

August 19, 2008

Minutes of the Alpine City Planning Commission meeting held August 19, 2008 at Alpine City Hall. The meeting was called to order at 7:00 pm by Chairman Jannicke Brewer. The following commission members were present and constituted a quorum:

Chairman Jannicke Brewer

Commission Members: Tracy Wallace, Jason Thelin, Troy Stout, Steve McArthur, Steve Cosper, Brad Reneer.

Staff: Charmayne Warnock, April Riley, Shane Sorensen, Ted Stillman, Jay Healey. Others: Jim Tracy, Devin Fowler and Andy Wright, Gary Bushman, Craig Skidmore, Jason Coverston, Aaron Holtsclaw, Mike Howard, Corilyn Markham

The prayer was offered by Troy Stout

**PUBLIC HEARINGS:                    Development Code – Article 4.12, Infrastructure Protection Bond**

April Riley said the proposed changes to the Infrastructure Protection Bond Ordinance would require a bond on all building permits. However, the DRC would have the discretion to waive the bond in certain circumstances such as for small jobs where no heavy equipment would be used.

There were no comments.

**Development Code – Article 3.24, Off-street Parking**

April Riley said that the proposed change to the Off-street Parking Ordinance would require the parking calculation to be based on the total square footage of the building rather than usable space. Also, the parking requirement would change from 5 spaces per thousand square feet to 4 or 3.5 spaces per thousand square feet.

There were no comments.

**1. PUBLIC COMMENT:** There were no comments from the public. Jannicke Brewer reminded the members of the Planning Commission that funds were available for them to attend the training conference if they wanted to go. They needed to register with Janis Williams.

**2. CONDITIONAL USE PERMITS FOR HOME OCCUPATIONS:**

**Kristen Bromley Music – 75 W. Allegheny Way – Kristen Bromley:** Ms. Bromley requested a conditional use permit for her business of giving music lessons. An average of 30 to 50 students would visit the home a week. Parents dropped them off and picked them up. She said she gave individual lessons but at some point may offer group lessons. Recitals would be performed elsewhere.

**High Pressure Solutions, LLC – 580 N. Grove – Margaret Holmes:** Ms. Holmes requested a permit for her business of high pressure cleaning services. They cleaned such things as playgrounds and removed graffiti. Tracy Wallace had a question about whether they would be cleaning off what might be potentially hazardous material, but she was not present to answer questions. The application was tabled until a representative could be present.

**Pro-Turf Landscaping Services – 441 N. Bristol Court – Nick Markham:** Mrs. Markham requested a permit for her husband's landscaping business. A room in the home would be used as an office. Landscaping equipment would be kept in storage sheds in Murray where he primarily worked.

**MOTION:** Steve Cospers moved to grant conditional use permits for home occupations to Kristen Bromley dba Bromley Music at 75 W. Allegheny Way and Nick Markham dba Pro-Turf Landscaping Services at 441 N. Bristol Court. Troy Stout seconded. Ayes: 6 Nays: 0. Motion passed unanimously.

**3. COVERSTON LOT LINE ADJUSTMENT – 731 S. BLUE RIDGE CIRCLE AND 763 BLUE RIDGE CIRCLE – JASON COVERSTON.** April Riley said Mr. Coverston had built a roof over a walkway that ran along the side of his home, but the roof encroached four feet into the side setback. Mr. Coverston planned to purchase a piece of land from the neighboring property owner in order to have enough ground on the side of his house to meet the side yard setback requirement of 12 feet. Both his lot and the neighboring lot would still meet the lot size requirements after the boundary line adjustment.

Jason Coverston said he had wanted to cover the walkway to keep the ice and snow off it. His sister-in-law and her two children were living in their basement, and he felt it would be safer for them to walk along a covered sidewalk. He said he had applied for a building permit to finish the basement, but hadn't thought to obtain a permit for the roof over the walkway. The building inspector had noticed the roof and the encroachment when he was inspecting the basement.

Steve Cospers asked if there was a plan to move the fence after the lot line adjustment since it wouldn't be on the property line.

April Riley said David Church had looked at the issue and hadn't been concerned about the fence remaining where it was.

Planning Commission members wondered if there was another way to resolve the problem without Mr. Coverston buying a piece of his neighbor's land.

April Riley said that Mr. Coverston had been to the Board of Adjustment seeking a variance, but it was denied. She explained that the Board of Adjustment was governed by state law. There were five criteria that had to be met before the Board could grant a variance, and Mr. Coverston's situation did not qualify for a variance because it was a self-imposed hardship. She added that if Mr. Coverston had applied for a building permit for the covered walkway before it was built, the setback issue would have been caught.

Mr. Coverston said they had considered cantilevering the roof so the foundation would be out of the setback, but it would be too expensive.

Tracy Wallace suggested that a cleaner solution would be for Mr. Coverston to buy a strip of land all the way along the boundary and move the fence, rather than having it jog out a few feet for a distance, then come back.

**MOTION:** Brad Reneer moved to recommend approval of the boundary line adjustment between the Coverstons on lot 811 and the Rileys on lot 812 in the Park at South Pointe, Plat A subdivision to the City Council. Steve McArthur seconded. Ayes: 6 Nays: 0. Motion passed unanimously.

**4. LYNTON SITE PLAN:** Jannicke Brewer introduced Andy Wright who was the Lynton attorney and Devin Fowler, their builder. She emphasized that there were a lot of opinions on the matter and there would be a lot of discussion, but the only things that were legally binding were motions and signed agreements.

Ted Stillman said Willow Canyon was an annexation on the east side of town that bordered forest service land. Willow Canyon consisted of a subdivision of regular lots plus five parcels in the county. The size and dimensions of the original parcels did not change when they were annexed. The Willow Canyon subdivision was approved concurrently with the annexation, but the City later dealt with the five parcels individually as they came in to the City for site plan approval. Thus far,

three parcels had been approved for development including the Kester site plan, Bushman site plan and Van Leeuwen site plan. The Lynton parcel was number four.

City staff had reviewed the Lynton site plan and recommended denial until the following issues were addressed and resolved:

1. The three parcels of property be combined into one parcel by deed.
2. The Planning Commission make a recommendation on the allowable size of the limit of disturbance.
3. The site plan drawing reflect the actual property lines approved with the boundary adjustment (this was between the Lynton and Kester property).
4. The Fire Chief approve the proposed fire hydrant location and the configuration and width of the driveway.
5. An 8-inch line be shown on the drawings to connect to the proposed fire hydrant.
6. The Planning Commission review the driveway profile to determine if the cuts and fills that exceed 5 feet are acceptable.
7. The City's water policy be met.
8. The PRO Committee and Planning Commission review the proposed changes to the trail alignment.
9. The property owner study and review the proposed site for hazards with professionals, and design the home based on their findings and recommendations.
10. A UPDES permit be obtained prior to construction.

Ted Stillman reviewed the letter from the Willow Canyon homeowners association which cited three main concerns. First, the Lynton home was not located on the building pad specified for the lot; second, the plan exceeded the limit of disturbance of 30,000 square feet; and third, the home exceeded the height limit of 25 feet.

Shane Sorensen put up a map of the Lynton site plan and the five parcels. Later he explained that there was no electronic copy of the original maps so he had to scan the documents that were available and obtain maps from the county, and scale them to fit. The map was reviewed which showed the original five building pads outlined in blue. Ted Stillman said his interpretation of the map was that there was to be one home for each of the five building pads.

Jannicke Brewer said there was no text that stating that the building area for each parcel was to be 40,000 square feet, but on Attachment B there were numbers designated for each parcel that said 40,000, which indicated the size of the building pads. Attachment B was a preliminary plan and lines had changed, but the number of parcels and number of homes did not change. There could be five homes on five parcels.

Ted Stillman identified the original building pads on the map, noting that most of them were on the Kester property. The actual locations of the homes that were built were dramatically different from what was shown on the map indicating that that the building pads originally shown on the annexation were not where the homes necessarily needed to be located. It just meant that there was to be a 40,000 square foot area on each parcel on which a home could be built.

Ted Stillman said Kester's was the first house built, and the current analysis showed 66,000 square feet of disturbed area. However, Joel Kester had submitted a disclaimer disputing or explaining the so-called area of disturbance on his property. Ted Stillman read the following disclaimer from Mr. Kester: 1) Much of the area in my 60,000 square foot pad is undisturbed and remains natural. To outline my pad and call everything inside disturbed is not right; 2) The gazebo on the south of the pond was built on Bob's (Strang) pad. Once the Lyntons get approval of their pad I will remove it if you request. 3) The pond is not considered part of the pad. The annexation agreement gives

exclusions for areas related to a property owner's water rights. 4) A great deal of area was disturbed for the construction of the debris basin outlet, and that is not inside my pad.

Jannicke Brewer noted that the original area of disturbance on the Kester site plan was 20,000 square feet, but it had kept growing.

Ted Stillman said the second home built on a parcel was the Bushman home. The area of disturbance on Bushman's property was 30,000 square feet rather than 20,000 square feet. He later explained that the PRD Ordinance had been amended to allow a maximum lot size of 60,000 square feet. In consequence of that, the City allowed the size of the building pads on the parcels in Willow Canyon to increase from 40,000 square feet to 60,000 square feet; fifty percent of that was 30,000 square feet.

The third home built was the Van Leeuwan home. There had been a lot line adjustment between Mr. Van Leeuwans and Joel Kester in order to allow for access to the Van Leeuwan home from Preston Drive. The Van Leeuwan area of disturbance was roughly 59,000 square feet.

Ted Stillman said the Lynton site plan was on the fourth parcel, and they were proposing to disturb 93,000 square feet.

Jannicke Brewer referenced the Annexation Agreement, which stated on page 3 under #5, item B that "The owners further agree on lots over 30,000 square feet above the High Bench Ditch no more than 50% of the natural landscape will be disturbed and no more that 50% of the lot area will be fenced."

Mrs. Brewer said the provisions of the Annexation Agreement applied to the five parcels because they were part of the Annexation. She went on to say that no addendum had changed the Annexation Agreement, and she didn't understand the expansion beyond the 50% disturbed area for some of the homes. The Bushmans were the only ones that had complied with the 50% restriction.

Ted Stillman said that was one of the weaknesses of the agreement. It was dealing with 5 existing parcels and a subdivision. It didn't clearly define it.

Andy Wright said their interpretation of the Annexation Agreement was that on lots over 30,000 square they could disturb 50% of the lot, and the Lynton property was clearly over 30,000 square feet. In fact it was 15.06 acres and 93,000 square feet was only thirteen percent of the total acreage.

Jannicke Brewer asked about the agreement for the Van Leeuwan property, and why they were allowed to disturb 60,000 square feet.

Shane Sorensen said the Van Leeuwans actually wanted to disturb 5 acres but they decreased it to two acres then down to 60,000 square feet.

Ted Stillman said another issue was the restriction on the height of the home. According to the Annexation Agreement, no home could be built above the High Bench ditch that exceeded a height of 25 feet above natural grade to the highest point of the roof or parapet. Several homes in the Willow Canyon subdivision had received a variance of 3 or 4 feet from the City Council provided the variance was recommended for approval by the Willow Canyon HOA.

There was a question about whether the parcels were subject to current interpretation since they were not included in the subdivision.

Shane Sorensen said any home that was not in a subdivision came to the Planning Commission as a site plan. He added that the exhibit in the Annexation Agreement clearly showed the area outside

the 40,000 square foot pads as cross-hatched which indicated open space. He said he didn't believe the intent of the Agreement was to say that a property owner could disturb half of their entire parcel. The intent was that only half of the 40,000 square-foot building pad could be disturbed – not 50% of 15 acres.

Jannicke Brewer said that she interpreted it the same way as Shane Sorensen. She asked if they needed an interpretation from David Church.

Ted Stillman said Mr. Church interpreted it the same way Shane Sorensen did.

Steve McArthur asked when the property outside the building pads became open space. Shane Sorensen said it was recorded on the original plat.

There was a discussion about the lines on the annexation plat and what was original.

Gary Bushman said he had five acres divided by Preston Drive. The City had taken one acre out of his lot in order to extend Preston Drive. He said he had donated an acre so the other homes could have access. Regarding the intent of the Annexation Agreement, he said he had been in meetings with Ted Stillman, Shane Sorensen and Joel Kester concerning the original document. He said the intent was reflected in the Grant of Easement and Restrictive Covenants which he had to provide to the City. A pad of 60,000 square feet was granted, but no more than 30,000 square feet was to be cleared. He said he didn't know what happened after him because the Van Leeuwan site plan didn't impact him.

Gary Bushman said that when he donated the land for road, he understood that because of the open space, he wouldn't have a home blocking his view of the mountains. The elevations between his home and the proposed Lynton home were quite a bit different. The previous design had the Lynton home against the berm and it blocked his view of the mountains. He said the Lyntons had moved their home a little and it helped, but he would like it moved a little further. He said his primary concern was that his view of the mountains would be blocked if the Lynton site plan was not treated the same way he was. Also, their plan showed the trail relocated close to his home.

Brad Reneer asked about the mud slides in the area, and noted that the Lynton home might act as a dam to protect the Bushman home.

Gary Bushman pointed out the path of the recent debris flow. He said the berm had not been contemplated at that point. The City came back and asked to put a berm across his property and across the adjoining Strang property. He said that in a way, it put his home in a more dangerous position.

Shane Sorensen said the Annexation Agreement hadn't specified a location for the debris basins.

Jannicke Brewer asked if there was any input from the City Attorney regarding the area of disturbance.

Ted Stillman said Mr. Church said the Lyntons needed to shrink the area of disturbance from 93,000 to 60,000. That should include driveways, the home, everything.

Andy Wright asked if the retaining walls could be excluded from the calculations for disturbed area. Shane Sorensen asked how the retaining wall would relate to debris flow.

Devon Fowler said the walls would direct water around the house and prevent water from running through it. In response to a question from Brad Reneer, he said the retaining wall would be for the purpose of directing rain water or run-off. If there were a mud slide it wouldn't be effective. Regarding the size of the retaining walls, he said there would be a series of three retaining walls,

each about six feet tall with five feet between them. The area between the walls would be revegetated to give the appearance of undisturbed ground.

Jannicke Brewer asked for a definition of a disturbance. Would it include revegetated or reclaimed areas? Ted Stillman said that their interpretation for the first site plan was that once an area was disturbed, it was included in the area of disturbance.

Gary Bushman asked why, if the building pad was 60,000 square feet, the 50% area of disturbance no longer applied. He asked why he had been held to a different standard than everyone else. He said he didn't object to the Lynton's building their home and that he could be supportive of a variance for them provided they didn't build behind his home. Mr. Bushman said that if the City allowed Lynton to build behind his home, he would push to make them meet the 50% disturbance requirement.

After more Planning Commission discussion about what constituted the area of disturbance, Jannicke Brewer summarized that the Planning Commission would like to see a plan with a disturbed area of no more than 60,000 square feet.

Regarding geological hazards in Willow Canyon, Ted Stillman said there was a fault line and there had been mud slides in the area. Staff comment #9 said that the property owners needed to have a professional study done of the hazards on their property and design the home accordingly.

Shane Sorensen said there was also a natural spring in the area and they wouldn't want to build a home over it.

Jannicke Brewer stressed that the site-specific study of hazards was for the safety of the Lyntons and their home. She noted that the property was also subject to the Urban Wildland Interface Ordinance and the Hillside Protection Ordinance.

Troy Stout said there was a trail in the area that he used frequently and it had an "Access Denied" sign on it.

Devin Fowler said the sign was to block construction traffic. Gary Bushman said construction vehicles had been accessing the site across his property. The trail was not where the yellow tape was. He said Craig Skidmore was most familiar with the actual and proposed location of the trail.

Jannicke Brewer asked about the letter from Joel Kester stating that parcel #1 was subject to the restrictions of the Willow Canyon HOA. She said Mike Howard was present from the HOA and perhaps he could tell them what the intent was. She said that if they turned to page 2, number 3 of the Boundary Line Agreement, it said that Lynton agreed that parcel #1 should be subject to the restrictions of the HOA. She asked if that applied to only parcel # 1 or to all of the Lynton property.

Mike said he spoke with Joel Kester earlier about that question and was told that the intent was that it applied to the combined Lynton parcel.

Ted Stillman said the City had not been a party to the agreement. It was between the HOA and the Lyntons.

Tracy Wallace said the only thing the City had jurisdiction over was whether it complied with City ordinances and the Annexation Agreement.

Jannicke Brewer said that it had, however, been the practice for the City to take input from the HOA.

The Planning Commission next addressed the driveway profile. Shane Sorensen said the driveway showed a 12% slope. The ordinance didn't allow a cut or fill of more than 5 feet, and it exceeded that in a couple of areas. He thought they might come back with a different plan.

Jannicke Brewer suggested they next discuss the trail.

Craig Skidmore said he and David Lynton had walked the property extensively. They were sensitive to providing a screen between the trail and the Bushman home. He said he thought that if they kept the trail in more or less the same location it would be the best of both worlds because there was foliage on both sides. But that didn't mean they wouldn't take a look at another way of doing it. Craig Skidmore showed slides of the trail.

Devin Fowler said that ideally they would like to leave the trail where it was, but if they had to move it they would.

Troy Stout asked that the builder take care not to disturb the trail during construction.

Craig Skidmore added that they didn't want the trail crossing the driveways.

**5. TRANSPORTATION MASTER STREET PLAN:** April Riley said that at the last Planning Commission meeting, concerns were raised about the connection of Quail Hollow to Alpine Boulevard. The Planning Commission had requested that they consider the Street Master Plan and show a connection from Quail Hollow to Alpine Boulevard. A public hearing would need to be held by both the Planning Commission and City Council to amend the Street Master Plan.

The Planning Commission reviewed the existing plan, making notes of roads that had been completed since the current plan was adopted and other changes. The City Engineer would also review it for other updates before taking it to the public hearing.

**MOTION:** Steve McArthur moved to set a public hearing on the Street Master Plan for the meeting of September 16, 2008. Steve Cospers seconded. Ayes: 6 Nays: 0. Motion passed.

**6. DEVELOPMENT CODE – OFF-STREET PARKING, ARTICLE 3.24:** Steve Cospers said he researched Orem City's parking ordinance and they had 4 spaces per thousand square feet.

Jim Tracy suggested they take out "excludes garage" in the parking ordinance. If the proposed theater put in an underground parking garage that would certainly be included in the parking requirement, but the ordinance technically excluded it.

Shane Sorensen said it would not affect the parking for senior living because the Senior Housing Ordinance had its own parking requirements.

Jason Thelin questioned if the ordinance required too much parking for commercial business, and if including unusable space in the calculations would discourage the creative design of the building.

The Planning Commission discussed it and felt it would be wiser to include unusable space in the calculations in the event a business changed and decided to add office space in unused areas.

**MOTION:** Troy Stout moved to recommend to the City Council the proposed changes in the Development Code, Article 3.24 Off-street Parking as written with the addition of striking the words "excludes garages" in the grid. Steve McArthur seconded. Ayes: 6 Nays: 0. Motion passed unanimously.

**7. DEVELOPMENT CODE – ARTICLE 4.12, INFRASTRUCTURE BONDS:** The amendment to the Infrastructure Bond Ordinance would require bonds for all building permits but

would allow the Development Review Committee to waive the bond in situations where a bond was not needed.

**MOTION:** Jason Thelin moved to recommend to the City Council the changes to the Development Code, Article 4.12 Infrastructure Protection Bonds as outlined in packet. Troy Stout seconded Ayes: 6 Nays: 0. Motion passed unanimously.

**MOTION:** Steve Cospers moved to approve the minutes of July 15, 2008 as written and adjourn. Steve McArthur seconded. Ayes: 6 Nays: 0. Motion passed unanimously.

The meeting was adjourned at 9:00 pm.