

City of Taylorsville
Planning Commission Meeting Minutes
May 11, 2021
Work Session – 6:30 p.m.
Regular Session – 7:00 p.m.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission

Kent Burggraaf, Chair
David Wright, Vice Chair
Mark McElreath
Don Quigley
Lynette Wendel
Gordon Willardson
Don Russell (Remote)

Community Development Staff

Wayne Harper - Director
Jim Spung – AICP – Senior Planner
Jean Gallegos – Admin Assistant/Recorder

PRESENT: Ernest Burgess, Roger Lager, Laurie Gale, Kristopher Foltz

BRIEFING SESSION – 6:30 P.M.

1. Review of the Agenda.  **Mr. Spung** reviewed the Agenda which consisted of a request to amend the Taylorsville Professional Plaza Condominium Plat at 1951 West 4700 South by Terry Martin, File #2S21. There was discussion during which he answered Commissioners questions and told them he had received several telephone calls regarding this with questions. During the Briefing Session **Commissioner Wendel** gave her report for the City Council meeting she attended. 

REGULAR SESSION – 7:00 P.M.



Commissioner Burggraaf welcomed those present and explained the process to be followed this evening and opened the meeting.

CONSENT AGENDA

2. Review/approval of Planning Commission Meeting Minutes for March 23 and April 13, 2021.

MOTION: **Commissioner Willardson** – I move for approval of the Consent Agenda consisting of the Planning Commission Minutes for March 23 and April 13, 2021.

SECOND: **Commissioner Wright**

VOTE: All Commissioners present and remote voted in favor. Motion passes unanimously.

SUBDIVISION AMENDMENT

3. File #2S21 – Consideration of a Request to Amend the Taylorsville Professional Plaza Condominium Plat at 1951 West 4700 South. (Presented by Jim Spung/AICP/Senior Planner)

- 3.1 **Mr. Spung** presented this item. Terry Martin (property owner), is requesting consideration to amend the Taylorsville Professional Plaza Condominium Plat at 1951 West 4700 South. The

property is zoned Professional Office (PO) and is currently developed as a three-suite multi-tenant professional office building. The proposed subdivision amendment would subdivide the existing building into four separately owned suites. Development improvements to the site or building are not being proposed at this time.

3.2 **FINDINGS:**

- 3.2.1 This application was initiated by Terry Martin.
- 3.2.2 The property is zoned Professional Office (PO).
- 3.2.3 The applicant is requesting to amend the Taylorsville Professional Plaza Condominium Plat.
- 3.2.4 The proposed plat amendment meets all zoning standards in the City Code.
- 3.2.5 The Taylorsville Building Department requires that fire-rated wall(s) be constructed as per IBC 706 along the new property line.
- 3.2.6 A building permit must be obtained for the wall construction/modifications.
- 3.2.7 The Taylorsville Planning Commission is the decision-making body related to subdivision amendment requests.

3.3 **CONDITIONS OF APPROVAL:**

- 3.3.1 The Taylorsville Building Department requires that fire-rated wall(s) be constructed as per IBC 706 along the new property line.
- 3.3.2 A building permit must be obtained for the wall construction/modification prior to recording the plat amendment with Salt Lake County.

3.4 Staff recommends approval based on the Findings and Conditions of Approval.

3.5 **APPLICANT ADDRESS:**  **Laurie Gale** represented the applicant. She said the separation was done 27 years ago based on a previous falling out between partners and based on a court order they actually already have a separation. The present action is just to make it official in order to get separate tax identification numbers, the reason for which is the two owners are wanting to sell their units and need separate tax identification numbers to do so. **Commissioner Burggraaf** asked about the requirement for the fire rated wall and a time-line when it would be constructed. **Ms. Gale** said she did some research about that and based on that it looked like there was an exception where it could even be waived because this just involves a change in ownership, which occurred in 1995 by court order.  To answer the question, she said she did not know how long that would take but felt it would be an issue of how soon they could find a general contractor available to do that job. She had talked with the Building Official who said the fire wall should not be that complicated and he recommended having a drawing done by an architect first. She recognized the problem would be getting someone not too busy to do that job. **Commissioner Burggraaf** asked if her client was aware of that issue though and she said he was. **Commissioner Burggraaf** asked her if her client was opposed to doing that wall and she said partly but he was willing to do whatever is necessary. She noted there was an 18" gap in between the two units already in a certain portion of it and on that there is a question as to whether it would even be necessary in that particular part of it. From what she saw on the drawings it looked like there was an 8" gap in the other parts as well. She was unsure how that would work out in the City Code.  Her client too was still wondering if that work was really going to be necessary.



3.6 **SPEAKING:** **Kristopher Foltz** spoke saying he owns the property right across the street and had no issue with this proposal. 

3.7 **Commissioner Burggraaf** closed the public hearing and opened it up for Planning Commission discussion.

3.8 **DISCUSSION:** 

3.8.1 **Commissioner Wendel** said her question was for Staff. Because this is going to be an official plat, there is the International Building Code requirement and not necessarily an issue for the Planning Commission tonight. To help the applicant understand this, she stated that means bringing the property up to Code. **Mr. Spung** said essentially it could be looked at as having one house and dividing it into separate houses which would require some separation there. It includes much more than just the fire wall, i.e., the utilities must be separate, etc. The Building Code provides a menu of ways to achieve compliance and it is just a matter of selecting the best way to do that and as Ms. Gale mentioned, hiring an architect to go in and look at it to determine how to retrofit it if necessary is the best solution. He said that timing would be as soon as there is a building permit submittal, within about two weeks review comments are available and/or an approval. Then each subsequent submittal has a two week turn-around time. He guessed that contractors are probably four to six weeks out at the present time. 

3.8.2  **Commissioner Burggraaf** asked if the Commission has to consider the condition. If there is an exception, he did not want to impose a condition if they are able to find a suitable exception or some deviation from that condition. **Mr. Spung** said if there is an exception, it would be articulated in the Building Code. He felt what the City is saying is that the applicant must comply with the International Building Code and with whatever mechanism they chose to do that with, whether it is constructing those improvements or having an exception. In answer to the larger question, Staff would recommend that the Commission does have the condition, just to have it on the written record because the Building Department does not have to sign off on the plat and they have indicated that Planning Staff cannot approve the plat unless it complies with the Building Code. The property line cannot be established if it doesn't satisfy the Building Code requirements.  **Commissioner Burggraaf** advised that the City of Taylorsville has essentially adopted the International Building Code. He asked then if the Commission can be more generic and require the condition be that the applicant complies with the International Building Code, that way in looking at the issue further, they find some other way to comply that satisfies the City, they would be in compliance with the condition. He just didn't want to say they have to build the fire rated wall and then an exception is found later and the imposed condition by the Planning Commission still exists. 

3.8.3 **Commissioner Quigley** added that they are applying for a building permit so that would have the requirement to build the fire rated wall. He felt that no matter what the Commission decides this should be worded to indicate that at the end of the day the applicant must get a building permit and that will require them to update the building to meet the current code to meet the condominium code requirements, i.e., fire wall, utilities, etc. Therefore, he did not see this to be an issue of whether or not that is included tonight by the Planning Commission because the applicants will be required to obtain building permits anyway. This was split back in 1995 but now they want to make it official as an amendment to the plat and in order to do that they must comply with the current Building Code.

- 3.8.4. **Commissioner Burggraaf** wondered what would happen then if they do find an exception that doesn't require a building permit. **Commissioner Quigley** asked Mr. Spung to answer that. If they find an exception that Staff agrees to, would they withhold the building permit or make a requirement thereto because in obtaining the building permit they must meet all Code requirements. **Mr. Spung** said what Staff is trying to say is that before the City can record the plat amendment it must verify that the owners are in compliance with the Building Code, whether that is through an exception or building permit or whatever mechanism that allows. Staff would prefer to have that condition written down as part of the approval so if a year or two later whoever is looking at this will know that is an issue that must be resolved before it can be recorded with the County. He was okay with the more general language inclusion. **Commissioner Burggraaf** suggested saying, "that they are compliant with the applicable Building Code". **Mr. Spung** said that was correct, but it would be in there so that current and future Staff will know that is a requirement before it can be finalized.
- 3.8.5 **Commissioner Burggraaf** said he noticed that Staff's conditions don't actually mention anything about a building permit and was informed by Staff that actually was part of Condition #2. **Commissioner Burggraaf** wanted to know if that would be necessary if the Commission just says that it must be compliant with the Building Code. **Mr. Spung** said that was a condition that the Building Department requested to be added because generally that is the way that the Building Department would verify that the wall is constructed properly, with review and inspection connected to the building permit. That if there were a way to achieve compliance without a permit that would be acceptable but based on Mr. Spung's conversation with the Building Official, it would be considered a requirement. **Mr. Spung** said they could say that the Taylorsville Building Department requires that the wall separating the two units be compliant with the International Building Code and that, if necessary, any permits or approvals as required by the City be obtained. **Commissioner Burggraaf** advised he was okay with that language. If a permit is required, they would comply. For example, the Building Official hasn't been in that building, so if they find something different he did not want to lock them in with a condition. They may need a fire wall and may well need a building permit but based on a situation where they don't, he felt it was worth the extra re-wording and the five minutes taken on this issue to resolve it to clarify those conditions of approval. 
- 3.8.6 **Commissioner McElreath** felt there was nothing wrong with the conditions for approval. If they can find a different way to solve the problem and it meets the Building Code, then they don't have to get a building permit.  **Commissioner Burggraaf** said it is just that the Commission would have conditioned approval of the subdivision so essentially they would need to come back. **Commissioner Quigley** advised the Commission was not really conditioning it to that but to getting a building permit and that issue would be resolved in the process of getting that permit. There is nothing that is not going to let them be flexible with Staff. It just says they have to get a building permit and in order to do that Staff is going to require them to meet whatever requirements they are obligated to but if there is an exception then Staff can require them to meet that obligation. **Commissioner Burggraaf** offered with his "lay" opinion was with a legal background and advised that is not how this is looked at. That is completely false. The subdivision approval does not go through if the conditions have not been met. That is why he wondered if the Commission is even permitted to do so in this case. In the ordinance it deals with subdivisions where it says the Commission can impose conditions but if the Commission is going to impose conditions

not allowed in the ordinance, he wanted to make sure the applicants will not have to come back for further approval or to amend the approval to allow for the subdivision, which would delay them even more because the Commission has been way too specific when there may be some question. The Commission is not the Building Official and if that person were here tonight it would have been helpful but that is not the case. So, the Commission does not know some aspects of how the Building Code may apply. His opinion was that if they get an architect as has been suggested, they may say what has to be done but the applicants would still need to get a building permit.  **Mr. Foltz** (audience) commented that Commissioner Burggraaf was exactly right that a building permit is required for any work done on structures. **Commissioner Burggraaf** suggested that the language be reworded for clarity. It still accomplishes what is intended to be done, which is to satisfy what is required by the Building Code without the applicants having to come back for approval if it is something different than what is worded in the document tonight.

- 3.8.7 **Commissioner Wright** said he agreed on the topic but felt the question was how to word that properly to include in this process. **Commissioner Burggraaf** advised that the wording would be up to whomever makes the motion. That he would be comfortable doing it and liked the language Mr. Spung previously suggested.
- 3.8.8 **Commissioner McElreath** asked Mr. Spung if the City Legal Department approved the language being proposed tonight under the Conditions of Approval.  **Mr. Spung** said that he had sent them the staff report but received no comments back. **Mr. Spung** that he felt Commissioner Burggraaf's interpretation is correct that the letter of the law must be applied with the Conditions of Approval. Therefore, if it says a permit must be obtained, then the applicant must do so, whether that means they have to do work or that permit just verifies some other mechanism is to be seen. He felt going with the more general language is fine and Staff supported that.
- 3.8.9 **Commissioner Quigley** asked Commissioner Burggraaf who would be doing the wordsmithing on that and suggested that in light of Commissioner Burggraaf's legal background he would be logical to do so.  **Commissioner Burggraaf** said he would be willing to propose the motion and have someone else adopt or change it.
- 3.8.10 **Commissioner Wendel**  wondered if something as simple as, "Unless exempted in the International Building Code, Taylorsville Building Department requires that fire rated walls be constructed as per and keep the building permit there." **Commissioner Quigley** that meant to just add the word "unless exempted". **Commissioner Wendel** added, "Unless qualified for exemption unless proven exemption". She was just looking for three or four words. **Commissioner Quigley** suggested, "Staff determines an exemption". **Commissioner Burggraaf** gave his suggestion as being following the proposed motion but amend the conditions of approval to state that the applicant will comply with Building Code requirements, including, if necessary, obtaining a building permit." **Commissioner Quigley** asked if "Obtaining all necessary permits" would suffice. **Commissioner Burggraaf** agreed that would simplify what the condition actually is and say, "Comply with any applicable building codes and obtain any necessary permits before recording."  He asked Mr. Spung if that worked for him, to which he replied that it did.

- 3.8 **MOTION: Commissioner Quigley** – I would like to make the motion that we move to approve File #2S21 to amendment the Taylorsville Professional Plaza Condominium Plat at 1951 West 4700 South, based on the Findings and Conditions of Approval as stated in the Staff Report with clarification that the applicant will obtain all necessary permits as required by the Building Department. **Commissioner Burggraaf** – Add. “ and be compliant with the International Building Code”. **Commissioner Quigley** – Agree, include that.
SECOND: Commissioner Russell
Commissioner Burggraaf – **Commissioner Russell** was there anything you wanted to speak to in regards to this application? **Commissioner Russell** – No.
VOTE: All Commissioners present and remote voted in favor. Motion passes unanimously.

CITY COUNCIL MEETING DISCUSSION: May 5, 2021 (Commissioner Wendel) – completed in the pre-meeting. May 19th is scheduled for **Commissioner Quigley**. June 2, 2021 is unassigned. (**Commissioner Wright** volunteered to take it)

ADJOURNMENT: By motion of **Commissioner Quigley**, the meeting was adjourned at 7:31 p.m. 

These Minutes were prepared and submitted by:

Jean Gallegos, Admin Asst/Recorder for the
City of Taylorsville Planning Commission

Approved in meeting held on May 25, 2021.