

PLANNING COMMISSION MINUTES
December 6, 1988

Present: Chairman Robert McKenzie, Robert Goodman, Dick Dresher, Berwyn Andrus, Elaine McKay, Cheryl Okubo; Harold Shafter, City Council Rep.; Jack Balling, City Engineer; Phyllis Southwick, Planning Committee; Jon Reed Boothe, Planning Director

Excused: Mick Johnson

Absent: Richard Sharp

Invocation: Harold Shafter

Minutes of October 18, 1988 were unanimously approved as written.

Conditional Use:

12-6-88.5A 88-12C Taco Bell, 500 W. 500 S., Preliminary
Gregg Glissmeyer, Amsource Rep. and Roger Hamblin,
Taco Bell Rep.

Mr. Boothe presented the site plan showing the location of the proposed building on the southwest corner of 5th So. and 5th W., with ingress and egress from 5th So. and a right turn only exit to 5th W. They propose a drive-up window on the east side of the building, which is a conditional use in this zone. Parking and landscaping adequately meets the zoning requirements.

Staff has reviewed the plans and recommends the following conditions be met for final approval:

1. This is in the Mill Creek flood plain so approval must be obtained from Davis County Flood Control; all openings must be set 1.0 ft. above the east walk at the center of the building or at minimum elevation of 101.5 ft; on-site storm detention has not been provided, so a fee of \$882.00 must be paid.
2. Some legal problems over the 7.5 ft. previously deeded to the city for sidewalk along south side of 5th So. must be cleared before issuing the building permit; access openings are on State roads and must be approved by UDOT, and it is suggested that the opening onto 5th W. be a "Right Turn Only" exit.
3. Additional landscaping 4 ft. wide to be provided along west property line between Taco Bell and existing Amsource property with concrete curb and gutter, and additional landscaping with curb and gutter to be provided along south property line to separate the proposed improvements from the unimproved portion of the property.
4. Greater detail in the final site plan showing the existing and proposed contours with necessary spot elevations and requirements indicated in item 3.
5. Underground gasoline tanks to be removed from site and disposed of in compliance with state and/or federal laws.

6. Final landscape and automatic sprinkler plans to be prepared by developer and approved by staff and City Council.
7. Cash or surety bond to be posted in the amount of 5% of the building valuation to guarantee landscaping and sprinkler system.
8. Final working drawings to be prepared for city review before building permit is issued.
9. Refuse area to be screened from public view with solid wall that blends with main building.
10. Approval of plans by Davis County Board of Health.

Cheryl Okubo made a motion to grant preliminary approval subject to staff's conditions above; seconded by Elaine McKay; voting was unanimous.

Rezoning Petitions:

12-6-88.10A 88-4Z Zone Overlay Boundary Change Request, 600 N. 1000 E., Barry W. Culmer, Owner; Ralph Petty, Agent. Public Hearing before City Council December 14, 1988

The property in question lies adjacent to the Foothill Development Overlay Zone, and the request is to extend the zone boundary to include this parcel in the Foothill Zone which allows development of flag lots. This is a flag lot and cannot be developed as such in the neighborhood zoning district to which it currently belongs.

Mr. Culmer would like to develop his property as a flag lot with the stem being off 1000 East into the property to build at least one home. At the time Ellis Park Subdivision Plat A was approved and recorded, a portion of that area was dedicated to the city as a right-of-way, or 600 North Street. The city feels that the owners of properties that front on 600 North should dedicate that street to the city and install the improvements. All developments in the city have been developed this way with the streets being dedicated by the developer and the costs of improvements have been borne by the property owners who buy lots in the development. The storm drain and sanitary sewer have been installed.

City Council has requested a recommendation from the Planning Commission for the public hearing December 14, 1988. Staff recommends the zone boundary not be amended. The legal department researched this and a letter written by Russell Mahan, Assistant City Attorney, is filed with the minutes of this hearing. In that letter, Mr. Mahan states it is his opinion that "the right-of-way across proposed 600 North is already a city right-of-way, and the requirement that it be developed as a street is therefore not a taking."

Mr. Petty, attorney representing Mr. Culmer, argued that 600 No. is not a dedicated street of the city. The property is landlocked with a 50 ft. wide access from 1000 East, and Mr. Culmer cannot utilize his property which is in an area that has been developed with other homes.

Mr. Balling said he could build his home there if he was willing to put in the improvements and meet the ordinance which requires that every lot be on a publicly dedicated street. Mr. Petty said it would be economically unfeasible for Mr. Culmer to do that.

Berwyn Andrus feels this request would result in a rather radical alteration of the zoning boundary for the benefit of one lot, which he feels is illegal spot zoning.

Robert Goodman asked how difficult is it to get the right-of-way vacated, and had it been sought? Mr. Petty stated they had not seen any need to do that. Mr. Balling said it would not be a good solution since it was part of the Master Plan when the original subdivision was developed, and is a very viable part of the city street system, and the city does not want to vacate it.

Berwyn Andrus made a motion that the Planning Commission recommend to City Council that the zoning boundary not be changed; Cheryl Okubo seconded the motion; Robert Goodman opposed; Elaine McKay abstained; majority vote carried 4 to 2.

Meeting adjourned at 8:00 PM.



BOUNTIFUL

City of Beautiful Homes and Gardens

DEAN S. STAHLER
MAYOR

CITY COUNCIL
H. KEITH BARTON
ROBERT GRAMOLL
BARBARA HOLT
C. HAROLD SHAFFER
PHYLLIS C SOUTH WICK

December 6, 1988

Mr. Jon Reed Boothe
Planning Director
790 South 100 East
Bountiful, Utah 84010

Re: 600 North (10th to 11th East)

Dear Mr. Boothe,

I have examined the Ellis Park Subdivision, Block A, plat, dated March 5, 1958, with particular attention to that parcel of land at 600 North between 10th East and 11th East in Bountiful.

The boundary description in that plat states, "together with a 50 foot right of way" which is described. That centerline and description is 600 North between 10th East to Just short of 11th East.

In the Owners Dedication on the Ellis Park plat, that right of way (along with the streets) is "hereby dedicated for perpetual use of the public".

Accordingly, it is my opinion that the right of way across proposed 600 North is already a city right of way. The requirement that it be developed as a street is therefore not a taking.

Additionally, a flag lot is not permitted under current law in that location.

Very truly yours,

Russell L. Mahan
Assistant City Attorney