



WILLARD CITY
Planning Commission Meeting – Regular Meeting
Thursday, April 18, 2024 – 6:30 p.m.
Willard City Hall – 80 West 50 South
Willard, Utah 84340

The meeting was a regular meeting designated by resolution. Notice of the meeting was provided 24 hours in advance. A copy of the agenda was posted at City Hall and on the State of Utah Public Meeting Notice Website.

The following members were in attendance:

Chandler Bingham, Vice Chairman
Diana Baker
Ruth Beebe
Alex Dubovik
Brian Gilbert

Jeremy Kimpton, City Manager
Colt Mund, City Attorney
Madison Brown, City Planner
Michelle Drago, Deputy Recorder

Excused: Sid Bodily and Chad Braegger

Others in attendance: Mayor Travis Mote; Duane Dominguez; Ken Ormond; and Ruth Ormond.

The meeting was called to order at 6:31 p.m.

1. PRAYER: Brian Gilbert
2. PLEDGE OF ALLEGIANCE: Alex Dubovik
3. GENERAL PUBLIC COMMENTS

There were no comments.

4. CITY COUNCIL REPORT

Time Stamp: 02:37 04/18/2024

Mayor Mote reported on the April 11, 2024, City Council meeting. The City Council finalized the Marc Anderson rezone with an ordinance. Two taxes were repealed, and one tax was added back. All three were related to the November 2023 ballot initiative regarding UTA. The UTA taxes were repealed and replaced by a tax that will send Willard funds for roads. Overall, it was a tax cut for the citizens. The City Council was working to vacate some sewer easements by the old Hubbard home and amend the Subdivision Ordinance to clean up issues and add a water allocation plan.

- 5A. CONSIDERATION OF A CONDITIONAL USE PERMIT FOR DUANE DOMINGUEZ TO REPAIR ALL-TERRAIN AND UTILITY-TERRAIN VEHICLES ON HIS PROPERTY LOCATED AT APPROXIMATELY 369 WEST 200 NORTH (PARCEL NO. 02-057-0030)

Time Stamp: 04:46 04/18/2024

Madison Brown, City Planner, stated that Duane Dominguez had applied for a home occupation license to repair all-terrain and utility-terrain vehicles. His request became a conditional use permit because he planned to do the repairs in a shop on his property. The business would not be conducted in his home. Fire Chief Mund had inspected the shop and did not have any issues. The CUP Review Committee had reviewed Mr. Dominguez's application and recommended that it be approved subject to there being no more than



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four vehicles parked outside at any time; a 10-pound fire extinguisher in the shop at all times; a metal container for the storage of oily rags; an annual fire inspection; no employees; and no outside storage of materials or contaminants.

Commissioner Dubovik asked if the conditions had been met.

Duane Dominguez stated that he had the fire extinguisher, and he had added the metal container for oily rags.

Commissioner Gilbert asked if a grease separator was needed. Mr. Dominguez said his shop did not have water or sewer.

Commissioner Baker asked what would be done with the old oil. Mr. Dominguez said he would take it to Auto Zone or O'Reilly Auto Parts to be recycled.

Commissioner Baker asked if a special permit was needed for the oil. Jeremy Kimpson, City Manager, said a permit was usually needed for larger quantities.

Commissioner Dubovik moved to approve a conditional use permit for Duane Dominguez to repair all-terrain and utility-terrain vehicles on his property located at 369 West 200 North (Parcel No. 02-057-0030) subject to the conditions recommended by the CUP Review Committee. Commissioner Gilbert seconded the motion. All voted "aye." The motion passed unanimously.

5B. REVIEW OF A CONDITIONAL USE PERMIT ISSUED TO BILL & SHELLEY MERRITS FOR A SINGLE-FAMILY DWELLING ON SENSITIVE LAND LOCATED AT 344 EAST 300 NORTH (PARCEL NO. 02-048-0005) ISSUED MAY 10, 1993

Time Stamp: 8:52 04/18/2024

Madison Brown stated that this was part of the conditional use permit review process. Bill and Shelley Merritts applied for and received a conditional use permit in 1993. A building permit was not granted until 2018. Merritt's needed permission to build a home at 344 East 300 North because the parcel was located on sensitive land. The land was part of the well-head protection zone and in the FEMA flood plain. The home was no longer owned by the Merritt's. It was now occupied by Jane Eyre. Because conditional use permits remained with the property, this one needed to remain active because the home was currently being used.

There were no comments.

5C. DISCUSSION REGARDING AMENDING CHAPTER 12-105 OF THE WILLARD CITY ZONING ORDINANCE TO ALLOW SHORT-TERM RENTALS IN RESIDENTIAL ZONES (CONTINUED FROM APRIL 4, 2024)

Time Stamp: 10:55 04/18/2024

Colt Mund, City Attorney, stated that he had been working on an ordinance for short-term rentals using the Richmond ordinance as a model. He would have a proposed ordinance ready for the Planning Commission to review at the next meeting. He did have a few questions. Richmond and other cities made short-term



WILLARD CITY

Planning Commission Meeting – Regular Meeting

Thursday, April 18, 2024 – 6:30 p.m.

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Willard, Utah 84340

rentals a conditional use. Willard's code included short-term rentals in the Commercial Neighborhood, Commercial General, and Manufacturing zones as a conditional use, but they were not mentioned in residential zones. Did the Planning Commission want short-term rentals to be permitted in some zones or be reviewed as a conditional use on a case-by-case basis?

Vice Chairman Bingham felt short-term rentals should be conditional uses and reviewed case-by-case. The Commission agreed.

Commissioner Dubovik felt each application should be reviewed so that each applicant understood the rules.

Commissioner Baker asked about the difference between a short-term rental and an accessory dwelling unit. Mr. Kimpton explained that a short-term rental had a lease that was less than 30 days in duration.

Commissioner Gilbert asked if an accessory dwelling unit could be changed to a short-term rental. Colt Mund said the ordinance he was proposing would require a short-term rental license, which was distinct from a business license. If someone wanted an ADU to be a short-term rental, they would have to go through the review process to be licensed by the city. He felt enforcement of short-term rentals and ADU's would be a challenge. He proposed that violation of the short-term rental ordinance be a Class B Misdemeanor as a land use violation, which was the default of the state code. He hoped that would function as a deterrent.

Vice Chairman Bingham asked about the ADU ordinance and how it was enforced. Mr. Mund said the ordinance included a criminal violation and a lien provision. If the city determined there was a violation, it could use those tools. Enforcement was complaint driven.

Mayor Mote asked how many ADU's were allowed per property. Mr. Mund said only one ADU – internal or external - per parcel was allowed.

Vice Chairman Bingham's biggest worry was safety. What if there was a fire in an accessory building, and the Fire Department did not know people were living there?

Mayor Mote asked how the City would determine the difference between an internal ADU and a short-term rental. Jeremy Kimpton said there were building code characteristics that defined an ADU. Typically, an ADU had its own HVAC system, there was not an entryway between the rental and the main dwelling, and it had its own ingress/egress. The city would have to consider whether the rental was being used by family.

Colt Mund stated that an ADU was defined as a rental. What was a rental? If a homeowner allowed a child or parent to live in part of the home and not pay rent, was that a rental? It was a gray area. In his opinion, a rental meant some exchange of money or services, some type of compensation or consideration.

Mayor Mote felt the city would see more multi-generational families because of housing prices.

Colt Mund felt there were certain indicators that an accessory dwelling was being rented, such as advertising. The city could use that as a basis for compliance.

Vice Chairman Bingham asked that the draft ordinance be scheduled for discussion at the next meeting.



WILLARD CITY

Planning Commission Meeting – Regular Meeting

Thursday, April 18, 2024 – 6:30 p.m.

Willard City Hall – 80 West 50 South

Willard, Utah 84340

5D. DISCUSSION REGARDING AMENDING CHAPTER 12-106 OF THE WILLARD CITY ZONING ORDINANCE THE MASTER PLANNED COMMUNITY ZONE (CONTINUED FROM APRIL 4, 2024)

Time Stamp: 23:06 04/18/2024

Vice Chairman Bingham said he had asked that this item be placed on the agenda. He wanted to make sure the MPC Ordinance worked with the new General Plan. One area of concern was the minimum size. Another was whether the density in an MPC Zone should be consistent with the underlying zone.

Mayor Mote said the signed ordinance had a typographical error in 12-106-2 that needed to be corrected. Was the minimum size ten acres or twenty?

Commissioner Dubovik felt the Planning Commission and City Council verbally agreed that the minimum size would be twenty acres. Since the MPC was adopted, there had been discussion about how few twenty-acre parcels were left in Willard. If the city wanted more control over more parcels, the minimum MPC should be reduced to ten acres.

Vice Chairman Bingham felt the way open space was administered needed to be clarified. The ordinance provided for payment in lieu of open space, but it was not clear about how it worked.

Commissioner Gilbert asked how the value of the open space was determined. Was it the value of raw land or improved land? He felt it should be improved land. How many parks did Willard need?

Mayor Mote stated that developers were proposing small open spaces for their individual developments. Yet the residents of Willard wanted more open lots and access to the parks that were developed. If the minimum MPC size was reduced to ten acres, the open spaces would become smaller and harder to manage. The discussion of value came up for Lew Swain's Old Farm Subdivision. The city had to take the appraised value, which was raw land. He thought city officials had been thinking the fee-in-lieu-of would be based on improved land, but it was not in the ordinance. There were definitely some administrative issues that needed to be cleaned up. MPC's took a lot of staff time. He was concerned that if the size was reduced to ten acres, every development would be an MPC.

Commissioner Dubovik said an MPC would only be proposed if lots were less than a half-acre. Mayor Mote felt every developer wanted lots smaller than a half-acre because they wanted to maximize their return on investment.

Vice Chairman Bingham felt the payment-in-lieu of gave the city the ability to decide where parks should be.

Mayor Mote felt the density cap would lead developers to do half-acre density because there was not a benefit for them. The city needed to decide what the maximum density would be. If the underlying density on the General Plan was half-acre, what would developers be paying in lieu of?

Commissioner Dubovik said a ten-acre MPC with 20% open space meant two extra lots if they paid a fee-in-lieu-of. Mayor Mote felt that calculation needed to be in the ordinance, so it was clear to everyone. Developers thought they could pay the city for 20% of open space and have carte blanche on the lot size.



WILLARD CITY

Planning Commission Meeting – Regular Meeting

Thursday, April 18, 2024 – 6:30 p.m.

Willard City Hall – 80 West 50 South

Willard, Utah 84340

The ordinance needed to define the value of the open space and how open space and lot sizes would be calculated.

Vice Chairman Bingham asked the Planning Commission to review the MPC ordinance to see if any other changes were needed.

Commissioner Gilbert asked if there was a dollar figure attached to the staff time for a ten-acre parcel versus twenty acres. Mayor Mote stated that each MPC had to have a development agreement, which took a lot of time for the City Attorney to review and negotiate. The City Planner had to administer the ordinance. MPC's might take less than if the ordinance had more guidance. The administration was amending the Subdivision Ordinance to allow developers to be charged for attorney fees.

Commissioner Dubovik asked if developers would be less attracted to a ten-acre parcel. Mayor Mote felt developers would be attracted to ten-acre parcels if the MPC Zone allowed them because they would be more financially lucrative.

Commissioner Dubovik asked how the fee-in-lieu-of funds would be administered. Mayor Mote stated that the city did not have an assigned account or an ordinance that tied the fee-in-lieu-of to parks. Currently the funds went into a discretionary account. He felt the intent was to use the fee-in-lieu-of funds for parks and parks' activities. Commissioner Dubovik felt the city needed to account for the fee-in-lieu-of funds.

Jeremy Kimpton said the fee-in-lieu-of might need to go into a restricted fund. Mayor Mote said the city did not have an ordinance that tied the funds received for open space to the purchase and maintenance of open space. He was not sure if the state code did. He felt the moral thing to do was make sure that was what the funds were used for. Mr. Kimpton agreed.

Jeremy Kimpton stated that he would speak with the city's auditor about how to account for any fees-in-lieu-of received by the city.

Vice Chairman Bingham asked how the Planning Commission felt about the minimum size of an MPC.

Commissioner Gilbert felt the ordinance requirements needed to be clear for the developer. It was frustrating for them to pay for wasted engineering fees.

Mayor Mote stated that he created a checklist for the staff to use when reviewing an MPC. He acknowledged that the questions were subjective. Yes, the city wanted the MPC ordinance to be flexible, but it was so flexible that the city and developers were on opposite sides. There needed to be a way to bridge the gap.

Vice Chair Bingham asked if the MPC Ordinance needed to include language about payment of attorney's fees. Colt Mund felt that the proposed amendment to the Subdivision Ordinance would be sufficient.

Vice Chairman Bingham said the Planning Commission needed to determine a minimum size, a formula for calculating the amount and value of open space, and overall density.

There was further discussion. Vice Chairman Bingham felt the goal was to get a little bit of money for parks and various lot sizes. Mayor Mote felt the open space benefits were limited with the smaller size. Commissioner Gilbert felt a twenty-acre minimum would deter smaller MPC's, and it gave the city some control. Mayor Mote felt every annexation request from South Willard would include an MPC request. Mayor



WILLARD CITY

Planning Commission Meeting – Regular Meeting

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Mote also felt information from the auditor might change the way the city looked at fees-in-lieu of. Commissioner Baker felt twenty acres would provide for more conformity in appearance. Commissioner Beebe felt twenty acres would provide more room for better planning. Vice Chairman Bingham was not sure how the MPC ordinance could be worded to encourage a variety of lot sizes. Commissioner Dubovik felt a ten-acre minimum could be attractive if there was a net density of a half-acre.

Vice Chairman Bingham asked the city manager to investigate how fees-in-lieu of could be used. He asked the staff and Planning Commission to calculate a formula for the ordinance. He also asked the staff to determine if anything needed to be added to the ordinance to make MPC's easier to process. The ordinance needed to contain language defining the value of open space as improved land, not raw land.

Jeremy Kimpton said the staff would try to gather some answers for the Planning Commission.

Vice Chairman Bingham tabled discussion regarding the MPC Ordinance until the staff had information for the Planning Commission.

5E. CONSIDERATION AND RECOMMENDATION TO THE CITY COUNCIL REGARDING AN AMENDMENT TO THE GENERAL PLAN CHAPTER 12-000 OF THE WILLARD CITY ZONING ORDINANCE TO INCLUDE A FUTURE LAND USE MAP FOR THE SOUTH WILLARD AREA INCLUDED IN WILLARD'S ANNEXATION POLICY DECLARATION (CONTINUED FROM APRIL 4, 2024)

Time Stamp: 50:35 04/18/2024

Mayor Mote stated that during the last meeting, the Planning Commission discussed the future land use map for South Willard and the need to drive through South Willard to be prepared for the open house on May 16th. The open house would include a brief presentation about what had led to the current situation. Box Elder County had promised to send a representative to answer questions about the County's position. Then Willard and South Willard residents would be invited to provide feedback. The goal was to have Box Elder County adopt whatever plan was formulated. Mayor Mote felt it was becoming increasingly apparent that South Willard would either have to incorporate or become part of Willard. Either way, Willard needed to make sure roads connected and that development was orderly. Box Elder County really did not have a plan. He asked the Planning Commission members to document any ideas they had.

Vice Chairman Bingham liked the road map proposed by Commissioner Gilbert. Commissioner Gilbert said he had tried to find a way to continue 200 West to the south. Some areas were tight. He was not sure it would work.

Commissioner Gilbert felt that maps of the watershed would be very helpful. Mayor Mote felt a wetland map could be pulled from Box Elder County's website and that the city's engineer could provide information about sensitive land and slopes on the east side of South Willard.

Commissioner Dubovik asked if there was a way to combine his proposed zoning map with Commissioner Gilbert's road map. He felt that would be a good start and would give the public something to throw darts at.

Commissioner Gilbert felt the elk farm on the east side of Highway 89 was premier commercial land.



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Planning Commission Meeting – Regular Meeting

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Willard City Hall – 80 West 50 South

Willard, Utah 84340

There was further discussion.

6. CONSIDERATION AND APPROVAL OF THE APRIL 4, 2024, REGULAR PLANNING COMMISSION MINUTES

Commissioner Baker moved to approve the April 4, 2024, minutes as written. Commissioner Beebe seconded the motion. All voted “aye.” The motion passed unanimously.

7. COMMISSIONER/STAFF COMMENTS

Time Stamp: 1:02:34 04/18/2024

Colt Mund

Colt Mund stated that he had discussed the ADU Ordinance and the City’s zoning tables with Jeremy Kimpton. There was a need to clean things up. The zoning table referenced ADU’s, but it did not distinguish between internal or external. Some changes would be proposed to the Planning Commission in a few weeks.

Jeremy Kimpton said the Zoning Ordinance did not list any ADU as a CUP. He asked if the Planning Commission wanted all ADU’s to be conditional uses, or just external.

Colt Mund said the state code made an internal ADU a permitted use in any residential zone. The city had some flexibility with external or detached ADU’s.

Vice Chairman Bingham felt detached ADU’s should be a conditional use in residential zones.

Michelle Drago, Deputy Recorder, said the ADU ordinance said an ADU was required to have a license. Did that mean both, or just external? Colt Mund felt a license would be required for either one if it was intended to be used as a rental. The state code said *rental*. He interpreted *rental* to mean an exchange, or some type of consideration, for the use of the living space.

Jeremy Kimpton

Did not have any comments.

Madison Brown

Madison Brown stated that she had ordered maps for the open house. They were supposed to be ready by May 1st.

Jeremy Kimpton said they would also print the maps proposed by Commissioners Dubovik and Gilbert.

The Planning Commission decided to hold a work session at 6:00 p.m. on May 2nd.

Madison Brown asked for help with an agenda for the open house.



WILLARD CITY
Planning Commission Meeting – Regular Meeting
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Commissioner Beebe

Commissioner Beebe said the denser the housing was, the more it would cost the city to provide services.

Commissioner Dubovik

Did not have any comments.

Commissioner Gilbert

Did not have any comments.

Commissioner Baker

Did not have any comments.

Michelle Drago

Michelle Drago suggested that the short-term rental ordinance include a limit or a cap.

Vice Chairman Bingham

Did not have any comments.

8. ADJOURN

Commissioner Baker moved to adjourn at 7:55 p.m. Commissioner Beebe seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: _____

5/2/24



Planning Commission, Vice Chairman
Chandler Bingham



Planning Commission Secretary
Michelle Drago

dc:PC 04-18-2024