

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES -- CORRECTED
NOVEMBER 12, 2013**

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

MEMBERS ABSENT: Brian Bodily

OTHERS PRESENT: Staff Members: Bill Wright, Peter Matson, Brandon Rypien, Andrew Councilmember
King, Steve Garside, Julie Arguello, Julie Jewell and Jory Francis

TRAINING:

City Planner, Peter Matson presented and reviewed Chapter 19.14 regarding Conditional Uses from the Layton City Municipal Code. He said that there must be a clear distinction according to the zoning ordinance between conditional uses, permitted uses and prohibited uses. He said conditional uses should be allowed in the City's zoning districts and be uses that the City wants in that zoning district. He said the conditional use should not be used as a way to tone down a new use that maybe should not have been there in the first place. He said conditional uses should focus on the mitigation of impacts and conditions that are placed upon an applicant, which must mitigate a specific impact the use has on the City or adjacent properties that is unique to that type of use.

Topics discussed were as follows:

- Time limit for expiration on a conditional use.
- Amount of time an applicant has to implement conditions set at the time of the conditional use approval.
- Tailoring time limits for completion of certain conditions such as landscaping.
- Enforcement of conditions not in compliance or completed by a deadline.
- Parking space calculations.
- Requiring health and safety issues to be resolved prior to the opening of a business.
- Businesses in business before receiving business license or conditional use approval.
- Keeping business owners accountable and not allowing businesses to open until conditions are met.
- Businesses that were once in compliance but no longer compliant.
- Mechanizing reminders for follow-up on conditional use permits.
- Planning and Code Enforcement to monitor conditions rather than the Commission being involved in this process

Staff procedures being implemented to monitor conditional use permits:

- Staff will visit the site a maximum of three days after receipt of the conditional use application to become familiar with the site.
- Staff will involve the property owner in the process prior to Planning Commission review and also follow up with the owner afterward.
- Staff will meet with the applicant and owner if possible to review possible conditions.
- Staff will provide a copy of the staff report to the applicant and to the owner.
- Staff will provide the Code Enforcement officer, applicant and owner with a follow-up letter listing conditions and requirements after Planning Commission review.

- Staff will compile a history of conditional uses and conditions to aide monitoring by the Code Enforcement officer.
- Staff will separate conditional uses by active conditional uses and those that have completed requirements and met all conditions. Applicants will have a year to complete conditions unless specified otherwise by Commission.
- Code Enforcement officer will be in contact with applicant and owner until conditions have been met.

There was a discussion on why businesses are allowed to open without a business license. Community & Economic Development Director, Bill Wright, said some people will start the leasing process and setting up of their product and then come to the City to apply for a license.

Assistant City Attorney, Steve Garside, said people have an entrepreneurial spirit and don't think about the regulatory part of running a business. Instead of being perceived as heavy handed, the City tries to work with these people because it is conducive to having their business in the City. Staff tries to expedite the licensing process as best they can to keep the business in the City. If there are health or safety issues, then the businesses must be compliant on those issues before opening.

Corrected Minutes: Mr. Wright said the uses are permitted as long as there are conditions associated with mitigating the unique impacts.

Chairman Gilbert asked for more time at another meeting to discuss conditional uses, particularly to discuss the assumption that the conditional use process provides an opportunity to bring a property up to current code.

1. WASATCH CROSSFIT NORTH – CONDITIONAL USE REQUEST FOR A HEALTH/EXERCISE STUDIO

This property is located at 825 East Highway 193 Suite A in an M-1 (Light Manufacturing/Industrial) zoning district. The property owner is Bob Peterson, represented by the applicant, Damon Stewart.

This item was not reviewed due to lack of time.

2. TERRAFORM COMPANIES, LLC – CONDITIONAL USE FOR A FAST FOOD EATING ESTABLISHMENT AND LANDSCAPE BUFFER MODIFICATION

This property is located at 512 West Antelope Drive in a CP-1 (Planned Neighborhood Commercial) zoning district. The property owner is Helen S. Madsen Revocable Trust represented by Elliott Smith from Terraform Companies, LLC.

Planner 1, Andrew King, presented the request for conditional use for a fast food eating establishment and landscape buffer modification. There was a discussion regarding parking and traffic issues with the recommendation from Commissioner Fitzpatrick that the Police Department be asked to assist with traffic during the Dunkin Donuts grand opening.

Cross access easements and parking were also discussed as well as possibly revisiting the ordinance requirements for parking for smaller restaurants.

Mr. Wright said that the parking issues associated with a neighboring restaurant could not be a reason to not approve the restaurant at the proposed location.


Julie Jewell, Planning Commission Secretary

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MEMBERS ABSENT: Brian Bodily

OTHERS PRESENT: Staff Members: Bill Wright, Peter Matson, Brandon Rypien, Andrew King, Steve Garside, Julie Jewell and Councilmember Jory Francis

Planning Commission Chair, Gerald Gilbert, called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited and an invocation was given by Commissioner Harward.

Chairman Gilbert called for a motion to approve the October 22, 2013, Planning Commission and Work Meeting minutes. Commissioner Pales moved to approve the minutes with the change of the Planning Commission Chair name from Esplin to Gilbert. Commissioner Hansen seconded the motion, and the voting was unanimous.

Chairman Gilbert called for a motion to open Public Review. Commissioner Weaver moved to open Public Review. Commissioner Fitzpatrick seconded the motion and the voting was unanimous.

1. WASATCH CROSSFIT NORTH – CONDITIONAL USE REQUEST FOR A HEALTH/EXERCISE STUDIO

This property is located at 825 East Highway 193 Suite A in an M-1 (Light Manufacturing/Industrial) zoning district. The property owner is Bob Peterson, represented by the applicant, Damon Stewart.

Planner I, Brandon Rypien, presented the request for conditional use for a crossfit studio. He presented an image of the location of the five suites in the building and the occupants of the suites. He said that the building is functioning more like a commercial property due to the nature of the current uses.

Mr. Rypien gave an overview of the property and surrounding businesses and said the site meets the landscaping and site plan requirements as approved in 1997 and remains well-maintained. He said there are 44 parking stalls striped on the property as well as two drive approaches. The applicant has indicated that classes will be held between 5:30 a.m. and 7:00 p.m. Class sizes will be 8-12 participants at a time with an instructor. Personal training will also be provided at this facility, which would include an instructor and a participant. The suite will include an office area for instructors and a daycare with one caregiver for the children of the participants. The remaining area will be used to conduct classes and personal training sessions. Some classes will require participants to run a short distance. The applicant has stated that participants will either run along Fairfield Road or around the perimeter of the building. No competitions will be held at Wasatch Crossfit North. All competitions will be held at Wasatch Crossfit on Gentile Street.

Mr. Rypien said the minimum parking requirement is one parking space for every two people designated to participate. Eight parking stalls would be required for this exercise studio including day care and instructors.

He reviewed the existing tenants and parking availability stating that the total minimum number of parking stalls is 42 with 44 striped on the site.

The required landscape strip along Highway 193 is based on the depth of the lot. The lot has a two hundred and fifty (250) foot average depth. Based on the lot depth, the landscape strip is required to be a minimum depth of thirteen (13) feet along the street frontage. Typically, the public right-of-way ends at the backside of the sidewalk, but in this case, the public right-of-way is twenty five (25) feet behind the sidewalk, where the private property begins. Because of the difference between the sidewalk and the public right-of-way, and in order to keep that area maintained it was approved as the arterial landscape strip.

It appears that similarly configured landscape buffers were approved along both sides of Highway 193 through this area. It is assumed that this landscape buffer configuration was common, based on the location of existing curb and gutter along this State highway. Although this buffer is within the right-of-way, it accomplishes the intent of the City ordinance. Staff is of the opinion that additional landscaping along the frontage of the parcel would present an unreasonable hardship to the property owner and would not mitigate any negative impact associated with the approval of an exercise studio at this location. Staff recommends that no additional landscaping be required.

Mr. Rypien said Staff recommends the Planning Commission approve the conditional use subject to meeting all staff requirements and meeting the two following specific conditions:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. Participants shall not run along Highway 193.

Commissioner Hansen asked about the requirements for the operation of a daycare in this type of facility.

Damon Stewart, the operator of Wasatch Crossfit, said the facility operates under an exemption, which allows their operation without a daycare license if parents can be accessed in five minutes and caregivers do not serve food or change diapers. The facility was just audited and exceeded the child to caregiver ratio.

Commissioner Fitzpatrick asked about the use of outside equipment. Mr. Stewart said there would be no exercise equipment in front of the building. Commissioner Fitzpatrick asked for a condition to be added that outside exercise equipment would only be allowed on the north side of the building. Concerns were expressed about the clients running laps in front of the building in the parking lot. Mr. Stewart said he would like to have the clients run laps all the way around the building but they would not run along Highway 193.

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

Chairman Gilbert called for a motion on the item. Commissioner Weaver moved that the Planning Commission approve the conditional use subject to meeting the two existing Staff conditions plus the addition of condition #3 requiring that exercise equipment would only be allowed on the north side of the building. Commissioner Harward seconded the motion, and the voting was unanimous. These conditions are hereby adopted as requirements.

2. TERRAFORM COMPANIES, LLC – CONDITIONAL USE FOR A FAST FOOD EATING ESTABLISHMENT AND LANDSCAPE BUFFER MODIFICATION

This property is located at 512 West Antelope Drive in a CP-1 (Planned Neighborhood Commercial) zoning district. The property owner is Helen S. Madsen Revocable Trust represented by Elliott Smith from Terraform Companies, LLC,

Planner I, Andrew King, said the applicant, Terraform Companies, LLC is converting the former Goodyear tire store to a Dunkin Donuts to occupy one suite of the building. A drive thru will be installed. He said the 26,552 square foot lot contains a 5,600 square foot existing building. He said there are currently 27 existing striped parking stalls and 19 percent open space on the lot. He said the size of the building will be scaled back to accommodate the businesses from a parking perspective. He said the site will be treated as a new site for site development plan review and the site will be brought up to code.

The applicant is requesting a modification to landscape buffer requirements from the Planning Commission for the north and west landscape buffers. The Zoning Ordinance requires a ten foot landscape buffer between restaurant establishments and a multi-family residential use. The north landscape buffer is currently 7.5 feet and not proposed to be enlarged. An enlargement to ten feet would impact the ability to provide the required parking for the proposed uses and to provide an aisle for the drive-thru traffic. Staff supports a reduction of this landscape buffer if the applicant is willing to mitigate the reduced size of the landscape buffer. Planting mitigation should be in the form of planting a more mature landscape since increasing the number of trees would not necessarily improve the screening effect. Interchanging evergreen and deciduous tree varieties should be planted no less than every 20 feet on center as required by the Zoning Ordinance.

The Zoning Ordinance requires a ten foot landscape buffer between community uses, such as churches, and restaurant establishments. The west landscape buffer is currently 7.5 feet. The applicant has proposed to reduce this to a four (4) foot width so a drive-thru lane can be accommodated. This reduction would also require the removal of most of the trees planted in this area. Because the adjacent use is not a residential use, Staff believes the intent of the buffer requirement could still be met with appropriate mitigation. On the church side of the property line there is a six foot high continuous hedge. In addition to the hedge, a good portion of the church property is at a lower grade than the applicant's property. Both of these elements contribute to the buffer between these two properties. Staff would support the proposed reduction of the buffer width with improved landscape elements. Staff recommends buffer landscaping that includes the planting no fewer than six trees together with the planting of a combination of bushes, shrubs and trees to form a continuous "wall" of landscape materials that have a mature height of at least six feet. This landscape element should be designed by a landscape architect on the final landscape plan and approved by Staff with final site plan.

The applicant anticipates keeping the existing privacy wood fence, which would need to be repaired where necessary and in no case should it be placed closer than ten (10) feet of the south property as this would create a clear-view violation. Since the hedge on the church's side of the property line is six feet tall this wood fence would only be visible from the applicant's lot, except near the very front of the property.

The landscape strip along Antelope Drive is required to have no less than one tree per 50 feet of lot frontage. Based on a frontage of 130 feet no fewer than three trees should exist in this area. Staff recommends the smaller of the two existing trees be removed and two additional honey locust trees be planted to match the existing one.

Mr. King said Staff recommends the Planning Commission approve the conditional use subject to the applicant meeting the following requirements:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. Planning Commission grants a reduction to the overall width of the west property line landscape buffer from ten feet to four feet. To mitigate this reduction in buffer size, no fewer than six new trees shall be planted. A continuous "landscape wall" element shall be created with a variety of planting materials that have a minimum mature height of six feet. A landscape plan showing this element shall be included with the site plan application.
3. Planning Commission grants a reduction to the overall width of the north property line landscape buffer from 10 to 7.5 feet. To mitigate this reduction in buffer size, a deciduous and evergreen tree variety with a minimum 2.5 inch caliper shall be planted in an alternating fashion at the required 20 foot on center interval. Trees shall have a minimum mature height of 30 feet.
4. A six foot privacy fence shall exist between this property and the property to the west. The fence shall be restored and maintained so that all pickets are firmly attached to the fence structure and the fence is straight.

Commissioner Fitzpatrick asked if any environmental mitigation had been done on the building and property. The property owner representative, Elliott Smith, 223 East Murray Holiday Road, said that before Goodyear Tire terminated their lease, they were required to provide clean Phases 1 and 2 environmental reports.

There was a discussion regarding the location of the drive through speakers, parking and traffic flow, including traffic flow from the parking lots to the east. Commissioner Hansen asked that Mr. Smith contact Kneaders regarding parking and Mr. Smith replied that he would do so.

The repair of the fence was discussed as well as landscaping. Mr. Smith said the transformer would remain where it is. Mr. Smith explained the extensive remodel and said the other business in the building would be Freebirds, which is a burrito shop.

There were no further questions or comments. Chairman Gilbert called for a motion on the item.

Commissioner Fitzpatrick moved that the Planning Commission approve the conditional use request subject to meeting all Staff conditions, which are hereby adopted as requirements. Commissioner Pales asked if the landscape buffer modification needed to be included. Commissioner Fitzpatrick modified the motion to include the landscape buffer modification request. Commissioner Harward seconded the motion, and the voting was unanimous.

Chairman Gilbert called for a motion to close Public Review and adjourn the meeting.

Commissioner Pales moved to close Public Review and adjourn the meeting. Commissioner Harward seconded the motion, and the voting was unanimous.

The meeting adjourned at 7:50 p.m.

Julie Jewell, Planning Commission Secretary