

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES  
SEPTEMBER 25, 2012**

**MEMBERS PRESENT:** Brian Bodily, Jeremy Davis, Sharon Esplin, Dawn Fitzpatrick, Gerald Gilbert, Wynn Hansen, Tim Pales, Dave Weaver

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Staff Members: Bill Wright, Kem Weaver, Brandon Rypien, Clint Drake, Julie Jewell

**PUBLIC REVIEW:**

**1. JENSEN HOMESTEAD – PRELIMINARY APPROVAL**

These properties are located at approximately 2600 East Gentile Street in an R-1-10 (Single Family Residential) zoning district. The applicant is Jack Jensen and the property owners are Gwen N. Anderson and James Palkovich.

Planner II, Kem Weaver, presented the request for a two-lot subdivision, explaining that Lot 2 has an existing home. He said Lot 1 is a vacant lot that is for sale, but can't be sold until the subdivision process is completed. He said the major reason for the subdivision plat is to dedicate property to the City for the street widening of Gentile Street in that area.

Mr. Weaver said the preliminary plat shows the street being widened to a 66 foot right of way. He said sidewalk is not required on the two parcels because there is sidewalk on the north side of Gentile Street. One home on the north side has sidewalk and the other property is a proposed subdivision that will be constructed with sidewalk.

Mr. Weaver said a geotechnical report has been done for Lot 1 but not for Lot 2 since it has an existing home. He said there are no sensitive lands concerns, but the property is in a sensitive lands area, which will require a preliminary review by the City Council. He said the slope of the property is stable as long as it is vegetated and that a future home will act as a retaining wall.

Commissioner Weaver asked if the geotechnical report was done before or after the earthwork was done. Mr. Weaver said the report was done after the earthwork occurred and that the applicant will have to clear off the top of the property and bring in the appropriate fill required for structures. He said the rest of the site will be cleaned up and stated the applicant had already cleaned up dead trees. Too much clearing was done, so reseeded will be required.

Commissioner Gilbert asked where the encroaching on other property had occurred, and Mr. Weaver responded that the applicant had encroached toward the Holmes Creek Reservoir.

There was a discussion regarding the stability of Lot 1 and also regarding the liability of geotechnical firms. Mr. Weaver said that the geotechnical firms usually include a statement not accepting liability. However, Community & Economic Director, Bill Wright said there can always be professional negligence brought forward if a standard of care that is typical in their profession is not met. He explained that sometimes recommendations are made by the geotechnical engineer that could mitigate concerns, and sometimes they deny buildability. He said, in this instance, the report indicates that the portion closest to the street could be mitigated and the graded portion would require vegetation to mitigate the disturbed slope. The report included certain conditions to be followed.

Commissioner Fitzpatrick asked if Mr. Palkovich, owner of the home on Lot 2, knew that he would be giving up some of his property when he purchased the property. She asked if the widening of Gentile Street would make the steep driveway even steeper.

Mr. Weaver said the Engineering Department would be working with the owner on the grade as well as storm drain, curb, and gutter.

Commissioner Fitzpatrick asked if Mr. Palkovich's property had to be taken for the City Street since the property wasn't a subdivision when he bought it.

Mr. Wright said that the subdivision was required as part of a court order. He asked that the Commissioners focus on the planning issue of providing for a subdivision that will provide for the widening of the street and two buildable lots.

Commissioner Bodily asked if the court order was on the title report. Mr. Wright said the court order was more recent to legalize the separation of the properties.

Commissioner Fitzpatrick commented that Mr. Palkovich was not happy about dedicating part of his property for the roadway, and Mr. Weaver said there had been discussions with both Mr. Jensen and Mr. Palkovich about giving up property for the widening of Gentile Street.

There was a discussion about easement locations which were pointed out by Mr. Weaver.

Commissioner Fitzpatrick questioned the number of street lights required, and Mr. Wright responded that the number of lights required might have to do with the curve of the road. Staff will speak with Debi Richards from the Engineering Department who does the analysis of the light coverage.

Commissioner Fitzpatrick asked about the planned UDOT (Utah Department of Transportation) frontage road and the amount of traffic and danger to people on the curve of Gentile Street.

There was a discussion about the type of driveway for the future building lot which Mr. Weaver said would be dealt with at the building permit stage.

There was a discussion about storm water running off Gentile which Mr. Weaver said would be handled by the required storm drain line and curb and gutter. He said the developer will have to bond for and have up to a year to install the improvements.

Commissioner Gilbert asked about the approved subdivision across Gentile Street from the subject property, and Mr. Wright said improvements are required for this subdivision. He said final approval had been extended due to market conditions for this subdivision.

Commissioner Hansen asked how the City would make sure condition # 15 from the Engineering Staff report is met stating that a qualified geotechnical firm would provide an adequate program of testing and observation during construction to verify compliance with recommendations in the report. Mr. Weaver said the topic would be addressed when there is an application for a building permit and typically a note is put on the plat. Mr. Wright said a notice can be recorded on the property. He said the file and plat are always reviewed during the building permit process.

Commissioner Weaver asked if a development agreement would be applicable, but Mr. Wright said it wouldn't be necessary because nothing is being required that is not normally required.

Mr. Weaver said the contractor who will build the home will need a copy of the report and will have to sign an indemnification agreement stating they have read and understand the report.

Mr. Weaver said if the driveway exceeds a slope of 10 percent, the Fire and Building Departments can approve up to a maximum slope of 12 percent with the addition of landings or stairs to the side of the driveway.

Commissioner Gilbert asked about the required meetings for this subdivision. Mr. Wright said the plans had been "Approved as Corrected" for preliminary with items to be corrected with the final review. The final plat will also be reviewed by the Planning Commission and also the City Council. This plat has to be "Approved" or "Approved with Corrections" (minor corrections). The mylar won't be signed and recorded until the final details are resolved.

The work meeting adjourned at 7:01 p.m.

## **2. GUS PETERSON – PARCEL SPLIT – FINAL APPROVAL**

This 3.794 acre property is located at 2445 East Oak Hills Drive in an R-1-10 (Single Family Residential) zoning district. The property owner and applicant, Gus Petersen, is proposing to create two parcels with Parcel 1 being 1.699 acres and Parcel 2 being 2.095 acres.

This item was not reviewed due to lack of time in the work meeting.

## **3. WEAVER PARK PHASE II – FINAL APPROVAL**

This 7.939 acre property is located at approximately 850 West Weaver Lane in an R-1-8 (Single Family Residential) zoning district. The applicant, Ed Green, is proposing 26 single family residential lots.

This item was not reviewed due to lack of time in the work meeting.

  
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Julie Jewell, Planning Commission Secretary

**In the event of an absence of a full quorum, agenda items will be continued to the next regularly scheduled meeting.**

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**MEMBERS ABSENT:**

**OTHERS PRESENT:** Staff Members: Bill Wright, Kem Weaver, Brandon Rypien, Clint Drake, Julie Jewell

Planning Commissioner Chair, Sharon Esplin, called the meeting to order 7:05 p.m. The Pledge of Allegiance was recited, and an invocation was given by Commissioner Fitzpatrick.

Chairman Esplin called for a motion to approve the August 28, 2012 and September 11, 2012, Planning Commission and Work Meeting Minutes. Commissioner Bodily requested a more detailed transcript of the discussion on multifamily housing on Page 4 of the August 28, 2012, minutes. Commissioner Bodily moved that the August 28, 2012 minutes be tabled to the following Planning Commission Meeting with a more detailed transcript to be provided and that the September 11, 2012, minutes be approved as written. Commissioner Hansen seconded the motion, and the voting was unanimous.

Commissioner Bodily commented for the record that there has been no representation from the City Council to the Planning Commission for the last couple of meetings. Commissioner Fitzpatrick said that the City Council representative to the Planning Commission, Jory Francis, has attended a lot of cottage meetings regarding the West Layton Village Center. Commissioner Bodily agreed it was a good reason for his non-attendance at Planning Commission Meeting.

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

**PUBLIC REVIEW:**

**1. JENSEN HOMESTEAD – PRELIMINARY APPROVAL**

These properties are located at approximately 2600 East Gentile Street in an R-1-10 (Single Family Residential) zoning district. The applicant is Jack Jensen and the property owners are Gwen N. Anderson and James Palkovich.

Planner II, Kem Weaver, presented the request for preliminary approval for a two-lot single family subdivision on 1.5 acres of property stating that there was an existing home on Parcel 2. He said Lot 1 is a vacant lot that is for sale, but can't be sold until the subdivision process is completed. He said the major reason for the subdivision plat is to dedicate property to the City for the street widening of Gentile Street to a 66 foot right-of-way in that area. He said both lots meet the size and frontage requirements for the R-1-10 zone.

Mr. Weaver said a geotechnical report has been done for Lot 1 but not for Lot 2 since it has an existing home. He said the report states that Lot 1 is buildable with retaining walls. The house will have to be structurally engineered to stabilize the hillside and a geotechnical firm will have to test the excavation once the home is ready to be built. He said there will be a note on the plat regarding geotechnical requirements. The requirement will also be on the permit and a future home builder will need to sign an indemnification agreement that he is aware of the requirement. Since the property is in a sensitive lands area, the request will also be reviewed by the City Council for preliminary approval.

Commissioner Gilbert asked about the Holmes Creek property boundary which Mr. Weaver pointed out. He said he has watched the property for years ever since piles of dirt began showing up. He said he didn't feel good about supporting the parcel split when it comes to a vote.

Commissioner Weaver asked how long the fill had been in place. Jack Jensen, the developer and former owner, said when he purchased the home in 2009, most of the fill was already there. He said he brought the grade up 18-22 inches towards Gentile Street. He did some backfilling about 118 feet back from the street to retain the slope because of runoff going toward the Holmes Creek reservoir. He explained the geotechnical report recommendations for foundation stability. He said it was found that runoff was coming through a leak in the irrigation water pipe. He said he'd lived there 20 years and hadn't seen any movement on the land.

Commissioner Weaver asked if there was a requirement that a land has to stand barren for a period of time prior to building. Mr. Weaver said that would only be in the case of mass grading unless required by a geo technical report. The property would have to meet the standard for structures.

There were no further questions from the Commission.

Members of the audience, Preston Davis, 2088 Ridge Road, and Brian Grow, 2023 Ridge Road, expressed concerns about the safety of Gentile Street. Mr. Davis asked for a copy of the plat map and geotechnical survey and was directed by Clint Drake, Assistant City Attorney, to submit a written request to the Planning Department to request those documents. He also asked about an adjacent parcel, which Mr. Weaver said was owned by Mr. Jensen but said there were no development plans on the parcel.

There was a discussion about the widening of Gentile Street with regard to this property and to future development. Chairman Esplin said that the property will remain as it is until it is developed. The Planning Commission will not get involved until the property is proposed for development. The property owner will determine when the property is to be developed.

There was a discussion regarding the future frontage road for UDOT and streets that would be closed with the future improvements to Highway 89. Commissioner Fitzpatrick recommended that Mr. Davis contact UDOT regarding future interchanges in Layton on Highway 89.

There was a discussion regarding the future widening of Gentile Street other than in front of the proposed development. Mr. Weaver said that widening usually occurs with development. While it is master planned to widen the length of Gentile Street, it is not currently in the City budget to do so.

There was also a discussion of improvements on a section of Gentile Street by Valley View Golf Course. Mr. Wright said there would clearly be no development on the east side of Gentile Street but possibly on the west side but not where the golf course is located. He said for improvements to be made in areas where there is not likely to be development, there would have to be a capital improvements project.

Jim Palkovich, 2692 East Gentile Street, which is Parcel 2 of the proposed Jensen Homestead, said he was concerned about safety on the road and also the trees that block the view. He asked Mr. Weaver how much he'd lose on the front of his property. He suggested Mr. Palkovich talk with Mr. Jensen's engineer, Andy Hubbard, to determine the exact amount. He said he was honored to be part of the process and was happy to be in Layton, which he thinks is a great city.

Mr. Weaver will talk to Holmes Creek about the issue with the trees.

Commissioner Davis said he was struggling to see why Mr. Palkovich on Parcel 2 is going along with what is being proposed because it seemed he wasn't getting anything from giving up part of his property for the road widening so that Parcel 1 can be developed.

Mr. Palkovich said he had asked himself that question but wondered how much input he had. He said the property was subdivided before he bought it.

Commissioner Fitzpatrick asked if he was aware when he bought the property that he would lose property to the widening of Gentile for curb and gutter. Mr. Palkovich replied that he really didn't want to lose his water feature that was in that area, but he had heard there would be curb and gutter.

Mr. Drake said that the reason for the subdivision plat is to clear up the issue of the property being illegally divided by Mr. Jensen. Mr. Jensen was being prosecuted for the illegal division of the property and has been ordered to come into compliance with all applicable City ordinances. He said the issue of a portion of Mr. Palkovich's property being required to be dedicated to the City for the widening of Gentle Street with this subdivision plat is an issue between Mr. Jensen and Mr. Palkovich.

Commissioner Fitzpatrick asked what would happen if either the Planning Commission or the City Council denies the request for the subdivision plat. Mr. Drake said Mr. Jensen is still required to follow the process of dividing the property legally. He said the court didn't and couldn't order a certain result from the Planning Commission and City Council. Whatever is decided by the Planning Commission and City Council is out of Mr. Jensen's hands.

Commissioner Gilbert asked if there was any obligation for the property on the north to extend the sidewalk east of Mr. Jensen's property, and Mr. Wright said there was no obligation on the part of that property owner to extend the sidewalk. He said the objective was to bring the drivable surface of Gentile Street to current standards. Requiring a sidewalk on the south side of the street would make this even more difficult.

Commissioner Gilbert pointed out the area of Mr. Palkovich's property that would be dedicated for the road widening. Mr. Palkovich said he had no idea he would lose his water feature.

There was a discussion regarding Parcel 1, which is owned by Gwen Anderson who is trying to sell the property. Mr. Drake said that there was a trial on the illegal division of this property and Ms. Anderson gave testimony at that time. There was also a discussion on the history of Mr. Jensen's acquisition of the property and subsequent parcel split and sales.

Mr. Wright said the public will benefit by the public right of way being improved. By approving the subdivision to have Lots 1 and 2, the property is being brought into compliance with the alignment that exists today that was created by recording a document at the County without going through the subdivision process. The process will benefit the lot with the home, benefit the public with the road improvement, and benefit the vacant lot which will be able to have a home built on it.

There was a discussion as to whether Mr. Palkovich's home would meet setbacks and the amount of land and landscaping investment he will lose.

Mr. Wright said, to follow up with Mr. Drake's comments, that any investment issues would be between Mr. Jensen and the property owner. If a subdivision needs to be done, then there needs to be an appropriate road like in all other cases.

Mr. Drake said that were it not for Mr. Jensen's action, the subdivision process would have been done up front. As it stands, Ms. Anderson would not be able to sell her lot because it is illegally divided. He said we need to make it conform to City ordinance without taking into account that Mr. Jensen took an action without the knowledge of the City. It benefits the property owners by making legal lots.

Commissioner Fitzpatrick asked if the lot was legal when Mr. Palkovich bought the lot. Mr. Wright said it was not legal when purchased. Commissioner Pales asked if the property was in the City or County when purchase by Mr. Palkovich, and Mr. Wright replied that it was in Layton City.

There was further discussion on traffic on Gentile Street once the Highway 89 improvement takes place.

Mr. Drake suggested that those who have concerns about Gentile Street safety and traffic address their issues with the City Council.

Commissioner Hansen asked when the curb and gutter will need to be installed along Parcels 1 and 2. Mr. Weaver said a bond would be put in place with the recording of the plat.

Chairman Esplin said they had listened to many comments, but their responsibility as a Planning Commission, as Mr. Drake had explained, was to look at the issue as a subdivision that the Planning Commission is reviewing for approval, and even though it is being done backwards, the Commission should review it as a subdivision in the beginning. He said that is the job of the Planning Commission. He said that while the Commission felt sorry for the way things had gone and that people are going to lose property, the Commission still has the responsibility to do the job they are supposed to do and have the subdivision process be done the way it should be. He then called for a motion on the item.

Commissioner Pales moved that the Planning Commission forward a positive recommendation to the City Council to grant preliminary approval to the Jensen Homestead Subdivision subject to the applicant meeting all Staff requirements. Commissioner Hansen seconded the motion. The motion passed by a margin of 4 votes in favor to 3 opposed with Commissioners Pales, Hansen, Weaver and Davis voting in favor, and Commissioners Gilbert, Bodily and Fitzpatrick opposed.

## **2. GUS PETERSON – PARCEL SPLIT – FINAL APPROVAL**

This 3.794 acre property is located at 2445 East Oak Hills Drive in an R-1-10 (Single Family Residential) zoning district. The property owner and applicant, Gus Petersen, is proposing to create two parcels with Parcel 1 being 1.699 acres and Parcel 2 being 2.095 acres.

Planner I, Brandon Rypien, said the applicant, Gus Peterson, owns 3.8 acres of property on the north side of Oak Hills Drive at approximately 2400 east. The property is occupied by one single-family home and a barn. The parcel split will create two parcels; the north parcel will have the existing single-family home and the south parcel will have the barn. There are two homes that use the private drive along the eastern edge of the property that connects into Oak Hills Drive. Both single-family homes will continue to use the private drive for access and the parcel to the south will connect to the stub street at 350 North through the Chadwick Farms Subdivision. Mr. Rypien said standard public utility easements shall be placed around the perimeter of each parcel. A fifteen (15) foot utility easement shall also be placed adjacent to the ten (10) foot standard public utility easement. The fifteen foot easement shall be dedicated to Layton City for the potential future development of the property north of Parcel 1. It shall run along the west property line of both Parcel 1 and Parcel 2 for potential future public utilities from the abutting north property. If the property north of Parcel 1 is developed, that property owner will be required to purchase the easement from Layton City and the payment shall be provided to the owner of Parcel 1 and Parcel 2.

Mr. Rypien said there was a change from the Staff report that the Planning Commission previously received. The change is that a cash bond will be required for the installation of improvements at the development of Parcel 2 rather than at the recording of the parcel split, which was initially required. He noted that a similar change had been made on the Engineering Division memorandum for this parcel split.

Mr. Rypien said a site plan will be required for review and approval prior to the issuance of a building permit for Lot 2. He said a UDOT (Utah Department of Transportation) right of way and encroachment will be required with the issuance of a permit on Parcel 2.

Commissioner Bodily asked who would be responsible for the improvements along Oak Hills Drive. Mr. Wright explained that the responsibility for the improvement elements on the Oak Hills Drive frontage for Lot 2 had been negotiated by a City engineer and City attorney who determined it was reasonable for the City to be responsible for the drivable surface and the property owner to be responsible for curb, gutter and sidewalk to serve pedestrians. Gary Crane, City Attorney, reviewed case law with regard to exactions to make the determination.

Commissioner Bodily asked why the City was not paying a share of the roadway in front of the Jensen Homestead. Mr. Wright replied that the lots on the Jensen Homestead have frontage and access on the road to be improved (Gentile Street). The subject lots will not have access on Oak Hill Drive.

Mr. Rypien said the cash bond will be put in place for the curb, gutter and sidewalk because the City might not be ready to improve the road at the time of development of Lot 2.

Commissioner Bodily noted that the estimate dated July 10, 2012, indicated that the amounts were good for six months. Mr. Wright pointed out that a note on the estimate states that the six months begins on September 19, 2012 which is when all of the negotiations came to a conclusion.

Commissioner Gilbert noted that Parcel 2 was significantly larger than surrounding lots and asked if Lot 2 was subdivided to more lots and 350 North was no longer a stub street and extended into Lot 2, if the City could get some money back for the Oak Hills Drive improvements. Mr. Wright responded that the lots still would not have access on to Oak Hills Drive. Commissioner Gilbert asked if a cul-de-sac for a fire turnaround would be required. Mr. Wright said it's not the length that requires a cul-de-sac. He said if the applicant changes their mind and comes back in a couple of years, then there would have to be a subdivision amendment. The current subdividing sets the vesting for the property for two lots. He said the plan is for one home.

The property owner, Gus Peterson, said he wanted to construct a new home for himself.

Mr. Wright said one important issue is preserving the opportunity for property to the north of Parcel 1 to be developed. Without the easement, the development of this property to the north would be significantly restricted.

Chairman Esplin called for a motion on the item. Commissioner Bodily moved that the Planning Commission forward a positive recommendation to the City Council to grant the parcel split subject to the applicant meeting all Staff requirements. Commissioner Davis seconded the motion, and the voting was unanimous.

### **3. WEAVER PARK PHASE II – FINAL APPROVAL**

This 7.939 acre property is located at approximately 850 West Weaver Lane in an R-1-8 (Single Family Residential) zoning district. The applicant, Ed Green, is proposing 26 single family residential lots.

Planner II, Kem Weaver, said the Weaver Park Subdivision was granted preliminary approval by the Planning Commission on June 14, 2011. The applicant is building homes in Weaver Park Phase I and would like to move forward with the second and final phase with 26 single family lots on 7.939 acres of vacant farmland.

Mr. Weaver said that at 2.82 units per acre, the density is well below the R-1-8 density of 4 units per acre. He explained the road connections and described the Chevron pipeline easement and said specific requirements are that trees will not be allowed to be planted within the Chevron easement area and fencing cannot run laterally within the right of way. Fencing can be installed across the easement right of way as long as provisions are made to resolve future access problems. Mr. Weaver said these requirements will be noted on the final plat for these lots and contained in the covenants of the subdivision.

Mr. Weaver said Staff recommends the Planning Commission forward a positive recommendation to the City Council to grant final approval to the Weaver Park Subdivision Phase II subject to the applicant meeting all Staff requirements.

Commissioner Weaver asked if Phase II would have a detention basin. Mr. Weaver said a detention basin is not required because the detention basin in Phase I was built for the whole subdivision.

Commissioner Weaver asked if the phase would have secondary water, and Mr. Weaver said the lines are being dry fitted for when secondary water becomes available.

Commissioner Fitzpatrick remarked that this entire phase only has 4 street lights required while the Jensen Homestead has 3 lights on just two lots.

Mr. Weaver said he would discuss the matter with the Engineering Division. He said that for subdivisions, lights are not required for certain lengths of distances but at intersections. Most of the subdivision streets are linear without the curve that Gentile Street has by the Jensen Homestead.

Chairman Esplin called for a motion on the item. Commissioner Davis moved that the Planning Commission forward a positive recommendation to the City Council to approve the final plat of Weave Park Phase II. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to close the Public Review and adjourn the meeting. Commissioner Bodily moved to close the Public Review and adjourn the meeting. Commissioner Pales seconded the motion, and the voting was unanimous. The meeting adjourned at 8:40 p.m.

  
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Julie Jewell, Planning Commission Secretary

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