

Bountiful City
Planning Commission Minutes
July 17, 2018
6:30 P.M.

Present: Chair – Sean Monson; Vice Chair – Von Hill; Planning Commission Members – Jesse Bell, Jim Clark, Tom Smith and Sharon Spratley; Asst. City Planner – Chad Wilkinson; Asst City Planner – Curtis Poole; City Engineer – Paul Rowland; and Recording Secretary – Darlene Baetz

Excused: City Council Representation – Richard Higginson; City Attorney – Clint Drake

1. Welcome and Introductions.

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

2. Approval of the minutes for June 19, 2018.

Sharon Spratley made a motion to approve the minutes for June 19, 2018 as written.

Von Hill seconded the motion. Voting passed 4-0-1 with Commission members Bell, Clark, Hill, Smith and Spratley voting aye and Commission member Monson abstaining.

3. Consider preliminary and final plat approval for 5th West Flex Offices located at 1051 S 500 West, Jeff Beck, applicant.

Jeff Beck was present. Paul Rowland presented staff report.

Mr. Jeff Beck, applicant, requests preliminary and final plat approval for the 5th West Flex Office Condominiums, which encompasses the recently constructed commercial building at 1051 S. 500 West. The building is located on Lot 1 of the 5th West Office Park Commercial Subdivision and already exists as a commercial structure. The building meets all of the requirements that were in place at the time of the original commercial subdivision approval and this change is solely for the purpose of producing a condominium plat of this lot so that the individual units can be sold independently.

Chair Monson temporarily left the room.

Staff recommends approval for preliminary and final plat approval for the 5th West Flex Office Condominiums, with the following conditions:

1. Submit the signed, final mylar ready for utility signatures.
2. Submit a current title report.
3. Payment of fees

Vice Chair Hill asked for a motion.

Tom Smith made a motion that the Planning Commission forward to the City Council a recommendation for preliminary and final plat approval for 5th West Flex Offices located at 1051 S

500 West with the three conditions outlined by staff.

Chair Monson returned to the table.

Sharon Spratley seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith and Spratley voting aye.

4. Consider preliminary and final subdivision approval for Hayward Subdivision located at 153 S 300 East, Robert Zesiger, applicant.

Robert Zesiger was present. Paul Rowland presented the staff report.

Mr. Robert Zesiger is requesting preliminary and final approval of the Hayward Subdivision. This two lot subdivision proposes to split the existing residential property at 153 South 300 East Street. The property is currently occupied by a single home with an attached garage which will end up on one of the two proposed lots.

The property at 111 and 153 So. 300 East contains 0.524 acres and is located in Plat A of the original Bountiful Townsite Survey. This division creates two lots, one containing 13,982 sf. and the other containing 8,842 sf., both of which are larger than the required minimum lot size for the zone. Both lots also have more than the required frontage for lots in the R-4 Zone.

All utilities are already serving the corner lot. The water and sewer services for the south lot will be connected to the main lines in 300 East Street. The power, phone, and cable lines are all overhead in the area and already serve the existing lot. Some modifications to the existing power poles and lines will need to be made in order to accommodate a home on the new lot.

Recommend preliminary and final approval of the Hayward Subdivision with the following conditions:

1. Provide a current title report.
2. Make all necessary red line corrections.
3. Pay all fees, including the Storm Water Impact Fee.

Mr. Rowland would like it on the minutes that a bond will not be required at this time. A bond will be required when a building permit is issued. The developer/home owner will be responsible for moving the power line and the easement will be shown on the final plat.

Sharon Spratley made a motion that the Planning Commission forward to the City Council a recommendation for preliminary and final subdivision approval to with the 3 conditions outlined by staff and a notation that no bond will be required at this time.

Jim Clark seconded the motion. Voting passed 5-0-1 with Commission members Bell, Clark, Monson, Smith and Spratley voting aye and Hill abstaining.

5. PUBLIC HEARING – Consider approval for a sideyard setback and lot width variance in conjunction with an application for subdivision located at 306 W 400 North, Rafael Chavez Jr, applicant.

Rafael Chavez Jr and Nathan Polatis were present. Mr. Poole presented the staff report.

The applicants, Rafael Chavez Jr. and Nathan Polatis, have requested a variance to allow the property to be subdivided without meeting the minimum corner lot setback and width requirements. The property is located in the R-4 zoning district. The applicants would like to subdivide the properties of 306 West and 292 West to create a third property to the north.

Bountiful City Land Use Ordinance section 14-2-108 states that an applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use ordinance or ruling on a request for a variance may, within fourteen calendar days of the written decision, appeal that decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.

The appeal must be in writing and specifically allege that there is an error in an order, requirement, decision or determination by the Land Use Authority. The appellant shall state every theory of relief that it can raise in District Court.

The applicants have requested a variance to allow for subdivision of the property without meeting the current corner lot set back requirements in the R-4 zone. The existing home is 17 feet from 325 West. The home was constructed in 1902. In 1984 Meadow Brook Acres Plat B was approved to the north of the property. In addition to the plat approval 325 West was expanded which explains the current setback of 17 feet of the home. The need for the variance arises from the location of the existing home. Section 14-4-105 C states that a corner lot side yard setback "shall not be less than twenty (20) feet..." Because of the expansion of 325 West which caused the home to become non-compliant a variance is needed. In addition to the issues related to the required setback, the lot does not meet the minimum width standard of the R-4 ordinance. The property is currently approximately 58 feet wide and the resulting Lot 1 of the proposed subdivision would maintain that lot width. The minimum lot width for a corner lot in the R-4 zone is 80 feet (ten feet wider than an interior lot). The resulting lot will be approximately 22 feet narrower than the minimum lot size. Section 14-2-404 A stated that a nonconformity shall not be changed except in conformance with the provision of the land use ordinance. Therefore in order to modify the property a variance must be obtained for the lot width standard.

Staff recommends approval of the requested variance in order to allow the property to be subdivided without meeting the minimum corner lot setback and lot width requirements of the R-4 zone.

Staff mentioned that the approval for the item at this meeting is for the variance and the flood plain map will be discussed at the subdivision approval meeting.

Chair Monson opened the **Public Hearing** at 6:55 pm.

Duane Mills resides at 317 W 600 North. Mr. Mills is concerned that this property would be multi-family. Staff confirmed that this property is zoned single family and not multi-family. The property owner would need to request a zone change which is a public hearing if there is a change to the current zone.

Cory Willey resides at 280 W 400 North. Ms. Willey is concerned about the small size of the new

parcel. Staff verified that parcel #3 will have an easement that will be recorded at the County to accommodate the creek channel.

Chair Monson closed the **Public Hearing** at 7:00 p.m.

Mr. Wilkinson stated that the owners of the properties have signed and given permission to proceed. The setbacks run with the land regardless of the property owners.

Sharon Spratley made a motion to approve for a sideyard setback and lot width variance in conjunction with an application for subdivision located at 306 W 400 North .

Von Hill seconded the motion. Voting passed 6-0 with Bell, Clark, Hill, Monson, Smith and Spratley voting aye.

6. PUBLIC HEARING – Consider a Zoning Text Amendment to allow for private schools in the DN (Downtown) zoning district, Jill Thompson representing Liberty Hills Academy, applicant.

Chad Wilkinson presented the staff report.

The applicant, Liberty Hills Academy, requests a zoning ordinance text amendment in order to add Private Schools as an allowed use in the Downtown (DN) zoning district.

The Downtown zone has been the focus of a great deal of discussion over the past year, mostly related to architectural and design standards and the appropriate mix of uses in the area. The Downtown Zoning district was originally adopted in 2006 as a mixed use commercial and residential zone. The purpose and objectives section for the district states that the zone was “established to provide a district primarily for the preservation of the mixed use character of the commercial and residential uses in and adjacent to the Main Street downtown area.” As with each of the zones in the City, a table listing permitted, conditional, and prohibited uses was adopted with the zoning district. The table of allowed uses does not currently include public or private schools as an allowed use in the Downtown zone. The proposed amendment would include private schools as an allowed use in order to develop a private school use in the Wight House building. While it is impossible to know all the potential reasons schools were excluded from the list of allowed uses when the Downtown zone was adopted over a decade ago, there are some significant policy issues that should be considered when deliberating a possible change to the ordinance.

Main Street remains the most viable location for businesses and restaurants in Downtown. While the proposed amendment would allow school uses throughout the downtown zone, the pending application would locate a school along Main Street in the core area of downtown. This core area, starting at 200 South and extending to 100 North, was the first portion of the downtown targeted for redevelopment by the City and has seen a significant investment in infrastructure by the Redevelopment Agency of Bountiful. This area has also seen a tremendous amount of private reinvestment with recent redevelopments of Zion’s Bank, the Hepworth mixed use buildings at 100 South and Main, the Creative Arts Academy, and others. Recent discussions and direction from the Council over the past year have included a desire to continue to focus commercial use and higher densities to areas near Main Street. Because frontage on Main Street is a limited commodity, the uses allowed on Main Street should be carefully considered. During the recent policy discussions regarding Main Street, it was acknowledged in Code adopted by the Council that ground floor Main Street frontage should not be

taken up by residential use, but should be preserved for commercial use. Similarly, it is appropriate to discuss whether a school use is a good fit within this core commercial area in downtown.

This is not a reflection on the use itself, but a question as to whether this is the highest and best use for the Main Street area. The Zoning Ordinance includes private schools as an allowed use on most lands within the City. Approximately 79 percent of the land area in the City is currently zoned for private school use. All residentially zoned properties, including those zoned single family and multifamily, include private schools as an allowed use. The areas where private schools are not allowed are limited to those zones where there is a higher potential for commercial use. These areas include commercial corridors such as 500 West, 500 South and the historic Downtown area. Main Street is specifically the portion of the downtown area most likely to support commercial use. While individual non-commercial uses have been allowed in the past on Main Street, it is critical that the Council preserve as much Main Street frontage for commercial and restaurant use, particularly in the core area of downtown.

In recent policy discussions, the Council has expressed a desire to attract additional restaurants to the downtown area. This direction is consistent with the 2009 Downtown Master Plan which identifies insufficient dining, entertainment and shopping opportunities as an issue of concern and establishes goals and policies to attract additional dining opportunities. One of the challenges in establishing restaurants in the City is finding locations that allow for alcohol licenses. State law requires minimum separations from community locations, such as churches, parks, libraries, and schools. This limits the number of locations where a restaurant serving alcohol can locate.

Although there are uses such as the existing dance school and educational uses associated with The Joy Foundation and the BDAC, these types of educational facilities are included in a separate category in State Law and are not subject to the same distance restrictions as a school use. The school use would limit issuance of restaurant alcohol licenses within 200 feet of the school as measured in a straight line or within 300 feet as measured by the shortest pedestrian route.

The Downtown zone already contains a large area where restaurants could not gain approval for alcohol licenses based on the location of the Tabernacle and the soon-to-be constructed public plaza. Allowing schools in the Downtown zone could potentially further limit opportunities for the City to attract restaurant uses to the downtown or to allow for existing restaurants to add alcohol service.

Although the current application is a legislative decision impacting the entire Downtown zone, some discussion of the characteristics of the Wight House property is appropriate. One of the main concerns in establishing a school use in the Wight House location is the lack of nearby outdoor recreation space for students attending the school. Although the applicant has indicated that students will use the interior of the building for recreation, this does not seem ideal and it is anticipated that there will be a desire for some outdoor recreation space in the future for the school. Parking areas to the rear of the building are shared by all businesses on the block and include a large parking lot owned by the Redevelopment Agency. In addition to serving the adjacent businesses, these areas are currently used to support downtown events and must remain open to the public. Another operational concern is the potential impact of drop-off and pick-up of students on adjacent businesses.

There would be several major impacts associated with adding private schools as an allowed use in the Downtown (DN) zone. As mentioned above, the inclusion of private schools could impact the City Council's goals to attract additional restaurant uses to the downtown area because of distance

restrictions for alcohol licenses placed on restaurants by State Code. Although specific to the proposed location on Main Street, the inclusion of a school in the Wight House property will also occupy a portion of the frontage on Main Street in the core area of downtown. This area is critical for maintaining adequate property to attract commercial and restaurant use to the downtown. While the City supports the establishment of private schools (as evidenced by zoning almost 80 percent of the City to allow the use) this location is not conducive to the goals and policies the Council has set for the Downtown zone.

Staff recommends that the Planning Commission forward a recommendation of denial to the City Council for the proposed amendment to the Downtown (DN) Zone.

Ms. Thompson stated that the school has 50 students and school hours are 8:30 – 2:30 and there will be plans to use the building for afterhours tutoring, recitals, receptions, or general meetings. She discussed the Bountiful City master plan and asked if the property is considered commercial or residential zone? She discussed beer licensing for existing restaurants.

Chair Monson opened the **Public Hearing** at 7:31 p.m.

Tiffany Hess – Vice Principal of the school. Ms. Hess stated that the drop-off of students happens before all businesses open for business and the school would bring significant improvement to the building and be a jewel to the downtown area.

Peter Cannon resides in Farmington. Mr. Cannon is the Chairman for the Board of Trustees to Liberty Hills. He stated that a restaurant in this location would be a challenge with the two stories.

Beverly Cannon resides in Farmington. Mrs. Cannon believes that this school will bring customers to the shops.

Mark Milburn resides in Centerville. Mr. Milburn believes that this building is ill-suited for a restaurant.

Betty White – owner of Wight House Clothing Ms. White is in favor of the school and likes the idea of an after-hours event center.

Dan White – owner of the Wight House Reception Center. Mr. White stated that the kitchen has been removed and could be used as an evening event center.

Jason Thompson – Co-founder of Liberty Hills. Mr. Thompson stated that the plans have classrooms on the second floor, event center on the first floor and student activities with supervision on the roof.

Gary Davis resides at 2148 S 500 West. Mr. Davis spoke about the possibility of placing restrictions on this business in this area.

Chair Monson closed the **Public Hearing** at 7:49 p.m.

Mr. Wilkinson stated that he understands that the Planning Commission has a difficult decision to make. He discussed that the direction from Council for the Downtown zone has been to increase the commercial and restaurants in the area. The approval is not just for this property it is a broad zone

change and has impacts to the entire Downtown zone. There are long term impacts to the decisions that are made. If this is a zone change that the Commission members want to approve then the best policy is to change the entire zone and not “contract” zone as things change in the years to come. Private schools are allowed in other zones with a Conditional Use Permit with conditions being placed on the schools.

Mr. Bell thanked the applicant for presenting a nice project however he believes that the approval of this item goes against everything that the city has been working so hard in creating the Downtown zone.

There was discussion between Commission members and applicant about the type of business this school is. Staff stated that this is a private school. Applicant wonders if the school can be defined as a different type, perhaps tutoring to meet the code. Staff showed on the map the area that would be available for a beer license.

Sharon Spratley made a motion that the Planning Commission forward a denial to City Council to consider a Zoning Text Amendment to allow for private schools in the DN (Downtown) zoning district.

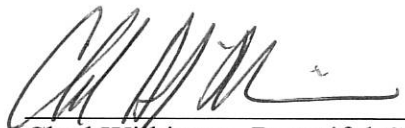
Jim Clark seconded the motion. Voting passed 4-2 with Clark, Hill, Monson, and Spratley voting aye with Bell and Smith voting nay.

Mr. Wilkinson verified the next steps for this item. The item will go forward to the City Council who can decide to open the Public Hearing to hear this item. This item has been noticed for City Council on August 7, 2018.

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

1. Next Planning Commission meeting – August 14, 2018.
2. Utah APA meeting will be held at Jordan Commons on October 4 and 5, 2018.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 8:23 p.m.


Chad Wilkinson, Bountiful City Planner