

October 4, 2005

Minutes of the Planning Commission meeting held October 4, 2005 at Alpine City Hall. Chairman Jannicke Brewer called the public hearing/regular meeting to order at 7:00 pm. The following Commission Members were present and constituted a quorum:

Chairman Jannicke Brewer

Commission Members: Dale Porter, Jim Tracy, Thomas Whitchurch, Steve McArthur, Lincoln Watkins. Mike Mickelson excused.

Staff: Charmayne Warnock, Shane Sorensen, Ted Stillman

Others: Richard James, Jay Thoman, Judy Thoman, Lynn Broadbent, Brian Higbee, Tom Nixon, Steve Larsen, Ken Berg, Blaine Hudson, Will Jones, Craig Skidmore

### **6:00 pm Field Trip to Three Falls Subdivision**

**PUBLIC HEARING:**     **Canyon Brook Subdivision**  
                              **Taylor Meadows Subdivision**  
                              **Vista Meadows Subdivision**

**Canyon Brook Subdivision:** Ted Stillman introduced the Canyon Brook Subdivision and showed the plat layout which would consist of 5 lots with open space. The developers were requesting that the open space be private with a conservation easement. There were no comments and Jannicke Brewer closed the hearing.

**Taylor Meadows Subdivision:** Ted Stillman said the proposed subdivision was located at 100 South 300 East and consisted of 10 lots with open space in the flood plain area. There were no comments and the public hearing was closed.

**Vista Meadows Subdivision:** Ted Stillman said the Vista Meadows development would be accessed by Hog Hollow Road (600 North) and Lakeview Drive. It would consist of 17 lots and open space in the steeper areas. An environmental study was being done. There were no comments and the hearing was closed.

The prayer was offered by Thomas Whitchurch.

**1. PUBLIC COMMENT:** Steve McArthur wanted to know the process for improving open space by the new LDS West Stake Center. Ted Stillman said the applicant should come to the Planning Commission with a landscaping plan. It would need to be recommended by the Planning Commission and approved by the City Council.

Craig Skidmore noted that improvements could also be done as an Eagle Scout Project.

Jim Tracy noted that the church had painted the curb red along Canyon Crest in front of the church but not in front of the pavilion.

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

**Garcia Dental Laboratory – 521 W. Wilderness Drive – Dan Bluth:** Dan Bluth requested a permit for his business in which he used his home to do payables and receivables for the dental laboratory

**MOTION:** Dale Porter moved to approve a conditional use permit for a home occupation for Dan Bluth dba Garcia Dental Laboratory at 521 W. Wilderness Drive. Steve McArthur seconded.  
Ayes: 5 Nays: 0. Motion passed.

### **3. TAYLOR MEADOWS SUBDIVISION – CONCEPT – DAVE TAYLOR/BRIAN**

**HIGBEE:** Ted Stillman said there were a number of issues related to the proposed development including an exception on the length of the cul-de-sac. The DRC had recommended a cul-de-sac length of 570 feet which would provide wider frontages for the lots. Jannicke Brewer noted that there would be no change in density and the longer cul-de-sac would constitute better planning and provide better access to the park.

Another issue was the open space. Shane Sorensen recommended that the open space along 300 East be semi-improved since it lay between the creek and the road and contained a well-site that needed some improvements. He suggested the park strip along 300 East be landscaped with weed fabric and rock. The open space along the creek would be left natural. The open space along the other streets as well as the detention basin should be landscaped with grass and a sprinkling system. Jannicke Brewer suggested there be a 5-foot combination sidewalk between the cul-de-sac and the open space to eliminate maintenance of a park strip.

Ted Stillman said there would need to be a note on the plat stating that although the lots had been removed from the FEMA map by means of a Letter of Map Amendment (LOMA), the area was in an historical flood plain. The cul-de-sac would need to be designed to flow toward 100 South.

Regarding the existing home on lot #3, Ted Stillman said the lot lines would need to be adjusted to provide the necessary setbacks because the ordinance did not allow creation of a non-conforming lot.

Craig Skidmore said there were mixed opinions from the trail committee regarding a trail along the creek. Some wanted a public trail along the creek. Others did not. Most of the Planning Commission members said they preferred not to have a trail along the back of homes and didn't want a trail along Dry Creek.

Craig Skidmore noted that the principal of Alpine Elementary, Dave Stephenson, had requested a trail through the Dry Creek Orchards subdivision so children could get to school. That item would be handled later on the agenda. The trail committee recommended a trail from the cul-de-sac into the proposed park where it would connect with the perimeter trail and provide access to the Dry Creek Orchards subdivision. He also suggested there be a footbridge farther up on 300 East since the existing bridge on 100 South was narrow. Shane Sorensen said the 100 South roadway was wider than necessary and part of that could be used for a sidewalk.

Jim Tracy said the developer had said the foundation walls on homes would be 3 feet higher than the base flood elevation. But unless that included window wells, stairwells for basements and garage door openings, it would not protect against flooding into the home. Brian Higbee said they would like to handle the window well problem, etc. with landscaping. Steve McArthur agreed with Jim Tracy, saying landscaping was an unpredictable way to protect against flooding because it was subject to change by a new homeowner.

Lincoln Watkins said he was very concerned about approving homes in an area of historical flooding, and read Section 3.9.7.3 in the Zoning Ordinance which stated that all 100-year-flood plain areas or areas of "known significant physical hazard" were to be designated as open space.

Shane Sorensen said the developer had obtained a Letter of Map Amendment from FEMA which took the proposed lots out of the flood plain, and according to David Church, the LOMA was valid at the time. FEMA was still in the process of updating their maps and that might change. However, the City had hired an independent consultant, Bowen & Collins, to review the findings, and they determined that FEMA had used a flow that was considerably higher than the flow identified by Bowen & Collins. FEMA showed a flow of 725 cfs. Bowen & Collins said the flow was between 450 and 650 cfs, and felt it would be contained within the banks of Dry Creek. The City Council had made a motion to accept the study done by Bowen & Collins.

Brian Higbee said that a lot of mitigating work had been farther up stream to prevent flooding. He said that in 1952 much of the flooding had been caused by culverts that became clogged with debris.

Lincoln Watkins said that the ordinance did not have a provision saying it was acceptable to build homes in flood areas that had been mitigated. It simply said areas of known physical hazards were to be designated as open space.

Thomas Whitchurch acknowledged that the ordinance did not have language addressing development in flood areas that had been mitigated and perhaps they should take a look at that.

Dale Porter asked if the city would be liable if there was a note on the plat stating that there had been historical flooding in the area. Jannicke Brewer said Jody Burnett had said in a Utah League of Cities and Towns workshop that a note on the plat was better than nothing.

**MOTION:** Jim Tracy moved to grant concept for Taylor Meadows Subdivision with following conditions:

1. The open space would be public with the area along Dry Creek to remain natural. Open space between 300 East and the stream would be semi-improved, and open space in the detention basin and along other street frontages would be improved with grass and sprinklers.
2. A note would be placed on the final plat stating that although the lots have been removed from the flood plain through a LOMA (letter of map amendment) from FEMA, the area had historically flooded.
3. An exception on the length of the cul-de-sac would be approved at 570 feet based on the recommendation of the Development Review Committee.
4. A trail would connect the cul-de-sac to the future park on the east.
5. A 5-foot combination sidewalk would be constructed on the east side of the cul-de-sac adjacent to the open space.
6. There would be no trail along Dry Creek
7. The cul-de-sac would be designed to flow toward 100 South.
8. The foundation walls would be 3 feet higher than the base flood elevations to include window wells, stairwells and garage openings.
9. Lot lines be adjusted to provide required setbacks for the existing home on lot 3.

Steve McArthur seconded. Ayes: 4 Nays: 1. Motion passed. Lincoln Watkins voted nay stating that he had concerns about approving a development in an historical flood area.

**4. CANYON BROOK SUBDIVISION:** Ted Stillman said there a lot of issues related to the proposed Canyon Brook Subdivision, but that evening they would discuss only open space issues. He proposed they follow a procedure wherein the developer presented his proposal and information, then the public may comment. Last, the Planning Commission would discuss the issues and make a decision.

Developer Proposal: Steve Larsen said he had emailed a letter to Ted Stillman that outlined his proposal. However, the letter had not been attached so it was not included in the Planning Commission packets. Steve Larsen said he would summarize the letter which stated that he felt the developer and the city agreed on the definition and purpose of open space. What they disagreed on was who would own the open space. He said they would like to continue the agricultural use of the open space by building a barn on it and grazing animals on it, and he felt language in the ordinance permitted that.

Steve Larsen said that much of the property on west side of road had springs on it and he felt the private owner needed to control springs in order to protect the water supply. He said they were open to having a conservation easement on the big parcels as long as they could keep the historical agricultural use of them. He wanted to develop the open space along the stream bed.

Comments from public: Craig Skidmore asked what the width of the open space would be on either side of the creek, and was told it would be 50 feet on each side.

Blaine Hudson asked if a trail had been designated to the south. Craig Skidmore said they had a desire to have a trail there but there was no specific alignment. They needed to walk the area to determine it.

There were no other comments.

### Planning Commission

Lincoln Watkins said he had an issue with all the exceptions that would be required in order for the development to go forward. By his count there were nineteen different exceptions. If the City approved those, what would happen with the next petitioner? He said he felt they were opening a Pandora's Box. After so many exceptions, they tended to become the rule rather than the exception.

Steve McArthur said David Church had made it clear that the developer could hold the title to their own homeowners association. If a conservation easement was executed with the City, the City could spell out what could and could not be done. If the homeowners association went away, the City would still hold the conservation easement.

Jannicke Brewer said that with a typical conservation easement there would be no excavating, no roadways, all development rights would be taken away. She said Dale Porter had noted that the developer's request to retain the use of the open space by building a barn and fences and grazing animals on it, and still receive density credit for the open space had the appearance of "wanting to have their cake and eat it too." Jannicke Brewer said that rather than doing a PRD, the landowners could build a house on each of the parcels provided they met other requirements of the ordinance.

Jim Tracy said he did not see a compelling reason why the open space should be private.

Thomas Whitchurch said they needed to ask who would be the better enforcer. Who would best protect the water source?

Steve McArthur said that if the use of the open space was the same, why did it matter whether it was in public or private open space? He said he felt it was "sixes."

Lincoln Watkins said he did not see that it was "sixes." Keeping the ground in private ownership was not the same as conveying it to the City. He added that the landowners did not have to petition for a PRD. It was not compelled or coerced. They could keep the land and build. A taking was when the government deprived a landowner of 100% of the value of their land.

Jannicke Brewer said that if someone owned a lot in Fort Canyon and they met the slope and setback requirements, etc., they could build even if the lot was smaller than five acres provided it existed as a parcel prior to the CE-5 Zoning. But once a landowner chose to gain economically by subdividing, they had to follow the ordinance.

Steve McArthur said the landowners had two parcels west of Fort Canyon Road. If they kept the three lots on the east side and picked up two lots on the west, they would have five lots and there

would be no open space, private or otherwise. Dale Porter said the west side was quite steep and he wasn't certain they could put a house on it.

**MOTION:** Lincoln Watkins moved that all open space in the Canyon Brook Subdivision be public open space. Jim Tracy seconded. Ayes: 2 Nays: 3. Lincoln Watkins and Dale Porter voted aye. Jannicke Brewer, Jim Tracy and Steve McArthur voted nay. Motion failed.

**MOTION:** Dale Porter moved that Parcel A be private open space and Parcels B, C and the creek bed be public. Jim Tracy seconded. Ayes: 1 Nays: 4. Dale Porter voted aye. Jannicke Brewer, Jim Tracy, Steve McArthur and Lincoln Watkins voted nay. Motion failed.

**MOTION:** Lincoln Watkins moved that Parcels A, B and C be public open space and the creek bed be privately owned with a conservation easement. Steve McArthur seconded. Ayes: 5 Nays: 0. Motion passed.

**5. THREE FALLS:** Jannicke Brewer said they would limit their discussion to the latest plat which the developer had submitted, and the number of lots. They would not talk about the impact studies.

There was a discrepancy in the slope analysis done by the City and by the developer's engineer. The developer provided a colored map showing the areas of difference between each analysis.

Shane Sorensen wrote a letter included in the packet explaining that the City had used Autocad and the developer used GIS. Autocad was more sensitive to minor depressions and elevations such as ditches and it threw off the slope analysis. The Planning Commission had taken a field trip to the Three Falls area prior to the meeting that evening to actually look at the lots and their overall slope.

Jannicke Brewer read Section 3.9.7.3.2 of the PRD Ordinance which stated that up to 15% of a lot may exceed a slope of 25% in the CE-5 zone provided that the lot met all the other requirements of the ordinance without exception. Jannicke Brewer asked if they had approached it in the right way and whether or not the lot layout could be improved.

Shane Sorensen said he did not have a problem with the slope analysis done by the GIS system. The City had traditionally used Autocad but GIS was also acceptable.

Will Jones asked the Planning Commission to make a motion to that effect.

**MOTION:** Steve McArthur moved to accept the GIS program for slope analysis for the present and until the City Engineer stated otherwise. Jim Tracy seconded. Lincoln Watkins disagreed with changing policy at the request of a developer. He said such direction should come from the City Council. The motion was withdrawn.

It was noted that lot 6 did not conform to the slope requirements. It was a remnant from the previous Illangeni plat and the developer wanted to keep it shown. In addition a trail would be lost by leaving lot 6 in the same configuration.

Jannicke Brewer said there was a significant difference on the slope analysis on other lots besides lot #6.

Shane Sorensen said they could look at each lot on a case by case basis and explained that one lot had a steep road for a short distance. Another lot had a ditch with a berm.

**6. PATTERSON ZONE CHANGE:** Ted Stillman said Patterson Construction and Cranbrook Properties wanted to expand Spring Creek Senior Housing/Assisted Living and were requesting a

zone change on property to the east of the approved development. There would need to be a public hearing at the Planning Commission level and another public hearing by the City Council.

Thomas Whitchurch said the City Council had made a motion in January 2005 instructing the Development Review Committee and the Planning Commission that they were not willing to entertain more senior housing and assisted living projects until the already approved projects were completed and occupied.

Spring Creek Senior Living was still under construction so none of the units were occupied. Paradise Cove Senior Housing had a number of completed units. Tom Nixon said Paradise Cove would have a total of 19 units and half of them were sold. Some units had been sold to individuals that were younger than 55.

Thomas Whitchurch said the Council had approved Whispering Pines Senior Housing, which had not yet begun construction, and denied Park at Grant Avenue, a senior housing project requested by Ellis Robinson

**MOTION:** Jim Tracy moved to reject the Patterson zone change application based on instructions stated in the motion from the City Council on January 25, 2005. Steve McArthur seconded. Ayes: 5 Nays: 0. Motion passed.

Agenda Item 7 – Conditional Use Standards and Item 8 – Noise Ordinance, Construction were tabled.

**7. DRY CREEK ORCHARDS TRAIL:** Ted Stillman said the principal of Alpine Elementary had requested that the City construct a walkway that would connect the school grounds to Dry Creek Orchards Lane. The walkway would allow school children from the Applewood Subdivision and areas to the east to access the school more easily and also get children off 300 North was a very busy street.

The Planning Commission discussed it and decided that since spring runoff would pose a safety hazard, there should be a way of blocking the walkway when necessary. The trail should be paved and fenced along both sides with a locking gate.

**MOTION:** Jim Tracy moved to recommend approval of a trail through the Dry Creek Orchards subdivision open space to Alpine Elementary School and have the school put in a gate. The city would pave the trail and fence both sides of the trail. Dale Porter seconded. Ayes: 5 Nays: 0. Motion passed.

#### **8. APPROVE MINUTES OF SEPTEMBER 20, 2005.**

**MOTION:** Jim Tracy moved to approve minutes of September 20, 2005 as corrected and adjourn. Dale Porter seconded. Ayes: 5 Nays: 0. Motion passed.

The meeting was adjourned at 10:20 pm.