

ALPINE CITY PLANNING COMMISSION MEETING
Alpine City Hall, 20 North Main, Alpine, UT
August 1, 2023

I. GENERAL BUSINESS

- A. Welcome and Roll Call:** The meeting was called to order at 6:00 p.m. by Chair Jane Griener. The following were present and constituted a quorum:

Chair: Jane Griener

Commission Members: Alan Macdonald, Troy Slade, John Mackay, Ethan Allen, Jeff Davis, Susan Whittenburg

Excused:

Staff: Ryan Robinson, Jed Muhlestein, Marla Fox

Others:

B. Prayer/Opening Comments: Jeff Davis

C. Pledge of Allegiance: Susan Whittenburg

II. REPORTS AND PRESENTATIONS

None

III. ACTION ITEMS

A. Buildable Area Adjustment Request – Three Falls Lot 36

Jed Muhlestein said the owner of Lot 36 in Three Falls is requesting an adjustment to the buildable area on the lot. ADC gives the Planning Commission the ability to make adjustments to buildable areas based on the following criteria:

ADC 3.09.060.3

“Each Designated Buildable Area shall conform to the criteria for qualification as a "buildable area" as defined in this ordinance. Except that the Planning Commission may approve or require the placement of the Designated Buildable Area in a location within the lot which does not conform to one or more of the criteria for buildable area, upon a finding that the proposed Designated Buildable Area:

- 1. will more adequately accommodate subsequent development of the lot,*
- 2. will not constitute a potential hazard to life or property, and*
- 3. will serve to diminish the negative impact of subsequent development upon the lot or community (i.e. extraordinary construction of driveway access, mitigate visual intrusion of structure on ridge line).”*

Jed Muhlestein said the owner of the property is Colton Broadhead Design (Whitney Fish). The address is 2458 N Mountain Spring Court and is in the CE-5 Zone, 3.9 acres (Three Falls PRD).

Jed Muhlestein said the buildable area can be adjusted according to code and the Planning commission has all the power to do it. He said it has to be done under certain criteria and requirements are:

1. Will more adequately accommodate subsequent development of the lot;
2. Will not constitute a potential hazard to life or property;

3. Will serve to diminish the negative impact of subsequent development upon the lot or community (i.e. extraordinary construction of driveway access, mitigate visual intrusion of structure on ridge line).

Jed Muhlestein said the petitioner has given us information in the packet for each of these items. He said the reason this is coming to the Planning Commission is because the buildable area has specific criteria it is supposed to meet. On page two, listed in the definitions, is the buildable area which is in the CE-5 Zone and the buildable area should not have any area greater than 25% slopes within the lot. He said this is the only request they are asking to be granted.

Jed Muhlestein showed on a map where the buildable area was and said about 95% of this lot is buildable but there is one small section of it that has 25% or greater that is sloped. According to the Geotech report it was 25-30% slope. He said this is a pretty minor request in his opinion, but we need to follow our code.

Jed Muhlestein said the petitioner has provided material for each listed requirement. Where number 1 and 3 are somewhat subjective, number 2 is not. For number 2, the petitioner provided a geotechnical report which states the area is safe to build on. Staff accepts the geotechnical report findings. For number 3, the petitioner has included a letter from the Three Falls HOA which had no objections of the adjustment. The Three Falls HOA was very involved with the original buildable areas of the development and Staff feels the HOA's support of the change is important. For number 1, the applicant has included their reasoning to request the change and explained why including this area would more adequately accommodate development of the lot.

Susan Whittenburg asked what part of the home would be built in the 30% slope and if cars would be driving in that area. Jed Muhlestein said he wasn't sure what part of the home that was, but said the driveway comes down in another area.

Jane Griener asked if the applicant has to meet all three criteria. Jed Muhlestein said they must meet all three but said 1 and 3 are subjective because what one person might think will help the lot, another person might not. He said it was great to get the HOA's view on this.

The Planning Commission asked if the city would be liable if something happened in the 30% area. Jed Muhlestein said no, every lot in Three Falls is required to get a Geotech report saying it's safe to build on whether its 25% or less or 25-30%.

Jeff Davis asked if every home has to follow the Geotech report. Jed Muhlestein said yes.

Alan Macdonald said in the past we've given weight to other surrounding properties to see if it affects their view corridors or setback issues. He asked if neighbors been notified.

Jane Griener we've notified neighbors when there was a lot line adjustments or setback changes but didn't think we needed to notify for a buildable area issue.

Jed Muhlestein said notification is not required. He said these requirements are more restrictive than setbacks.

Alan Macdonald said he doesn't see an issue with this but wanted to be consistent with notifying neighbors because these changes could affect a neighbor's view corridor.

MOTION: Planning Commission member Jeff Davis moved to recommend approval of the buildable area for Lot 36 as proposed with the following conditions:

1. The recommendations in the geotechnical report be followed.

Susan Whittenburg seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
Jane Griener		
Alan Macdonald		
John MacKay		
Jeff Davis		
Ethan Allen		
Troy Slade		
Susan Whittenburg		

B. Public Hearing: Amendment to General Plan to include the Active Transportation & Transportation Plans.

Ryan Robinson explained that Alpine City has been in the process of updating the Active Transportation and Transportation Master Plans. These drafts are now ready to be reviewed and included in the Alpine General Plan as an appendix. This amendment allows for the Planning Commission to hold a public hearing and review the plans to be included in the General Plan.

Because this is a legislative decision the standards for approval or denial are that the proposed General Plan amendment should be compatible with the standards and vision found in the general plan as well as the current city code and policies. A recommendation should be made to the City Council for approval or denial based on those criteria.

Jane Griener opened the Public Hearing. There were no comments and Jane Griener closed the Public Hearing.

Ryan Robinson said this would be a reference guide for when questions come up.

MOTION: Planning Commission member John MacKay moved to recommend approval of the General Plan amendment to include the Active Transportation and Transportation Plans as an appendix to the Alpine General Plan.

Jeff Davis seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
Jane Griener		
Alan Macdonald		
John MacKay		
Jeff Davis		
Troy Slade		
Ethan Allen		
Susan Whittenburg		

C. Public Hearing: Remove references to land Use Authority in Sections 3.02.030, 3.03.030, 3.04.030, 3.05.030, 3.06.020, and 3.07.030 as they are listed in Section 3.23.

Ryan Robinson explained that Alpine City recently adopted section 3.23.070 *Approval Process* creating a table to identify the land use authority and what zones certain uses are allowed in. This code amendment cleans up sections in each zone that may still contain language identifying a land use authority. Where the new table identifies each use, authority, and zone allowed, this will help eliminate any confusion moving forward.

Planning Commission should review the proposed changes removing the mention of the land use authority in sections with each zone as they are already found in 3.23.070. Suggest any changes the Commission finds to not be in compliance with the standards found in the general plan as well as current city code and policies. A decision should be made by the City Council for approval or denial based on those criteria.

Ryan Robinson said we're not getting rid of this, we're just cleaning it up and trying to have it in one place.

Jane Griener opened the Public Hearing. There were no comments and Jane Griener closed the Public Hearing.

MOTION: Planning Commission member Jeff Davis moved to recommend approval of the Code Amendment to remove references to land use authority from the following sections proposed by City Staff as they are listed in section 3.23.070

Ethan Allen seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Jane Griener
Alan Macdonald
John MacKay
Jeff Davis
Troy Slade
Ethan Allen
Susan Whittenburg

Nays:

Excused

D. Lambert Park Conservation Easement & Management Plan.

Ryan Robinson said Alpine City Attorney Steve Doxey has been working on a final draft of the Lambert Park Conservation Plan and Management Plan. These plans were discussed and reviewed during the July 25th City Council meeting. The City Council made a motion to forward this to the Planning Commission for review and to make recommendations by the August 22nd City Council meeting where a public hearing will be held. Once the plans are approved by the City Council, they will go to Utah County (as the potential holder of the conservation easement) for their review. The recommendations from the Planning Commission will be included in the draft sent to the Council for consideration.

Alan Macdonald wanted to make sure the Planning Commission had clear direction on what they are recommending.

Ryan Robinson said the City Council will have a Public Hearing on August 22, 2023 on this issue. He said that gives us 2 meetings to work on this if needed, or the Planning Commission can make a recommendation tonight.

Alan Macdonald said he was on the committee for this issue and wanted to know if he needs to recuse himself from making a motion or to cast a vote. He said he will participate in the discussion but does not want to vote on the issue.

City Councilman Greg Gordon said Alan Macdonald and Jeff Davis were both on the committee and did a lot of work on this issue. He said there have been six or seven meetings on this issue and a lot of public comment. He said one of the challenges of a conservation easement is that there are opposing opinions about the park and both sides have points. He said the decision making of today locks down the future of tomorrow. He said over time, there have been evolving uses that need to be looked at. He said we have been working on this for over two years.

Greg Gordon said the original group we asked to do the conservation easement wanted this to be perpetual and we couldn't make changes in the future. At that time, we shifted what we wanted to do and asked the County Commissioners about this. They saw the value of the property and expressed the willingness to hold the conservation easement as a governing body. They have an interest in preserving the land.

Greg Gordon said the middle ground is the ability of the city to have flexibility and management of the park and a time of ten years. He said it will auto extend to three eight years periods after that. He said it would take four council members to make a change. He said the management plan is separate and managed by the city. If the conservation easement is passed, it would be held by the County. This would mean no development could happen in the park.

John MacKay said this is so much better than what it was a couple of years ago and he appreciates the work that has gone into this. He said the purpose of the easement is to protect, over a certain amount of time, interest and public purposes and the use of the land.

Ryan Robinson said the City Council should give a more specific definition of the public purpose.

John Mackay said to amend or waive the easement requires 80% vote and to amend or waive the management plan requires 80% vote. Greg Gordon said there is a one-year advance notice to make a change. Selling property, paving a road, or additional parking requires 100% vote.

Jane Griener asked if Utah County helps with any other conservation easements. Greg Gordon said this is a new thing for the County.

Alan Macdonald asked about the costs associated with the conservation easement. Greg Gordon said there is a \$5000 fee to pay the Utah County Attorneys. There's another \$5000 on hold with the County for future litigation to be refunded after fifty years if not used.

Alan Macdonald asked what happens if the County believes that Alpine City hasn't managed correctly and will the city have to pay more for litigation costs. Alan Macdonald said the County is not going to eat the charges for running this and then have to pay for enforcing the management.

Alan Macdonald it is vague because public lands conservation easements are different than private conservation easements. He said they spoke with different groups, but in the end, they didn't want to work with us because the city still wanted some control and didn't want to turn it over to another group for all perpetuity and forever. He said this plan is limited in scope and time and it can be modified which is already what we do. The City of Alpine have been good stewards of Lambert Park and said he didn't want to give all the power over to Utah County. He said the same people who didn't do us any favors on the Box Elder issues, would be the conservation easement holders. He said his perspective is that we already have ordinances on the books that are working well and doesn't see the need for a conservation easement.

Jeff Davis said his preference is to do a conservation easement but wants to get something done that we can agree on. He said there was a compromise because he wanted it to be in perpetuity. He doesn't like that City Council can put a road across Lambert Park or develop in the park. He said we now have to put our trust in Utah County.

Greg Gordon said he looked it up and in Section 5 C, the city holds harmless the County including reasonable attorney costs. He said they also have legal responsibilities to uphold and defend as the easement holder. In section 6 C the County holds the City harmless and said each side would have the right to select council to defend their side.

Jane Griener said this needs to be more clear on the public purposes because it is vague. Greg Gordon said they have talked about this in City Council and said the challenge is when they start talking about this all of a sudden, we get into planning the park for the future. Then we go down the rabbit hole, like where are we going to put a cemetery, etc.

Jane Griener said there needs to be categories of the public purposes like roads or schools. Greg Gordon said there are three things you can't do and that is you can't develop it for residential, commercial, or industrial purposes or violate the public purposes. He said the public purposes are laid out to say to protect, preserve, and maintain the property predominately in a natural, scenic and open condition. It also says recreational, cultural, historical, and educational use.

Jeff Davis said going forward, there will be issues that come forward that will have to be reviewed with the County and the Attorney.

The Planning Commission talked about parking in Lambert Park. John Mackay said an asphalt parking lot would keep down on the dust.

Council member Greg Gordon said there should be a lot more comfort around this document because we as the city can change it at any time. He was meant to capture some of the policies around the park. He said this talks about fences, roads, vehicle signs, and public safety and the process for amending it. It aligns with the General Plan so any changes there have to be reflected in both.

Greg Gordon said you can't develop in the park, and it has to meet the public purposes.

John Mackay asked if any of these rules are not already covered under an existing ordinance. Greg Gordon said they were covered but this plan would put everything in one area.

Ethan Allen said this document is better because it is amendable. He said he would be in favor of paving the road if that is what the residents want.

Greg Gordon said sometimes there are unintended consequences and that is why we have the ability to amend.

MOTION: Planning Commission member Ethan Allen moved to recommend Tabling the Lambert Park Management Plan with these conditions:

- 1. Does not provide additional protections or value and no body to oversee it.

There was no second and the motion died.

MOTION: Planning Commission member Ethan Allen moved to recommend Denying the Lambert Park Management Plan with these conditions:

- 2. Does not provide additional protections or value and no body to oversee it.

John MacKay seconded the motion. There were 2 Ayes and 5 Nays (recorded below). The motion did not pass.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
John MacKay	Jane Griener Alan Macdonald	
Ethan Allen	Jeff Davis Troy Slade	
	Susan Whittenburg	

MOTION: Planning Commission member Susan Whittenburg moved to recommend approval of the Lambert Park Management Plan with these conditions:

- 1. Remove the word paved in Section 8 of the Management Plan.

Troy Slade seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
Jane Griener Alan Macdonald John MacKay Jeff Davis Troy Slade Ethan Allen Susan Whittenburg		

MOTION: Planning Commission member Ethan Allen moved to recommend Denying the Lambert Park Conservation Easement.

- 1. Does not want to turn this over to the County who does not have any interest in our city.

John MacKay seconded the motion. There were 2 Ayes and 5 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
	Jane Griener	
John MacKay	Alan Macdonald	
	Jeff Davis	
Ethan Allen	Troy Slade	
	Susan Whittenburg	

There was no second and the motion died.

MOTION: Planning Commission member John Mackay moved to recommend approval of the Lambert Park Conservation Easement.

- 1. Change voting requirement for paved parking from 100 % to 80%

Alan Macdonald seconded the motion. There were 3 Ayes and 4 Nays (recorded below). The motion did not pass.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
	Jane Griener	
Alan Macdonald		
John MacKay		
	Jeff Davis	
Ethan Allen	Troy Slade	
	Susan Whittenburg	

MOTION: Planning Commission member Troy Slade moved to recommend approval of the Lambert Park Conservation Easement.

Susan Whittenburg seconded the motion. There were 5 Ayes and 2 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused</u>
Jane Griener		
Alan Macdonald		
	John MacKay	
Jeff Davis		
Troy Slade		
Susan Whittenburg	Ethan Allen	

IV. COMMUNICATIONS

Ryan Robinson said the produce stand is working with UDOT on the road improvements. They are working on no parking on Alpine Highway, their signs, and expanding Bateman Lane.

Ryan Robinson said we will hold a training in September. The Ombudsman said he can come do a training with us if we want.

Subdivisions will be approved by Staff and Planning Commission.

Jane Griener reminded the Planning Commission to come get their shirt and rodeo tickets.

V. APPROVAL OF PLANNING COMMISSION MINUTES: July 18, 2023

MOTION: Planning Commissioner Jeff Davis moved to approve the minutes for July 18, 2023, as written.

Ethan Allen seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused:</u>
Jane Griener		
Troy Slade		
Ethan Allen		
John MacKay		
Jeff Davis		
Susan Whittenburg		

MOTION: Planning Commissioner Susan Whittenburg moved to adjourn the meeting.

John Mackay seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Excused:</u>
Jane Griener		
Troy Slade		
Ethan Allen		
John MacKay		
Jeff Davis		
Susan Whittenburg		

The meeting was adjourned at 8:42 p.m.