MINUTES OF THE HUNTSVILLE TOWN
PLANNING COMMISSION MEETING

MEETING DATE: April 28th, 2016
PLACE: Huntsville Town Hall, 7309 E. 200 S.
TIME: 7:00 P.M.

Commissioners:	Ron Gault	Rex Harris	
	Preston Cox	Karen Klein	
Excused:	Brent Ahlstrom	Sandy Hunter	
Admin Staff:	Ramona Clapperton	Mike Engstrom	
Citizens:	Artie Powell	Julie Powell	Phil Allison/LDS Real Estate Dept.
	Bruce Ahlstrom	Stephanie Ahlstrom	Bill White
	Allen Endicott	Beckki Endicott	

Ron Gault called the meeting to order, there is a quorum present.

Review of Jeff Larsen home construction:
Ron reported that he spoke with contractor Chad Roberts who is building Jeff Larsen's home. Ron informed Chad that the Town would need to check the setbacks. Ron said he stopped by the property and measured them and they are in conformance to the drawing that was submitted in the October 22, 2015, PC meeting. Ron questioned if they got permission to demolish the old home. Ron said after reviewing the minutes, Jeff did say that he was planning to do an extensive remodel, starting with the demolition of the home. The Larsen's are using the existing foundation and are adding to it. All of the measurements Ron took were over 10'.

Review of Bruce Ahlstrom's Land Use request for a pole barn: (300 N. 6841 E.) (See Attach. #1)
Bruce Ahlstrom mentioned that he would like to build a pole barn on the back of his driveway. The shed will be 24' X 30' with an 8' overhang on both sides. He has two trees that he is placing the barn between so the exact location might shift by a couple of feet. The drawing shows the shed 25' off of the east property line, and 55' off the south line. Bruce understands that he will need to get the property Blue Staked before any construction. He also has a propane tank that will need to be relocated. Bruce called the building inspector and was told that the propane tank needs to be at least 10' away from the barn. There will be electricity in the barn but no plumbing. The setbacks are in compliance with the R-1 zone. **Ron made a motion to approve the Land Use Permit for Bruce Ahlstrom's pole barn, as presented.** Preston seconded. All votes aye. Motion passed.

		Yea	Nay		Yea	Nay
ROLL:	Ron Gault	X		Sandy Hunter	Excused	
	Rex Harris	X		Brent Ahlstrom	Excused	
	Karen Klein	X		Preston Cox	X	

Discussion about a Lot Consolidation with Allen Endicott: (228 S. 7100 E.) (See Attach. #2)
Allen Endicott mentioned that he and Beckki are now the owners of both parcels #24-012-0011 and #24-012-0026. Allen stated that they would like to consolidate the two lots into one. Ron clarified that this would mean they can have one single family dwelling on the lot. Allen said he understands. **Ron made a motion to approve the combining of parcels #24-012-0026 and parcel #24-012-0011 into a single parcel for the Endicott family.** Karen seconded. All votes aye. Motion passed.

		Yea	Nay		Yea	Nay
ROLL:	Ron Gault	X		Sandy Hunter	Excused	
	Rex Harris	X		Brent Ahlstrom	Excused	
	Karen Klein	X		Preston Cox	X	

Discussion of the possibility of the LDS Church obtaining ownership of the alleyway that runs through the church's existing parking lot. (Located at 277 S. 7400 E.) (See Attach. #3)
Phil Allison introduced himself; he works for the LDS Church Real Estate Department. The church recently approved an easement for a utility drain box in the NE corner of the church property. During this process they did a title report on the property to see if there was anything new of record. They also ordered a boundary map to make sure there aren't any problems while working on this project. In doing this they discovered that the alley that has been improved as a parking lot is not in their ownership. Phil said the church wanted to bring this to the Town's attention. They are concerned about liability issues and maintenance. Phil said the church would be more than happy to compensate the Town if there is an interest in the Town vacating this alley, or continue as is, and discuss if there is a need for some type of agreement between the church and the Town.

Rex said the purpose and intent of the alleys was to provide access to the back of people's lots. There are a couple contiguous lots, other than what the church owns that provides access to their lots. These people would lose their ability to access their property. Ron asked if the Town has any utility's that run down the alley. Rex commented that even if the Town decided to vacate the alley it would need to be in the public's interest. The adjoining property owners would have the first right to purchase the property. Normally the alley would be split down the middle, so half of the alley would go to the property owners on each side. The Town has sold rights of ways before. In terms of the use of the alley, Rex isn't opposed to the Town entering into a cooperative agreement that states the right to each party and allow it to stay the way it is. This would help with the church's liability protection and, at the same time continue to provide access to adjacent property owners.

Mike asked Phil what the church's need is. Phil replied that this was a surprise to them that they had made improvements to Town property. They apparently assumed it was church owned. The reason Phil is here tonight is to make the Town aware of that. The church will do whatever the Town would like, whether it's a vacation or an agreement. Mike said if Phil is asking what is best for the Town then the church doesn't really need anything to change. Phil replied that he would like to have some type of agreement so the church knows that they have their rights protected as far as what they are using it for. Rex said he remembers when the parking lot was expanded and the Town wanted to make sure there were no actual parking stalls on the alley area so it remained as an open thoroughfare.

Rex said if there hasn't been any issue in regards to the way this has been operating, then he would like to see the Town enter into an agreement with the church to allow them use of the alley to access church parking on either side of the alleyway. Phil will have the church attorney draw up a draft agreement and then email it to the Town for review.

Review of Dave Booth's request for Lot consolidation: (498 S. 7700 E.)
Ron mentioned that Dave Booth is not here tonight, this item was tabled.

Motion to adjourn the Regular Planning Commission meeting to hold a public hearing:
Ron made a motion to close the regular PC meeting to hold a public hearing. Karen seconded. All votes aye. Motion passed. Rex commented that he doesn't feel like the proposed ordinances are ready for a public hearing yet, but is willing to listen to public input on the issues at hand.

ROLL:	Artie Powell	Julie Powell	Bruce Ahlstrom
	Stephanie Ahlstrom	Bill White	Allen Endicott
	Beckki Endicott		

Public Hearing on proposed amendments to Title 15.17.3: Additions and Enlargements: (See Attachment #4) The Town's Attorney Bill Morris prepared the draft amendments to Title 15.17.3: relating to nonconforming sections or uses, and Title 15.21.6: relating to signs along a state route. Rex explained that in the past the Town Council has held the public hearings on proposed amendments to the ordinances, but, the attorney advised the PC that the PC is supposed to hold the public hearings on Land Use Ordinances not the Town Council. There are a couple of mistakes on the draft amendments. Amendments have been underlined or crossed out. Ron wanted to discuss what the intent is for these amendments. This has been very difficult to come up with the set of words to get it right. Non-complying relates to structures and non-conforming relates to land use, what they would like to do is allow non-complying structures to be upgraded, but not to become more non-complying in their use by exceeding setbacks. The PC would like to encourage bringing any non-complying structures closer to compliance not further away. Rex remarked that in understanding the difference between non-complying and non-conforming, non-conforming relates to land use and non-complying relates to structure issues. An example of a non-conforming use would be if you had a residential home in a commercial zone or a commercial building in a residential zone. However, this is not what the PC was intending, they were trying to address non-conformance of the lot.

The PC reviewed the proposed amendments to Title 15.17.3.A: "A building or structure nonconforming as to use regulations shall not be added to or enlarged in any manner, unless the entire building or structure, including such additions and enlargements, is made to conform to all the use regulations of the zone in which it is located."

Title 15.17.3.B: "Excepting lot size and frontage, a building or structure noncomplying as to height, and setback regulations shall not be added to or enlarged in any manner unless such additions and enlargement complies with all the regulations of the zone in which it is located."

Preston clarified that this means if a structure is already noncomplying with its setbacks then it cannot be added to or enlarged, unless the changes make the structure more compliant.

Ron said that would bring current noncomplying structures further into compliance. Mike said that as he understands it, this would mean the only part of the building that would need to be brought into compliance would be the addition or enlargement. After discussing the matter, the PC agreed that this is not what they wanted to achieve. Mike thought it should say: If you are making substantial changes to anything, then the structure needs to be brought completely into compliance with the exception of the lot size or frontage.

Title 15.17.3.B. Continued: "In the event of any remodel where the footprint of the nonconforming structure remains unchanged, only structural changes to the roof, exterior walls, foundation, or load bearing walls shall require that the entire structure be brought into compliance with the regulations of the zone in which the structure is located."

Ron feels that this is saying you can remodel, change interior walls, or re-shingle. Mike said if you leave these two sentences together it says if you are doing an addition or enlargement then the addition and enlargement portion only needs to be brought into compliance with the zoning unless you are changing the roof, exterior walls, foundation, or load bearing walls. If they don't modify the existing structure then they don't have to bring the existing structure into compliance. Preston clarified that if you are going to do a remodel a home on a non-conforming lot, even if that home is non-complying, you can still remodel the inside and fix it up. That is what the initial intent was when this ordinance was amended. Originally, the ordinances didn't allow you to do anything other than paint or re-shingle your home if it was on a non-conforming lot and the home was non-complying. The meeting was opened for public comment.

Artie Powell prepared some draft verbiage which he shared with the PC. (See Attachment #5) Artie stated that is has been three years since previous issues developed around this general topic. He has done considerable reading on non-conforming vs. non-complying. It needs to be very clear on what the PC is trying to accomplish with this ordinance. Artie would like to see a preamble added to this part of the ordinance that basically says what the intent is, and that is to eliminate nonconforming use or noncomplying structures as soon as practicable. Artie said in Title 15.17.1, it refers to noncomplying structures and noncomplying use but it doesn't make a distinction between the two. Arties suggested the following verbiage for Title 15.17.3.A: "A building or structure nonconforming as to use regulations shall not be added to or enlarged in any manner, unless the entire building or structure, including such additions and enlargements, is made to conform to all the use regulations of the zone in which it is located." And B: "A building or structure noncomplying as to height, area, or yard regulations shall not be added to or enlarged in any manner unless the entire building or structure, including such addition and enlargement is made to conform to all the regulations of the zone in which it is located."

Mike asked if the PC is willing to allow an addition without requiring a building to be brought into compliance. Artie's opinion is that if someone wants to add an addition to a nonconforming home as to setback or area requirements then the entire structure should be brought into compliance. The ordinance used to say that if you had a nonconforming structure on a nonconforming lot you couldn't do anything to the home except for routine maintenance. The PC amended the ordinance to allow someone to remodel or add onto a nonconforming home as long as they brought it more into compliance. However, this amendment wasn't clear enough.

Beckki stated that she can see where the Powell's are coming from, and why they are feeling encroached upon. In her case, her mother didn't ask for the survey line where it was drawn, no one in the family remembers the line being crooked; it just showed up that way on the plat maps. Her mother purchased the lot next door thinking that it was a buildable lot and there could be two homes there. In reality, she spent a lot of money purchasing the adjoining lot and it's really worth nothing because it's not buildable. In their case, with the crooked property line, it would have been very difficult to build on the corner lot and still meet setbacks. Beckki further stated that the other issue with her mother's two lots is that there was a home on the other lot but it was condemned before her mother could purchase it, and it was demolished years ago, and because of that the lot is now unbuildable. If they had to address the current ordinances on one small lot the town would have a rental property that stayed exactly the same for the next 20 years and never improved. Bill remarked that this is the situation that was happening next to the Powell's. There was a rundown rental home and the homeowners wanted to make improvements to it, so the Town amended the ordinance to allow for improvements and they interpreted the statute to mean they could build the biggest home possible. Bill replied that it is so difficult to structure the ordinances fairly. Beckki stated that her mother feels swindled.

Julie remarked that their home is on a noncomplying lot but her home is in total compliance. It's tiny and she doesn't have a garage, and she has left it that way because she knew she couldn't fit anything larger on the lot. Julie agrees that if any addition or remodel takes place the entire home should be brought into conformity. Artie stressed that the Town is preventing them from using their property in the same manner as everyone else.

Public Hearing on proposed amendments to Title 15.21.6: Signs along a State Route: (See Attachment #4) Attorney Bill Morris prepared the proposed verbiage for the amendments to the Sign Ordinance. The Commissioners reviewed the verbiage and agreed that what the PC asked the attorney to do wasn't accomplished. The intention for amending the sign ordinance was to allow Will Lewis to put a business sign on a residential lot, on the shoulder of a state road. Mike said the current sign ordinance does not allow commercial signs on a residential lot larger than 1' X 2'. The PC wanted to make an exception for residences along Hwy 39. The PC discussed this in the last PC meeting and the idea was to allow a larger sign for the residences along Hwy 39. The minutes it says "the town is looking for something tasteful sign similar to the size of the Chevron sign". In the Commercial Zone it references sign size limits not to exceed 6' height X 10' width.

Motion to close the public hearing and re-convene to the regular PC meeting:
Ron made a motion to close the public hearing and re-convene to the regular PC meeting. Preston seconded. All votes aye. Motion passed.

Discussion and/or action on proposed amendments to Title 15.17.3: Additions and Enlargements:
Ron remarked that the PC isn't going to come up with the correct verbiage for this amendment until there is a clear idea of what they want this ordinance to say. Ron thought the intent was to allow the continued use of an existing home on a non-complying lot and allow the owner to make improvements to the home without expanding. If the owner wants to expand then the town would require them to bring the height and setbacks of the home into compliance as much as possible, realizing that they can't change the frontage or area of the lot.

Karen replied that everyone will interpret the ordinance differently and to their own advantage, like what happened with the Hoovers. Mike asked about adding a preamble like Artie suggested. Ron asked if the town wants to allow, on a small lot, the owner to tear down a home and rebuild it meeting setback requirements. Rex remarked that this isn't fair to someone who has a non-conforming lot that never had a house on it, because the town wouldn't allow them to do the same thing. There are two extremes, allowing someone with a noncomplying lot to only do maintenance on their home or, allowing them to tear the home down and bring it more into compliance. The owner of a small .5 acre lot could build a home that has a footprint of 4,000 sq. ft. Ron asked if someone with a noncomplying home could do an addition? The Commissioners agreed that that would not be allowed unless they could bring the home more into compliance. Preston said forcing someone to bring the home more into compliance forces them to tear the home down. Mike said as long as the standards are set and clear people will feel like they are being treated fairly. Three years ago, if you had a home on a non-conforming lot you couldn't do anything to the home but basic maintenance. Mike feels that anytime the town is granting additional property rights, the town has the responsibility to decide exactly what the town is granting.

Ron commented that the Endicott's had two lots; both of them had a home on them at one time, both lots were accepted as legal building lots. One of the homes was torn down and the lot has been vacant for years. When they asked to build a home on the vacant lot they were told they couldn't do it because the lot didn't have the required frontage and it had been vacant for over one year. Mike said there should be a way for someone with a non-conforming lot, and the home is not compliant with setbacks, and someone has lived there continually, and they propose to demolish the home and rebuild meeting setbacks, this would be a win for the town.

Karen read from Title 15.17.14: "A parcel nonconforming as to area and frontage requirements, containing a single family residence that has not been abandoned, and was created and recorded prior to the July 1992 amendments to the Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-101 et. seq., Subdivision Law; shall be considered to be a legally complying lot entitled to the same rights as lots conforming to current Huntsville Town area and frontage requirements." Mike stated that this ordinance says the lot still has a home on it. The property east of the Endicott's doesn't have a home on it.

Rex conceded that if there is a non-complying home and the owners want to tear it down and bring it more into compliance that should be allowed. But, maybe the town needs to allow people with non-conforming lots with no home on it, to build as long as they comply with all standards. Rex said that he looked at the nonconforming lots in town, the majority of these lots are around .5 and are adjoining to other noncomplying lots. These undersized lots seem to be grouped together. The intent of the town is to bring these back into compliance if possible. Mike replied that if there is a non-conforming lot without a home on it, they have not enjoyed the property value or rights of having a home on that property; the town isn't taking something away from them. Whereas, someone that has a home on a nonconforming lot and the home is noncomplying, they are enjoying the current value of having a home there. If they want to shift that home, tear it down and replace it and shift the home so it is more compliant, they are maintaining the value of their property. There wound need to be continued occupancy of the home. Ron asked about the lot on 600 S. it is .7 acres and the owner asked for a letter from the town stating that it was a legal building lot; it has been platted as a building lot for a very long time. There has never been a home on that lot.

If they can show that it was intended for the lot to be a buildable lot, then it would be allowed. This creates a grey area. Ron said the Endicott's vacant lot would be a similar situation. Bill White offered to draft some verbiage that will clarify this section of the ordinance. At some point in time, someone gave permission for people to create undersized lots. If the town considers those lots to be legally subdivided, then how can the town not allow them to tear the home down and rebuild, as long as they come into compliance with setbacks.

Mike read from Title 15.17.14: A. Nonconforming Lots or Parcels of Record: "A parcel nonconforming as to area and frontage requirements, containing a single family residence that has not been abandoned, and was created and recorded prior to the July 1992 amendments to the Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-101 et. seq., Subdivision Law; shall be considered to be a legally complying lot entitled to the same rights as lots conforming to current Huntsville Town area and frontage requirements." Bill clarified that this would mean you could tear the home down and then petition the PC for a rebuild.

B. A parcel nonconforming as to current area and frontage requirements which was created and recorded prior to the July 1992 amendments to the Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-101 et. seq., Subdivision Law, and met area and frontage requirements for the zone in which it was created at the time it was created; may submit an application for subdivision approval provided that it meets all other applicable requirements of the Huntsville Town Subdivision and Zoning Titles. The Landowner will have the burden to prove that their lot met area and frontage requirements for the zone in which it was created at the time it was created.

Bill commented that this is good clarification because if you look at the original plat map of the town in the 1800's it shows the town being divided up into ¾ acre lots. Somewhere along the line, someone decided to allow people to divide their property into smaller lots, but they were not compliant as of the time. There was no set of ordinances, only a plat map. If someone could find the ordinances from 1992 and they said you were allowed smaller lot sizes, then they would have a legal building lot, but the burden of proof is on the property owner. Ron said he has parts of the ordinances from the 1980's but nothing prior to that. Bruce said it would be impossible for someone to come up with a copy of the earlier ordinances because no one has a copy of them. The issue that needs to be addressed is whether the town is taking away a value from someone. If you have an undersized lot and there has never been a home on it, then you didn't lose the value of having a home on the lot. So the town isn't taking away value. But, if there is an undersized lot and there was a noncomplying home on it, and it was continually occupied, you have enjoyed the value of having a home on your lot, as long as the home hasn't been abandoned. The town should allow you to tear the home down, shift it to come more into compliance, and rebuild. Bruce asked about the Endicott's vacant lot, they pay taxes on the lot as if it were a legal building lot, and there is a water hook-up on the lot. Mike replied that this is unfortunate, but the information was available to them before she purchased it. Bill stressed that the ordinance needs to say what the Commissioners are intending it to say.

Bill stated that Jody Burdett proposed the wording for Title 15.17.14; he said in 1992, the State Legislature amended their ordinances so that you could not subdivide your property without permission from the municipality in which your property resides.

Another thing that Jody mentioned it is unclear as to whether a land owner would be successful in challenging the town about whether or not they owned a legal building lot prior to 1992 because the town didn't have ordinances in place. In one period of time the town ceased to exist and was later re-incorporated. The creation of these undersized lots could have happened when there were no ordinances. Bill said this matter came up a few years ago when the people who owned a .5 parcel on the corner of 7500 E. 300 S. said they were going to sue the town if the town didn't recognize their lot as a legal building lot. Bill offered to purchase the property in order to save the town from a lawsuit. Bill said the ordinances need to clarify specifically what the older undersized property rights are, because everyone who owns one will eventually demand a building right.

Rex clarified that if you have had a home in continual use on an undersized lot you have building rights, if there has not been a home on the undersized lot you won't be allowed to build a home. This will promote the goal of bringing non-complying structures into compliance. Mike said if someone has the money to do a major remodel, it wouldn't be that much more of a burden for them to bring the home more into compliance.

Approval of minutes for Planning Commission meeting held March 24th, 2016:
Rex made a motion to approve the PC minutes for meeting held March 24th, 2016, as amended. Karen seconded. All votes aye. Motion passed. Minutes were approved.

Set date for next PC meeting:
The next regularly scheduled PC meeting will be held on May 26th.

Rex made a motion to adjourn. Karen seconded. All votes aye. Motion passed.

Meeting adjourned at 9:25 P.M.

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Gail Ahlstrom, Clerk/Recorder Ron Gault, Chairman