

Bountiful City
Planning Commission Minutes
February 18, 2020

Present: Chair – Sean Monson; Vice Chair – Jesse Bell; Planning Commission Members – Lynn Jacobs; City Council Representation – Kendalyn Harris; City Attorney – Clint Drake; City Engineer – Lloyd Cheney; City Planner – Francisco Astorga; Assistant City Planner – Curtis Poole and Recording Secretary – Darlene Baetz

Excused: Planning Commission Members – Sam Bawden, Jim Clark, and Sharon Spratley

1. Welcome and Introductions.

Chair Monson opened the meeting at 6:36 pm and welcomed all those present.

2. Approval of the minutes for January 21, 2020.

Jesse Bell made a motion to approve the minutes for January 21, 2020 as written. Lynn Jacobs seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

3. PUBLIC HEARING – Consider approval of an amended variance for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South, Carter Hatch representing South Davis Water District, applicant.

Mark Chandler was present. Curtis Poole presented the staff report.

The applicant, South Davis Water District, has requested an Amendment to a Variance request from lot standards, setback requirements and permissible lot coverage standards found in the R-3 Single-Family Residential Zone. The proposed Amendment would allow for construction of a larger well house at this location. The Planning Commission reviewed and granted a Variance for the Applicant at its September 17, 2019 meeting with a vote of five to one (5-1). After the Variance was granted the Applicant decided to alter the footprint of the well house and use a shipping container for the structure. The Applicant indicated the cost of the shipping container would be less expensive to build than the structure granted in the original Variance and would be installed much quicker.

The existing well was drilled in 1955; however, it has not been in operation for the last ten (10) years due to performance issues. South Davis Water District has decided to perform rehabilitation on the well which will require a structure to be built on the property to house chlorine and fluoride, which are incidental to the well rehabilitation. The property is forty (40) feet deep and sixteen (16) feet wide (640 square feet) and currently is nonconforming due to the size. The parcel does not comply with the following R-3 Zone lot standards:

- Minimum lot size – 11,000 square feet
- Minimum buildable area – 3,000 square feet
- Minimum lot frontage width – 80 feet
- Minimum distance abutting a public street – 50 feet

The well house from the granted Variance was approximately fifty (50) square feet with two doors facing 3300 South. It was proposed to be 17.5 feet from the front property line, just over 2.5 feet from the side property lines and a little over fifteen (15) feet from the rear property line. The proposed well house in the Amended Variance will be one hundred and sixty (160) square feet. The proposed structure

will be a shipping container which the Applicant will need to completely cover with a façade and roof. City Code does not permit a shipping container to be located in a Residential zone for extended time periods; however, the Code does not prohibit the frame of a permanent structure to be a shipping container if a façade is used to diminish the characteristics of the container. The structure will have two (2) doors facing east. The Applicant indicated the shipping container would be less expensive to construct than the previously granted well house and will decrease the construction time at this location.

The proposed structure will be 2.75 feet from the west (side) property line, six (6) feet from the east (side) property line, approximately fifteen (15) feet from the front and five (5) feet from the rear property lines. The Land Use Code requires buildings in the R-3 Residential Zone to have the following minimum setback requirements:

- Front Yard – 25 feet
- Side Yard – 8 feet
- Rear Yard – 20 feet

The Applicant will replace the existing chain link fence with a vinyl fence which was a condition of the original Variance request. Other structures such as electrical boxes and well vault will not be increased or moved. Based upon the width and depth of the property it severely limits anything which could be constructed. Furthermore the Land Use Code regulates permissible lot coverage of at least fifty percent of all required front, side and rear yard areas to be landscaped.

Utah Code 10-9a-702 establishes the criteria for review of a Variance request and stipulates the Applicant “shall bear the burden of proving that all of the conditions justifying a Variance have been met.” In order to grant a Variance **each** of the following criteria must be met:

(i) *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 ordinances;*

Staff Response: State Law defines a hardship as “associated with and peculiar to the property itself.” The size of the property would require the Applicant an unnecessary and unreasonable hardship to comply with building lot standards, setback and permissible lot coverage standards of the Code. The proposed amended plans are reasonable for the use of the property. When reviewing Variances, Staff reviews any unique conditions found on a property which do not apply to other properties.

(ii) *There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

Staff Response: There are no other properties in the R-3 Zone with the same characteristics as the Applicant’s property, and which provide a public benefit. To Staff’s knowledge there is no other property in the zone under the same circumstances and it is highly unlikely there will be any other property with similar characteristics in the future. Additionally, there are very few, if any, other property owners that would fall under the same circumstances as the current Applicant because the Applicant provides a public benefit to properties within the zone. Staff would consider these to be special and unique circumstances.

(iii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

Staff Response: Granting the Amendment to the Variance will allow the Applicant the ability to update and provide ongoing maintenance for a public use.

(iv) *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

Staff Response: Since the property is relatively small and has been in existence for decades there will not be a substantial affect to the General Plan. Granting the Amendment to the Variance will allow the Applicant to rehabilitate the well, and provide a benefit to the neighboring properties, the properties within the same zone and the public in general.

(v) *The spirit of the land use ordinance is observed and substantial justice done*

Staff Response: Allowing the Applicant to build the proposed structure will maintain the spirit of the Land Use Code within the constraints of the property.

Staff recommends the Planning Commission grant the request for an Amendment to the granted Variance, based on the analysis of the required review criteria from State Law included in the above findings and the materials submitted by the Applicant with the following conditions:

1. Applicant shall install solid fencing and landscaping to buffer the use of the property from the neighboring residential properties. The fencing shall be in compliance with Bountiful Land Use Code §14-16-110 regarding fencing standards in Single-Family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall meet the clear-view standards of City Code and other applicable standards from the State of Utah.
2. The Applicant shall completely cover the shipping container with a façade and roofing material consistent with the surrounding residential properties and approved by Staff.
3. The Applicant shall apply for a building permit to be reviewed and approved by Staff.

Mr. Astorga stated that this well is for culinary needs.

Mr. Bell asked about the exclusion of using shipping containers in the City code. Mr. Poole stated that City Code states that the shipping container can be used for the structure of the building but would need to be completely covered on the outside.

Chairman Monson opened the **PUBLIC HEARING** at 6:48 p.m.

Dave Badham resides at 3202 South 75 East. Mr. Badham stated that he agrees with the approval of this item and would benefit the community. He believes that the appearance of the building should be more camouflaged with the possible outside covering of a board and batten and use a flat roof and not to extend the roofline.

Mr. Astorga stated that the Commission members have the authority from the State code that may impose additional requirements on the applicate that will mitigate any harmful effects of the variance or serve the purpose of the standard or requirement that is being waived or modified.

Mr. Chandler stated that the fencing will be 8 foot in height, having a 6 foot solid and 2 foot lattice

which will meet the City code. This will be the same height as the shipping container.

Chairman Monson closed the **PUBLIC HEARING** at 6:56 p.m.

Mr. Chandler spoke about the options that would benefit the neighbors including this area to be cleaned up for the neighborhood. He is open to fencing materials to help the neighborhood. There will be no trucks delivering product and will have plenty of room for the proposed opening for the doors. He has been in contact with Bountiful City Water department.

Mr. Bell stated that he would like the fencing to be set back as far away from the street as possible. He would like to see a more natural fencing and maybe not vinyl fencing. Mr. Chandler explained that the District would not be able to move the fence any further back due to the position of the water vault.

Nick Montgomery resides at 33 E 3300 South. Mr. Montgomery has the well on his property and would prefer to have a white vinyl fence surrounding the well which would also continue along the west side of his property.

Chairman Monson asked for legal guidance about the hardships that variances have for this type of variance. Mr. Drake stated that he has not been able to find any code that would apply to this type of variance. He believes that this is a very unique case and would doubt that Bountiful City would see this type of variance again. Mr. Monson explained that his vote from the previous agenda item dated September 17, 2019, he felt that this parcel was self-imposed when purchased.

Mr. Astorga stated that he went back to 1953 and that this parcel was on the same configuration and incorporated from Davis to Bountiful City and has been serving as a well until 2007.

Mr. Chandler stated that requirements have currently changed from County and State that requires that the water be treated with chlorine and fluorinate.

Jesse Bell made a motion to grant approval of an amended variance for development standards to the Val Verda Well for South Davis Water District and adopts the three conditions outlined by staff and the addition of a fourth condition in its presentation and the staff report and adds the finding that the variance should be granted based on the fact that the County and State requirements imposed on the District have changed since taking ownership of the property. The following includes the three conditions which have been amended and includes a fourth condition.

1. The applicant shall install solid vinyl fencing matching the neighbor to the west and landscaping to buffer the use of the property from neighboring properties. The fencing shall be in compliance with Bountiful Land Use §14-16-110 regarding fencing standards in single-family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall be in compliance with clear view standards and other applicable standards from the state of Utah.
2. The applicant shall completely cover the shipping container with a façade (vertical cladding if possible) and roofing materials consistent with the surrounding residential properties and approved by Staff.
3. The applicant shall apply for a building permit to be reviewed and approved by staff.
4. The roof shall have no pitch.

Lynn Jacobs seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

4. PUBLIC HEARING - Consider approval of a PUD Plat Amendment for The Domaine at Highland Oaks Subdivision lot 7, located at 3865 Highland Court, Justin Merkley and The Domaine at Highland Oaks HOA, applicant.

Justin Merkley was present. Lloyd Cheney presented the staff report.

Justin Merkley and the Home Owners Association of The Domaine at Highland Oaks are requesting approval for an amendment to the P.U.D. through an adjustment of the platted location for Unit 7 of the development. As proposed, Unit 7 would remain the same size and be moved 10 feet to the Southeast.

The Domaine at Highland Oaks is an 11 unit development located in the R-F subzone, just east of Bountiful Boulevard at approximately 3800 South. This development was originally platted in 1997, and a similar modification to Unit 2 was approved in 2007 which allowed the proposed building location to be modified from the original plat. Currently, 10 of the 11 units have been constructed, with Unit 7 as the last to be built. The Homeowners Association supports the proposed modification.

As Mr. Merkley has prepared for the construction of his proposed home, several issues have been identified:

- The existing frontage and access to the building pad is very restrictive. As is typical with most P.U.D.s, the cul-de-sac diameter is significantly smaller (70 ft diameter) than a standard cul-de-sac on a public street (108 ft diameter). While the developers benefit from the reduced construction cost, the net result is less frontage for each unit with access from the cul-de-sac.
- The proximity of Units 7 and 8 on the original plat did not account for grading and construction of retaining walls required for each unit.

Mr. Merkley has previously applied for a Variance at this location, but no action has been taken pending the approval of this amendment. Regardless of the location for the construction of Unit 7, a variance for construction on slopes exceeding 30% will be necessary. After reviewing Mr. Merkley's initial site plan, staff finds that relocation of the building pad would result in minor modifications to the building elevations and retaining wall heights, and would allow reasonable access for construction. Based on the applicant's initial site plan, Staff believes that the resultant change in grading of the hill side is acceptable since the hillside is generally covered in native grasses, and would not disturb any nearby stands of native oak brush. Construction of a single family residence at this location will require a Variance. This will be presented to the Planning Commission at a future date.

Staff recommends that the Planning Commission forward to the City Council a recommendation of approval for Preliminary and Final approval of a PUD Plat Amendment at The Domaine at Highland Oaks, Unit 7, subject to the following conditions:

1. Complete any and all redline corrections on the Plat.
2. Pay recording fees in the amount determined by the City Engineer.

Chairman Monson opened and closed the **PUBLIC HEARING** at 7:33 p.m. without any comments.

Mr. Merkley stated the HOA is supportive of this layout of the plans.

Lynn Jacobs made a motion to forward a recommendation of approval to the City Council for the approval of a PUD Plat Amendment for The Domaine at Highland Oaks Subdivision lot 7, located at 3865 Highland Court with the 5 conditions outlined by staff. Jesse Bell seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

5. Planning Commission Rules of Order and Procedures update.

Chairman Monson would like to continue this item to the next meeting to allow all of the Commission members to be at the meeting.

Lynn Jacobs made a motion to continue this item. Jesse Bell seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

6. Open and Public Meetings Act Presentation.

Clint Drake would like to continue this item to the next meeting to allow all of the Commission members to be at the meeting.

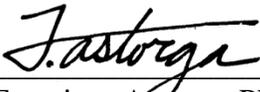
Lynn Jacobs made a motion to continue this item. Kendalyn Harris seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

7. Director's report, review of pending applications and miscellaneous business.

Francisco Astorga reported:

1. Conflict with City Council meetings for March. Planning Commission will have a meeting on March 3 and City Council will have a meeting on March 17.
2. The Planning Department has created a Calendar for tentative goals for 2020 and short term goals with modifications to Accessory Dwelling Units. We have received direction from City Council for an ordinance and a true public engagement process for Short Term Rentals. This may be given to the PC members on an individual basis instead of in an official meeting.
3. The Planning Department has received 15 Application for the Bountiful City Trails Committee.

Chairman Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:41 p.m.


Francisco Astorga, Planning Director