

Mayor
Kenneth Romney

**City Engineer/ Land
Use Administrator**
Kris Nilsen

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

Chairman
Denis Hopkinson

Commissioners
Laura Charchenko
Mike Cottle
Alan Malan
Corey Sweat
Dennis Vest, Alternate

**THE PLANNING COMMISSION WILL HOLD A REGULAR
MEETING AT 7:30 PM ON TUESDAY, OCTOBER 13, 2020**

Meeting will be held exclusively via Zoom (see info below)

The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.

Prayer/Thought by Laura Charchenko

1. Accept Agenda.
2. Public Hearing Regarding a Request by Blake Heller to have his Property, or in the Alternative the Entire Heritage Pointe Subdivision, Removed from the Historic Overlay District.
3. Consider Request by Blake Heller to Remove property at 862 Heritage Pointe Circle from the Historic Overlay District.
4. Discuss Historic Overlay District Regulations.
5. Staff report.
6. Consider Meeting Minutes from September 22, 2020.
7. Adjourn.

Join Zoom Meeting

<https://us02web.zoom.us/j/87376051633>

Meeting ID: **873 7605 1633**

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This notice has been sent to the Clipper Publishing Company and was posted on the State Public Notice Website and the City's website on October 9, 2020 by Cathy Brightwell, City Recorder.

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on October 9, 2020 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 13, 2020 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

Due to the Coronavirus outbreak this meeting was held by teleconference measures using Zoom.

MEMBERS ATTENDING: All attending via Zoom: Chairman Denis Hopkinson, Vice Chairman Alan Malan, Mike Cottle, Dee Vest, Laura Charchenko, and Council member Kelly Enquist.

MEMBERS EXCUSED: Corey Sweat

STAFF ATTENDING: Kris Nilsen (City Engineer), Cathy Brightwell (Recorder) in house, Steve Doxey (Legal) and Debbie McKean (Secretary) via Zoom.

VISITORS: Via Zoom: Blake Heller, Shaurie Kagie, Steve Sellers, Richard Carlisle, Nelson Sandberg, Doug Schillings

The Planning Commission meeting was called to order at 7:30 pm by Chairman Denis Hopkinson. Laura Charchenko offered some thoughts about our duty and rights to vote.

Chairman Hopkinson read the following message: *The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.*

1. Accept Agenda

Chairman Denis Hopkinson reviewed the proposed agenda. Laura Charchenko moved to approve the agenda as presented. Alan Malan seconded the motion. Voting was unanimous in favor among all members present.

2. Public Hearing Regarding a Request by Blake Heller to have his Property, or in the Alternative the Entire Heritage Pointe Subdivision, Removed from the Historical Overlay District.

Action Taken:

Laura Charchenko moved to open the public hearing at 7:43 pm. Mike Cottle seconded the motion and voting was unanimous in favor.

Introduction to Hearing:

Blake Heller submitted a request to have his property removed from the Historical Overlay District, or in the alternative, remove the entire Heritage Pointe subdivision from the District. He desires to build a detached garage and has been frustrated working with the city's architectural review board for approval of the design which he has worked hard to look historic.

Notice of the public hearing was sent to all 36 Heritage Pointe property owners. A petition provided by Mr. Heller contained signatures of 10 homeowners in Heritage Pointe supporting the removal of the entire subdivision from the historical overlay district.

Public Comment:

Shauri Kagie – 811 N Vintage Circle, lives in Heritage Pointe and believes the historical requirements have not been enforced consistently. She described problems they had to deal with regarding the color of their home after the review board claimed they were contrary to the historical design regulations. She deems it has been mismanaged and believes it is in the best interest of the city to remove the whole district in order to avoid unnecessary legal actions.

Richard Carlisle – 865 W Heritage Pointe Circle, lives in Heritage Pointe and would like to go on record with his support of the removal of the entire subdivision from the district. He feels the regulations have fulfilled their purpose now that the development is built out and supports Mrs. Kagie's comments as well. He does not want to deal with the big hassle Mr. Heller has had to face when he decides to build a structure on his property in the future.

Steven Sellers – 877 W Heritage Pointe Circle, lives in Heritage Pointe and spoke in favor of the removal of the subdivision from the district. He was not aware of the petition but stated he would have signed it if asked.

Nelson Sandberg – 854 W 850 North, lives in Heritage Pointe and is in favor of removing the subdivision from the overlay district. He described the stress he was put through of having to deal with the restrictions when building his home. He feels that the regulations have served their purpose as the subdivision is now built out.

Doug Schilling - 850 W Heritage Pointe Circle, lives in Heritage Pointe and is in favor of the removal as well. The time and effort to go through the required process is daunting and not necessary or worth the time it takes.

Cathy Brightwell read two letters received by the city from residents unable to attend tonight's public hearing.

Emily Tolten - 853 W Heritage Pointe Circle lives in Heritage Pointe and believes there is no longer a need for the historical overlay regulations as the subdivision is fully established. She supports removing the regulations from the entire subdivision as keeping them in effect needlessly holds a modern, beautiful neighborhood to an antiquated standard.

Nick Cluff – 835 W 850 North lives in Heritage Pointe and stated support for keeping the historical overlay district. He stated that he recognizes varying degrees of compliance with the intent of the overlay district in the neighborhood, the rules and regulations that were set in place from the onset

of the subdivision are one of the things that attracted his family to the subdivision and he believes it protects the integrity of the neighborhood and the investment in their home. It is his opinion that allowing the historic overlay district to be dissolved is not appropriate and may result in further problems for the city and subdivision including legal or other challenges.

Action Taken:

Alan Malan moved to close the public hearing at 7:54 pm. Mike Cottle seconded the motion and voting was unanimous in favor.

3. Consider Request by Blake Heller to Remove property at 862 Heritage Pointe Circle from the Overlay District

Commissioner packets included a memorandum dated October 9, 2020 from Staff regarding Historic Overlay District with an attached copy of the regulations for the Historic Overlay District and a site plan of Mr. Heller's accessory building.

Mr. Doxey explained the petition invokes 3 levels, two of which are public, and one is of a private nature. He suggested the first level of public regulation is to maintain harmony with the general plan. The second level of public regulation is to ensure that changes to the historic district are properly noticed and achieve the best interests of the community. The private issue, Covenants (CCRs) for Heritage Pointe subdivision, are at least as stringent as the overlay district and apply to the subdivision even if the historic overlay regulations are repealed. As the city is not involved in CCRs, changing or repealing them is the responsibility of the homeowners. Seventy five percent of the residents would need to be on board to remove or change them.

Staff/Commissioner Comments:

Dee Vest- Understands why they want to do away with the regulations but feels the homeowner group needs to have the 75% support to remove the entire district.

Alan Malan- Understands the points raised tonight and feels the regulations have served the purpose of what was intended when the subdivision was created.

Laura Charchenko- supports making a decision on Mr. Heller's specific property tonight but wants to further look into the removal of the whole district and if there is 75% support from the homeowners.

Mike Cottle- Deals with HOAs frequently in his job and understands that the city has no jurisdiction over the CCR's attached to the subdivision. Alan Malan pointed out that they are two separate issues, public and private, and the city can remove the historic overlay regulations without affecting the CCRs.

Councilmember Enquist does not feel the CCR issue needs to be considered for the request before them. Mr. Doxey pointed out that since the architectural design committee contemplated in the CCRs is not functioning and no HOA is in place any action taken would need to be challenged by an individual legally. It would take time and money to do so, but it could be done. The city can remove their regulations, but the restrictions bound by the CCR's are still in place.

Chairman Hopkinson spoke to the changes that have taken place in the historic zone that are not always in harmony with the regulations in place. He would like to see more discussion with the residents in this district before making a decision that impacts them all.

Cathy Brightwell noted that the original Heritage Pointe review committee, including members of the city's historical preservation commission, dissolved over time without involvement from the homeowners except one who was also on the historical preservation commission. The city was left taking over that responsibility and did so to preserve the historic nature of the area and not to defend or manage the CCR's of Heritage Pointe. She acknowledged there are many inconsistencies with the way the regulations have been interpreted and applied in the subdivision even though the city tried its best to be consistent. She added that the two architects hired as part of the historical overlay's architectural review board have resigned due to frustrations with the process.

There was discussion about the need for more information on impacts to the remaining historic district and general plan before a final recommendation is made to dissolve the whole district. Chairman Hopkinson noted that there is no need to delay Mr. Heller's request in the meantime. This raised questions about spot zoning and how a future decision to remove the entire subdivision would not result in spot zoning.

Dee Vest does not want Mr. Heller exposed to possible lawsuits and would like to see the 75% support before making a decision.

Mr. Doxey reiterated that the 75% vote is in reference to dissolving/amending the CCR's which is separate from this request. He stated that the City could move forward with their decision and not be concerned about the CCR's.

Mr. Heller was given an opportunity to make comments. He noted that he has spent 3 months dealing with this issue and would like to have a decision sooner than later as it is costing money from rising material costs. The purpose of his building was to cover his RV before winter.

Some discussion took place regarding how to move forward with Mr. Heller's request. Commissioner Charchenko and Malan stated there was sufficient support from the public hearing to grant the request so he can move forward to city council. Commissioners Vest and Cottle preferred to wait to deal with the subdivision as a whole.

Councilmember Enquist noted that we have given an opportunity for the public to make comment and they responded this evening. It appears that the majority who showed interest supports dissolving of the district. He pointed out that we have supported others requests to be removed and should do so with Mr. Heller.

Mr. Heller spoke regarding his original intents to remove only his property and not all the district but was encouraged to do so. He does not feel it is fair to be held up while they discuss the whole subdivision.

Action Taken:

Laura Charchenko moved to recommend the removal of Blake Heller's property at 862 W Heritage Pointe Circle from the historical overlay district. Chairman Hopkinson seconded the motion which

passed with a vote of 3-2. The votes in favor were Laura Charchenko, Alan Malan, and Chairman Hopkinson. Nay votes were Dee Vest and Mike Cottle. This will be moved to the City Council for their review and consideration.

4. Discuss the Historic Overlay District Regulations

The City Council asked the Planning Commission to review the Historic Overlay District and make a recommendation on the need to continue the building and design standards. Multiple properties have been allowed to be removed from the District and a review to determine whether these regulations are still relevant is needed.

The current historical overlay district consists of approximately 27 properties along portions of 800 West and 36 lots in Heritage Pointe subdivision. As far as possible future development, these numbers include 1 vacant lot in Heritage Pointe and on 800 West, 1 vacant lot and a 6.7-acre property.

Ms. Brightwell went over the background of the historical overlay district including its creation and subsequent property removals. It appears to have roots in an ordinance that first established a historic preservation commission that was done at least somewhat in conjunction with the Heritage Pointe subdivision. The historical overlay district was added as a land use ordinance in 2012. It included building and design regulations, similar to the Heritage Pointe CCRs, which were to be applied to all construction within the District. The ordinance also established an architectural review board responsible to review and enforce the regulations. This group consists of a member of the city planning department, a licensed architect who has experience with Utah historic design, and the chairman of the Historic Preservation Commission. The Historic Preservation Commission dissolved approximately ten years ago so planning commissioner Alan Malan has been filling their role, and the architect participating in this capacity recently resigned.

The review and enforcement of historic design elements within the Heritage Pointe subdivision has put the city in a position more akin to a homeowners' association rather than a body protecting a historic neighborhood. By ordinance, and) Within the current historic overlay district, there is currently one vacant lot in Heritage Pointe and one vacant lot on 800 West yet to be built on.

Cathy Brightwell reviewed the current map that showed the boundaries of the historical overlay district which are irregular in shape. On the east side of 800 West, the District begins at the Fisher home on 1000 N and goes south to the Mackey home on the north side of city hall. This includes the Pages Circle subdivision built in 2007 and an LDS chapel. On the west side of 800 West, the District begins with the Hopkinson property (1200 N) and goes south to the DeWaal home on 400 N. The west boundary juts in and out in several places excluding a few homes built in the late 1800's. This west portion also includes the Heritage Pointe subdivision. The age of homes in the District range from 1882 to 2019.

Commissioner Comments:

Dee Vest favors having a small area left in the district which would be mostly on 800 West to include 15 to 20 homes.

Alan Malan favors dissolving the boundaries that are partially incorrect. He supports Dee Vest's ideas. He would like to consider a financial incentive offered to any who would like to build a historic home.

Councilmember Enquist noted that there are some homes that should be included in the Historic District and some that should not be. He wants to preserve those homes that are actually historic and does not see the advantage of the overlay district being in place in Heritage Pointe.

Chairman Hopkinson noted that there are costs for the residents to keep this district functioning as in place today. He pointed out that there are homes on 10th North (outside of the historical overlay district) that have historic value as well as those on 800 West.

Mike Cottle inquired how many homes in the Historic District are on the National Registry. Ms. Brightwell was not sure but thought that there may be around 13. He wants to keep those on the registry but does not believe any others would need to be included.

Laura Charchenko feels if we consider removing the district, she would like to contact all the homeowners to see how they feel regarding the protection or regulations of the district in place.

Chairman Hopkinson noted that there are some issues that need to be considered further before coming to a decision. In particular, the ramifications to all property owners in that zone, not just those in Heritage Pointe. A review of the general plan is also important.

Mr. Doxey and staff will provide references from the general plan and prepare additional information to assist the commission in deciding if they want to change language, change boundaries of the district, or eliminate it entirely. Mr. Doxey noted that the general plan can be tweaked to fit the decisions made.

5. Staff Report

Kris Nilsen

- Pushing through building permits
- Working with Josh at the Golf Course on cart paths.
- Has identified issues at the school with their infrastructure, drainage, etc., and the district should be addressing those issues soon.
- RFP for pickle ball courts in next to city hall is due to be awarded the first week in November.
- 800 West construction is wrapping up. Steve Maughan is working with the contractor on punch list items.
- Dee Vest asked about the city ordinance on building heights that allows chimneys and other decorative appurtenances to exceed the maximum height causing obstructions. He suggested the commission take a look at the issue.

Cathy Brightwell

- Provided information on Land Use classes that are now being offered online in 2-hour segments. She will send out information as classes are scheduled. All training is free, and registration can be done individually online.
- Safety issues about raising speed limits on Legacy Parkway are being addressed with cable barriers and guard rail extensions. She noted several areas that are getting them one of which is in the West Bountiful area.
- It appears the legal issues regarding the Olsen property on Pages Lane that includes the kennel have been resolved. The property has been divided between two owners who are interested in selling and possible subdividing the property. Will keep you updated.

- Mike Cottle asked if the city was still getting complaints regarding Jed Christensen continuing to sell hay from his property on 800 West. Mike said he get complaints from his neighbors because the hay trucks pick up and deliver on his street. Cathy confirmed the city has received complaints as well.

6. Consider Meeting Minutes from September 29, 2020

Action Taken:

Mike Cottle moved to approve of the minutes of the September 29, 2020 meeting as presented. Alan Malan seconded the motion and voting was unanimous in favor.

7. Adjourn

Action Taken:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 9:23 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on October 27, 2020, by unanimous vote of all members present.



Cathy Brightwell – City Recorder

