December 1, 2022
Planning Commission Meeting
Virtual Meeting
7:00 p.m.

Commissioners Present: Chairman Julie Jones, Vice Chairman Marcus Wager, Commissioner Jan Kerr (on-line), Commissioner Blake Broadhead, and Commissioner Ryan Vaughn.

Commissioners Absent: Commissioner Stephan Moss and Commissioner Beth Thompson

City Staff Present: City Administrator Bob Barnhill, Planning Secretary Tyra Bischoff, and Attorney Chris Crockett

Others Present: Brinton Neff, Melanie Barnhill (on-line)

1. 7:01 p.m. - Call to Order and Opening Ceremonies

Chairman Julie Jones called the meeting to order.

A. Declare Conflict of Interest, if any

None.

2. Action Items

A. Preliminary Application – West Meadow Estates located at 2250 S 1200 W Parcel #03-157-0017
Applicant: Brinton Neff

Mr. Barnhill said they have already seen this application for a Conservation Subdivision plan that included an open space component. He recounted that at the work session with the Planning Commission, City Council, and the developer, it was decided to consider an option for a more traditional development and to give the additional density that was allowed in the Conservation Subdivision Ordinance. Also discussed was to take the open space improvement compensation and move the improvements off site. He said that since the last Planning Commission meeting the applicant, Brinton Neff and city engineer, Brett Jones have met together and discussed the open space option and a compensation amount.

Mr. Brinton Neff gave his perspective on the open space value from appraisals of similar projects close by. He asked the commissioners to keep in mind the current economic turmoil. He said that building has slowed and houses are not selling but he wants to continue with this application process.

Mr. Barnhill mentioned that he had a few notes for a compensation amount and that they need to find an amount with which both parties may feel comfortable. In addition, the Commissioners need to show the taxpayers they have followed the ordinance and justify the value they pick. On the other hand, the developer needs to have something that still works and is viable. He pointed out that the appraisals they have are black and white but where the future market is going is not black and white. He said the open space in this Conservation Subdivision that would have been turned over to the city is about 5 acres. He mentioned that he had received an appraisal for agricultural land near the development which showed $55,000 per acre for a total land valued of $250,000 for this open space. He said because of the recent decline in the housing market he called a realtor to discuss this appraisal and was told the value has decreased about 15 percent or to $230,000.

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Mr. Barnhill said this action item will be a recommendation to the City Council and that they should consider the phasing on this Conservation Subdivision. He explained that full value payment of this is probably not realistic to require it when the developer records the plan. He then pointed out the four planned phases on the plat map.

Commissioner Broadhead asked about the findings of the wetlands and if they have gone away. Mr. Neff responded that he was told to present to the city what he thought the results of the delineation study might give. Commissioner Kerr said the first phase of the development does not contain the wetland area so it will give them time to get the delineation study results. Mr. Neff said the study will be done in the spring and it might take another six months to get the answers from the Corps of Engineers. Commissioner Kerr asked how long Phase 1 will take to complete. Mr. Neff thought it would take 90 days or a little longer with the off-site thing, however, they will only build as they sell the lots. Mr. Barnhill interjected that Mr. Neff has several options for the development of the wetland after he receives the results from the delineation study.

Commissioner Wager asked for the designation of the money the city receives in lieu of the open space. Mr. Barnhill said the ordinance states it will be to the city's discretion but they may suggest Dale Young Park or a specific purpose in the motion. Commissioner Vaughn asked about the upgrade planned for Dale Young Park and if the money can also be used at other parks. Mr. Barnhill responded that the master plan for the Dale Young Park upgrade will cost much more money than what they are talking about. He mentioned the equipment needs to be removed or replaced at Mountain View Park but that Dale Young Park improvements are the top of the list.

Chairman Jones asked the Commissioners what they think about the amounts (Mr. Neff presented $87,000 and the realtor appraisal was $230,000) for the in lieu of the 5 acre open space. She also asked if they could adjust the value at the beginning of each phase. Mr. Barnhill said they probably could create a plan like that but they may have issues down the road. Commissioner Broadhead said he thinks it is fairer to Mr. Neff to give him a value now. The Commissioners discussed that they could have an incremental percentage change with a cap after each phase has received its approval. They voiced that they feel with the downward housing market the $230,000 amount might be high and were leaning more towards a fairer amount of $200,000. Commissioner Kerr said what she knows the Utah housing market usually has a ten-year market cycle but, historically they end up higher than at the start of the cycle.

MOTION: Commissioner Broadhead made a motion to approve the West Meadow Estates application with $200,000 to be paid over 4 payments per phase. He recommended that $50,000 be collected prior to issuing conditional acceptance and prior to recording the plat of the sequential phase and that 100% goes to Dale C Young Park. Commissioner Wager seconded the motion.

Roll Call Vote:

Commissioner Jones, Yes
Commissioner Wager, Yes
Commissioner Kerr, Yes
Commissioner Broadhead, Yes
Commissioner Vaugh, Yes
Commissioner Thompson, Absent
Commissioner Moss, Absent

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Motion Approved

Mr. Barnhill said he will try to get this action item scheduled for the next City Council Meeting on December 8, 2022 mostly because the next meeting will not be until January 2023.

B. Approving the Meeting Schedule Dates for 2023

Chairman Jones presented the 2023 schedule for the Planning Commission and mentioned it is still on the first Thursday of the month.

MOTION: Commissioner Wager made a motion to approve the Meeting Schedule Dates for 2023 as written. Commissioner Kerr seconded the motion.

Roll Call Vote:

Commissioner Jones, Yes
Commissioner Wager, Yes
Commissioner Kerr, Yes
Commissioner Broadhead, Yes
Commissioner Vaugh, Yes
Commissioner Thompson, Absent
Commissioner Moss, Absent

Motion Approved

C. Appointing new Chair/Vice Chairperson for 2023

Mr. Barnhill explained that if a commissioner is appointed Chairperson, he or she is Vice Chairman for 2023 and the Chairman in 2024. Therefore, the Chairperson for 2023 will be Vice Chairman Marcus Wager. Vice Chairman Wager said last year Commissioner Stephan Moss said he will be Vice Chairman at the point of the change.

MOTION: Commissioner Kerr said she nominates (makes a motion) Commissioner Stephan Moss as Vice Chairman for 2023. Commissioner Vaughn seconded the motion.

Roll Call Vote:

Commissioner Jones, Yes
Commissioner Wager, Yes
Commissioner Kerr, Yes
Commissioner Broadhead, Yes
Commissioner Vaugh, Yes
Commissioner Thompson, Absent
Commissioner Moss, Absent

Motion Approved

3. Approval of the Minutes

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A. November 3, 2022, Regular Planning Meeting

Commissioner Kerr said line 32 should be changed from council to commission. Commissioner Vaughn pointed out the spelling error of his name on line 107 and 130. Commissioner Broadhead said in line 66 the word Corp should have an "s" at the end of it.

MOTION: Commissioner Wager made a motion to approve the November 3, 2022 with the corrections. Commissioner Broadhead seconded the motion.

Roll Call Vote:

Commissioner Jones, Yes
Commissioner Wager, Yes
Commissioner Kerr, Yes
Commissioner Broadhead, Yes
Commissioner Vaugh, Yes
Commissioner Thompson, Absent
Commissioner Moss, Absent

Motion Approved

4. Discussion

A. Future Projects

Mr. Barnhill said for their information the city will be changing their on-line code providers. He explained that we currently are serviced by Municode, but we have problems getting the process done when we try to post digital ordinances. He said the city will be moving over to CiviclinQ as our electronic code provider and noted that they are cheaper and have better ratings. He advised them that in the next few weeks they will see a change on the system. Ms. Bischoff mentioned that the search engine with CiviclinQ is better.

B. Report on past-approved Planning Commission Agenda Items

Mr. Barnhill said there wasn't anything to report on. Commissioner Wager asked for an update with the property by Hargis Hill Road. Mr. Barnhill responded that the developer pulled the development agreement and will build with the standard zoning requirements.

C. Report from Commissioner regarding previous Council Meetings

None.

D. Make Assignments for Representative to Attend City Council Meeting (December 8, 2022)

Mr. Barnhill said the City Council meetings have mainly administrative items on the agenda. He then said he will attend this meeting.

5. Public Comment

None.

6. Training 7:30 p. m. – 7:45 p. m.

A. Staff

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Attorney Chris Crockett gave his training to the Planning Commission on a Court of Appeals for an important procedural provision. In section 4D of the Utah Code 10-9A-701 it talks about appeals of land use decisions that the Planning Commission may make. It explains what happens if the Planning Commission receives an appeal on a decision which results in a public hearing and the appeal goes to the hearing officer. Mr. Barnhill commented that in his time with Perry City he has not had an appeal but has had a couple of variances. Mr. Crockett said for an appeal, the person filing will need to exhaust all their administrative remedies before they go to court. He further explained the appeal authority and that the city creates a full and compete record of the issue so not to waste judicial resources. He gave an example of a recent case and then gave exceptions to get around the exhausting of administrative remedies. The four exceptions are: that the party would sustain irreparable injury, a likelihood of oppression or injustice, where exhaustion would serve no purpose or is futile, and where an administrative agency or officer has acted outside the scope of his defined statutory authority. He remarked that this example was to educate and explain how the courts will interpret and apply these principles to the Land Use Statutes.

7. Review Next Agenda and Adjourn

A. Items for January agenda (next meeting January 5, 2023)

None.

B. Motion to Adjourn

Motion: Commissioner Broadhead made a motion to adjourn the meeting. Commissioner Kerr seconded the motion.

All Commissioners were in favor. The meeting ended at 7:48 p.m.

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