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**ALPINE CITY PLANNING COMMISSION MEETING at
Alpine City Hall, 20 North Main, Alpine, Utah
November 20, 2012**

I. GENERAL BUSINESS

A. Welcome and Roll Call: The meeting was called to order at 7:00pm by Chairman Jannicke Brewer. The following commission members were present and constituted a quorum.

Chairman: Jannicke Brewer

Commission Members: Bryce Higbee, Steve Cosper, Jannicke Brewer, Todd Barney, Steve Swanson

Commission Members Not Present: Jason Thelin, Tami Hamilton

Staff: Marla Fox, Shane Sorensen, Jason Bond

Others: Diana Mills, Sherrie Mehl, Mike Mehl, Jacob Palma, Bruce Parker, Lennard Wendel, Mashaun Wendel, D. Hamaniuk, Will Jones

B. Prayer/Opening Comments: Steve Swanson

II. PUBLIC HEARING

Stub Streets

Jason Bond said some amendments to the ordinances have been drafted to provide more clarification for stub street requirements. Our ordinance is not as detailed as the City would like. A stub street is a street that ends and can be completed at a later date when a new subdivision is ready to be developed. This prevents the new subdivision from becoming land locked.

Jannicke Brewer said our stub street ordinance was a little hard to understand. Our City Attorney wrote this recommended language for us. Jannicke Brewer said we are looking for ordinances that will apply to all of Alpine. Bruce Parker said this needs to go further than a clarification. What is being proposed scares us as property owners. There is an obligation of providing a stub street which is really an on-sight development requirement to an off-sight adjoining property owner that is not participating in any way in the proposed development.

Maybe your neighbor wants to build next door. They understand what the requirements are and just before they get started they realize the home is too expensive. They can afford to do part of it but not all of it. As a neighbor they want me to help them finish their home by paying some of the bills. That is what this proposal is like. It is a transferring of an obligation from the existing property owner who wants to proceed, onto the adjacent property owner who is not participating in any way in the project. This is a transfer of on-sight improvement requirements to an adjoining property owner.

As you are well aware, in Three Falls, it will cost 7 million dollars to build a stub street to the Beck property. There is roughly 720 acres with 55 lots, which is significantly much larger than our property. The Planning Commission and the City is in a dilemma. If you determine that to be an inordinate requirement on a developer, and give relief to that developer, it would be much easier for us as the adjoining property owner to show the same rational. It would be more intensified on ours because our property is 80 acres with a potential of 7 lots.

How do you address this issue without compromising or undermining someone's property rights or the ability to develop? We don't share the view that this is an ordinance of general applicability. We think it is very narrowly drafted and focused on certain applications that may come before you. As evidence we would identify a few present stub streets provisions that have been in place for the last 30 years. There is no need to change them, they have worked very well.

1 When there was some relief required, the City used an exception process. Exceptions have been given to
2 developers in the past to extend stub streets and have worked very well. Mr. Parker said he was wondering why
3 we come here tonight to look at this issue. He said he thought what was driving this was a concern about
4 unreasonable exactions and dedications. With requirements by the City, someone could claim that this could be an
5 illegal exaction or dedication on the part of the City. After speaking with your City Attorney, he said this was one
6 way of addressing this. We discussed the provisions on paragraph 3 and they are so heavily weighted to the sub
7 divider and not the property owner, that there is no opportunity for the adjoining property owner to participate in the
8 process. There may be a requirement that they can't participate in the subdivision right now; that transfer is going to
9 be imposed on them without any recourse or any way to participate in the process.

10
11 Mr. Parker said he would like to suggest some alternative language, understanding that what is driving this is
12 exactions and dedications. If the goal is to have an ordinance of general applicability, exactions and dedications can
13 occur in a variety of formats. It will occur as part of a subdivision process, it may occur as part of a site plan
14 process. Dedications and exactions are not limited to stub streets. They can also be included in other street
15 improvements. A widening of a street for example, curb, gutter and sidewalk requirements, storm drain
16 requirements, upsizing of sewer lines, dedications of open space, parks and park improvements.

17
18 Mr. Parker is proposing in the draft language that the applicant with a land use permit, who considers that the
19 standards of section 10-9A508 have not been met, and it is an inordinate requirement by the City, that the applicant
20 be allowed to bring forward information to the City Attorney, to the Planning Commission, and to the City Council
21 sufficient to identify that the provisions of 10-9A508 have been violated and not met. Mr. Parker said that broadens
22 it now for more applicability on a variety of issues.

23
24 Mr. Parker said you can also request an advisory opinion from the Utah office of property rights. So if there is a
25 concern there is already a mechanism set up in place to review the information and provide an advisory opinion back
26 to the applicant as well as the City. Mr. Parker asked the Planning Commission to consider these materials in detail
27 and give them full attention. He also asked the Planning Commission not to take action on this issue tonight. Please
28 talk with the City Attorney and discuss this issue further before you make your recommendation to the City Council.

29
30 Will Jones said we have been discussing this ordinance for a long time. The reason this is before us is because of the
31 clusters and the PRD's. Typically we would extend these roads 200, maybe 300 feet to the end of a lot, but here we
32 have open space of up to 20 acres between subdivisions. No one is saying that we shouldn't give them the same
33 thing we always have as far as easements and rights. This ordinance is not saying that they shouldn't have the
34 easement right. For example, Three Falls can sit and wait until the City improves that road up Fort Canyon or it will
35 cost 3 million dollars for us to go ahead and improve it. That's our choice if we want to do that, so we will go ahead
36 and do a 3 million dollar road because we want the improvements.

37
38 The same is true for this situation when they want to put the burden on the property owner below them. This road
39 would not access any of our lots nor improve any of our property or enhance us in any way. The adjacent property
40 owner is telling us to go ahead and pay the 7 million because they are only going to get 7 lots. They are not coming
41 to us and saying they will help pay for the 3 million dollar road that helps them get to their property or the 1.5
42 million for another access to their property because it accommodates us as well. The City now owns the open space
43 acreage between the two property owners for public space. Is it now the City's responsibility to pay for the road?
44 No, not if it is going to enhance someone else's property.

45
46 When the City anticipated stubs and the stub street ordinance was put in place it was up to 300 feet, no bigger than
47 that. This is thousands of feet with 40 feet retaining walls and things that just don't make sense. This is definitely
48 exaction without question. We don't have a reimbursement program here in the City; we don't allow that, so the
49 things Mr. Parker referred to don't apply here.

50 51 52 **III. PUBLIC COMMENT**

53
54 No comment

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2 **III. ACTION ITEMS**
3

4 **A. Mehl Site Plan – 149 North 300 East**

5 The proposed Mehl Site Plan at 149 North 300 East is located on 18,169 sq ft. Shane Sorensen checked the records
6 with the Utah County Recorder's Office as far back as 1973 and verified that this parcel has been in existence since
7 at least this time. It appears that this lot is an existing lot of record. The property is in the TR-10,000 zone.
8

9 Shane Sorensen said the Mehl's decided to make a few changes and this increased the rear setbacks but we didn't
10 feel like there was any need to postpone this to a later meeting. He said these setbacks will get looked at by 5
11 different sets of eyes when they submit for their building permit. The City is saying this is a zoning lot in a
12 buildable area.
13

14 Jannicke Brewer said we are doing this because as the City we are required to make the same improvements on all
15 lots such as sidewalks and curb and gutter. Shane Sorensen said there should be a fire hydrant within 250 feet of
16 any dwelling and the Fire Marshall will have to sign off on it. Jannicke Brewer said this is so future owners will
17 know that it is required by the City and we have a record of it.
18

19 **MOTION:** Bryce Higbee moved to grant approval of the proposed Mehl Site Plan subject to the following
20 conditions:
21

- 22
- 23 1. The Fire Marshall determine if the existing fire protection in the area is sufficient.
 - 24 2. The water policy be met for the lot.
 - 25 3. A land disturbance permit be obtained as part of the building permit process.
26
27

28 Steve Cospoer seconded the motion. The motion passed unanimously with 5 Ayes and 0 Nays. Bryce Higbee, Steve
29 Cospoer, Jannicke Brewer, Steve Swanson, and Todd Barney all voted Aye.
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32 **B. Stub Streets – Subdivision Ordinance Amendment**
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34 Jannicke Brewer said there are some area's in town where access has been cut off to adjoining properties. Steve
35 Cospoer asked why this has to be done through ordinance, why couldn't it be done through a petition. Shane
36 Sorensen asked if it is fair for someone to pay huge amounts of money when it doesn't benefit them in any way.
37 Steve Cospoer said the first developer is developing the street as far as he needs it to go and leaves a stub street. If
38 someone else on the other side wants to develop, why would the first guy have to pay for that improvement? He
39 said he doesn't see why this is even an issue.
40

41 Shane Sorensen said we require the dedication of the right of way to the property line. The intent was not for
42 someone to pay thousands or millions of dollars, it was to require someone to put in a short stub street. Todd Barney
43 said if we require the right of way, we are not damaging the second owner because they have the ability to develop
44 because the right of way is there. Steve Cospoer asked why the second developer shouldn't pay to put the road
45 through; it is for the improvement of their land. The road had been stubbed the giving right of way, now you can
46 develop if you choose.
47

48 Jannicke Brewer said this gives the City a way to not require a stub street in certain situations. She said we need an
49 ordinance to spell out how the City wants to handle these situations. Clarification is helpful and helps the City in
50 making decisions. We can ask the City Attorney and the City Council to discuss these exactions and dedications
51 that are existing in the Utah State Law. Bryce Higbee said good points were made on both ends. We need to dissect
52 this more so we can make a good decision. Jannicke Brewer said our next meeting will be held on December 4,
53 2012 and she thought it would be a good idea if David Church were here to help with this ordinance. Steve Cospoer
54 mentioned the David Church wrote this so why do we just assume that he didn't take into account all of these issues.
55 The Planning Commission talked about whether it mattered if the developer was putting in a large subdivision

1 versus a small one. Does this change who is responsible to pay for the road? Jannicke Brewer said we need to wait
2 and discuss this further with the City Attorney present.
3
4

5 **C. East Bench Estates – Subdivision**

6

7 East Bench Estates is a subdivision located at approximately 1350 East 900 North. The parcels are located
8 immediately south of the south end of Lambert Park and east of the proposed Bennett Farms Subdivision. The
9 proposed subdivision consists of 6 lots on 9.95 acres in the CR-40,000 zone. The lots range in size from 42,115 to
10 82,518 square feet.
11

12 The Planning Commission recommended to the City Council that the East Bench Estates Subdivision be required to
13 be developed as a PRD. The City Council reviewed it and decided that they wanted more information. They
14 requested a concept plan be created to show what the Development would look like as a PRD.
15

16 Steve Sowby said the large area you see on the east end of the map is the required 25% open space. The other areas
17 are proposed additional open space to allow for two extra lots and we are proposing this tonight so the two extra lots
18 can be granted. We would like to keep the lots as wide as we can on the frontage and it allows an increase in the size
19 of Lambert Park. Now the lots are about an average of 30,000 feet compared to the prior plan where they were well
20 over an acre in size. We could do 8 lots but it would be undesirable to have the narrow frontage.
21

22 Jannicke Brewer said the City Council probably didn't realize that you can't do much more with how the
23 subdivision is laid out because it is a long strip of land. The difference is the entrance into Lambert Park. It is such
24 an important part to Lambert Park and the small strip of land next to a lot is too narrow. She said she wanted to see
25 a PRD of at least 50 to 100 feet along the trail into Lambert Park. She said the open space could be moved to widen
26 the trails and protect the entrance.
27

28 Steve Sowby said they are giving several accesses to the park. Jannicke Brewer said she wants this to be a PRD to
29 protect the accesses to the trails even if 1 lot is lost. Steve Sowby said they have a second access into the
30 subdivision because the code requires it. It has to be an all weather road and not a dedicated public street. Shane
31 Sorensen said a second access is required if the subdivision falls within the urban wildland interface area. There has
32 to be a 20 foot paved access, but there is a provision in there for an exception if the Planning Commission, City
33 Council and the Fire Marshall decide it is not necessary. The developer would have to apply for an exception to not
34 have a paved road. It would then have to be reviewed and decided if the proposed unpaved road would work or not.
35

36 Jannicke Brewer said we need to send to City Council whether we want this to be a regular subdivision or a PRD.
37 Steve Sowby said in this zone the PRD requires a larger parcel of property. So the City Council would have to make
38 a ruling or an exception or a determination that the PRD can be on less than the 20 acres. Will Jones said there is not
39 a PRD plan. How did you make a recommendation if there is not a PRD plan? The Planning Commission discussed
40 this and told Will Jones they based their decision on what the PRD for this subdivision could look like. Steve
41 Sowby said they complied and gave a shot at presenting a plan.
42
43

44 **MOTION:** Todd Barney moved that the Planning Commission recommend to the City Council that the East Bench
45 Estates Subdivision be required to be developed as a PRD to help protect the hillside from development.
46

47 Steve Swanson seconded the motion. The motion passed unanimously with 5 Ayes and 0 Nays. Bryce Higbee,
48 Steve Cospier, Jannicke Brewer, Steve Swanson, and Todd Barney all voted Aye.
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52 **D. Bennett Farms**

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54 The proposed Bennett Farms Subdivision consists of 27 lots on 29.7614 acres. Preliminary approval was
55 recommended by the Planning Commission October 9, 2012, subject to a few conditions. A condition was included

1 for a requirement of some test pits to be investigated and referenced in the debris flow hazard assessment. A follow-
2 up assessment was submitted dated October 18, 2012, after three test pits were excavated and analyzed.

3
4 Shane Sorensen said the report should be recorded so lot owners will be aware of it. We recommend that this report
5 be tied to these lots to show that the debris flow hazard has been met.

6
7 **Motion:** Bryce Higbee moved to accept the recommendations contained in the report for mitigation of the potential
8 impacts from debris flows, including improvement of the High Bench Ditch. In addition, we believe that the report
9 should either be referenced on the subdivision plat or recorded against the lots so that lot buyers are aware of the
10 risks associated with building on the alluvial fan. We will seek our Attorney's advice on how this should be best
11 recorded.

12
13 Todd Barney seconded the motion. The motion passed unanimously with 5 Ayes and 0 Nays. Bryce Higbee, Steve
14 Cospers, Jannicke Brewer, Steve Swanson and Todd Barney all voted Aye.

15 16 17 **E. Proposed Amendment to PRD Ordinance**

18
19 Jason Bond said the City Council wants the Planning Commission to discuss the option of amending section 3.9.3.
20 (Minimum Project Area). Specifically, they mentioned not making exceptions to the minimum project area of just
21 not having minimum project areas at all.

22
23 Jannicke Brewer said if we want to change this we would need to set a hearing to consider amending section 3.9.3,
24 and delete the Minimum Project Area from our ordinance. There would be no need for exceptions. We can set the
25 hearing for December 4th. Will Jones said he didn't like granting exceptions, if it's smaller and we agree, let's go
26 smaller. PRDs make sense when the property has slopes and dense areas. They don't make sense when the property
27 is flat. He said it shouldn't matter if the property is 10, 20, 50 acres, we just need to decide what makes the most
28 sense for the property.

29
30 Steve Cospers moved that we set a public hearing regarding the modification or deletion of ordinance 3.9.3.

31
32 Steve Swanson seconded the motion. The motion passes unanimously with 5 Ayes and 0 Nays. Bryce Higbee,
33 Steve Cospers, Jannicke Brewer, Steve Swanson, and Todd Barney all voted Aye.

34 35 **IV. COMMUNICATIONS**

36
37 Jannicke Brewer told everyone that she has been approved to be on the Planning Commission for 4 more years.

38
39 The next Planning Commission meeting will be on December 4, 2012.

40 41 42 **V. APPROVAL OF PLANNING COMMISSION MINUTES OF: October 16, 2012**

43
44 **MOTION:** Todd Barney moved to approve the Planning Commission minutes of October 16, 2012.

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46 Steve Cospers seconded the motion. The motion passed unanimously with 5 Ayes and 0 Nays. Bryce Higbee, Steve
47 Cospers, Jannicke Brewer, Steve Swanson and Todd Barney all voted Aye.

48
49 Jannicke Brewer stated that the Planning Commission had covered all of the items on the agenda and adjourned the
50 meeting at 8:15 pm.