Mr. Mahan suggested the city needs to move one way or the other on it. Mr. Mahan pointed out that the off-street parking presents a problem as owners may not be aware of the group coming in.

Mr. Badham asked if these short-term rental owners would need a business license and was told yes, they would. He then asked if this would be considered a home occupation. Mr. Wilkinson said no because the business owner does not live there. It would be its own category of use.

Mr. Allen said he might prohibit it rather than sanction it. Mr. Higginson noted that it was introduced to the City Council and rather than prohibit it, they decided to have a discussion and decide what is best. He believes the city will be involved in enforcement either way and it is good to have a mechanism in place to regulate it and also be compensated for the work we are doing in enforcing the code. These short-term rentals are not going away and despite efforts, people are still listing properties on websites and will still be renting them out.

Mr. Mahan responded that receiving a ticket from the city would be a discouragement for continuing the business. Mr. Higginson said this is not something that we are hoping the Planning Commission will pass along a favorable recommendation on – it is just discussion. Mr. Badham expressed his desire that there would have been more comment from the public. Mr. Wilkinson said that, unlike a typical text amendment, the property owner and complainants were made aware of the text amendment.

Mr. Allen suggested postponing submission of the ordinance to the City Council until the converse ordinance is drafted and both can be presented. Mr. Wilkinson said the converse would be a line item under the code under the table which introduces a definition of short-term rentals.

Mr. Mahan noted that what we have is advertised for the City Council meeting for next Tuesday. If the commission was inclined they could make a motion to give an unfavorable recommendation and then we could have the hearing and see who shows up, but recommend the prohibition that you're recommending. Mr. Wilkinson said that if the council is not ready to make a recommendation that night they can continue it.

Mike Allen made a motion to forward an unfavorable recommendation to the City Council, discourage adoption of the ordinance, and also express the view that they would recommend that the ordinance be revised that expressly prohibits short-term rentals in single family and multi-family zones. Mr. Jensen noted that in commercial zones it is already allowed. Sean Monson seconded the motion.

Voting was 4-2 in favor with Commission Members Allen, Badham, Monson, and Spratley voting Aye. Higginson and Hill voted nay.

10. Planning Director's report, review of pending applications and miscellaneous business.

1. The Planning Department has received 105 responses to the Val Verda survey.
2. There will be a public working workshop for Val Verda properties on June 11, 5:30 – 7:30 p.m.
3. Next Planning Commission meeting to be held on June 2, 2015.
4. Next City Council meeting to be held on May 26, 2015.
5. Upcoming agenda items.

Chairman Smith ascertained there were no other items to discuss. The meeting was adjourned at 7:37 p.m.



Chad Wilkinson, City Planner