

January 7, 2021
Planning Commission Meeting
Virtual Meeting
7:00 p.m.

Commissioners Present: Vice Chairman Julie Jones, Commissioner Tresa Peterson, and Commissioner Michelle Drago

Commissioners Absent: Commissioner Marcus Wager and Chairman Jan Kerr

City Staff Present: Robert Barnhill: City Administrator
Chris Crockett: City Attorney
Tyra Bischoff: Deputy Recorder

Others Present: David Stevenson, Alton Olson, Sherrie Kimber, Paul Poteet, Mike & Andrea Fife, Richard Fairbourn, Kevin Daily, Tanner Hiatt (Summa Terra Bear River Landing), Greg Hansen, and Melanie Barnhill

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

Vice Chairman Jones called the meeting to order.

A. Declare Conflict of Interest, if any.

None.

2. **Action Items**

A. Public Hearing for Ordinance 20 – T Amending Sign Regulations in Perry Municipal Code

Vice Chairman Jones opened the public hearing for comments at 7:01 p.m. Robert Barnhill briefly explained the sign regulation updates. No comments were made from the public. Vice Chairman Jones closed the public hearing at 7:02 p.m.

The Commission came back to discuss this action item at 8:05 p.m.

Commissioner Drago discussed some of the definitions in the sign regulations not being further defined. She asked if Bill Morris, City Attorney, had read through this and Mr. Barnhill said he had not yet reviewed it. Chris Crockett, City Attorney, said that he recommend it go through an attorney first. The Commissioners discussed tabling it or passing it with Bill reviewing it. The Commissioners also discussed the wording they want added for further defining in regard to blade signs, marquee signs, and wall signs as well as referring to flat or projecting signs in their definitions.

Commissioner Drago pointed out that under miscellaneous signs there seemed to be conflicting information, one area saying that signs can cover 50% of the window and in another area saying only 30% is allowed. Mr. Barnhill clarified that the 50% coverage is referring to a temporary sign, as in windows being painted during the holidays or a sale, and the 30% refers to permanent signs. He suggested that it may make more sense to make them the same number. Commissioner Jones said she didn't mind the difference for the temporary to have more space available. Commissioner Drago said she didn't mind the difference either, she just wanted to clarify that there was not conflicting information.

MOTION: Commissioner Peterson made a motion to recommend approval to City Council Ordinance 20-T Amending Sign Regulations in Perry Municipal Code pending definition adjustments noted and City Attorney Bill Morris reviewing it. Commissioner Drago seconded the motion.

Roll Call Vote:

Commissioner Peterson Yes
Commissioner Drago Yes
Commissioner Jones Yes

Motion Approved: 3 Yes 0 No

Mr. Barnhill said that this will not go to City Council until February for time to make the needed changes and review.

B. Public Hearing for Ordinance 21-A Amending Parking Regulations in Perry Municipal Code

Vice Chairman Jones opened the public hearing for comments at 7:03 p.m. Robert Barnhill briefly explained the current parking regulations and what is being requested by the developer that is looking to build apartments (Bear River Landing) at Pointe Perry. Tanner Hiatt, the applicant, said he could answer any questions if needed. No other comments given. Vice Chairman Jones closed the public hearing at 7:06 p.m.

The Commissioners came back to discuss amending parking regulations at 7:47 p.m. Vice Chairman Jones discussed relooking at the code and what the City requires for multi-family units, based on what she saw when looking at what other cities require. Commissioner Drago suggested looking at the entire parking ordinance to see if other areas need to be cleaned up. The Commissioners discussed addressing the number of parking stalls allowed for apartments only, to not keep the developer in this case waiting. Tanner (the developer) expressed appreciation for the discussion so far and stated that in relation to this site specifically, they would appreciate a decision tonight as other things are on hold pending this decision, to move forward with this project. He also discussed the information he provided about parking to help alleviate the concerns of the Commissioners.

Commissioner Drago asked if this will affect all of the parking in Perry City. Mr. Barnhill said that they can decide how it will affect parking and make it for just apartments, or if they want to add other parking as well.

The Commissioners discussed the number of parking allowed in other cities and how many are allowed for studio, one-two-and three bedroom apartments, as well as guest parking allowed. Commissioner Drago asked if there are any other apartments in Perry that this would affect. Mr. Barnhill said that the only area apartments are allowed in Perry at this time are at the Pointe Perry location.

MOTION: Commissioner Drago made a motion to recommend approval to City Council Ordinance 21-A Amending Parking Regulations in Perry Municipal Code for apartments only. Commissioner Peterson seconded the motion.

Roll Call Vote:

Commissioner Peterson Yes
Commissioner Drago Yes
Commissioner Jones Yes

Motion Approved: 3 Yes 0 No

Mr. Barnhill stated that this would go to City Council on January 28, 2021.

C. Plat Amendment Application – Cherry Ridge Subdivision Phase 3 located at approximately 1450 W 3325 S affecting parcels; 02:079:0052, 02:079:0060, 02:079:0051, 02:079:0059, 02:079:0044, 02:079:0061, 02:079:0043, 02:035:0066. Applicant; Frank Fife.

Mr. Barnhill explained that the properties affected have parcels that are adjacent to the lots on the south of their properties. State and local laws require there be a subdivision process when any new lots or parcels are created. The intent with this amendment is to add these parcels into the existing lots and make them compliant. Mr. Barnhill explained that Brett Jones, City Engineer, had made some recommendations and those have been complete. He discussed the roadway being stubbed to the edge of the subdivision and explained that the improvements required are usually the responsibility of the developer. He said that in this unique circumstance, deferring or waiving the improvements entirely may be the appropriate action.

Vice Chairman Jones asked about the property owner on lot 73, the plat says the original owner is Thomas Kimber but it shows Keith Hendricks name. Bob explained that with the southern parcel, something was not properly transferred with the Title Company. He added that the City has been provided an updated warranty deed with the correct information.

Commissioner Drago said she hesitates to completely waive the road projects and questioned how it will ever get done. She stated that she is more inclined to defer it.

Commissioner Peterson asked if the area south of the properties was buildable. Mr. Barnhill said that it looks like agricultural land and that he assumes it is developable. Commissioner Peterson wanted to make sure that everything was completed that needed to be. Mr. Barnhill said that everything had been completed besides the name on the plat being updated and deciding whether the improvements on the parcels be deferred or waived. Commissioner Peterson said that she also felt more inclined to deferring the improvements.

Mr. Barnhill stated that the property owners were unaware that this property needed the improvements and they have no monetary value they would get out of those improvements. He said it seems unfair to put that burden on them. He added that it would also not be fair for the future developer or the City, which would include all the taxpayers. He said he doesn't know what the right answer is.

David Stevenson, the attorney for the homeowners, said he understands the dilemma which Mr. Barnhill explained. He added that the homeowners were not the original subdividers and that they had all purchased the properties a long time ago. They were not aware they were purchasing lots that were not approved. He said these rules are for subdividers and that his clients are not subdividers. He also added that the statute of limitations has passed. He

explained that each client has created a subdivision amendment trying to work with the City on this, but if the City imposes the requirements for the improvements, there will not be an agreement. He added that there are pipes that run under 1450 that the City has never had access to. He said that Mr. Buttars (the developer of this area) was involved in putting those pipes in place. He said the City does not have an easement in that area and they are trying to fix that issue by the clients giving up a parcel that is 30 feet by 55 feet for the City to use as a compromise. He feels like this is the best solution for all.

Chris Crockett said he would have to check out what the particular statute of limitations would be but said he doesn't see any prohibiting factors.

Commissioner Peterson said that it makes sense to not put the burden on the owners and asked Bob what his recommendation would be. Mr. Barnhill stated that the City wrote the subdivision code specifically to not leave liability with the City on projects that do not get finished from developers. He said that this case is unique, adding that the City has been left with other things that were more burdensome than this. He would lean toward waiving the requirements in this instance but supports any decision the Commissioners make.

Commissioner Peterson asked what the pipes were for that Mr. Stevenson mentioned previously. Mr. Barnhill said that in the area at the end of 1450, it sounds like there is City infrastructure that does not have a recorded easement. He is unsure of all the details on that. Mr. Stevenson said that he doesn't see it making a difference in this case. He added that Mr. Buttars (the original subdivider) mentioned there is a large pipe that carries water to another city but he doesn't know more than that, as there is no information recorded. Commissioner Peterson asked if the statute of limitations already passing would prevent going back to the original subdivider. Mr. Stevenson said that Mr. Buttars stated the only reason he was willing to discuss anything with him was because the statute of limitations had passed.

Greg Hansen, from Hansen & Associates, said that the individual who sold this land was the same individual who developed the land. He said that individual profited from those sales and he would likely be the same person that would develop the future land, making him be responsible for putting in the subdivision requirements.

The Commissioners discussed waiving or deferring the subdivision requirements and whether it would be the developer or the City being responsible in the future. They also discussed the flood control easement and property near the subdivision.

MOTION: Commissioner Drago made a motion to approve the Cherry Ridge Plat Amendment subject to the names on lot 73 being corrected and subject to waiving the completion of the roadway improvements on the portion being dedicated to Perry City. Commissioner Peterson seconded the motion.

Roll Call Vote:

Commissioner Peterson	Yes
Commissioner Drago	Yes
Commissioner Jones	Yes

Motion Approved: 3 Yes 0 No

D. Subdivision Amendment to Amend Carr/Loveless subdivisions affecting parcels 03:223:0045 and 03:223:0049 Located at Approximately 893 W 2325 S Applicant; Richard Fairbourn.

Mr. Barnhill reviewed the subdivision amendment application with the Commissioners. He discussed the Fairbourn and Bunnell lots, saying the request was to enlarge the Fairbourn lot and diminish the Bunnell lot. He added that Brett Jones, City Engineer, had reviewed the plat and had some suggested corrections. The corrections had been made and an updated plat given to the City. Mr. Barnhill said Brett still needed to review the updated plat but it appears all of the suggested corrections have been made. He discussed an existing outbuilding on the property and wanting to make sure the setback requirements had been met and stated they do meet the requirements. Mr. Barnhill said that it appears ready for approval from his perspective.

Commissioner Peterson questioned a narrow part of land on the property and wondered if it was an easement. Richard Fairbourn, the applicant, explained that it is just part of the property, not an easement.

MOTION: Commissioner Peterson made a motion to approve the Subdivision Amendment to Amend Carr/Loveless subdivisions affecting parcels 03:22:0045 and 03:223:0049 Located at Approximately 893 W 2325 S Applicant; Richard Fairbourn, pending Brett Jones signing off on the technical updates. Commissioner Drago seconded the motion.

Roll Call Vote:

Commissioner Peterson Yes
Commissioner Drago Yes
Commissioner Jones Yes

Motion Approved: 3 Yes 0 No

The Commission went back to discuss the Action Items portion of the meeting starting with Amending Parking Regulations at 7:47 p.m.

3. Discussion Items

A. Code Amendments & Projects

None.

4. Approval of the Minutes

A. December 3, 2020 Regular Meeting Minutes

Commissioner Drago said that the changes she suggested had already been made.

MOTION: Commissioner Drago made a motion to approve the December 3, 2020 Regular Meeting Minutes. Commissioner Peterson seconded the motion.

Roll Call Vote:

Commissioner Peterson Yes
Commissioner Drago Yes

Commissioner Jones Yes

Motion Approved: 3 Yes 0 No

5. Discussion

A. Future Projects

Vice Chairman Jones said she wants to look at parking regulations. Mr. Barnhill said that he will still be working on the sign code with Bill Morris and Council Member Ostler and would then like to turn his focus back to the land use chart.

B. Report on Past-Approved Planning Commission Agenda Items.

Mr. Barnhill informed the Commissioners that the land use item that was discussed at the last Council meeting was in regard to the Code Amendment for the Multi-Family Dwelling map. He said the Council made the change at Pointe Perry and then they tabled the other items, wanting to revisit the other districts on the map at their next meeting. He added that after the Planning Commission made the recommendation and before it went to City Council, the apartment developer submitted a concept plan that changed the layout quite dramatically for the proposed apartments that necessitated some adjustments to the numbers. He said that it didn't increase or decrease the numbers at Pointe Perry but it moved the numbers around. The Commissioners questioned the Council's concerns on the tabled portion and Mr. Barnhill stated that the Council wanted to have more information or concept plans of those areas.

C. Report from Commissioner regarding last Council Meeting.

Chairman Kerr went to the last meeting and was not present to review.

**D. Make Assignments for Representative to Attend City Council Meeting.
(January 14th & 28th 2021 these will be an electronic meeting)**

Commissioner Drago will go to the January 14th meeting and Commissioner Peterson will go to the January 28th meeting.

6. Training

A. Staff

Chris Crockett discussed legal non-conforming uses. He said that sometimes the non-conforming uses are referred to as "grandfathered". He explained that the name non-conforming sounds like something that is not allowed, but they are legal and allowed. If a non-compliant use is abandoned (if the use is discontinued for a year), it loses any protection as legal non-conforming use and any future use would have to comply with the current standards. If a structure is destroyed involuntarily by fire or other disaster, the law does not consider that as abandoned. He discussed what the local government can enforce and said that the legal non-conforming use must still comply with health and safety standards. He also discussed Utah Code and what Perry City could add specifically to their code, stating that if the City wants to have a specific say, it would be wise to codify it.

Commissioner Drago asked if they need to do the open meetings training that is required every year and Chris said that they do. He said that there is an online training video that they can do if they are unable to attend the training he does.

7. Review Next Agenda and Adjourn

A. Items for February Agenda (next meeting February 4, 2021)

January 7, 2021 Planning Commission Meeting

- Neff Townhomes (possibly-have not heard from applicant)

B. Motion to Adjourn

Motion: Commissioner Drago made a motion to adjourn the meeting. All were in favor. The meeting ended at 8:53 p.m.