

Adopted Minutes
Spanish Fork City Planning Commission Meeting
April 7, 2010

Commission Members Present: Mike Christianson, Chairman; Del Robins, Shane Marshall, David Stroud, Rick Evans, Tyler Cope.

Staff Present: Dave Anderson, Planning Director; Dave Munson, Planning Intern; Jered Johnson, City Surveyor; Trapper Burdick, Assistant City Engineer.

Citizens Present: Shauna Gardner, Steve Gardner, Elaine L. Gardner, Karen G. Stewart, Ann Hutchings, Mike Gardner, Brad Fillmore, Melanie Fillmore, Jesse Conway, Greg Magleby, Jana Rae Gardner, Michelle Gabler, Lynn E. Jones, Lynn Tuttle, Mary Jane Tuttle, Brian Gabler, Duane Hutchings, January Erskine, Heather Clayson.

CALL TO ORDER

Chairman Christianson called the meeting to order at 6:05 p.m.

PRELIMINARY ACTIVITIES

Pledge

Commissioner Robins led the Pledge of Allegiance.

Chairman Christianson excused Commissioner Marshall.

Adoption of Minutes: March 3, 2010

Commissioner Robins **moved** to **approve** the minutes of March 3, 2010.
Commissioner Evans **seconded** and the motion **passed** all in favor.

Chairman Christianson explained that he had been asked to change the order of the motions on the agenda.

Commissioner Evans made a **motion** to **open** into public hearing. Commissioner Robins **seconded** and the motion **passed** all in favor.

PUBLIC HEARINGS

Brad Fillmore

Applicant: Brad Fillmore
General Plan: Residential 3.5 to 4.5 units per acre
Zoning; R-1-9 existing, R-1-6 proposed
Location: 1968 East 1200 South

** Commissioner Cope arrived at 6:07 p.m.*

Mr. Anderson explained that the proposal was to change the zoning so that the applicants could use an existing Accessory Apartment to care for an elderly family member. He explained that the surrounding properties would remain in the R-1-9 zone and that staff had recommended that the request be denied. He explained that it would be better to amend the requirements of the R-1-9 zone than to change the zoning on this single property. He said that he did not believe that staff would recommend amending the text to permit Accessory Apartments in more zoning districts.

Chairman Christianson asked if Mr. Anderson had discussed amending the text with staff. He said he had not.

Mr. Anderson explained the concept of spot zoning and how it influenced the staff's recommendation.

Commissioner Evans stated that density was one reason for not allowing Accessory Apartments. He said that they would have less of an effect in a less dense area.

Chairman Christianson invited comment from the applicant.

Brad Fillmore

Mr. Fillmore read a written statement. He explained that they had built the apartment to care for his father, but that circumstances had changed and that they would like to rent the basement until his father moved in. He said that, without the income from the rent, they would not be able to keep their house. He explained how renters would enter the apartment and that the Fillmores would still occupy the house. He said that he would be glad to add the condition that they could only rent if the owner was present. He mentioned the list of signatures of neighbors in support of the application.

Commissioner Evans asked if the Accessory Apartments were available in that zone. Mr. Anderson explained that, if the zone was changed, the applicants would be able to do anything allowed in the R-1-6 zone. He explained that the applicants would have to come back to the Commission and apply for a Conditional Use permit. Commissioner Evans said that there was no way to enforce conditions on future applicants.

Chairman Christianson invited public comment.

Michelle Gubler

Ms. Gubler explained that she was a neighbor of the Fillmores. She explained that she used to rent from the Fillmores and that they were very picky about who they would let live in their rental. She explained that there were people in rentals nearby that had multiple families staying there and that there were neighbors with illegal basement apartments.

Commissioner Robins explained that the City doesn't respond to zoning violations unless people complain.

Commissioner Evans said that because it is going on elsewhere doesn't make it right. He said that if the City was notified of illegal apartments that the City was obligated to investigate them. He said that, even though the Fillmores may be good people, they will not always own their house, and that if the zoning is changed the next owners could allow for more questionable renters. He said that spot zoning would allow anyone to do the same thing that the Fillmores did, regardless of who they were. Ms. Gubler said that she thought that Accessory Apartments should be legal in the R-1-9 zone.

Melanie Fillmore

Ms. Fillmore asked about Accessory Apartments in Orem. Commissioner Stroud said that they were done away with in 2004. He explained that they had to be owner-occupied and that the way to pursue this change was through a Zoning Text Amendment. Commissioner Evans said that they would be better off to invite renters and ask their neighbors not to complain.

Commissioner Cope said that with the economy the way it is, it is likely that we will see more applications like this and that it may be a good time to consider changing the ordinance. He said that there were strict guidelines for Accessory Apartments that would help insure the quality of the unit. He agreed that spot zoning was not the answer.

Commissioner Robins said that spot zoning is legal and that they should not make decisions based on spot zoning. Mr. Anderson said that there is no law that precludes the City from spot zoning. Commissioner Robins said that we do spot zoning all across the City, especially citing the in-fill overlay and the American Leadership Academy.

Chairman Christianson asked if these illegal apartments could apply for zone changes. Mr. Anderson said anyone has a right to apply.

Commissioner Robins said that these discussions often come down to parking, and that the neighbors were in support of the change. He said that this change wasn't opening the City up to massive change.

Commissioner Evans asked the Fillmores if they were aware of the requirement to apply for the Conditional Use. They said that they had not been and that they would be willing to become compliant with the requirements for the Conditional Use permit. Ms. Gubler said that she felt that the requirements for Accessory Apartments are a good set of checks and balances.

Commissioner Cope said that it might be appropriate to create some sort of overlay.

Commissioner Robins said that what we do here should not make families lose their houses.

Commissioner Robins made a **motion** to recommend to the City Council **approval** of the Brad Fillmore Zone Change. Commissioner Cope **seconded** and the motion **passed** by a roll call vote. Commissioners Stroud and Evans voted nay, saying that a text amendment would be more appropriate.

STAFF REPORTS

Legacy Farms Annexation

Applicant: Legacy Farms at Spanish Fork, LLC

General Plan: Residential 1.5 to 2.5 units per acre, Residential 2.5 to 3.5 units per acre, Residential 5.5 to 8 units per acre, Commercial 2 and Rural Residential

Zoning: R-3, R-1-12, R-1-15, Commercial 2 and Rural Residential proposed

Location: Approximately 400 North 1500 East

Mr. Anderson explained how this has been a long-term project and that he would cut to the chase of what is before the Commission now. He explained that staff had provided an annexation feasibility report. He said that there would be between 1,100 and 1,200 homes in the area at build out. He asked the Commission for their thoughts on just the annexation.

Commissioner Robins asked for the proposed zoning. Mr. Anderson showed a PowerPoint slide indicating the future zoning. He explained the rationale behind the Commercial and R-3 zoning districts. He explained that the R-R zoning functioned as a holding zone.

Chairman Christianson said that the report did not address the financing that would be used to pay for new officers and utilities. He said that the City was considering a public safety impact fee that would pay for building fire stations and hiring police officers.

Commissioner Evans asked if a lack of fire coverage or police officers would hold up the development at the Final Plat stage. Mr. Anderson said that was not the intention of the agreement.

Greg Magleby

Commissioner Robins asked if Mr. Magleby had read the annexation agreement. Mr. Magleby said that he had not seen the latest version, but that if it was in line with previous versions it would be acceptable.

Chairman Christianson asked about impact fees. Mr. Anderson said that developers would have to pay impact fees according to the requirements at the time of their application. He said that the City was studying their impact fees and that the study may or may not recommend changes. He said that the City Council may or may not adopt a transportation impact fee. He said that the Engineering Department would like to have the ability to intervene and not approve Final Plats if the level of service in the area fails.

Brian Gabler

Mr. Gabler explained the difference between a collector and minor arterial road and what the City would reimburse to the developer. Mr. Anderson explained that the development's impact necessitates the construction of an 85-foot right-of-way, but that the City required the 98-foot right-of-way for the future development of the area. Chairman Christianson said that he was surprised that the City would share the costs of developing the road. Mr. Anderson said that this was new for the City because most of its big roads are state roads. Mr. Magleby explained that there would not be a home owners association and that the road and parks would be deeded to the City.

Commissioner Robins asked where the irrigation would be. Mr. Magleby indicated on the map. Commissioner Robins said that he was comfortable with the zoning and the annexation agreement. Chairman Christianson said that he wasn't comfortable having not seen the annexation agreement. Mr. Johnson gave copies of the agreement to the Commission. Chairman Christianson said that the agreement mentioned phasing and asked if it was mixed in with the Preliminary Plat. Commissioner Evans asked how strongly they were intermingled. He said that it may be appropriate to speak about the Preliminary Plat as part of the annexation.

Mr. Anderson explained the phasing plan of the project. He said that he believes this is the most important part of what the Commission is discussing tonight. He said that the proposed development is a master planned development. He showed a slide of the proposed development and discussed its features. He showed to the Commission staff's density calculations, showing that the base density was 642 units and that the maximum would be 815 units. Mr. Anderson explained that the applicant had calculated it as 828 units, and Mr. Magleby explained that they came to this number by including a small sliver of the Miner property that was labeled as future development, which staff did not include in its calculation since it was not a part of the current project.

Mr. Magleby explained that the future development area would be used for a storm drain basin. He explained that the road was designed to take into consideration the Rocky Mountain Power lines. Discussion was held regarding the development potential of part of the Miner property. Mr. Johnson and Mr. Burdick explained the storm drain needs of the area.

Commissioner Robins said that the only people that will use the parks will be people in the area. He asked if the road and the wetlands park were worth the bonus density. Mr. Magleby said that they would build minimal amenities in Park 1 and that they would improve the later parks to a higher standard while improvements for the earlier parks would be by the City. He explained the phasing and improvements of the parks.

Commissioner Stroud asked about parking at Park 3 and if it was legal for people to back out onto the street. Mr. Anderson explained that they staff may prefer angled parking and that they would discuss it at the Final Plat stage.

Chairman Christianson asked about elevation control on the wetlands boardwalk. Mr. Magleby said that there was a ditch that kept the water level down. He said that the elevation of the water was very constant. Chairman Christianson asked if there would be some sort of programming for the wetlands. Mr. Magleby said that there would be a gazebo along the boardwalk for that purpose and that this could be used as a nature trail to educate the children. He said that it was important that the property owners had come together for the development and that it would make planning and building a lot easier.

Discussion was held regarding frontage width.

Chairman Christianson said that he wasn't comfortable with the first park not being improved. Commissioner Evans said he was uncomfortable with Park 3 not being built until the project was all but done. Mr. Magleby said that they had to generate income from lots before they could improve the parks. Discussion was held regarding the phasing plan. Commissioners Robins and Cope discussed putting twin homes or other multifamily units on 50-foot lots.

Commissioner Stroud asked about the architectural review committee. He said that there wasn't a lot of concrete language in the design guidelines. Commissioner Evans asked what requirements there were to keep the architectural review committee honest. He asked who would be on the committee. He said that it would be made up of individuals from LEI, architects, and developers. Commissioner Evans said that he was encouraged by the fact that this development was being developed by local landowners and not by an out-of-town developer. Commissioner Stroud said that he would like more detail on the homes.

Commissioner Evans asked if reviewing the architectural committee decisions was part of the Final Plat process. Mr. Anderson said that it was not. He said that the City would not mind having a document with some teeth.

Commissioner Stroud asked if Salisbury Homes was going to be the builder. Mr. Magleby stated that they have discussed the project with Salisbury and that Salisbury did not have anything under contract.

Discussion was held regarding financing and escrow.

Commissioner Cope asked where potential sites for churches would be. Mr. Magleby indicated where some of their preferred sites would be. Commissioner Cope asked if there had been any discussion with Nebo School District. Mr. Magleby said that that would have to be discussed at a later date.

Mr. Anderson said that there were a number of issues to deal with where the development deviated from the standard provisions in the ordinance. He said that he felt the parks should be developed with earlier phases than those proposed, especially the boardwalk.

Chairman Christianson said that he felt the parkway was an amenity with landscaping in the median and that the City should not need to reimburse the developer. Commissioner Evans said that they had not had enough time to thoroughly cover the information and that he would be more comfortable covering the project the next month.

Commissioner Robins made a **motion** to recommend to the City Council **approval** of the Legacy Farms Annexation based on the following conditions.

Conditions:

1. That the applicants enter into an annexation agreement, the road on Legacy Parkway and a letter from the SESD, and that the zoning be consistent with the plat they submitted.
2. That the applicants obtain an agreement from Rocky Mountain Power based on their access through the right-of-way.

Commissioner Stroud **seconded** and the motion **passed** all in favor.

Legacy Farms Preliminary Plat

Applicant: Legacy Farms at Spanish Fork, LLC

General Plan: Residential 1.5 to 2.5 units per acre, Residential 2.5 to 3.5 units per acre, Residential 5.5 to 8 units per acre, Commercial 2 and Rural Residential

Zoning: R-3, R-1-12, R-1-15 and Commercial 2

Location: Approximately 400 North 1500 East

Discussion on this item was held as part of the previous item.

Commissioner Robins made a **motion** to recommend to the City Council **approval** of the Legacy Farms Preliminary Plat with the following finding and subject to the following conditions.

Finding:

1. That the bonus density is warranted based on the applicants proposal to provide the proposed parks.

Conditions:

1. That the applicant makes any redline corrections to the phasing plan as discussed today.
2. That the applicant makes any needed corrections on the density in the project.
3. That the applicant address to the City Council the 50-foot lot widths or extend the townhomes.

Commissioner Evans **seconded** and the motion **passed** by a roll call vote. Chairman Christianson voted nay based on the fact that the parkway should be an amenity and should not be reimbursed by the City.

Title 15

Applicant: Spanish Fork City

General Plan: not applicable

Zoning: not applicable

Location: City-wide

Mr. Anderson explained that the proposed change was relative to allowing chickens on smaller lots in the City.

Commissioner Evans asked why we would require permits when we wouldn't be able to enforce it. He said that our animal control people don't have the time to deal with the paper work for the permits. Commissioner Cope added that he objected to the annual fee. He asked if it applied to all zones. Mr. Anderson answered that it applied to all residential zones.

Commissioner Stroud said that slaughtering should be addressed.

Commissioner Evans made a **motion** to recommend to the City Council **approval** of the proposed amendments to Title 15 with the following changes:

1. That the wording in the first paragraph be adjusted so that the entire section is covered.
2. That the section on permits being required be removed

3. That an addition to Item G be included to say, "The slaughter of chickens will not be permitted."

Commissioner Robins **seconded** and the motion **passed** all in favor.

Commissioner Robins made a **motion to close** the public hearing. Commissioner Evans **seconded** and the motion **passed** all in favor.

OTHER DISCUSSION

Discussion on Planning Commission work program and General Plan

Mr. Anderson asked if the Commission would be willing to work through work meetings in addition to the monthly Commission meeting. Chairman Christianson suggested creating a questionnaire for the Commission. Commissioner Evans suggested creating "homework" for the Commissioners to do before work meetings. The Commission planned for a work meeting on the 28th.

Mr. Anderson said that there are a number of General Plan designations that are planned for uses that are so similar that it may be best to just combine some of them. Discussion was held regarding fewer zones, form-based codes and whether the General Plan should be flexible or not.

ADJOURNMENT

Commissioner Evans **moved to adjourn**. Commissioner Robins **seconded** and the motion **passed** all in favor at 10:01 p.m.

Adopted: June 2, 2010

Dave Munson, Planning Intern