

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES  
JULY 9, 2013**

**MEMBERS PRESENT:** Brian Bodily, Dawn Fitzpatrick, Wynn Hansen, Chad Harward, Gerald Gilbert, Robert Van Drunen, Dave Weaver

**MEMBERS ABSENT:** Tim Pales

**OTHERS PRESENT:** Staff Members: Bill Wright, Peter Matson, Kem Weaver, Andrew King, Clint Drake, Julie Jewell, and Councilmembers Jory Francis and Barry Flitton

City Planner, Peter Matson, introduced a new Planning Commissioner, Robert Van Drunen.

Commissioner Weaver asked about the Crimson Corners Subdivision Phases 3 & 4 and if they would have dry lines for secondary water. He mentioned the developer's concerns with installing these lines since he installed lines for Wild Horse Springs subdivision and there has not been any secondary water service in that area.

Mr. Matson said the lines had initially been installed based on a contract with Davis Weber Canal Company, but then Davis Weber found they would be unable to service the area. He said dry lines are now installed if secondary water is imminent or available.

Commissioner Fitzpatrick said she had talked to Scott Green from Kays Creek Irrigation who said he is applying for grants to move secondary water further west within the next two years.

There was a continued discussion on dry lines, and Mr. Matson said he would have someone from the Layton City Engineering Division attend a Planning Commission Work Meeting and explain the status of the secondary water situation.

Commissioner Weaver said the issue was important to him because of the difficulties he had had with low water pressure.

**PUBLIC HEARING:**

**1. REZONE REQUEST – GREEN & GREEN LC – R-S (Residential Suburban) to PB (Professional Office)**

This .79 acre property is located at approximately 836 South Angel Street in an R-S zoning district. The applicant and owner is Green & Green LC represented by Ed Green.

Commissioner Fitzpatrick said she would recuse herself from the discussion and voting on the item because the applicant, Ed Green, will be building her a home.

Mr. Matson presented the request to rezone .79 acres from R-S to PB at 836 South Angel Street with a draft development agreement. He presented a sketch of Phase 8 of the Roberts Farms Subdivision, which is under construction. He said if the rezone is approved, Lots 815 and 816 will be combined into one parcel for a small neighborhood scale office building for a use such as a medical or dental office.

Mr. Matson reviewed Section 4 of the development agreement entitled "Owner's Undertakings." He said Staff had reviewed several areas with PB zoning along arterial streets in Layton City. Some uses allowed in the PB zone with higher impact had been removed from the list of permitted uses for this property as part of the development agreement.

Mr. Matson said the site plan, building architecture and landscape plan would be reviewed by the Design Review Committee (DRC). He said the rezone of this property to PB provides an opportunity to have a building with nice architecture and a landscape feature on the corner of Angel Street and Layton Parkway. He said the access will be on the south portion of the Angel Street frontage to get the required distance from the intersection. Commissioner Van Drunen confirmed that the 200 foot required distance from the intersection was from center line to center line. Mr. Matson replied in the affirmative and said there would be no access off Layton Parkway.

Mr. Matson said Staff recommends the rezone as a nice compliment to the area that would bring services to a growing population.

Commissioner Bodily asked if there were any neighborhood comments. Community & Economic Development Director, Bill Wright, said there was one e-mail in opposition expressing a concern that the entire corner would become commercial. He said the properties on the east side of the intersection are in the County and the corner lot on the north side will be purchased from Green and Green for a Davis School District Home.

Commissioner Gilbert asked how walls will be treated at the intersection. Mr. Wright said that if the zoning is approved, the wall will not continue across the face of an office use and will stop at Lot 818.

## **2. REZONE REQUEST – ROGER B. RIGBY – A (Agriculture) TO C-H (Highway Regional Commercial).**

This 1.091 acre property is located at 770 South Main Street in an A (Agriculture) zoning district. The applicant and property owner is Roger B. Rigby.

Mr. Matson presented the request for rezone to C-H and said when the property was annexed, there was no zoning request; therefore, the zone became agricultural. He said zoning on the west side of Main Street where the subject property is located is predominantly C-H to the Kaysville City border. On the east side, there are properties zoned R-M1.

Mr. Matson said if the zoning is approved, then the lot will be legal, non-conforming as to the current residential use. The use of the property for farm animals can continue as long as the use is not interrupted for more than a year.

Mr. Matson said the applicant has no plans for immediate development, however, if this property develops before the adjacent property, and then there may be different setbacks to buffer from the other use.

Commissioner Gilbert asked if adjacent agriculture property would become landlocked. Mr. Wright said the property left in the agriculture zone does have frontage on Main Street with it being the property owner's decision whether or not to keep the home on the property.

## **3. REZONE REQUEST – DARRELL FARR – A (Agriculture) to R-S (Residential Suburban)**

This 2.19 acre property is located at approximately 850 North 3200 West in an A (Agriculture) zoning district. The applicants and owners are Darrell and Lauri Farr, represented by Scott Nelson.

Planner II, Kem Weaver presented the request for rezoning from A to R-S for 2.19 acres of vacant land. He said the applicant is planning to subdivide the property into five residential lots all fronting on to 3200 West, which is a collector street and not an arterial street. He said each lot would have 19,000 square feet with a 106 foot frontage, which easily meets the R-S zoning requirements for acreage and frontage. The density would be 2.2 units per acre, which meets the General Plan guidelines for this area of the City..

Commissioner Fitzpatrick asked that the access to the proposed homes not be aligned with the proposed road south of the medical building on the southwest corner of Gordon Avenue and 3200 West.

Mr. Weaver said a circular drive could be recommended during the building permit process.

Commissioner Gilbert asked if 3200 West projected to become an arterial street. Mr. Weaver said 3200 West would remain a collector street and 2700 West and possibly 2200 West would be the arterial streets.

Commissioner Gilbert asked if in future planning, an attempt could be made not to front homes onto an arterial street. Mr. Wright replied that if there is enough property depth, then the homes would not need to front onto 2200 West.

Commissioner Hansen asked if there were issues with two of the lots backing up to the substation. Mr. Weaver said that when the substation was approved, the City required that residential development next to the substation be kept in mind. It is surrounded by a masonry wall with a separation of 50 feet from the back of the lots to the substation.

#### **PUBLIC REVIEW:**

#### **4. CONDITIONAL USE – MIDNIGHT EURO AUTOMOTIVE GROUP LLC – AUTO SALES & REPAIR**

This property is located at 1590 North Main Street in a C-H (Highway Regional Commercial) zoning district. The property owner is Ariana Thorsness represented by the applicant, Nicholas Stone.

Planner I, Andrew King, presented the request for a conditional use for auto sales and repair. He reminded the Commission of a recent conditional use on this property for Chanshare Farms. He said the conditions for the auto sales and repair business will be similar but outdoor storage will not be addressed because the current applicant is not using outdoor storage. He said the applicant will use the space behind the gate for the repair vehicles and possibly some vehicles for sale.

Mr. King showed where the vehicles for sale would be parked and said the south portion of the lot would be customer parking. Based on the change of use, he said they were short two parking stalls, but those stalls can be accommodated in the rear where the owner and employees will park.

Mr. King said Staff recommends approval of the conditional use for auto sales and auto repair. He said the applicant asked him to discuss Condition #6 stating that equipment, garbage and debris be removed from the site. The applicant may use two of the bins, however, the person who owns the lot is not currently in the area and won't be back for four to six months at which time the debris issue could be resolved. He said this request could be accommodated at the Planning Commission's discretion.

Mr. King said the adjacent apartments are screen from the subject property by a vinyl fence.

Commissioner Van Drunen asked about the two bins encroaching into the buffer areas. Commissioner Gilbert said that with the last conditional use, that area was to be cleared.

Mr. King said the bins have to be removed for the buffer to be installed. He said the applicant has a year to meet the conditions or lose the conditional use approval.

Commissioner Bodily asked if the original conditional use could be removed.

There was a discussion regarding who would complete Conditions 2-7.

Commissioner Gilbert said it was his understanding that the owner didn't want to pay to meet any of the conditions and questioned waiting a year for the conditions to be completed. Mr. King said if the conditions had not been adhered to, then the conditional use permit would expire.

Mr. Wright said the Commission could put a timetable on the completion of the conditions.

Commissioner Gilbert remarked that the applicant had already moved into the building. He also said there was no language stating where the trees should be planted.

Mr. King said the requirement was for four trees for the 200 lineal feet of frontage. With regard to the back portion of the property, Mr. King said he would add specific language that the trees must be spaced out. He said the applicant will have to plant two pine trees. He said the applicant could plant them now or wait until the bins are removed, but he has a year to complete this condition. He said cost is a restriction for the applicant, but the Planning Commission can put a deadline on when the condition should be met

Commissioner Hansen said the site had been deteriorating, particularly the landscaping, for a long time. The conditional use is a chance to enhance the site and improve the look of the City, but he felt that there is nothing done to ensure the enhancements are made. He felt the conditions should be met before the applicant occupies the site.

Commissioner Bodily asked if the applicant had a business license for that location, and Mr. King said it was on his desk waiting for the conditional use approval.

There was a discussion regarding the items left on the site that needed to be cleaned up. Mr. Wright said the issue of the clean up would be between the land owner and the tenant.

Commissioner Gilbert asked what the City could do to get the owner to clean up the site so a prospective tenant would not have to do the clean up. Mr. Wright said the site is a non-conforming site and the owner has rights not to bring it into conformity. The opportunity to clean it up comes with a new tenant and hopefully the tenant can negotiate with the landlord.

There was continued discussion of how to enforce compliance. Commissioner Fitzpatrick suggested giving the applicant 90 days (October 15, 2013) to complete the work.

Mr. King reminded the Commission that there were a lot of permitted uses that could go into this building. However, with the conditional use, the City can require the site be brought into compliance. A permitted use wouldn't need to bring the site into compliance.

Assistant City Attorney, Clint Drake, said a 90-day limit for completing conditions could be imposed.

Commissioner Weaver said it may be difficult for the applicant to cut out the concrete and expand the streetscape right now, but the City has a better opportunity for the streetscape to eventually be enhanced with the conditional use on the property.

## 5. PINEHURST PLACE PHASES 2A & 2B – AMENDED FINAL APPROVAL

This 17.06 acre property is located at approximately 425 North 1625 West in an R-S (Residential Suburban) zoning district. The property owner, Symphony Homes, is proposing 41 single family residential lots. Symphony Homes is represented by John Wheatley.

Planner II, Kem Weaver, explained that the proposal is two split the originally recorded plat of Phase 2 of Pinehurst Place Subdivision into two phases. An additional three lots will be added with the density only increasing by .18 units per acre. This increase is justified by three lots on the north end of 475 North being within 300 feet of an arterial street.

Mr. Weaver explained how the plats had been reviewed.

Commissioner Fitzpatrick asked if a temporary turnaround would be needed between Phases 2A and Phase 2B. Mr. Weaver said the developer will create a temporary turnaround of road base on his own property.

Commissioner Hansen asked with the additional three lots if the whole project still met the R-S lot size and density. Mr. Weaver replied in the affirmative.

Commissioner Van Drunen asked if future development would connect 475 North to the east, and Mr. Weaver said the current property owner has no plans to develop that property. Mr. Wright said the City has an obligation to provide connectivity when development occurs.

Commissioner Bodily asked about Lot 2B with a restricted label. Mr. Weaver said that only the open space is restricted.

**OTHER:** Mr. Matson reminded the Commission that there had to be a five member vote to elect the chair and co-chair, which election would take place at the regular Planning Commission Meeting to follow the work meeting.

  
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Julie Jewell, Planning Commission Secretary

**LAYTON CITY PLANNING COMMISSION MEETING MINUTES  
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**MEMBERS PRESENT:** Brian Bodily, Dawn Fitzpatrick, Chad Harward, Wynn Hansen, Gerald Gilbert, Dave Weaver

**MEMBERS ABSENT:** Tim Pales

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

Planning Commission Vice-Chair, Gerald Gilbert, called the meeting to order at 7:12 p.m. The Pledge of Allegiance was recited, and an invocation was given by Commissioner Hansen.

The Oath of Office was given by Planning Commission Secretary, Julie Jewell, to a newly appointed Commissioner, Robert Van Drunen.

Vice-Chair Gerald Gilbert called for a motion to elect a new Planning Commission Chair and a Vice-Chair. Commissioner Bodily nominated Commissioner Gerald Gilbert to be the Planning Commission Chair. Commissioner Hansen seconded the motion, and the voting was unanimous.

Commissioner Fitzpatrick nominated Commissioner Dave Weaver to be the Planning Commissioner Vice-Chair. Commissioner Harward seconded the motion, and the voting was unanimous. Both Commissioners Gilbert and Weaver accepted the nominations.

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

**PUBLIC HEARING:**

**1. REZONE REQUEST – GREEN & GREEN LC – R-S (Residential Suburban) to PB (Professional Office)**

This .79 acre property is located at approximately 836 South Angel Street in an R-S zoning district. The applicant and owner is Green & Green LC represented by Ed Green.

Commissioner Fitzpatrick asked to be recused from the discussion on the Green and Green LC rezone request due to a potential business arrangement with the applicant, Ed Green. She left the room at 7:15 p.m.

City Planner, Peter Matson, presented the request to rezone .79 acres on the southwest corner of Angel Street and Layton Parkway from R-S to PB with a development agreement. He said the proposal was to rezone lots 815 and 816 of the Roberts Farms Phase 8 Subdivision to PB for a small professional office building that would meet the requirements of the professional office zoning district. The primary frontage would be on Angel Street.

Mr. Matson reviewed the zoning ordinance intent for the PB zoning district as being for offices and occasionally institutional uses where the intensity of the use, the hours of operation and numbers of

customers are meant to be less intense than that of a commercial zone. He said the PB zone should be located along arterial and collector streets adjoining residential neighborhoods so that the businesses that are developed in these zones can be patronized by the citizens of the surrounding neighborhoods. Land uses typically found in the PB zones are medical and dental offices and small business offices such as real estate or appraisal offices. He said to guard against uses that may not be appropriate at this location, a development agreement has been drafted to eliminate these uses.

He said the development agreement specifies that the owner and subsequent owners must provide the City's Development Review Committee (DRC) with site plan, landscape plan and architectural plans for review. The DRC will make recommendations to the Staff as to the design elements to be included in the final site plan to ensure that there is one more level of professional expertise in looking at the design proposed on the site. He said attention will be given to designing positive architecture and landscape features on the predominant intersection of Angel Street and Layton Parkway where these features could provide a sense of community for that area and make a strong visual and community statement.

He said the development agreement specifies that vehicular access to the property be limited to the south portion of the frontage on Angel Street to maintain the required distance from the intersection and meet City design standards for ingress and egress to a property such as this.

In review of the City's Land Use Population Element of the General Plan guidelines as well as the West Layton Plan, professional businesses are recommended to be located on collector and arterial street at the edge of single family neighborhoods. He noted that Layton Parkway is an arterial street in the City's Master Street Plan and Angel Street is a collector street in the Master Street Plan. The General Plan specifies that the development should blend in with the neighborhood in terms of architecture, scale, height and signage. These requirements are addressed in the proposed development agreement.

Mr. Matson said Staff is recommended that the Planning Commissioner forward a positive recommendation to the City Council to approve Resolution 13-35 approving the development agreement and Ordinance 13-18 approving the rezone from R-S to PB based on consistency with General Plan recommendations for professional office spaces at the intersection of arterial and collector streets.

Mr. Matson presented a slide overview of the property and an example of an office elevation and site plan for the property of a single story office building.

Commissioner Hansen asked if there should be one or two motions. Mr. Matson said there should be two motions, one for the development agreement and one for the rezone. There were no other questions from the Commission.

Chairman Gilbert instructed the audience on the procedure for comments and then asked for citizen comments.

Mr. Matson noted that the applicant and property owner, Ed Green, was present.

Shirley Dixon, 558 South 1500 West, PTA president at Heritage Elementary near the property, expressed concerns about children walking along Angel Street and down Weaver Lane to get to school and additional traffic from the business. She asked for a neighborhood meeting to discuss the rezone issue and expressed concerns that other corners of Layton Parkway and Angel Street may be rezoned for professional business.

Commissioner Bodily asked if the General Plan had called for the area to provide professional offices for the area. Mr. Matson reiterated the General Plan recommendation to provide for professional office space

along an arterial street. He pointed out that if the lots remained residential they would be accessing off Angel Street, which may not be desirable to a potential homeowner. He said the PB provides an opportunity, which would not be commercial but would provide services to residents in the neighborhood.

Chairman Gilbert called for a motion on the item. Commissioner Weaver moved that the Planning Commission forward a positive recommendation to the City Council to approve Resolution 13-35 to approve the development agreement. Commissioner Bodily seconded the motion, and the voting was unanimous.

Commissioner Weaver moved that the Planning Commission forward a positive recommendation to the City Council to adopt Ordinance 13-18 approving the rezone from R-S to PB. Commissioner Bodily seconded the motion, and the voting was unanimous.

**2. REZONE REQUEST – ROGER B. RIGBY – A (Agriculture) TO C-H (Highway Regional Commercial).**

This 1.091 acre property is located at 770 South Main Street in an A (Agriculture) zoning district. The applicant and property owner is Roger B. Rigby.

Commissioner Fitzpatrick returned to the meeting.

Mr. Matson presented the request to rezone 1.091 acres at 770 South Main Street. The property is presently zoned agriculture and the proposal is for the C-H (Highway Regional Commercial) zone. He gave an overview of the zoning in the area and a history of the property. The property owner does not have any specific development proposals in mind but is trying to get zoning in place that is consistent with this side of Main Street, which is primarily zoned C-H and also consistent with the City's General Plan.

Mr. Matson said the C-H zone has a minimum lot size of 20,000 square feet, which is just under a half acre and the property meets the requirement at 1.091 acres.

Mr. Matson said there was an occupied home on the property with horses on the back portion of the property. The agriculture uses can continue as a legal non-conforming use unless the use ceases and then the legal non-conforming status would be lost.

Depending upon what develops on the property, additional buffers may be required to protect the adjacent property with a residential use.

Mr. Matson said Staff is recommending the Planning Commission forward a positive recommendation to the City Council to approve Ordinance 13-22 based on consistency with land use recommendations of the City's General Plan for this portion of Main Street.

There were no questions from the Commission, property owner or audience.

Chairman Gilbert called for a motion on the item. Commissioner Harward moved that the Planning Commission forward a positive recommendation to the City Council to adopt Ordinance 13-22 approving the rezone request from A to C-H based on consistency with land use recommendations of the City's General Plan for this portion of Main Street. The motion was seconded by Commissioner Hansen. The voting was unanimous.

**3. REZONE REQUEST – DARRELL FARR – A (Agriculture) TO R-S (Residential Suburban)**

This 2.19 acre property is located at approximately 850 North 3200 West in an A (Agriculture) zoning district. The applicants and owners are Darrell and Lauri Farr, represented by Scott Nelson.

Planner II, Kem Weaver, presented the request for rezone from A to R-S. He pointed out the R-S zoning in the area as well as other zoning. A concept plan proposes the development of five single family lots at a density of 2.28 units per acre, which meets the General Plan requirements for this area of the City. He said the five lots will be subdivided equally at approximately 19,000 square feet, and the lots meet the frontage requirements for the R-S zone.

Mr. Weaver said the subdivision will go through the subdivision process for preliminary and final plat approval. He said street dedication will be required to line up with adjacent property and a street lights will need to be installed.

Mr. Weaver said Staff recommends the Planning Commission forward a positive recommendation to the City Council to approve the rezone based on consistency with the General Plan in this area of the City for single family residential at 0-3 units per acre with this proposal having an overall density of 2.28 units per acre.

Commissioner Hansen said the east side of 3200 West has turned into a thoroughfare for children walking to and from Legacy Junior High and Sand Springs Elementary. He asked if a turnaround could be required on each lot.

Mr. Weaver said a turnaround could be addressed during the subdivision review process. He said a provision in the ordinance states that if there is 100 feet of frontage, there could be two drive entrances which would accommodate a turnaround.

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

Chairman Gilbert called for a motion on the item. Commissioner Hansen moved that the Planning Commission forward a positive recommendation to the City Council to adopt Ordinance 13-23 approving the rezone from A to R-S based on consistency with General Plan recommendations for single family residential for this part of Layton City and include a recommendation that turnaround accommodations be made on each of the lots to ensure forward facing exiting for the safety of the vehicles exiting the lots and for the safety of pedestrian traffic from Sand Springs Elementary and Legacy Junior High School. The motion was seconded by Commissioner Pales, and the vote passed by a margin of 5 to 1 with Commissioners Fitzpatrick, Hansen, Harward, Pales and Weaver voting in favor and Commissioner Bodily voting against the motion.

**PUBLIC REVIEW:**

**4. CONDITIONAL USE – MIDNIGHT EURO AUTOMOTICE GROUP LLC – AUTO SALES & REPAIR**

This property is located at 1590 North Main Street in a C-H (Highway Regional Commercial) zoning district. The property owner is Ariana Thorsness represented by the applicant, Nicholas Stone.

Planner I, Andrew King, presented the request for conditional use for auto sales and repair. He gave an overview of the businesses and apartment complexes in the area. He said the building has 1,600 square feet of sales space on the main floor, 3,200 square feet of warehouse in the back, which is primarily shop area, and 1,600 square feet of office space on the second floor.

Mr. King said the applicant anticipates selling 3-5 vehicles a month with possibly up to 15 vehicles a month in the future with a rotation of 4-5 autos for repair per day. All repair vehicles will be stored in the shop area and behind the gated fence. The fence will need to be slatted.

Mr. King pointed out where the vehicles for sale, and customer and employee parking would be and outlined the location of the parking stalls. He also addressed non-conforming issues such as the landscape strip, which needs to be increased from 10 feet wide to 15 feet wide with a minimum of three trees planted.

Mr. King said that a 30 foot landscape buffer at the east end of the lot, which was required by ordinance between commercial and residential property, had previously been approved for a modification to 20 feet. He said with this conditional use, Staff recommends that a 20 foot buffer would still meet the intent of the ordinance.

Mr. King said any fencing that is broken or missing slats must be repaired.

Mr. King said that Staff recommends that conditional use approval be granted subject to the following conditions and requirements outlined in Staff memorandums:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. The front landscape strip located between the sidewalk and the parking area shall be enlarged to 15 feet and be enhanced with at least three trees. Selected trees shall be a minimum two inch caliper and have a mature height of at least 25 feet. No less than 25 percent of this area shall be re-planted with a manicured grass.
3. Planning Commission approval of a modification of the landscape buffer at the east end of the lot from 30 feet to 20 feet. This 20 foot landscape buffer shall be installed along the eastern property line. This buffer shall be enhanced with no fewer than 4 trees. At least two of these trees shall be an evergreen variety and all trees shall have a mature height of at least 30 feet. A variety of small plantings, including shrubs and bushes, shall also be planted in this area. Trees and shrubs with low to moderate irrigation needs are encouraged.
4. All broken fencing on the site shall be repaired. Fencing slats shall be replaced and installed where necessary to screen the stored vehicles from neighboring uses and from Main Street.
5. Unpaved areas shall be graded and enhanced with gravel or other road base materials sufficient to minimize or eliminate dirt and debris from being tracked onto paved areas.
6. All equipment, garbage or other debris not directly associated with the business shall be removed from the site before the business opens.
7. No fewer than 18 striped stalls shall exist on the lot.
8. All vehicles being repaired shall be stored behind the screened fence for overnight stays. Any vehicles in need of repair shall be stored behind the fenced area at all times.
9. To reduce the possible noise impact on adjacent residential uses, garage bay doors shall be closed during operating hours of the repair shop. This is to reduce the noise impact that may be associated with air-powered tools.

Commissioner Gilbert asked if the parking lot would be restriped. Mr. King said that re-striping would occur when some of the parking spaces are moved. Commissioner Gilbert also asked if the Knox Box would slide or swing open. Mr. Matson said the Fire Department would check for that during their inspection.

Commissioner Fitzpatrick said traditionally when an auto repair conditional use is reviewed, there is a condition that no non-repairable vehicles are to be stored. She asked if that condition could be added. Commissioner Fitzpatrick also cited condition #9 requiring that garage bay doors be closed during operating hours to reduce the impact to neighbors of noise from power tools. She asked if there was proper ventilation to allow these doors to be closed.

Mr. King said the applicant would to comply with all building codes.

Commissioner Fitzpatrick asked that a timeline of 90 days be added for completion of conditions and asked if the former conditional use could be revoked.

Mr. Drake said that without a reason or cause the former conditional use couldn't be revoked but it would expire within a year.

Commissioner Fitzpatrick was concerned about a subsequent auto repair/sales business not following the conditions already on the property since the business owner would not have to apply for a conditional use. Mr. King said during the business licensing process, the business owner would be advised of the conditions.

There was a discussion of how to add the suggestions to the conditions. It was decided that cars that could not be repaired or non-registered vehicles not be allowed on the site, and this requirement would be included in condition #8.

The applicant, Nicholas Stone, 1348 East Gentile Street, said he'd received a copy of the conditions. He said the 90 day requirement would be difficult because the landlord would not be helping and it would be financially difficult for him. He said he wanted to get the conditions done in a timely manner to make the property look better. He said he could have the broken fencing and slats repaired in six months. He said he wouldn't be able to move the containers within 90 days since the owners will not be back in the area for some time. He has contacted the owner. He said he didn't want to go into debt to fix the property because he needed to buy product for the business. He said he would get the stalls striped within a month and plant the trees. He asked to be able to get the buffers expanded next year in spring. He said he would work with Mr. King on identifying the areas of fencing that needed to be repaired.

He said there were motors to help ventilate but there was no air conditioning.

Mr. Drake said the Commission could put different timelines on various conditions.

Commissioner Hansen said he felt uncomfortable with asking the applicant to be responsible for moving the storage units to accommodate the landscape buffer. Commissioner Bodily asked if the storage units could be moved rather than removed. Mr. King said the condition 6 is worded that the units need to be removed from the site.

Commissioner Hansen asked what recourse the City would have if the applicant doesn't meet the timeline. Mr. Drake said the Commission could revoke the conditional use.

Commissioner Hansen said he was interested in accommodating the business owner who will help to get the property in better condition and felt that different timelines on various conditions would work.

There was a discussion about the timeline of completing the conditions. Commissioner Weaver felt that everything from the front to the fence should be completed within 90 days. Commissioner Hansen felt it was an unreasonable burden to ask that the expansion of the landscape buffer be done in 90 days. He wanted to give

the new business owner a chance to get his business going and if the work wasn't done, the conditional use would be revoked.

Commissioner Gilbert asked for the applicant's recommendations for how long it would take him to complete the requirements and recommended that there be water for the trees. The applicant and Commission discussed each condition one by one and set a timeline for each.

Mr. Drake advised the Commission on how to word the motion and said the applicants should understand that if the timelines aren't met, the conditional use could be revoked. The applicant agreed with the conditions.

Mr. Drake said regarding condition #9, due to recent conditional use concerns in the City that if noise were to become an issue, it may be wise to impose noise conditions that the applicant would agree to implement reasonable sound dampening measures to reduce the noises. He said it was important not to create an unsafe requirement by requiring the doors to be kept shut. This was added as condition #10.

Chairman Gilbert asked the applicant if he ran into any problems that he contact Staff. He told the applicant that the Commission expected the conditions to be followed.

Commissioner Bodily asked if the different timetables would set precedence. Mr. Drake said that this could be done on a case by case basis. He said the basis for it in this case was legitimate and the Commission was trying to strike a balance between enforcing the conditions and allowing the business to be successful.

Mario Walters, 1428 West 1650 North, asked if there were any recommendations for the trees in front. Mr. King said deciduous varieties were preferred and they needed to be shorter than the power lines. Mr. King will provide the applicant with a list. Commissioner Hansen reminded the applicant that the trees needed to be two inch caliper trees when planted.

The following are the revised conditions:

1. **[30 Days]** The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. **[1 Year]** The front landscape strip located between the sidewalk and the parking area shall be enlarged to 15 feet. No less than 25 percent of this area shall be re-planted with a manicured grass.
3. **[30 Days]** The front landscape strip shall be enhanced with at least three trees. Selected trees shall be a minimum two inch caliper and have a mature height of at least 25 feet.
4. **[1 Year]** Planning Commission approval of a modification of the landscape buffer at the east end of the lot from 30 feet to 20 feet. This 20 foot landscape buffer shall be installed along the eastern property line. This buffer shall be enhanced with no fewer than 4 trees. At least two of these trees shall be an evergreen variety and all trees shall have a mature height of at least 30 feet. A variety of small plantings, including shrubs and bushes, shall also be planted in this area. Trees and shrubs with low to moderate irrigation needs are encouraged.
5. **[30 Days]** All broken fencing on the site shall be repaired. Fencing slats shall be replaced and installed where necessary to screen the stored vehicles from neighboring uses and from Main Street.

6. **[30 Days]** If used, unpaved areas shall be graded and enhanced with gravel or other road base materials sufficient to minimize or eliminate dirt and debris from being tracked onto paved areas.
7. **[30 Days]** All equipment, garbage or other debris not directly associated with the business shall be removed from the site before the business opens. **[1 Year]** The three storage bins shall be moved to the north property line, and outside any landscape buffer, or removed from the site. With a letter to be sent to the property owner requiring that the bins be moved or removed.
8. **[30 Days]** No fewer than 18 striped stalls shall exist on the lot.
9. **[30 Days]** All vehicles being repaired shall be stored behind a screened fence for overnight stays. Only vehicles actively being repaired or sold may be stored on this lot. Storing unregistered inoperable vehicles or salvage vehicles is not permitted.
10. Upon any reasonable complaint, any noise produced by this business shall be mitigated sufficient to eliminate such complaint.

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

Jamie Crather-Newton, 949 West Gordon Avenue, expressed a concern that when businesses are asked to put in landscaping and trees, the trees die due to lack of maintenance. She asked if there was a code enforcement on that issue. Commissioner Gilbert asked that Ms. Crather-Newton contact code enforcement if she is aware of landscaping that is not being maintained. Community and Economic Development Director, Bill Wright, said there was code enforcement in place to handle that concern and said if there is a specific place, it should be brought to the attention of the Community & Economic Development Department.

Chairman Gilbert called for a motion on the item. Commissioner Hansen moved that the conditional use permit be approved with the conditions and timetables outlined above to be hereby adopted as requirements, that the property owner would make reasonable efforts to comply with the conditions, and that failure to comply with the conditions and timelines identified, would result in the conditional use being revoked.

Commissioner Weaver questioned the wording of the motion indicating the property owner would make reasonable efforts to comply with the conditions and said he thought Commissioner Hansen meant the applicant would make the reasonable efforts to comply. Commissioner Hansen agreed with the correction.

Commissioner Bodily asked that the motion include that the owner would be apprised of the conditions and the storage container issue. Mr. Drake said that letter to the owner addressing the storage container issue would include a page with all of the conditions.

Commissioner Bodily seconded the motion and the voting was unanimous.

Commissioner Gilbert asked if a completed copy of the conditions could be provided to the Commission. Mr. King said he would send a copy of the revised conditions with timelines to the Commissioners.

## **5. PINEHURST PLACE PHASES 2A & 2B – AMENDED FINAL APPROVAL**

This 17.06 acre property is located at approximately 425 North 1625 West in an R-S (Residential Suburban) zoning district. The property owner, Symphony Homes, is proposing 41 single family residential lots. Symphony Homes is represented by John Wheatley.

Planner II, Kem Weaver, presented the request for amended final plat approval for Pinehurst Place Phases 2A and 2B. He gave an overview of the entire subdivision, which received final approval on December 7, 2006. He said that there has been continual improvement in Phase 1 with homes being built, but no homes have been built in Phase 2. The request is to amend Phase 2 into two smaller phases – Phase 2A and Phase 2B with a total of 41 lots on 17.06 acres with an overall density of 2.4 units per acre. Three lots will be added as a result of this amendment.

Mr. Weaver said the open space accommodates a temporary turnaround on the stub road of 475 North since the adjacent property owner would not allow for the easement. The temporary turnaround on the Pinehurst property encompasses a building lot, which will be called open space and may become a single family buildable lot (Lot 228) when 475 North extends in the future. This open space must be landscaped. It could be a community garden, but it must be maintained.

Mr. Weaver said the additional lots create a small change to the density of .18 units per acre. This is feasible due to the most northern lots in Phase 2B being within 300 feet from West Hill Field Road, which is classified as an arterial street in the City's Master Street Plan and allows the density to increase to a density similar to an R-1-10 zone.

Mr. Weaver said there will be minor corrections to the plat before recording.

Commissioner Gilbert asked about Lot 228 (open space) in the event the lot is sold before 475 North is extended and if a note should be put on the plat that a future owner would be responsible to install curb, gutter and sidewalk.

Mr. Weaver said the lot can't be sold until 475 North is extended, and it will be noted as restricted on the plat. Mr. Wright made it clear that bonding for the improvements would not be an option. He said Planning will work with the Legal Department to make it clear that it will be the responsibility of whoever owns the lot when it converts from open space to install the improvements.

Commissioner Hansen said that if a turnaround was not required there, then the developer would be putting in curb, gutter and sidewalk. He said it was his opinion that the developer should be responsible for the improvements.

Mr. Drake said the buyer must do due diligence. He said there is only so much the Planning Commission can do, and they won't be able to get a developer to return years later and put in the curb, gutter and sidewalk if they have sold the lot. He said the note on the plat is the best that can be done.

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

Chairman Gilbert called for a motion on the item. Commissioner Bodily moved that the Planning Commission forward a positive recommendation to the City Council to grant final approval to Pinehurst Place Subdivision Phases 2A and 2B subject to meeting all Staff requirements as outlined in Staff memorandums. Commissioner Fitzpatrick seconded the motion and the voting was unanimous.

Chairman Gilbert called for a motion to close Public Review and adjourn the meeting. Commissioner Bodily moved to close Public Review and adjourn the meeting. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

  
Julie Jewell, Planning Commission Secretary