

Fountain Green Planning Commission Meeting
Fountain Green City Hall
April 8, 2021 7:30 p.m.

Attendance: Joseph Papenfuss, Stuart Krukiewicz, Bryan Allred, Jerime Ivory, Riley Hansen, Clint Hansen, Aimee Goble, Shelith Jacobson

Excuse: Tom Hansen

Citizens in attendance: Ken Brown, Homer Workman, Mayor Mark Coombs

Bryan calls the meeting to order and asks Heather to read the minutes for the March 11, 2021 meeting. Riley motions to approve the minutes as corrected. Aimee seconds the motion and all vote in favor.

- Robert and Sean Hansen come to request a permit to build a house on a vacant lot in the Sensitive Lands (SL) Zone and the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area (SFHA) at 264 North 300 West, serial #18098x4. They have a Letter of Map Amendment (LOMA) and have brought the current plat map. The 0.52-acre lot measures 107' frontage on 300 West and 214' depth (exceeding the 0.455-acre, 90' frontage and 100' depth minimums). The irrigation line runs along the south property line. City culinary water and a sewer line are available on 300 West. The main floor of the house will measure ~30'6"x59'6" (1830 sq.ft.) (exceeding the 24' width and 960 sq.ft. minimums) and the basement will measure the same. The garage will measure ~21'x21' (434 sq.ft.). The eave height will be 8' (much less than the 21' maximum allowed) and there is a 14'x20' rear deck with a roof. The setbacks will be 30' on the front/west (exceeding the 25' minimum towards 300 West), 127' on the rear/east (greatly exceeding the 25' minimum), 15' on the north side (exceeding the 12' minimum), and 30' on the south side (exceeding the 12' minimum). The signature of the fire chief (Todd Robinson) is on the application and plans. The signatures of the Water Master (Tyson Rasmussen) and the City Recorder (Michelle Walker - for payment of fees) are on the application form. Jerime motions to approve the permit for Mr. Hansen to build a house as described above. Stuart seconds the motion and all vote in favor. Mr. Hansen will need to submit his plans and City permit to the County and have Roger check his setbacks.

- Jacob Wetzel comes to request a permit to build a house on a vacant lot in the Residential Agriculture (RA) Zone at 66 North 500 West, serial #18050. The plat shows the property in the name of Jody Noakes (Trustee for the Gilgen Family Trust), but Mr. Wetzel has a notarized letter of permission from Ms. Noakes to build on the lot described above. The 0.52-acre lot measures 107.25' frontage on 500 West and 214.5' depth (exceeding the 0.455-acre, 90' frontage and 100' depth minimums). It is not in a FEMA SFHA and the irrigation line runs along the south property line. City culinary water and a sewer line are available on 500 West. The main floor of the house will measure ~55'x40' (1802 sq.ft.) (exceeding the 24' width and 960 sq.ft. minimums) and the basement will measure slightly less (1793 sq.ft.). The garage will measure 24'10"x23' plus 14'x~34' (1048' sq.ft.). The eave height will be 9' (much less than the 21' maximum allowed) and there is a covered rear porch measuring 14'x16'6". The setbacks will be 30' on the front/west (exceeding the 25' minimum towards 500 West), 146' on the rear/east (greatly exceeding the 25' minimum), 15' on the north side (exceeding the 12' minimum), and 23' on the south side (exceeding the 12' minimum). The signature of the fire chief (Todd Robinson) is on the application and plans. The signatures of the Water Master (Tyson Rasmussen) and the City Recorder (Michelle Walker - for payment of fees) are on the application form. Stuart motions to

approve the permit for Mr. Wetzel to build a house as described above. Clint seconds the motion and all vote in favor. Mr. Wetzel will need to submit his plans and City permit to the County and have Roger check his setbacks.

- AnnaLee Perry comes in response to a Letter of Violation that she received for an 8'x40' (320 sq.ft.) storage container on her grandfathered 0.31-acre lot at 445 West 200 North, serial #18068 (not in a FEMA SFHA). There is an irrigation line on her west property line and her neighbor to the east built a pig shed on the property line without a permit. Her storage container has been in place ~15 years and the pig shed was built afterwards. It does not have utilities and is 8' high (much less than the 21' maximum allowed). The setbacks are 71' on the front/north (greatly exceeding the 12' fire safety minimum towards the existing house), 59' on the rear/south (greatly exceeding the 2' minimum behind the midpoint of the property), 59' on the west side (greatly exceeding the 2' minimum behind the midpoint of the property), and 2 ½' on the east side towards the neighbor's pig shed (not meeting the 12' fire safety minimum). After discussion, the Commission decides to bring this situation to the attention of the City Council at the scheduled Work Meeting and recommend notifying the neighbors (Gary & Clarissa Roberts) that their pig shed is a non-complying use without a permit and they will need to move it if they decide to modify or rebuild it in the future. Jerime motions to approve the permit for Ms. Perry's storage container as described above. Clint seconds the motion and all vote in favor. Heather is directed to inform the County that this violation has been rectified and Roger will need to verify the setbacks.

- George Billings comes to request a permit to build a 21'x14' (294 sq.ft.) aviary for exotic ducks on his 0.57-acre lot at 380 West 400 South (a corner lot), serial #17917 (not in a FEMA SFHA). There are irrigation lines on his north and south property lines. The aviary will not have utilities and the eave height will be 8' (much less than the 21' maximum allowed). The setbacks will be ~38' on the front/south (exceeding the 12' fire safety minimum towards the existing house), 88.5' on the rear/north (greatly exceeding the 2' minimum behind the midpoint of the property), ~3' on the east side (exceeding the 2' minimum behind the midpoint of the property), and 30' on the west side (exceeding the 12' minimum towards the existing garage). Shelith asks how many ducks Mr. Billings is allowed to have and Joseph looks up the Animal Units to report that birds are set at 0.04 Animal Units (AU) each with 3 AUs per 0.50 acre (75 ducks) are allowed. Stuart motions to approve the permit for Mr. Billings to build an aviary as described above. Jerime seconds the motion and all vote in favor. Mr. Billings will need to submit his plans and City permit to the County and have Roger check his setbacks.

- Matt & Denice Strong submitted an application for a shed on their 0.78-acre lot, serial #18214x4, at 440 West 600 South (not in a FEMA SFHA) in response to a Letter of Violation that they received. The shed measures ~26'x14' (364 sq.ft) and does not have utilities. The eave height is 5' at the lowest point (much less than the 21' maximum allowed) with a 12' overhanging roof on the west side (included in the above measurements of the shed). The setbacks are ~90' on the front/south (greatly exceeding the 12' fire safety minimum towards the existing house), ~131' on the rear/north (greatly exceeding the 2' minimum behind the midpoint of the property), ~55' on the east side (exceeding the 2' minimum behind the midpoint of the property), and ~30' on the west side (exceeding the 2' minimum behind the midpoint of the property). Riley motions to approve the permit for the Strong's shed as described above. Jerime seconds the motion and all vote in favor with Joseph abstaining because he was searching in the City office for a current plat map for Matt Bretzing. Heather is directed to inform the County that this violation has been rectified and Roger will need to verify the setbacks.

- Matt Bretzing comes in response to a Letter of Violation he received for an 11'x40' shed (440 sq.ft.) on his 1.06-acre lot at 721 West Center, serial #18172x9 (not in a FEMA SFHA). An

irrigation line runs along his west property line. The shed does not have utilities and the eave height is much less than the 21' maximum. His plot plan is sketchy and incomplete, but does show that the rear/north setback is 2'4" (meeting the 2' minimum behind the midpoint of the property) and the west side setback is 50' (much greater than the 2' minimum behind the midpoint of the property). The front/south setback is much greater than the 12' fire safety minimum towards the existing house and the east side setback is much greater than the 2' minimum behind the midpoint of the property. Aimee motions to approve the permit for Mr. Bretzing's shed as described above. Clint seconds the motion and all vote in favor with Joseph still absent making a copy of Mr. Bretzing's current plat map. Heather is directed to inform the County that this violation has been rectified and Roger will need to verify the setbacks.

- Newell & Zella Christensen have come in response to a Letter of Violation that they received for a carport and storage container on their property at 186 North 500 West. They have supplied no paperwork and basically, Mr. Christensen proceeds to berate several Planning Commission members for his violations being brought to the attention of the City. He feels that he is being discriminated against and asks if he can have a Waiver of Liability for his violations of the fire safety minimums. The Mayor informs him that the City cannot give him a Waiver because it would violate State Code. Mr. Christensen is planning to have the storage container moved and the carport removed, but feels ill-used by the City and the Planning Commission in particular.

- Homer Workman asks to address the Commission. He feels like the City and Planning Commission should leave people alone if they are not hurting anyone.

- In response to a Letter of Violation, Lester Anderson has submitted an application for an 8'x40' (160 sq.ft.) storage container on his 0.53-acre corner lot at 285 West 100 South, serial #17966x (not in a FEMA SFHA). There is an irrigation line running along the east property line. The storage container does not have utilities and is 8' high (much less than the 21' maximum allowed). The setbacks are ~40' on the front/north (greater than the 12' fire safety minimum towards the existing house), 0' on the rear/south (not meeting the 2' minimum behind the midpoint of the property), ~37' on the east side (greater than the 12' fire safety minimum towards the existing barn), and ~12' on the west side (meeting the 12' fire safety minimum towards the existing shed). The property to the south is also owned by Mr. Anderson and may have only required a 0' setback in 2005 when he thinks the brought in the storage container, but the Commission points out that if he sells the other lot - buildings on the property line then become a bigger problem. After discussion, the Commission decides to define the storage container as a non-conforming structure that cannot be modified or rebuilt on the same footprint in the future. If the property to the south is sold, Mr. Anderson will have to deal with making the setbacks come into compliance at that time. Riley motions to approve the permit for Mr. Anderson's storage container with the conditions described above. Jerime seconds the motion and all vote in favor with Clint opposed because he feels that Mr. Anderson intentionally violated City Ordinances. The motion carried. Heather is directed to inform the County that this violation has been rectified and Roger will need to verify the setbacks.

- Scott & Lisa Collard submitted an application to build a 40'x40' (1600 sq.ft.) horse barn on their 2.0-acre lot at 401 South 100 East, serial #18267 (not in a FEMA SFHA). The barn will not have utilities and the eave height will be 9' (much less than the 21' maximum allowed). The setbacks will be 20' on the front/west (greater than the 12' fire safety minimum towards the new shop), 157' on the rear/east (much greater than the 2' minimum behind the midpoint of the property), 10' on the north side (greater than the 2' minimum behind the midpoint of the property), and 69' on the south side (greater than the 12' fire safety minimum towards an existing shed).

Jerime motions to approve the permit for the Collards to build a horse barn as described above. Stuart seconds the motion and all vote in favor.

- Joseph Papenfuss comes to request a 1-year extension for his conditional use permit to live in his existing house while building a new house on the same property at 750 West 100 North, serial #18170, with the same conditions. Clint motions to recommend approval of the conditional use permit for Mr. Papenfuss as described above. Jerime seconds the motion and all vote in favor with Mr. Papenfuss recusing himself.

- Bryan announces a work meeting with the City Council and Mayor on Saturday, April 17th at 8 am in the new Public Safety Building on State Street. They will be discussing violations, nuisances, and revision of Chapter 4 – Planning Commission. Stuart asks to be excused for his 50th Wedding Anniversary celebration. Several other Commission members are not sure if they can make it, but will try.

- The Commission next discusses more changes needed in the Citizen's Guide to the Building Permit Process. Heather has talked to the County Building Inspectors' office and learned that they no longer require the large building plans to be on a building site, but the City may still require them if they want to. It is a question of whether to allow other options like a pdf copy on a thumb drive or e-mailed to the City office. The Citizen's Guide needs to stress that applicants need to provide one copy of the building plan from the three options discussed above for any buildings with utilities as well as a plot plan that is large enough to be legible and complete. There is apparently also some confusion as to the requirement of a permit for each building on a property – not just one permit for anything/everything on a property.

- Riley asks to address the Commission. He reminds the members that we are an extension of the City Council and of the City. We need to be polite and respectful at all times in dealing with the public and each other – never undermine the other City officials. We should act professionally if we expect to be respected. He has been extremely disappointed by the behavior of some of the Commission members in the last several months. He also feels that the Commission needs to verify all information in a permit application packet even after it has been previewed by Heather. Bryan adds that when a Commission member is asked for advice on a building project, they need to stress that it is an individual member's advice and not binding on the Planning Commission decision. For example: the real estate appraiser asking an individual Commission member about the conditional use permit requiring an owner to be living in a Bed & Breakfast – not just a manager. The only binding decision is that made by the Planning Commission in a regular meeting by a quorum of members. He advises that when asked for advice, the Commission members invite the person with questions to come to a regular meeting of the Planning Commission and be prepared. Clint suggests that a Commission member can still provide information when asked, but Bryan stresses that they need to be sure to point out that it is an individual's opinion.

- The Commission next discusses the suggestion made by Roger that the Planning Commission consider changing Chapter 11.29 of the Land Use Ordinances to prohibit the drilling of culinary water wells within City limits. Bryan explains that the Irrigation Company cannot prevent its shareholders from converting irrigation shares to culinary water, but they can still require that they pay the assessment fee each year to the Irrigation Company. The City could do something similar if the situation comes up. The Commission agrees that the City Council should be apprised of the possibility and decide if they want the Planning Commission to come up with a provision for Chapter 11.29. They ask Shelith to take it to the City Council and Mayor.

- Heather passes out copies of the updated sewer map and points out that the portions on the map marked in yellow are potentially the only places where people could not hook up to the existing sewer system. The Commission discusses what little is known about the line that went

through Bailey property in the lanes to the Snijman mobile home in the '90s. Shelith would like to track down what actually happened. The City no longer allows this type of extension of a sewer line. Heather also passes out copies of the updated culinary water main lines in the City.

° Gary Hurst is not on the Agenda, but has come to the meeting to learn how to solve his violation of a shed built next to an unauthorized existing shed in 2013. He had received a "go ahead" from a Planning Commission Chairman and now realizes that it was an individual's opinion – not a binding Commission decision. He was also told that it was OK by a Mayor – again, another individual's opinion – not a City Council and Mayor's decision made in a meeting of the same. Joseph wonders if a variance could be considered because Mr. Hurst is on a ¼-acre lot on a corner (see Chapter 5.5). He also has another 0.28-acre to the west of that lot. He could combine the two lots and give himself more room to move the shed(s) away from the street. The Commission asks Heather to research how many other ¼-acre corner lots there are in the City to help consider this problem. Aimee points out that she is also on a ¼-acre corner lot and it might be helpful to others in this situation if the Commission prohibited neighbors of these lots to claim 2' setbacks behind the midpoints of their property – this would allow a little more use of the smaller lots. Clint reminds the Commission members that a buyer of a small lot knew it was small when he bought it and should not expect special considerations in its use.

° In considering how many more violations need to be dealt with, Heather provides her list of violations and checks off those that have been rectified tonight. There are apparently 5 or 6 left. This is encouraging, but some are difficult cases. Shelith reminds the Commission that the City Attorney recommended that the City begin enforcement "today" and not try to enforce past violations. Joseph wonders about a statute of limitations (7 years?). Heather asks if they remember the discussion of attaching the violation to the deed of the property, but no one knows exactly what that entails.

° Jerime motions to adjourn the meeting. Riley seconds the motion and all vote in favor. The meeting adjourns at 11:00 pm.

Heather