

**PLANNING COMMISSION MINUTES  
JUNE 2, 1992**

Present: Chairman Jeff Chretien, Kathi Izatt, Don Milligan, Mike Holmes, Dick Dresher; Barbara Holt, City Council Rep.; Layne Forbes, City Attorney; Jon Reed Boothe, Planning Director; Blaine Gehring, Planning and Redevelopment Director; Jack Balling, City Engineer; Shirley Chevalier, Recording Secretary

Excused: Elaine McKay  
Absent: Mark Green, Mick Johnson

Guests: City Manager Tom Hardy, City Councilwoman Rene Coon, City Councilman John Cushing

Mr. Hardy introduced Mr. Blaine Gehring to the Planning Commission. Mr. Gehring is the new Planning and Redevelopment Director, replacing Mr. Boothe who is retiring September 30, 1992.

Minutes of May 12, 1992 were unanimously approved as amended: Page 3, last sentence, delete conceptual, insert "preliminary site plan".

Minutes of May 19, 1992 were approved as amended by majority vote (Mike Holmes abstained): Mike Holmes wished to change the wording in the first paragraph on page 1; i.e., a clarification on the last sentence where it states that he removed himself from the Planning Commission in order to avoid any conflict of interest charge. He said he left the Planning Commission because if the Planning Commission decision was challenged in court, it should be challenged on its own merit and not on the supposition that there was a conflict of interest on his part, and he categorically denies there is any conflict of interest. (Mike was excused at 7:15 PM.)

Kathi Izatt recommended changing the word portion in paragraph 3, page 1, last sentence, to "calculation Staff corrected 6-1 to 7-1 ", and changed vote to "voted" on page 4, last paragraph, last sentence.

**Conditional Use:**

6-2-92.5A 92-5C Lakeview Terrace PUD, Findings of Facts re Conditional Use Permit and Preliminary Approval May 19, 1992, City Attorney Layne Forbes

Mr. Forbes had submitted a draft of the Findings of Fact to the Commissioners for study. In reviewing the material, they recommended some changes be made. The Legal Dept. will prepare a final draft which will be filed with the Conditional Use application. Kathi Izatt made a motion to approve the Findings of Fact as amended; seconded by Don Milligan; voting was unanimous.

**Subdivisions - Preliminary:**

6-2-92.7A 3 Lot Subdivision, SE Corner 500 So. 750 E., Ram Construction, Preliminary & Final, Steve Clapham

This property is located in Neighborhood 7 District 3, which requires a minimum lot size of 8,000 sq. ft. with an 80 ft. frontage at the front setback line. The corner lot must have a minimum of 90 ft. frontage by ordinance. The lots in this subdivision are 10,000 sq. ft.; ordinance requires 8,000 sq. ft.

Staff has reviewed the plat and recommends preliminary and final approval subject to the following conditions:

1. Locate the existing sewer main along the front of lots 2 and 3 and provide a 7 ft. sewer and utility easement east of the sewer main; also locate the sewer main on the south side of lot 3 and provide an easement to cover it;
  2. Provide a 7 ft. wide utility easement along the frontage of lot 1 and the east lot line of lots 1, 2, and 3;
  3. Provide an easement along Barton Creek as directed by the Davis County Flood Control;
  4. Show the following on the preliminary plat:
    - A. Width of all streets, B. Neighboring property & owners, C. Existing sanitary sewers;
    5. Replace all damaged curb and gutter and walk along the frontage of the lots;
    6. Payment of the required fees for power, sewer, and water installation
    7. Payment of the required fees for the
    8. Posting of
    9. Payment of the required subdivision fees for checking, recording and administration of the plat;
    10. Payment of the storm detention fee in the amount of \$1,450.00.
- and connection;  
asphalt repair of the road for the service connections;  
the required bond to install the improvements as described above;

This is not in the Foothill Zone. There are no dedicated roads. The three lots will face on 750 East. The grades are about 12-14%. Barton Creek is on the south side of the third lot. They will provide a 20 ft. easement on the north side of Barton Creek for cleaning and maintenance purposes.

Barbara Holt made a motion to grant preliminary and final approval to the 750 East Street Subdivision subject to the conditions listed

by staff; Dick Drescher seconded the motion; voting was unanimous.

### **Rezoning Petitions:**

6-2-92.9A 92-IZ Concerned Citizens for Safety, R. Kirk Heaton, Agent; Gregg Barrick, 1174 So. 1500

Mr. Barrick said the main concern the entire neighborhood agrees on is the density of lot 62, Lakeview Terrace PUD. The density of the surrounding area is much less than that which is proposed for the PUD. The concerned citizens feel this is not in harmony with the rest of the area. All the issues of safety, both pedestrian and vehicle traffic, are the product of density. This is why the zoning amendment was submitted to the city.

Chairman Chretien referred to the recommendation of the Legal Department which states that the request is inherently faulted due to the following conditions:

1. The request includes all of lot 62 making existing dwellings nonconforming;
2. This change would apply only to a small area and would be out of harmony with the Comprehensive Plan for the good of the community as a whole, thus creating spot zones;
3. The request is not related to Section 7-400, Planned Unit Development, but to various sections throughout the zoning ordinance;
4. Mr. Heaton is trying to create a smaller zoning district from a larger one, which cannot be done under the present request.

Staff recommends to the Planning Commission that this petition be denied for the above reasons, and that this recommendation be forwarded to the City Council for its action.

Mr. Heaton said there was one thing Layne overlooked, which is the metes and bounds description of lot 62, without the 10 units included.

Chairman Chretien said the action taken was to approve a Conditional Use. This request came in after the application for the PUD, and he personally does not think the Planning Commission can consider a zoning ordinance change while we have a project in progress regarding this particular parcel of land.

Mr. Forbes said the way the zoning ordinance is set up, when you ask for a change of use or a rezoning, and you make that change, it applies to the whole district and not to an undefined area within the district. The problem with the application is that the area in question is located in Neighborhood 7 District 1. If they want to apply for a rezoning of that area, it has to include all of District 1 or they have to ask that District 1 be amended to create another district and rezone that. The application as it is now is illegal - it can't be accepted for that reason. Further, this is downzoning and the city approaches requests for downzoning with a great deal of care and caution. If it was severe enough, it could constitute a taking for which just compensation would have to be paid.

Mr. Barrick again addressed the issue of harmony, and Chairman Chretien replied that we support the fact that this particular property as presented is in compliance with the Comprehensive Plan. They are providing a need for housing that we deemed to be appropriate for the area and is in harmony with the neighborhood.

Barbara Holt said the Planning Commission has relied on City Attorney Layne Forbes' advice and interpretation, and whose responsibility is to provide this on behalf of the city. That is what has been put in the Findings of Facts.

Dick Drescher asked if the property owner was notified that there was a petition to rezone their property? Mr. Forbes said they were aware that there was a petition filed, but they were not aware that this was going to be on the agenda.

The attorney for Ms. Hobson said he did not believe Kirk Heaton has any legal standing to make a zoning application on property she owns. He is trying to use a different method to get the Commission to reconsider issues and determinations it has already reached.

Kathi Izatt, before making a motion, commented that based on the opposing viewpoint heard tonight, her opinion is that the application itself is proper under Chapter 16. There is nothing precluding the application in that section of our ordinance. That which causes her the greatest concern is what the City Attorney has advised regarding the effect of the zoning change on an entire neighborhood and district. This application has a problem because it must apply either to the entire district, or to create a new district within that area. This application does neither. On that basis, Kathi made a motion to recommend to the City Council that this application to rezone Lot 62 Lakeview Terrace be denied; seconded by Barbara Holt; voting was unanimous.

### **Commercial Applications:**

6-2-92.10A Orchard 6th & 14th Wards, 165 W. Monarch Dr. (3700 S.), Final, Dennis Butler, Architect

This project was given preliminary approval on April 21, 1992. The final plans have been completed and submitted and are in the process of review. Staff recommends final approval subject to the following conditions:

1. Compliance with all building codes and ordinances of the city;
2. Payment of the storm detention fee in the amount of \$7,005.00;
3. Posting a bond to guarantee the landscaping and site improvements;

4. Payment of all required fees for sewer, water, power, and repair of streets.

Mr. Butler stated both the west and south parking lots will require some retainage. They will be retaining approximately 5 ft. along the south side (rear), and from zero at one end up to 4-5 ft. on the west. Mr. Butler showed some materials to be used on the exterior of the building. The dumpster is located in the SE corner of the property in a three sided enclosure built of the same material as the main building. In the SW corner is a storage building for lawn mowers, etc.

Dick Drescher made a motion to grant final approval to the Orchard 6th & 14th Wards subject to the recommendations of staff and the review of the landscape plans; seconded by Kathi Izatt; voting was unanimous.

Meeting adjourned at approximately 8:40 PM.



