

**Bountiful City**  
**Planning Commission Minutes**  
**August 20, 2019**

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

**1. Welcome and Introductions.**

Chair Monson opened the meeting at 6:31 pm and welcomed all those present.

**2. Approval of the minutes for July 16, 2019.**

Jim Clark made a motion to approve the minutes for July 16 as written. Von Hill seconded the motion. Voting passed 4-0 with Commission members Bell, Clark, Hill and Monson voting aye.

**3. Continuations:**

- a. **PUBLIC HEARING** – Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% located at 3865 Highland Court. Continuation to a date uncertain.
- b. **PUBLIC HEARING** – Conditional Use Permit for Tri-line Apartments, a multi-family dwelling located at 170 North 100 West. Continuation to September 3, 2019 meeting.
- c. Final Site Plan Review Approval for Tri-line Apartments, a multi-family dwelling located at 170 North 100 West. Continuation to September 3, 2019 meeting.

The Public Hearings were not opened, however Chair Monson recognized the Randall Edwards who wanted to be heard. Mr. Edwards owns the building at 188 N 100 West and spoke about items b and c. He understood before he purchased the building that the City wanted to have businesses on 100 West and not multi-family. He feels that allowing multi-family would change what the City had wanted to do.

Von Hill made a motion to approve the continuations. Jim Clark seconded the motion. Voting passed 4-0 with Commission members Bell, Clark, Hill and Monson voting aye.

**4. PUBLIC HEARING – Consider approval of a Variance Request for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South, Dimond Zollinger, applicant.**

Dimond Zollinger, representing South Davis Water District was present. Francisco Astorga presented 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 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-# 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.

### **Variance Findings**

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 few if any other properties in the R-3 Zone with the same property size as the applicant’s property, which is unlike most properties within the zone as this property is maintained for

the purpose of providing 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.

Chair Monson opened the **PUBLIC HEARING** at 6:44 p.m.

Nicholas Montgomery resided at 39 E 1300 South. Mr. Montgomery stated that he had reached out to the South Davis Water District for concerns about chemicals, chlorine gas and the venting of the gases. He wanted to be able to protect his family from this situation. He has spoken with the Division of Drinking Water for answers about the chemicals that would be needed for this water station. He appreciated that the fence will be a solid fence

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

Mr. Zollinger addressed Mr. Nicholas concern about the fence and assured the Commission that the solid fence could be installed.

Mr. Bell stated his concern about the proximity to the street and the continuity of the neighborhood. He understands the need for the water needed for the neighborhood. He mentioned the concern for the fencing next to the sidewalk.

Mr. Astorga discussed the challenge of the setback of the fence. Keep the solid fence requirement – solid fence for 5. Mr. Drake stated that the 6 ft chain link fence could be kept from the sidewalk and then change to a solid fence which would eliminate the clear view hazard for the long driveway for the property next door.

The well was existing and producing a lot of sand and haven't used it for a while. The Water District would like to rehab the well but the State requires the water to be treated. This well currently has underground vaults but chlorine cannot be stored underground, that is why the well house is needed. The Subdivision was created in 1912 and approved by the County. Mr. Hill discussed the history of the approved odd parcel because of the need for the water.

Chair Monson discussed his concerns about setting a precedence for approval for these types of variances. Clint Drake stated that he had concerns about this item and had done research on this item and concluded that this is a benefit to the entire City and would not set a precedence for other Variances.

The update to this well will required an approval from the State. The well has smaller tanks, 150 lb, and will not have automatic sensors that will monitor and transfer information to the operators, the state will monitor the well on a daily basis.

Von Hill made a motion to grant the Variance for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South with the one condition outlined by staff and the addition of a second condition "The fencing will include a combination of chain link and solid fencing for security and aesthetic purposes and the solid fence be constructed as to not to obstruct the clear view requirements and all required approvals from the state of Utah. Jesse Bell seconded the motion. Voting passed 3-1 with Commissioners Bell, Clark, and Hill voting aye and Chair Monson voting nay.

**5. Consider Final Site Plan Review approval for Double Take, a multi-family dwelling located at 33 W 400 South, Brian Knowlton, applicant.**

Brian Knowlton and Randy Byers were present. Curtis Poole presented the staff report.

The applicant, Knowlton General, requests final site plan approval for a 14-unit multifamily development located at 33 and 55 West 400 South. The property is located within the Downtown (DN) Mixed Use zone. The Planning Commission reviewed and approved a Conditional Use Permit and forwarded a positive recommendation of approval to the City Council for a Preliminary Site Plan at its May 7, 2019 meeting. The Council reviewed the Commission's recommendation and approved the Preliminary Site Plan at its May 14, 2019 meeting. The site is surrounded by single family residential use on the west, mixed use and commercial to the north, and commercial property to the south and east.

The two properties which make up the development are approximately 0.25 acres (10,933 square feet) each, although 33 West will need to have an additional 0.05 acres (2,178 square feet) conveyed to it from the former Marie Calendar's/Sea Bears property immediately to the east. The two properties will need to be combined into a single parcel of record prior to the issuance of a building permit.

The proposed buildings meet the required setback and height standards for the DN Zone. Because the buildings are located more than 200 feet from 100 West the maximum building height is 55 feet. The

proposed buildings are four stories and approximately 46 feet in height. The applicant proposes building materials consisting of a mix of EIFS cladding (synthetic stucco) and brick. Color renderings of the buildings are attached to this report. The proposed structures meet the required articulation standards of the Code and comply with the maximum 2:1 height to width ratio requirements. Ground floor units have entrances facing 400 South and balconies or patios are shown for each unit.

The plan shows the minimum 10 percent of landscape area and the additional 50 square feet per unit of landscaping required by Code for a multifamily development; however, a detailed landscape plan will need to be submitted demonstrating compliance with the minimum requirements of the landscape code prior to the issuance of a building permit.

Access to the site will be via a single driveway on 400 South. Submitted plans show the development meets the parking standards in code. There are 29 off-street parking stalls; of which, 17 stalls are covered. The development will have a total of 8, one-bedroom units, and 6, two-bedroom units. Based upon the parking standards in the Code the development is required to have 28 off-street parking stalls with at least 14 covered stalls. The development will also have two handicap parking stalls.

Water and sewer will be provided via connections to existing lines in 400 South. Storm water drainage may require a connection to 100 West as the proposed retention system may not adequately dispose of storm water and additional information is required to determine adequate permeability of soils to allow for retention on site. Garbage collection will occur at the rear of the property.

Staff recommends the Planning Commission forward a recommendation of approval to the City Council for final site plan review for the proposed 14-unit multifamily building subject to the following conditions:

1. Complete any and all redline corrections.
2. Prior to the issuance of a building permit the lots shall be combined and recorded with Davis County.
3. Submit a landscape plan meeting the minimum requirements of Sections 14-16-104 and 14-16-109.
4. Resolve any issues or concerns regarding storm water retention to the satisfaction of the City Engineer.
5. All damaged curb, gutter and sidewalks along 400 South shall be replaced.
6. Sign a Development Agreement.
7. Pay fees and post an acceptable bond in the amount determined by the City Engineer.

Von Hill made a motion to forward a recommendation of approval to the City Council for the final site plan review for Double Take, a multi-family dwelling located at 33 W 400 South with the seven conditions outlined by staff. Jim Clark seconded the motion. Voting passed 4-0 with Commissioners Bell, Clark, Hill and Monson voting aye.

**6. Consider Final Site Plan Review approval for an addition at St. Olaf Church and School located at 1793 South Orchard Dr, Ralph Stanislaw representing St. Olaf Church and School, applicant.**

Ralph Stanislaw was present. Curtis Poole presented the staff report.

The applicant, St. Olaf Catholic Church and School, requests Final Site Plan approval for an expansion of their private school, located at 1793 South Orchard Drive. The property is located in the R-4 Single-Family Residential Zone.

The Planning Commission reviewed and forwarded a positive recommendation of approval to the City Council for the Preliminary Site Plan at its July 2, 2019 meeting. The Council reviewed and approved the Preliminary Site Plan at its July 9, 2019 meeting. The property is zoned R-4 and is surrounded primarily by single-family uses. St. Olaf Catholic School and Church are located on 7.207 acres (313,936 square feet) at the intersection of Orchard Drive and 1800 South. Construction on the existing school began in 1959 with the first classes starting in 1960. The school provides Kindergarten through 8<sup>th</sup> grade classes.

The proposed expansion will allow for construction of a multipurpose room, kitchen, additional classrooms and new entry to the school. The school currently does not have a cafeteria or kitchen and students eat lunch at their desks. The proposed expansion will be to the east of the existing school on what is now a hard surface playground and parking area. In addition to the building expansion the applicant is proposing revisions to the entrances, parking and landscaping plans.

The expansion will move the main school entry further to the east giving it more prominence. In addition to revising the entrances to the school the applicant will create a smoother traffic flow for student pick-up/drop-off. The parking lot to the west of the existing school will be modified to create a landscape buffer between the sidewalks on corner of Orchard Drive and 1800 South, and the parking lot. The sidewalk along 1800 South will be extended to bridge an existing gap. A new parking lot is being proposed to the south of the expansion with additional parking being added to the west of the expansion. Parking for this property is shared between school and Church uses.

A new storm water retention system will also be added as part of the expansion to resolve drainage issues. Modification to the drain line from the proposed upper parking lot will need to be made to better align it with the lower parking lot drain line. Bountiful Power will provide one connection to the school. The applicant will also be removing the current parking lot lighting provided by the City and replace it with their own lighting system.

A fire lane will be added at the northwest drive approach and will be marked and maintained year round. As part of the building approval process the applicant will be required to receive approval from the State Fire Marshall, which may require a sprinkler system on the addition and to retrofit a sprinkler system on the existing school.

Construction should not impact traffic flow; primarily along 1800 South since a new culinary water line was installed in advance of the recent overlay on 1800 South. The property has been in use for years so there should be little impact to the surrounding neighborhoods, public utility and transportation systems.

Staff recommends the Planning Commission forward a recommendation of approval to the City Council for final site plan review for the proposed expansion of the Denominational and Private School subject to the following conditions:

1. Complete any and all redline corrections.
2. Receive approval from the State Fire Marshall and make any required changes.
3. All damaged curb, gutter and sidewalks along Orchard Drive and 1800 South shall be replaced.
4. The sidewalk along 1800 South shall be extended to cover the existing gap.
5. Any retaining wall over 4 feet will require a separate permit.
6. The applicant shall provide documentation regarding water retention and resolve any storm drain issues to the satisfaction of the City Engineer.
7. Prior to issuance of the building permit, resolve any concerns with Bountiful City Light and Power regarding connections to the property and lighting in the parking lot.
8. Pay fees and post an acceptable bond in the amount determined by the City Engineer.
9. Sign a Development Agreement.

Jim Clark made a motion to forward a recommendation of approval to the City Council for the final site plan review for an addition at St. Olaf Church and School located at 1793 South Orchard Dr with the 9 conditions outlined by staff. Jesse Bell seconded the motion. Voting passed 4-0 with Commissioners Bell, Clark, Hill and Monson voting aye.

**7. Consider Preliminary Architectural and Site Plan Review approval for a new building for Alphagraphics located at 265 South Main Street, Spencer Anderson, applicant.**

Francisco Astorga presented the staff report.

The applicant, Spencer Anderson with JZW Architects representing Bountiful Alpha Graphics, requests Preliminary Architectural and Site Plan Review Approval for an addition to the existing building located at 265 South Main Street. The site is located within the Downtown (DN) Mixed-Use Zone and will incorporate an addition to the existing building, mainly on the site formerly known as Bountiful RV. The application includes the construction of an addition of approximately 17,000 square feet. The square footage of the two (2) buildings is approximately 22,000.

This site received Final Site Plan approval by the City Council on October 9, 2018 and all corresponding subsequent Site Plan Approvals by the Planning Commission and City Council based on a different set of plans. The former application included the construction/remodel of approximately 24,000 square feet which included a  $\pm$ 3,000 square foot future tenant space. The applicant notified the City that they are no longer pursuing such plans.

The property is zoned DN and is surrounded by commercial development on the north, south, east, and west. To the northeast is the existing soccer field property owned by Bountiful City.

The proposed development is located on a 1.02 acre property consisting of two (2) lots. Prior to construction of the proposed addition, the lots will need to be consolidated into one (1). Access to the project will be via two (2) driveways: the existing Main Street driveway leading to the existing parking lot and a separate new driveway on 300 South. The applicant will close the existing driveway approaches on the former Bountiful RV site. Based on the square footages and known uses, the proposal meets the parking requirements.

The proposed building meets the required setbacks and height standards. The applicant proposes

building materials consisting of EIFS (synthetic stucco) and metal paneling. Color renderings of the buildings are attached to this report. The newly adopted standards of the Code require certain articulation of the building. While the Main Street frontage appears to meet the standard, the 300 South frontage does not appear to provide the required articulation at the 25 foot intervals. As a condition of approval, the applicant shall demonstrate how these standards have been met.

The plan shows the minimum 10 percent of landscape area; however, a detailed landscape plan will need to be submitted meeting the minimum requirements of the landscape code.

Storm water will be collected on site in an underground detention facility with excess flows conveyed to the existing storm drain system to the north in Main Street via new storm drain lines installed in the existing soccer field property. Water and sewer will be provided from existing lines in 300 South and Main Street and will include the extension of an 8-inch water line and onsite fire hydrant. Plans have been reviewed by the City Engineer with redline changes required in order to meet City standards and obtain final approval.

Currently the DN Zone regulations requires building to be located within ten feet (10') of Main Street, see *Bountiful City Land Use Code § 14-7-105(A)(2)*, and requires off-street parking to be located to the side or rear of the building, see *Bountiful City Land Use Code § 14-7-110(A)*. The existing building is approximately eighty-one feet (81') from Main Street and has eleven (11) parking spaces directly in front of the building. The existing building/site does not comply with current maximum front setbacks and parking location regulations found in the DN Zone, and is classified as a Noncomplying Structure.

Bountiful City Land Use Code defines a noncomplying structure a, "a structure that legally existed before its current land use designation; and because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land."

Traditionally expansion of a nonconforming or noncomplying structure is discouraged; however, a municipality may provide direction regarding when or how a structure may be altered, expanded, or enlarged, which is typically done by ordinance. Bountiful City Land Use Code § 14-2-402(A) states: "Expansion and Enlargement. Any expansion of a nonconformity that increases the degree of nonconformance is prohibited except as provided in this Title or as may be required by law. For purposes of this Section, the addition of a solar energy device to a building is not an expansion."

The Bountiful City Land Use Code defines a noncomplying structure a, "a structure that legally existed before its current land use designation; and because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land." It is important to note that any expansion must be in compliance with the current zoning code applicable to the property (e.g., setbacks, parking, signage), and there is no similar right to expand a nonconforming structure that would exacerbate the structure's dimensional nonconformity. The proposed addition to the existing building does not increase the degree of nonconformance as it complies with the current regulation. The proposed addition is placed towards the front of the street and the off-street parking is placed behind the proposed addition. The addition meets the current maximum front setback and parking location regulations found in the DN Zone. The "connector piece" or interior hallway connecting the existing building to the proposed addition is found



behind the existing driveway/parking area and it also does not increase the degree of nonconformance.

Staff recommends that the Planning Commission forward to the City Council a recommendation of approval for preliminary site plan review for the proposed addition to the existing Alpha Graphics building subject to the following conditions:

1. Complete any and all redline corrections.
2. Prior to issuance of building permit, consolidate the two (2) parcels.
3. Demonstrate how the plan meets the standards of section 14-7-112 C. 7 related to required articulation along the building facades.
4. Enter into an agreement with Bountiful City to provide a 10 foot wide drainage easement in favor of the subject property owners across the soccer field property for the proposed storm water outfall line. The description of the easement to be written after the installation of the storm drain system is complete. In return for granting the drainage easement, the City requests to use of the new storm drain for drainage of the future parking lot on the west side of the soccer field.

Mr. Astorga stated the current building footprint will remain but does not meet the current Downtown (DN) zone code. The current code will not allow the building footprint to be enlarged unless the changes would meet the current DN code requirements. The cost associated with the previous set of plans has prevented the applicant from going forward and has brought the new proposed plans forward for approval. The proposed plan has enough parking in the rear of the property even if the existing parking goes away.

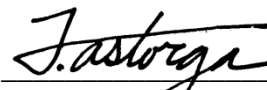
There was a discussion about the design of the walkway to connect the two buildings and whether it was allowed under the standards of the code.

Von Hill made a motion to forward a recommendation of approval to the City Council for the Preliminary Architectural and Site plan review approval for a new building for AlphaGraphics located at 265 South Main St with the 4 conditions outlined by staff. Jim Clark seconded the motion. Voting was 3-1 with Commissioners Clark, Hill and Monson voting aye and Commissioner Bell voting nay.

#### **8. Planning Director's report, review of pending applications and miscellaneous business.**

1. New Zone Change – next meeting.
2. New Software for Planning Commission packets.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:36 p.m.

  
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Francisco Astorga, Planning Director