

**West Point City
Planning Commission
3200 West 300 North
January 26, 2012**

Present: Rawlee Wilson, Cory Thompson, Jeremy Strong, Brad Lee, Tracy Young, Boyd Davis – City Engineer, Jeff Oyler – City Planner, Michelle Bailey – Planning Commission Secretary

Excused: John Detamore, Curtis Seeds

WORK SESSION

1. Introduction of new planning commissioner

Jeremy Strong introduced himself and expressed his appreciation for being appointed to serve on the commission.

2. Discuss Dennis Higley sidewalk improvements

Boyd Davis reviewed this item as has been discussed in previous meetings. This is in the Pheasant Creek Subdivision located at 1300 North 4350 West. The subdivision is complete. There is a gap in the sidewalk. The original plans were approved with a sidewalk being installed in that area. Mr. Higley feels that it is not his responsibility to install that sidewalk for two reasons. First, he hasn't built on any lots that abut that sidewalk so he feels that it would be that property owner's responsibility to install the sidewalk if he ever subdivides his lot. Second, there is a property line dispute and Mr. Higley says he doesn't own the property to put the sidewalk in place. Mr. Higley has formally requested an amendment of his subdivision approval to remove that sidewalk from his plans so he doesn't have to do that.

New information has surfaced. First, regarding the question about the property line, the County lines and the surveys that Staff has looked at show that Mr. Higley does own the property where the sidewalk needs to go. However, Staff met with the property owner, Jason Meyer, of the adjacent property, and he said that he has a fence line that is in the middle of where the sidewalk should be and he claims that the fence line is the property line. Mr. Meyer said that the fence line has been there for more than 30 years so it became the property line. It is a new fence but he cut down the old fence and he claims the old fence posts are still there so you can see where the old fence was located. This is something that would need to be determined in court.

Mr. Meyer has agreed, even though there is a property line dispute, to move the fence so the sidewalk can be installed but he wants someone to pay for it. Mr. Higley would be required to pay Mr. Meyer to move the fence and his trees. Mr. Meyer met with Staff prior to the Planning Commission meeting. He proposed an idea that Staff thinks is a good idea, but would require some investigation. Mr. Meyer proposed that they move the sidewalk over next to the curb and get rid of the park strip. He wouldn't need to move

the fence and trees, and it eliminates the weed problem that is Mr. Higley's responsibility to maintain. The City has already received complaints about the weeds on that property. Brad Lee asked if any residents of that subdivision have complained that the sidewalk isn't there. Boyd Davis responded that the City hasn't had any calls requesting the sidewalk be installed. There is a bus stop on the corner directly across from this corner being discussed. Staff feels that this idea has merit. It is a way to get the sidewalk completed. It will avoid the property line issue, and it will eliminate a weed problem.

Boyd Davis stated that in other locations in the city when they have put a sidewalk right next to the curb, they generally make it a six foot wide sidewalk for safety. It puts you that much closer to traffic and that is a standard requirement in most every city. A four-foot sidewalk was required on the approved plans. The benefit to Mr. Higley to install the sidewalk next to the curb would be that he will not be required to move the fence and trees anymore. Tracy Young asked if there is room to install a six-foot sidewalk. Boyd said there is, but the fence will still need to be moved about one foot. Mr. Meyer volunteered to move the sidewalk for free if Mr. Higley will install a six foot sidewalk.

Staff feels that this is a great option and should be investigated seriously. Staff recommends that this item be tabled to give them time to look into this new proposal.

3. Discuss application for Amy Talbot's Daycare located at 1780 West 300 North

Jeff Oyler stated that he spoke with Amy Talbot regarding her application for a daycare and told her he would present her idea to the commission. She would like to turn her home into a daycare center. There will be no action taken on this at the present time, but she would like some feedback regarding her proposal. Jeff Oyler explained to Mrs. Talbot that in order to do that, she would have to be in a commercial zone so the property would have to be rezoned and she would be required to obtain a commercial business license. She would like to care for up to 36 children in her home. Currently, West Point City allows a daycare center with up to eight children as a conditional use in any zone. If you exceed that number, then it is a commercial business. Mrs. Talbot was told that this area is not even on the Master Plan in the future to be zoned commercial. She is still requesting a recommendation so she knows if this is something she should pursue. Cory Thompson brought up the Barneck Preschool which is located on 300 North close to Main Street in Clearfield. He mentioned the traffic problems and safety issues that causes. Kiddie Kollege traffic issues were mentioned as well. Tracy Young asked if Mrs. Talbot has thought about traffic issues. Jeff Oyler responded that he spoke with her about traffic issues. The home currently has one straight driveway. This would cause certain traffic impacts to have a business of this size in that location. Boyd Davis brought up the zoning issues. He said, "Even if it wasn't going to be a daycare, is that commercial zone appropriate for that location? What if she got it rezoned and then knocked it down and built something else that is allowed in a commercial zone?" Once a property is rezoned to commercial, it is open to anything that is allowed in a commercial zone. The family would also like to reside in the home still while running the commercial business there. They would have the daycare on the main floor and reside in the basement. The Planning Commission was not in favor of this proposal. Jeff Oyler

said he would speak with Mrs. Talbot and let her know the Commission was not in favor of it. If she would like to try to rezone the property, she is welcome to apply to do that. Brad Lee commented that he feels the neighbors would be greatly impacted by a business like this.

4. Discuss ordinance amendments for 30 lot rule and protection strips

Jeff Oyler stated that Staff would like to take out the regulations regarding protection strips in the Zoning Ordinance. Many cities have done away with protection strips. We would still have payback agreements, which are contracts entered into between the City and developers, but we would take away the protection strips. Another change Staff would like to put into place, is a regulation stating that a developer may not develop more than 30 lots in a single phase without creating a second access to the property. This would require a public hearing because it is an amendment to the Zoning Ordinance.

Jeff Oyler said they propose to completely strike Section B of 16.05.090 Subdivision Standards. A developer would not even be allowed to ask for a protection strip. That would no longer be in the Code. Rawlee Wilson asked Mr. Oyler to explain protection strips. Mr. Oyler said, "They allow a developer to hold a one-foot strip between their subdivision and a neighboring property owner. At such time as the neighboring property owner develops their property, they would pay for a portion of the improvements that were made on the street. The issue is that they put that protection strip on there and it doesn't state how long it lasts nor what the payback is, nor what the percentage is. So when the neighbor comes in to develop his property, the adjoining property owner could then require whatever price he chooses for improvements. He actually owns that ground which then, essentially, holds everyone hostage." With a payback agreement, they could essentially do the same thing. The agreement would be specific as far as the dollar amounts and for how many years it is valid for. It puts the control in the City's hands rather than the developer. Rawlee Wilson asked how payback agreements are enforced. Boyd Davis responded that they adopted new rules about payback agreements a few years ago. He explained that they are an agreement written up by the City, and they have all of the costs, time frames, etc included. It is then recorded against all of the properties. We enforce these by not giving an approval on the adjacent property until they have paid the specified amount.

5. Update on Ag protection application

Jeff Oyler stated that Staff has received an application that has been submitted to the City for an Ag protection area. It is Lyle Johnston's property at 4500 West 1800 North. There are 55 acres. Staff is just beginning the process right now. The Planning Commission will need to make a recommendation on this. Also, they are forming a County Council which will also make a recommendation to the City Council on this action. The Commission will be given information to review. These types of things can have implications to the City. They could stop us from building a City street. They could stop us from running certain utilities through there like water, sewer, storm drain etc. The property inside of the protection area would not be allowed to be rezoned

without the owner's permission. This area just happens to be in one of the proposed areas of the West Davis Parkway. The land owner believes that doing this can stop the highway. Staff is being told by people they have inquired of that that will not happen. It does force UDOT to look at alternatives to go around the area. Basically, the City will decide on whether it is an agriculturally viable area for agriculture and whether it doesn't have any negative impacts on the city.

Tracy Young asks if this is a conflict of interest for her because she is employed by UDOT. She will inquire as to what her employer would like her to do in this situation.

REGULAR MEETING

1. Call to Order

2. Pledge of Allegiance

3. Prayer: given by Tracy Young

4. Approval of Minutes from December 8, 2011

Brad Lee made a motion to accept the minutes as written. Tracy Young seconded the motion. All voted aye.

5. Public Comments: None given

6. Elect new Planning Commission Chair and Vice Chair

Rawlee Wilson called for nominations for Chairman. Cory Thompson nominated Brad Lee. There was no second. Brad Lee nominated Rawlee Wilson. Tracy Young seconded that nomination. There were no other nominations for Chairman. A roll call vote was taken. In favor of Brad Lee for Chairman, Cory Thompson voted aye. The nomination died. In favor of Rawlee Wilson for Chairman, Brad Lee, Jeremy Strong, and Tracy Young voted aye. Rawlee Wilson was elected Chairman.

Rawlee Wilson called for nominations for Vice Chairman. Rawlee Wilson nominated Brad Lee. Jeremy Strong seconded the nomination. There were no other nominations made. All voted aye. Brad Lee was elected Vice Chairman.

7. Amended approval of Pheasant Creek Subdivision, Phase 1, located at 4350 West 1300 North, Dennis Higley, applicant.

Dennis Higley was present to answer questions. Boyd Davis stated that this is the Pheasant Creek Subdivision at the intersection of 1300 North 4350 West. The development is mostly complete with all of the improvements installed. However, at the

entrance to the subdivision, on the west side of the road, there is currently no sidewalk. The plans were approved with a sidewalk in that location. There have been concerns expressed by the developer. First, he feels that he doesn't own the property where the sidewalk belongs. Second, that he didn't develop any lots there so therefore it shouldn't be his responsibility to do that. Mr. Higley has formally requested that the subdivision approval be amended to remove that sidewalk. It has been discussed at length. The adjacent property owner, Jason Meyer, who was also present at the meeting, sent a letter to the City stating that he would be willing to move the fence which is built in the location where the sidewalk belongs, as long as he is compensated for moving the fence and the trees that are planted along that location. Staff met with Mr. Meyer earlier in the day and he proposed a compromise that Staff would like to consider. Mr. Meyer suggested moving the sidewalk so that it matches the curb. That would avoid the property line issue and also alleviate a weed problem. The only recommendation Staff has would be that if the Commission is in agreement to move that sidewalk, that it be made a six-foot sidewalk. Whenever the City has a sidewalk that matches the back of curb, they require it to be wider for safety reasons. Staff feels that Mr. Meyer's idea has a lot of merit but they would request more time to review it as well as time to meet with the developer to discuss it with him. Staff recommends that this item be tabled to give them more opportunity to review this new idea.

Dennis Higley, General Contractor, Destiny Homes - Mr. Higley came prepared to suggest the same idea that Mr. Meyer proposed. Mr. Higley stated that in July 2009, he met with Boyd Davis because of a weed problem. At that time, he explained his dilemma stating that he did not own that property. Mr. Davis told Mr. Higley that if he wasn't the owner, he wouldn't have to install the sidewalk. Mr. Higley felt that he did not need to install the sidewalk. Mr. Higley met with Jason Meyer and they made an agreement that Mr. Meyer would maintain the weeds if Mr. Higley gave him a side access into their property. Mr. Higley said that there is a Utah Code that states that if the fence has been there for a long period, the fence establishes the boundary line. He feels that he truly does not own that property. Mr. Higley likes the suggestion made by Mr. Meyer. However, he has two objections to the idea. He doesn't feel that there is six feet from the curb to the fence to allow room for the sidewalk. It would then cause a financial hardship for Mr. Meyer to move his fence. Boyd Davis stated that in the meeting Staff had with Mr. Meyer they discussed that issue and Mr. Meyer said he would be willing to move the fence because he wouldn't have to move it as far. Mr. Higley asked if the City would be willing to pay for the extra two feet of sidewalk since he was only required to do a four-foot sidewalk. Mr. Higley suggested a five foot sidewalk instead and just take it right to the fence. Boyd Davis asked Mr. Higley if he is requesting that the City pay for the additional two feet of sidewalk if a six-foot sidewalk is required? Mr. Higley said that is what he is requesting. He would suggest not making Mr. Meyer move the fence and trees at all.

Jason Meyer – Mr. Meyer said he was happy to present the compromise to Staff earlier in the day. He feels that would have the least amount of impact to his property. With the original proposal, 300 feet of fence would have to be removed, as well as 22 trees. With the new proposal, he would only have to remove approximately 50 feet of the back fence,

including the corner post. He is very willing to do that to accommodate a six foot sidewalk. Mr. Meyer said, "I'm all for it. I wouldn't ask any monetary value or anything. It would just be an 'I pull it out, you put it in, I'll put my fence back.'"

Tracy Young made a motion to table this item pending discussion with Staff and the parties involved to make sure that safety issues are covered on the decision on how wide the sidewalk will be. Cory Thompson seconded the motion. All voted aye.

8. Planning Commission Comments

Brad Lee extended a welcome to Jeff Oyler as the new City Planner and said he looks forward to working with him. Likewise, Brad extended a welcome to Jeremy Strong, the new Planning Commissioner. Brad also thanked the Commission for appointing him as Vice Chairman and appreciates their confidence in him.

Tracy Young seconded Brad's comments in welcoming both men.


Jeremy Strong had no comments.

Rawlee Wilson had no comments.

9. Adjournment

Rawlee Wilson made a motion to adjourn at 7:20 p.m. Brad Lee seconded the motion. All voted aye.


Chairperson – Rowland S. Wilson


Secretary – Michelle Bailey