

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
JUNE 10, 2014**

MEMBERS PRESENT: Brian Bodily, Dawn Fitzpatrick, Gerald Gilbert, Wynn Hansen, Brett Nilsson, Robert Van Drunen, Dave Weaver

MEMBERS ABSENT: L.T. Weese

OTHERS PRESENT: Staff Members: Kent Andersen, Peter Matson, Andrew King, Tyson Willis, Julie Matthews and Councilmember Tom Day

1. PUBLIC HEARING:

ORDINANCE AMENDMENT – TITLE 19, ZONING, CHAPTER 19.21, TEMPORARY AND SEASONAL USES – Amending regulations for the size of temporary use businesses – Ordinance 14-15.

Planner I, Andrew King, said that since the Temporary and Seasonal Use Ordinance was adopted approximately two years ago, businesses have provided input to the City on industry standards. He said a business based out of Layton City could not be accommodated because the footprint was not within ordinance. After review and discussion, City Staff is supporting a proposed ordinance amendment to adjust the size of the footprint that would be allowed for a larger area for temporary and seasonal uses. In the proposal, size limits for the overall footprint of the use have been removed from the ordinance. In answer to Commissioner Van Drunen's question about the size of snow shacks, Mr. King said that the trailer or facility cannot be more than 160 square feet, and the amount of space taken on the site can be no more than 15 percent of the parking.

Commissioner Van Drunen asked why snow shacks can be in the MU zone (Mixed Use), but produce stands are not allowed. Mr. King said that in the MU zone, most of the customer base is walk up traffic because there usually is not as much parking in an MU zone. The 15 percent of parking requirement refers to at grade parking, whereas parking in the MU may be underground or stacked.

Commissioner Van Drunen expressed the opinion that if a produce stand could meeting the area requirement in the MU zone, it should be an allowed use.

Commissioner Fitzpatrick asked if produce stands had to be on paved parking lots. Mr. King said the ordinance reference to improved surface being required pertained to street vendors such as hot dog stands and taco carts. Commissioner Fitzpatrick referenced a requirement for identified parking stalls and pointed out Day Farms and Grounds for Coffee produce stand where there are no identified parking stalls. Mr. King said there is no actual parking lot at these locations.

Commissioner Van Drunen said that when the parking for the tent vendor becomes a pedestrian safety and traffic flow hazard, then it becomes an issue.

Mr. King said if the site does not have enough space, then the business would not be approved. He said he would notify Code Compliance Officer, Shannon Hansen, about the issues at the Grounds for Coffee site.

Mr. King asked the Commission if the enforcement measures Staff takes will satisfy the concerns or if the ordinance needs to be more specific.

There was a discussion regarding the snow shack at Gentile Street and Fort Lane. Mr. King said that particular business has locations all over the country. They wanted a larger footprint to be able to accommodate more chairs. Mr. King had required that gravel be placed on the site.

There was a discussion about seating and tables for temporary uses. Commissioner Van Drunen asked why street vendors cannot have seating but tent vendors such as snow shacks can. Mr. King responded that it is zoning based. In the MU zone, a temporary use facility could have up to 100 square feet but no tables or chairs. In the commercial zone, the vendor could have tables and chairs and a facility up to 160 square feet.

Commissioner Fitzpatrick brought up some signage violations. Mr. King explained that Shannon Hansen who is the Code Compliance officer and also an inspector has been very busy because another inspector is out with an injury. He said she is aware of the sign violation and is drafting letters.

Commissioner Hansen asked if the street vendors come in with a plan and how the violations are being missed.

City Planner, Peter Matson, said the vendors just put up their facility without first coming to the City.

Commissioner Hansen asked if they are informed of the regulations. Mr. King said they are absolutely informed. He outlined a possible enforcement scenario in which the applicant would be sent a letter to conform within seven (7) days. If they are not compliant within seven (7) days, the process to revoke the business license is started.

Commissioner Van Drunen asked if food trucks were allowed. Mr. King said a temporary use cannot be self-propelled. The ordinance is intended for businesses setting up in one location with a Layton City business license.

There was a discussion about the amount of time a business should have to comply with the ordinance and a suggestion that the ordinance contain recourses for non-compliance.

Mr. King asked the Commission to focus on the contents of the ordinance versus code enforcement. There was a continued discussion on enforcement. Mr. King and Mr. Andersen said they would talk with the Legal Department about how much time could be allowed for compliance. It was suggested that the Code Compliance Officer write a warning ticket to give to the business rather than sending a letter asking the business to respond in order to decrease the period of time the business is out of compliance.

Chairman Gilbert recommended tabling the item for more discussion.

There was a discussion regarding single events and the difference between street vendors on private property and events at the City parks. It was mentioned that 30 days was not enough days for a farmers market. Mr. King said most farmers markets are one day event and 30 days accommodates all the Saturdays during the season.

It was determined that Staff will check on the signage, height and surfacing at the For Lane and Gentile Street snow shack.

Commissioner Weaver asked that a determination be made if the taco stand in front of Archie's Barber Shop is on the correct lot. The tamale sales on Wasatch Drive and Gentile Street were questioned and Mr. King will look into the situation.

PUBLIC REVIEW:

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

This property is located at 930 West Antelope Drive in a CP-2 (Planned Community Commercial) zoning district. The applicant, Terraform Companies, is represented by Elliott Smith.

Mr. King presented the request for conditional use for a fast food eating establishment. He presented an updated site plan for The Castle reception center site, which would allow for the stacking of 14 cars. The site plan showed the anticipated layout of the project including a Popeye's Chicken and a pizza restaurant. Mr. King said the review indicated that there would be ample parking for the project as planned.

There was a discussion regarding future parking at an adjacent site.

Commissioner Bodily expressed concerns that the stacking of 14 cars was not enough.

Commissioner Fitzpatrick expressed concerns about traffic entering and leaving the site and asked if there could be a traffic light at the entrance, and Mr. King responded that the Engineering Division did not have plans for a light there. He said commercial traffic self-regulates. If there is too much traffic, people will not go to the business.

Commissioner Nilsson asked if the landscaped area in front could be smaller. Elliott Smith, the developer, said the landscape is for detention, but he was not opposed to trimming it down to be able to stack more cars.

Although the site plan application had not been reviewed, Mr. King said he anticipated it will meet the requirement for landscaping.

Commissioner Fitzpatrick asked about the routine and uncontested variance for setbacks. Mr. King said it was done administratively and it was not required to have a review by the Planning Commission. He explained that the variance did not reduce the amount of buffer, just the setback, and was an effort to minimize the curve going into the project. He said the Fire Department has approved the layout for Fire turnaround.

The Commission adjourned at 7:10 p.m. from the Work Meeting.



Julie K. Matthews, Planning Commission Secretary

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Planning Commission Chair, Gerald Gilbert, called the meeting to order at 7:14 p.m. The Pledge Allegiance was recited and an invocation was given by Commissioner Fitzpatrick

APPROVAL OF THE MINUTES: May 27, 2014

Chairman Gilbert called for a motion to approve the May 27, 2014, Planning Commission and Work Meeting Minutes. Commissioner Fitzpatrick moved to approve the minutes as written. The motion was seconded by Commissioner Hansen, and the voting was unanimous.

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

1. PUBLIC HEARING:

ORDINANCE AMENDMENT – TITLE 19, ZONING, CHAPTER 19.21, TEMPORARY AND SEASONAL USES – Amending regulations for the size of temporary use businesses – Ordinance 14-15.

Planner I, Andrew King, presented the request to amend the Temporary and Seasonal Uses ordinance. He said the ordinance amendment request was made by Brian Tagge of Hokulia Shave Ice in order to modify the size of the facility out of which these businesses operate and the amount of ground these facilities can take on site. Staff has been tracking the concerns of other applicants for these types of businesses and determined it was a positive thing to try to address the concerns of these types of business without compromising the types of businesses Layton City would like to attract.

Mr. King said the enforcement issues brought up in Work Meeting would be addressed at a future time with the City's Code Compliance Officer.

He said the applicant is represented at the meeting if the Planning Commission has any questions.

Chairman Gilbert said it was his opinion the Planning Commission was in a situation to table the agenda item for two weeks. He asked the representative, Rilee Schenk, 6455 South Raymond Drive, South Weber, Utah, how tall the shave ice temporary facility was. She was uncertain but said maybe 10-15 feet high. She said the owner would just like to have tables and chairs to be more family oriented. When families come, they will have a place to sit and not be rushed. They would like to bring the community together.

Chairman Gilbert asked if this use would be allowable for tables and chairs. Mr. King said the applicant has looked at the ordinance as proposed and would be able to accommodate the tables and chairs they need within the requirements of the ordinance.

Mr. King said that the ordinance before the Commission is to address the changes for the temporary use ordinance, if the Commission has changes to suggest. However, the purpose is not to address code enforcement.

Chairman Gilbert asked why the Planning Commission would change an ordinance if the business is not in compliance with the ordinance. Mr. King said if the City enforces on businesses today, then the City is enforcing on the current ordinance. If the changes are made, then the City would be enforcing on the new ordinance.

Commissioner Fitzpatrick suggested adding to the ordinance that tent vendors must have adequate off street parking. She said that Code Enforcement cannot enforce the ordinance until it is reviewed and passed by the City Council.

Commissioner Hansen said he was in agreement with Staff with regard to the ordinance with a few modifications to correct. He suggested the ordinance not be tabled and be referred to the City Council for review.

Commissioner Weaver said there was not a 100 percent clear understanding of the ordinance and felt it should be tabled to the next meeting. He said regardless, the petitioner will get what he is requesting. He felt the citizens of Layton would get a better product if the amendment was tabled.

Commissioner Van Drunen said a lot of what was discussed was with regard to enforcement. He asked if the Commissioners had any questions on the 160 square foot size limit. He suggested adding adequate off-street parking as a requirement to tent vendors to the ordinance and visiting enforcement at a later time.

Commissioner Weaver felt there was too much discussion to get everything wanted in the document at the current meeting.

Commissioner Hansen asked how many issues there are that still needed to be included. He said a snow shack is only a 3-4 month operation. If the item is tabled, the businesses would not be able to move ahead until July.

Chairman Gilbert asked if the height of the building was on the site plan. Mr. King explained the measurement process and said there is a height limit.

Commissioner Fitzpatrick asked if the height limit was being changed with the ordinance amendment. Mr. King said it was not being changed and that it did not apply.

Chairman Gilbert said the applicant is asking for a larger footprint. He felt the building was higher than 10 feet and customers were parking in unauthorized parking right now. He said part of the problem is that the applicant brings in a rendering and says the building is 10 feet high. Then tables and chairs the City does not know about are added. He said when people come in they are given all the guidelines. They open and start doing other things. Code Enforcement is certainly another issue. He said if the use is granted on what is in the ordinance now, the business is not compliant with the current ordinance.

Commissioner Fitzpatrick asked what the business owner is given when he applies for a business. Mr. King said they are not given anything but there is a conversation about requirements. Commissioner Fitzpatrick said maybe they would be more compliant if they had a checklist.

Commissioner Fitzpatrick said that by getting the proposed ordinance passed, Code Enforcement can enforce on the fruit stand on Highway 89 and also help to avoid having other dangerous businesses with regard to parking and traffic.

Mr. King said there is a checklist of the major items on the business license application. It is specific to each application but not exhaustive to everything in the ordinance. He said the issues that are specifically being noticed should be on the checklists.

Chairman Gilbert asked if the business owners have access to a copy of the ordinance on the website. Mr. King said the ordinance is on the Planning site under Zoning/Land Use/Title 19.

Commissioner Van Drunen asked if the Commission could separate the ordinance from enforcement, determine if the ordinance is good and vote on the ordinance.

Commissioner Fitzpatrick agreed with Commissioner Van Drunen.

Commissioner Weaver asked how fireworks sales fit in the ordinance. Mr. King said they are considered a seasonal outdoor vendor. There are zoning requirements, which are mostly regulated by the Fire Department, which has tight regulations on fireworks stands.

Commissioner Hansen summarized the discussion stating that the proposal is trying to generate an ordinance that is more flexible and somewhat more lenient for temporary vendors to encourage them to come and provide a service to the City. He felt it was a great proposal. He said 95-98 percent of the ordinance content generated no discussion. He felt if there were stipulations causing concerns, then the ordinance could be amended at a future meeting. He said that code enforcement would be an on-going discussion with Staff and the Commission. It was his opinion that there was no reason not to move on the item, amend it later as needed and continue enforcement discussions at future meetings.

Commissioner Bodily suggested that Code Enforcement visit the property and get them compliant before the City Council review. Mr. King said he has a meeting set up to discuss the issue with Code Enforcement. However, her priority has to be to get building inspections done until a new inspector is hired to replace her in her inspector position.

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

Commissioner Weaver moved that the Planning Commission table the item until staff has a chance to accumulate and quantify all the comments and present a clearer ordinance to the Planning Commission. The motion died for lack of a second.

Commissioner Fitzpatrick moved that the Planning Commission forward a positive recommendation to the City Council to approve the ordinance amendment with the exception of the addition of a provision under tent vendors for produce stands to be required to have adequate off street parking and allow produce stands in the MU zone if there is adequate parking. The motion was seconded by Commissioner Hansen.

Commissioner Bodily said the ordinance could not be specific to a business, just to tent vendors in general

The motion passed with Commissioners Bodily, Fitzpatrick, Hansen, Nilsson and Van Drunen voting in favor and Commissioner Weaver opposed.

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

PUBLIC REVIEW:

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

This property is located at 930 West Antelope Drive in a CP-2 (Planned Community Commercial) zoning district. The applicant, Terraform Companies, is represented by Elliott Smith.

Planner I, Andrew King, reviewed the plans to redevelop The Castle reception center site. He presented an illustration of how customers would enter and exit the site. He said the landscape buffer modification is a result of the Engineering Division requiring the site to align with the driveway into the Target shopping area. He said there is a hammerhead to allow parked cars to back out. Landscaping requirements will be met and all site requirements will be met with the site plan review.

Mr. King said the request is for the Planning Commission to grant a reduction of the overall width of the landscape buffer from 10 feet to 5 feet on the west side.

The following are the conditions required by Staff for this conditional use:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements.
2. The Planning Commission grants a reduction to the overall width of the west property line landscape buffer, in the 26 foot area of parking for the hammerhead feature only, from ten feet to five feet.
3. A three (3) foot decorative wall, matching the materials of the primary structure shall be installed between the drive-thru traffic lanes of the fast food eating establishment and the landscape strip.

Mr. King said the three-foot decorative wall in Condition # 3 is to keep headlights in the drive thru from shining into oncoming traffic. He said Staff recommends conditional use approval be granted subject to the applicant meeting all requirements.

Commissioner Weaver asked how the three-foot measurement was determined. Mr. King said Staff wanted a wall tall enough to block the vast majority of lights. He said they did not want a wall so tall that it blocked the building from the street and people on the sidewalk. He said it was an opportunity to enhance the site and mitigate an impact.

Commissioner Hansen said the lights from a large truck would shine over the three-foot wall. He suggested a taller, tapering wall that is moved farther to the east.

Commissioner Fitzpatrick asked if there should be one or two votes for the buffer modification and fast food eating establishment request.

Associate City Attorney, Tyson Willis, said the Staff recommendation could be incorporated into one motion.

There was a discussion on the stacking in the drive thru and the amount of parking, which Mr. King said had been determined to be adequate. Chairman Gilbert asked about Fire Department access and City Planner, Peter Matson said a combination of striping and signage would be used to keep a drive isle clear for the Fire Department.

Commissioner Fitzpatrick suggested law enforcement be involved during the grand opening to direct traffic. She commented that the new development would cause a sad loss to a structure in Layton with a lot of history since many people were married there. She asked if when the building is dissembled, that the public be able to have a brick.

The developer, Elliott Smith, Terraforma Company, 2231 East Murray Holiday Road, Salt Lake City, UT, said that he would make that request possible.

Commissioner Nilsson asked about a decrease to the detention area to widen the area for traffic flow. Mr. King will discuss the option with the Engineering Division.

Mr. Smith said there are 114 parking stalls on site yielding a ratio of 10 parking spaces to 1,000 square feet of retail space, which exceeds the City's minimum code requirement.

He said with regard to the decorative wall that he didn't want a funky wall in the open area. He said if Commissioner Hansen's suggestion was taken to move the wall farther to the east, but birm up the landscaping and put up concentrated hedges to have something more natural than a three-foot wall. Commissioner Hansen spoke in favor of the hedge option.

Mr. Matson said the requirement should be stated such as "at least three feet or additional" to cover the impact of a hedge versus a wall.

Commissioner Bodily moved that the Planning Commission approve the conditional use for a fast food eating established and the landscape buffer modification as outlined and subject to Staff conditions, which are hereby adopted as requirements, including the changes suggested to Condition #3. Commissioner Nilsson seconded the motion. There was a question on the motion.

Commissioner Fitzpatrick asked if the conditional use was for a fast food eating establish or a drive thru. Mr. King said it was for just a fast food eating establishment.

The voting was then unanimous.

Chairman Gilbert called for a motion to close Public Review and adjourn the meeting. Commissioner Van Drunen called for a motion to close Public Review and adjourn the meeting. The meeting adjourned at 8:11 p.m.



Julie K. Matthews, Planning Commission Secretary

