

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
OCTOBER 8, 2013**

MEMBERS PRESENT: Dawn Fitzpatrick, Chad Harward, Wynn Hansen, Gerald Gilbert, Tim Pales, Robert Van Drunen, Dave Weaver

MEMBERS ABSENT: Brian Bodily

OTHERS PRESENT: Staff Members: Peter Matson, Kem Weaver, Brandon Rypien, Steve Garside, Julie Jewell, and Councilmember Jory Francis

PUBLIC REVIEW:

1. SIMPLY SMARTER AUTO SALES – CONDITIONAL USE FOR AUTO SALES

This property is located at 3080 North Fairfield Road, Suite 2 in an M-1 zoning district. The property owner, Tim Matthews, is represented by the applicant, Jared Ellis.

Planner I, Brandon Rypien, presented the request for auto sales for the property at 3080 North Fairfield Road in the M-1 zone. Auto sales is a conditional use in the M-1 zone. He said the parking lot has been repaved and striped and the building recently repainted. He said the building contains four 1375 square foot suites, which share 15 parking stalls. The property owner has designated three stalls in front of Suite 2 for the cars for sale. Based on the requirements for auto sales, the applicant is required to have five parking stalls, which is calculated at two parking spaces plus one space for each 400 square feet of floor space. With five spaces designated for the Simply Smarter Auto Sales, 10 spaces would remain for the remaining three suites in the building. Currently in addition to the subject suite, one suite is occupied and two suites are vacant.

Chairman Gilbert asked if the owner understood that he could be limited as to the type of tenant who could occupy the building and parking requirements.

Commissioner Fitzpatrick asked if the vehicles could be stored inside the building all the time and not just after hours since sales are by appointment only. There was a discussion regarding the marketing consequences if vehicles were not viewable outside the building.

There was continued discussion on the remaining parking spaces and possible restrictions for the owner when leasing the vacant spaces.

Assistant City Attorney, Steve Garside, said the applicant needs to be in contact with the property owner so that he will understand the restrictions. He said the City needs a letter from the property owner acknowledging that he understands the restrictions.

The letter from the property owner will be added as a condition.

There was a discussion regarding whether the property owner could cancel the conditional use if the parking restrictions became an issue due to the number of parking spaces required for the auto sales

business. Mr. Garside said the property owner would have to evict the tenant and then request that the conditional use be revoked. He reiterated that the property owner needed to be involved.

Mr. Rypien said the site has landscaping along Fairfield Road. Based on the depth of the lot, the landscape strip should be an 8-foot strip behind the sidewalk. He said the landscape strip is a six-foot strip and considered legal, non-conforming based on what was required when the site was approved.

Mr. Rypien said the east property line is shared with Quail Ridge Mobile Home Park, and the landscape buffer between the two properties is 10 feet deep but required to be 20 feet deep based on the proposed auto sales use. However, based on the current office warehouse land use, the requirement is 10 feet. He said Staff feels the existing landscape buffer would meet the intent of the ordinance. There is also a grade change with the office warehouse being lower than the mobile home park. Staff feels the buffer met the standard of having grass and shrubs when it was initially installed.

Commissioner Van Drunen asked why the streetscape had to be widened as part of the conditional use for Midnight Euro Auto on Main Street but would not have to be widened at the proposed site on Fairfield Road.

There was a discussion on this concern. Commissioner Van Drunen said he did not think Simply Smarter Auto Sales needed to widen the buffer, but he wondered why there was a difference between the two situations.

Commissioner Weaver said the landscape buffer as it proceeds down Fairfield is very consistent.

Mr. Garside said it would be nice to bring a property into current code, but not so as to make the property unusable. In this case, it would take away from the ability to meet the parking requirement.

Commissioner Fitzpatrick asked if the applicant would be required to take care of the entire back buffer or just the portion of the landscaping behind his building. She felt the property owner should participate in the replanting and care of the buffer.

Mr. Garside said both the owner and the applicant should be responsible, but if the owner does not take responsibility, then the applicant would be responsible.

City Planner, Peter Matson, said the buffer must be planted regardless and the issue was brought to the City's attention with the application. It is now an enforcement issue.

Commissioner Fitzpatrick asked about the blade signs and if they are allowed. Mr. Rypien said that when the sign ordinance is updated, blade signs may be included. Mr. Matson said that the business would need to meet the current sign ordinance. Commissioner Fitzpatrick asked for a condition to be added that the current sign ordinance be followed, which would eliminate the blade signs.

Mr. Matson explained the Code Enforcement officer's protocol when removing a sign.

Chairman Gilbert asked when the limit of the number of auto sales businesses would be reached for the City. He felt the internet auto sales businesses do not fit in the locations for which they are applying and sometimes this causes additional conditions to be added or leniency on the buffers. He referenced the payday loan businesses that have been limited in the City.

Mr. Matson asked if the concern is with the zone in which these businesses are placed or an overall concern for the type of business.

Chairman Gilbert said it had nothing to do with this applicant. He felt the applicant was just taking a portion of the building and trying to fit it, and there was not enough parking there to facilitate this type of conditional use. He felt there were other areas in the City where the business would be a good fit.

Commissioner Van Drunen said that if the use is conditional in that area and the owner understands the other two suites may have limited parking, then the conditional use would have to be allowed.

Chairman Gilbert agreed with Commissioner Van Drunen, but did not agree with exceptions on the buffer or with having the applicant maintain the entire buffer.

Mr. Matson said the concerns may be related to the difference between auto sales and auto brokerage. He said the ordinance treated small scale auto sale uses the same way an auto dealer on Main Street is treated. From that standpoint, it is a square peg, round hole issue. He suggested working with the City Council to either not allow the auto brokerages in this zone or have a separate use for an auto brokerage, which is a smaller scale use. These uses do not really need five parking stalls, and that is where some of the conflicts are. It is a use related or wrongly classified in terms of the scale of the use.

Mr. Garside said if this needs to be addressed then the code needs to be modified to have a separate use category or review the zones in which an auto brokerage could be a conditional use.

Chairman Gilbert asked that Staff be directed to review if an auto brokerage is not a good fit in the M-1 zone and bring suggestions to the Planning Commission.

Mr. Matson said that these smaller auto brokerages are also located in commercial zones or strip centers. The M-1 zone has spaces that fit more closely to small auto brokerage needs and are more reasonably priced, which is why they gravitate to the M-1 zone. He said Staff would approach colleagues in other cities to research how they are dealing with this issue. He said Staff would return to the Commission with analysis for the November 12th meeting.

2. ROSEWOOD PROFESSIONAL CONDOMINIUM PLAT – FINAL APPROVAL

This property is located at 1147 East and 1151 East Rosewood Lane in a CP-2 (Planned Community Commercial) zoning district. The applicant, Poole and Associates, is requesting to change the building to a two-unit condominium building.

Kem Weaver, Planner II, presented the request for condominium plat approval. The Commission commented on the nice landscaping on the property. Commissioner Fitzpatrick asked if the condominiums were pre-sold. Mr. Weaver said the current occupants would remain in the building. A business owner's association would be formed to maintain the landscaping and utilities.

Commissioner Fitzpatrick asked what would happen in the case of one owner being unable to retain ownership. Mr. Weaver said the bank would own the property until there was a new buyer. Mr. Garside said the remaining owner would be responsible for keeping the business owner's association in force.


Julie Jewell, Planning Commission Secretary

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Chairman Gilbert opened the meeting at 7:05 p.m. The Pledge of Allegiance was recited and an invocation given by Commissioner Hansen.

Chairman Gilbert called for a motion to approve the Planning Commission and Work Meeting minutes from August 27, 2013, September 10, 2013, and September 19, 2013. There were no additions or corrections to the minutes. Commissioner Fitzpatrick moved to approve the minutes as written. Commissioner Weaver seconded the motion, and the voting was unanimous.

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

PUBLIC REVIEW:

1. SIMPLY SMARTER AUTO SALES – CONDITIONAL USE FOR AUTO SALES

This property is located at 3080 North Fairfield Road, Suite 2 in an M-1 zoning district. The property owner, Tim Matthews, is represented by the applicant, Jared Ellis.

Planner I, Brandon Rypien, presented the request from the applicant, Jared Ellis, for a conditional use for auto sales. Mr. Rypien gave an overview of the M-1 zoned location and said that auto sales is a conditional use in that zone. He said the site appears to have been well-maintained. The parking area was restriped and painted recently. He said the building contained four suites that are each 1375 square feet. There are 15 parking stalls on the site on the west side of the building. He said the applicant is proposing to occupy Suite 2. Two or three cars for sale will be parked directly in front of the business suite. The cars for sale will be parked inside the building after business hours, and there are overhead doors to take cars in and out of the building. The applicant will be the sole employee and will meet with customers by appointment only.

Mr. Rypien explained the parking requirement for auto sales as two parking spaces plus one space for every 400 square feet of floor space. Five spaces will be required for Suite 2. Suites 1, 3, 4 will have 10 parking stalls shared between them.

The building was constructed as a warehouse manufacturing type building and parking was based on that type of use. The warehouse parking requirement is three spaces for every four employees at the highest work shift plus one space for every work vehicle. The property owner will need to monitor the types of uses in that building according to available parking spaces. During the business licensing process, Layton City will also make sure there are no parking conflicts. The landscaping along Fairfield Road is based on the depth of the property, which is 140 feet deep, requiring an eight foot landscape strip. The current landscape strip is six feet deep and does not meet the eight feet requirement. Mr. Rypien said the

landscaping strip would be considered legal non-conforming because it was constructed like that at the time of site plan approval.

Mr. Rypien said the subject property and the mobile home park to the east are separated by a solid vinyl fence. The existing buffer is ten feet wide with one tree every 20 feet. The requirement for an auto sales use adjacent to a mobile home park is a 20-foot wide landscape strip with a tree every 30 to 50 feet. Staff's opinion is that the landscape buffer width meets the intent of the ordinance for office warehouse, but the buffer has died and must be replanted.

The following are the conditions required for this conditional use plus Condition # 8 requiring a letter to be submitted from the property owner stating he is aware of and understands the conditions added by the Commission and that he is willing to comply with the conditions.

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. A total of five (5) parking stalls shall be provided on-site for the proposed auto sales use.
3. All automobiles for sale shall be parked in the designated parking stall directly in front of the applicant's tenant space.
4. No more than three (3) automobiles for sale shall be parked in the parking lot at any given time with no automobiles for sale parked on the street.
5. All automobiles for sale shall be placed indoors after business hours.
6. No salvaged vehicles shall be stored on the property and all vehicles shall be in working order.
7. The 10' landscape buffer along the east property line shall be replanted with ground cover, shrubs and other plant material to be compliant with the original site plan and ordinance requirements.

Commissioner Weaver asked if vehicle sales would be allowed during the day. Mr. Rypien replied that sales would be allowed during the day unless restricted by the Commission.

Commissioner Weaver asked for a condition to be added that no advertisement be allowed in the windows of the cars. Commissioner Fitzpatrick asked that a condition be added that the applicant must abide by the current sign ordinance, which does not allow blade signs.

Staff will add Conditions 9 and 10 to address the Commission's concerns as follows:

9. "For sale" signs shall not be placed in the automobiles for sale.
10. The applicant shall comply with the existing sign ordinance.

The applicant, Jared Ellis, 1769 North Belvedere Way in Layton, said he had read and understood the conditions. Commissioner Gilbert asked about the proposed business hours, and Mr. Ellis said the cars would not be out front before 8:00 a.m. or after 5:00 p.m. He said when he initially applied for the conditional use, the State said vehicles would be allowed to be placed in front of the building but said the warehouse space would be sufficient. Mr. Ellis said he wouldn't need to park the vehicles out front.

Chairman Gilbert explained that if the applicant moved from the location, the use would stay with the building.

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

Chairman Gilbert called for a motion on the item. Commissioner Pales moved that the Planning Commission grant conditional use approval subject to the applicant meeting all ordinance and Staff requirements, including specifically a letter from the property owner stating he is aware of the conditions. There was a question on the motion from Commissioner Weaver asking if the motion should state that the property owner is both aware of and agrees to the conditions. Chairman Gilbert asked if this would be specific to condition #8 with the parking spaces remaining impacting future leases. Commissioner Weaver said that condition #8 and condition #10 regarding the landscape buffer would be conditions the property owner would need to be aware of and agree with. He asked if the property owner did not improve the quality of the landscaping and upkeep the landscaping, would the applicant Mr. Ellis be responsible.

Mr. Garside said that there is an ordinance that the landscaping must be maintained. If the property owner doesn't comply, then Mr. Ellis would be responsible.

Commissioner Weaver seconded the motion with clarifications. The motion passed by a margin of five votes in favor to one vote opposed, with Commissioners Fitzpatrick, Hansen, Pales, Van Drunen and Weaver in favor and Commissioner Harward opposed.

2. ROSEWOOD PROFESSIONAL CONDOMINIUM PLAT – FINAL APPROVAL

This property is located at 1147 East and 1151 East Rosewood Lane in a CP-2 (Planned Community Commercial) zoning district. The applicant, Poole and Associates, is requesting to change the building to a two-unit condominium building.

Planner II, Kem Weaver presented the request for the condominium plat. He presented an aerial photograph of the site, which showed the building on the site and adjacent businesses, offices and residences in the area. He said the site is well-landscaped, and the parking is adequate to accommodate the entire building. He said the 10-foot landscape buffer with the solid vinyl fence is appropriate for the site.

Mr. Weaver said the purpose for the site to become condominiumized is to split the building in half for ownership purposes. By splitting the building in half the square footage for both units would be nearly equal. He said the physical elements of the site will not change. Covenants would be required to create a business owners association to maintain the property. The ownership of each unit will be required to assist in the maintenance of the common areas and the utility laterals from Rosewood Lane.

City is currently reviewing the covenants which will be recorded with the plat if approved by the City Council based on a recommendation from the Planning Commission.

Mr. Weaver said Staff recommends the Planning Commission forward a positive recommendation to the City Council to approve the request for the condominium plat.

Commissioner Fitzpatrick asked if the intent was to sell the units as separate units. Mr. Weaver said each unit will have its own ownership. Mr. Garside said the owners would have the right to lease the space if they choose to do so.

Dennis Poole, an attorney representing the applicant, said the intent is to sell one unit to each of the current occupants. There is no intent to change the use. A firewall is already in place and there is no need to modify the building.

Mr. Garside asked if the covenants and restrictions would address the maintenance of the building and the roof. Mr. Poole explained that the common areas include everything but paint to paint inside the offices

and includes everything from the roof to the footings, and also snow removal and parking lot improvement.

Chairman Gilbert asked if the covenants had been submitted to Staff. Mr. Weaver said they had been received and were being reviewed. Mr. Poole said the bylaws were attached to the covenants.

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 approve the condominium plat subject to meeting all Staff requirements. Commissioner Hansen seconded the motion, and the voting was unanimous.

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

The meeting adjourned at 7:33 p.m.



Julie Jewell, Planning Commission Secretary