

Minutes
Wyoming Planning Commission
May 4, 2020

The Wyoming Planning Commission met in regular session on May 4, 2020 remotely via the Zoom online video conferencing platform and the meeting was webcast to the City of Wyoming's Facebook page. Mr. Jon B. Boss called the meeting to order at approximately 7:10 p.m. Attendance was as follows:

MEMBERS:

Jon B. Boss
Phyllis Bossin
Al Delgado
Dan Johnson
Ethan Pagliaro

STAFF:

Megan Statt Blake, Community Development Director
Tana B. Pyles, Community Development Specialist

OTHERS:

Emily Supinger, City Solicitor
B. Kay Landers, 333 Oliver Road
Sophia Holley, Attorney Representing Kay Landers

Approval of February 3, 2020 Meeting Minutes

Ms. Bossin moved to approve the minutes as written. Mr. Johnson seconded the motion. There being no comments, the motion to approve the February 3, 2020 meeting minutes carried with all voting yes.

Citizen Participation

No comments were received.

Business

Reduced Density Residential Overlay Plan Change for 333 Oliver Road:

Mr. Boss provided background information on this item. City Council voted to amend Chapter 1157 of the Planning and Zoning Code pertaining to the Reduced Density Residential Overlay District. The amendment requires that City Council approve any request by a homeowner to have their property be granted the designation of a Reduced Density Overlay, versus being approved administratively. Three of the five current members of the Planning Commission were members of the Commission when Chapter 1157 was created and then applied to the property at 333 Oliver Road in 2001 at the

request of Ms. Margot Stearns, the owner of the property at that time. The Planning Commission members are being asked to review the application submitted by the current owner, ask questions, and forward a written recommendation to City Council for action. The recommendation may be to approve, modify, or disapprove the application.

Ms. Statt Blake reported that the City received an application from Thomas Tepe, Jr. of KMK Law, on behalf of Kay and Tom Landers, the owners of 333 Oliver Road (commonly referred to as the Stearns Estate or the Stearns Property). The application requests an amendment to the existing Reduced Density Overlay Plan put in place by the prior owner, Ms. Margot Stearns, in 2001.

The requested change seeks to create three separate lots. One of the proposed new lots would contain the existing carriage house, which is expected to be preserved per the existing exterior and converted into a single-family residence. The other of the proposed new lots, to the west of the carriage house, would be developed with a new single-family residence. Another change being sought is to allow the option of a bed and breakfast within the primary house (the Stearns estate). Currently, that use is prohibited due to the restrictions of the Overlay. If such restriction were to be removed, an application for a Special Use (Bed and Breakfast) Permit would be required per Chapter 1197 of the Planning & Zoning Code. Ms. Statt Blake explained that if Planning Commission is able to make a recommendation this evening the application will be forwarded to City Council for consideration at its May 18, 2020 meeting. If more discussion is needed or more background information is needed the Planning Commission can continue its review as needed.

Ms. Emily Supinger, Wyoming City Solicitor, commented that Planning Commission recommended and City Council approved a revision to Chapter 1157 to allow the consideration of changes prior to receiving the application from Mr. Tepe. It is the Planning Commission's charge to review the application and forward a recommendation to City Council.

Ms. Sophia Holley, was present and addressed the members. She is an attorney with Keating Muething & Klekamp representing Ms. Kay Landers. Ms. Holley stated that her clients are trying to protect the Stearns estate, which as some of the Members may know, is an historic estate home approximately 20,000 square feet with ten bedrooms. The property consists of the main residence, a carriage house, and land that borders the Stearns Woods Green Areas Trust. Ms. Landers feels that after six years of trying to unsuccessfully sell the property, she fears that it is too large to market to a single end user.

Ms. Holley stated that in order to help preserve the overall property, the Landers are proposing to subdivide the lot with only one new house being added. The existing carriage house would be converted into a single family residence on a .8636 acre lot. A .8038 acre

lot between the carriage house and the Stearns Woods Green Areas Trust property would be developed with a new single family residence. In addition, the owners are seeking permission to allow the operation of a bed and breakfast within the existing estate home.

Ms. Holley acknowledged that the proposed operation of a bed and breakfast needs to be completed as a separate process after making an application to the City for consideration under a Special Use Permit process. Many potential buyers chose not to proceed with an offer due to the existing restrictions of the overlay and an understanding that a bed and breakfast operation could be established. The current owners are not seeking to create a bed and breakfast operation while they still own the home; they would like to be able to offer that option to potential buyers as a consideration of purchase as the home appears to be less marketable to a single modern family.

Mr. Boss commented that the zoning approval for a bed and breakfast operation is a separate, additional application process from the request to modify the Overlay restrictions. Ms. Bossin commented that she would prefer that the two requests (lot split and bed and breakfast option) be separated and be considered independently. In her opinion, the bed and breakfast consideration may be far easier to work through than the request to split the land.

Ms. Kay Landers commented that the entire property consists of approximately 5.9 acres of land, whereas the north side of Oliver Road, there are nine homes directly across from her property. The proposed new lots would still be rather large and the view would mostly go unchanged except for the addition of one home, which would be in line with the size of the homes around it.

Ms. Bossin asked for clarification if the subdivision of the property were to occur as proposed, would it leave the main house without a garage. Ms. Landers stated that the garage (the lower level of the carriage house) is not currently used but if the subdivision would occur, the main house would not have a garage; however, there is enough room for one to be constructed set back from the street, which would not likely change the visual quality or perception of the property. Construction of a garage, if it reaches to that point, would be submitted in a separate request to the City.

Mr. Boss stated that the question of the garage relates to the operation of a potential bed and breakfast. If someone were to make an application for a bed and breakfast operation, the City would, along with many other questions, ask the applicant where patrons would be parking while staying at the property. It would not be desirable to have an abundance of cars parked on Oliver Road or in the front driveway that are not generally there, especially if the house could potentially serve multiple people in the bed and breakfast. This is a question that the Planning Commission would be asking if a request for a bed and breakfast operation were to be submitted under the provisions of Chapter 1197.

Mr. Delgado asked Ms. Supinger for clarification that the Planning Commission can ask that the request be modified so that the two items can be considered separately in order to give the Planning Commission an opportunity to consider each request thoroughly in case it is not able to get through both items in one meeting. Ms. Supinger stated that the Planning Commission is to make a recommendation to City Council and it is their prerogative to accept the recommendation or not. City Council could have a different position on the issue than Planning Commission. Planning Commission could approve the request to allow the bed and breakfast as submitted or modified and consider the lot split separately as well. Mr. Delgado commented that the Members could consider the three parcels and make a recommendation on that portion of the proposal and then at another meeting, consider the bed and breakfast proposal separately. Ms. Supinger stated that the Planning Commission can choose how it wants to consider the application that was submitted, and in the order it chooses.

Mr. Pagliaro asked if the Planning Commission were to review the two requests separately, would the Landers need to resubmit an application in order to split the two items for review. Ms. Supinger stated that the application would still be forwarded to City Council with Planning Commission's recommendation, which could also include a provision that the Planning Commission would prefer to review the two items separately. City Council could accept or reject the recommendation. If the applicants were not satisfied with the recommendation they will have the opportunity to explain to City Council why the Planning Commission's recommendation does not work for them, however the application would need to go through the entire review process. In that scenario, the application would go before City Council as it is currently written with the recommendations passed by the Planning Commission.

Mr. Delgado commented that the home would sit on a parcel that is proposed to be approximately 3.9 acres and he asked Ms. Statt Blake for the proposed acreage of the adjoining parcels. Ms. Statt Blake stated that the parcel that the carriage house would sit on is proposed to be .8636 acres and the adjacent parcel to the west where a new home could potentially be constructed is proposed to be .8038 acres. The total is approximately 1.66 acres.

Mr. Pagliaro asked Ms. Statt Blake if there were any visual exhibits showing the location of the garage. Ms. Statt Blake shared an image of the site plan and explained that the house does not have an attached garage. This is a statement that is mistaken in the letter from Mr. Tepe dated March 25, 2020. The house does not currently have an attached garage. The only garage on the property is the main floor of the existing carriage house. It was noted that the carriage house consists of a total of 4,300 square feet with the upstairs consisting of 2,100 +/- square feet of living space that could be developed and the lower level consisting of three garage doors that can accommodate up to five cars. The carriage

house, as it stands today, is not ready for use as a stand-alone residence and will require a significant amount of investment to reach that stage.

Ms. Landers commented that in regard to parking, there is plenty behind the carriage house and the main house. She added that from the portico on the east side of the house to Glenway Avenue, there is enough room to park approximately 23 cars on the driveway. She stated that she has no intention or interest in starting a bed and breakfast operation herself, however she had received several inquiries on the house with interest in using it as a bed and breakfast. She added that she is aware that the bed and breakfast operation would need to be submitted as a separate application to City Council for consideration and that there is no guarantee that it would be approved. She is making it very clear to all persons that have expressed interest in the property of the approval process to operate a bed and breakfast from the home, and that it would require City Council approval.

Mr. Delgado questioned that when you look at the property as a whole now, and what it would look like subdivided, would the character of the land be compatible with the other properties around it. The bed and breakfast component complicates his thoughts on the issue, and by removing it, it allows him to concentrate on what the property may look like visually.

Ms. Bossin commented that in her opinion, there are two separate issues. One of her concerns is that the City would not have control on what is built on the proposed new lot. There have been new houses built in the village recently and because there are not design restrictions, some look out of place in the historic district. She expressed concern that the proximity of a new home to the carriage house will change the character of the property as the new house would be visible from Oliver Road.

Mr. Boss commented that in the aerial view of the proposed new lot there appear to be many large trees and he expressed concern that they would all be cut down to build a new house. Ms. Bossin expressed the same concern. An intent of the Overlay is to preserve the character of the property. The City would have little control over what happens on the buildable lot and would have little control over someone purchasing the lot and removing every tree on it.

Ms. Landers asked if restrictions could be placed on the property that would require the City to approve any plans before anything is built. She added that if she had any inclination that she could sell the property intact instead of dying with it and not being able to maintain it, she would do anything possible to make that happen. She stated that she has lived on the property for 18 years and she purchased the property for \$1.3 million and she made improvements of \$1.3 million to update the property to what it is today. She stated that she would not intentionally allow something like that [the removal of all trees on the proposed lot] to happen. She asked if the City could place restrictions on the parcel

restricting someone from clearing the lot before building on it. She also suggested that the proposed lot could be combined with the carriage house and simply make it part of the proposed carriage house property, thus dividing the property into two lots instead of three.

Ms. Supinger commented, part of the intent of the Overlay is to preserve the character of the estate. It would not be unreasonable for the Planning Commission to require design approval or other approvals over and above what is already in place, because the property is in the Overlay.

Mr. Boss commented that if the Planning Commission were to follow that path then that could be part of the recommendation to City Council.

Mr. Johnson questioned, in terms of the historic designation of the property, if any of this designation relies on the land itself and/or on the carriage house and is the carriage house a separate structure from the historic home or is the entire property part of the historic designation. If the carriage house were to be separated, he speculated if the historic designation of the entire property would be in jeopardy. Mr. Johnson commented that he believes that the carriage house would make a great residential structure but if the separation of it negatively affects the estate's historic designation then this would be a problem, in his opinion. He asked if the carriage house could be torn down and something else be constructed in its place.

Ms. Statt Blake explained that from a historic designation standpoint, because the property is considered an historic property, any alteration or request for demolition would go through an application and review process under Chapter 1336 of the Code. The designation does not prevent demolition or alteration but none can be done without special reviews and approval by City Council. Additionally, any alteration that reaches a certain threshold would be reviewed jointly by the Architectural Review Board and the Historic Preservation Commission prior to being reviewed and/or approved by City Council.

Mr. Johnson expressed concern with the possibility of the carriage house being able to be demolished. He asked whether the proposed lot that the carriage house would sit on and the proposed buildable lot are consistent in size with the properties on the north side of Oliver Road, and could they be further split and made into additional lots in the future. Ms. Supinger stated that the properties could not be split unless Planning Commission reviews and City Council approves, per Chapter 1157. The density in the original Overlay would be expected to be maintained or it would not be in compliance with the original intent of the Overlay.

Ms. Statt Blake added that the two proposed lots would be larger than the majority of the surrounding properties. The underlying zoning is AAA, Single-Family Residential zoning

district, with a minimum lot size of 20,000 square feet, therefore these lots are approximately three-quarters larger than what the underlying zoning requires.

Mr. Delgado asked Ms. Supinger whether the recommendation could include protecting the historical character of the two buildings (house and carriage house). Ms. Supinger explained that the properties are currently protected within our Ordinances. Mr. Delgado clarified that he wants protection on the carriage house to remain intact and protected by the Overlay rather than relying on review solely by the Architectural Review Board and Historic Preservation Commission or City Council. The further you get away from this conversation the further you get away from the intent of the Overlay designation.

Ms. Supinger explained that Planning Commission can include in its recommendation that future property owners can make no changes to the appearance of the carriage house in order to not jeopardizing its historic integrity.

Mr. Johnson asked if any of the adjoining property owners that were notified of the meeting have commented on the proposal. Ms. Statt Blake explained that public commenting would happen at the City Council Public Hearing level. If the Planning Commission moves a recommendation this evening, the earliest the Public Hearing could be held would be at the June City Council meeting, and the adjoining property owners would be notified and invited to attend. Ms. Supinger added that the adjoining property owners would also have an opportunity to read the Planning Commission's recommendation and see the plans.

Mr. Johnson commented that he is not bothered by the idea of converting the carriage house into a single family residence, but is more concerned with the architectural style and construction of a new home and its compatibility with the neighborhood. He assumes that the nature of the buildable lot would likely bring a high sales price. Vacant, buildable lots are few and far between in this community and regardless of the architectural character of the home, it is likely that the sales price would be high and that the home would not be cheaply constructed. The new house would be located a fair distance from the main estate, so he is unsure of how much negative impact it would have. The character of the carriage house concerns him more. Having someone convert it to a living space and keeping good care of it would be a great benefit. With the structure being 150 feet +/- away from the main estate, and fronting Oliver Road, it could be good to convert it into a residence. He was not on the Commission when the original discussions with the Stearns family were occurring so he is unsure if this was a specific concern to them or if there was a specific concern that encouraged Ms. Stearns to do what she did.

Mr. Pagliaro explained that he is struggling with the proposal. It seems like a great plan to sell the property, and he sympathizes with the Landers' in having a property that is difficult to sell. However, it seems substantially different from the original intent of the Overlay

which is clear. He believes that the Stearns family may understand that in 2020 a house with ten bedrooms is a tough sell. It could be appropriate to use it as a single family residence and as a bed and breakfast. He can also envision splitting off the carriage house as a second single family residence and the property could still look the same. Ms. Stearns could come back and walk the property and everything would feel the same as it did when she owned the property. He loses interest at the idea of adding a third single family residence, because it seems substantially different from the intent of the Overlay. While he can see that it may benefit salability, he would have to hear more from the applicant on how that would be substantially consistent with the intent of the Overlay.

Ms. Landers commented that everyone that had toured the property and mentioned making it a bed and breakfast commented that they would certainly live in the estate while operating it as a bed and breakfast. Their ideas were similar in that they would use the income from the bed and breakfast to sustain the improvements that have already been to the property and continue to do so to maintain a home of this size and scope. Ms. Landers stated that she is open to all suggestions including splitting the property into two lots instead of three lots. The carriage house has many good lines and could be a great place to live, but there are very few people that are able to pay for an historic residence of this scope and people that value land today. She would prefer to have it all be one property, and agrees with all of the comments of the Members in that the land and structures are what make the property so special.

Mr. Boss commented that it appears that there are several options being thought about. One was to split off the buildable lot and keep the carriage house attached to the lot containing the estate home. Another option is to split the carriage house from the estate land, but someone could request a lot split from the City in the future and we would be entertaining a request for two separate parcels all over again. The most consistent comments appear to suggest that the original Overlay provisions should be maintained and that the Planning Commission's recommendation to City Council preserving would include the historic nature of the carriage house. The existing Ordinance appears to protect the carriage house, however the Commission should be very specific in this request. If the Members were to recommend the option of three parcels, the proposed overlay change as written would provide that protection and would likely need to be revised. The Members are not prepared to work through revising the draft ordinance this evening as it would likely require further discussion and would be very difficult to try to resolve this evening.

Ms. Bossin commented that at this point in the discussion she is unsure if the Members have reached consensus. Mr. Boss commented that there have been several suggestions. One being, as Ms. Landers suggested, to split the property into two lots rather than three by combining the carriage house and the adjacent proposed buildable lot as one property and the estate home on the remainder of the existing parcel, or keep the carriage house with the main estate property as one and split off a second lot on the western end. The

Members want to be certain that the carriage house and the estate home maintain their historic designations and that no modifications to them would be allowed if it jeopardizes their historic significance. Separately, a deed restriction could be placed upon the proposed new lot that would require review by the City's Architectural Review Board, [at a minimum], before any structure would be constructed.

Mr. Boss added that the Commission needs to be very specific in what it provides Ms. Supinger in order to revise any Ordinance changing the Overlay. Ms. Bossin stated that it does not appear to be a consensus among the Members on whether the property should be one lot, two lots, or three lots.

Ms. Holley spoke to Ms. Landers and stated that the Members have provided good suggestions and she recommends that an amended proposal be crafted and resubmitted. Ms. Landers speculated that it may make the most sense to have the carriage house combined with the adjacent land to the west as one parcel and the main home remain as is, on 3.9 acres. The carriage house was built about 30 years before the main house was built and it has different qualities and characteristics. In terms of its historic significance, it should not be allowed to be torn down. Ms. Landers stated that she is open to whatever is suggested. If the western portion of the property were sold off, there may be less control over what could be built. Ms. Landers inquired whether multiple scenarios could be proposed and the Members could vote on the best option rather than having to decide on one proposal.

Mr. Johnson commented that he believes it is a good idea to include the carriage house with the adjacent land to the west and then split this lot from the estate parcel. He stated that he is not deeply familiar with the Bed and Breakfast legislation, but if it requires a separate application and approval process it is acceptable to him.

Mr. Boss commented that if the bed and breakfast option for the estate home is to be considered, the Members will need to recommend a change to the Overlay ordinance to allow this, with the requirement that a bed and breakfast would require a separate application and approval process.

Mr. Pagliaro stated that he is in favor of seeing the property stay exactly as it is but allow a bed and breakfast to operate from the estate home; he believes this is a reasonable request and remains consistent with the City's promise to the Stearns family to preserve the property. A compromise that could be substantially consistent with the original Overlay would be to split the property into two parcels. In order for him to feel more comfortable the agreement would have to require that the carriage house keep its historic and architectural integrity, so that if the Stearns family were to visit the property it would look and feel the same. He is opposed to creating a third parcel because this is a substantial change to what the City had promised Ms. Stearns.

Ms. Holley suggested that the application be revised into two options. Option one is to split the property into two parcels with the main house and carriage house on one lot and the land to the west as its own lot. Option two is to combine the land to the west with the carriage house as one lot with the main house on a larger remainder of the property. For either option, a requirement shall be included that the historic integrity of the carriage house be preserved. In the instance that the proposed buildable lot be developed, the City must review and approve a design plan before anything is constructed.

Mr. Delgado commented that he is leaning towards the two parcel scenario because he would like the carriage house to be combined with the land to the west and the estate house remain as it is due to the historical character of both buildings. If the buildable lot is created, the possibility exists of something being built on it with little concern for the historical integrity or history of the overall property. He would be more comfortable with a recommendation that there be two parcels, 3.924 acres containing the estate home and 1.66 acres containing the carriage house and the land to the west, with an amended Overlay on them.

Mr. Pagliaro asked Ms. Supinger whether the Overlay can be modified to prevent any further subdivision to the property. Ms. Bossin speculated that someone could come back to the City in the future and ask the same that is being asked now. She has not heard any of the Member in favor of creating the buildable lot in order for a new home to be constructed. Ms. Bossin stated that she agrees with the suggestion to combine the carriage lot with the land to the west. She expressed concern regarding the amount of control over maintaining the historic integrity of the carriage house and control that could be lost if a buildable lot were to be developed.

Ms. Holley commented to Ms. Supinger that the application could be amended based on the feedback that the carriage house and the land to the west be combined, and that any modifications to the carriage house be presented for design review. Ms. Supinger replied that there is currently a review process in place for alterations to historic structures, but additional language could be added to the Overlay to protect the historic integrity of the carriage house.

Ms. Landers agreed and added that she knows that this will not allow the property to sell for as much as it potentially could, but that is not her goal.

Ms. Supinger stated that there would be a conversion process to convert the carriage house into a single family home, so there will be some change to it but the integrity could be maintained. Ms. Bossin asked how much more control could be had, because there are many homes in the historic district with inappropriate additions, and in the past there has been no way to stop that. Our guidelines are just guidelines. An addition could completely

change the character of the carriage house. She can envision someone buying that much land wanting a bigger house and she questioned how that could be controlled. Ms. Supinger speculated that the City could require any changes be approved prior to construction rather than using the guidelines. Mr. Boss questioned if this could be included in the deed. Ms. Supinger confirmed that it could. Mr. Pagliaro questioned whether any potential further subdivision of the lots that would have to go through the same process the Commission is going through now. Ms. Supinger confirmed that is correct and added that any request that takes the properties further away from the original intent of the Overlay, may not meet the requirements of Chapter 1157 regarding substantial consistency. Someone twenty years from now could request to subdivide the lots, for example, and it will be up to the Planning Commission and City Council to determine if the original intent of the Overlay is maintained.

Ms. Bossin stated that the original intent of the Overlay was to prevent the property from being subdivided into multiple building lots. The intent really did not focus on the carriage house specifically, the intent was not to allow the subdivision of the property in order for multiple homes to be built. If the two parcels are created we are protecting the property as best as we can today and it would still only be one new lot, not multiple lots. The only way to truly protect the lot from development is to do nothing which appears to not be practical at this point.

Ms. Supinger stated that without the Overlay the property could potentially be divided into 12 buildable lots. Mr. Delgado commented that he feels this is the best outcome for both parties in order to maintain the historic integrity of the property, support the owner in selling an otherwise challenging property, and allows the property to be maintained instead of potentially being abandoned. We have an opportunity to protect the character of the carriage house and prohibit the construction of 12 homes that would likely not be compatible with the neighborhood and so he felt the two-lot proposal is best for all.

Ms. Bossin stated that the original intent of the Overlay is that the property not be subdivided.

Mr. Boss summarized that Ms. Holley and Ms. Landers, along with Ms. Supinger, will work together to redraft the application for Planning Commission to consider the option of creating two lots. He asked if the applicant needs to release the City of the required 45 day review timeframe to allow all parties to work through the process. Ms. Supinger stated that if the applicants agree to resubmit the application the 45 day review requirement is waived. Ms. Holley and Ms. Landers agreed.

Ms. Bossin moved that the owner and counsel resubmit an application to the City consisting of the request to create two parcels. One parcel will contain the estate home consisting of 3.924 acres and another parcel consisting of the proposed .8636 acre lot

containing the carriage house combined with the adjacent proposed lot of .8038 acres for a total of two parcels with the proposed design restriction requirements added to them for historic preservation purposes. The bed and breakfast issue will be discussed at the Planning Commission's next meeting. Mr. Pagliaro seconded the motion. All Members voted in favor of the motion.

Miscellaneous

No miscellaneous items were discussed.

Adjourn

Ms. Bossin moved to adjourn the meeting. Mr. Pagliaro seconded the motion. All Members were in favor and the meeting adjourned at 8:26 p.m.

Respectfully submitted.

Debby Martin, Executive Assistant

Jon B. Boss, Chair