

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES  
APRIL 10, 2012**

**MEMBERS PRESENT:** Brian Bodily, Sharon Esplin, Gerald Gilbert, Wynn Hansen, Tim Pales

**ALTERNATE MEMBERS PRESENT:** Jeremy Davis, Dawn Fitzpatrick

**MEMBERS ABSENT:** Dave Weaver

**ALTERNATE MEMBERS ABSENT:**

**OTHERS PRESENT:** Staff Members: Bill Wright, Peter Matson, Kem Weaver, Andrew King, Clint Drake, Julie Jewell

**PUBLIC REVIEW:**

**1. AMERICA FIRST CREDIT UNION/PREMIER MOTOR SPORTS – CONDITIONAL USE REQUEST FOR AUTO SALES**

This 2.05 acre property is located at 840 East Highway 193 in an M-1 zoning district. The applicant is David Hales of Premier Motor Sports. The owner, America First Credit Union is represented by Dee Hansen.

Planner I, Andrew King, explained that the property was rezoned from M-1 to CP-1 in 2008, with the intent of America First Credit Union building a new branch. America First is now leasing the space, and on April 5, 2012, the City Council approved a rezone back to M-1 to allow an auto sales business by conditional use on the property. The applicant has signed a three-year agreement with America First. He also has a location for this same business across the street in its current location.

Commissioner Fitzpatrick remarked that the applicant is currently in violation of his conditional use due to the number of vehicles kept outdoors on the current site.

There was a discussion about the Fire Department requirement to disconnect batteries on the cars stored indoors. Staff will consult with the Fire Department on this regulation.

Commissioner Pales asked about the use of the Highway 193 entrance, and Mr. King said traffic would be directed to the Fairfield Road entrance.

Parking and landscaping requirements were reviewed, and Mr. King said that four trees would be required at this time and two more trees on the frontage when the credit union is built. He said Staff is recommending six parking stalls to be used for employees and customers. The cars will primarily be shown by appointment only.

Commissioner Gilbert asked why the Planning Commission would want to approve this conditional use when the conditions have not been adhered to on the conditional use at the current location.

There was a discussion regarding the enforcement of conditional use requirements. Staff will check on CAL Ranch and Power Train Performance compliance. Commissioner Davis asked if the City had a plan for enforcement and or if Staff just waited for a complaint. Community and Economic Development Director, Bill Wright, said there isn't enough Staff to drive around and look for non-compliance.

With regard to the Premier Motor Sports current conditional use, Mr. Wright suggested that rather than withholding a conditional use on the new location, that Staff would talk with the applicant about becoming compliant on the current location or face revocation of that conditional use permit.

## **2. LEGACY VILLAGE – FINAL PLAT APPROVAL**

This four lot subdivision is located at 1201 and 1205 North Fairfield Road in a B-RP (Business and Research Park) zoning district. The property owners are Legacy Healthcare of Layton, LLC (Lot 1), Legacy Village Healthcare of Layton, LLC (Lot 2) and Legacy Properties of Layton, LLC (Lots 3 & 4).

Planner II, Kem Weaver, presented the request for final approval for Legacy Village. Commissioner Fitzpatrick asked if there was a requirement to landscape Lot 3, and Mr. Weaver said weed control was required, but not landscaping. The lot is planned for a future medical building. With regard to use of the vacant lots, Mr. Weaver said some uses may be conditional and reviewed by the Planning Commission.

Commissioner Hansen asked about the damaged fence on the south side, and Mr. Wright replied that it had been damaged in the high winds and the delay in repair was most likely due to insurance decisions.

Commissioner Bodily asked if there was an improvement bond in place. Mr. Weaver replied that all the improvements have been installed and that the subdivision is past the warranty period.

## **3. SEASONS OF LAYTON – DEVELOPMENT PLAN REVIEW**

This review is for a 164-unit apartment development on 6.83 acres at 2100 North Hill Field Road in an R-H (High Density Residential) zoning district. The applicant is Mountain States Property Management represented by Darren Child.

Mr. Weaver said the property was rezoned to R-H as approved by the City Council August 18, 2011, requiring a General Plan amendment for this higher density zone. He acknowledged the presence of the developer, Darren Child. He said a development agreement required the project go through the Design Review Committee (DRC) to get recommendations for the Planning Commission and the City Council. He said the outcome of the DRC meeting was positive with DRC recommendations as follows:

- The majority of the parking canopies need to be relocated towards the periphery parking spaces instead of against the buildings. The canopies will hide the architecture of the buildings.
- Create more of a front door presence for the office / club house with walkways and landscaping.
- Building ends need to have more architectural features that create a better design for residents that may have a view of the building next to them. The building ends that can be seen from the street need to have additional architectural features.
- Place additional trees throughout the central common area and between buildings.
- Add to the club house landscaping to assist in identifying the club house area.
- Remove some grass areas and introduce some xeriscaping for shrub and plant beds.

Mr. Weaver reported that the DRC said the Seasons of Layton would be a nice development for the area buffering residential from commercial. He said the two commercial parcels on North Hill Field Road which are part of the property, will be developed by the same developer.

Mr. Weaver said the developer is proposing 164 units on 6.83 acres. He reviewed the plans with the Commission and said the requirements of the development agreement have been incorporated. He said the DRC recommended that the end units be aesthetically improved. Mr. Child pointed out the entrance to the club house and the 29 garages. Mr. Weaver said the canopy parking will be relocated to the periphery of the property so that it doesn't hide the architecture of the buildings.

Commissioner Gilbert said he had attended City Council meeting where the plume from Hill Air Force Base was discussed. Mr. Child said that an environmental consultant has performed tests in the location where the buildings will be placed. These tests were negative for chemicals typical to the plume. Mr. Weaver said the plume is just in the northwest corner of the site and probably not where the buildings will be placed. City Planner, Peter Matson, asked if the mitigation techniques previously discussed would have to be done. Mr. Child responded that the mitigations probably would not have to be done, but that there would be a next phase of testing and the results would indicate if mitigation would be needed. He said they hoped to start construction on May 7, 2012.

Commissioner Fitzpatrick said there was no street light on the Antelope entrance, but Mr. Wright said Kneaders, a business adjacent to the entrance, had installed a street light.

Commissioner Fitzpatrick asked what areas would be fenced. Mr. Child said the perimeter of the property would be fenced except where the two commercial sites are located.

There was a discussion on the percentage of multi-family housing Layton.

**OTHER:**

**4. LAYTON CITY – ORDINANCE AMENDMENT – TITLE 19 CHAPTER 6 AND TITLE 19 CHAPTER 14 ADDING REGULATIONS FOR RETAIL TOBACCO SPECIALITY BUSINESSES**

Staff reported on two items the Commission had asked Staff to investigate.

- Mr. Wright reported on the Conditional Use for a facility for the elderly on Eastside Drive, and said the applicant never obtained a business license. The conditional use has been revoked.
- Mr. Weaver reported on the Greyhawk Ponds landscaping, and said the Parks Department looked at the landscaping and said the seed has not yet germinated. However, the Parks Department will monitor the landscaping as it is the City's responsibility to bring the landscaping into compliance with requirements and maintain it.

  
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Julie Jewell, Planning Commission Secretary

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Planning Commission Chair, Sharon Esplin, called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited, and Commissioner Davis gave an invocation.

Chairman Esplin called for a motion to approve the March 27, 2012, Planning Commission and Work Meeting Minutes. Commissioner Fitzpatrick moved to approve the minutes as written. Commissioner Hansen seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to elect a vice-chair to replace former Planning Commission Vice-Chair, Kristin Elinkowski.

Commissioner Fitzpatrick moved to elect Commissioner Gerald Gilbert as Planning Commission Vice-Chair. Commissioner Bodily seconded the motion, and the voting was unanimous. Commissioner Gilbert accepted the nomination.

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

**PUBLIC REVIEW:**

**1. AMERICA FIRST CREDIT UNION/PREMIER MOTOR SPORTS – CONDITIONAL USE REQUEST FOR AUTO SALES**

This 2.05 acre property is located at 840 East Highway 193 in an M-1 zoning district. The applicant is David Hales of Premier Motor Sports. The owner, America First Credit Union is represented by Dee Hansen.

Planner I, Andrew King, presented the request for conditional use for Premier Motor sports for an auto sales business on Highway 193 and Fairfield Road. The 2.05 acre property was recently rezoned to M-1 to accommodate this use.

Mr. King said the landscaping on the site has not been maintained, but the applicant, who has entered into a three-year lease agreement with America First Credit Union, has been working to bring it up to code as well as to enhance the landscaping. He said the existing monument sign will be rehabilitated and used.

Mr. King said Staff recommends the conditional use be approved subject to the applicant meeting all of Staff conditions and requirements as follows:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. All business related parking shall be off-street with a minimum of 6 striped customer/employee parking stalls.
3. A minimum of four additional trees (five total) shall be planted in the landscape strip along the east side of the property and an additional one tree (four total) shall be planted in the landscape strip along the north side of the property.
4. Bushes, shrubs and/or flowers shall be planted and maintained around the monument sign.
5. "For Sale" signs shall not be placed on or in vehicles displayed in the parking lot.
6. All existing fencing shall be repaired or replaced to a standard which meets minimum aesthetics.
7. This conditional use shall only be valid while this lot is zoned M-1.

There were no comments from the Commission or the audience.

The applicant, Dave Hales, said he had been doing business in Layton for six years with the same business model, dealing in \$20,000 to \$100,000 cars sold mainly by appointment only. He said he has done work to maintain the building as well as the landscaping.

Chairman Esplin asked Mr. Hales if he had seen the conditions, and Mr. Hales replied in the affirmative and said he would be able to maintain and abide by the conditions. Chairman Esplin asked Mr. Hales if he would be maintaining the current location of his business across Highway 193.

Mr. Hales said he has one more year on that lease and that he may just store vehicles there or lease it to someone else.

Chairman Esplin said all cars for sale were supposed to have been stored inside and not sold on site at the location of the current conditional use. He said the Commission had observed that cars had been stored outside. Mr. Hales responded that the cars had just been pulled out temporarily. Chairman Esplin said that if the requirement for storage of the cars on the current site is not brought into compliance, the conditional use will be reviewed for revocation.

With regard to the conditional use request before the Commission, Commissioner Fitzpatrick asked if the entrance/exit to Highway 193 would be blocked. Mr. Hale said he was flexible but would rather not have the Highway 193 exit be used. However, he said he would abide by the recommendation of the Planning Commission. Commissioner Davis asked if the City would let Mr. Hales know of their recommendation on the use of the entrances, and Mr. Wright responded that the City doesn't have a preference on the entrances.

Commissioner Gilbert explained that he would be voting against the conditional use request since the applicant has not been abiding by the conditions on his current conditional use, however, he wished Mr. Hales well on the new site.

Commissioner Hansen commended the applicant on the work he'd done on the property and asked for the landscaping to be a priority. Mr. Hales said he didn't want to do a lot of work until the conditional use was approved. He said he could get the trees in 5-7 business days and that he wants to make sure that America First and City recommendations are coordinated.

Chairman Esplin called for a motion on the item. Commissioner Davis moved that the conditional use request be granted subject to the applicant meeting all Staff conditions, which are hereby adopted as requirements. Commissioner Pales seconded the motion with Commissioners Pales, Hansen, Davis, Fitzpatrick and Bodily voting in favor of the motion, and Commissioner Gilbert voting against the motion. The motion passed by a margin of five in favor to one against.

## **2. LEGACY VILLAGE – FINAL PLAT APPROVAL**

This four lot subdivision is located at 1201 and 1205 North Fairfield Road in a B-RP (Business and Research Park) zoning district. The property owners are Legacy Healthcare of Layton, LLC (Lot 1), Legacy Village Healthcare of Layton, LLC (Lot 2) and Legacy Properties of Layton, LLC (Lots 3 & 4).

Kem Weaver recounted the approval history of the Legacy Village subdivision and gave an overview of the location of the four lots. He explained access easements including easements for future development in the hollow area. He described parking access as well. Mr. Weaver said Staff recommends the Planning Commission forward a positive recommendation to the City Council to grant final approval to Legacy Village.

There were no questions or comments from the Commission or the audience.

Chairman Esplin called for a motion on the item. Commissioner Hansen moved that the Planning Commission forward a positive recommendation to the City Council to approve the Legacy Village final plat subject to the applicant meeting all Staff requirements. Commissioner Pales seconded the motion, and the voting was unanimous.

## **3. SEASONS OF LAYTON – DEVELOPMENT PLAN REVIEW**

This review is for a 164-unit apartment development on 6.83 acres at 2100 North Hill Field Road in an R-H (High Density Residential) zoning district. The applicant is Mountain States Property Management represented by Darren Child.

Mr. Weaver said a rezone of the property to R-H had been approved by the City Council on August 18, 2011, requiring a General Plan amendment for this higher density zone. He said the density of the project is capped at the maximum density for the R-H zone based on the 6.83 acres at 164 units. He said a development agreement required the project go through the Design Review Committee (DRC) to get recommendations for the Planning Commission and the City Council.

Mr. Weaver presented an overview of the project's site plan and pointed out that the proposed building pads are 90 feet from the west property line, which creates a large buffer that includes 20 feet of landscaping.

He said surface parking surrounds the buildings with an option for a resident to choose one of the 29 garages. Fifty-percent of the parking will be covered parking which will be moved away from the buildings so that it doesn't obscure architectural features. Also required for this site is 30 percent open space or landscaping with site amenities. He pointed out the location of the pool area and tot lot and described the entrance to and location of the clubhouse. He also outlined the landscaping requirements.

Mr. Weaver explained that there is not room for sidewalk on the secondary access out to Antelope Drive. The developer will approach the LDS Church about a possible gate onto the LDS Church site to allow children to get to the school on Antelope Drive.

Mr. Weaver described the architecture of the site and the materials requirements. He said the DRC recommended windows to break up the side elevations. He said the DRC gave positive feedback regarding the architecture and open space. DRC recommendations are as follows:

- The majority of the parking canopies need to be relocated towards the periphery parking spaces instead of against the buildings. The canopies will hide the architecture of the buildings.
- Create more of a front door presence for the office / club house with walkways and landscaping.
- Building ends need to have more architectural features that create a better design for residents that may have a view of the building next to them. The building ends that can be seen from the street need to have additional architectural features.
- Place additional trees throughout the central common area and between buildings.

- Add to the club house landscaping to assist in identifying the club house area.
- Remove some grass areas and introduce some xeriscaping for shrub and plant beds.

Mr. Weaver said the apartment complex must participate in Layton City's crime free multi-housing program. He explained the program and also said a management company will upkeep the site.

Staff recommends the Planning Commission forward a positive recommendation to the Council to approve the plan design subject to DRC and Staff recommendations.

Commissioner Hansen said six 20-30 foot tall evergreen trees were referred to in the staff report but there are 10 trees on the drawing. Mr. Weaver said he would make the correction.

Commissioner Fitzpatrick expressed concerns about the parking spaces near commercial lots interfering with the access off North Hill Field Road. Mr. Weaver said there shouldn't be an issue and that there was plenty of room for Fire Department access as well. He said he would, however, look into the issue.

Commissioner Fitzpatrick asked the developer, Darren Child, if he had approached the LDS Church about the gate. He said he had not, but that he would talk to them soon. She expressed concerns about the children using the Antelope access. She said that people are currently parking in the access area. Mr. Weaver replied that the Fire Department will mark the curb red once the site is developed.

Commissioner Fitzpatrick also asked if Mr. Child had met with the Police Department about the crime free multi-housing program. She made sure he knew it would be a continual effort to maintain the crime free status. She asked if he had spoken to the school district about the impact and he replied in the affirmative.

A citizen, Michael Williams, 2146 N 550 West, asked if there would still be businesses on the two lots toward North Hill Field Road, and Mr. Weaver responded in the affirmative. He also asked about the buffer between the buildings and adjacent properties, and Mr. Weaver explained that the distance from the buildings to the property line would be 90 feet with trees along the property line. He said residents should only be able to see the top of the buildings. He explained the landscaping plan for the perimeter of the property.

Mr. Williams asked about the ground water situation, and Mr. Child explained about the environmental tests which had returned as having acceptable standards with the Utah Department of Environmental Quality. He said there would be another phase of testing and that based on the current situation, according to the amount of particulates in the water, the Department of Water Quality would not require any mitigation. Mr. Williams questioned the areas that were tested and encouraged the developer to readdress the testing to make sure their findings fit for the whole property. Mr. Child replied that in his discussion with Hill Air Force Base, the lines they have drawn for the plume are estimates. He said the goal is not to define where it is, but only if it is under the buildings where the residents will live. If it exists under the buildings, then they will determine what mitigation needs to be done to identify exactly where the plume exists.

Mr. Williams asked how the crime free multi-housing program works, and Commissioner Fitzpatrick explained the program. Mr. Weaver said the development must keep in compliance with the program because it is a requirement of the development agreement. Commissioner Fitzpatrick remarked that there is always a decrease in crime when a development goes on the crime free program. Mr. Child asked if the Staff will review plans to make sure the development meets the crime free requirements. Mr. Weaver said Staff will provide Mr. Child with the phone number of Officer Otteson from the Police Department who is responsible for the Crime Free program. The officer will also receive a site plan. Mr. Williams asked when construction would begin. Mr. Child said pending approval from the Planning Commission and City Council, construction would begin in May.

There were no further questions or comments from the Commissioner or the audience.

Chairman Esplin called for a motion on the item. Commissioner Davis commended Mr. Child on his development and moved that the Planning Commission forward a positive recommendation to the City Council to approve the development plan based on DRC and Staff recommendations and requirements. Commissioner Gilbert seconded the motion. Commissioners Pales, Hansen, Fitzpatrick, Davis, and Gilbert voted in favor of the motion, and Commissioner Bodily voted against the motion. The motion passed by a margin of five in favor to one against the motion.

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

**OTHER: LAYTON CITY – ORDINANCE AMENDMENT – TITLE 19 CHAPTER 6 AND TITLE 19 CHAPTER 14 ADDING REGULATIONS FOR RETAIL TOBACCO SPECIALITY BUSINESSES**

Mr. Wright explained that on November 17, 2011, the City passed a ordinance stating that for a six-month period of time that either through a business license, conditional use, or building permit or any other means, no new businesses would be approved for the sale of tobacco and tobacco related products. He said the root of the concern was the amount of smoke shops that were engaged in some sales of products that were alleged to have spice and other synthetic marijuana products. There have been instances where it was discovered that there were sales being made of spice and other cannabinoids. The City had attempted to do some additional regulations on that type of product, and the 2012 State Legislature was going to regulate these businesses, so the Council decided not to allow these businesses for six months, to expire on May 17, 2012. He said that as of today, there are two establishments in the City with business licenses that will be considered retail tobacco specialty businesses.

Mr. Wright reviewed House Bill 95 and what the affect of that law would be in Layton City. He said the presentation at this Planning Commission would only be a briefing with a hearing on April 24, 2012 and City Council Hearing on May 17, 2012.

Mr. Matson gave a presentation on House Bill 95, the location of the two licensed retail tobacco specialty businesses in Layton, and buffering requirements under House Bill 95. He said additional criteria still need to be added to the maps that will add child care, pre-school facilities, technical & trade schools, public arcades, and churches.

Mr. Matson said these buffering requirements do provide some reasonable but limited locations.

There was a discussion on licensing of the retail tobacco specialty businesses as it relates to those already in businesses on May 8, 2012. Commissioner Fitzpatrick asked about capping the businesses as compared to population. Assistant City Attorney Clint Drake said House Bill 95 is even more limiting.

Commissioner Fitzpatrick asked about those who could be vendors at an event versus a store front businesses. Mr. Wright responded that a temporary vendor of tobacco related products could be listed as a non-permitted temporary use.

There was a discussion as to the zones in which these businesses could be allowed. Mr. Matson said the City regulations can be more restrictive than the State regulations but not less restrictive. Mr. Wright said that the City has to be careful not to completely zone the businesses out of the City.

There was a discussion of the possibilities if the businesses were allowed in the C-H and CP-3 zones. Mr. Wright said that Staff is of the opinion that these businesses should not be allowed in the CP-3 zone and the focus should be on the C-H zone. Mr. Davis said the C-H zone would be very limited and restricted for these businesses.

Commissioner Fitzpatrick commented that if the City could be more restrictive, could the City possibly just not issue business licenses for these businesses. Commissioner Hansen asked what the risk would be to the City if

they did not allow these businesses. Mr. Drake responded that at some point someone will make a challenge to the law and they will challenge a City that is more restrictive than the State in its ordinance. Such a challenge could be time consuming and costly.

There was a discussion as to how the restrictions for these businesses relate to the sexually oriented business restrictions with regard to buffering.

Commissioner Hansen commented that since the Planning Commission is facing a timeline, what would prevent the City from taking a position that these businesses are not going to be allowed, realizing that in the future there may be a challenge to the ordinance. During that time frame, there could be discussions on what the City could do to create a very restricted use.

Mr. Wright said the City is taking a risk by not taking a very restrictive approach now because in the event of a challenge, the courts could make the decision, which could allow for fewer restrictions than the City would want to impose.

Mr. Hansen said he just wanted an opportunity for the Planning Commission to take more time. Mr. Wright responded that State law has made an opportunity for these businesses to be in the State. Mr. Hansen said the bill said that if the City allows these businesses, the State law indicates how it will be restricted, but the City can decide whether or not to allow the business. Commissioner Hansen said he would like these businesses severely restricted or if there is some merit, take a stance to not allow the businesses. He said he would like to see the full development of the map and where the businesses could potentially be located. Staff will develop the map.

There was a discussion regarding businesses that don't comply with the law, and Mr. Wright responded that the City expects every business that is licensed to follow the law and that it is important not to punish businesses that do follow the law.

Mr. Wright summarized that there seemed to be two opinions with one to get more discerning information and restrict the business by zoning and the second being to explore what may happen if the City denies a business especially one that has never engaged in illegal tobacco sales.

Mr. Wright said there were no pending business licenses but there have been conversations regarding where the businesses could be allowed.

Mr. Matson said that setting restrictive but reasonable regulations and adopting them on or prior to May 17, 2012, does not preclude the Planning Commission and City Council from reviewing retail specialty tobacco businesses again in the future.

Mr. Wright said his professional recommendation would be to not miss the May 17, 2012, deadline.

There were no further comments or questions.

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

The meeting adjourned at 8:35 p.m.

  
Julie Jewell, Planning Commission Secretary