

West Bountiful City

April 10, 2012

Planning Commission

Posting of Agenda -The agenda for this meeting was posted on the State of Utah Public Notice website and the West Bountiful City website, and sent to Clipper Publishing Company on April 6, 2012 per state statutory requirement.

Minutes of the Planning and Zoning Commission of West Bountiful City held on Tuesday, April 10, 2012, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Vice Chairman Terry Turner, Mike Cottle, Alan Malan, Planning Commissioners, and Laura Charchenko, Alternate Commissioner.

MEMBERS/STAFF EXCUSED: Chairman Denis Hopkinson, Steve Schmidt; Commissioner, Heidi Voordeckers (City Recorder/Auditor).

STAFF PRESENT: Ben White (City Engineer), Cathy Brightwell, and Debbie McKean (Secretary).

VISITORS: Eric Frye, Steve Heywood, Tyson Heywood, Paul Heywood, Sharen Ball, Mark Preece, Michelle and Brad Jensen, Kent Harker.

The Planning and Zoning Meeting was called to order at 7:30 p.m. by Vice Chairman Terry Turner. Mike Cottle offered a prayer.

I. Accept Agenda

Vice Chairman Turner reviewed the agenda. Laura Charchenko moved to accept the agenda as posted. Alan Malan seconded the motion. Voting was unanimous in favor among those members present.

Business Discussed:

II. Consider Approval of Farm Animal Conditional Use application for Steve Heywood.

Included in the Commissioner packets was a memorandum dated April 5, 2012 from Cathy Brightwell regarding an application for a Farm Animal Conditional use permit submitted by Steve Heywood on March 27, 2012. Mr. Heywood resides at 1590 North 675 West /Parcel # 06-024-0016 in the R-1-10 zone of West Bountiful City. The property size is .24 acres. A diagram of the property indicating the dwellings, fences and enclosures and outbuildings was submitted with the application and will be kept on file.

Mr. Heywood currently has no animals on his property but is entitled to 24 points. He would like to get 12 chickens which are currently 4 points each. With a conditional use permit, the points for chickens drops to 2 points each and he would qualify for 12 chickens.

His chickens will be housed in a chicken coop and be secured with fencing in the garden area separate from his exterior fence. Animal waste will be hauled away regularly to control odors. The use of 2 types of fly control will be used to mitigate flies. There are currently no drainage problems on the land.

Neighbors were notified via a letter on 3/30/2012. No responses were received from neighbors.

The above mentioned memorandum from Cathy Brightwell was included with the application. The memorandum provided information concerning the application and the recommendation from Staff for approval of the submitted conditional use permit application. The memorandum recommends the following conditions:

- Applicant will ensure that animals will not cause damage to the neighboring properties
- Applicant will abide by all setback requirements in Chapter 17.24.080 of the City Municipal code.
- Applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public.
- The conditional use permit will expire upon sale of the property.

Discussion:

- Chickens will be in an enclosed area and protected from other species of birds.
- Chicken coop will be 7'9" x 4 feet wide.
- Composting to keep areas clean and fresh from odors.

ACTION TAKEN: FOR FARM ANIMAL ORDINANCES

Mike Cottle moved to approve the Farm Animal Conditional Use application for Steve Heywood at 1590 North 675 West, West Bountiful with the following conditions. Applicant will ensure that animals will not cause damage to the neighboring properties, applicant will abide by all setback requirements in Chapter 17.24.080 of the City Municipal code, applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public, and the conditional use permit will expire upon sale of the property. Laura Charchenko seconded the motion and voting was unanimous in favor among those members present.

III. Consider approval of Farm Animal Conditional Use application for Brad Jensen.

Included in the Commission packets was a memorandum dated April 6, 2012 from Ben White/ Cathy Brightwell/Bev Haslam regarding an application for a Farm Animal Conditional Use permit and outlining a history of events regarding his property and animals. Former complaints from neighbors were reviewed.

A Conditional Use application was submitted by Brad Jensen on April 2, 2012. Mr. Jensen resides at 1018 West 600 North /Parcel # 06-042-001216 in the R-1-22 zone of West Bountiful City. The property size is .42 acres per county records. A diagram of the property indicating the dwellings, fences and enclosures and outbuildings was submitted with the application and will be kept on file.

Mr. Jensen currently has 2 horses and 3 goats on his property totaling 140 points. If granted the conditional use permit, Mr. Jensen would reduce his points to 110 points (50 for the horses and 60 for the goats).

Animal(s) will be secured with 6 foot chain link fencing around the property. There have been no problems to date with property damage, fences, vegetation, or neighboring properties. Animal waste will be hauled away regularly to control odors.

Neighbors were notified via a letter on 4/3/2012.

No response from neighbors were received.

The above mentioned memorandum from staff was included with the application. The memorandum provided information concerning the application and the recommendation from Staff. Memo included the following:

- Mr. Jensen was sent 3 letters, this year, from staff regarding a complaint from a neighbor stating he has too many animals on his property and was causing distress to his neighbor. Mr. Jensen was given 30 days, until April 13, 2012, to bring his property into compliance.
- County records indicate his lot to be .42 acres but owner claims it measures .47 acres.
- Applicant attempted to lease additional property but was unable to.
- Applicant feels the animals on his property are grandfathered as was told him by previous staff members.
- A 1983 ordinance allowed 1 horse per ½ acre and did not regulate goats.
- Mr. Jensen would like to seek approval of a Conditional Use permit to decrease points for his horses while using the grandfathering rule for his goats. City Attorney, Steve Doxey, recommended to staff that the applicant could use one or the other ordinance – but not both.
- Michelle Jensen took the stand telling the commission that there are benefits to the City by them having animals, which are: their children represent the city with 4 H; they are the only registered Alpine Dairy Goat Breeders in the State of Utah; they earn income from their animals making them responsible citizens; and they provide goat's milk to those in the neighborhood who can't drink regular milk. She said their animals have not been getting out, the property has been kept clean, animals are all housed, and waste is disposed of weekly. In response to the neighbor's complaint, the animals have been moved back into the yard and are no longer too close to the neighboring property. She explained that they move the goats next to the house while they are kidding and once they deliver, they are moved away from the house. They purchased the home in 2005. Mrs. Jensen said that in 2009, two representatives from the city (Mike Eggett and George Biada) agreed that the animals were grandfathered and told the Jensen's they would not have to worry about this issue again. Now they are up against this issue again. Mrs. Jensen provided an email dated 4/10/12 from Mike Eggett, and told of other documentation that was being prepared by George Biada who suffered a heart attack and died before the documentation was completed.
- Mr. Malan suggested that commission deny the application so the Jensen's can appeal to the City Council.
- Mrs. Charchenko explained to Mrs. Jensen that the commission could not approve their request just because statements were made verbally regarding ordinances that had been in place. The commission is bound by the ordinance as written. Mrs. Jensen argued that the complaints came from only one neighbor and shouldn't not be considered as multiple complaints. Mrs. Charchenko stated that even though there was one neighbor complaining, more than one type of complaint was made. She agrees that this application should be denied to enable it to go to the City Council for appeal.
- Mike Cottle and Terry Turner felt that because the applicant has less than .50 acres they would tend to deny the application.
- Mrs. Jensen indicated they will appeal to the City Council with her attorney present.

Staff does not believe the application meets the applicable standards and findings required in the relevant ordinances for a conditional use permit. An email from former staff member Mike Eggett was distributed to the Commission regarding previous findings for this issue.

ACTION TAKEN: FOR FARM ANIMAL ORDIANCES

Alan Malan moved to deny the application for Farm Animal Conditional Use permit for Brad Jensen. Laura Charchenko seconded the motion and voting was unanimous in favor.

Roll Call Vote was taken:

Mike Cottle- Aye

Laura Charchenko- Aye

Terry Turner- Aye

Alan Malan - Aye

IV. Consider approval of Conditional Use application for Sharon Ball to build a barn that exceeds the standard height requirement.

Included in the Commissioner's packet was a memorandum dated April 6, 2012 from Ben White regarding the application to rebuild an Accessory Building exceeding 20' in height for Sharon Ball's property located at 1495 North 550 West. The previous barn was destroyed by the windstorm in December 2011. The major purpose of this building is to house a RV and Ms. Ball is requesting the additional height increase to 23'.

Mr. Ben White explained the application and recommendation from staff that granting the Conditional Use Permit would be recommended with two conditions. The first that she would obtain a building permit from the city and second, the barn would not exceed a height of 23 feet.

Commissioner Malan suggested that the height restriction be raised to 25 feet to accommodate any unforeseen calculation problems.

ACTION TAKEN:

Laura Charchenko moved to approve the Conditional Use Permit for Sharon Ball to grant the building of a barn with the following conditions: Building permit be obtained and the building will not exceed 25 feet in height. Mike Cottle seconded the motion and voting was unanimous in favor among members present.

V. Consider recommendation to City Council on changes to Title 16- Subdivisions.

A memorandum dated April 6, 2012 from Ben White/Cathy Brightwell regarding Code Modification for Title 16- Subdivisions was included in the Commissioner's packet. The draft ordinance was revised based on suggestions from commissioners at the last meeting and approved by legal council, Steve Doxey. Three public hearings have been held and it is now ready to be forwarded to the City Council for their approval. Mr. Malan noted an item on Page 12 D. regarding *planning commission vs. engineer* but after discussion it was decided that that language will stand. He also noted 13 E. regarding corner lot widths. Staff will change language to address increased setbacks.

ACTION TAKEN:

Alan Malan moved to accept the Title 16- Subdivision draft with minor changes and move it to the City Council for their review and approval. Mike Cottle seconded the motion and voting was unanimous in favor.

VI. Discuss changes to Historic Preservation Commission ordinance, including moving certain sections to a new section (17.24.110) in the R-1-10 Zone.

A memorandum dated April 6, 2012 from Cathy Brightwell/Ben White regarding the Historic Preservation Commission and an initial draft of the new Section 17.24.110 was presented for Commission review.

Cathy Brightwell explained that Staff was given direction to take the current Historic Commission Ordinance and separate it into two parts to be included in two different sections of the City Code. A new draft ordinance for a Historic Overlay Zone to be placed in 17.24.10 (R-1-10) was included in the packets. Ms. Brightwell divided the ordinance into three sections to try to keep things simple and understandable. There was some discussion about architectural fees, an opt-out clause, and the review body and staff was asked to make these changes in the ordinance. Mr. Malan would like to receive public input before doing more work on the ordinance.

VII. Consider setting Public Hearing on May 8, 2012 to receive public input regarding a new section (17.24.110) in the R-1-10 zone to include language and responsibilities moved from the Historic Preservation Commission ordinance (Chapter 2.44), and to miscellaneous clean-up items.

ACTION TAKEN:

Laura Charchenko moved to set a public hearing on May 8, 2012 at 7:35 p.m. or as soon thereafter as time permits to receive public input regarding a new section (17.24.110) in the R-1-10 zone to include language and responsibilities moved from the Historic Preservation Commission ordinance (Chapter 2.44), and miscellaneous clean-up in Title 17. Mike Cottle seconded the motion and voting was unanimous in favor among members who were present.

VIII. Staff Report

- Cathy Brightwell noted a public hearing was set for the next meeting to hear changes in the Conditional Use Ordinance and a draft with the commissioner's previous suggestions will be distributed at the next meeting.
- Ben White reported on a Conditional Use application from the Evergreen Circle area for a new commercial office building. He explained the unique area of Evergreen Circle and their use as a residential zone in between commercial properties. There is a resident in that area who would like to apply for an office space on his property. Mr. White encouraged the commission to review CG code before hearing this request at the next meeting. He noted that there are specific allowances to be considered for this situation within the code particular to ingress/egress and placement on the property.

IX. Commissioner Reports/Updates

None were given.

X. Approval of Minutes of March 27, 2012**ACTION TAKEN:**

Alan Malan moved to approve of the minutes dated March 27, 2012 as presented. Laura Charchenko seconded the motion and voting was unanimous in favor.

XII. Adjournment

Alan Malan moved to adjourn the regular session of the Planning Commission meeting. Laura Charchenko seconded the motion. Voting was unanimous in favor. The meeting adjourned at 8:40 p.m.

TERRY TURNER- VICE CHAIRMAN

HEIDI VOORDECKERS/CITY RECORDER

DEBBIE MCKEAN /SECRETARY