

**West Point City  
Planning Commission  
3200 West 300 North  
June 22, 2017**

**Present:** Brian Vincent, Brad Lee, Rob Ortega, Jake Shepherd, Jeremy Strong, Korey Kap, Troy Moyes – City Planner, Michelle Bailey - Planning Commission Secretary

**Excused:** Jeff Macfarlane

**WORK SESSION**

**1. Discussion regarding a Conditional Use Permit for an Accessory Building, located at 1279 North 5000 West, Jake Shepherd, applicant.**

Jake Shepherd is seeking a Conditional Use Permit to construct a 1,600 square foot accessory building on his client's property located at 1279 North 5000 West. This property is part of the Duane Singleton development. West Point City Code requires all accessory buildings larger than 1,500 square feet, no matter the size of lot, to obtain a Conditional Use Permit.

Staff has spent a lot of time going over the Code. This is a very unique situation. The accessory building will be built on Lot 1 of the West Edge Subdivision. This property borders 1300 North and 5000 West. Several of the requirements have been met as they pertain to accessory buildings. They shall not occupy more than 20% of the lot area. They are limited to one story. They must be 10 feet from the on-site dwelling unit. And they must be 15 feet from any dwelling units on adjacent lots.

The Zone Regulation Chart (17.25.080) requires a setback of 30 feet for all accessory building located on a corner lot (but requires a 20 foot setback for the dwelling unit). The applicant is requesting a setback to be 4 feet from the property line. This property is located on the southwest corner of 5000 West and 1300 North. The roadway on 1300 North, west of 5000 West, has not been constructed and is currently gated off by the property owner to the north. The Davis County plat does not identify 1300 North as a public right-of-way. About two years ago, Staff contacted the county regarding Duane Singleton's property to see if they could access their property off from 1300 North. There was an issue with the property owner to the north about that not being a road. The County Surveyor's opinion is that it is a public right-of-way based upon 1300 North continuing to the North. It is not a deeded public access, but in his opinion, it is a public right-of-way. We must define what a corner lot actually is. There are two definition in the Code for a corner lot. One says, "Lot, corner" means a lot abutting on two or more intersecting or intercepting streets. The other says "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements and other ways. So the question comes up, is this a public easement to be considered as a corner lot? With the input from the County Surveyor, Staff considers this to be a corner lot and it should maintain the 30 foot setback.

Brian Vincent asked about the difference between a right-of-way and a deeded right-of-way. Troy Moyes responded, "Deeded right-of-ways are actually public documents indicating that the parcel is subdivided as a deeded right-of-way." Jake Shepherd said, "We approached purchasing that property at one point, but they weren't favorable to it so how would that battle have gone down with Kirkmans where it is a right-of-way but not a deeded right-of-way?" Troy Moyes said the review process would come and they would say they were proposing development and the City would say you need to continue 1300 North to the West and it would have gone from there.

Jake Shepherd, representing the client, said he doesn't see why it would pose any hazard being that close to a corner if it is sitting back 85 feet. He feels there is an issue with the way the ordinance is written. Korey Kap said, "My opinion is, if they every continue 1300 North down, if it were me and I were building that, I wouldn't put that anywhere near where I may have to move it at all. Look for the future."

Troy Moyes gave an example, "If Kirkmans come in to develop their property, there are some standards that they would need to follow. We would probably require them to finish 1300 North and they would have to maintain a buffer yard; that being a minor road. They would have to put the eight foot buffer on that side as well. Which poses other questions as well. When Duane Singleton came, we never treated this as if he would have to, all these homes are facing 5000 West. We didn't talk about that being a corner lot and him having to provide the eight foot buffer on 1300 North. Or do a postponement agreement in the chance that it does develop like we have done in the past." Jake Shepherd commented that the way the ordinance is written, there is no reason he can't put that building there.

Troy Moyes said the two options are: 1. If this is defined as a corner, it needs to follow the ordinance as a corner. 2. If it is a corner, we may want to consider revisiting the ordinance because, Jake has some good points, sitting 85 feet back isn't really causing a problem. Is this aesthetics, or a vision, clear path view that we are trying to keep accessory buildings out of.

A lengthy discussion took place regarding different options of where the building could be placed on the lot and ways that the Code could be changed to make more sense.

Jake Shepherd asked if the Singletons would have a leg to stand on if they say it is not a road, it has been gated, it's private, it's not owned by anyone. Troy Moyes said that's where the Planning Commission comes in; if they determine it is defined as a corner, then it's in compliance. If they determine that it is a corner lot, then it needs to sit back 30 feet per Code.

Brian Vincent asked each of the Commissioners for their thoughts on this. Rob Ortega said if the surveyor says it is a public right-of-way then we need to treat it as such. If the land to the north gets sold and they do end up developing then we would want a road there. But Rob said he agrees that it doesn't make sense for the accessory building to have to set back 30 feet when the residence only has to set back 20 feet. Regardless, he feels it needs to be treated as a public right-of-way. Brad Lee agreed with Rob and says if that's what the County Surveyor deems it as, then that's what we should treat it as. If we

need to work on the Code then we need to do that. Since a precedence hasn't been set in the past, then we are paving the way for future issues that may come up. Jake Shepherd said he thinks that moving forward, it would be helpful to define what a corner lot is; is it a view thing? A buffer? What is the purpose of this? This needs to be changed and defined more clearly. Jake said he feels like it should be considered a right-of-way, but the ordinance needs to be looked at and redone. Korey Kap said he feels that it needs to be treated as a right-of-way, but agrees that there is no reason to have a 30 foot setback. Jeremy Strong said it should be treated as a right-of-way but feels that the 30 foot setback is crazy especially when the house setback is only 20 feet; it doesn't make any sense. Brian Vincent said he feels the Code needs to be addressed first; as long as it is so far back, it can encroach into that which is currently 30 feet. He feels it needs to be at least 20 feet in the sideyard. He feels though since it is a right-of-way, if it is ever developed, they would have to put an eight foot buffer along there and you may then build at least 10 feet off from that. The further back it goes, he feels it could get closer to the property line. Troy Moyes suggested that it could say something like "The Planning Commission can reduce the setback by half if certain conditions are met." Then you list the conditions and if they don't meet any of them, the Code says they cannot build it there. The consensus is that it should be called a right-of-way so, as the Code is written, this should not be granted a Conditional Use Permit. We can review the Code at the next meeting.

## **2. Discussion regarding proposed changes to West Point City Code regarding Accessory Apartment regulations.**

Troy Moyes said it was mentioned in the last meeting that accessory buildings must meet the setback of the primary dwelling unit for the zone; some are eight feet, some are 10 feet. Then Jeremy Strong suggested there be some type of allowance, such as, it could be closer if certain criteria are met. Suggested verbiage could be, "The Planning Commission may grant approval for an accessory apartment to be placed in an accessory building if: 1. The setback of the accessory building maintains the same setback as the primary structure; or 2. The setback of the accessory building maintains a distance of 35' from any neighboring dwelling unit, and 3. Follows the remaining guidelines found in this chapter." So if the accessory building is in the rear corner of your property, as long as you are at least 35 feet away from any neighboring dwelling unit, it is permissible. Jake Shepherd suggested that it should say "...from any neighboring primary dwelling unit..." for clarification purposes. The commissioners discussed the possibility of having two people with accessory buildings that are close together and one of the accessory buildings is being used as a dwelling unit. After a brief discussion, the commission suggested striking #2

## **3. Discussion regarding proposed changes to West Point City Code regarding Farm Animal regulations.**

Troy Moyes said the portion of the Staff Report in red print has been added. It reads: "Residents in the R-1, R-2 and R-3 zones may at any time keep and maintain a base number of no greater than 4 chickens regardless of the size of their property subject to the requirements of this Section and any other applicable provision of this Code. The amount of additional chickens will be based on the following formula." The Commission liked the additional verbiage.

**4. Discussion regarding proposed changes to West Point City Code regarding Limited Access.**

Troy Moyes said we have a provision in the Code right now for arterial streets. It is a suggestion that whenever possible, to face the home away from the street. There is nothing firm in the Code that says you can't face a home towards an arterial street. Troy Moyes said he was going to treat this similarly to how flag lots are treated. The approval process would be the same.

**REGULAR MEETING**

**1. Call to Order**

**2. Pledge of Allegiance**

**3. Prayer:** given by Korey Kap

**4. Approval of Minutes from June 8, 2017.**

Jake Shepherd made a motion to approve the minutes from the meeting held on June 8, 2017, as written. Brad Lee seconded the motion. All voted aye.

**5. Public Comments:** None given

**6. Conditional Use Permit for an Accessory Building, located at 1279 North 5000 West, Jake Shepherd, applicant.**

Troy Moyes reviewed the application. Jake Shepherd is seeking a Conditional Use Permit to construct a 1,600 square foot accessory building on his client's property located at 1279 North 5000 West. West Point City Code requires all accessory buildings, which are larger than 1,500 square feet, no matter the size of a lot, to obtain a Conditional Use Permit. Brian Vincent said this was discussed in depth during the work session. It was determined that it is indeed being built on a corner lot. As per Code, this will not work because of where they would like to place the building on the lot.

Jeremy Strong made a motion to table the Conditional Use Permit for an Accessory Building, located at 1279 North 5000 West, Jake Shepherd, applicant, until the Code can be further reviewed and possibly updated. Brad Lee seconded the motion. All voted aye.

**7. Planning Commission Comments**

Jake Shepherd thanked the Commission for being willing to spend so much time discussing the accessory building. He thanked Troy Moyes for all of his efforts on that.

Brad Lee encouraged all of the Commissioners to come out to the 4<sup>th</sup> of July celebration and participate as much as they can. He reminded them about serving dinner that evening and also about riding in the parade.

Jeremy Strong had no comments.

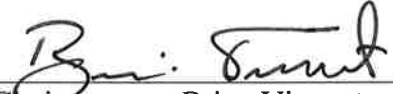
Korey Kap thanked Staff for all of their work. He also said he is looking forward to the 4<sup>th</sup> of July celebration.

Rob echoed the comments given.

Brian Vincent expressed appreciation to the Commission and said he is glad to have the opportunities to have discussions like that.

## 8. Adjournment

Brad Lee made a motion to adjourn at 7:07 p.m. Jake Shepherd seconded the motion. All voted aye.

  
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Chairperson – Brian Vincent

  
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Secretary – Michelle Bailey

