

2 The Lindon City Planning Commission held a regularly scheduled meeting beginning at  
7:00 p.m. on **Tuesday, January 25, 2011** in the Lindon City Center, City Council  
Chambers, 100 North State Street.

4 Conducting: Matt Bean, Chairperson

6 Invocation: Matt Bean

Pledge of Allegiance: Ron Anderson

8 **PRESENT**

**ABSENT**

10 Matt Bean, Chairperson

Christian Burton, Commissioner

12 Ron Anderson, Commissioner

Mark Johnson, Commissioner

Sharon Call, Commissioner

Debra Cullimore, City Recorder

14 Gary Godfrey, Commissioner - *arrived 7:06*

Angie Neuwirth, Commissioner

16 Adam Cowie, Planning Director

Woodworth Mataele, Assistant Planner

18 The meeting was called to order at 7:00 p.m.

20 **APPROVAL OF MINUTES** – The minutes of the meeting of January 11, 2011 were  
22 reviewed.

24 COMMISSIONER NEUWIRTH MOVED TO APPROVE THE MINUTES OF  
THE MEETING OF JANUARY 11, 2011. COMMISSIONER ANDERSON  
26 SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION  
CARRIED.

28 **PUBLIC COMMENT** –

30 Chairperson Bean called for comments from any audience member who wished to  
32 address an issue not listed as an agenda item. There was no public comment.

34 **CURRENT BUSINESS** –

- 36 1. **Conditional Use** - *R-2 Overlay duplex project, ~215 West 400 North* - This is  
38 a request by Tim Clyde to construct an R2-Overlay project in the R1-20  
residential zone. The applicant is proposing to construct a duplex on his  
40 currently vacant lot. Per Lindon City Code, an R2-Overlay project requires  
approval of a Conditional Use Permit from the Planning Commission.

42 Tim Clyde was present as the representative for this application. Mr. Mataele  
explained that this is a request by Tim Clyde to construct an R2-Overlay project in the  
44 R1-20 zone just east of commercial businesses in the residential zone. City Code  
requires Conditional Use approval through the Planning Commission for all R2-Overlay  
46 projects. The R2-Overlay ordinance includes specific requirements which must be met

2 prior to approval, such as separation distance from other R2 projects, design criteria,  
3 fencing, landscaping and parking. The intent of the R2-Overlay is to provide moderate  
4 income housing options within the City.

5 Mr. Mataele reviewed R2 Overlay districts. He noted that this proposal is located  
6 in R2 District 10. Each district can accommodate a specific number of R2 projects, after  
7 which no further R2 projects can be approved in that district. In addition, R2-Overlay  
8 dwellings must meet specific separation distance requirements from other R2 dwellings.  
9 This proposed R2 project is in compliance with district density and separation distance  
10 requirements. The project is also in compliance with setback requirements for the zone.

11 Mr. Mataele reviewed recommended conditions of approval for this application as  
12 follows:

- 13 1. The applicant provides documentation that each proposed dwelling unit will meet  
14 the “moderate income housing” definitions as required by Utah State Code.
- 15 2. The applicant construct a six foot sight obscuring fence along the east side of the  
16 lot as required by City Code. (The site has existing fencing along the south and  
17 west property line.)
- 18 3. The applicant meets all landscaping as required by City Code.

19 Mr. Mataele reviewed floor plan and elevation drawings submitted by the  
20 applicant. He also presented photographs of the site, and photographs of surrounding  
21 properties taken from the site. Mr. Mataele went on to review moderate income housing  
22 requirements established in State Code, Section 10-9a-103(29).

23 Mr. Cowie noted that the City received one written complaint from Dorothy  
24 Sisam as a result of required noticing to neighboring property owners. Ms. Sisam was  
25 unable to attend the meeting, but wanted to protest the application in writing.

26 Chairperson Bean noted that the Commission has had an opportunity to review  
27 the application and applicable codes. He noted that the lot is .58 acres which exceeds  
28 minimum lot size requirements. He asked Mr. Clyde if it was his intention to build only  
29 this duplex on this lot with no further development in the future. Mr. Clyde stated that  
30 the lot does not have adequate space for further development based on current zoning.

31 Commissioner Anderson inquired as to the reason for the location of the dwelling  
32 on the east end of the lot rather than locating it more toward the center of the lot. Mr.  
33 Clyde explained that the proposed placement allows the site to comply with all setback  
34 requirements. Chairperson Bean noted that setbacks shown are a 30 foot front, 30 foot  
35 rear and 10 foot side setback, which is in compliance with Code requirements.

36 Commissioner Neuwirth noted that City Code requires 40% of parcel to be  
37 landscaped. She inquired as to proposed landscaping plans for the site. Mr. Clyde stated  
38 that each dwelling unit will have a fenced private yard area in the rear, with landscaping  
39 in the front and side yard areas. He noted that the lot is approximately 23,925 square  
40 feet, with 9,570 square feet landscaped to meet the 40% requirement. Proposed  
41 landscaping will exceed the minimum requirements. Mr. Cowie confirmed that  
42 landscaping requirements would be based on the square footage of the parcel. Mr. Clyde  
43 explained that the west end of the lot will be left as a gravel surface at this time due to the  
44 expense of installing and maintaining a large grassed area. He noted that he may use the

2 area as a garden at some time in the future. He clarified that landscaping will comply  
with ordinance requirements.

4 Commissioner Neuwirth inquired as to who will have access to the gravel/future  
garden area, whether it would be accessible by the tenants of the duplex or the property  
owner. Mr. Cowie explained that as the property owner, Mr. Clyde can specify access to  
6 the area. He noted that if the units were to be sold as condominiums, the garden area  
could be established as common area. Mr. Clyde stated that the project is not being  
8 planned for individual sale, and that the dwellings will be rental units.

10 Commissioner Anderson inquired as to how common areas are defined. He asked  
if the 40% landscaped area would be defined as common area. Mr. Clyde felt that the  
front yard area would be common area, but the rear yards would be fenced and private for  
12 each unit.

14 Commissioner Call inquired as to the estimated cost of the project. Mr. Clyde  
stated that the full project is expected to cost approximately \$250,000, or \$125,000 per  
unit. Chairperson Bean asked Mr. Clyde what type of architectural treatments he  
16 anticipates for the exterior. Mr. Clyde stated that he anticipates an all stucco exterior,  
with the possibility of a brick or stone accent. Commissioner Neuwirth noted that City  
18 Code specifies that R2 projects are required to be compatible with other structures in the  
surrounding neighborhood. She observed that the majority of homes in the immediate  
20 area are brick rather than stucco. Chairperson Bean felt that the ordinance allows  
flexibility in specific architectural treatments in the residential zone. He felt that the  
22 proposed stucco exterior would be in compliance with ordinance requirements and would  
not be detrimental to the neighborhood.

24 Commissioner Call requested clarification regarding landscaping requirements.  
She inquired as to whether the City would enforce the 40% landscape requirement. Mr.  
26 Cowie explained that larger R2 projects, such as four-plexes, may include larger parking  
areas and dumpster locations. He stated that the City does have authority to enforce  
28 landscaping requirements on R2 developments. He noted that on single family  
residential lots, excessive weed growth is considered a fire hazard and enforced as a  
30 nuisance. He explained that no other landscaping requirements are enforced on single  
family residential lots. He noted that the EPA has implemented strict storm water  
32 management practices which will limit exposed soil on residential lots in the future.

34 Commissioner Neuwirth inquired as to the location of guest parking stalls. Mr.  
Cowie explained that the ordinance requires two off street parking spaces for each unit.  
He noted that the garage structures meet the minimum parking requirements per unit, and  
36 that the driveway area can be used for guest parking. No additional parking spaces will  
be required.

38 Commissioner Call asked Mr. Clyde if he had any concerns related to the  
proximity of the lot to commercial businesses. Mr. Clyde stated that he has applied to  
40 change the zoning of the subject property for commercial use, but that the application  
was denied. He stated that he is the owner of the adjacent fencing company and strip  
42 mall. Commissioner Call asked if Mr. Clyde had any concerns regarding keeping the  
units rented. Mr. Clyde stated that he had no concerns regarding rental of the units. He  
44 noted that the garages separate the units, which enhances privacy in each unit.

46 Commissioner Anderson asked what Mr. Clyde anticipates for rental rates. Mr. Clyde  
estimated rent at \$1100 to \$1200 for each 1400 foot unit. Commissioner Anderson asked

2 if that rent amount would meet moderate income housing guidelines. Mr. Cowie noted  
3 that the Housing Authority of Utah County sets moderate income housing guidelines.  
4 Chairperson Bean read from Utah State Code 10-9a-103(29) as follows:

6 *“Moderate income housing” means housing occupied or reserved for occupancy  
7 by households with a gross household income equal to or less than 80% of the median  
8 gross income for households of the same size in the county in which the city is located.*

10 He noted that the HAUC could provide the necessary information to set the rental rates in  
11 compliance with moderate income housing standards.

12 Commissioner Godfrey asked if two units is the maximum for R2 projects. Mr.  
13 Cowie stated that two units are permitted per half acre, with a maximum of four units if  
14 the project is located on a one acre parcel. He noted that accessory apartments are not  
15 required to meet the separation distance requirements applied to R2 developments.

16 Commissioner Godfrey observed that while he agrees with the intent of ordinance  
17 requirements, maintaining the gravel area on this lot may not be preferable to allowing  
18 construction of two additional units in this particular situation. He also noted that  
19 locating the structure to the east end of the lot to accommodate required front and rear  
20 setbacks may negatively impact future development to the east due to the minimal side  
21 setback. He felt that allowing a variance to front and rear setback and increasing the side  
22 setback on the east may be preferable. Mr. Cowie explained that any variance would  
23 require approval through the Board of Adjustment, which would require Mr. Clyde to  
24 submit an application and pay an additional application fee. Commissioner Godfrey  
25 inquired as to whether the application fee could be waived if the variance is requested by  
26 the Planning Commission. Mr. Cowie stated that based on current policies, Mr. Clyde  
27 would be required to pay the variance application fee. He noted that Mr. Clyde would  
28 have the option to reduce the dwelling footprint to allow relocation further west while  
29 maintaining required front and rear setbacks. He clarified that the Planning Commission  
30 does not have the authority to allow a setback variance. Mr. Clyde explained that there  
31 are already significant development expenses, and that he does not want to go through the  
32 process or expense of a variance application.

33 Commissioner Neuwirth noted that the letter from Ms. Sisam expressed concern  
34 regarding Mr. Clyde’s ability to use this residential lot to provide delivery access his  
35 adjacent commercial lot to the south. Mr. Cowie stated that commercial use of this  
36 residential lot is not permitted and that the issue has been resolved. Chairperson Bean  
37 reviewed each of the concerns in the protest letter, including setbacks, fencing  
38 requirements, and the likelihood of other duplexes building on 400 North.

39 Commissioner Godfrey asked Mr. Clyde if he may be willing to pursue a variance  
40 application if the Planning Commission waived the fencing requirement on the east  
41 property line. Mr. Clyde stated that he would not.

42 Chairperson Bean asked if the vegetable garden area Mr. Clyde had commented  
43 on earlier in the meeting would be in addition to the required 40% landscaping. Mr.  
44 Clyde confirmed that the vegetable garden would be for his personal use, and would be in  
45 addition to other landscaping requirements.

46 Chairperson Bean called for further comments or discussion. Hearing none, he  
47 called for a motion.

2 COMMISSIONER ANDERSON MOVED TO APPROVE THE  
4 CONDITIONAL USE PERMIT/R2-OVERLAY PROJECT FOR TIM CLYDE WITH  
THE FOLLOWING CONDITIONS:

- 6 1. THAT THE APPLICANT PROVIDES DOCUMENTATION THAT EACH  
DWELLING UNIT PROPOSED WILL MEET THE 'MODERATE INCOME  
HOUSING' DEFINITION AS PER UTAH STATE CODE.
- 8 2. THAT THE APPLICANT CONSTRUCTS A SIX FOOT SIGHT OBSCURING  
FENCE ALONG THE EAST SIDE OF THE LOT AS PER CITY CODE.
- 10 3. THAT THE APPLICANT MEETS ALL LANDSCAPING REQUIREMENTS  
REQUIRED BY LINDON CODE SECTION 17.46.090(7).

12 Mr. Cowie noted that all of these conditions are found in City Code, but  
14 compliance was not clear on the plans submitted by the applicant. He explained that  
including these as conditions of approval clarifies specific requirements.

16 Commissioner Godfrey requested additional discussion regarding architectural  
treatments. He read LCC Section 17.46.090 (13) which states;

18 *“R2 project proposals shall demonstrate architectural treatments and styles to  
20 buildings and structures that are common to the neighborhood in which the buildings are  
constructed. This shall include items such as building materials, roof pitches, colors,  
22 exterior finishing materials, fences, etc.”*

24 He expressed concern that the proposed stucco treatments may not adequately comply  
with architectural standards given that many of the homes in the immediate area are brick  
26 structures. Chairperson Bean felt that while requirements are fairly specific, the Planning  
Commission would not have the authority to require specific building materials if the  
28 proposal is in general compliance with the City Code. Commissioner Neuwirth agreed  
with concerns regarding exterior building materials. The Commission discussed potential  
30 impacts to the neighborhood based on the appearance of the duplex, and application of  
specific architectural standards based on building materials found in surrounding  
32 structures. Commissioner Godfrey noted that the intent of the R2-Overlay is to distribute  
high density housing throughout the community with minimal impact to neighborhoods.

34 Chairperson Bean observed that residential developments are typically allowed to  
use stucco, stone, brick and other treatments or combination of treatments. He felt that  
36 the proposed stucco exterior with the possibility of a stone or brick accent would not be  
incompatible in the surrounding neighborhood. He noted that the ordinance does not  
38 define the term 'neighborhood,' but that there are likely a variety of architectural  
treatments on homes in the surrounding area.

40 Commissioner Neuwirth noted that the brick homes in the immediate area are  
older homes, and that styles have changed. She noted that in other older neighborhoods,  
42 newer structures tend to use stucco as an exterior treatment.

44 Commissioner Anderson agreed that architectural treatments should not detract  
from the overall appearance of the neighborhood. However, he observed that there are a  
variety of architectural treatments in the surrounding neighborhood including brick and  
46 wood, and allowing the stucco façade would not be detrimental to the overall look of the

neighborhood. Mr. Cowie presented photographs of surrounding homes and businesses. He noted that surrounding commercial buildings have stucco exteriors. Commissioner Godfrey felt that the Commission should consider possible impacts on properties in the immediate area and not the larger neighborhood area. He observed that with the exception of one home, all homes in the immediate area have brick exteriors. He suggested a requirement that any wainscot be brick rather than stone in order to be more compatible with surrounding structures. Mr. Clyde stated that the expense of an all brick exterior would not be financially feasible for this project.

The Commission discussed an amendment to the motion which would require an accent or wainscot to be brick rather than stone. Chairperson Bean noted that recommendations which are not specifically required by ordinance should not be listed as conditions of approval. He felt that recommendations could be a part of the discussion record, but should not be listed as a condition of approval. Commissioner Godfrey felt that architectural standards could be strictly enforced, much the same and setback and fencing requirements. He felt that in specific circumstances, strict compliance with architectural requirements could be enforced as a condition of approval. He felt that it may not be necessary in relation to this application however.

Commissioner Call stated that she appreciates diversity and variety in housing in Lindon. She felt that similar standards in neighborhoods are typically a function of popular style at the time a home is built. She felt that blending of homes in a neighborhood did not require that exterior treatments be the same, but that the overall style and color is compatible. Commissioner Anderson inquired as to whether any specific exterior colors are required in the residential zone. Mr. Cowie stated that the residential zone has no specific architectural standards.

Commissioner Anderson suggested that it may be appropriate to set a requirement for exterior color for this conditional use to ensure that the look will not be detrimental to the look of the neighborhood. Mr. Clyde stated that he intends to use earth tone colors on the exterior, and that final exterior treatments will be determined when the project receives approval. Commissioner Anderson felt that a general requirement that the exterior be earth tone colors would protect the surrounding neighborhood. Commissioner Godfrey noted that the R2-Overlay should be held to a higher standard than typical residential development due to the fact that the overlay imposes higher density housing into established residential neighborhoods.

Chairperson Bean invited Mr. Cowie to provide a staff interpretation of architectural requirements. Mr. Cowie felt that the ordinance is somewhat vague with regard to architectural standards. He felt that the applicant has the burden of proof to show compliance with architectural standards for R2 projects. He noted that the intent of the ordinance is not to specify details of the project, but to protect the surrounding neighborhood. However, as a Conditional Use, the Commission does have the authority to impose conditions to mitigate any significant concerns related to the application. He suggested that it may be less difficult to apply a standard if the ordinance read that architectural treatments must be similar to those found in the residential zone rather than the neighborhood given that architectural standards are not imposed on any other residential use. Commissioner Anderson noted that the City typically receives comments from neighbors for R2 projects which relate to the appearance of the project, but that it is

difficult to define a specific look which will address those concerns to the satisfaction of neighboring residents. He noted that the absence of neighbors at this meeting is unusual.

Chairperson Bean felt that an all stucco structure meets the requirements of the code. Commissioner Anderson agreed that an earth tone stucco exterior would comply with ordinance requirements and protect the integrity of the surrounding neighborhood. He offered the following amendment to the motion.

4. THAT THE EXTERIOR ARCHITECTURAL TREATMENT BE AN EARTH TONE COLOR.

COMMISSIONER CALL SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

**NEW BUSINESS** – Reports by Commissioners

Commission Call asked about a home on 400 North with a large structure being constructed behind the home. Mr. Mataele stated that the structure is a garage and shop structure. Future plans call for demolition of the existing home and construction of new home set behind the garage/shop structure. Commissioner Call asked if the structure is in compliance with all setback and height requirements for the zone. Mr. Mataele stated that the structure is in compliance with all code requirements.

**PLANNING DIRECTOR'S REPORT** –

Mr. Cowie reported on the following items:

1. The Commission reviewed the Land Use Application process and fees to make them aware of the cost of various applications the Commission reviews. Fees are based on staff time, engineering reviews, and inspection costs. Fees do not typically cover the actual cost to the City. Applicants can be assessed additional fees if additional engineering reviews or other services are necessary on a particular application. The Commission discussed fees charged by other municipalities in relation to actual cost to the City. Mr. Cowie noted that fees charged by Lindon are approximately 70%-80% of actual cost to the City.
2. The Commission discussed details of the R2 project approved during the meeting, including landscaping, water and sewer service, and maintenance of the west area of the lot. Mr. Cowie will verify specific utility requirements with the Chief Building Official.
3. Commissioner Neuwirth asked whether submitted applications shown on the Project Tracking List expire at some point. Mr. Cowie stated that applications are generally approved for 24 months, but the City can grant extensions in specific circumstances.
4. The Commission completed annual Conflict of Interest statements which are submitted to the Mayor each year.

**ADJOURN** –

2 COMMISSIONER NEUWIRTH MOVED TO ADJOURN THE MEETING AT  
8:20 P.M. COMMISSIONER GODFREY SECONDED THE MOTION. ALL  
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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Approved – February 8, 2011

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Matt Bean, Chairperson

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Adam Cowie, Planning Director