West Bountiful City

Planning Commission

April 24, 2012

Posting of Agenda -The agenda for this meeting was posted on the State of Utah Public Notice website and the West Bountiful City website, and sent to Clipper Publishing Company on April 20, 2012 per state statutory requirement.

Minutes of the Planning and Zoning Commission of West Bountiful City held on Tuesday, April 24, 2012, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Vice Chairman Terry Turner, Steve Schmidt, Mike Cottle, Alan Malan, Planning Commissioners, and Laura Charchenko, Alternate Commissioner. Chairman Denis Hopkinson arrived at 7:50 p.m.

MEMBERS/STAFF EXCUSED:

STAFF PRESENT: Ben White (City Engineer), Cathy Brightwell, Heidi Voordeckers (City Recorder/Auditor) and Debbie McKean (Secretary).

VISITORS: Kent Parker, Neal Pollard, Scott Evans, Ben Barrus.

The Planning and Zoning Meeting was called to order at 7:30 p.m. by Vice–Chairman Terry Turner. Terry Turner offered a prayer.

I. Accept Agenda

Vice Chairman Turner reviewed the agenda. Steve Schmidt moved to accept the agenda as posted. Alan Malan seconded the motion. Voting was unanimous in favor.

Business Discussed:

II. Public Hearing to Receive input on proposed changes to Chapter 17.60, Conditional Use, to more closely reflect current applications for Conditional Use Permits, including Farm Animals and Accessory Dwelling Units.

ACTION TAKEN:

Laura Charchenko moved to open the Public Hearing at 7:36 p.m. Alan Malan seconded the motion and voting was unanimous in favor.

Introduction:

Cathy Brightwell addressed the Commission stating that the Conditional Use Permit Ordinance was changed in order to update, expand and clarify language in the ordinance to reflect current and new applications for Conditional Use Permits. She said the Planning Commission had previously reviewed the changes and made additional modifications. A Public Hearing needed to be held to accept public comment on those changes.

Public Comment: No public comment was made.

ACTION TAKEN: Laura Charchenko moved to close the Public Hearing at 7:40 p.m. Mike Cottle seconded the motion and voting was unanimous in favor.

III. Consider approval of Farm Animal Conditional Use application for Scott Evans.

Included in the Commission packets was a memorandum dated April 19, 2012 from Cathy Brightwell regarding an application for a Farm Animal Conditional Use permit for Scott Evans at 1270 Jessi's Meadow Way.

Mr. Evan's application was submitted on April 11, 2012. Mr. Evans resides at 1270 Jessi Meadow Way, Parcel # 06-192-0016 in the A-1 Zone of West Bountiful City. The property size is .80 acres per county records. A diagram of the property indicating the dwellings, fences and enclosures and outbuildings was submitted with the application and will be kept on file.

Mr. Evans currently has 2 horses on his property totaling 80 points. If granted the conditional use permit, Mr. Evans would like to have one more horse on his property. He would then be allowed 3 horses for a total of 75 points. Animal(s) will be secured with electric fencing around the property that includes pasture, barn and corrals within the fence. There have been no problems to date with property damage, fences, vegetation, or neighboring properties. Animal waste will be hauled away regularly to control odors.

Mr. Evans spoke to the Commission stating that he would like the ability to have the third horse but may not always have a third horse on the property. He stated that he is currently set up to have three horses. He noted that his neighbor told him he was happy to know that the permit ends with the sale of the property because he knows Mr. Evans takes care of his animals.

Neighbors were notified via a letter on 4/17/2012. There was no response from neighbors who were notified.

The above stated memorandum from Cathy Brightwell was included with the application and recommended approval of the submitted conditional use permit application. The memorandum recommended the following conditions:

- Pursuant to Chapter 17.16.080, applicant will ensure that animals will not cause damage to the neighboring properties
- Applicant will abide by all setback requirements in Chapter 17.16.080 of the City Municipal code
- Applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public.
- The conditional use permit will expire upon sale of the property.

ACTION TAKEN:

Steve Schmidt moved to approve the Farm Animal Conditional Use application for Scott Evans at 1270 Jessi's Meadow Way, West Bountiful with the following conditions. Applicant will ensure that animals will not cause damage to the neighboring properties, applicant will abide by all setback requirements in Chapter 17.16.080 of the City Municipal code, applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public, and the conditional use permit will expire upon sale of the property. Alan Malan seconded the motion and voting was unanimous in favor.

IV. Consider approval of Farm Animal Conditional Use application for Kent Parker.

Included in the Commission packets was a memorandum dated April 19, 2012 from Cathy Brightwell regarding an application for a Farm Animal Conditional Use permit for Kent Parker at 1725 N 635 West.

Mr. Parker's application was submitted on April 5, 2012. Mr. Parker resides at 1725 North 635 West, Parcel #06-228-0212 in the R-1-10 zone of West Bountiful City. The property size is .26 acres per county records. Current points allowed are 26 of which 24 points are currently being

used. A diagram of the property indicating the dwellings, fences and enclosures and outbuildings was submitted with the application and will be kept on file.

Mr. Parker currently has six (6) hens (chickens) on his property totaling 24 points and seven (7) baby chicks. If granted the conditional use permit, Mr. Parker would like to keep the seven (7) additional chickens (no roosters) on his property. If he obtains the permit, he would be allowed the 13 chickens @ 2 points each for a total of 26 points. Animal(s) will be secured in a large, enclosed movable coop with an attachable enclosed run and enclosed with secured fencing. There have been no problems to date with property damage, fences, vegetation, or neighboring properties. Animal waste will be disposed of regularly to control odors.

Neighbors were notified via a letter on 4/17/2012. Neighbors notified did not respond to city staff.

The above stated memorandum from Cathy Brightwell was included with the application. The memorandum provided information concerning the application and the recommendation from Staff for approval. The memorandum recommended the following conditions:

- Pursuant to Chapter 17.24.080, applicant will ensure that animals will not cause damage to the neighboring properties
- Applicant will abide by all setback requirements in Chapter 17.24.080 of the City Municipal code
- Applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public.
- The conditional use permit will expire upon sale of the property.

ACTION TAKEN:

Mike Cottle moved to approve the Farm Animal Conditional Use application for Kent Parker at 1725 N 635 West, West Bountiful with the following conditions. Applicant will ensure that animals will not cause damage to the neighboring properties, applicant will abide by all setback requirements in Chapter 17.24.080 of the City Municipal code, applicant will control animal waste, debris, noise, odor and drainage in accordance with usual and customary health standards to protect the health, safety, and welfare of the animals and the public, and the conditional use permit will expire upon sale of the property. Laura Charchenko seconded the motion and voting was unanimous in favor among those members present.

Chairman Hopkinson joined the meeting at 7:50 p.m.

V. Consider Variance request regarding Heritage Point, Lot 8 for Neil Pollard

Included in the Commissioner's Packet was a memorandum dated April 19, 2012 from Ben White regarding a Variance request for Lot 8, of the Heritage Pointe Subdivision and a letter addressed to the City Council from Mr. Neal Pollard including diagrams of the plot plan.

Ben White addressed the Commission stating that there is a 50 foot gas line easement along the rear of the property owned by the Gas Company that interrupt the setbacks of this property. All lots in Heritage Point along the Prospector Rail trail are affected by this gas line. In addition, Mr. Pollard's lot includes a curve in the road that affects his front setbacks. Mr. Pollard would like to build a one story home. Mr. White informed the Commission that in Wasatch Meadows there was a home with the same conditions that was granted a variance. Staff feels like this situation would be another case they may want to consider for a variance.

Mr. White noted the three findings in the Municipal Ordinance that would allow for this variance.
Mr. Pollard informed the Commission that he had a larger drawing of his plot plans if they needed to see them.

ACTION TAKEN:
Alan Malan moved to accept the variance request noting the following findings: A special circumstance exists because of the larger than normal gas line easement; the variance is necessary to enable the applicant the same enjoyment of his property that his neighbors enjoy; and granting the variance is not detrimental to the health, safety and welfare of the public. Steve Schmidt seconded the motion and voting was unanimous in favor.

VI. Consider Conditional Use application from American CNG for Setbacks and Parking

Ben White noted that the applicant, Mr. Barrus, is purchasing the property at 550 North in the Evergreen Subdivision is on property zoned C-G but is surrounded by property that is residential. This creates a situation where the residential properties are non-conforming to the C-G zone.

Mr. Barrus currently has the property under contract and desires to know if it is possible to build an office building on the property. The property sits at the far end of an unusually large cul-de-sac.

Included in the Commissioners packets was a memorandum dated April 19, 2012 from Ben White regarding the property setbacks for American CNG, LLC. Also included in the packet was a Conditional Use Permit application, a plat map and 4 design possibilities for placing the building on the property.

It was noted that UDOT took the back end of this property to widen I -15 leaving the property owner with shallow property. The applicant desires to build an office building/warehouse type building but struggles to find a design that works within the easements of the property.

Mr. White noted that there are no size requirements by zone. Front yard setback is a minimum of 25 feet and side yard 0-25 feet. Parking would also be something the Commission needs to consider and there is a 15 % landscape requirement. There were 4 site plans which Mr. White labeled A, B, C, D available for the Commissioner's review. Mr. White noted that each has their merits and drawbacks. He informed the Commissioners that there is a sewer line easement on the south side of the property so placing a building there would not work, but parking would work in that area. Mr. White explained the pros and cons of each of the four designs submitted.

Mr. Barrus would like to include space for a warehouse in the building, possibly on an upper floor, and the other part office space. Mr. Hopkinson was concerned with egress and ingress to property and stated that they need to have a dedicated driveway that will get delivery trucks in and out of the property safely. This designated area can be part of the parking alignment. He noted that landscaping would be necessary.

Ben Barrus addressed the Commission answering their questions with the following responses:

- American CNG, LLC Commercial Property provides fuel tanks for natural gas. The tanks are empty with no hazardous material onsite. Their main warehouse is in Salt Lake City but this property would be used as an office with two (2) employees possibly three (3) at the most. He desires to have a two story office/warehouse building with decorative block exterior.
- It was noted that Mr. Barrus could be allowed 250 square feet of free standing advertising next to I-15.
- In response to a question, Mr. White noted UDOT has no plans to increase their easement.
- Mr. Malan was concerned about access for the Fire Department but he was informed by Chairman Hopkinson that the building will be directly accessible as it would be located on the roadway and fire trucks would not need to enter the driveway. It was also explained that the cul-de-sac is large enough for a fire truck to easily turn around.
- Mr. Barrus prefers the Design A.
- Mr. White noted that traffic on the street would not be excessive given the 8 am to 5 pm nature of the work being done in the building. Mr. Barrus explained that the office would rarely receive visits from the public because most of their work is done on the phone or online. It was noted that the cul-de- sac is much bigger than other cul-de-sacs.

- Mr. Hopkinson questioned if they would be willing to match architecturally with the Commons Area. Chairman Hopkinson feels that would be a real positive to future development and that it would set the look and feel of that area. Mr. Barrus stated that the building will be attractive because he loves his business and wants it to look nice.
- It was noted that there is a 12 foot high sound wall in back area so the lower part of the building in the back will not be visible to the public. Mr. Hopkinson is concerned with wha faces the cul-de-sac. Some discussion took place regarding the important of the look and feel of the area with this being the first building for business on this street.
- Regarding the 15 % landscaping requirement, it was noted that the UDOT property does not count in the 15 %. Landscaping on the other easements will count toward the 15 % landscaping requirement.
- Mr. Barrus noted that his business has doubled in size every year and is at the $2 million mark at this point.
- It was pointed out that there is a resident directly north of this property. Even with a zero setback there would be plenty of space between the building and the resident's home because a driveway and detached garage are on the south side of the lot.
- When asked about Security Lighting, Mr. Barrus said he will want some around his building but there is already a street light between his property and home to the north so he would not need to put additional lighting on that side. Mr. Malan did not want to see any lighting that would bother the neighboring homes.
- Mr. Malan is concerned about parking and backing out into a public street. Mr. White noted that a variance can be given if the Commission feels it is necessary. Mr. Malan was not sure if a variance could be given. He felt that maybe City Council could have to grant the variance, but Mr. Hopkinson noted that there is no variance needed as employee vehicles and others can back in to the property.
- Mr. Hopkinson also noted that on a cul-de-sac everyone is backing out onto the street in most cases anyway and the requirement was likely intended for through streets rather than cul-de-sacs.
- Mr. Barrus informed the Commissioners that there is dead area at the end of the cul-de-sac that is not paved that a car could turn around in noted that the risk of being broad sided is minimal.
- Mr. Cottle did not feel there would be a problem with traffic at all. He stated that using common sense there would be no problem at all.
- There was discussion about whether neighbors should be contacted or asked for permission. Because the residents are non-conforming in a commercial zone, permission is not necessary.
- Some discussion took place regarding getting more detailed drawings before approving the permit but the applicant was concerned about the delays that may cause and offered to modify the drawings by hand at the meeting to include the suggestions of the Commission. Mr. White said when the plans are submitted for the building permit, he will make sure they comply.

ACTION TAKEN:

Alan Malan moved to approve the Conditional Use Permit for American CNG, LLC located at 573 West 550 North, with the following stipulations: A zero setback will be allowed for the north and west property lines provided 15 % of the property is landscaped; a minimum front yard setback of 25 feet; no outdoor storage; parking stalls will have to be backed into; and no exterior lighting will face the north side of the property. Mike Cottle seconded the motion. A small discussion took place regarding amending the motion to require signage on the parking stalls regarding the back-in requirement. The amendment was accepted by all Commissioners and voting was unanimous in favor.

VII. Consider changes to Chapter 17.60, Conditional Use

Cathy Brightwell highlighted the changes in the draft document included in the Commissioner packets. They are as follows:

- City Council no longer needs to be notified when conditional use applications are granted; only the Planning Commissions approval is required.
- The Exception Section has been stricken.
- Page 3 – Separated and clarified 3 and 4 to make more sense.
- Page 4- General Inspection: Added the change that staff can inspect before approval for the Farm Animal Conditional Use and the ADU's.
- Page 5- Clarified B under 17.60.080.

Questions from the Commission included:

- Denis Hopkinson regarding wording on page 3 and throughout the document regarding *"mitigate the reasonably anticipated **detrimental** effects of the proposed use and accomplish the purposes of this subsection."* He would like the word "detrimental" removed from the entire document as it is not necessary. Cathy Brightwell will delete.
- Page 5- change the word "intensity" to density.
- Page 3- Item D- *"consider and affirmatively find as follows"*. Some lengthy discussion took place. The Commissioners were concerned that not all of the criteria fits each application so it is not feasible to grant a conditional use permit only when all criteria has been met. It was decided to change the language to read *"In order to approve a conditional use the planning commission shall consider the following criteria."*
- Page 3 – Correct #'s under D
- Page 5- C 2. "The temporary suspension… add the language " notification by certified mail"

ACTION TAKEN:

Laura Charchenko moved to forward Chapter 17.60 with changes as discussed to City Council for approval. Mike Cottle seconded with voting unanimous in favor.

VIII. Discuss changes to Chapter 8.12 Nuisances.

Cathy Brightwell explained to the Commission that staff desires to update and clarify Chapter 8.12, Nuisances, and develop policies and procedures for Weed Abatement. The Nuisance ordinance suggests policies and procedures be implemented to deal with nuisances and Staff feels it is important to get policies and procedures in place so they can better enforce the ordinances in a more timely manner.

- Alan Malan asked if the City Council has asked for this Ordinance to be reviewed. Ms. Brightwell stated that nuisances, especially weeds are becoming a problem and they would like to get these policies and the suggested clarifications in the ordinance put in place as soon as possible. Staff brought the issue to the Planning Commission because they think there will be a desire to have a public hearing and they felt it made more sense to start at the planning commission level rather than taking it directly to the City Council and have to send it back to Planning Commission for the hearing. It was noted that a tighter window was needed to address weeds and such nuisances in order to correct the problems before the end of the growing season.
- Chairman Hopkinson stated that the Planning Commission does want to give input but the current ordinance reads fine considering our community. The proposed Policies may take care of what Staff needs without changing the ordinance. He feels the changes that Staff are requesting puts everything in negative light which in turn, puts the property owner at a disadvantage. Mr. Hopkinson does not feel like that is what we want in our code.
- Mr. Hopkinson feels if the procedures would solve the administrative problem then why would the language need to be changed. Mr. White noted that the more clearly the ordinance is written the easier it is to understand.
- Steve Schmidt stated that West Bountiful is a rural community and weeds are a part of that. He is opposed to handling violations by complaint only.

- Mr. Hopkinson noted that the complainant only has to make the complaint and then the burden lies on the one being issued the complaint to bear the cost and burdens.
- Alan Malan was opposed to the suggestion to change the restrictions on noises from 6 am to 7 am. He said this is a rural community and people should expect noises at 6 am.
- Chairman Hopkinson would like to see the Policies pushed forward to City Council so staff can take care of the business they need to take care of but no changes to Chapter 8.2 should be made at this time. Mr. Malan and Mr. Schmidt do not see any good changes in the ordinances.

Finding: Commission felt the current ordinance is very adequate for our city needs and that policies and procedures should be put in place in order for the Staff to do their jobs more efficiently.

IX. Consider setting Public Hearing on May 22, 2012 to receive public input on changes to Chapter 8.12 Nuisances.

No hearing was set as the Commission rejected the proposal for the Ordinance changes to Chapter 8.12.

X. Staff Report

- Public hearing at next meeting on Title 17 and Historic Overlay.
- West Bountiful City Bylaws for the Planning Commission. Staff did research and has not found that the bylaws adopted in 2009 by the Planning Commission were ever formally adopted by the City Council. Cathy would like the commissioners to review and red line any changes that they would like made with discussion to follow at the next meeting.
- Alan Malan would like the people in the Historic District to be notified of the Public Hearing.

XI. Commissioner Reports/Updates

None were given.

XII. Approval of Minutes of April 10, 2012

ACTION TAKEN:

Alan Malan moved to approve of the minutes dated April 10, 2012 as presented. Steve Schmidt seconded the motion and voting was unanimous in favor.

XIII. Adjournment

Laura Charchenko moved to adjourn the regular session of the Planning Commission meeting. Alan Malan seconded the motion. Voting was unanimous in favor. The meeting adjourned at 9:59 p.m.

TERRY TURNER- VICE CHAIRMAN

HEIDI VOORDECKERS/CITY RECORDER

DEBBIE MCKEAN /SECRETARY

WEST BOUNTIFUL CORPORATE SEAL DAVIS COUNTY