

April 1, 2021  
Planning Commission Meeting  
Virtual Meeting  
7:09 p.m.

**Commissioners Present:** Chairman Jan Kerr, Vice Chairman Julie Jones, Commissioner Tresa Peterson

**Commissioners Absent:** Commissioner Marcus Wager

**City Staff Present:** Robert Barnhill: City Administrator  
Chris Crockett: City Attorney  
Tyra Bischoff: Deputy Recorder

**Others Present:** George Stephens, Leslie Clifton, Shanna Ricks, Tanner Hiatt, Paul Poteet, Mike Watson, Melanie Barnhill, John Barker, Doug Rich

**1. 7:00 p.m. - Call to Order and Opening Ceremonies**

Chairman Jan Kerr called the meeting to order.

**A. Declare Conflict of Interest, if any.**

None.

**2. Action Items**

**A. Preliminary Application for Bear River Landing Apartments at Pointe Perry located at approximately 1685 W 1100 S Parcel 03:236:0035**

Robert Barnhill discussed this development proposing 240 units on 9.5 acres. He reviewed the landscape plan, the amenities, parking layout and access in and out of the development. He stated that staff and the Fire Marshall have reviewed the plan and gave comments to the developer which have been met for the preliminary application. Mr. Barnhill discussed the property meeting zoning requirements and the sewer capacity review that was done. He said the developer felt it may be a challenge to include the number of trees required by city code (3 trees per 1,000 square feet). The architecture appears to generally meet the design standards, but it may need more brick on all four sides to meet code requirements. The applicant (Tanner Hiatt) stated that they had submitted revised plans to the City including the increased number of trees to meet requirements. He said they addressed needing more brick as well in the plans that were resubmitted. Mr. Barnhill said he did not see those items and will get with the applicant to make sure the City has the most updated plans from the developer.

Vice Chairman Jones said she would be interested in seeing the updated plans with more trees but had no questions for the applicant.

**MOTION:** Commissioner Peterson made a motion to approve the preliminary application for Bear River Landing Apartments. Vice Chairman Jones seconded the motion.

**Roll Call Vote:**

Commissioner Peterson Yes

Commissioner Kerr Yes

Commissioner Jones Yes

**Motion Approved:** 3 Yes 0 No

**B. Preliminary Application for Shanna Ricks Subdivision located at 3555 S Hwy 89 Parcel 02:037:0027 Applicant; Shanna Ricks.**

Mr. Barnhill discussed this application taking one existing parcel with a home on it, and splitting it in two for another home to be built. The existing home would become a flag lot leaving an area in the front of the lot open and buildable. He discussed this property zone being changed to RE1/2 about one year ago from neighborhood commercial. The applicant has applied for a permit with UDOT and had a few details requested from them. Sewer is not available so it would need septic. The major challenge is the lack of flow in the water supply (due to the length and width of the pipe) to meet requirements from the Fire Marshall. The Fire Marshall wanted two things to approve it, which include:

1. Provide the distance to the nearest hydrant that is on the east side of the highway.
2. Due to limited water supply the development cannot be approved without work being done to mitigate the deficiency. The applicant shall propose alternatives to mitigate limited water supply.

Mr. Barnhill said the challenge is that the Fire Marshall did not specify what the solution is, just that alternatives be proposed, which he can either accept or reject. George Stephens, the applicant, said he discussed some ideas with the Fire Marshall earlier today. He said the Fire Marshall said he would accept 20 feet of clear area around the house (grass, no trees or hanging items) would be acceptable. The fire hydrant is 500 feet away. He will submit the drawing to the Fire Marshall with what was discussed.

Commissioner Peterson asked what size the lots were. Mr. Barnhill said they are just under a half acre. She wanted to make sure they met the size requirements, which they do. Chairman Kerr asked if there were any concerns with it being a flag lot. Mr. Barnhill said that he didn't have any concerns with the front two lots and the flag lot behind is pre-existing and shared access.

Commissioner Peterson said she is concerned about the water flow. Chairman Kerr wondered about expanding water in the future to that area. Mr. Barnhill said that the City does not have plans for that and it would fall on future developers. He added that it is up to the Fire Marshall to enforce the codes. Commissioner Jones said she worries about the water as well due to a previous experience where she lived that water pressure was a problem. She said she doesn't want to hold the applicant back but expressed concern and a desire to hear from the Fire Marshall.

Chairman Kerr wondered if there would be any liability that would fall on the City if the home were to burn down if they approve it. Chris Crockett, City Attorney, said there are several provisions under the government immunity act that may be applicable but he was not sure of anything off the top of his head. The applicant, George Stephens, expressed concern about other buildings going up around this area and that those are not a problem, so why is this a concern for his home. Mr. Barnhill explained that these requirements are reviewed and brought into play when a subdivision is applied for. If it is a pre-existing lot or parcel of ground, it already has the right to build on. Today's standards are not retroactively applied to those. When ground is subdivided, then it is looked at with new standards. In this situation it will have to be approved by the Fire Marshall.

**MOTION:** Commissioner Peterson made a motion to approve the preliminary application for Shanna Ricks Subdivision contingent on Fire Marshall Approval. Vice Chairman Jones seconded the motion.

**Roll Call Vote:**

Commissioner Peterson Yes

Commissioner Kerr Yes

Commissioner Jones Yes

**Motion Approved:** 3 Yes 0 No

**3. Discussion Items**

**A. Land Use Chart**

Mr. Barnhill discussed cleaning up the zones in the land use chart as well as eliminating some of them. He discussed the zones in detail and talked about which ones he felt could be changed, consolidated or eliminated. The Planning Commission agreed with Mr. Barnhill and discussed zoning near the KOA and Maverik. Mr. Barnhill discussed some of the changes possible to align with the general plan. He said that he could take this to Mayor Jeppsen and see if it is something City Council would want to take action on.

Mr. Barnhill discussed superscripts being included on the land use chart for items with specific regulations that may need more clarification (for example; livestock, home occupations, kennels, and ADU's). He suggested keeping items that may not be permitted anywhere in the city on the permitted use chart list, and being left blank to show they are not actually allowed, to avoid possible future disputes. He added they may want to allow some of the items listed, but designated to specific areas only. Chairman Kerr suggested adding a drive in movie-theater to the list. Vice Chairman Jones discussed including an impound lot specifically (where that type of facility would be allowed or not allowed at all) due to a problem she encountered in another city in which she lived. Mr. Barnhill explained that sexually oriented businesses have to be allowed somewhere as well due to being a 1<sup>st</sup> Amendment issue. He asked Chris Crockett if it should be listed as a permitted use or as a conditional use permit. Mr. Crockett said that if it is listed as conditional use, it is still permitted but has conditions attached to it. If it has harmful effects it would have to show how those would be mitigated. One of the recent changes in HB409 with conditional uses, is that they have to be based on objective standards, meaning it would have to be tied to something that is in the City code.

Mr. Barnhill discussed single family developments being listed as conditional use in environmentally sensitive zones. He removed other conditional use permits as he feels it is good practice to move away from those legally. Chairman Kerr discussed low density apartments being allowed in other areas that are zoned NC2. Mr. Barnhill said that might be possible and similar to townhomes. He said there is not a density requirement listed right now and they may want to address that. The Planning Commission and Mr. Barnhill discussed townhomes and apartments in the city. They also discussed towers, windmills, turbines, semi-truck parking, campgrounds, KOA's and car dealerships. They talked about going through the chart line by line and adding their thoughts and definitions where needed.

**B. Parking**

The Planning Commission members were not sure what they were wanting to discuss in regard to parking. Mr. Barnhill reminded the Commissioners that they were wanting to look at parking generally. Commissioner Peterson said it came up when the parking for the apartments at Bear River Landing was discussed. Chairman Kerr said they may want to look at enforcing code as well with parking on the road during snow storms. Vice Chairman Jones asked Mr. Crockett what happened with the bill with parking for ADU's. He said he was unsure but said he could look it up. Mr. Barnhill said he thinks it was amended to allow 1 parking spot per ADU but would need to verify it to be certain.

#### **4. Approval of the Minutes**

##### **A. March 4, 2021 Regular Meeting Minutes**

**MOTION:** Commissioner Peterson made a motion to approve the March 4, 2021 meeting minutes. Chairman Kerr seconded the motion.

##### **Roll Call Vote:**

Commissioner Peterson Yes  
Commissioner Kerr Yes  
Commissioner Jones Abstained

**Motion Approved:** 2 Yes 1 Abstained

#### **5. Discussion**

##### **A. Future Projects**

None.

##### **B. Report on past-approved Planning Commission Agenda Items**

Mr. Barnhill said that the zone change for Mount Pleasant Estates subdivision was approved as well as the Pettingill zone change. Mr. Barnhill discussed City Council tabling the density map request the Planning Commission proposed, as they could not agree on it. They adopted a policy by resolution instead that will guide their decisions on the map. He discussed limit and scattering, how the policy would be used, and said that he would send a copy to the Planning Commission members to review.

##### **C. Report from Commissioner regarding last Council Meeting (March 11 & 25, 2021 Electronic Meetings)**

The March 11<sup>th</sup> meeting was cancelled. No one was able to attend the 25<sup>th</sup>. Mr. Barnhill said the only relevant items from the 25<sup>th</sup> he already discussed on the past-approved agenda items.

##### **D. Make Assignments for Representative to Attend City Council Meetings (April 8 & 22, 2021 these will be Electronic Meetings)**

Chairman Kerr said she could attend the April 8<sup>th</sup> meeting. Mr. Barnhill said the 22<sup>nd</sup> meeting will be cancelled due to the City League and Town meeting that he and the Mayor will be going to.

Mr. Barnhill noted that the Council had sent out a survey to the public for feedback about getting a cemetery and wanted to make sure the Planning Commission knew about that. He said the results so far are looking positive.

## 6. Training

### A. Staff

Mr. Crockett mentioned HB82 which addresses the ADU parking that Vice Chairman Jones had questioned previously. He then discussed the details in HB409 that impacted cities which included:

- Definition for development agreements (which treats these as legislative items/process)
- Substantial evidence
- Training-each year the Planning Commission must complete 4 hours of training (which Perry is already doing)
- Conditional uses adding objective standards
- Single family dwellings cannot have any land use regulations added for 10 years after a plat is recorded
- The process for boundary adjustments, parcels, and lot line adjustments
- Infrastructure and improvement involving roadways
- Amendments and vacations must notify water and sewer authorities
- Appeal authority (hearing officer) only hear appeals for land use decisions

## 7. Review Next Agenda and Adjourn

### A. Items for May Agenda (next meeting May 6, 2021)

- Neff townhomes
- Ventura subdivision

### B. Motion to Adjourn

**Motion:** Vice Chairman Jones made a motion to adjourn the meeting. Commissioner Peterson seconded the motion.

All Commissioners were in favor. The meeting ended at 9:08 p.m.