

**ALPINE CITY PLANNING COMMISSION MEETING**  
**Alpine City Hall, 20 North Main, Alpine, UT**  
**October 15, 2019**

**I. GENERAL BUSINESS**

**A. Welcome and Roll Call:** The meeting was called to order at 7:00 pm by Co-Chairman Bryce Higbee. The following were present and constituted a quorum:

Chairman: David Fotheringham

Commission Members: Bryce Higbee, Jane Griener, Alan MacDonald, John MacKay, Jessica Smuin, Sylvia Christiansen

Excused: David Fotheringham

Staff: Austin Roy, Jed Muhlestein, Marla Fox

Others: Gale Rudolph, Breezy Anson, Alan Akina, Landon Wallace, Jennie Wallace, Dick George

**B. Prayer/Opening Comments:** Jane Griener

**C. Pledge of Allegiance:** Ted Stillman

**II. PUBLIC COMMENT**

There were no public comments.

**III. ACTION ITEMS**

**A. Public Hearing – Amendment to Development Code – Fences on Retaining Walls – Alan & LeeAnn Akina**

Austin Roy said that the Akina family would like to build a privacy fence on the back of their property. However current ordinance prohibited privacy fences on top of retaining walls. They felt it was their right to be able to fence their property with a privacy fence just like any other resident in the City, even though the back of their property terminated in a drop-off atop a retaining wall. The current ordinance pertaining to fences on retaining walls was originally intended to prevent the death or accident of an individual jumping a fence. The proposed change sought to eliminate the restriction on privacy fences on top of retaining walls. Austin Roy further explained that, essentially, the current ordinance would be moved to the Open Space and Trails section of the Development Code.

Bryce Higbee opened the Public Hearing.

Alan Akina, resident and applicant, said no one would jump over the fence unless it was someone trying to steal from them. Mr. Akina said they were building a swimming pool and did not have the room to move the fence into the yard an extra four feet. He also said the neighbors wanted them to have a privacy fence to maintain the look of the neighborhood. Furthermore, the Akina's would feel safer having a solid fence.

Bryce Higbee closed the Public Hearing.

The Planning Commission had a discussion about why the retaining wall ordinance was adopted in the first place. They wanted to know if an exception could be made. Jed Muhlestein said if the Planning Commission changed the ordinance to allow exceptions, several items like this one would come forward for review because there were still several lots on the mountain.

**MOTION:** Sylvia Christiansen moved to recommend the proposed amendments to Article 3.21.060 of the Development Code be approved as proposed. John MacKay seconded the motion. There were 5 Ayes and 1 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
John MacKay  
Alan MacDonald  
Jessica Smuin  
Sylvia Christiansen

**Nays:**

Jane Griener

**B. Public Hearing – Amendment to Development Code – PRD Slope Requirements**

Jed Muhlestein said that Staff was proposing a change to the ordinance regarding slope requirements for lots located within a Planned Residential Development (PRD). The proposed changes would change the way that property lines looked, and would allow for more flexibility when including slope into a lot or development. Jed Muhlestein presented codes from five different cities, noting that they all showed a 30% slope on the buildable area. He said Alpine City had a restriction on the buildable areas and also on the lot.

Jed Muhlestein explained that the new code would state:

*Notwithstanding the minimum open space requirements set forth under Part 1, the designated open space area shall include and contain all 100 year flood plain areas, defined floodways, all avalanche and rock fall hazard areas, all areas having a slope of twenty five (25) percent or greater (less the areas defined below), or any other area of known significant physical hazard for development.*

- a. *Up to 15% of an individual lot may contain ground having a slope of more than 25%.*
- b. *Once a Concept Plan has been approved by the Planning Commission, lot lines of the approved Concept Plan may be adjusted by the City Engineer to square up the lot by straightening and eliminating multiple segmented property lines.*

Bryce Higbee opened the Public Hearing. No comments were made, and Bryce Higbee closed the Public Hearing

**MOTION:** Alan MacDonald moved to recommend that the proposed amendments to Article 3.09.040 of the Development Code be approved as proposed with changes made to take out verbiage stating the lot can meet the current ordinance. Jane Griener seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Jane Griener  
John MacKay  
Alan MacDonald  
Jessica Smuin  
Sylvia Christiansen

**Nays:**

None

### **C. Public Hearing – Moderate Income Housing Elements**

Austin Roy said Per Senate Bill 34 Alpine City was tasked with implementing three or more strategies as part of the Moderate-Income Housing Element by the end of 2019. The City Council had identified the following:

- E. Create or allow for, and reduce regulations related to, accessory dwelling units in residential zones*
- F. Preserve existing Moderate-Income Housing*
- G. Implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality*

Bryce Higbee opened the Public Hearing. No comments were made, and Bryce Higbee closed the Public Hearing

**MOTION:** John MacKay moved to recommend that the Moderate Income Housing Element of the General Plan be approved as proposed. Alan MacDonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Jane Griener  
John MacKay  
Alan MacDonald  
Jessica Smuin  
Sylvia Christiansen

**Nays:**

None

### **D. Moderate Income Housing vs. 55+ Community Discussion**

Austin Roy said the Applicant would like to discuss the potential future development of a piece of property in Alpine City. The Applicant was considering either a moderate-income housing development or a 55+ community and would like to receive feedback from the Planning Commission. Austin Roy said the property that the applicant was assessing—located south of the round-about—would have to be re-zoned.

Dick George, resident and applicant said he would like to build moderate income housing or 55+ units but recognized that property was expensive.

Bryce Higbee said this area would be better suited for commercial businesses because the City did not have a large downtown area and it needed a tax base. He said the timing had to be right for all parties and a 55+ community would require a re-zone. Austin Roy said the Planning Commission could create a new mixed zone, if needed.

Jessica Smuin added that as Utah County doubled in size, people were going to want amenities closer to home.

### **E. Lambert Park Trail Proposal**

Austin Roy said the Trail Committee was proposing a new trail in Lambert Park to be dedicated solely for pedestrian traffic only (no bikes, horses, etc.). Complaints from residents about near accidents with bikers and horses had prompted the Trail Committee to investigate the possibility of a pedestrian-only trail. The Trail Committee would present the proposed alignment and location of the trail at the meeting.

Breezy Anson, from the Trail Committee, said they wanted to create a looped trail that was long enough that runners would enjoy it. This trail would work for runners, walkers, and hikers without colliding with bikers. Mr. Anson said he had a Scout that wanted to work on the trail for his Eagle project. The trail would be cut by hand with shovels and would be approximately two miles in length.

Breezy Anson presented a proposed downhill bike trail on a map. He said this project would have to be planned, and the Committee needed help cutting it because it was a more difficult trail to develop. Alan MacDonald said this was a wonderful plan for runners, walkers, and hikers to be able to enjoy the park and not have to look over their shoulder looking for bikers. Breezy Anson said he had registered for a class to learn about fundraisers and grants for these types of projects.

Jane Griener said there were grants for which the City could apply that had to do with promoting healthy activities within communities.

**MOTION:** Sylvia Christiansen moved to recommend that the new walking and running trail and the new downhill trail in Lambert Park be approved as proposed. Jane Griener seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Jane Griener  
John MacKay  
Alan MacDonald  
Jessica Smuin  
Sylvia Christiansen

**Nays:**

None

**F. Short Term Rentals**

Austin Roy explained that Alpine City currently had approximately 30-35 Short Term Rentals (i.e. Airbnb, VRBO, etc.) in town. Staff had received numerous complaints about one rental in particular; however, overall complaints had been few and far in between regarding existing Short Term Rentals (STRs). Currently, STRs were not allowed in the residential zones of the City per the definition of Residence found in Article 3.1.110:

**RESIDENCE.** *A dwelling unit where an individual or family is actually domiciled at a given point in time and not a place of temporary sojourn or transient visit. Temporary sojourn or transient visit shall be thirty (30) days or less.*

It had been a challenge enforcing this ordinance since the burden of proof lied on the City. Website listings could not be used as evidence. Furthermore, activity occurred on private property where staff was limited by its inability to search and inspect the residences in question. A Short Term Rental ordinance could be used to either prohibit and restrict STRs, or regulate and enforce rules on allowed STRs through requirements, fines, fees and/or taxes. A new STR ordinance should consider the following:

- Number of STRs to be allowed in the City?
- Number of STRs to be allowed in a single residence?
- Maximum number of bedrooms allowed per STR unit?
- Owner occupied STRs? Or Local Manager required?
- Business License requirement?
- In which zones shall STRs be permitted?

- Parking Requirements?
- Fees and Taxes?

Staff drafted a Short Term Rental Ordinance for review by the Planning Commission. Ted Stillman said the City needed be very specific about its requirements in the event of a court case.

Jane Griener said she was against having Short Term Rentals (STRs) in Alpine City. She said the City's residents intentionally bought into single-family residential communities, and they did not want to live next to short term rentals. Sex offenders did not have to register to use short term rentals, which the City did not have any control over. Jane Griener expressed concerns regarding parking at these rentals. For these reasons, she did not believe the City should allow them.

Alan MacDonald said Short Term Rentals (STRs) undermine the City's Moderate Income Housing plans because people could make more money renting nightly than monthly. As they had discussed the Moderate Income Housing needs in the community, he believed that Short Term Rentals were counter intuitive. Bryce Higbee asked Ted Stillman from a code enforcement perspective, which would be easier to enforce: issuing 30 to 50 permits or prohibiting them altogether. Ted Stillman said it was about the same; either way, action was needed. He said we need an ordinance with some teeth in it.

Sylvia Christiansen said she would like to see twenty-five allowed and grandfathered in with proof they had been in operation for at least a year. Furthermore, STRs needed to provide off-street parking, be owner occupied, and the recommended fees needed to be lowered. Marla Fox explained that the City could not grandfather something in that was illegal. Bryce Higbee agreed, explaining that doing so would be favoring people who violated the law versus those who didn't.

Alan MacDonald asked Ted Stillman if the City were to allow fifty permits, and those fifty permits had been granted, how would they policy them moving forward. Ted Stillman said he would investigate issues as they arose through complaints.

Jane Griener said she would much rather live next to long term renters who wanted to be part of the community than new people coming in every week. Alan MacDonald agreed and explained that long term renters were an integral part of the community.

**MOTION:** Jane Griener moved to recommend crafting an ordinance that makes Short Term Rentals illegal.

Bryce Higbee said the Planning Commission should craft an ordinance and fine tune it so that it was enforceable. Additionally, the ordinance should include language stating that Short Term Rentals were in conflict with the City's Moderate Income Housing focus.

**MOTION:** Alan MacDonald moved to recommend DENIAL of the Short Term Rentals based on the following:

1. Short term rentals tend to limit or reduce the availability of Moderate Income Housing
2. Short Term Rentals are too often a nuisance to neighboring property owners
3. Staff draft an ordinance to allow for the effective enforcement of the probation of Short Term Rentals in the City of Alpine

Jessica Smuin said the number one goal in the General Plan regarding land use was to preserve the quality of life and existing atmosphere of the City. She said Alpine was not in the business of enforcing Short

Term Rentals, as it seemed like a lot for the City’s Code Enforcement Officer to take on. Enforcing Short Term Rentals would be a full-time job.

Bryce Higbee asked if this was something that needed to go to David Church because of property right concerns. He wanted to see if there was any case law out there for something like this, and He wondered if this was a use that needed to be allowed but could be regulated. If this violated the City’s General Plan in multiple areas, he wondered why they were considering the matter.

Jane Griener seconded the motion. There were 4 Ayes and 2 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Jane Griener  
Alan MacDonald  
Jessica Smuin

**Nays:**

Sylvia Christiansen  
John MacKay

**IV. Communications**

Jane Griener congratulated Austin Roy and his family on their commercial.

Austin Roy said the next Planning Commission meeting will be on November 19<sup>th</sup>.

**V. APPROVAL OF PLANNING COMMISSION MINUTES: October 1, 2019**

**MOTION:** Sylvia Christiansen moved to approve the minutes for October 1, 2019, with corrections. Alan MacDonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Jane Griener  
John MacKay  
Alan MacDonald  
Jessica Smuin  
Sylvia Christiansen

**Nays:**

None

The meeting was adjourned at 8:50 pm.