

**TREMONTON CITY CORPORATION  
LAND USE AUTHORITY BOARD  
November 18, 2015**

Members Present:

Steve Bench, Chairman/Zoning Administrator  
Chris Breinholt, City Engineer  
Shawn Warnke, City Manager  
Paul Fulgham, Public Works Director  
Marc Christensen, Parks & Recreation Director  
Linsey Nessen, Deputy Recorder

Chairman Bench called the Land Use Authority Board Meeting to order at 9:01 a.m. The meeting was held November 18, 2015 in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Chairman Steve Bench, Engineer Chris Breinholt, Manager Shawn Warnke, Director Paul Fulgham, Director Marc Christensen, and Deputy Recorder Linsey Nessen were in attendance.

1. Approval of agenda:

**Motion by Engineer Breinholt to approve the November 18, 2015 agenda.** Motion seconded by Director Fulgham. Vote: Chairman Bench – aye, Engineer Breinholt – aye, Manager Warnke – aye, Director Fulgham – aye, and Director Christensen – aye. Motion approved.

2. Approval of minutes: October 21, 2015

**Motion by Director Christensen to approve the minutes of October 21, 2015.** Motion seconded by Engineer Breinholt. Vote: Chairman Bench – aye, Engineer Breinholt – aye, Manager Warnke – aye, Director Fulgham – aye, and Director Christensen – aye. Motion approved.

3. New Business:

a. Discussion and consideration of approving the Final Plat for Holmgren Estates East Phase 4 – Lyle Holmgren

Manager Warnke stated most of his comments are just notes that need to be added to the plat such as the street name being noted, calling out the easements by reference, etc. and asked if the Agricultural Protection Area note applied and needed to be added to the plat. Mr. Lyle Holmgren stated this area is not in the Agricultural Protection area. Manager Warnke stated the adjoining property that is within 300 feet of this property is in the Agricultural Protection Area. All that would be required to place this property in the Agricultural Protection Area would be a note on the plat.

Mr. Holmgren stated the property is only three lots deep and there is more than 300 feet between this property and the adjoining property that is in the Agricultural Protection Area.

Manager Warnke asked if his comments should be forwarded on to Engineer Breinholt. Engineer Breinholt stated they should be forwarded on to him and he can incorporate those comments that apply.

Engineer Breinholt asked if Lot 60 is going to be designated as a non-buildable lot and clarified that no services will be installed to the lot. Manager Warnke stated he wasn't sure what title should be given to the lot. Chairman Bench stated the Board has talked a couple of times about the proper language for the plat such as a non-buildable lot or just Parcel A with a note on the plat stating there are no utilities to the lot.

Manager Warnke stated that the road, 775 East, won't be completed at this time, and asked Mr. Holmgren if he was okay with a note being added in the Development Agreement stating that 775 East will be completed with development of the next phase. If a new owner were to take over this development, the note would also put them on notice that they will be responsible for completing 775 East.

Mr. Holmgren asked what the next step is. Engineer Breinholt stated he needs to do his review and provide comments. There are a few changes that will need to be made. Mr. Holmgren asked if the plat can be approved today. Engineer Breinholt stated he was fine with that. Chairman Bench stated the plat can be approved, but won't be recorded until all the comments have been addressed. Manager Warnke stated another step is to approve the Development Agreement, which will be on the City Council Agenda for the December 1<sup>st</sup> meeting.

Mr. Holmgren asked about the subdivision bond and if there is another option. Chairman Bench stated Mr. Holmgren can give the City the money, which will be held by the City and reimbursed back as needed. Mr. Holmgren asked if he can do a cash escrow. Chairman Bench stated that is also an option. Engineer Breinholt stated the cash escrow is the best option.

**Motion by Manager Warnke to approve the Final Plat for Holmgren Estates East Phase 4 subject to Engineer Breinholt's review.** Motion seconded by Director Fulgham. Vote: Chairman Bench – aye, Engineer Breinholt – aye, Manager Warnke – aye, Director Fulgham – aye, and Director Christensen – aye. Motion approved.

- b. Discussion of vacating the Harmony Heights Subdivision and concept plans for replatting

Item was tabled.

- c. Discussion and consideration of the Tremont Center Main Street Access Plan including plans for sidewalk, curb and gutter, and culverting the canal

Mr. Micah Capener stated there has been one minor adjustment made to the Main Street Access Plan since submitting to the City, which is widening the middle access lane to 32 feet because the previous design wouldn't allow for a semi truck to get around the corner. The business that will be located at the front of the property will need to have room for a 73 foot semi truck to deliver there. Chairman Bench stated the City Code requires a 40 foot middle access lane and asked Mr. Capener to update the plan to reflect that.

Engineer Breinholt asked if Mr. Capener has submitted these plans to UDOT. Mr. Capener stated he submitted them to UDOT last week and also submitted a variance request because of the distance of the roads across the street. Manager Warnke asked if, according to the City's construction specifications, Main Street should be a 100 foot right-of-way. Engineer Breinholt stated he believed so. Mr. Capener stated the platted right-of-way for Main Street is 110 feet. Manager Warnke asked what the proposed sidewalk width is. Engineer Breinholt stated it is an eight foot sidewalk.

Engineer Breinholt stated this section of Main Street won't necessarily have on-street parking and the City wants to maintain the four lanes of traffic in the future. Manager Warnke suggested showing which cross section applies to which section of Main Street. Engineer Breinholt stated there will need to be an eight foot sidewalk on one side of the street, five lanes of travel, and bike lanes with no on-street parking.

Mr. Capener stated he hopes that UDOT will cooperate with them in lowering the speed limit on Main Street in this area. Director Fulgham stated the City has asked UDOT to lower the speed limit on a couple of separate occasions and were turned down. Chairman Bench asked if 40 miles per hour is too fast. Mr. Capener stated they would like the speed limit to be as slow as it can be so there is more visibility time for drivers.

Manager Warnke asked what the park strip width is. Mr. Capener stated he thought it was five feet. Manager Warnke stated it would be helpful to add a cross section on the plat. Chairman Bench confirmed there will be an eight foot sidewalk with a five foot park strip.

Manager Warnke asked about the landscape plan and if it will be the same plan continued on from 400 West with grass and trees in the park strip. Mr. Capener stated the last time they visited with the Canal Company, they don't want trees over the canal. Manager Warnke stated the trees wouldn't be over the canal. Mr. Capener stated they might be over the canal or close to the canal. The first goal is to get the canal burial plan approved because the canal has to be buried by the first of February. After that plan is approved, they will come back with the landscape plan. There are lots of questions concerning the landscaping such as removing the UDOT street lights and replacing them with pedestrian lights to approve walkability. Manager Warnke suggested having a conversation with UDOT about removing the lights. Chairman Bench stated he didn't think UDOT would remove the lights but may agree to leave the lights and allow pedestrian lights to be added.

Manager Warnke asked Engineer Breinholt about the timing of the storm drain and whether it can be done after the burying of the canal. Director Fulgham stated they can boar below the canal level. Engineer Breinholt stated it wouldn't hurt to do it now if the City could, but it could be worked around as well. Mr. Capener stated a plan needs to be made as a business will be building in that area soon. Engineer Breinholt stated the design needs to be done now and those improvements installed even if the rest isn't completed. Director Fulgham agreed it would be easier to at least do the boaring before the canal is buried.

Manager Warnke stated there will be public improvements that need a financial guarantee such as the curb, gutter, and sidewalk. Mr. Capener stated he doesn't have bids on that portion yet but will need to get it figured out. Manager Warnke asked if the canal will be dedicated to the Canal Company. Mr. Capener stated the Canal Company has already approved the burial of the canal and that they will continue to own the canal. Mr. Capener stated they will install the curb and gutter on Main Street and asked if that storm water will drain into the State's drain. That water was previously draining into the canal and Mr. Capener asked where it will drain into now. Director Fulgham stated the canal is the State drain on that side of the railroad tracks. Engineer Breinholt stated that problem has already been created and Mr. Capener won't be creating any new problems by adding curb and gutter to the north side of the road.

Engineer Breinholt asked if there is already curb on the south side of the road and if there are already storm drain pipes installed. Director Fulgham stated there is curb on the south side of the road and UDOT has storm drain pipes already installed that drain into the canal.

Mr. Capener stated his attorney has completed the Covenants, Conditions, and Restrictions (CC&Rs) and the Home Owner's Association (HOA) documents, but he has not had a chance to review it yet. Once he has reviewed it, he will send it on to the City to review.

Engineer Breinholt stated that Mr. Capener will need to get approval from UDOT and the Canal Company on most of these issues before the City will give their approval.

d. Discussion of Subdivision Bond for Spring Hollow Subdivision – Jay Christensen

Chairman Bench stated one option a developer can use when creating a subdivision is going to an insurance company and getting a Subdivision Bond. Another option is to get an escrow from a bank that the City controls and reimburses after inspections are done. Engineer Breinholt stated the City has to approve the release of that money from the bank.

Mr. Jay Christensen stated they have spoke with their bank and there is no problem creating that escrow. At this point, they have not borrowed any money. Chairman Bench stated the money the Christensen's have already paid to contractors could have worked as a cash escrow. Mr. Blake Christensen stated they are not borrowing money

against the development and are cash flowing it instead and asked if the City is comfortable doing it as a build-as-they-go situation. Director Fulgham stated that lots cannot be sold until the plat is recorded and the City will not allow for the plat to be recorded until it has assurity from the developer. Once the plat is recorded, the City is kind of on the hook if lots are sold and not completed, the City could be pushed to go in and complete the subdivision with no money or assurity from the developer.

Mr. Jay Christensen stated they could set up a cash escrow if that is what the City is going to enforce, but stated that the County and other surrounding areas don't require this sort of thing. Engineer Breinholt stated he doesn't know of any city that doesn't require a guarantee of some sort, whether it be the plat itself, cash, escrow, or bond. Director Fulgham stated the only city he was aware of that doesn't require that guarantee is Wellsville City, who requires all of the improvements to be in before the plat is recorded and lots can't be sold until the plat is recorded.

Mr. Jay Christensen stated he understands the City wants protection that a subdivision will be finished and completed and they can work with a bank and make that work. Chairman Bench stated if they get an escrow through a bank, the Christensen's do not have to provide the City with cash, the escrow account is set up in favor of the City and the City has to say when money is released. Mr. Jay Christensen stated that creates a constant debt for paying interest to a bank that is not necessarily debt that the Christensen's will have in their hand and asked if the City is comfortable with them carrying only that amount of debt they are incurring, not a greater amount.

Engineer Breinholt clarified that the Christensen's are not wanting to put up the whole cost of the improvements. My Jay Christensen agreed. Engineer Breinholt stated that the Christensen's then have the option to use the plat itself as the guarantee. Director Fulgham clarified that means the improvements must be done before the plat can be recorded. Mr. Jay Christensen stated that will require them to carry too much debt at the bank. Director Fulgham stated if the City allows them to record the plat, lots are sold, and then Christensen Development goes under now the City is on the hook to complete the improvements as they were the ones who allowed people to buy those lots and they expect their home to be built. That puts a burden on the citizens of the City and their tax dollars, which is why the City puts that burden on developers.

Mr. Jay Christensen stated that still places a big burden on them but they can talk to the bank and see what they can do. Engineer Breinholt stated another option would be to come back to the Land Use Board with a phased plat. Mr. Jay Christensen stated they have already asked about finishing the project in two phases. Engineer Breinholt asked if the Christensen's want to record the plat so they can start building. Mr. Jay Christensen stated they lost probably four sales during the summer because the plat wasn't ready and there are more people ready to buy lots right now. Engineer Breinholt suggested again cutting the plat into phases in order to get started so they are not required to escrow for the entire development.

Mr. Jay Christensen asked if the City would entertain a property escrow. Engineer Breinholt asked if that was allowed in the City Code. Chairman Bench stated it is not allowed in the Code. Mr. Jay Christensen stated he spoke with the title company who stated a property escrow would not be a hard thing to do and would allow the City to hold a different piece of property as escrow for this project. Engineer Breinholt asked if that has ever been allowed in the Code. Chairman Bench stated it has never been in the Code and the Christensen's only option would be to take that issue to the City Council.

Mr. Blake Christensen asked if the City would be willing to allow them to set up the cash escrow in phases. Engineer Breinholt stated they would. Mr. Ricky Christensen asked how long that would take. Engineer Breinholt stated it is just a matter of making the changes to the plat to show the phases and asked if separating the plat into phases was out of the question. Mr. Blake Christensen stated it is hard because of the way it is designed unless they started with the Legends development. Engineer Breinholt stated that could at least get them started.

Chairman Bench asked how much of the improvements have been put in. Mr. Jay Christensen stated the sewer is 100% in, the water is at the same location, and there is a sub-grade on the road that has been cut. Mr. Capener asked if the City would allow the Christensen's to bond just for those improvements that aren't complete. Engineer Breinholt stated that is where the City is headed at this point as some of the improvements are already in and have been inspected. Mr. Blake Christensen suggested they go speak with their bank about setting up an escrow account. Mr. Jay Christensen stated he has already spoke with the bank and they can do the escrow.

Mr. Blake Christensen stated they want to get this area primed so they can start actually cash-flowing the project, but that can't be done until the plat is recorded. Director Fulgham stated there are some timeframes in the Code after the plat has been recorded. Mr. Ricky Christensen stated they have done about all they can afford up to this point until they can start selling some lots. Engineer Breinholt stated that approaching the City Council to change the Code to allow for property escrows will delay the project even longer.

Chairman Bench stated if the Christensen's get an escrow, once the improvement is in and has been inspected, that money is back to the bank. Mr. Blake Christensen stated he is hoping for as easy administration of the escrow as possible and not having to wait on the City to release money. Chairman Bench stated the City will be waiting on the Christensen's; they won't be waiting on the City. Director Fulgham stated as soon as the bank calls about a release, Engineer Breinholt calls Director Fulgham and asks where the project is at. If inspections have been done and all is well, the money is released. Chairman Bench stated it may not happen same day, but it will be pretty quick.

Mr. Jay Christensen asked what dollar amount they need to tell their bank is required. Mr. Blake Christensen asked if they could take the improvement sheet and subtract the amount of the improvements that are already in and use that number. Engineer

Breinholt stated they would use their Engineer's estimate minus the improvements that are already in. Mr. Jay Christensen stated they will talk with their bank and see what dollar amount they will impose on them and also consider phasing the plat into two phases.

- e. Walk ins\*

No walk ins.

4. Comments/Reports:

- a. Chairman/Zoning Administrator – Steve Bench

No comments.

- b. City Engineer – Chris Breinholt

No comments.

- c. Recreation Director – Marc Christensen

No comments.

- d. Public Works Director – Paul Fulgham

No comments.

- e. City Manager – Shawn Warnke

Manager Warnke asked Engineer Breinholt if he was working on putting together some cross sections to be tied into the City's Access Management Plan. Engineer Breinholt stated he would put one together showing five travel lanes, eight foot sidewalks, and bike lanes. Manager Warnke also asked if Engineer Breinholt got the rest of the approved construction specifications done. Engineer Breinholt stated he would need to follow up on that.

5. Public comments: Comments limited to five minutes.

No public comments.

6. Adjournment:

**Motion by Engineer Breinholt to adjourn the meeting.** Motion seconded by consensus of the Board. The meeting adjourned at 11:06 a.m.

The undersigned duly acting and appointed Recorder for Tremonton City Corporation hereby certifies that the foregoing is a true and correct copy of the minutes of the Land Use Authority Board Meeting held on the above referenced date. Minutes prepared by Deputy Recorder Linsey Nessen.

Dated this 16<sup>th</sup> day of December, 2015

Linsey Nessen for Darlene S. Hess  
Darlene S. Hess, City Recorder

\*Utah Code 52-4-202, (6) allows for a topic to be raised by the public and discussed by the public body even though it was not included in the agenda or advance public notice given; however, no final action will be taken.