

**West Bountiful City
Planning Commission**

March 25, 2014

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 March 21, 2014 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, March 25, 2014, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Vice Chair/Terry Turner, Alan Malan, Mike Cottle, Laura Charchenko, and Corey Sweat/Alternate.

MEMBERS/STAFF EXCUSED: Chairman Denis Hopkinson.

STAFF PRESENT: Ben White (City Engineer), Cathy Brightwell (Deputy Recorder) Kelly Enquist (Councilmember), and Debbie McKean (Secretary).

VISITORS: Jason Kim, Troy Larson, and Jacob Hanks.

The Planning Commission 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. Alan Malan moved to accept the agenda as presented. Laura Charchenko seconded the motion. Voting was unanimous in favor among members present.

Business Discussed:

II. Consider conditional use application for Jason Kim at 825 West 1320 North to build a deck that encroaches 10 feet into his rear setback.

Included in the Commissioner packets was a memorandum dated March 20, 2014 from Cathy Brightwell and Ben White regarding a request to build a deck from Jason Kim at 825 West 1320 North, the conditional use application, and a site plan for the deck.

The memorandum included the following information:

- Acknowledgement of application on March 18, 2014 from Jason Kim to build a deck on the back of his home located at 825 West 1320 North in Wasatch Meadows and building plans for the 12' x20' deck with the rear property line being 32 feet from his home.
- After reviewing the information Staff believes the deck satisfies the minimum requirement for WB City Code, Residential R1-10 zone, Section 17.24.050.
- Staff cited the affirmative findings and stated their recommended conditions.
- Recommended conditions included but was not limited to, the following: entire deck will be at least 20 feet from the rear property line, will not encroach more than 200 square feet into the setback, the floor of the deck will be no higher than the highest finished floor of the main structure, the portion of the deck that extends into the rear yard setback cannot be covered and the railing cannot be more than 48 inches high and must be less than 25% non-transparent.

Staff introduced Jason Kim's application and presented information regarding his application. The deck will be 12' X 20' with the rear of his home 32 feet from property line making exactly 20 feet from the set back. Code cannot be deviated from.

- Mr. Jason Kim took the stand for questions:
- Mike Cottle and Corey Sweat had no problem with the application.
- Laura Charchenko asked Mr. Kim if this was his original plan. The deck is a perfect fit and looks great.
- Alan Malan pointed out an error in the memorandum; and corrected it to say the deck could be 10 feet inside the rear setback and 20 feet from the rear property line.

ACTION TAKEN:

Alan Malan moved to approve the conditional use permit for Jason Kim @ 825 West 1320 North with the affirmative findings that the proposed use will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property in the vicinity; will not inordinately impact schools, utilities, and streets in the area; will provide for appropriate buffering of uses and buildings; and the use of building materials which are in harmony with the area and compatible with adjoining uses; and will comply with the regulations specified in the R1-10 zoning ordinance. The following conditions will apply: the entire deck will be at least 20 feet from the rear property line; it will not encroach more than 200 square feet into the setback; the floor of the deck will be no higher than the highest finished floor of the main structure; the portion of the deck that extends into the rear yard setback cannot be covered and the railing cannot be more than 48 inches high and must be less than 25% non-transparent. Mike Cottle seconded the motion and voting was unanimous in favor.

III. Consider conditional use application for Rachel Hanks at 676 West 400 North to increase the number of chickens they can have on their property.

Commissioner's packets included a memorandum dated March 20, 2014 from Cathy Brightwell/Ben White regarding a request from the Hanks' to have more chickens, the conditional use permit application from Rachel Hanks, and a site plan showing the layout of the chicken coop on the property.

Staff's memorandum stated that an application was received on March 18th, 2014 from Rachel Hanks at 676 West 400 North for a Farm Animal Conditional Use permit. Staff has received complaints that the Hanks' had too many chickens and their coop and pen were too close to the property line. The Hanks were notified by the city of the complaint and were happy to do what was needed to comply with the city ordinance.

Currently they have 18 hens, 1 rooster and 5 baby chicks. Their chicken coop is 12 X 16 feet and is attached to the fence on the north property line. They have .48 acres and are allowed a total of 48 points without the conditional use permit. Pursuant to 17.24.080 (2), chickens can be reduced from 4 points each to 2 points upon approval of this application.

Staff included affirmative findings and a list of recommended conditions if the conditional use permit is approved. The following were recommended conditions: the applicant must abide by all setback requirements in Chapter 17.24.080 of the City Code specifically prohibiting a chicken coop from being placed less than 6 feet from any property line or dwelling; applicant will ensure that animals are in an area enclosed by a fence or structure sufficient to prevent escape; 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 the sale of the property.

Cathy Brightwell informed the Commissioners that a complaint was received in regards to the Hanks' chicken coop location and amount of chickens. After she contacted them they were more than happy to comply with city code. She explained the conditions listed in the memorandum. One complaint was that the chickens would get loose into the neighbors yard. To date all requirements are in order.

It was pointed out by Commissioner Malan and Charchenko that the baby chicks are dependent on their mother so don't count in the number.

Vice Chair Turner invited Jacob Hanks to take the stand:

- Alan Malan and Laura Charchenko asked if things were fixed so the chickens could not get out into the neighbors yard. Mr. Hanks answered to the best of his ability he does not think they can get out unless one of his children leaves the gate open. All else seem to be in order.
- Corey Sweat would like to hear comments from the complainant, Mr. Troy Larsen residing at 465 North 660 West.
- Mr. Larson took the stand regarding his complaints. He stated he has nothing against the chickens, but he has a dog and is concerned about the safety of the chickens when they get in his yard. He stated that they were loose a lot last year. He has previously discussed this with Mr. Hanks and they have come to an understanding that if the dog kills a chicken it is not the Larsen's fault. Mr. Larsen would like to know how many chickens they plan on having and what are they doing with them. Mr. Larson also wondered if the new coop has been inspected.

- Terry Turner asked what the owner's intent was in regards to keeping the 5 new chicks.
- Mr. Malan stated that as long as Mr. Hanks' stays within his limit it is not our concern as to what he does with the chickens.
- Mr. Larson asked the Commission what constitutes a violation of the ordinance and if granted, how will the Conditional Use Permit be enforced. Mr. Turner noted that unfortunately because we do not have enough staff to manage surveillance of ordinances, receiving a complaint is what causes us to do ordinance enforcement for the most part.
- Mr. Sweat had no concerns different than those previously mentioned.
- Mr. Cottle asked if the Hanks' would be compliance when the chicks are not dependent on their mother. It was explained that if the conditional use is permitted, they would be in compliance. Mr. Cottle asked what is being done to keep the chickens in. Mr. Hanks' responded that they have spent the better part of a week making a new enclosed coop and a nice enclosed chicken run. The new coop is attached to the rear of the garage and is farther than 6 feet from all neighboring properties. The coop and chicken run have been reinforced with fencing around the bottom and over the top to keep the chickens in. The run is next to another neighbor's fence but he has spoken with that neighbor and they are okay with it.
- Mr. Turner asked how the chicken's escaped prior to the new coop. Mr. Hanks answered that the hens must have flown over and the chicks could get under the fence. Mr. Turner stated that we do not want to take away property owners rights but also need to protect other property owners. He wanted assurance that the current conditions would keep them on Mr. Hanks' property.
- Mr. Sweat stated that he feels the detriment to the neighborhood will not change and he feels a permit is not going to fix the problem. Mr. Hanks stated that everything is enclosed now and the animals cannot get out. They hope everything has been corrected through their efforts. It would be accidental if any chickens were to get out. Mr. Hanks realizes if a chicken gets out and is killed so be it.
- In answer to Mr. Larson's earlier question, Cathy Brightwell read language from Municipal Code, Section 17.60.080 regarding Review and Revocation of a conditional use permit. She noted the permit would be revoked if they were found to be out of compliance.
- Mike Cottle also read from the code that staff has the right to inspect any time to see if they remain in compliance.

ACTION TAKEN:

Laura Charchenko moved to approve the conditional use permit for Jacob and Rachel Hanks at 676 West 400 North to increase the points they can have for housing chickens based affirmative findings that the proposed use will not adversely affect the general well-being of the neighborhood and community; will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property in the vicinity; will comply with regulations specified in the R-1-10 zoning ordinance; and other conditions

will mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. The following conditions will apply to this Permit. The applicant will abide by all setback requirements in Chapter 17.24.080 of the City Code specifically prohibiting a chicken coop from being placed less than 6 feet from any property line or dwelling; applicant will ensure that animals are in an area enclosed by a fence or structure sufficient to prevent escape; 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 the sale of the property. Mike Cottle seconded the motion and a Roll Call Vote was taken:

Mike Cottle- Aye

Corey Sweat - Aye

Laura Charchenko- Aye

Alan Malan- Aye

Terry Turner- Aye

IV. Discuss Application for Frank Chase Subdivision at 950 West 1600 North.

Commissioner packets included a memorandum dated March 21, 2014 from Ben White regarding the Frank Chase Subdivision at 950 West 1600 North, a subdivision application, and a plat design of the property.

The memorandum included the following information:

- Frank Chase sold part of his property to Phillips Homes to construct Ranches at Lakeside Subdivision but kept 1.5 acres of property with his house on Pages Lane. Upon Frank Chase's death, his children now want to subdivide the remaining property. They are proposing that there be three 0.5 acre lots in the R-1-22 zone each meeting the minimum requirement of 85' frontage. The property is located on an existing street and curb, sidewalk and utility services will be provided.
- A public hearing has been set for April 8, 2014 for the subdivision.

Ben White introduced the subdivision application for the Frank Chase Property. He informed them that Chris and Kelly Chase (sons of Frank Chase) would like to subdivide the property into (3) three 0.5 lots. He reviewed the plot plan with them. Mike Cottle is concerned if curb and gutter is built on the improved property the Horrock's property located to the west of them would be flooded. He also noted that there are some financial challenges attached to the Chase property. Mr. White informed the Commission that the Jackson's may be asking to develop their property in the near future and then there would be curb, gutter and sidewalk almost all along that street. Some discussion took place regarding the requirement of curb, gutter, and sidewalk and at what point would it be best to require it. No decision was made.

Mr. White noted that the preliminary and final plat will look the same and could be approved at the same time. It is at the pleasure of the Commission to decide.

V. Discuss establishing processes/code language for Land Use amendments including map/zone changes and creating new zones (Title 17).

Commissioner's packets included a memorandum dated March 21, 2014 from Ben White in regards to Rezone Requests and copies of State Code, 10-9a for discussion. The memorandum included the following:

- Discussion a few months ago regarding possible consideration of amendments to our municipal code regarding basements and flag lots and now rezone requests.
- There was a request for a rezone on 400 North recently and a pending application to rezone properties along 500 South both of which create a cause for the importance of discussing this process.
- West Bountiful municipal code does not outline a process of its own for re-zone applications and therefore defaults to Utah State Code, as outlined in Sections 10-9a-205 and 502 thru 505. The State Code is reasonable for the most part but leaves areas for interpretation that could be clarified and set into our own city code. The memorandum listed a few of those items to consider.

Mr. White recapped previous things done in regards to establishing processes and code language for Land Use amendments. He pointed out some holes that are in our code and how staff is left to try and figure things out. He desires some direction. He stated that we are bound to do what state code requires but can do more if we want. Some discussion took place regarding the current code and processes we use.

- Mr. Sweat asked if there should be a requirement to go to Council before an applicant comes back to the Commission on the same issue.
- Mr. Malan is not reading in the code where they can come back after going to the Council upon denial. It was discussed that a time lapse would be helpful to have in place in regards to how long a denied request can be brought back.
- Ben White pointed out that currently they work with a blank slate when being asked to consider rezoning in our city. There are no guidelines or processes in place to figure out what would be acceptable to pursue and what would not. He would also like some clarification on whether a fee should be attached to each request. A fee is currently imposed for a rezone request but not for other code changes.
- Alan Malan felt there should be no fees attached to a zone change but there should be for a rezone. Cathy Brightwell asked for clarification regarding the difference between a rezone and a zone change. Mr. Malan responded a zone change actually changes the zone ordinance and a rezone is an actual rezoning of property. He stated we need to look into the State Code to clarify what the differences are in the two definitions.
- Corey Sweat thought that there should be processes in place for denials. He did not see a need to change when things are approved.
- Mr. Malan was comfortable with state code, but saw the need for a discussion to take place regarding the time frames denials are in affect and what fees would be applicable in covering the cost of the application.

There would need to be a public hearing held to change code. Mr. White suspects this could take a big part of the summer to review. Mr. Turner asked commissioners how they would like to proceed.

- Alan Malan did not see a need for any changes.
- Laura Charchenko felt that it was important to visit time frames for denials. Staff will check to see if there is a default time already in state code.
- Alan Malan inquired if it was time to review our General Plan. He would like Staff to see if there is a requirement to do so.
- Corey Sweat had some questions regarding State Code #2 and #3. Some discussion took place in these regards.
- Terry Turner does not like to increase work load on the Staff and suggested that because only a few requests have come in we leave things as they are and just let the process in place take care of things.

VI. Staff Report

- Ben White reported Olsen Ranches will be back to Planning Commission soon and is currently down to one engineering challenge which is where to put curb and gutter on the west side along 1100 West.
- In regards to 400 North, Mr. White reported that it went out as a design build contract. The initial proposal allowed them to build the new bridge without first removing the old bridge. The current proposal is to remove the existing bridge and replace it, in place. It looks like it may be later into the fall before it is done.
- UDOT will be addressing the Council next week at their regularly scheduled meeting to answer questions about the I-15 project.
- Cathy Brightwell informed the Commission of a Utah Local Govt. Trust Webinar on April 17th for new elected officials that cover land use changes passed during the legislature. She will send them the information. Alan Malan reminded her that the **Shake Out** is scheduled at that same time. Ms. Brightwell will contact the ULCT and let them know and then get back to the Commission.

VII. Consider Approval of Minutes for March 11, 2014

ACTION TAKEN:

Laura Charchenko moved to approve of the minutes dated as presented. Corey Sweat seconded the motion and voting was unanimous in favor among those members present.

VI. Adjournment

ACTION TAKEN:

Laura Charchenko moved to adjourn the regular session of the Planning Commission meeting. Alan Malan seconded the motion. Voting was unanimous in favor. The meeting adjourned at 8:52 p.m.

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The foregoing was approved by the West Bountiful City Planning Commission on April 8, 2014, by unanimous vote of all members present.

Cathy Brightwell

Cathy Brightwell – Deputy Recorder

