

Bountiful City
Planning Commission Minutes
April 5, 2016
6:30 P.M.

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

1. Welcome and Introductions.

Chairman Monson opened the meeting at 6:30 pm and welcomed all those present.

2. Approval of the minutes for March 1, 2016.

Tom Smith made a motion to approve the minutes for February 16, 2016 with minor corrections made. Corrections include: page 1 item 3 – change sentence from “After further consideration, the abandonment issue is a strong position as the abandonment issue.” to “After further consideration, the expansion position is as strong a position as the abandonment issue.”, and page 4 – change Chairman’s name from Smith to Monson. Richard Higginson seconded the motion.

Voting passed 7-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, Smith, and Spratley voting aye.

3. Consider approval of Findings of Facts for denial of a variance to allow disturbance of areas with slopes greater than 30 percent located at 565 Hidden Hollow Ct, Jason Orvis, applicant.

Richard Higginson made a motion to approve the Findings of Facts for denial of a variance to allow disturbance of areas with slopes greater than 30 percent located at 565 Hidden Hollow Ct. Von Hill seconded the motion. Voting passed 7-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, Smith, and Spratley voting aye.

4. PUBLIC HEARING - Consider approval of a Conditional Use Permit and preliminary and final site plan for mixed use development located at 50 W 400 South, Ron Robinson, applicant.

Ron Robinson was present. Chad Wilkinson presented the Staff Report.

The applicant received site plan approval for construction of a commercial structure on the rear portion of the lot in 2010. The previous approval included the continued residential use of the existing home located toward the front (south) of the lot with the construction of a large garage structure to be used as part of Mr. Robinson’s furniture business. The applicant now wishes to convert the existing residence to commercial use and to construct a residential unit in the space above the existing garage. This will require the installation of additional parking to the rear of the lot in order to accommodate the commercial use of the home.

The proposed site plan includes the construction of four parking spaces and associated drive and maneuvering areas. The site was originally approved with three off-street parking spaces including two spaces within the garage and an additional space located on the east side of the home. Based on the size of the home, the 4 additional spaces will provide adequate parking for the site providing the garage spaces are used to meet the parking requirements for the upper floor residential use. The applicant will need to revise the plan to provide for one disabled person parking space on the lot with the accompanying unloading aisle.

In order to handle increased storm water run-off created by the new paved surfaces, the applicant has proposed an in-ground detention system. The system has been preliminarily reviewed by the City Engineer and this method will be allowed subject to final review and approval.

The applicant will need to obtain building permits for the conversion of the upper level of the commercial building to a residence and will need to obtain a separate building permit for the conversion of the existing residence to a commercial use.

The construction of the new parking area will create new impervious surface which will generate additional run-off. The impact of this storm water run-off will be mitigated with the construction of a storm tech detention system.

Staff recommends that the Planning Commission approve the Conditional Use Permit for the mixed use commercial/residential development and forward a recommendation of approval to the City Council for the preliminary and final site plan subject to the following conditions:

1. Complete any and all redline corrections, including modifications.
2. Obtain required building permits for changes to residential use for the upper floor of the existing commercial garage located on the property.
3. Obtain building permit for the conversion of the existing residence to commercial use and comply with current building, fire and ADA requirements.
4. Prior to final approval, submit a revised final landscape plan consistent with the amended plan and meeting the requirements of Chapter 16 of the Bountiful City Zoning Ordinance.
5. Construction and striping of the new parking area, including provision of disabled person parking, shall be completed before commercial occupancy or business use of the existing residence on site.

Mr. Wilkinson reviewed the parking lot plans.

Mr. Robinson asked for clarification with the ADA requirements. He discussed the landscaping and the type of business that would be in the front location.

Chairman Monson opened the Public Hearing at 6:40 p.m.

Kenny Knighton looked for guidance from staff for mixed use on other properties in the area.

Chairman Monson closed the Public Hearing at 6:45 p.m.

Sharon Spratley made a motion to approve the Conditional Use Permit for mixed use development at 50 W 400 South with the 5 conditions outlined by staff and forward a recommendation of approval of the preliminary and final site plan to the City Council. Richard Higginson seconded the motion. Voting passed 6-0-1 in favor with Commission Members Allen, Badham, Higginson, Monson, Smith, and Spratley voting aye with Von Hill abstaining.

5. PUBLIC HEARING – Consider approval of a side yard setback variance for an addition to a single family home located at 350 E 300 N, Rod & Iris Hunt, applicant.

Rod and Iris Hunt were present. Chad Wilkinson presented staff report.

The applicants would like to add approximately 700 square feet to the rear of their existing home. The home was constructed in 1952 along with a detached garage which appears to have been constructed around the same time. The addition will extend the side yard area of the lot to the south placing the existing garage within the side yard. The Land Use Ordinance requires that accessory structures in side yards meet the setbacks for a primary structure which in the case of the R-4 zone is 8 feet. The existing garage is located on the west property line with no setback from the adjoining property. The Code also requires a minimum 5 foot separation between an accessory structure and a primary structure, measured from eave to eave. Section 14-14-106 B. 2. of the Land Use Ordinance allows a property owner to attach an existing detached garage to a home provided the home was constructed prior to 1965 and that a 3 foot setback is maintained between the garage and the side property line. The proposed variance would provide for the attachment of the garage without the required 3 foot setback to the west property line.

It should be noted that the applicant could also have proposed the addition without connecting the garage to the home. Based on the size of the addition, this option would have required a variance to both the 8 foot side yard setback for accessory structures located within the side yard and a variance to the 5 foot separation between the home and the garage. The proposal to attach the garage requires a 3 foot variance rather than an 8 to 12 foot variance if the garage was not proposed to be attached.

In their narrative, the applicants have cited three examples of what appear to be similar situations in the area that have been approved. Each of the examples cited differ from the current request. One of the examples on 146 E. 200 North was granted approval for an expansion of an existing nonconforming structure in 2012. The primary difference between the current request and the other examples cited is that none of the other requests increased the nonconformity of a detached garage. In the examples cited, the garages were already within side yards and additions to the home did not increase the degree of nonconformity of the accessory structures.

Utah Code 10-9a-702 establishes the criteria for review of a variance request. In order to grant a variance each of the following criteria must be met:

State law indicates that a hardship cannot be self-imposed. In the case of the current request, it is the size of the proposed addition that creates the need for the variance. A smaller addition could be constructed that would not place the garage in the side yard and would not require a variance. If an addition was constructed that maintained the required 5 foot separation from the garage and did not

create a situation where the garage was now in a side yard, the garage could be considered existing legal nonconforming and construction could occur without a variance. It is the size of the proposed addition that creates the need for a variance. The size of the addition is a self-imposed condition.

There are many detached garages in the neighborhood that do not meet the current setback standards. The predominant difference in this case is that it is the proposed construction of an addition that changes the status of the garage and places an accessory structure that was once in the rear yard into the side yard. This change increases the nonconformity of the garage which is not allowed without a variance to the standards of the Code.

An addition could be constructed on the home that would not place the existing garage in the side yard. This would allow for a reasonable expansion to the home without increasing the nonconformity of the garage. By definition an expansion of the home that leaves the garage in the rear yard would not increase the nonconformity of the garage.

The setback standards of the ordinance implement the goals and policies of the general plan. If changes to the standards of the ordinance are desirable they should be made through the legislative process. Granting of the variance is not consistent with the public interest of orderly consistent development.

Setbacks serve the purpose of providing fire separation, preventing overcrowding of development on lots and protecting and enhancing open space on lots. A variance to the setback standards in this case would not be in keeping with the spirit of the land use ordinance.

Staff recommends denial of the requested variance, based on analysis of the required review criteria from State law included in the findings above and the materials submitted by the applicant.

Staff discussed the setbacks for this property.

Mr. and Mrs. Hunt showed pictures of property and discussed the possible options for the addition.

Chairman Monson opened the public hearing at 6:55 p.m.

Greg Farnsworth resides at 1265 N 850 E. He discussed properties in the area with similar buildings close or on the property line.

Mr. Mahan discussed that some properties are legal non-conforming, the buildings were legal at the time of build, however current code may not allow the building to be built.

Chairman Monson closed the public hearing at 7:00 p.m.

Mr. Higginson discussed his support of the variance with the removal of the awning.

Mr. Smith discussed that the zoning laws are put into place to protect others from others. He discussed his view in support of this addition.

Staff discussed three options for approval of the variance.

Option 1 is: The garage moved to the rear yard with a 3 foot setback,

Option 2 is: 5 foot setback for garage

Option 3 is: 12 foot addition

Richard Higginson made a motion to approve the side yard setback variance for an addition to a single family home located at 350 E 300 North, based on the garage being in substantial compliance because a large portion is still in the rear yard. The variance is subject to the condition that the awning be removed from the garage. Tom Smith seconded the motion. Voting passed 4-3-0 in favor with Commission Members Badham, Higginson, Hill, and Smith voting aye with Allen, Monson and Spratley voting nay.

The Commission Members discussed the hardships for this variance to include the size of the home being insufficient to gather family. Garage more than half in the rear yard and the garage being in substantial compliance to rear yard provisions.

Mr. Mahan stated that staff does not have authority to grant a variance, that is why it was brought to the Planning Commission.

6. Consider preliminary site plan and preliminary PUD subdivision approval for Pages Hollow Townhomes, 306 W Pages, Taylor Spendlove representing Brighton Homes.

Taylor Spendlove was present. Paul Rowland presented staff report.

Brighton Homes is requesting preliminary approval for a 14 unit "townhome" style condominium development on three existing single family properties located at 320 West Pages Lane. The area of the new combined parcel is 1.21 acres, making the rounded off density 12 units/acre, which complies with the 13 unit per acre maximum for the zone. While this is simply a townhome style condo development, the term PUD is used in the proposed name to avoid financing issues in the future.

Brighton Homes is proposing to combine three single family properties, which currently contain three houses and several misc. sheds and out-buildings, into a single subdivision with 14- 3 bedroom townhome style units in three buildings. With three bedroom units, our ordinance requires 2.75 parking spaces per unit, which totals 39 parking spaces. Each unit has an attached 2 car garage and parking for 2 cars in the driveway, which along with the 4 visitor parking stalls provides 60 stalls, way exceeding the required parking. In addition to the parking requirements, each unit is required to have at least 50 sq.ft. of private outdoor space, which will need to be shown as limited common or private area on the final plat.

All utilities are available in Pages Lane. The preliminary utility drawings show an 8" water line and an 8" sewer main line extended into the property to serve the development. Brighton Homes is aware that the sidewalk on Pages Lane is really the top of a very large concrete culvert that carries Stone Creek to the west side of I-15, and that all access and utilities will have to contend with the issues that will arise from the culvert. There is currently a large overhead power line which runs east-west over the property for which the developer and Bountiful Power are in

discussions about rerouting the wires underground through the parking/driveway. Since this will be recorded as a condominium plat, all of the common areas will be dedicated as public utility easement.

The Fire Department has reviewed these plans and does not recommend that a new fire hydrant be placed on the property because of the proximity of existing hydrants.

As with all development in Bountiful City, the additional storm water runoff from this site will need to be retained on site. The developer is proposing a small detention basin in the front of the properties in a lawn area. With the Stone Creek culvert running along the south side of the property, there is a place to discharge the detention basin, however, the basin will need to be graded in such a way that an overflow in the culvert doesn't back into and fill the small detention basin. These details will be worked out as the final plans are prepared. The Developer will need to coordinate with Davis County Public Works and utilities that need to pass under the Stone Creek culvert, any storm water discharge into the culvert and how the driveway access will be constructed across the culvert.

Attached to this memo is a copy of the preliminary landscape plan for this development. It shows that the ground has 41% landscape coverage, which just exceeds the minimum requirement of 40% landscaping.

Recommend to the full City Council preliminary approval for The Brighton Townhomes PUD with the following conditions:

1. Complete all red-line corrections.
2. Indicate the private space which needs to be fenced off for each unit.
3. Coordinate with Davis County Public Works about access across and utilities under the existing box culvert.

Richard Higginson made a motion to recommend to City Council approval of a preliminary site plan and preliminary PUD subdivision approval for Pages Hollow Townhomes located at 306 W Pages Lane. Von Hill seconded the motion. Voting passed 7-0 in favor with Commission Members Allen, Badham, Higginson, Hill, Monson, Smith, and Spratley voting aye.

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

1. Next Planning Commission meeting to be held on April 19, 2016.
2. Next City Council meeting to be held on April 12, 2016.
3. Upcoming agenda items.

Chairman Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:42 p.m.


Chad Wilkinson, City Planner