

*Planning Commission Regular Meeting Minutes
Thursday, October 2, 2014
City Council Chambers
220 East Morris Avenue
Time 7:00 p.m.*

Commission Members Present: Rachael Lauritzen, Presiding
Holly Carson
Jeremy Carter
Brandon Dalton
Mark Kindred

Staff Members Present: Michael Florence, Community Development Director
Hayley Pratt, City Planner
Paul Roberts, City Attorney

Moment of Reflection: Commissioner Lauritzen

Pledge of Allegiance: Commissioner Carson

Motion to Approve the Agenda: Commissioner Kindred

Second the motion: Commissioner Carter

Vote: Unanimous

New Business

**1. Public Hearing
T-14-002**

A Recommendation to the City Council to Amend Title 17 of the South Salt Lake Municipal Code to Adopt an Ordinance Establishing Procedures for Variances to the Land Use Ordinance.

Action Item

Applicant: South Salt Lake City

Community Development Director, Michael Florence, reported that as part of the general comprehensive land use code update, staff was proposing that the Planning Commission recommend to the City Council an update to the variance ordinance. Mr. Florence explained that the ordinance strictly follows state law. A few minor changes were made for clarification. He reported that variances are not granted often and involve situations where the strict reading of an ordinance would cause a hardship for a property owner. State law allows for a process that gives property owners the opportunity to slightly modify certain City specifications. When granting a

variance, the appeal authority, who is the Community Development Director in the case of the City of South Salt Lake, makes the decision. This decision can be appealed to the Administrative Law Judge. There are five requirements for a variance, all of which must be met to qualify. The requirements are as follows:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the General Plan, will not be contrary to the public interest, and the spirit of the Land Use Ordinance is approved and substantial justice done.

Examples of instances where a variance may be granted were given. Mr. Florence explained that a variance is not granted for additional density or for different zoning. A characteristic must exist with the property itself to warrant a minor modification.

Variance Determinations were described as follows:

- A. In determining whether or not enforcement of the land use or ordinance would cause unreasonable hardship under Subsection 17.19.020, the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 1. Is located on or associated with the property for which the variance is sought; and
 2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection 17.19.020, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- B. In determining whether or not there are special circumstances attached to the property under Subsection 17.19.020, the appeal authority may find that special circumstances exists only if the special circumstances:
 1. Relate to the hardship complained of; and
 2. Deprive the owner of privileges granted to other properties in the same zone.

- C. The applicant shall bear the burden of proving that all conditions justifying a variance under Section 17.19.020 have been met.
- D. Variances run with the land.
- E. Non-permitted uses may not be allowed through a variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - 1. Mitigate any harmful effects of the variance; or
 - 2. Serve the purpose of the standard or requirement that is waived or modified.

Mr. Florence indicated that the variance must be in compliance with state law.

The public comment period was opened at 7:08 p.m.

There were no public comments. The public comment period was closed at 7:09 p.m.

Motion to recommend approval to the City Council of the amendment to Title 17 of the South Salt Lake City Municipal Code.

Commissioner Carson

Second on the motion:

Commissioner Carter

Vote:

Unanimous

Continuing Business

- 1. GP-14-004

A Recommendation to the City Council to Amend the Future Land Use Map to Designate 1.9 Acres Located at Approximately 441 East 3900 South from Low-Density Residential (3 to 8 units per acre) and General Commercial to High Density Residential (16-29 units per acre).

Action Item

Address: 441 East 3900 South

Applicant: Director's Alliance

Mr. Florence reported that the Commission heard the above application at the last meeting. One of the project partners was present and asked that the proposal be continued to a future meeting.

The applicant, Brad Pierson, gave his address as 3976 South 400 East and asked that the recommendation be extended. The matter was discussed at the last meeting and with staff. Recommendations were made to alleviate some of the concerns in the neighborhood. The applicants were working through those issues with their team. Once that is complete they will conduct a meeting with the neighbors and present them with the proposed changes. He expected the matter to be resolved and ready for a recommendation at the November 6 meeting.

The public comment period was opened at 7:12 p.m.

Dee Smith gave her address as 3805 South 400 East. She was provided with a letter from her neighbors, Luke and Christine Coditz, who reside at 3857 South 400 East. The letter was read and made part of the record. The Coditz' were unable to be present but were opposed to any zone change to either of the properties at 3873 South 400 East and 441 East 3900 South. The applicant had not contacted any of the neighbors like he was asked to. He also has unfinished property near the school at 400 East. The property has remained only partially finished for years, which was of concern to them. The Coditz' contacted several of the neighbors and found none in support of the proposed change.

Mr. Florence was also provided with a petition containing the signatures of 18 residents near the proposed building site at 441 East 3900 South and 3873 South 400 East who are opposed to any changes to the zoning. The petition was submitted and made part of the public record.

Ms. Smith stated that the longer the meetings drag on, the more irritated the neighbors become and the less likely they are to change their minds. She felt that the benefit of attending several meetings over the past six months concerning the proposed zone change was to learn to be more comfortable with the public hearing process. Few residents come to meetings and they trust the City officials to run the City in an efficient and legal manner.

Ms. Smith read a letter submitted by her and her husband, Randy, that was made part of the record. She stated that her neighbors are uncomfortable with what they feel are the following inappropriate actions:

1. The neighbors feel pressure to accept Mr. Pierson's proposed project.
2. A member of the Commission spent time interviewing neighbors on the issue.

3. Mr. Pierson indicated that he had met with all of the neighbors as he was asked to but in fact, made no effort to hold an organized meeting.
4. Mr. Pierson claimed he has grandfather privileges and can do what he wants with his construction plans regardless of any decision by the City Council.
5. Mr. Pierson indicated that he has done his own survey of the property boundaries and intends to take as much as seven feet from the backyards adjoining his property.
6. The neighbors were told that if they don't agree to the proposed project a commercial building will be constructed instead that they will have no say in.

Ms. Smith stated that the neighbors have no obligation to negotiate with Mr. Pierson in order to facilitate financial gain on his part. In her opinion, Mr. Pierson was losing credibility in the neighborhood by failing to follow through on the completion of the home next to Lincoln School. That project had been under construction for at least three years and is an eyesore. The understanding was also that Mr. Pierson has made application for numerous projects over the last eight years but never finished even one. Ms. Smith remarked that a commercial building on the property was the most agreeable. A warehouse, for example, would not attract a criminal element that is growing in the neighborhood. The neighbors also saw no reason to facilitate the applicant's efforts to push the neighbors toward a compromise that will benefit only Mr. Pierson. The neighbors, however, would be left with noise, traffic, crime, litter, and unfinished construction for years to come.

Judy Mincher gave her address 3233 Water Lilly Drive. Her main concern was with changing the low density to high density. She thought the mayor was doing a good job of improving the community.

There were no further public comments. The public comment period closed at 7:20 p.m.

Commissioner Dalton commented that the Planning Commission needs to decide what the best zone is for the property. He did not consider high density to be the best. He stated that he would be more supportive of medium or low density. He pointed out that the Commission is looking at the best use for the property. Chair Lauritzen also felt that the site was problematic for the proposed density.

Motion to continue the matter to the November 6, 2014, Planning Commission Meeting.

Commissioner Carter

Second on the motion: Commissioner Carson

Vote: Unanimous

2. C-14-043

Appeal of a Conditional Use Permit for the Central Park Pet Retreat, a Pet Boarding and Daycare Facility.

Address: 55 East Miller Avenue

Applicant: Jacquelyn J. Hansen

Mr. Florence indicated that the above item was discussed at the last meeting. The applicant requested that the matter be continued to the November 6 meeting as they are working on plans to be submitted to the Commission.

The applicant, Jacquelyn Hansen identified herself as the owner of the Central Park Pet Retreat and stated that she and the Williams are trying to come up with a solution. They originally agreed to put the matter off until April since they leave town the first of January and return the first part of April. Mr. Florence, however, recommended that the matter be resolved before that time.

The possibility of continuing the matter until April 2015 was discussed. City Attorney, Paul Roberts stated that the Commission could choose to table the matter until April, if desired. Mr. Florence did not support tabling the issue and stated that there will always be a single-family home next door. Additionally, the same review standards will still exist in the conditional use permit ordinance regarding buffering and noise standards. The Williams indicated that their primary concern was with dogs barking. The consensus of the Commission was to continue the matter until the first meeting in November.

Motion to continue the matter to the November 6, 2014, Planning Commission Meeting.

Commissioner Carter

Second on the motion: Commissioner Kindred

Vote: Unanimous

Commission Business

Approval of the September 18, 2014, Planning Commission Meeting Minutes.

Motion to approve: Commissioner Dalton

Second the motion: Commissioner Carter

Vote: Unanimous

Staff Business – Information Items

Mr. Florence thanked the Commission for their recommendations for appointments to the Planning Commission. A pool of six individuals was compiled. The Mayor would be making the necessary appointment.

Adjournment

Motion to Adjourn: Commissioner Dalton


Second: Commissioner Carson

Vote: Unanimous

The Planning Commission Meeting adjourned at approximately 7:32 p.m.



Michael Florence
Community Development Director


For Planning Commission