



WILLARD CITY
Planning Commission Meeting – Regular Meeting
Thursday, May 5, 2022 – 6:30 p.m.
Willard City Hall – 80 West 50 South
Willard, Utah 84340

The meeting was a regular meeting designated by resolution. Notice of the meeting was provided 24 hours in advance. A copy of the agenda was posted at City Hall and on the State of Utah Public Meeting Notice Website.

The following members were in attendance:

Sid Bodily, Chairman
Diana Baker
Chandler Bingham
Blake Harrop
Zack Hulsey

Chris Davis, City Manager
Colt Mund, City Attorney
Bryce Wheelwright, City Planner
Michelle Drago, Deputy City Recorder

Excused: Alex Dubovik

Others in attendance: Mayor Travis Mote; Councilman John Seamons; Steve Brimberry; Tammy Brimberry; Taylor Brimberry; Kalisha Brimberry; Ted Baird; Jo Baird; Randy G. Braegger; and Shane Barthlome.

The meeting was called to order at 6:30 p.m.

1. PRAYER: Sid Bodily
2. PLEDGE OF ALLEGIANCE: Diana Baker
3. ROLL CALL – Attendance was recorded by the secretary.
4. GENERAL PUBLIC COMMENTS (INPUT FOR ITEMS NOT ON AGENDA)

There weren't any public comments.

- 5A. CONSIDERATION OF CONCEPT APPROVAL FOR STEVEN AND TAMMY BRIMBERRY SUBDIVISION LOCATED AT APPROXIMATELY 42 SOUTH 250 WEST (PARCEL NO. 02-051-0001)

Time Stamp: 05/05/2022 2:28

Bryce Wheelwright, City Planner, stated that the City had received an application from Steven and Tammy Brimberry for conceptual approval of a minor subdivision located at 42 South 250 West. They wanted to subdivide their property to create a building lot for their son Taylor. Their concept plan showed that a new lot would be located behind the main house. It would have access from a lane running along the north side of their property. The staff had talked with Brimberry's about the flag lot issue, but they still wanted to talk to the Planning Commission.

Chairman Bodily invited the applicants to speak.

Tammy Brimberry, 42 South 250 West, stated that if 300 West had gone in as planned, they wouldn't be appearing before the Planning Commission.

Steve Brimberry, 42 South 250 West, stated that they were landlocked. They proposed to put in a 30 feet easement along the north side of their property with a circular driveway for fire protection. The neighbors



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to north, Hansen's, already had a 25-foot lane. Hansen's were willing to allow them to use their lane to create an even wider access.

Tammy Brimberry stated that their son knew he had to have a circular driveway for fire access.

Steve Brimberry said there similar lots around town, such as the Helen Jane Lemon lot on 200 West.

Chairman Bodily said flag lots may have been allowed in the past. Now the City had an ordinance that prohibited them.

Tammy Brimberry said there were accessory buildings being built in the City that included living space. For example, on Main Street a shop was being built that included a house.

Ted Baird, 175 West Center, stated that there were at least four others in the City. On Center Street and 200 West, there was a shop with living quarters above it. There was another one by the creek on 200 West. Of course, there was Helen Jane Lemon's rental that was located behind her main house. It was just sold. There were half a dozen on 200 West. Two were in shops, and one was behind a newer home. All had been built in the past few years. There were probably more than a dozen in town.

Commissioner Harrop stated that the City had an ordinance that did not allow flag lots. He empathized with the Brimberry's. He did not know what the regulations for private drives were. Was there a possibility the Brimberry's could use the easement they were proposing and the easement on the Hansen's property to create a private drive? Then both property owners could utilize the back areas of their properties and comply with the City ordinances. He realized a private drive would add some additional cost.

Tammy Brimberry asked if the City would maintain a private drive. Commissioner Harrop said it would not. The City would maintain a public road, but a public road had to meet City standards.

Bryce Wheelwright stated that the Brimberry's would have to make sure their property, and Hansen's, maintained the required 100 feet of frontage. A dedicated road needed to be 60 feet wide. If it was dedicated, the City would maintain it. The road would have to end in a cul-de-sac.

Commissioner Bingham stated that the Master Road Plan included 300 West.

Tammy Brimberry asked what they had to do to get 300 West built. Steve Brimberry said they had planned on 300 West; without it they were landlocked.

Commissioner Harrop asked if a lot with access from a private road would still be considered a flag lot. Commissioner Bingham felt it would be. Colt Mund, City Attorney, it would depend on the frontage.

Commissioner Hulsey asked about a private road that was not part of the lot itself. What if the subdivision contained almost three parcels – two lots and the private road? Bryce Wheelwright said the road would have to be dedicated to the City, and the lot for Brimberry's son would have to have the required 100 feet of frontage. A road dedicated to the City would have to meet City standards.

There was a discussion about 300 West.

Ted Baird asked if there was a time frame for the construction of 300 West. Commissioner Bingham stated that 300 West would be built as property developed. It would be constructed at a developer's expense, not



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the City's. If the Brimberry's wanted 300 West to be constructed, they would have to work with other property owners between them and Center Street. The distance from Center Street to their property was almost the same as the private road would be.

Tammy Brimberry felt that 300 West should have gone in when the subdivision below them was constructed.

Commissioner Baker asked about two houses under construction at 200 East and 300 South. Were they being accessed through a private lane? Chairman Bodily said the lots had access from 200 East. Commissioner Baker said the City was selling the property behind the lots. Could the City prevent the new owner from allowing access to the homes on 200 East? Bryce Wheelwright said it would be private property.

Commissioner Baker felt the situation was similar to the Brimberry's. Bryce Wheelwright and Chairman Bodily said it wasn't. Both of the lots had frontage on a City street even if they chose not to use it.

Commissioner Hulseley asked if the Brimberry's were willing to build 300 West from Center Street to their property. Tammy Brimberry said that in order to put in 300 West, one property owner would have to move their well. Steve Brimberry did not think they could afford to build a road.

Commissioner Bingham stated that both options would require a City road. If they built 300 West, they might be able to involve other landowners, who would also benefit, to help.

Steve Brimberry stated that there were flag lots all over the place. When did the City stop allowing flag lots? Commissioner Bingham checked the date of the flag lot provision in the Zoning Ordinance. It was adopted in June 2015.

Tammy Brimberry asked about City enforcement. Did the City do anything about people building sheds and shops and living in them? Commissioner Bingham said the City was working on an ordinance to address that situation.

Jo Baird, 175 West Center, asked about the definition of a flag lot. How had the City approved the Barker/Braegger property? Wasn't that a flag lot? She felt some property owners were penalized while others were allowed to get away with it.

Commissioner Bingham stated that the Barker/Braegger Subdivision included 100 feet of constructed roadway. He felt Ms. Baird was getting the second, emergency access confused with the primary access.

Bryce Wheelwright stated that Rod Braegger was building a road. Colt Mund stated that Rod Braegger would not receive a building permit until there was a road.

Commission Hulseley stated that if the Brimberry's put in 300 West, they would be in the same situation as Rod Braegger.

Jo Baird asked about the Helen Jane Lemon property. Colt Mund stated that the Helen Jane Lemon's flag lot had been in existence since the 1950's. It pre-dated the City's flag lot ordinance, which meant it was grand-fathered in. The City had been involved in litigation with the Lemon's, when they sold a portion of their property, to make sure they were not changing the use. The issue with the Lemon property was very distinct. There were two homes on two separate pieces of property that had been in existence since the 1950's. Yes, one was a flag lot, but it pre-dated the City's flag lot ordinance.



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Tammy Brimberry stated that they had owned their property forever. Colt Mund said they had, but there were not two homes on their property.

Commissioner Bingham stated that in order for there not be a flag lot, Brimberry's needed to have 100 feet of frontage on a City road.

Colt Mund agreed this was a difficult process. Some of the other issues and concerns raised by the Brimberry's and Baird's were not flag lots. They dealt with accessory dwelling units. They were a separate issue that the City was trying to address.

Colt Mund stated that if the Planning Commission denied the Brimberry's application, they could pursue a variance request. A variance request would go before a hearing officer. They could meet with Bryce Wheelwright to discuss the variance process.

Commissioner Hulsey felt the Brimberry's needed to pursue a route to get a road to their property. Without a road, the Planning Commission could not approve their subdivision.

Chairman Bodily called for a motion.

Commissioner Bingham moved to disapprove, or deny, the conceptual approval of the Steven and Tammy Brimberry Subdivision located at 42 South 250 West (Parcel No. 02-051-0001). Commissioner Harrop seconded the motion. All voted "aye," except Commissioner Baker who voted "nay." The motion passed.

5B. CONSIDERATION OF A PETITION FROM SHANE BARTHLOME TO REZONE APPROXIMATELY 2.4 ACRES LOCATED AT APPROXIMATELY 672 NORTH 200 WEST (PARCEL NO. 02-046-0096)

Time Stamp: 05/05/2022 29:30

Bryce Wheelwright stated that Shane Barthlome owned 2.4 acres located on the southeast corner of 750 North 200 West. It was currently zoned A-5. The City's Master Plan planned for this property to be commercial. Mr. Barthlome was asking that the property be rezoned from A-5 to Commercial General.

Shane Barthlome, 672 North 200 West, stated that he wanted to rezone the property in accordance with the Master Plan. He wanted to bring some youth sporting to the community by building practice facilities for indoor soccer and several other sports. He lived in the house next door, and he wanted to create a buffer from the industrial on the north side of 750 West with something that would add to the community.

Commissioner Baker thought the property was already zoned commercial. Mr. Wheelwright said the property was currently zoned A-5.

Commissioner Baker did not have a problem with the rezone request.

Commissioner Bingham did not have a concern. The property was potential commercial.

Commissioner Hulsey felt everything on 750 North should be commercial.



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Commissioner Harrop felt the rezone fit the Master Plan. Mr. Barthlome's proposal would benefit the community.

Commissioner Hulseley moved to set a public hearing for May 19, 2022, at 6:30 p.m. to consider a petition from Shane Barthlome to rezone 2.4 acres located at approximately 672 North 200 West. Commissioner Baker seconded the motion. All voted "aye." The motion passed unanimously.

5C. DISCUSSION REGARDING OPEN AND PUBLIC MEETINGS ACT TRAINING VIDEO

Time Stamp: 05/05/2022 33:53

Chairman Bodily stated that he had watched the video.

Michelle Drago asked that he sign an affidavit after the meeting.

6. CONSIDERATION AND APPROVAL OF APRIL 21, 2022, REGULAR PLANNING COMMISSION MINUTES

Commissioner Bingham moved to approve the regular Planning Commission minutes of April 21, 2022, as written. Commissioner Baker seconded the motion. All voted "aye." The motion passed unanimously.

7. COMMISSIONER/STAFF COMMENTS

Time Stamp: 05/05/2022 35:53

Chairman Bodily

Chairman Bodily asked what the Planning Commission was supposed to do when it was trying to follow the ordinances and applicants told them about ordinance violations in the community. He did not know how much was true and how much wasn't. If it was true, it made it difficult for the Planning Commission to uphold the ordinances.

Chris Davis stated that the City was working on the first example mentioned by the Brimberry's. The City had not issued a building permit. The property owners had been told that the accessory building could not be occupied. Proving that someone was living in the accessory building was difficult. The Brimberry's did not go on record stating that a specific violation was occurring at a specific address. City officials consisting of the City Attorney, City Planner, City Council, Police Chief, and himself, were good at following up on specific information.

Commissioner Harrop asked if the Planning Commission could ask for specific examples if an applicant made a general claim about violations. Colt Mund felt the Planning Commission needed to be very careful, in a public meeting setting, about naming specific individuals and violations based on hearsay. If someone had information about violations, they could talk to the Police Chief and the City Planner. Then the City could look into it. The Planning Commission had to be very careful.

Colt Mund agreed that the Planning Commission heard a lot of claims that the City had allowed so and so to do this or so and so to do that. It was always used as an argument to get approval for something that was not allowed. It put the Planning Commission in a very difficult position. However, the Planning



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Commission had to be very careful and cognizant to not cast an aspersion on someone without some evidence.

Bryce Wheelwright felt it was important for the Planning Commission to follow the City ordinances.

Colt Mund stated that as legal counsel to the Planning Commission, he did not feel getting into a discussion about what had happened in the past was a helpful exercise, especially when a lot of discussion was based on hearsay and multiple levels of hearsay.

Bryce Wheelwright

Bryce Wheelwright stated that two weeks ago he attended a Walkability Institute in Provo. It was a federal program promoting walking, biking, and non-motorized vehicle trails. The Planning Commission was aware of the Historic Orchard Pathway (HOP) Trail that was supposed to run north and south from the Weber County line to Brigham City. In Willard it would run along the west side of 200 West. The HOP Trail was one of the prime projects discussed at the Institute. The Legislature recently approved \$40 million for trail projects. The Institute encouraged communities along the pathway to apply for the \$40 million to get the trail built. The key for the City's application was a 20% match, which could be costly. The cost estimate for the trail was \$1 million a mile. There was about two miles of trail through Willard, so the City's match could be about \$400,000. The match did not have to be money out-of-pocket. The City could apply for other grants to meet the match, or it could make an *in kind* match. There would be workshops and information meetings about the pathway. The Walkability Institute asked if Willard City would be willing to do a walkability study that would involve appointed and elected officials and citizens. All would be invited to go on a walk and to make comments

Chairman Bodily asked if the City had a trails team. Mr. Wheelwright said it did not. Willard used to have one, but it was no longer functioning.

Bryce Wheelwright said Box Elder County had a Master Trails Plan. People in Perry, Box Elder County, and Brigham City were involved. Councilman Seamons and he were involved. He asked that Planning Commission members plan to attend the walk to learn about some of the construction challenges. The key was to get the trail done now before the land was developed out.

Commissioner Harrop asked how many people used the trail on 200 West north of 750 North. Mr. Wheelwright said UDOT had attempted to get a count, but an accurate count had never been taken.

Chris Davis

Chris Davis stated that the City had received an annexation petition from Willard Land - Lew Swain and E. K. Bailey. Box Elder County had started to send out notices. Eventually the Planning Commission would see the annexation.

Colt Mund

Colt Mund stated that he was working on the ADU Ordinance. He hoped to have it ready for the next meeting.



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Commissioner Bingham

Commissioner Bingham asked if there were any funds from the money the City received for the Nature Park that could be used to landscape the dike. Bryce Wheelwright said that landscaping the dike was part of the Nature Park plan, but the money had run out.

Commissioner Baker

Commissioner Baker was concerned about houses on dirt roads. There were some behind her and some on 300 East. She would like to see the General Plan's Road Master Plan address those issues and help residents like the Brimberry's. The Brimberry's would have had frontage if 300 West had gone in.

Commissioner Bingham said there had never been any development to drive the installation of 300 West. The Brimberry's were the first to generate a reason for 300 West to go in. Commissioner Harrop said the Road Master Plan could show the roads, but they would only be developed as needed.

There was further discussion about roads.

Commissioner Hulse

Commissioner Hulse asked how SLUA was involved in the subdivision approval process. Was the Brimberry's conceptual plan presented to SLUA? Mr. Wheelwright said it was not. If the Planning Commission approved a conceptual plan, then SLUA reviewed it for accuracy and compliance. Commissioner Hulse asked if there was a way to weed applications out before they came to the Planning Commission.

Chris Davis felt that was an excellent question. The staff had been discussing whether it could deny an application administratively.

Colt Mund stated that the Brimberry's wanted to talk with the Planning Commission. If an applicant wanted to speak with the Planning Commission they could apply to do so.

Bryce Wheelwright stated that he had a long conversation with the Brimberry's. He explained the City's flag lot ordinance and tried to talk them out of appearing before the Planning Commission.

Commissioner Harrop

Did not have any comments.



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8. ADJOURN

Commissioner Hulseley moved to adjourn at 7:26 p.m. Commissioner Bingham seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: 5/19/22

Sid Bodily
Planning Commission, Chairman
Sid Bodily

Michelle Drago
Planning Commission Secretary
Michelle Drago

dc:PC 05-05-2022