

ROY CITY PLANNING COMMISSION

December 8, 2009

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on December 8, 2009, at 6:03 p.m.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to the *Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following members were in attendance:

Brad Hilton, Chairman	Tony Reynolds, Community and Economic Development Director
Dave Collins	Jared Hall, Planner
Blake Hamilton	Michelle Drago, Secretary
Lee Holt	
Bill Merx	

Excused: Tom Stonehocker and Roy Watts

Others present were: Lavon Venstra; Mrs. Venstra's daughter; Steven Sanchez; Margaret Sanchez; and Rachel Trotter.

Pledge of Allegiance: Brad Hilton

1. APPROVAL OF NOVEMBER 10, 2009, MINUTES

**Commissioner Holt moved to approve the minutes of November 10, 2009, as corrected. Commissioner Merx seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

2. PUBLIC HEARING TO CONSIDER A REQUEST FOR PRELIMINARY SUBDIVISION APPROVAL ON PROPERTY LOCATED AT APPROXIMATELY 5273 SOUTH 4300 WEST IN AN RE-20 (RESIDENTIAL ESTATES) ZONE - HAILEE ACRES SUBDIVISION

**Commissioner Hamilton moved to open the public hearing at 6:05 p.m. Commissioner Collins seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, Merx, Stonehocker, and Watts. The motion carried.**

Jared Hall stated that Lavon Venstra had requested preliminary approval of the Hailee Acre Subdivision located at approximately 5273 South 4300 West. She owned and resided on the property. She

proposed to subdivide the property from front to back and use the 25-foot shared driveway provision in Section 1102 of the Zoning Ordinance for access to Lot No. 2 (the rear lot). Mrs. Venstra was proposing to place another home on the second lot for a family member. Section 1102 of the Zoning Ordinance allowed a 25-foot shared driveway to access a lot that did not have frontage on a public street. Existing development and future development to the south made it impossible for proposed Lot No. 2 to have access, except through a shared driveway.

Mr. Hall stated that both lots met the requirements of the RE-20 Zone. Roy City does not have a simple method of effecting a minor subdivision. All subdivisions required full process, and the recording of a plat. An easement would have to be recorded with the subdivision to create a permanent access for Lot No. 2 through the shared driveway. A maintenance agreement for that driveway would also have to be recorded. There were some engineering issues that needed to be resolved. Those issues weren't anything that should hold up processing the subdivision.

Mr. Hall stated that the subdivision had been checked against Section 1102. The staff had found that the proposed subdivision was in keeping with the goals and policies of the General Plan; that the proposed subdivision was in keeping with the goals and requirements of the RE-20 Zoning district, that the proposed lots met the standards of the RE-20 Zone; and that the proposed subdivision met the requirements of Section 1102, allowing Lot No. 2 access to a public right-of-way via a 25-foot shared driveway. Mr. Hall said the staff recommended that the Planning Commission recommend that the City Council grant preliminary approval of the Hailee Acres Subdivision subject to the following:

1. The satisfaction of the questions and comments attached in the engineer's memo dated November 30, 2009, and subject to review and approval of any further corrections or other materials as may be required by the City Engineer.
2. The recordation of an easement granting permanent right-of-way access to proposed Lot No. 2 over the 25-foot driveway.
3. The recordation of a maintenance agreement for the 25-foot driveway between the owners, successor and assigns of proposed Lot Nos. 1 and 2.

4. All items of the staff report and attachments and further review and approval by the members of the Development Review Committee as may be necessary.

Commissioner Collins asked if the shared driveway would affect any of the required setbacks. Jared Hall said all of the setback requirements had to be maintained. There had to be 10 feet between the driveway and the existing home on Lot No. 1. Lot No. 1 met the setback requirements of the RE-20 Zone. Any home built on Lot No. 2 would have to meet the setback requirements as well.

Chairman Hilton asked if the shared driveway easement would be used for the utilities as well. Jared Hall said that was one of the engineering issues that had to be resolved. The utilities for Lot No. 2 would come from 4300 West and would have to be on separate laterals from Lot No. 1.

Chairman Hilton asked if the property was being divided front to back because there was not sufficient width for two lots along 4300 West. Jared Hall said that was correct.

Commissioner Holt was concerned about the maintenance agreement, stating that Ogden City had failed with maintenance agreements. There had been lawsuits between property owners and against Ogden City because of maintenance agreements. He hated to see Roy City run into the same problem. The City must make decisions regarding this subdivision as if both parties planned to sell their lots tomorrow. He felt the maintenance agreement needed to cover snow removal, asphalt repair, and parking restrictions in the driveway. The majority of the yard space for Lot No. 1 was south of the shared driveway. How would the future owner of Lot No. 1 feel about having strangers drive through during a family event? He was very concerned that the agreement be carefully laid out. He was concerned about where the utility laterals would be located. Would they require another easement through Lot No. 1? It was logical to run them through the shared driveway versus somewhere else. He felt the best location for the shared driveway was along the south property line of Lot No. 1.

Jared Hall stated that there were reasons Mrs. Venstra wanted the driveway where it was located. Section 1102 of the Zoning Ordinance required that the driveway be shared. Future access problems between the other property owners would be a civil dispute, the new owners having purchased property with the understanding that they shared a driveway. Section 1102 prohibited

parking on the driveway, but all other disputes would be civil in nature.

Commissioner Holt asked if Section 1102 allowed the Police Department to ticket a property owner if they were parking in the driveway. Jared Hall said any parking in the driveway would be handled by Code Compliance.

Commissioner Hamilton stated that the Planning Commission had to assume that family members would eventually sell the lots. Did the City have a standard maintenance agreement? It needed to be well thought out.

Commissioner Collins was concerned about setbacks. He wanted to make sure the City had everything it wanted and that everything was legally laid out from the beginning.

Jared Hall stated that the easements and maintenance agreement had to be in place before the subdivision could be recorded. They would be recorded with the subdivision and would run with the properties in perpetuity. Some of the issues mentioned by the Planning Commission were covered by Section 1102, others would be covered by the maintenance agreement and easement - which the staff would make sure were appropriate. The staff had tried to do everything it could to minimize risk.

Commissioner Hamilton felt the maintenance agreement needed to spell out snow removal as well as maintenance and repair of the driveway. He also felt a minor subdivision ordinance would be helpful to the City.

Tony Reynolds stated that when the ZOSO (Zoning and Subdivision Ordinances) Committee reviewed the Zoning and Subdivision Ordinances prior to their adoption in 2005, they considered minor subdivision regulations, but decided against including one. Commissioner Hamilton felt it would be advisable to have minor subdivision regulations. Mr. Reynolds said the staff could add it to the list of items to be reviewed regarding the Zoning Ordinance in the coming year.

Commissioner Holt stated that the private driveway in reality was like a private street. Would it have curb and gutter? Jared Hall stated that it did behave like a private road and subsequently was required to provide a turn-around and a fire hydrant. The driveway was not required under Section 1102 to provide curb and gutter.

Chairman Hilton asked if the driveway was limited to a 25-foot width. Jared Hall stated that 25 feet was the minimum requirement, but it could be made wider. Chairman Hilton suggested that perhaps the driveway could be widened with a partition down the middle so it was clear which driveway was which. Commissioner Hamilton pointed out that Section 1102 required 20 feet of paved surface.

Commissioner Holt asked where the driveway for the existing home was located. Jared Hall said it was in roughly the same location as the shared driveway would be. The driveway couldn't be moved further north without violating the 10-foot setback requirement between the home and the driveway. He would have to review the Zoning Ordinance to see if a second driveway would be allowed. The driveway for Lot No. 2 had to be a shared driveway.

Commissioner Merx asked if both lots would have animals rights. Jared Hall said they would. The actual numbers allowed on the property right now would not change. The new smaller lots would each have roughly half the rights already existing based on the new lot sizes.

Commissioner Collins asked if more lots could be added to the subdivision. Jared Hall said Section 1102 was very clear that the driveway could only be used for two lots. Commissioner Collins asked if the applicants had looked at purchasing property to the south. He felt that would allow enough width for a traditional subdivision. Jared Hall stated that staff and the applicant had discussed many different approaches, but that at this time the applicant was only interested in splitting her parcel, and not in acquiring properties for a larger or more complicated subdivision. Jared Hall stated that staff had determined that she was within her rights under Section 1102 to petition for this subdivision as a simple split with a shared driveway.

Chairman Hilton opened the floor for public comments.

Chairman Hilton asked about the driveway on the south side of the property.

Lavon Venstra 5273 South 4300 West, stated that the driveway on the south side was used for some sheds. There was enough room to move the driveway further south. They felt the shared driveway would be the easiest route because it would be used by family.

Chairman Hilton asked if they had thought about the future problems that could arise.

Mrs. Venstra stated that Lot No. 2 would be a home for her daughter who had not intentions of selling.

Commissioner Hamilton asked if the driveway location was based on expense. Mrs. Venstra said they thought the driveway in the middle would be the simplest way to go. They never considered doing anything else. There was room for the driveway further south.

Chairman Hilton asked where the house on Lot No. 2 would be built. Lavon Venstra said they planned to put it behind the house on Lot No. 1. Chairman Hilton asked if they had considered moving it to the south side. Mrs. Venstra said they had not. There was enough room. They just wanted the house to be as far from the neighbors as possible.

Commissioner Holt stated that the Planning Commission had to look into the future. Fifty years from now, property owners would be struggling with whatever was decided. If the shared driveway didn't work out, it would be a constant problem.

Mrs. Venstra's daughter stated that they had not considered placing the home on the south side.

Mrs. Venstra stated that they just really wanted a second lot. They would do what the City wanted.

Commissioner Collins suggested that the applicant meet with the City staff and review their options before coming back to the Planning Commission. Jared Hall stated that the applicants had met with staff several times and reviewed options. Those meetings had resulted in the application as it stood before the Commission. Jared Hall suggested that the Planning Commission approve the subdivision with the condition that the driveway be moved to the south, if that was a concern. Then the subdivision could move forward.

Jared Hall wanted to remind the Commissioners that even if the driveway were moved to the south it had to be used for both homes. Because the subdivision application was based on Section 1102, the driveway had to be shared. He stated that some of the things the Planning Commission was concerned about would be resolved when the maintenance agreement, easement and final plat were submitted.

Tony Reynolds stated that the Planning Commission was the recommending body. The applicant had submitted all of the required information to apply for subdivision and receive a recommendation.

Commissioner Holt suggested that the Planning Commission recommend preliminary approval subject to the driveway being moved further south on the lot. There was already an easement proposed there that could be used for the utilities. Jared Hall said he could have the Venstra's engineer look at moving the driveway to the south, but wanted to reiterate that even if moved to the south the driveway had to be shared by the two lots.

Commissioner Merx stated that it seemed everyone was in agreement on the principle. The issues holding up the discussion were improvements and where to put the driveway. He felt those were money and design issues. He felt the Planning Commission had enough information to recommend approval and move the application forward to the City Council. The final plat and documents would be reviewed by the staff and Mayor to make sure they were what the City Council approved.

There were no further comments from the audience.

**Commissioner Merx moved to close the public hearing at 6:47 p.m. Commissioner Holt seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

**Commissioner Merx moved to recommend that the City Council grant preliminary approval of the Hailee Acres Subdivision located at approximately 5273 South 4300 West based on the staff's findings and subject to the recommendations of the staff; that the shared driveway access agreement address snow removal and pavement maintenance; and that the shared driveway be moved to the south edge of the property. Commissioner Holt seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

3. PUBLIC HEARING TO CONSIDER A REQUEST TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE DESIGNATION OF THE PROPERTY LOCATED AT APPROXIMATELY 5720 SOUTH 2775 WEST FROM MEDIUM DENSITY RESIDENTIAL TO LOW DENSITY RESIDENTIAL

**Commissioner Hamilton moved to open the public hearing at 6:50 p.m. Commissioner Collins seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

Jared Hall stated that the Sanchez property was located at 5720 South 2775 West. It was currently zoned R-1-6 and contained .81 acres, which was much larger than other properties in the neighborhood. The old D&RG right-of-way ran along the east side of the property. Mr. Sanchez purchased the property and cleaned it up with the intention of building a 5,000 square foot accessory building. The R-1-6 Zone did not allow an accessory building larger than 1,250 square feet. An RE-20 Zone did not limit the size of an accessory building. Mr. Sanchez had applied to have the zoning of his property changed from R-1-6 to RE-20. Before the rezone could be considered, the Future Land Use Map designation had to be amended from medium density to low density residential. Mr. Sanchez did not intend to use the accessory building for commercial purposes.

Mr. Hall stated that the staff recommended denial of the Future Land Use Map amendment and the zone change. The Sanchez property would be isolated if it was rezoned. There was an RE-20 Zone east of the D&RG right-of-way, everything adjacent to the Sanchez property was zoned R-1-6. The staff didn't feel a 5,000 square foot accessory building would work in an R-1-6 neighborhood. The RE-20 Zone also came with animal rights that were not appropriate for the neighborhood. The staff had discussed other options with Mr. Sanchez. In this case, a variance was not appropriate. It could not meet the hardship qualifications. The only way for Mr. Sanchez to be able to build a 5,000 square foot accessory building was if the zone was changed to RE-20.

Mr. Hall stated that if the public bodies were inclined to allow the Future Land Use Map amendment, the staff felt strongly that the D&RG right-of-way should be included and that the rezone be subject to a development agreement prohibiting animal rights for this property.

Commissioner Hamilton asked if Steven Sanchez could build a 1,250 square foot accessory building. Jared Hall said he could. He only needed to apply for a building permit.

Commissioner Holt asked if this situation was a candidate for the Board of Adjustment. Mr. Hall said anyone could make an application for a variance. In this case, the staff would recommend denial because Mr. Sanchez could not meet the five requirements for a hardship.

Commissioner Holt asked if a 1,250 square foot accessory building could be built with a raised basement. Mr. Hall felt the 1,250 square feet was a maximum square footage. Commission Holt asked about a second story. Tony Reynolds said the Zoning Ordinance placed a height restriction on accessory buildings.

Jared Hall stated that the City had not received any comments from adjoining property owners. The staff felt the size of the accessory building proposed by Mr. Sanchez would be disruptive to the neighborhood.

Commissioner Hamilton felt a rezone with a development agreement would be messy. Mr. Hall agreed. However, if the property were rezoned, the staff felt it was important that it be controlled by a development agreement. Mr. Sanchez was willing to work with a development agreement scenario.

Steven Sanchez, 5720 South 2775 West, stated that he purchased this property a year ago with the intention to build a large structure about 50'x100'. Before he put money down on the property and spent hundreds of man hours cleaning it up, he asked the City staff if there were any restrictions on the property. The only thing the City told him was that it could not be used as a multi-family dwelling. After cleaning up the property, he found he could not get a building permit for the large building he wanted. He could only have 1,250 square feet. That didn't come close to what he wanted. He was willing to scale back to 40'x80', but he couldn't accept 1,250 square feet for such a large lot. He had spoken with his neighbors. They were willing to come forward to support him. They were pleased with how well he had cleaned up the property. He was asking that his property be rezoned to RE-20. That would give him what he was originally led to believe he could have.

Chairman Hilton stated that he had looked at Mr. Sanchez' property. He asked what Mr. Sanchez planned to put in an accessory building

that large. Steven Sanchez said he wanted a place to store his recreation vehicles. He wanted to build his wife a canning kitchen and a sewing/quilting area. He also wanted somewhere to do auto repair and gun smithing. The building would be multi-purpose.

Commissioner Holt asked if a covered awning could be added to a 1,250 square foot accessory building. Jared Hall wasn't sure. He would have to look at the Zoning Ordinance.

Jared Hall stated that a large garage could be attached to the Sanchez home and a 1,250 square foot accessory building could still be built. Mr. Sanchez was not interested in that option because it would separate the uses.

Tony Reynolds stated that there was a power corridor that ran through the property from east to west. It might limit the size of an expansion to the home.

Commissioner Holt asked if an attached garage could have a raised foundation. Mr. Hall said it could. He felt Mr. Sanchez had options.

Steve Sanchez stated that 1,250 square feet was the maximum size accessory building he could put on the property in an R-1-6 Zone. The Planning Commission stated that a garage and addition to the home could be larger than that, and then Mr. Sanchez could still have a 1,250 square foot accessory building. Jared Hall pointed out that there was a house-to-garage ratio that Mr. Sanchez would have to comply with.

Chairman Hilton felt that granting the land use amendment and rezone would create an island that would be separate from everything around it. In the future, the D&RG right-of-way would become a walkway. A large building could become a target for vandalism.

Commissioner Holt didn't feel the Sanchez property should be separated from the rest of the neighborhood.

Margaret Sanchez, 5720 South 2775 West, stated that they were disappointed because of what the City led them to believe at the start. They planned to build the accessory building, and then work on the home in a few years.

Commissioner Hamilton felt there was a way to get what they wanted by building a home addition/attached garage and a smaller accessory building.

Steven Sanchez stated that he purchased the property based on information obtained from the City.

**Commissioner Collins moved to close the public hearing at 7:24 p.m. Commissioner Merx seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

Commissioner Holt stated that there was a large lot on the east side of 3500 West just north of 5600 South that contained a large accessory building. Under what conditions was it allowed? Chairman Hilton said that property was located in unincorporated Weber County, not Roy City.

Tony Reynolds stated that prior to 2004, there wasn't a limit on the size of accessory building allowed. When the new Zoning Ordinance was adopted in 2005, the maximum accessory building allowed was 800 square feet. Within a year, someone requested that the size be increased. In 2006, the Zoning Ordinance was amended to allow 1,250 square foot accessory buildings in all residential zones, except RE-20. In an RE-20 Zone, accessory buildings were limited to 25% of the maximum rear yard space. Some properties in Roy had buildings that predated the 2005 Zoning Ordinance.

Commissioner Hamilton commended the Sanchezes for purchasing the property and cleaning it up. He hoped they realized that they had other options and understood the Planning Commission's reasoning.

**Commissioner Hamilton moved to recommend that the City Council deny a request to amend the Future Land Use Map from medium density residential to low density residential at approximately 5720 South 2775 West based on the staff's findings and recommendation. Commissioner Merx seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

4. STAFF UPDATE

5. ADJOURN

**Commissioner Holt moved to adjourn at 7:31 p.m. Commissioner Hamilton seconded the motion. Commission members Collins, Hamilton, Hilton, Holt, and Merx. The motion carried.**

---

Brad Hilton  
Chairman

Attest:

---

Michelle Drago  
Secretary

dc:pdec809