

**EXPERT REPORT
OF
BRUCE W. PARKER, A.I.C.P.**

**Weber County Board of Adjustment, Meeting 11/4/2021
Agenda Item #4 - Consideration of an appeal of several permits issued by Weber County
including a Weber County Stormwater Construction Activity Permit, Building Permit
Number 21U388, and Land Use Permit LUP232-2021.
Applicant: Angelika Spaey, represented by Zane Froerer**

INTRODUCTION

I have been requested by Froerer & Miles P.C. to provide an expert report and opinions regarding issues surrounding the Appeals of Angelika Spaey (“Applicant”).

My opinions are based on an independent review and analysis of certain documents in this case (see Materials Reviewed) and my past professional experience as a public sector city and community planner, public community development director, and private community planning consultant. I am an expert in community planning, including general plans, land use ordinance drafting and application procedures, community planning administration, and plan implementation. I am a member of the American Institute of Certified Planners (#052210). I am a member of the Utah Chapter, American Planning Association, serving the Utah Chapter as its Professional Development and Planning Ethics Officer. A copy of my Resumé is attached as Exhibit 1.

EDUCATION AND QUALIFICATIONS

See Resumé attached as Exhibit 1.

MATERIALS REVIEWED

My observations and opinions are based solely on the materials provided to the Board of Adjustment, including the Staff Report (B.O.A. 2021-11). My comments and opinions are grounded in the Staff Report and its accompanying materials. As stated, “Planning Staff considers the exhibits in this staff report to be the ‘record’” (p. 2). While the County’s review approval procedures do not facilitate what has been verbally communicated to me as a more complete record, I am limiting my review and providing observations and opinions to LUP232-2021 and on what the Planning Staff considers to be the “record.” I have not reviewed or considered any other materials outside of what is now before the Board of Adjustment

Materials Reviewed:

1. Staff Report to Board of Adjustment, File No. B.O.A. 2021-11 (undated). Received by Planning and Development Services, L.L.C. on November 1, 2021.

BACKGROUND FACTS GLEANED FROM MATERIALS REVIEWED

After considering the Materials Reviewed and my professional experience in community planning, land use ordinance drafting, and land use application management and processing, my observations are:

1. Land Use Permit (LUP232-2021) was approved and issued by Weber County on July 14, 2021.
2. The approval of LUP232-2021 was posted on the county’s review website “called Frontier” on July 14, 2021 (Staff Report, p. 1).
3. The “Planning Staff considers the exhibits in this staff report to be the record” (Staff Report, p. 2).
4. The Applicant purchased Lot 23, Fairway Oaks, in 2021 and was told the lot was in a planned residential development with small patio-style homes (p. 14 of 186).
5. The Applicant is the owner of Lot 23, Fairway Oaks, Weber County, Utah. Angelika Spaey and Mark Spaey filed an Appeal of LUP232-2021 on August 25, 2021.
6. The Conditional Use Permit or C.U.P. document shows we are in an area that has hi spring activity close to the surface, hence no basements should be built. Given the springs and dense building lots most ‘patio’ style homes built and approved are at least 20’ apart so that water flows do not erode the Qafi type soil and cause harm to downhill neighbors” (Declaration of Angelika Spaey, p. 15 of 186).

7. Lot 22 is immediately adjacent to Lot 23 and is located uphill from Lot 23. (p. 14 of 186). Lots 22 and Lot 23 share a common side boundary line.
8. Weber County Building Inspections Permit Application, Permit #21U388, issued, 8/13/21 indicates that building setbacks are typically required. No setback information is included on the approved permit (p. 31 of 186).
9. LUP232-2021 was approved for Lot 22, Fairway Oaks. The structure proposed on Lot 22 is 3,373 square feet, above grade.
10. “Building setbacks are dictated by the building pad on the subdivision plat (see enclosed)” Land Use Permit LUP232-2021, (pp. 157 -158 of 186).
11. The approved LUP232-2021, and Lot 22 Site Plan, clearly show the proposed building construction occurring on the Property Line separating Lot 22 and Lot 23, Fairway Oaks.
12. The approved LUP232-2021, and Lot 22 Site Plan, clearly show the proposed driveway for Lot 22 occurring on the Property Line separating Lot 22 and Lot 23, Fairway Oaks.
13. The approved LUP232-2021 for Lot 22 clearly shows the proposed landscaping for Lot 22.
14. The Site Plan for Lot 22 shows a downspout, directing water away from the proposed structure located on Lot 22 and draining towards the existing structure on Lot 23.
15. The “Land Use Permit – Structure Setback Graphic: New Dwelling, Addition, etc.” clearly show that minimum yard setbacks are typically required (pp. 33 and

158 of 186).

16. The Applicant “provided all documents to the Fairway Oaks board members and to Steve Burton, a planner at Weber County planning and Tucker Weigh with Weber County Engineering, showing the soil types and home styles. I wrote to Gage Froerer . . . multiple times asking the county to accept this information and to use this information this in deciding the building permit for the lot above mine, which is lot 22” (emphasis added) (p. 16 of 186).
17. Before the Board of Adjustment, the materials include a significant amount of information related to existing streams, stream alterations, springs, and stormwater retention.
18. Before the Board of Adjustment, the materials include the Fairway Oaks Home Owners Association – Design Review Board Design Guidelines for New Construction, Remodeling, Landscaping, Painting in the record.
19. Wolf Creek P.R.U.D. Fairway Oaks 37 units 4000 North 4900 East -Finding of Fact: “The petitioner would like to build a 37-unit P.R.U.D. on the North Side of Patio Springs Subdivision. The property is zoned FR-3 that allows P.R.U.D.’s as a Conditional Use. The proposal is for single family patio type homes on reduced lots. The lots would measure 80’ x 47.5’, and have the bulk of the property in common open space. The purchasers of the lots would have five different home styles from which to choose. Two of the styles are two-story homes (approx. 68’ x 38’), the other three are one level homes (71’ x42’, 62’ x 42’, & 48’ x 56’}. The homes are wood frame construction and would fit well into the surrounding home styles” (Weber County Planning, June 24, 1997, p. 68 of 186). “No basements (high spring area)” (p. 73 of 186).
20. LUP232-2021 remains unsigned by the Contractor/Owner (pp. 157 and 158 of 186).

SUBSTANCE OF AND BASIS FOR OPINIONS

After considering the Materials Reviewed and based on my extensive professional experience (35 years) in community planning, land use ordinance drafting, and land use application management and processing, my opinions are:

1. The Planning Staff has provided the Board of Adjustment, the Applicant, and the public with approximately 190 pages of information as the record, as determined solely by the Planning Staff.
2. It would be impossible for any person reading the Public Notice (provided via Frontier) to know the location of LUP232-2021 or the nature of the proposed construction (pp. 155-156 of 186). The Planning Staff relies on this inadequate notice as the mechanism to commence the timing for filing an appeal. Absent a phone call to the Planning Staff to discover more information and details; one would have to be psychic to know when to file an appeal.
3. No evidence is provided that Lots 22 and 23, Fairway Oaks, were ever proposed or approved to allow the zero-lot-line arrangement for any structures. But even if they were, drainage from one (1) structure would not be allowed to impact another negatively.
4. If allowed by the approved permit (on Lot 23's side lot line), a significant construction and maintenance easement would have to be granted by the owners of the common open space in favor of Lot 22. Such construction and maintenance easement or agreement does not exist.
5. The Planning Staff recognizes that the requirements for the location of the structure (or building pad) for Lot 22 are required. The materials disclose that the Planning Staff recognized the building pad front yard standards. Further, the Land Use Permit

Structure, Setback Graphic for the location of building pads (pp. 33 and 158 of 186) shows that front, side, and rear yard standards apply. The Planning Staff failed in their duty to require the necessary building separations in the approval of LUP232-2021.

6. The site plan presented for Lot 22 shows the proposed structure constructed on the property line. At a minimum, the structure proposed on Lot 22 should be sited away from the property line, at least equal to that provided by Lot 23. To not do so is to favor Lot 22 and penalize Lot 23 and other similarly situated lots.

7. The site plan presented for Lot 22 and reviewed by the Planning Staff shows the proposed structure on the side boundary line. The Applicant was aware of the requirements, stating, “the Conditional Use Permit or C.U.P. document shows we are in an area that has hi spring activity close to the surface, hence no basements should be built. Given the springs and dense building lots most ‘patio’ style homes built and approved are at least 20’ apart so that water flows do not erode the Qafi type soil and cause harm to downhill neighbors.” The Planning Staff should have been similarly aware. But, even if the Applicant is misinformed, the facts remain, Lot 22 must meet the building pad standards applicable to all lots. The building separations for all structures required in the Fairway Oaks P.R.U.D. should be recognized and protected by Weber County. Fairway Oaks building pad locations, including building separations, are provided for various reasons, including preserving the enjoyment of adjoining owners. They can not be ignored.

8. The record is clear. Weber County has a long history with the Fairway Oaks P.R.U.D. This includes understanding the property’s environmental sensitivities, including those related to groundwater, springs, soils, and slopes.

9. The subdivision plat that includes Lots 22 and 23 is a recorded document. Similarly, various documents included in the Staff Report are recorded. A routine Title Search would disclose the existence and substance of the multiple documents applicable to

Lot 23. If this had occurred, the Weber County staff would recognize and acknowledge the continuing applicability of all standards affecting Lot 22.

10. The structure proposed for Lot 22 is shown as the “Christiansen Spec.” Evidence exists (p. 161 [approx.]) that the construction plans are “canned.” They appear to have transferability from one locale to another. See Building Plan Note 2.2.1, “Farmington City’s subdivision ordinance” as one example. The building plans submitted for Lot 22 ignore the applicable Weber County and Fairway Oaks standards. The Fairway Oaks P.R.U.D. has always contemplated “patio type homes on reduced lots” (Weber County Planning, June 24, 1997, p. 68 of 186). The Christiansen Spec is entirely out of character and compatibility with the intended Fairway Oaks housing styles. What is proposed by the erroneously approved LUP232-2021 is to shoehorn a structure onto Lot 22 for which it was never intended.

Date: November 3, 2021.

Bruce W. Parker

Bruce W. Parker, A.I.C.P.

Principal, Planning and Development Services, L.L.C.

Exhibit 1 – Attached

Other Exhibits provided via Planning Staff materials to the Board of Adjustment.

BRUCE W. PARKER, AICP

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QUALIFICATIONS SUMMARY

Project manager for various planning and implementation initiatives, including large development and infrastructure projects with a local, regional, intrastate, or interstate purpose. Possesses a full understanding of day-to-day planning administrative issues and actions necessary for plan implementation and results. Advise state and local officials, including the Utah State legislature, on draft statutory law revisions affecting planning. Extensive experience in planning at all scales. A presenter at local, state, national, and international planning conferences.

TYPICAL SERVICES AND RESPONSIBILITIES

- Significant planning and development experience, including necessary coordination and cooperation with Federal & State agencies, and service providers.
- Project manager for community (municipalities and counties) general plans and implementation, and monitoring.
- Litigation support and expert witness on major community planning and development activities.
- Manager of negotiation and resolution of controversial development projects with associated formulation and drafting of various agreements and resolutions.
- Planning requirements and standards for planning implementation activities, including land use ordinances.
- Project and infrastructure investment evaluation tools for state and local project decision-making.

EDUCATION

Bachelor of Urban and Regional Planning (Honors) _____ University of New England

- Awards;
 - The Anthony Bernard Cunningham Memorial Prize (academic achievement).
 - The Australian Association of Consulting Planners Prize (best thesis).

Master of City and Metropolitan Planning _____ University of Utah

- Awards;
 - College of Architecture + Planning – Leadership Award.
 - Outstanding Academic Performance (academic achievement; GPA – 4.0).

Doctorate in Planning, Policy, and Design _____ University of Utah

- Qualifying Examination “Planning America’s Small Communities. Context is Everything.” Passed.
- ABD – 70%.

EMPLOYMENT

Principal, Planning and Development Services, LLC _____ 1992 – Present

Extensive experience to both public and private sector clients. This experience includes community general plans, planning implementation strategies (including zoning, subdivision, and business license regulations), environmental assessments, infrastructure planning and financing, planning administration, and project management. Provided development review and permitting for various interstate, intrastate, regional, and local infrastructure projects.

Associate Instructor, University of Utah _____ 2010 – Present

As the Instructor of Record, responsible for all course instruction, administration, and requirements including course syllabus, lectures, and other student instruction, assignments and grading, Courses taught;

- Metropolitan and Regional Planning (CMP 5270 and CMP 6270 – Fall Semester, 2011).
- Professional Planning Internship (CMP 6954 – Fall Semester 2011 and Spring Semester 2012).
- Internship in Planning/Urban Ecology (CMP 4954 – Fall Semester 2011 to Spring 2016).
- Professional Planning Internship (CMP 6954 – Fall Semester 2011 to Spring 2016).
- Independent Study and Masters Capstone Project Supervisor (2011 to Present).
- Small Towns and Resort Planning (CMP 6960 – Fall 2016 to Present).

Community Development Director, Summit County, Utah _____ 1989 – 1992

Responsible for the management of all planning, engineering, and building inspection services with complete firing and employee supervisory authority for 20 employees and department budget authority. Responsible for the provision of quality and responsive customer and client services including the communication, collaboration, and cooperation with various federal, state, and local government agencies on various planning and infrastructure projects. Authority for the management and oversight of preparatory work associated with provision of various winter Olympic sites and environmental reviews.

Planning Programs Supervisor, Salt Lake City Municipal Corporation, Utah _____ 1986 – 1989

Managed city's long-range planning initiatives and other activities for planning areas and city neighborhoods. Responsible for coordination with various citizen organizations and the provision of quality planning services. Managed planning consultants and complex urban planning projects.

Long-Range City Planner, City of West Jordan, Utah _____ 1983 – 1986

Fully responsible and accountable for the formulation of the city's first comprehensive master plan, and all plan amendments. City representative for planning coordination matters with federal, state and local agencies. Recipient of City of West Jordan Community Achievement Award.

CERTIFICATIONS AND PROFESSIONAL ASSOCIATIONS

- American Institute of Certified Planners (AICP), 1990 – Present. Certification No. 052210.
- American Planning Association;
 - Professional Development and Ethics Officer, Utah Chapter (2019 – Present).
 - President, Utah Chapter (1994 – 1996).
 - Past President, Utah Chapter (1996 – 2000).
 - Secretary, Utah Chapter (1991 – 1996).

COMPETENCIES AND OTHER SKILLS

- Excellent verbal and written communication skills.
- Superior customer service and client relation skills.
- Proficient in;
 - Microsoft Office Suite software.
 - Statistical Package for the Social Sciences (SPSS).
 - STATA statistical package.
 - Qualitative research methodologies

PRESENTATIONS AND PUBLICATIONS (REPRESENTATIVE ONLY)

- Planning Code of Ethics, American Planning Association, Utah Chapter Conferences.
- *Small Town Planning in the 21st Century – Challenges and Opportunities*, October 2018, Sandy City, Utah and *Housing and the Demographic Divide*, October 2017, Park City, Utah.
- Uintah County Utah Land Use Training, *Zoning as a Policy Implementation Tool*, June 11, 2016, Vernal, Utah.
- Utah Counties Indemnity Pool, May 2015, *Zoning Ordinances in Utah. Specifics for Utah Counties*. Sandy City, Utah.
- Western Planners Conference, October 2014, “*Future Energy – Addressing Energy Transmission Facilities.*” Salt Lake City, Utah
- Western Planner’s Conference, October 2014, “*Destination Resorts: Learning from our Experience.*” Salt Lake City, Utah
- Insurance Utah Local Governments Trust Citizen Planner Training Series 1997 – 2010. Presenter at training sessions for over 1,200 professional and citizen planners. Topics include “*The General Plan,*” “*The Planning Commission,*” “*The Division of Land (Subdivision Policy and Regulations),*” and “*Land Use Regulation (zoning ordinance formulation and implementation to achieve policy.*”
- American Planning Association National Conference, April 2011, Boston Massachusetts. *Getting the Message Out - The Importance of Effective and Efficient Planner Communications.*
- Virginia Tech. Alexandria Virginia. Visiting Lecture Series, April 2011. *Planning and Permitting of Renewable Energy Systems: Experiences and Lessons from Millard County, Utah.*
- Parker, B.W. (2007). *All the Details for Doing it Correctly - Subdivision Development – A Guide on How to Legally Subdivide Land in Utah*, Utah League of Cities & Towns – Subdivision of Land.
- Parker, B.W. (2005). “*Subdivisions in Utah’s Cities & Towns,*” Utah League of Cities & Towns Conference, St. George, Utah.
- Parker, B.W. (2006). *Culinary Water Authorities and Sanitary Sewer Authorities.* Utah Rural Water Users Association, St. George, Utah.