

Parowan Planning and Zoning Minutes
April 5, 2023 – 6:00 P.M.
Parowan City Office – 35 East 100 North

MEMBERS PRESENT: Larry Zajac (Chair), Heather Peet, Jake Hulet, Jamie Bonnett, Jerry Vesely, David Burton (Council Representative)

MEMBERS ABSENT: Tony Leydsman (Alternate), Weston Reese (Alternate)

STAFF AND COUNCIL PRESENT: Molly Halterman (Mayor), Dan Jessen (City Manager), Judy Schiers (Secretary)

PUBLIC PRESENT: Tim and KC Deutschlander, Rich Wilson (County Engineer)

CALL TO ORDER: Larry Zajac called the meeting to order at 6:03 P.M.

ANY CONFLICTS WITH ITEMS ON THE AGENDA: No conflicts were declared.

APPROVAL OF MINUTES (MARCH 1, 2023): After changes to the minutes, Jamie Bonnett made a motion to approve the minutes from March 1, 2023. Jerry Vesely seconded the motion. All members present voted in favor of approving the minutes.

ELECTION OF CHAIR AND CHAIR PRO TEMPORE: Jerry Vesely made a motion to appoint Larry Zajac as Chair of the Planning and Zoning Commission. Heather Peet seconded the motion. All members present voted in favor of this motion. Heather Peet made a motion to appoint Jerry Vesely as Chair Pro Tempore. Jamie Bonnett seconded the motion. All members present voted in favor of this motion.

BUILD A SECOND HOME ON COMMERCIAL LOT WITH EXISTING HOME – 45 EAST 400 NORTH: Tim and KC Deutschlander were present on this item. Dan said he had talked with the builder on this project and did not see any plans until this was on the agenda. Tim said he wanted to be on the agenda to make sure that he answered any questions that the Planning Commission may have. Their intent is to build a second home on this lot, and keep the existing home. Their plans are to potentially rent out the existing home in the front to a small business.

Dan said that single family residents in this zone generally do not have to come before the Planning and Zoning. He said he told the builder on the project that he did not foresee any problems, however there are some complications. This lot is in the commercial zone, and while you can build a single-family home in a commercial district, we do not have anything in our ordinances that address mixed use. Dan said if you are planning on renting the front home for commercial use, our code does not prohibit it, but we have to consider if it functions and does it work. The second home would need new connections for water, sewer, and power which would also include impact fees. He said that they do have one acre foot of water assigned to this lot per our code. He said we would need to do the math for usage for the two homes to determine if you have enough on this lot. Our code is .45-acre feet per residential unit, so for two residential units, you would need .9-acre foot, which you would have. Then we would have to calculate the irrigatable land. This would be the entire square footage of the land, removing the houses and hard surfaces (meaning anything that you couldn't landscape), and then times that by 4-acre feet per acre and assuming that is more than the .1-acre foot left over from what you need for the two houses, you would need to bring the city water for the difference. The fees involved with building a

second house would be connection fees, impact fees and you would have to bring the city water for the difference. Dan told the Deutschlanders that if they were to take out the old house and build the new house, there would be no connection or impact fees, unless there would be an upgrade to existing services and they would already have the water. David said when you are talking upgrade are you talking culinary or pressurized irrigation. Dan said culinary. Mrs. Deutschlander asked if the pressurized irrigation could count towards the acre foot that they have. Dan said no that is separate. Our code ignores if you have pressurized irrigation or not. Dad said that from what our water study shows and what the engineers take into account, is that they ignore the pressurized irrigation. The reason for this is we don't know that we will always have a pressurized irrigation system. The Brian Head Fire is an example of this. We went a whole season with the pressurized irrigation shut down and everyone had to use the culinary water. They take what we need for the City as if the pressurized was not in existence. Dan said that the reason why the requirement is lowering, and we will only legally be requiring .5-acre feet, is they take our actual water usage, our equivalent residential connection (ERC) and base it on our actual pumping over the last five years. It isn't rewritten yet, but this is what we have to start to consider.

Larry said that for the record there is no objection from the Planning and Zoning on this use, with the caveat that if the existing home has a change of use, they will come back to the Planning and Zoning with the plans. Tim Deutschlander said they will consider all the information they were given. He said that they will figure out the hard surfaces and then meet with Dan to move forward. Tim asked if the empty lots in town have water or will they be required to bring it in. Dan said empty lots in town, that haven't paid for hook up or impact fees yet, are grandfathered in. In your situation, you are adding a second home, much like doing a lot split, without dividing the lot. Dan went over the ground water management plan and what it will entail.

Jake said if you don't want to use the old home, you could tear it down, and it already has the water there and connection and impact fees are paid. Tim said that they have thought about that, but they like the old house.

STORM CHANNEL SETBACK STANDARD: Dan said that the County Engineer, Rich Wilson, was here for this agenda item. Dan said that flooding is on everyone's mind. This item is for consideration of amending our land use code to establish setbacks on the flood channel. The setback doesn't take land, it states that you cannot build a permanent structure within the setback.

Dan said the Parowan City Flood Channel snakes through town and cuts into some of the lots which are around the flood channel. He said from the center line out, a setback would restrict the ability to build a permanent structure. On the handout the letters are variables that would apply different widths and heights based on the calculated flow of different flood channels throughout the County. The County Commission has already adopted a setback standard that applied to land use in Unincorporated Iron County, not within the cities. Since this flood channel is in the City and the County, it doesn't make a lot of sense to have the County have a setback standard along this Channel and the City does not.

Dan explained the 2 to 1 slope which most channels are designed for. He said you want to be deep enough with slope on the banks to handle the water from a storm event, without being too wide. The wider the flood channel gets, the more impact it would have on property owners. He said that ideally you would have a 16-foot berm on each side of the channel to allow for maintenance and to clean out

the channel. We need to consider adopting a similar flood channel setback along the flood channel and the County would need to adopt a setback also. He said if we don't have this in effect, houses and block walls could be built within a setback area that could potentially be subject to the high water. We already have some houses that are in this situation. Dan said the existing subdivisions on the flood channel were approved before this channel was designed and approved as the flood channel.

Larry said he wants to be clear on this, so that when there are public hearings to modify the land use code, we will know how this will impact individual properties. He said if the City owns a 25-30 foot wide channel through here and the County has a 62 foot wide channel, we are in a deficit before we even start and then we are going to go out another how many feet as a setback presumably in both directions, now we have walls that are non-conforming. He said he is not sure how we are going to solve the problem by establishing a set-back and have a group of non-conforming uses. Dan said that adopting a setback would be on any future development of the property along the channel. It is not about solving the problem that we have now along the channel, but preventing problems with any new development.

Dan said that the City is working on the channel right now and making it as good as we can get it. If we adopt the standard, which is from the center line of the flood channel, property owners do not have to give up the entire width in the development, just the setback from the center line out. The City is going to have to figure out how to protect these homes already in the setback.

Heather said that Dan had mentioned that prior to the 2005 flood there were two or three places for the water to flow, and they don't flow that way anymore and she is confused as to why. Dan said that there was a cement structure that diverted the water. Now that structure is gone and there are houses and a barn. He said that when some of the homes were built on Highway 91, they had 36-inch culverts because there was still water being diverted to Highway 91. David said that the whole area was a flood plain and now it has houses, but the water still needs to flow somewhere.

Heather said that if she understands this correctly the setbacks would prevent the bottleneck in the future and that the people who currently back up to it would require an expensive alternative for the City in regards to maintenance. Dan said that as was mentioned anything currently there would be non-conforming if the setbacks were adopted. David asked about some type of mitigation for that property that sits on the south side in the County. Dan said that the NRCS had a grant of \$500,000 to do a study of the different water sheds in Iron County and what it would cost to put in appropriate flood measures. The Parowan Creek had an estimated cost of 38 million dollars to upgrade the flood channel and bridges, minus the Main Street Bridge. This was for acquisition of the easements and properties. Dan said the purpose of adopting setbacks is to prevent encroachment of structures in the future.

Larry asked if the figures on the matrix were applicable to this flood channel or only to the channel whose names are on the matrix. Dan said that we would need to look at the numbers on the matrix and then based on the cubic feet per second, design it to that. We would need to design for the event, meaning a 50-year or 100-year event and how wide it would need to be. The numbers on the matrix are the capacities of a channel design. The cubic feet per second flow is a percentage of an event.

Rich said that the set back of 16 feet allows heavy equipment to provide maintenance on the channel. He said this forward thinking on approving setbacks will help those wishing to subdivide or build homes,

look into the future when the flood water comes. He said he wishes that the water still disbursed through the City like it used to, but now it is just one single channel.

Larry said he wants to be ready with answers to questions that people may have at a public hearing. He asked if there was an option, where the property was already non-conforming, to take more property from the south side of the channel. Dan said he has already heard from some of the property owners that they may not be in favor of that. Rich said that is up to the City, if you want to push it further south or go with less capacity.

Larry said that he would not want to present it this way to the public in a public hearing. He would like to see some drawings and/or artist's rendering of what the property would look like. Rich said that every community is different. He said when they presented this to the County, it went through without a lot of explaining.

Dan said he is worried if we let more people build subdivisions and homes right up to the channel, we would have the liability. David asked if there is some type of mitigation that can be done at the breakwater to take away some of the impact on the flood channel. Rich said that they have been working on this. They are looking at taking clean water and bringing it out of the breakwater and getting it to the County Gravel pit for a recharge basin. This will take water from the Gurr Subdivision and the fairgrounds.

Dan said because this is land use, it would be heard at the Planning Commission, then a public hearing and then to City Council for adoption. Dan said they could bring something back to the next Planning Meeting and then schedule for a public hearing.

Larry said that would be great if we can be ready, but if we need to have this engineered and split it into three sections so people could see where their property is in relations to the sections, it wouldn't be ready by then. He said if we have a public hearing at the Planning meeting and we take the brunt of the questions and concerns, then the Council would have a public hearing and fix things from the input from the public hearing that we hold. If we only have one public hearing, we don't have to come back with more questions. He said in my opinion, a picture is worth a hundred words. Citizens will be wanting to know how it impacts them.

Heather asked about the subdivisions with empty lots that abut up to the channel. Jake said that there are only two lots not built on at this point. Dan said if we adopt the code today and set the setback, I would like to have the wording say that they can't build a structure in the setback of those empty lots.

Larry said his concern is what the code will say. Dan said it does not have to be particularly onerous text wise in the code. We have this matrix and can adopt this. He does not think that the entire thing has to be spelled out in text. Rich said the County referred to the drawing in the code. Jake said we would want to call out the area for maintenance.

Dan said he will come up with a proposed code and bring it back to this commission. Larry suggested looking at the County Code when writing for the City Code.

Jake said he does not think it will be as scary as Larry thinks it will be. Developers will just make adjustments to the setbacks, and will make their developments safer. He said we need to do it now when the risk of flooding is on everyone's mind.

Larry said his concern is more with the Stillwater and Maple Springs Subdivision and if they come in and have questions on how we are going to help them. He said I guess we would have to say that is out of the scope of this hearing.

Dan said from a developer's standpoint, if there is a big event, the developer will be part of any lawsuit also, so they would want to keep their developments safe.

FLUM UPDATE (FUTURE LAND USE MAP): Dan said that the FLUM is attached to the General Plan. The one we have is a terrible rendering. He said he found three copies of actual paper land use maps but no PDF. He contacted Iron County GIS and they were able to locate a PDF. He will talk with Callie and have her put the PDF on the website. He said by law, we have to have a future land use map with interim and ultimate growth areas. The map will enable developers who wish to annex, look at the map and see what the zoning is proposed for that area. Larry thanked Dan for getting this updated. Dan said the next step is to get this on-line and searchable.

750 NORTH STREET DEDICATION – UPDATE: Dan said that the current property owners had inquired about the parcel in this area. The roads have been legally dedicated and recorded but were not showing up on the parcel viewer. It still shows as one legal parcel, even though it has been separated by the legally separated roads. In the near future, the current owner will be coming to us to complete the subdivision. Dan just wanted the Planning Commission to be aware that the roads are owned by the City, that they were recorded and legally dedicated.

MEMBER REPORTS: Jerry said that Vicki Hicks approached him about the three new buildings on 200 South (Jense Buildings), and had concerns that the parking lots do not comply with handicapped zoning. She said if a handicapped person falls, they could sue the city because we didn't require an asphalt handicapped friendly material. Dan said he would check with the property ombudsman where we stand on this. Larry asked Dan to talk with our legal counsel. Larry will look at the State Code to see what it says on this and if we comply. Heather asked Jamie if she looked at this. Jamie said she didn't look at the handicapped standards. Larry said we may get into things such as required parking spaces and a certain number of spaces need to be handicapped. Dan said that our parking language needs some work. Dan will check with legal on this. Larry said that the challenge we face is that businesses and developers look to the city to guide them through the code and if we haven't exercised our due diligent, it could be a challenge for us.

Larry updated the commission on the training on April 6th and 7th. Larry asked Judy to check with legal regarding the billboard code.

Dan said that he attended a zoom meeting with the Utah League of Cities and Towns and there was a lot on the legislative update on land use. There were some powerful bills that were passed that will impact the City. The Subdivision process will become as administrative as possible. He said we will need to appoint an Administrative Land Use Authority and final plats will be seen by them. They will no longer be approved by the City Council or Planning Commission. Larry said that will work great if our code is up-to-date. Dan said there are parts of the subdivision process that will still be legislative, for example a zone change. The Administrative Land Use Authority could be the manager and a City Engineer, the Planning Chair and the Mayor, etc. He highly suggests it is someone with some expertise.

There are also some specialized land provisions that need to be in our code, specifically the Airport Overlay Zone. Larry thought we had this. Dan said it has not been adopted in our Land Use Code.

David asked if there was a specific number recommended for the Administrative Land Use Authority. Dan said it could be one person or ten, they do not define the number, but it is subject to open and public meetings. Larry said the subdivision checklist will become important.

Mayor Halterman updated the commission on the active transportation plan and what it involves. She will send out a notice to the Planning Commission when the meetings are. Larry said when we have these types of plans that need to be in our General Plan, we need to keep them in mind to put with our General Plan. Cities are encouraged to update their plan every two years and he doesn't want to go through the same process as the last General Plan update. We are due to update our plan next year and would hope that some money can be set aside for this. Dan said that Five County Association of Governments hired an employee to help cities with updating their General Plans. Larry asked Dan to find out what his deliverable is.

Dan said another thing we will need to incorporate is a water component and a water conservation plan in our General Plan.

ADJOURN: Heather Peet made a motion to adjourn the meeting at 8:49 P.M. Jake Hulet seconded the motion. The meeting was adjourned.