LA VERKIN CITY PLANNING COMMISSION
Regular meeting
Wednesday, January 23, 2019 6:00pm
City Council Chambers, 111 South Main Street
La Verkin, Utah 84745

Present: Chair Andregg; Commissioners: Sherman Howard, Hugh Howard, Allen Bice and Matt Julison; Staff: Derek Inlay, Kyle Gubler, Kevin Bennett and Christy Ballard; Public: Brian Stewart, Jarom Healy, JoAnn Richardson, Denise Flaherty, Brittany Stewart, Mike Spencer, Rhetta Spencer and Patricia Wise.

I. Call to Order: Chair Anna Andregg called the meeting to order at 6:00pm. The invocation and Pledge of Allegiance were given by Allen Bice.

II. Approval of the Minutes:
Commission may approve the minutes of the January 9, 2019 regular meeting.
Motion was made by Commissioner Hugh Howard to approve the minutes of the January 9, 2019 regular meeting, second by Commissioner Allen Bice. Sherman Howard-yes, Hugh Howard-yes, Andregg-yes, Bice-yes, Julison-yes. Motion carried unanimously.

III. Approval of the Agenda:
Motion was made by Commissioner Allen Bice to approve the agenda as written, second by Commissioner Matt Julison. Julison-yes, Bice-yes, Andregg-yes, Hugh Howard-yes, Sherman Howard-yes. Motion carried unanimously.

IV. Reports:
1. Beautification/Trails Committee-No meeting.
2. City Council-Councilwoman Wise reported on the January 16th City Council meeting. A budget amendment was approved. There were re-appointments to Boards and Committees. The Council also approved a Memorandum of Understanding regarding the exploration of the feasibility of re-opening the La Verkin hot springs. The Council members were not in favor of a vacation rental spacing requirement, so the item died from lack of a motion. They did discuss and vote to have the Planning Commission review decreasing the percentage quota cap, which is on this agenda.
3. Director of Operations-Nothing to report.

V. Public Hearing:
1. Amended subdivision preliminary plat of Apricot Acres providing for a flag lot of property with the Tax ID #LV-APA-3 and located west of the property at 420 West Center Street.

Derek explained the location of the property. It is a four-lot subdivision and the property owner would like to create a flag lot. It does meet all the criteria with frontage and access.

If the preliminary plat is approved by the Planning Commission and City Council, the owner will install the infrastructure for the lot and come back for final plat approval. At this point the request meets all City requirements.

The public hearing opened at 6:08pm

JoAnn Richardson- She lives on one of the parcels. She wanted to know how many times this item has been discussed to be ready for a signature. She doesn’t feel the other property owners in the subdivision have had time to investigate what it would do to their properties.

On their property deed it states that any changes would require signatures from the other three property owners in the subdivision. She does have a copy of the deed but did not bring it. They are all easy-going people, they just would like to know what is happening. She did not even get a notice, she was told by a neighbor.

Christy said the notices were mailed out, but she did get JoAnn’s back stating undeliverable.
JoAnn would like to know who is building and what they are doing. No one has talked to the other property owners and they are supposed to have the three approving signatures. These are her concerns.

Rhett Spencer- She lives next to the property. Her biggest concern is that when she moved here 25 years ago, they were looking at two flag lots. The City at that time said they were going to vote out all flag lots. One reason was because the back lot is protected. You can’t see what is going on and there could be problems with vandalism or drug use. The other concern is the roadway going into the back parcel. Who is going to maintain it? It is not a city road, so the City won’t. Is the homeowner going to maintain it and keep it free from trash? No, it’s just a road to get to the back parcel. With all the flag lots that are being pushed through now she can see that yes, it’s income for the City with the extra permit and water meter installed but she wants to know who is going to take care of all the stuff hidden behind fences and the roadway going through the property.

It does state on the paperwork when they purchased the property that the subdivision, Apricot Acres, would need to stay in one-acre lots unless the three remaining property owners signed off on it. She knows it can come to the City to be discussed but she feels it needs to be left to the other Apricot Acres property owners to make the decision instead of the City.

Mike Spencer- His concern is with the back parcel and buildings always getting built too close to the fence line. Their neighbor on the other side has done that. He doesn’t really have a problem with it but if it states that the other property owners need to approve it on the deed, he would like that opportunity. The people that build right now may sell the property in a couple of years and who knows who it will go to. There is a property next to them that has sold three times since they moved in and that is a concern to them. They have a good neighborhood. The property with the old church, across the street, is all trashy because it’s been divided like that. It downturns your property.

Denise Flaherty- She received the invitation to come to the meeting. She is adjacent to Apricot Acres to the west. She had her property before the subdivision was created. Her concern is with irrigation pressure and splitting it five ways instead of four. It does affect the pressure for her 5-acres next door. She has the plat with the four parcels, but it doesn’t show how the property owner would like to build anything on the properties or where the roadway would go. She gathers there are setback laws that need to be met for the front and the back before the owner builds anything and they will be given a copy of those regulations, correct?

The public hearing closed at 6:15pm

VI. Business:
1. Discussion and possible action to recommend approval of the amended subdivision preliminary plat of Apricot Acres providing for a flag lot of property with the Tax ID #LV-APA-3 and located west of the property at 420 West Center Street.

Commissioner Hugh Howard asked if the deed states the need for approval from surrounding property owners, would that be legal?

Kevin replied if it does state that then it is legal, but it does not bind the City unless the City was part of the requirement. It would be like conditions and covenants people put on a deed that give them a civil right if the neighbor violates them. Riverwood Subdivision is the only area he is aware of that the City was party to the homeowner’s association. The Commissioners could wait for staff to have the opportunity to view the deed, but he doesn’t think the City would have ever made a requirement like that.

If the deed does say that and the property owner does divide, they subject themselves to a possible lawsuit from the parties that feel they have been aggrieved but it doesn’t really bind the City.

Commissioner Sherman Howard mentioned this item has been on the agenda for two meetings and pointed out the Planning Commission is a recommending body; the City Council gives final approval.

Commissioner Bice said it becomes difficult when there are different opinions from neighbors to make a decision that does not take away the rights of the property owner if they have met all the city requirements. The private drive would be
the property owner’s responsibility to maintain and just like all private property, it’s the owner’s responsibility to maintain.
The Commissioners are not aware of who the property owner is or what they plan on doing with their property but what they are requesting is authorized and legal by the City.

Kevin asked if there was a homeowner’s association for Apricot Acres.

JoAnn replied there is not a homeowner’s association but the deed states if the parcels were ever to be broke down from one-acre parcels, three signatures would be required. There are four lots so that means the three other property owners would need to sign off. They would just like to look at it. She does have a copy of the deed.

Jarom asked if he had to get approval from the three property owners before he can do anything. He should not have to disclose what kind of house or the location of it to anyone, he owns the property. He understands their concerns but was offended that they accused him of selling drugs when they don’t know him.

Commissioner Andregg stopped the discussion and stated the property owners can continue that conversation outside of this meeting.

Derek explained the pole portion of the flag lot that comes off Center Street will require a 25x25 foot concrete apron and that should help keep dirt and mud off the city street. Once the pole opens into the flag section of the lot that is where the measurement for the setback begins. Those setbacks are determined by the zone and the back parcel will be required to adhere to the same setbacks as the front parcel.

As for the water pressure, when Center Street was re-done the old water line was converted to the irrigation line and a new culinary water line was installed. West of the Flaherty’s property is where the irrigation line comes off and goes diagonally across their property to a field on 200 North. Those properties are serviced from the back of the property and the parcel being discussed will be serviced from the front of the property so the pressure will not be changed by this flag lot.

**Motion was made by Commissioner Bice to table the agenda item and continue the public hearing on the amended subdivision preliminary plat of Apricot Acres to the Planning Commission meeting scheduled for February 13, 2019, second by Commissioner Sherman Howard. Juluson-yes, Bice-yes, Andregg-yes, Hugh Howard-yes, Sherman Howard-yes. Motion carried unanimously.**

JoAnn Richardson said she would bring her deed into the City office for staff to review.

2. Presentation and discussion for a proposed zone change from R-A-1 to Public Facility Zone (PFZ) for parcel LV-91-D, a 4-acre parcel located north of the La Verkin Creek Trailhead at Confluence Park.

Derek passed out a more current map of the property. The parcel is next to the parking area in Confluence Park. Ash Creek Special Service District owns the property and would like to rezone it for the treatment facility they will start in the next 3-5 of years.

Blair Gubler explained the treatment facility will cover La Verkin and Toquerville. The waste water will be irrigation quality water, and will either be used in Confluence Park or put back into La Verkin’s irrigation system.
Blair explained the location of the treatment plant. He mentioned Ash Creek SSD owns all the property from this parcel back to Riverwood Subdivision.

Derek reported Ash Creek SSD will have to adhere to the Hillside Ordinance.
The only section they are requesting to be changed is the location of the treatment facility, the remainder of their property will be left R-A-1.

Commissioner Juluson asked what surrounding properties were zoned.

Kevin replied the entire area is R-A-1 and has been for years except for a couple of building lots Ash Creek SSD developed in Riverwood Subdivision.

3. Presentation and discussion of the La Verkin City Master Trails Plan.
Kyle explained this item will need to be postponed, a representative from the engineering company was not able to be here.

4. Discussion and possible action to set a public hearing for a proposed ordinance amending the percentage limitation in section 10-7-20 of the La Verkin City Code relative to vacation rentals in residential zones, for February 13, 2019.

Derek passed out a map of the current vacation rental areas with the addition of two more areas on Interstate Rock Products property.
He explained that when he created these areas, he counted each building lot to figure out the percentages. The first change involved removing the commercial areas, the R-3-6 and the Mobile Home zones because they were not included. When we allowed vacation rentals in the single-family dwelling R-3-6 and Mobile Home Zones it changed the area map numbers. All the areas are correct except for Area 7. North View Commercial and Spanish Gardens were left in the count and they are all multi-family dwellings which vacation rentals are not allowed in.
He went over the number of building units, the number of vacation rentals allowed at 10% and 7.5% and the current number of licensed vacation rentals in each area.
All licensed vacation rentals would be grandfathered in if the cap was lowered to 7.5%.
Kevin has created an ordinance which will lower the percentage to 7.5% and create two additional areas for the Interstate Rock Products property when that is developed.

Kevin pointed out the Interstate Rock property that is zoned R-3-6 will be removed from areas 8 and 9.
The Planning Commission originally recommended 7.5% but the City Council changed it to 10%. Changing it back to 7.5% will require a public hearing because the law was set at 10%.
The proposed ordinance will change the percentage and add requirements for a licensed vacation rental that changes ownership when the area cap has been met. Those requirements are listed on page 4. The business needs to be a currently licensed vacation rental, the purchaser needs to issue a letter of intent indicating their intent to use the residential unit as a vacation rental and submit a complete business license packet within 45 days of closing on the property.
Changing ownership does not change the use so licensed vacation rentals can be sold even if the percentage cap is lowered.

Kyle explained if a business license is not renewed or the use is changed, the residence cannot be used as a vacation rental again if the area has met the cap. The City is also creating a waiting list for each area.

Kevin said there is nothing in our current code that addresses this issue.

Derek pointed out Area 8 is zoned R-1-8 and Area 9 is zoned R-1-10. He will remove the numbers from the new map they are an estimate based on acreage and the zone.
The numbers for other areas are based on number of lots.

Commissioner Hugh Howard asked what the most common vacation rental complaints were.

Christy replied she has not received any specific complaints. The complaints are people concerned with them coming into their neighborhood.

Motion was made by Commissioner Allen Bice to set a public hearing for a proposed ordinance amending the percentage limitation in section 10-7-20 of the La Verkin City Code relative to vacation rentals in residential zones for February 13, 2019, second by Commissioner Hugh Howard. Julusion-yes, Bice-yes, Andregg-yes, Hugh Howard-yes, Sherman Howard-yes. Motion carried unanimously.

5. Presentation, discussion and possible action to recommend approval on requirements for a vacation rental business license waiting list and the creation of Area 8 and Area 9 for the vacation rental percentage limitation.

Commissioner Andregg pointed out this was discussed in the previous business item.

Kyle explained staff would like to establish a waiting list for each area once the cap has been met. The waiting list would set a 45-day time limit, after they have been notified, for the property owner to submit a complete business license
application for a vacation rental business license. If they do not, the next person on the waiting list would be notified and their 45-days would begin.

Area 8 and 9 were discussed previously.

Commissioner Juluson is in favor of a waiting list.

Commissioner Andregg stated including Areas 8 and 9 is a good idea.

Kevin said this item does not need a motion, the areas and business license code fall under City Council, but Derek wanted the Commissioners opinion before it is presented to them.

Commissioner Juluson pointed out if the percentage is based off the number of lots then the first homes built in areas 8 and 9 could take all the licenses.

Derek will remove the numbers for areas 8 and 9 from the map and wait until the property is developed to figure the actual numbers.

Commissioner Bice stated he liked the 45-day limit and the need seemed self-evident.

Brian Stewart—He wondered if it would be beneficial to designate a specific area as a short-term rental area as opposed to allowing them everywhere.

Regarding the 45-day waiting list requirement for a vacation rental business license, he would not purchase a home until it was his turn to get a business license and it could take longer than 45 days to close on that property.

He knows a lot of complaints from citizens are the inability to enforce non-compliant short-term rentals. You may have a limit but that won’t stop illegal vacation rentals.

Changing the percentage and the number of the total count is a much lower number than if you left the percentage at 10% and reduced the number you are counting.

Kevin commented the topside will require clustering anyway and that may provide means to do a vacation village like mentioned by Mr. Stewart. There is really no place in town that is large enough for a vacation rental overlay.

Commissioner Hugh Howard mentioned Tourist Commercial allows for vacation rental condos or community.

Commissioner Juluson said he feels a vacation community is better done by a developer than the City.

Commissioner Bice commented he liked the vacation rental community that the Planning Commission visited in Santa Clara and would like to see the City get something similar. It would have to be topside because the rest of La Verkin is too built out for that.

The Commissioners were in favor of a waiting list and creating areas 8 and 9 for the vacation rental percentage limitation.

6. Discussion and possible action to allow vacation rentals in two-family dwellings.

Commissioner Andregg stated her feelings have not changed.

Commissioner Bice said it doesn’t seem advisable to open vacation rentals up to denser areas especially as we are starting to limit them.

Commissioner Hugh Howard pointed out parking could be an issue.

Commissioner Juluson stated he is not in favor of allowing it. Vacation rentals are better in single family homes with no shared walls.
Derek reported Mr. Porter made application to the Planning Commission and there were two parts to his request. The first is to allow vacation rentals in two-family dwellings. The second was to review the definition. He feels the definition is open ended and would like to use the real-estate definition of single-family dwellings.

Commissioner Andregg said she is not in favor of pursuing this request. When Mr. Porter spoke at the Planning Commission, he was told City ordinance does not allow vacation rentals in two-family dwellings. It was also discussed by the Planning Commission when the ordinance regulating vacation rentals was first created and as a Board, they decided to exclude them from multi-family dwellings.

Commissioner Hugh Howard is not in favor of allowing it.

Derek reported Mr. Porter does have the right to go to the City Council if the Planning Commission denies his request.

Commissioner Andregg stated the Planning Commission is unanimous in not wanting to take any action regarding vacation rentals in two-family dwellings.

VII. Adjourn:
Motion was made by Commissioner Hugh Howard to adjourn, second by Commissioner Sherman Howard. Juluson-yes, Hugh Howard-yes, Andregg-yes, Bice-yes, Sherman Howard-yes. Motion carried unanimously at 7:14pm.

Minutes done by Christy Ballard.

[Signature]
Planning Commission Chair.

Date Approved

01-19-19