

**ALPINE CITY PLANNING COMMISSION MEETING**  
**Alpine City Hall, 20 North Main Alpine, Utah**  
**January 19, 2010**

**I. WELCOME AND ROLL CALL:** The meeting was called to order at 7:00 pm by Chairman Jannicke Brewer. The following Commission members were present and constituted a quorum:

Chairman Jannicke Brewer

Commission Members: Bryce Higbee, Steve Cosper, Jason Thelin, Tami Hamilton, Ron Eaton

Staff: Charmayne Warnock, Shane Sorensen, Ted Stillman

Others: Brad Reneer – City Councilman, Aaron Holtsclaw, Dan Oaks, Ken Potter

**II. PRAYER & OPENING COMMENTS:** The prayer was offered by Steve Cosper

Jannicke Brewer welcomed the two new Planning Commission members who were filling the vacant seats left by Brad Reneer and Trout Stout when they were elected to the City Council. She also expressed appreciation to Steve McArthur who had served on the Planning Commission for nine years. His term had expired in January. A third new member would be appointed to fill the vacancy left by Steve McArthur.

Bryce Higbee said he grew up in Alpine but left for a short time to attend law school. He was an attorney and had served on the PRO Committee for the past year.

Ron Eaton said he had lived in Alpine for a little over six years. Prior to that, he had lived in California for 50 years. He said he loved Alpine and hoped to be here for a long time.

Jannicke Brewer provided some brief instruction, saying the Planning Commission needed have at least four members present in order to have a quorum. There needed to be at least four positive votes in order to approve an item regardless of how many members were present. She then asked Ted Stillman to report on the Appeal to a land use decision made by the Planning Commission.

Ted Stillman said the Beck family had appealed a decision made by the Planning Commission at their meeting of November 17, 2009. The Planning Commission had granted a revised preliminary plat approval to the proposed Three Falls subdivision which eliminated an 80-acre parcel belonging to the Beck family. The Beck family had requested that their property not be included in the Three Falls subdivision. They had also requested that a road be stubbed to their property. The plat approved by the Planning Commission did not show a street stubbed to the Beck property. In consequence of that, the family filed an appeal to the Planning Commission's land use decision. The Beck family alleged that the Planning Commission had made two errors. First, they did not correct an earlier error made in 1985 in which the Ilangeni Estates subdivision was approved by the City without granting an access to the Beck property. Second, the Planning Commission did not require the developer to stub streets to the Beck property as part of the Three Falls plat approval.

The appeal went to the Board of Adjustment on January 14, 2010. At the beginning of the meeting, the representative for the Beck family submitted more allegations of error which neither the Board of Adjustment, city staff or developer Will Jones had seen. The hearing was postponed.

Jason Thelin said he had never heard the Becks come in and say anything about access at any of the meetings where he'd been present.

Ted Stillman said Will Jones had negotiated early on with the Becks and Healeys and Tanners, all of whom were property owners in that area. He negotiated with them to include their property in the Three Falls development, but the Becks recently said they didn't want to be included and instead wanted their own access.

Jannicke Brewer said it had been the original understanding of the Planning Commission that the Becks wanted to be included in the development. It was only last summer that the City learned the Becks didn't want to be included.

Steve Cospser said he remembered that staff had indicated quite strongly that the Beck property wouldn't be included and there wouldn't be an access. The Beck family representative had not been present at the meeting.

Shane Sorensen said the City had received correspondence that the Becks didn't want to be included. The developer's engineer had done a study on what it would take to put a road to the Beck's property. The study estimated a cost of 7 million dollars to build a road, which wasn't feasible for a maximum of six lots. That didn't include the cost of extending utilities.

Jannicke Brewer said the Becks had come to the Board of Adjustment meeting with their attorney. David Church represented the Planning Commission. Will Jones didn't have an attorney but with the new allegations, he indicated he may seek legal counsel. Since no one had seen the new allegations of error before that night, the hearing was postponed.

### III. APPROVE MINTUES OF JANUARY 5, 2010

**MOTION:** Tami Hamilton moved to approve the minutes of January 5, 1010. Steve Cospser seconded. Ayes: 6 Nays: 0. Tami Hamilton, Steve Cospser, Jannicke Brewer, Jason Thelin, Ron Eaton and Bryce Higbee voted aye. Motion passed unanimously.

**IV. CITIZEN COMMENT:** None

### V. ACTION ITEMS

#### A. CONDITIONAL USE PERMITS FOR HOME OCCUPATIONS

**DVO Enterprises – 620 Windsor Court – Dan Oaks:** Jannicke Brewer said the main question about the business was the number of employees outside the family. Dan Oaks said he had three employees who were not members of the family. Jannicke Brewer said the home occupation ordinance allowed one employee outside the residing family.

Dan Oaks said he had started the company 18 years ago when he was a student at BYU. In the beginning it was a small business that produced a recipe program for the computer, but business really took off when he got a placement for his software with Sam's Club. He said it had always been his goal to work out of his home. They built a home in Alpine with the idea that the business would be in the home. He said he didn't know about the ordinance until a few years ago.

Mr. Oaks said he understood the purpose of the ordinance which was to avoid a negative impact on the neighborhood. He said he felt he actually offered a service to the neighborhood because he had provided some employment to his neighbors in a difficult economy. Most of his employees lived in the neighborhood and walked to his house so there was no traffic impact. He said it was an internet business and 60% of the product was downloads; the rest were CDs. His employees provided tech support. There were no deliveries to the home, no traffic, no signage. No customers visited the home.

Jannicke Brewer said the thought behind the ordinance was that when a home business expanded beyond the regulations of the home occupation ordinance, it was time to move it into a commercial area.

Mr. Oaks said he had bought another home on 200 North and Main in the business commercial zone with the intent that it would be used for his business but there was a problem meeting the

parking requirement, then the economy slowed and he put it on hold. He asked if there was the possibility of some kind of exception.

Ted Stillman said the Board of Adjustment was set up to handle variance requests for hardships. However, the number of employees wouldn't qualify as a hardship.

Planning Commission members questioned if there was some way around the ordinance so the business could be approved. Bryce Higbee suggested they amend the ordinance. It was suggested that perhaps Mr. Oaks could have his employees work from their own homes. Mr. Oaks said he already had 15 other employees doing that. The reason the three employees were at his home was because they provided technical support and the number listed on the website was the number at his home.

Jannicke Brewer said the Planning Commission had to meet the letter of the ordinance. It was not in their power to offer exceptions. If a business did not comply with the home occupation ordinance it was rejected or revoked. Home occupations were supposed to be incidental to the residential nature of the home.

Mrs. Brewer said that since they didn't have to make a decision that evening, Mr. Oaks could come back in two weeks and tell them how he was going to solve the problem.

#### **B. DEVELOPMENT CODE – WIND ENERGY CONVERSION SYSTEMS:**

Jannicke Brewer said they had invited Steve Painter from West Mountain Wind and Solar to give a presentation on some of the other types of wind energy conversion systems that were available or in the works. His company had installed wind towers at two residences in Alpine.

Mr. Painter distributed a handout showing some other systems that were available. One was helix design that could be tower-mounted between 14 and 35 feet or roof mounted 2 feet above the roof line. Honeywell had a model that would be available at the end of February 2010 which was a roof-mounted wind turbine, 6 feet in diameter and weighing about 170 lbs. According to their literature, the Honeywell turbine was able to produce 2000 kwh/year in class 3 winds which represented about 18% of an average household's annual electrical needs. The turbine created power at the blade tips rather than using the complicated gearing mechanism of traditional turbines, drastically reducing mechanical resistance and resulting in greater energy production at lower wind speeds. Traditional gearbox turbines required wind speeds of 7.5 mph to generate power. The Honeywell wind turbine began generating energy with winds as low as 2 mph.

Jannicke Brewer asked if one of the smaller units would produce enough power to be on net metering.

Steve Painter said they had to meet the requirements to be on the grid. There had to be an automatic shut-off feature. If the utilities went down, the WECS had to automatically shut off.

Tami Hamilton said she'd gone to an energy workshop in September. They were told the tall tower were the only ones that were equitable to purchase.

Steve Painter said his favorite was the Sky Stream which was the Cadillac of the system. Its blade turbines were the best. He said he didn't know how cities would regulate some of the models that were coming out. How would people know to come in and get a permit if they could just purchase a system at a store and plug it into an outlet?

Ted Stillman suggested that they have an ordinance that addressed roof-mounted models separately from addressing the setbacks for pole mounted models.

Ted Stillman showed a slide of a recently installed wind tower in Highland. Steve Painter said that after they installed that one, he'd had requests from six neighbors for a wind tower.

The Planning Commission next discussed setbacks for the wind towers. Shane Sorensen showed examples of different lots throughout Alpine and identified the envelopes for a tower according to Highland City's ordinance which had less restrictive setbacks, and the envelope for Alpine City's ordinance. The lot locations were: Eastview, Fort Canyon, Matterhorn Drive, Whitby Woodlands, Craig Carlisle's house on 120 South, Applewood Drive, the Southpointe subdivision and the Healey Heights subdivision.

Jannicke Brewer noted that there were many lots where the only possible location would be on the roof.

Shane Sorensen said there was obviously more opportunity on the acre+ lots. Highland City's ordinance required a setback that was 50% of the total height of the tower. A setback of 110% of the height was required from neighboring dwellings, side streets for corner lots, and overhead power lines.

Ken Potter said Highland's ordinance would work better for him. Ron Eaton asked Mr. Potter how far his proposed tower location was from the neighbor's house. Mr. Potter said it was about 80 feet which was over 110%

Jannicke Brewer said that neither Alpine's or Highland's ordinance addressed poles in the front yard and she thought they needed to amend the ordinance to prohibit wind tower in the front yard even if the applicant could meet the setback.

Steve Cosper said that one safety consideration he would like to see was related to the longevity of the towers. After 30 years they could rust and weaken.

Steve Painter said some cities required a wind tower to be taken down if it became non-functional. Highland's ordinance had language pertaining to abandonment.

Tami Hamilton said safety wasn't her only concern. She felt the biggest problem would be the impact on the neighbors. Not everyone wanted to live next to a wind tower. She said she didn't think everyone in Alpine should be able to have a wind tower any more than everyone in Alpine was able to have a horse.

Ron Eaton asked if they wanted to consider different setbacks for different lot sizes. Jannicke Brewer said it was easier to administer if the setbacks were the same for all the lots.

**MOTION:** Jason Thelin moved to amend the Wind Energy Conversion System ordinance, Section 3.28.2.2 and add a letter C that stated: "No part of the WECS shall be located in the front yard of any lot, nor within the minimum side yard setback facing a street on a corner lot. Tami Hamilton seconded. Ayes: 6 Nays: 0. Jason Thelin, Tami Hamilton, Bryce Higbee, Steve Cosper, Ron Eaton and Jannicke Brewer voted aye. The motion passed unanimously.

Staff was directed to come up with more precise language regarding the prohibition of locating a wind tower in the front yard.

**MOTION:** Steve Cosper moved to amend the Wind Energy Conversion System ordinance to add the following language regarding abandonment of a WECS: "If an alternative energy facility is not functional or operational or maintained for a period of one (1) year then the owner shall have the facility immediately removed from the property." Ron Eaton seconded. Ayes: 6 Nays: 0. Jason Thelin, Tami Hamilton, Bryce Higbee, Steve Cosper, Ron Eaton and Jannicke Brewer voted aye. The motion passed unanimously.

**C. DEVELOPMENT CODE - GROUP HOMES FOR THE DISABLED:** Ted Stillman said there had been a state law on the books for ten years that municipalities were

required to adopt an ordinance on group homes for the disabled. Alpine City had yet to do that. City Attorney David Church had recommended the Planning Commission begin work on an ordinance. Group homes were allowed by state law and federal law and could not be prohibited, but they could be regulated. Administering the ordinance once adopted could be difficult because group homes for the disabled also included group homes for recovery and rehabilitation for drug and alcohol addictions. Frequently citizen groups formed to oppose them. Highland City was currently having legal issues with a group home that the city approved, but the appeal authority ruled that proper notice had not been given to neighboring property owners.

The Planning Commission had been given copies of other cities' ordinances on group homes including Holladay City's ordinance and Orem City's. Jannicke Brewer noted that one of the important aspects of the ordinance was to have a definition of a residence and a definition of a family in the ordinance.

Ted Stillman said reasonable accommodation was a big issue. Alpine's current ordinance said a family could be defined as four unrelated people living in a home. Group homes frequently requested more members under reasonable accommodation stating that a higher number was necessary to be effective.

Jason Thelin said he'd like to outline the City's goals relative to group homes provided they would stand up in court. He said he'd like to initially create a restrictive ordinance and work from there.

As a starting point, Ted Stillman said staff could bring in a draft ordinance for the Planning Commission to begin working on. Holladay City had gone to a lot of expense to come up with their ordinance and it would be a good model to use.

Jason Thelin said he would like to see smaller facilities and fewer residents in Alpine's ordinance.

Steve Cosper suggested they also look at adopting a sexually oriented business ordinance as well, and have one in place in the event it was needed.

#### **D. DEVELOPMENT CODE – SECTION 3.1.11 - DEFINITION FOR A**

**RESIDENCE:** Since this item was tied to the former item on Group Homes, it was agreed there would be no discussion until they had a draft ordinance to respond to.

Steve Cosper asked if it would be possible to get a copy of the ordinance in advance of the packet since there was a lot of material to review and consider.

Jason Thelin asked if April Naidu had put together a priority list. Jannicke Brewer said she believed she had a preliminary list but she didn't have a copy.

**MOTION:** Steve Cosper moved to adjourn. Bryce Higbee seconded. Ayes: 6 Nays: 0. Motion passed.

The meeting was adjourned at 9:05 pm

