

October 05, 2023  
Planning Commission Meeting  
Virtual Meeting  
7:00 p.m.

**Commissioners Present:** Vice Chairman Stephan Moss, Commissioner Jan Kerr, Commissioner Blake Broadhead, and Commissioner Ryan Vaughn

**Commissioners Absent:** Chairman Marcus Wager, Commissioner Julie Jones, and Commissioner Beth Thompson

**City Staff Present:** City Administrator Bob Barnhill, City Attorney Chris Crockett and Planning Secretary Tyra Bischoff

**Others Present:** Chris Harrild, Melanie Barnhill (on-line), and Marnie Roche (on-line)

1. 7:00 p.m. - Call to Order and Opening Ceremonies

Vice Chairman Stephan Moss called the meeting to order.

A. **Declare Conflict of Interest, if any**

None.

2. Action Items

A. **Subdivision Amendment; located at 57 E 1550 S Parcel #'s 03-243-0038 and 03-243-0039**

**Applicant: Robert Thurgood**

Mr. Barnhill showed the aerial image of the properties and pointed out the two lots owned by Robert Thurgood. He explained how they want to combine the two existing lots into one. They proposed to amend the subdivision plat map and combine lot 51 and 52 into lot 57 to create a 0.76-acre lot. He mentioned that no zoning changes will be needed, and no other rules were prohibiting this from happening. He reminded the Planning Commission that they were the administrative authority to approve this action.

**MOTION:** Commissioner Kerr made a motion to approve this Subdivision Amendment. Commissioner Moss seconded the motion.

**Roll Call Vote:**

Commissioner Vaughn, Yes  
Commissioner Kerr, Yes  
Commissioner Broadhead, Yes  
Commissioner Moss, Yes  
Commissioner Wager, Absent  
Commissioner Jones, Absent  
Commissioner Thompson, Absent

**Motion Approved**

**B. Perry Springs Preliminary Subdivision Application; located at approximately 2250 S 1200 W Parcel #03-157-0142 Applicant: Christopher Harrild**

Mr. Barnhill said this application was for a conservation subdivision and there will be some items for discussion. He commented that the Planning Commission's responsibility on this is to administer and follow through with the (adopted) code. He explained that the property was just north of Dale Young Park at 2250 S (Davis Street) and 1200 W (Perry Street) and is approximately 24 total acres.

Mr. Harrild said he works as a Development Director for Neighborhood Non-Profit Housing Corporation. He explained that they are trying to put people in reasonably priced homes. He said the home building process the clients go through strengthens them and helps build the community. In groups of eight, the homeowners will build their houses together and through this sweat equity program it helps them become self-sufficient. He said they are not typical developers because they have a program going from start to finish that works with the homeowner and includes financial counseling. He continued by explaining their corporate levels of the non-profit housing program.

Mr. Harrild presented a slideshow of the layout of the proposed Perry Springs Subdivision. He said the development is a 24-acre property broken into 64 lots and will contain 52 single family dwellings with 12 townhomes. He highlighted the new roads they will develop as they build this subdivision, including the improved infrastructure along Perry and Davis streets. He pointed out that after they received the final wetland delineation, they realized the conservation part of this subdivision was almost doubled in size than originally planned. He said they had to revise the subdivision plans which created about 40% of the subdivision for open space or approximately 10 acres in conservation land. He said that most of this conservation land is planned trails with buffers into the wetland areas. He noted that there was a fault line going through the property that they had to create a 15 foot buffer on each side of it.

He addressed the Perry City code and what they were doing to comply with it. He said they were proposing that the special assessment area be HOA dedicated land so they may manage all this conservation property. Mr. Barnhill mentioned that this discussion would need a waiver of the code since the city code stated that ownership and maintenance of the conservation area would be handled by the city. Mr. Harrild turned to the city code and compared it with what was written in the Staff Report about the conservation area to show how they have exceeded the expectations of the code. He then discussed the vegetation, trailways, stream corridors, and access to the area.

Commissioner Kerr asked who owned the water rights on the property. Mr. Harrild said they own some water rights, but the water will flow through the subdivision and that they are working with the Conservation District on this issue. Commissioner Kerr asked what their stream corridors flood plan was in a high-water year. Mr. Harrild responded that there was not any information about whether the water has ever been backed-up enough to flood besides most of the water comes from the (natural) spring in the area. He mentioned that because of the water levels in the area none of the houses will have basements. He continued by showing the landscape plans and highlighting a few of the diverse types of plants they will put in the conservation area.

Mr. Barnhill said both the preliminary landscape and architectural plans were moving in the right direction. He asked the Planning Commission to refer to the description in the city code and determine if

the trail and conservation land in this subdivision meets the requirements as written. He gave several examples of what was written in the code and how the developer has applied his interpretation of the code into this conservation subdivision plan. He reminded the Planning Commission of the suggestions they gave to the developer when the application came before them at the last meeting. He pointed out that when there were discrepancies the more restrictive standard would apply as stated in the code. The concerns from the last meeting they discussed were the material used for the trail and the development of the conservation open space areas.

Commissioner Broadhead asked about the trails in the subdivision matching up with other city trailways. Mr. Harrild responded that the trail in the subdivision will not end at 1200 West because of safety concerns. He then asked if the city had the ability (authority) to direct the type of use in the open space and Mr. Barnhill said as the code was written the applicant will present the use for that area. Mr. Harrild said of the total 9.69 acres conservation wetland area 5.27 acres will be preserved and .33 will be impacted and 4.45 acres will be open space. He explained the difference between the city taking ownership of the conservation area compared to the subdivision having an HOA to maintain it. Commissioner Kerr mentioned she was concerned with the lack of it being maintained and of the weeds over taking the property. Mr. Barnhill commented that the city had a weed control policy in our city code and that the developer did provide a maintenance plan.

Commissioner Kerr asked if the Army of Corp Engineers approved the conservation wetland areas. Mr. Harrild explained there had been a delay in getting it approval from them because of the new rules (definition) recently added through a Supreme Court case. He assured them that they will work with the Army Corp of Engineers on the wetland area. They also discussed what it would take to be assured that the maintenance of the trails would be handled over the years.

Commissioner Moss asked if they could make a recommendation with the approval of covenants, conditions, and restrictions (CC&Rs) and Mr. Barnhill responded that the city does not get involved in HOA rules and by-laws. Mr. Barnhill pointed out that if the conservation area remains private the developer would need to request a waiver. He remarked that the Planning Commission might have the option to consider the wavier if they feel the developer had drafted strong enough CC&Rs. Commissioner Moss said he was mostly concerned that the trails have strong enough CC&Rs and standards in place to maintain them if a waiver was granted. Mr. Harrild said that his understanding of the Perry City code (15.07.130 14 and 15.07.130 15) was that they were not required to get a waiver for construction material used on the trails if they were built to code. He and Mr. Barnhill then reviewed the code on who would own the conservation land. City Attorney, Chris Crockett, commented that there was a legal doctrine called Doctrine of Merger which states that a person cannot hold (just) the easement but that the easement goes with the land. Mr. Harrild reiterated that it does not make sense for the city to manage the conservation area. Mr. Barnhill was concerned about whether the conservation area and trailways would be available to the public if managed by a private HOA.

Commissioner Kerr asked the difference in allotted homes and the higher density the development was asking for. Mr. Harrild said he calculated approximately eight more lots by doing the conservation subdivision. Commissioner Kerr asked for the qualification a person needs to get in the Neighborhood

Non-Profit Housing Corporation program. She mentioned she was concerned that the current housing market was not affordable for any low-income families.

Commissioner Vaughn asked if the bottom three odd-shaped lots were even buildable. Mr. Harrild said the engineer did verify that they met their specific criteria. Commissioner Kerr asked if these homes were one level and Mr. Harrild responded that they usually build basements but the water table in this area only allows them to plan on slab on grade homes. He then mentioned that if money was left after building the house then they would include a fence around the lot but if not, it will be up to the homeowner to build their own fence. Commissioner Kerr voiced her concerns that the water in the area would be dangerous to small children if not fenced. Mr. Harrild responded that there was not anything written in the code requiring a fence but that the developers would investigate her concern. They concluded the discussion with what the developers were going to offer the city to get the higher density in the conservation subdivision. Mr. Barnhill then said on October 26, this recommendation will go before the City Council.

**MOTION:** Commissioner Kerr made a motion to give preliminary approval with the caveat that the trails be accessible to the public and that the CC&Rs and HOA will give a view of how this will be managed and maintained. (With the recommendation in support of allowing this be an HOA conservation land). Commissioner Vaughn seconded the motion.

**Roll Call Vote:**

Commissioner Vaughn, Yes  
Commissioner Kerr, Yes  
Commissioner Broadhead, Yes  
Commissioner Moss, Yes  
Commissioner Wager, Absent  
Commissioner Jones, Absent  
Commissioner Thompson, Absent

**Motion Approved**

**C. Public Hearing - Ordinance 23-K Amending the Subdivision Code**

Mr. Barnhill said the main reason for this ordinance amendment was to comply with the new state legislation rulings. He said the city has until February to implement this code and he would discuss the changes or updates of this ordinance. The big picture on the state legislative changes was to streamline the subdivision paperwork process. He said the new plan will be when a developer presents to the city their subdivision paperwork they will have (only) two applications: a preliminary application followed by a final plat application, and it will (only) be a four-step process. He pointed out that the Planning Commission shall be the Land Use Authority on the preliminary application. He noted that the final plat application shall not be determined by the City Council or Planning Commission. He explained that the state was pushing for these to be more efficient and administrative in nature. He said they (the Planning Commission and staff) need to be very cognizant of all the details in the subdivision paperwork because whatever designs they approve will stand. He recognized that we would need to work on our internal processes to be more scrutinizing and spend more time on the reviews. He remarked that because of the

increasing number of people involved and the staff working with this process the city will need to track the time used on each application and then bill the developer for this extra time.

Attorney Chris Crockett said the state ruling was not for commercial building and asked if this ordinance also included commercial. Mr. Barnhill stated that the ordinance has always been for both commercial and residential and wanted to keep it that way. Mr. Barnhill then went through all the changes and updates on the ordinance. He explained how the two applications streamline the program and might benefit both the developer and the city. Mr. Crockett commented that he will need to do more research on the state statute regarding the response time requirement on this process. Mr. Barnhill reviewed the state statute, and they found the time requirement concerns. He said as he understands it, the Development and Review meeting should be set up with comments from the Planning Commission within 15 days. He then commented that they might want to have a provision that the developers record the plat map at the time they start building. He went through the ordinance and showed the different steps in the process, and they figured out that they should be okay with not having the plat recorded before the developer starts building. The final step change is that the city engineer was to be the deciding body for the subdivider improvements and infrastructure.

Mr. Barnhill mentioned a few minor updates with flag lots and underground utilities then explained his intent for the changes to them. He said he made updates to the language in the section for the Final Subdivision Application requirements. He noted that at the end of the ordinance, he added a line to comply with state statute that a lot line adjustment does not require an amended plat. He asked the Planning Commission if they want to have a timeline on having the developer record the plat and Commissioner Vaughn said he thinks two years gave plenty of time to have the plat recorded.

Public Hearing opened at 8:41 p.m.

Public Hearing closed at 8:41 p.m.

**MOTION:** Commissioner Kerr made a motion to amend the ordinance as edited by Mr. Bob Barnhill. Commissioner Broadhead seconded the motion.

**Roll Call Vote:**

Commissioner Vaughn, Yes  
Commissioner Kerr, Yes  
Commissioner Broadhead, Yes  
Commissioner Moss, Yes  
Commissioner Wager, Absent  
Commissioner Jones, Absent  
Commissioner Thompson, Absent

**Motion Approved**

**D. Public Hearing - Ordinance 23-L Site Design and Approval Requirements**

Mr. Barnhill said this was not a state required amendment but updates to the city site design approval process. He commented that our site plan was convoluted and currently goes to the City Council. He said he feels they should be administered at the staff level then added that they are typically commercial

developments. He pointed out that the turn around with the submittal and comments will be quicker. He said he talked to legal counsel and the state ombudsman, and both feel it is best practice to have these administration items at the staff level. He pointed out that the red strikeout lines of the ordinance pertained to the original site design process. His proposal was for this code to be cleaned up to make it easier to read and explain what the code was for. The updated ordinance will also give the approval requirements, say how to complete the application, note that non-compliance might cause it to be tabled, explain the approval process, and the requirements on the design standards and plant materials. He mentioned that they might want to add landscaping requirements in the park strip areas and then discussed the parking area requirements.

Public Hearing opened at 8:57 p.m.

No Public Comment

Public Hearing closed at 8:57 p.m.

**MOTION:** Commissioner Broadhead made a motion to approve Ordinance 23-L with Bob (Mr. Barnhill) input and the changes of grass in the park strip. Commissioner Kerr seconded the motion.

**Roll Call Vote:**

Commissioner Vaughn, Yes  
Commissioner Kerr, Yes  
Commissioner Broadhead, Yes  
Commissioner Moss, Yes  
Commissioner Wager, Absent  
Commissioner Jones, Absent  
Commissioner Thompson, Absent

**Motion Approved**

**3. Approval of the Minutes**

**A. September 7, 2023, Regular Planning Meeting**

Commissioner Kerr said line 176 the word discloser should be disclosure. Then on line 181 the word “to” reads better as “the”.

**MOTION:** Commissioner Broadhead made a motion to approve meeting minutes with the changes as mentioned by Commissioner Kerr. Commissioner Kerr seconded the motion.

**All In Favor**

**4. Discussion**

**A. Future Projects**

Mr. Barnhill said that we have received the grant money to create the Highway 89 master plan and they have received a zone change that might be at the next meeting.

**B. Report on past-approved Planning Commission Agenda Items**

Mr. Barnhill said the last thing that came through the Planning Commission was the Heritage Auto plans. He said the City Council did approve it with the same things to be addressed as the Planning Commission recommended. Commissioner Broadhead said they attended the Joint City Advisory Committee meeting on this project, and it was a good meeting. Commissioner Kerr noted she gets invitations from Wasatch Front Regional Council for training, and she has attended them, and they give good information.

**C. Report from Commissioner regarding previous Council Meetings**

None of the Commissioners were able to attend.

**D. Make Assignments for Representative to Attend City Council Meeting  
(October 12<sup>th</sup> and 26<sup>th</sup>, 2023)**

Mr. Barnhill said the October 12<sup>th</sup> meeting will be cancelled. Commissioner Kerr said she will try to go to the October 26<sup>th</sup> City Council Meetings. Mr. Barnhill mentioned that October 10<sup>th</sup> will be the City Hall Open House at the Lodge and that there might be a chance the next meeting will be at the new building.

**5. Public Comment**

None.

**6. Training**

**A. Staff**

City Attorney Chris Crockett gave Beaver City's time limitation for plat work recording. He said the subdivision plat shall be recorded within one year of approval of the Land Use Authority. He pointed out that in the Beaver City code the subdivision with multiple phases must record a new phase within one year of the previous phase or the plat map shall have no validity. Mr. Barnhill said he will include such wording in the ordinance amendment.

**7. Review Next Agenda and Adjourn**

**A. Items for November agenda (next meeting November 2, 2023)**

**B. Motion to Adjourn**

**Motion:** Commissioner Kerr made a motion to adjourn the meeting. Commissioner Broadhead seconded the motion.

All Commissioners were in favor. The meeting ended at 9:07 p.m.