

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
TUESDAY, NOVEMBER 8, 2011**

MEMBERS PRESENT: Brian Bodily, Sharon Esplin, Kristin Elinkowski, Gerald Gilbert, Tim Pales, Dave Weaver

ALTERNATE MEMBERS PRESENT: Jeremy Davis, Dawn Fitzpatrick

MEMBERS ABSENT:

ALTERNATE MEMBERS ABSENT:

OTHERS PRESENT: Staff Members: Bill Wright, Peter Matson, Andrew King, Steve Garside, Julie Jewell

PUBLIC HEARING:

1. TEMPORARY USES ORDINANCE AMENDMENT AND RE-WRITE -- Chapter 19.21

Planner I, Andrew King, presented the proposed ordinance amendment and re-write of Chapter 19.21 stating the City Council requested that Staff research changes to the City's Municipal Code regarding the regulation of temporary uses, also known as "Kiosks, Mobile Stores, Resource Recycling and Reverse Vending Machines." The Council's concern is that the current standards do not adequately or clearly regulate the type of temporary businesses that are desired in the City. The need for better regulations is also accentuated by the fact that the City has seen an increased number of temporary business applications over the last several of years.

In addition, Mr. King said, Staff is having a difficult time tracking the location and duration of operation for these businesses. It is estimated that a typical 'mobile store', was in business for an average of two (2) to three (3) months. The Business License Division, however, automatically approves businesses for one (1) year, which requires tracking down mobile store owners and landlords to discuss whether the area is available for a new business. It is also difficult to track conditional use sites and the site specific conditions associated with them.

Mr. King said, the ordinance amendment and rewrite removes the requirement for a conditional use permit and provides more specific and clear regulations regarding the location, type and design of a temporary use.

Mr. King explained the proposed amendment regarding kiosks and described a kiosk as an unmanned freestanding structure, with a footprint no larger than 50 square feet, where retail items are sold, rented or otherwise distributed and/or a freestanding structure where temporary information, posters, notices and announcements are posted. He said kiosks could be located in all Commercial, Mixed Use or Manufacturing zones in the City and could possibly have a license length of four (4) months. Commissioner Elinkowski asked if there would be a different fee schedule used due to the reduced license length. Mr. King replied that there would be different fees for different license durations.

Mr. King defined a Seasonal Outdoor Vendor as any temporary retailer selling seasonal products outdoors which are related to a specific holiday, for no more than 45 consecutive days. There was a discussion as to which types of season outdoor vendors could do business in agricultural zones as well as parking issues that may be related to these uses being on agricultural property. The general consensus was that seasonal outdoor tent vendors should be allowed in C-H and MU zones.

There also was a discussion regarding charitable events or harvest sharing operations.

Mr. King described a street vendor as an attended portable structure with a footprint no larger than 60 square feet which is not self propelled and serves only walk-up customers and is intended for the selling of prepared food, non alcoholic drinks, balloons, cut flowers, caps, t-shirts, souvenirs, handmade crafts or locally grown produce.

City Planner, Peter Matson clarified the new guidelines for taco carts, which would allow 60 square feet for the cart or trailer with one table and up to five chairs outside the cart for seating. He said a site plan would be required as part of the application.

Assistant City Attorney, Steve Garside, said there would need to be a decision as to how pervasive street vendors and other temporary retailers could be allowed to be in the City since they are competing with those who have invested brick and mortar in the community.

There was a discussion regarding street vendors and other temporary retailers on properties that have already been granted conditional use. The Commission asked Staff to draft regulations regarding the continuation of a conditional use currently on a property under the new ordinance. The Commission asked that a revocation clause be added to the ordinance to address properties on which conditional uses have been granted but have not been in use.

Other uses discussed under this ordinance were a Single Event, which is an event lasting no more than 16 consecutive or intermittent days in which up to 50 retailers sell and advertise goods, wares, or merchandise on one or more contiguous lots. Discussion continued regarding Snow Shacks which are freestanding structures with a footprint no larger than 50 square feet, with one or more open sides from which cold summer treats are sold, and a Tent Vendors which is a freestanding tent or canopy with a footprint no larger than 200 square feet that is open on at least one (1) side and used for the retail sale of goods and services.

The Commission and Staff were in agreement that further research, with a hearing to follow at a later Planning Commission Meeting, would need to take place for the Temporary Use ordinance amendment and re-write.

2. PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD) ORDINANCE AMENDMENT – Chapter 19.08.090 – Density bonus and base open space requirement in a PRUD

This item was not discussed due to lack of time.

PUBLIC REVIEW:

3. UTOPIA HUT SITE – CONDITIONAL USE REQUESTS FOR TELECOMMUNICATION SWITCHING STATIONS

SR193 and Church Street
2600 North Hill Field Road
2400 North 2250 East
1000 North 1700 East
1450 North Highway 89
1000 North 1390 West

This item was not discussed due to lack of time.


Julie Jewell, Planning Commission Secretary

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OTHERS PRESENT: Staff Members: Peter Matson, Andrew King, Steve Garside, Julie Jewell

Planning Commission Chair, Sharon Esplin, called the meeting to order at 7:03 p.m. The Pledge of Allegiance was recited and an invocation was given by Commissioner Elinkowski.

APPROVAL OF THE MINUTES: Chairman Esplin called for a motion to approve the October 11, 2011, and October 25, 2011, Planning Commission and Work Meeting Minutes. Commissioner Bodily noted that he was present and not absent on October 11, 2011. Commissioner Fitzpatrick noted a correction to the October 25, 2001, Planning Commission Meeting minutes, Page 2, Paragraph 5 correcting the acronym for Crime Prevention Through Environmental Design to CPTED.

Commissioner Weaver noted that in the minutes, he had asked for a definitive timeline for the installation of UTOPIA huts. The minutes read that 65 percent of the huts would be completed by September 2013. Since this date seemed in error, Planning Commission Secretary, Julie Jewell, will listen to the tape to determine the correct date. *The correct date should be September 2012. The October 11, 2011, Planning Commission Minutes will be corrected to reflect the correct date.*

Commissioner Weaver moved to accept the October 11, 2011, and October 25, 2011, minutes as corrected. Commissioner Bodily seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to open the Public Hearing. Commissioner Gilbert moved to open the Public Hearing. Commissioner Pales seconded the motion, and the voting was unanimous.

PUBLIC HEARING:

1. TEMPORARY USES ORDINANCE AMENDMENT AND RE-WRITE -- Chapter 19.21

Planner I, Andrew King, presented the proposed ordinance amendment and re-write stating that the Council had requested that Staff research possible changes to the Municipal Code to provide regulations for types of business not desired by the City. Mr. King said Staff has researched and drafted an improved ordinance removing the need for a conditional use permit for temporary uses and better defining these uses, and making the uses more enforceable as well as contributing to the ability of these businesses to be

successful. Mr. King said that based on discussions with the Commission, Staff is recommending the Planning Commission continue the public hearing for the ordinance amendment and re-write to give Staff time to determine how to transition out current conditional uses, to incorporate input from the Planning Commission into the amendment, and to allow for more discussion on the ordinance amendment and re-write.

Chairman Esplin asked if the audience or Commission had any questions or comments. There were no comments given.

Chairman Esplin called for a motion on the item.

Commissioner Gilbert moved to continue the Public Hearing for the temporary uses ordinance amendment and re-write to November 22, 2011, to allow for more research and discussion, with Work Meeting to start earlier to allow for this discussion. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

2. PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD) ORDINANCE AMENDMENT – Chapter 19.08.090 – Density bonus and base open space requirement in a PRUD

City Planner, Peter Matson, said that in City Council Strategic Planning Meetings that the City Council expressed concerns that the maximum 50 percent density bonus in the PRUD ordinance may be too high, that certain categories of "base open space" should be examined, and that certain density bonus incentives and related design options are too easily achieved by the developer. One item of particular concern is use of "streetscape" areas qualifying as base open space.

Mr. Matson outlined sections of text in the ordinance that were proposed to be discussed with the Planning Commission. Items of discussion were: incentives for multi-family designs with parking structures underneath, street lighting and street trees, which Mr. Garside said would, under the present ordinance, only receive incentive credit if enhanced beyond the minimum standard. Commissioner Gilbert said that incentives for parking within the building should be given only if it was beyond what would typically be required.

Mr. Matson asked that the Planning Commission make recommendations regarding the amendment to be incorporated before presenting it to the City Council.

There was a discussion regarding using a point system to determine the density bonus. The Planning Commission expressed an interest in discussing the procedure that the Design Review Committee follows to determine density bonuses.

Chairman Esplin asked for audience comments and there were none. Chairman Esplin then called for a motion on the item. Commissioner Elinkowski moved that the Public Hearing be continued to the November 22, 2011, Planning Commission Meeting. Commissioner Fitzpatrick seconded the motion. Commissioner Davis commented that he would not be present at the November 22, 2011, Planning Commission Meeting and would like to participate in the discussion. Commissioner Elinkowski moved that the Public Hearing be continued to the December 13, 2011 Planning Commission Meeting. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

PUBLIC REVIEW:

3. UTOPIA HUT SITE – CONDITIONAL USE REQUESTS FOR TELECOMMUNICATION SWITCHING STATIONS

Mr. Matson reviewed six previously approved conditional use permits for UTOPIA Hut sites. He presented background information on UTOPIA Fiber Optic Hut Sites stating that UTOPIA's intent is to create a regional fiber optic network. He said UTOPIA's goal, along with efforts from participating cities, is to establish point of interconnection (hut sites) so the above and underground network can ultimately be connected.

With regard to the existing UTOPIA hut site on Gordon Avenue and Fort Lane, Mr. Matson said that UTOPIA plans to address the landscaping, fencing and aesthetic issues of the site and the building.

Mr. Matson gave an overview of the following hut sites and site specific issues were discussed. He presented aesthetic details of the buildings. Concerns and questions from the Commission were regarding easements on City property for utilities, location of generators away from residences, matching paint colors on hut sites if the sites are tagged, cable access routes, placement of the hut at the Andy Adams Park, and fencing that is rolled up on the ground at the 1390 West Gordon Avenue site. Mr. Matson will contact the Public Works Department to take care of the fencing issue.

The following are the proposed sites.

Northwest corner of Hwy 193 and Church Street - zoned R-M1PRUD
(Detention pond/open space of East Gate at Greyhawk Apartments)

Five *city-owned* properties throughout the community as follows:

- 2600 North Hill Field Road (Water Tank Property) – zoned CP-1
- 2400 North 2250 East (Oak Forest Park) – zoned R-1-8
- 1700 East Gordon Ave. (Andy Adams Park) – zoned Agriculture
- 1450 North Hwy 89/Valley View Dr. (Future Fire Station Site) – zoned P-B
- 1390 West Gordon Ave. (Green Leaf Well/Pond) – zoned R-1-8

Staff recommends the Planning Commission approve the six (6) conditional use permits for the UTOPIA fiber optic hut sites subject to consistency with the submitted sketch plans and subject to meeting all Staff requirements as outlined in the Staff report and the memorandums from the Parks and Recreation Department, the Engineering Division, and the Fire Department. In addition, the following specific conditions are recommended:

1. The City reserves the right to inspect and review each site after Hut installation to determine if a solid masonry wall or vinyl fence around the Hut is warranted for screening, safety, and/or aesthetic purposes. More specifically, Sites #9 and #10 shall be inspected and reviewed by the Parks and Recreation Department for a fencing option relative to specific site compatibility issues.

2. The pad space for Sites #7, #9, #10 and #11 should be designed such that the generator can be located on the opposite side of the Hut from the adjacent residential neighborhoods for sound mitigation purposes.
3. The color of each Hut structure shall be a dark brown (earth tone), or "Ozark" as specified on the referenced material samples, on the aggregate panels. The trim, door and attached generator and a/c units shall be the "Medium Bronze" as specified on the referenced material samples. The specific color and material sample codes for the "Ozark" aggregate and "Medium Bronze" for trim, doors, etc. shall be noted in the file and be the basis for contractor installation.
4. Site and Hut design and installation shall comply with all applicable Fire, Building, and Engineering Division requirements.
5. A final site plan shall be approved by Staff for each individual Hut site prior to the issuance of a building permit.

Some of the issues discussed were the placement of the generators in relation to residential areas, aesthetics, screening, easements, and fencing. Commissioner Weaver mentioned that fencing at the existing hut site was rolled up and lying against the fence on Gordon Avenue. Mr. Matson said he would ask Public Works to take care of the fencing.

Mr. Weaver asked for the specifics of the conditional use on the existing site. Mr. Matson said the original conditions were vague with regard to landscaping and architectural enhancements. He said UTOPIA plans to clean up the site. He stated that this conditional use would be brought to the Planning Commission for another review and possible adjustments to the conditions.

Steve Magleby, UTOPIA representative, said that as far as a time line for improving the site, he is still getting feedback from the UTOPIA executive staff, however, he did want to get the site improved by the beginning of 2012. He mentioned that the existing hut is of a different design than the proposed new huts in that the equipment is installed on the outside of the building rather than the inside. UTOPIA is trying to determine whether to use landscaping or siding to cover the external boxes.

There was a discussion regarding the approval of additional sites before violations on the existing site were corrected. Mr. Garside said the specific violations on the existing site needed to be identified and that it is separate from the new sites being submitted for consideration which couldn't be held back based on the existing site coming into compliance. He said that the Planning Commission could request that the existing hut site be reviewed for revocation of the conditional use on the site.

Commissioner Esplin asked for audience comments on the conditional uses currently before the Commission for review.

A member of the audience, Joe Moss, 1675 Valley View Drive, expressed concerns regarding the screening from the north of the hut proposed on the future fire station property on Valley View Drive. There was a discussion regarding the location and aesthetics of the hut, the proposed fire station, and the future park.

Mr. Matson said that with regard to huts on City property, that once the hut is installed the City reserves the right to require fencing or screening of the hut. Mr. Magleby said UTOPIA is trying to be conscientious with regard to the aesthetics and impact of the hut sites.

Commissioner Weaver asked about the specifics for the conditional use for the existing facility. It was explained that the current UTOPIA employees were not involved with and did not have specific knowledge of the conditions related to the existing hut. However, they have plans to clean up the building and will ask the Planning Commission to consider possible adjustments to the original conditions and a time line for bringing the site into compliance.

UTOPIA representative, Steve Magleby, said he was still getting feedback from UTOPIA's executive staff and didn't have a specific time for bringing the site into compliance but he hoped to do so before the beginning of the year. He explained that the current site was a used building that was retrofitted and that UTOPIA was trying to decide whether to use siding or landscaping to cover the external boxes.

Commissioner Bodily asked when the final six sites would be submitted for conditional use approval. Mr. Magleby said he would hope to submit the final hut site applications by the December 13, 2011, Planning Commission Meeting.

Commissioner Davis asked if definitive plans for bringing the first site into compliance could be submitted before all 18 new sites were approved. Commissioner Gilbert responded that the conditional use could be revoked on the existing site but the new sites are under a different management team and should be a separate issue.

Assistant City Attorney, Steve Garside, asked if the conditions could be identified. He said it was correct that the existing hut site and the new applications for hut sites were separate issues and the new sites couldn't be held up because of the existing site, but that the existing hut could be reviewed for revocation of the conditional use permit.

Mr. Magleby said UTOPIA was trying to be conscientious of the look and impact of the hut sites.

Commissioner Esplin called for a motion on the conditional use permits for the six proposed hut sites. Commissioner Davis moved that the Planning Commission approve the six conditional use permits subject to the hut sites being consistent with the submitted site plan along with revisions proposed by the Planning Commission and subject to meeting all Staff requirements. Commissioner Gilbert seconded the motion, and the voting was unanimous.

Commissioner Weaver moved that Staff present to the Planning Commission at the December 13, 2011, meeting the requirements of the original conditional use permit on the existing hut site and also review the current status of the existing site. Commissioner Fitzpatrick seconded the motion. Commissioner Weaver restated the motion that the Planning Commission request Staff to review the current status of the conditional use for the UTOPIA site and give UTOPIA an opportunity to respond to the original conditional use with the Commission's intent to revoke the conditional use and abandon the site on December 13, 2011. Commissioner Fitzpatrick declined to second the restated motion. Commissioner Bodily seconded the motion. Commissioner Fitzpatrick requested the term "revoke" be changed to "brought into compliance." Commissioner Weaver agreed with the change to his motion and Commissioner Bodily seconded the motion. The voting was unanimous.

OTHER:

Upon the recommendation of Staff and the Planning Commission, Mr. Matson said Staff had put a process in place to enforce and track conditional use issues as follows:

1. The Code Enforcement office will make hard copies of all conditional files back for two to three years and scan them into the system. A spreadsheet will be compiled for the Code Enforcement Officer for rotating a review of conditional uses citywide.
2. Weekend hours for the Code Enforcement officer will be authorized as needed.
3. The owner, applicant and Code Enforcement Officer will receive copies of the conditional use letters summarizing the decision of the Planning Commission.
4. A conditional use certificate similar to a business license will be issued providing authenticity of the conditional use approval with a list of conditions.
5. Staff will research how other cities are handling conditional uses.
6. Staff will work on better Staff reports through internal training, to make sure the conditions recommended are realistic and enforceable.
7. Staff will improve tracking of conditional use permits by working with the IT Division.
8. Staff will develop a better connection between conditional use permits and site plan reviews and approvals. Bonding may be necessary to assure improvements will be completed.
9. Staff will develop a better connection between the conditional use permit and the business license and also between the conditional use permit and the building permit.

Mr. Matson reported that Code Enforcement Officer, Julie Arguello, had been following up on previously noted issues such as the taco cart on Antelope Drive, the intensity of the Davis Hospital sign and the Burger King sign. Commissioner Fitzpatrick expressed appreciation for what had been done to enforce conditional use requirements.

Chairman Esplin called for a motion to close Public Review and adjourn the meeting. Commissioner Pales moved to close Public Review. Commissioner Elinkowski seconded the motion, and the voting was unanimous.

The meeting adjourned at 9:07 p.m.



Julie Jewell, Planning Commission Secretary