

Bountiful City
Planning Commission Minutes
September 17, 2019

Present: Chair – Sean Monson; Planning Commission Members – Sam Bawden, Jesse Bell, Jim Clark and Sharon Spratley; City Council Representation – Richard Higginson; City Attorney – Clint Drake; City Planner – Francisco Astorga; Asst. City Planner – Curtis Poole; City Engineer – Lloyd Cheney; and Recording Secretary – Darlene Baetz

Excused: Vice Chair – Von Hill

1. Welcome and Introductions.

Chair Monson opened the meeting at 6:30 pm and welcomed all those present.

2. Approval of the minutes for September 3, 2019.

Jim Clark made a motion to approve the minutes for September 3, 2019 as written. Jesse Bell seconded the motion. Voting passed 4-0-2 with Commission members Bawden, Bell, Clark, and Higginson voting aye and Monson and Spratley abstained.

3. Consider approval for a Conditional Use Permit in written form for Tri-line Apartments, a multi-family dwelling located at 170 North 100 West, Jonathon Blosch, applicant.

Richard Higginson made a motion to approve the Conditional Use Permit in written form for Tri-line Apartments, a multi-family dwelling located at 170 North 100 West. Jesse Bell seconded the motion. Voting passed 4-0-2 with Commission members Bawden, Bell, Clark, and Higginson voting aye with Monson and Spratley abstained.

4. PUBLIC HEARING – Variance Request for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South.

Dimond Zollinger representing South Davis Water District was present. Francisco Astorga presented the staff report.

The Applicant, South Davis Water District, has requested a Variance request from lot standards, setback requirements and permissible lot coverage standards found in the R-3 Single-Family Residential Zone. The proposed Variance would allow for construction of a new well house at this location. The Planning Commission reviewed this request at its August 20, 2019 meeting. The Commission approved the Variance, with three Commissioners voting aye and one voting in opposition. It was discovered later when the Planning Commission has only four members in attendance voting on any actions must be unanimous in accordance to § 14-2-103.

The existing well was drilled in 1955; however, it has not been in operation for the last 10 years due to performance issues. South Davis Water District has decided to perform rehabilitation on the well which will require a structure to be built on the property to house chlorine and fluoride, which are incidental to the well rehabilitation. The property is approximately 40 feet deep and 16 feet wide (640 square feet) and currently is nonconforming due to the size. Currently the parcel does not comply with the following R-3 Zone lot standards:

- Minimum lot size – 11,000 square feet
- Minimum buildable area – 3,000 square feet
- Minimum lot frontage width – 80 feet
- Minimum distance abutting a public street – 50 feet

The proposed structure will be approximately 50 square feet with two doors facing 3300 South. It will be 17.5 feet from the front property line, just over 2.5 feet from the side property lines and a little over 15 feet from the rear property line. The Applicant has placed and will continue to maintain a fence surrounding the lot. Other structures such as electrical boxes and well vault will not be increased or moved. The Land Use Code requires buildings in the R-3 Residential Zone to have the following minimum setback requirements:

- Front Yard – 25 feet
- Side Yard – 8 feet
- Rear Yard – 20 feet

Based upon the width and depth of the property it severely limits anything which could be constructed. Furthermore the Land Use Code regulates permissible lot coverage of at least fifty percent of all required front, side and rear yard areas to be landscaped.

Utah Code 10-9a-702 establishes the criteria for review of a Variance request and stipulates the applicant “shall bear the burden of proving that all of the conditions justifying a Variance have been met.” In order to grant a Variance each of the following criteria must be met:

- (i) *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*

Staff Response: State law defines a hardship as “associated with and peculiar to the property itself.” The size of the property would require the applicant an unnecessary and unreasonable hardship to comply with building lot standards, setback and permissible lot coverage standards of the code. The proposed plans are reasonable for the use of the property.

- (ii) *There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

Staff Response: There are no other properties in the R-3 Zone with the same property size as the Applicant’s property, and which provide a public benefit. Staff would consider these constraints to be special and unique circumstances.

- (iii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

Staff Response: Granting the Variance will allow the applicant the ability to update and provide ongoing maintenance for a public use.

- (iv) *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

Staff Response: Since the property is relatively small and has been in existence for decades there will not be a substantial affect to the General Plan. Granting the Variance will allow the applicant to rehabilitate the well, and provide a benefit to the neighboring properties, the properties within the same zone and the public in general.

(v) *The spirit of the land use ordinance is observed and substantial justice done*

Staff Response: Allowing the applicant to build the proposed structure will maintain the spirit of the land use ordinance within the constraints of the property.

Staff recommends approval of the requested Variance, based on the analysis of the required review criteria from State law included in the above findings and the materials submitted by the Applicant with the following condition:

1. Applicant shall install solid fencing and landscaping to buffer the use of the property from neighboring properties. The fencing shall be in compliance with Bountiful Land Use §14-16-110 regarding fencing standards in Single-Family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall be in compliance with clear view standards and other applicable standards from the state of Utah.

Chair Monson opened and closed the **PUBLIC HEARING** at 6:35 p.m. without any comments.

Sharon Spratley made a motion to approve the Variance Request for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South with the one (1) condition outlined by staff. Jesse Bell seconded the motion. Voting passed 5-1 with Bawden, Bell, Clark, Higginson and Spratley voting aye and Monson voting nay.

5. PUBLIC HEARING – Variance Request for parking restrictions in the front setback and required parking for buildings fronting Main Street located at 220 and 246 N Main, Phil Holland, applicant

Phil Holland was present. Francisco Astorga presented the staff report.

The Applicant, Phil Holland, has requested a Variance from the parking standards of the Downtown Zone. The proposed Variance would allow for parking to be constructed fronting Main Street in a proposed Mixed Use development.

The Applicant, Phil Holland, has purchased three parcels having a prominent location at the corner of 200 North and Main Street. The parcels combined together total 0.684 acres (29,795 square feet). The parcels contain an existing retail building housing Brooks Fabrics, a multifamily triplex and a residential home which has been converted to a professional office.

Barton Creek flows through the center of the proposed development, entering the property on 200 North in an open culvert and exiting under Main Street in an enclosed culvert. Davis County has an easement over the creek of twenty-seven (27) feet in width, and prohibits buildings on the easement.

The Applicant previously appeared before the Planning Commission at its July 2, 2019 meeting for a preliminary site plan review. The Commission reviewed the preliminary plans and motioned to continue

the review to a date uncertain and identified several issues it wanted to see remedied and discussed the possibility of considering a Variance. The proposed development of the property will be a Mixed Commercial Use at ground level along Main Street and a Multifamily Residential Use above and fronting 200 North.

In order to develop the site, the Applicant is seeking a Variance from the parking standards of the Downtown Zone, particularly §14-7-110. The parking standard requires all parking areas of buildings fronting Main Street to be located behind the building. The creek and the County's easement do not permit a building to be built fronting Main Street on certain portions of the property. The County would however, would allow surface parking. Because the Applicant is prohibited from placing a building on portion of the property due to the easement, the Applicant is proposing a wall be constructed on those portions of the property. The proposed wall would include a mix of architectural features to match the building and landscaping elements and would act as a buffer and screen between Main Street and the parking area.

(vi) *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*

Staff Response: State law defines a hardship as “associated with and peculiar to the property itself.” The creek and County easement literally cut the property in two. These constraints have been present on the property for years presenting a challenge in developing this property. These constraints would prohibit the Applicant from placing any buildings on certain portions of the property and limit the amount of parking that can be placed behind a building and would cause the Applicant an unreasonable hardship to comply with the parking standards of the Code and should not be considered self-imposed.

(vii) *There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

Staff Response: The creek and County easement are unique to this property. With the exception of the property directly to the west of the Applicant's property there are no other properties along Main Street in the Downtown Zone that are affected by these circumstances. Staff would consider these circumstances to be special and unique to this property.

(viii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

Staff Response: Granting the Variance will allow the Applicant the ability to develop the property similar to others along the Main Street corridor.

(ix) *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

Staff Response: The Applicant's property has a prominent location along Main Street. It is the intent of the General Plan to create an inviting and vibrant Downtown area. It is in the interest of the public for properties along Main Street to develop and redevelop to meet that intent. The existence of the creek and County easement constrains the redevelopment of this property. Granting the Variance will allow the Applicant to redevelop the property, providing a benefit to the neighboring properties and others in the Downtown Zone.

(x) *The spirit of the land use ordinance is observed and substantial justice done*

Staff Response: The spirit of the Land Use Ordinance is to provide for and encourage growth and development in Bountiful City and to promote and enhance an attractive and economically vibrant community. Granting the Variance will allow the Applicant to develop the property while still maintaining the spirit of the Land Use Ordinance.

Staff recommends approval of the requested Variance, based on the analysis of the required review criteria from State law included in the above findings and the materials submitted by the Applicant with the following condition:

1. The Applicant shall install a wall to screen and buffer the parking area of Main Street and must be constructed of and containing exceptional materials such as brick or masonry which is consistent and compatible with the architectural and landscaping features of the development. The wall must be of sufficient heights so as to completely screen vehicles from view, thus enhancing the aesthetics of the site and mitigate the visual impact of parked vehicles.
2. The granting of this Variance shall not be construed as an approval of any specific site plan or waiver of any zoning requirements or regulations. All proper approvals regarding development of this property must be obtained.

Chair Monson opened the **PUBLIC HEARING** at 6:42 p.m.

Brian Knowlton resides at 630 E 500 South. Mr. Knowlton discussed:

1. That this proposal does not have a unique hardship with Barton Creek. There are other properties that have worked around the Creek.
2. The wall helps to mitigate the empty space and prefers to see landscaping against the wall.
3. Feels that the landscaping is not necessary and is not required.
4. Feels that parcel 3 would have a hardship and be eligible for a variance.

Chair Monson closed the **PUBLIC HEARING** at 6:46 p.m.

Mr. Holland stated that Davis County will not allow a footing to be placed over the creek and has proposed that there be a wall over the creek to connect both buildings and will include a landscape planter in front of it. Staff clarified that the landscape box will be approximately 4-5 feet in front of the wall and had a challenge with the grade change to the front of the building.

Mr. Bawden asked for clarification for pedestrian access to the front of the building and to the ground floor commercial businesses. Staff stated that Bountiful code does not specify where the access points need to be for the parking.

Mr. Drake stated that the Commission members will need to decide if the applicant has created a self-imposed variance as they have combined these three parcels.

There was discussion about the creek problem and the 27 foot (13.5 foot on each side of the creek) prescriptive easement from the County. Mr. Astorga discussed the limitations of the buildable area for these properties. If the parcels were not combined, then two parcels would not require a variance to build on them and one parcel would not be a buildable parcel due to the location of the creek.

Ms. Spratley stated that this project seems to be a nice solution for a situation that would always be problematic and would never meet our code.

There was discussion about the height of the wall and the grade of the parking area and the front sidewalk. *Chair Monson raised concern that this could be a self-imposed hardship and there was a discussion with the Commissioners that continued.” He feels that the plans make sense and is a great solution but that it doesn’t meet the requirements of the code.*

Sharon Spratley made a motion to approve the Variance Request for parking restrictions in the front setback and required parking for buildings fronting Main Street located at 220 and 246 N Main, Phil Holland, applicant with the two (2) conditions outlined by staff and the addition of two (2) other conditions.

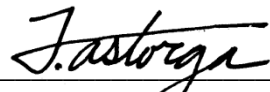
3. Height of Wall – at least a minimum of 6 foot in height from sidewalk view
4. Access, Gate or Opening consistent with other Architecture features and other entrances of the building if possible.

Jesse Bell seconded the motion. Voting passed 4-2 with Bawden, Bell, Clark, and Spratley voting aye and Higginson and Monson voting nay.

7. Planning Director’s report, review of pending applications and miscellaneous business.

1. Training date for Planning Commission members to be decided.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:22 p.m.



Francisco Astorga, Planning Director