

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
NOVEMBER 12, 2014**

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

MEMBERS ABSENT: Randy Pulham, L.T. Weese

OTHERS PRESENT: Staff Members: Peter Matson, Kem Weaver, Brandon Rypien, Gary Crane, Julie Matthews

City Council Members: Council Member Tom Day

Corrections to the Work Meeting Minutes were discussed. These corrections will be recommended in the regular meeting.

Chairman Gilbert said it was tough for the Commissioners to agree to the design of the WinCo store, but he didn't want that to be a deal breaker. He said he knew it took a lot to make the decision, but he knew it was a good decision as a whole. He just wished the view of the building were different but felt it was better than nothing at all on the site.

Commissioner Van Drunen said what develops around it will be more important. Will it be a "place" or a glorified strip mall? He said the development is supposed to be walkable and asked if it will continue to be walkable. He didn't want the developers and staff to lose site of the walkable concept.

Commissioner Fitzpatrick said if there is any way to get them to move to a nicer facility it would be great. The nicer it is, the nicer the building will be around it.

Commissioner Hansen said some ideas should be set in place about what it will look like.

Commissioner Van Drunen said maybe that train has left the station with Farmington Station being built. Farmington Station has pulled a lot of what the city envisioned in that location.

Commissioner Fitzpatrick mentioned the proposed Smith's Marketplace in Kaysville.

Commissioner Weaver said the anchor stores are extremely plain at Farmington Station and they should have put the town center by the train.

There was a discussion on the truck parking on the WinCo site. Mr. Weaver will follow up on the truck parking issue.

PUBLIC HEARING:

1. ERIC MARTZ – REQUEST FOR REZONE A (AGRICULTURE) TO R-S (RESIDENTIAL SUBURBAN)

This .43 acre property is located at approximately 1242 East Pheasant View Drive. The property owner is Eric Martz.

Planner II, Kem Weaver, presented the request for rezone to add an addition of 15 more units for memory care to the Pheasant View Assisted Living facility. There are currently 21 units in the facility. He said Dave Whittaker is present and a is partner in Pheasant View Land Company.

Mr. Weaver said the annexation approved on November 6, 2014, along with an Annexation agreement limited the number of units that could be in the facility to 36. Two units on the existing building will be removed for parking to the south of the existing building and added into the addition.

The applicant had to annex .43 acres of property that had been disconnected from Kaysville City adjacent to the existing assisted living facility in order for the facility to expand. The property was an unincorporated Davis County island, or peninsula, adjacent to the city boundary and required no annexation plat to annex. The annexation only had to go to the City Council for review, which is why the Planning Commission did not review the annexation. He said there is an annexation agreement in place.

Mr. Weaver said the default zone is Agriculture with an annexation. The current zone for the existing facility is R-S (Residential Suburban). Surrounding development is R-1-8 (Single Family Residential). The request is to rezone the annexed property to R-S.

Mr. Weaver said that by connecting the .43 acres with the current property, the total parcel would be 1.19 acres with frontage on Pheasant View Drive. He said the land use element of the General Plan allows for this type of zoning and is applicable in residential areas with the classifications surrounding this property.

Commissioner Bodily asked if there had been any neighborhood concerns expressed. Mr. Weaver said at the City Council meeting for the annexation, one individual adjacent to the property expressed concerns about the dumpster being dumped at 5:00 a.m. instead of 7:00 a.m. He said calls had been received from the neighbor just to the west of the entrance with concerns about the expansion and more traffic. He said these types of uses don't produce more traffic because the residents don't drive. Mr. Whittaker said it is sad there is not more traffic because they don't get visitors.

Mr. Weaver said additional parking with this expansion will include eight (8) more stalls.

Mr. Weaver said the proposed building would be expanded under the original conditional use. He said both lots were purchased when the original building was built and with their master development plan, they stubbed water and sewer under the parking lot.

PUBLIC REVIEW:

2. DUANE JOHNSON PARCEL SPLIT

This property is located at approximately 3100 North 650 East. The applicant and property owner is Duane Johnson.

Mr. Weaver presented the request for parcel split approval. He said the road is not a typical public street. Commissioner Fitzpatrick said the street is actually 675 East.

Mr. Weaver said the street is road base and dirt. He said typically when there is new development, the City's requires the applicant to improve the street. He said the applicant, Duane Johnson, has done

sidewalk and curb and gutter and was asked not to improve the road. He was given a lien waiver with improvements to be postponed until the City Council decides if the road should be improved. Mr. Johnson has built 2 buildings on this shop site. Building 6, which fronts on 750 East, is built and being used and Building 1 is the one that is going to be split off from the other 5 lots. Lots 2, 3, 4 5 have not been built.

Mr. Weaver said there are no frontage requirements or area requirements in the M-1 zoning district. If the road does get improved there are cross access easements.

Commissioners Hansen and Nilsson asked why the street would not be improved. Commissioner Weaver asked if the responsibility for road improvement could be designated in a condition.

Mr. Weaver said the improvement lien waiver ensures disclosure to a future buyer that they would have to participate in the improvement. It would be on the title report.

City Attorney, Gary Crane, said there is no benefit to improve the road. The City doesn't want to improve it or plow it, so it has been left private.

Mr. Weaver said there is only a water line down the road. The sewer goes to 750 East. If improved although it sounds like it won't be, a sewer and storm drain line will need to be installed.

Mr. Weaver said the City tried to put a special improvement district together a few years ago, but none of the owners wanted to participate.

Mr. Hansen said if the City isn't interested in improving the road, then that recommendation should not be passed along to the Council.

Mr. Crane said the Council would be informed that if the City required the road to be improved, the owners would need to participate. He said an important part is the storm drain element. These two parcels retain the storm drain. Any further subdivision would require that the detention basin be enlarged.

3. AT&T WIRELESS – CONDITIONAL USE MODIFICATION TO ADD A BACKUP GENERATOR TO EXISTING SITE

This property is located at 2701 North Church Street. The applicant is AT&T Wireless represented by Anne Richards.

Planner I, Brandon Rypien presented the request for conditional use for an equipment compound addition to an existing AT&T Wireless site, north of the existing compound which has a cell tower. This facility is on a Layton City Fire Department site. He said Staff recommends the fence be slatted on the north and east side of the compound. The backup generator is 150 feet from the nearest residence. He said initially AT&T wanted to place the backup generator on the south side of the equipment compound. He said he met on site with Scott Maughn and Doug Bitton of the Fire Department and talked about alternatives. They gave two preferred sites and AT&T selected site #2. Mr. Rypien said the noise from the generator would be 66 decibels, which is equivalent to a residential air conditioning unit. The generator would turn on once a week for 15 minutes.

Mr. Rypien spoke to a resident closet to the corner on 2675 North. He said the Fire Station generator is closer to the resident's home than the proposed generator would be. He has complained about the Fire Department generator in the past, which is why the Fire Department wanted to place the proposed generator north of the equipment compound. Mr. Rypien said the neighbor recommended the generator run mid-day on Wednesday. He said the Commission could specify the time in the conditions. He said there would be a vinyl slatted fence on the north and east side.

Commissioner Nilsson asked why one site was chosen over the other. Mr. Rypien said he thought it was so they wouldn't have to tear up asphalt to get to the site.

Commissioner Weaver asked if there were ever poles without a generator. Mr. Rypien said there is a generator already. The proposal is for a backup generator.

Mr. Matson said the current generator installed in the late 90's associated with the tower is electric. If the power goes out, then the backup generator would come on.

There was a discussion on the type of fuel to be used in the generator. The Fire Department's review was based on diesel fuel.

4. RACHAEL GAUSS – CONDITIONAL USE REQUEST FOR A BEAUTY SHOP

This property is located at 1826 East 3100 North, Suite 2. The property owner is KTG Enterprises represented by Rachael Gauss.

Mr. Rypien reviewed a site plan showing the location of the building in the Greyhawk Professional Business Park. He said eventually 14 buildings are planned for this commercial subdivision. He said the building is 2952 square feet and the occupant will occupy 1400 square feet. Based on the category of barber or beauty shop the request is a conditional use in the PB (Professional Office) zoning district.

Mr. Rypien said three parking stalls for every one chair are required. There has been an adjustment in the staff report to four chairs which would require 12 parking stalls. This is reduced from five chairs and 18 stalls that were originally allotted by the landlord. The realtor told the applicant she could have as many parking stalls as she wanted. Twelve parking stalls can be allocated for this use.

Commissioner Bodily expressed a concern that the applicant would add more chairs. Mr. Whittaker said he would be surprised if they could fit five chairs.

Commissioner Hansen asked if there would be sufficient parking for the other tenants. Mr. Rypien said the other tenants were IRS Pro's and Dillan law firm. Mr. Whittaker said the IRS doesn't have any walk in clientele. He said three attorneys work there and are in Salt Lake City on Wednesdays. They use three stalls.

Commissioner Van Drunen asked about the parking ratio in the PB zone. Mr. Rypien said it is one parking stall for every 300 square feet. Mr. Weaver said during the site plan review, the parking plan was based on an office type use. He said there was more than sufficient parking.

Commissioner Bodily said he thought that the Phase 2 building was over-parked. Mr. Weaver said there would be shared parking throughout the complex.

Commissioner Fitzpatrick asked with regard to shared parking and when one business is more prominent, can they legally designate parking spots. Mr. Crane said it is determined by contract.

Commissioner Fitzpatrick asked about ventilation if the eye lash extension services generate smells.

Commissioner Van Drunen asked if any ventilation requirements could be set. City Planner, Peter Matson, said codes and requirements regarding ventilation would be determined at the building permit stage.

Mr. Whittaker, representing the landlord who is the tenant in the other side of the space, said it would have to be a fairly persistent smell to get through the sheet rock structure. He said it was single story construction and ventilation could easily be added. He felt the landlord could work something out with the tenant regarding ventilation.

Commissioner Fitzpatrick recommended a condition regarding no noxious smells be added and leave it up to the tenant and landlord.

Commissioner Bodily said the complaint would be from the joint tenant and in this case it's the landlord.

Mr. Crane said if there is a negative impact under a conditional use approval, it may be addressed by including as a condition: upon a valid complaint to the Planning Commission, the concern can be come back to the Planning Commission. He said a conditional use would only come before the Planning Commission if there is a violation of a condition. If a business has an odor, etc., and there is a valid complaint, the matter may then come back before the Planning Commission for review. Otherwise, the concern remains between the tenants.

Condition #4 will be added that upon a valid complaint, if there is any type of noxious odor, the conditional use will be reviewed by the Planning Commission.



Julie K. Matthews, Planning Commission Secretary

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MEMBERS ABSENT: Randy Pulham, L.T. Weese

OTHERS PRESENT: Staff: Peter Matson, Kem Weaver, Brandon Rypien, Gary Crane, Julie Matthews

City Council Member: Council Member Tom Day

Chairman Gilbert called the meeting to order at 7:02 p.m. The Pledge of Allegiance was recited and an invocation given by Commissioner Hansen.

APPROVAL OF THE MINUTES: October 14 and October 16, 2014 – Chairman Gilbert called for a motion to approve the October 14 and October 16, 2014, Planning Commission and Work Meeting Minutes. Commissioner Fitzpatrick asked that on Page 1 of the October 14 Work Meeting Minutes, that CBDG to be corrected to CDBG and the reference to the meeting where the items will be approved be changed from August 16 to October 16. In the attendance of the regular minutes for October 14, 2014, a correction should be made that Brian Bodily was not present and Dawn Fitzpatrick was present. An addition to the motion on item #3 for the October 16, Commission Meeting Minutes should read that Commissioner Fitzpatrick moved that the Planning Commission forward a positive recommendation to the City Council to grant final approval to the Old Farm at Parkway Subdivision Phases 3 & 4 subject to meeting all staff requirements. The motion was seconded by Commissioner Weaver and the voting was unanimous.

Commissioner Fitzpatrick moved to accept the minutes with the corrections and Commissioner Hansen seconded the motion. The voting was unanimous.

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

PUBLIC HEARING:

1. ERIC MARTZ – REQUEST FOR REZONE A (AGRICULTURE) TO R-S (RESIDENTIAL SUBURBAN)

This .43 acre property is located at approximately 1242 East Pheasant View Drive. The property owner is Eric Martz.

Planner II, Kem Weaver presented the request to rezone the property from A (Agriculture) to R-S (Residential Suburban) for .43 acres recently annexed into the city and accompanied by the annexation agreement that outlined the limits for the full development of the property. Mr. Weaver outlined the City boundary and said the .43 acre parcel will be combined with the larger developed piece with frontage on Pheasant View Drive. The combined acreage will be 1.19 acres and the .43 acres will no longer be landlocked. With the annexation and rezone of the vacant parcel, the applicant will expand to

assist memory care residents. This land use will be expanded under the existing conditional use permit and under the guidelines of the Federal Fair Housing Act.

Mr. Weaver said that based on this information, Staff recommends the Planning Commission forward a positive recommendation to the City Council to approve the rezone from A to R-S.

There were no questions from the Commission.

The following audience members expressed concerns about adequate onsite parking, possible theft with construction workers in the neighborhood, meeting the parking code for the number of beds, increased traffic, early morning trash pick-up, semi-truck deliveries, fire service, facilities that can be built under the Fair Housing Act, proximity of the facility to adjacent properties, employees parking on the street, landscapers parking on the street and snow removal:

Mike Hales – 1248 East Pheasant View Drive, Haley Hales – 1248 East Pheasant View Drive, who presented a petition that will be included in the minutes, Cindy Roybow (mother of Haley Hales) – 1267 West 1875 North, Farmington, Suzanne Gange – 1235 East Pheasant View Drive, Ian Ogger – 1244 Pheasant View Drive, Dave Ridge – 1272 Pheasant View Drive

Mr. Weaver said eight additional parking spaces for 15 more beds will be added. Mr. Weaver explained how two units were being removed to increase the size of the access to the property. He pointed out where parking stalls will be located. He said the conditional use for the current facility was approved four years prior.

City Attorney, Gary Crane, said there are limitations on municipal regulation of these uses under the Fair Housing Act. The idea of the use like the proposed use is that the types of things coming into the neighborhood shouldn't be different than in any other neighborhood. Semi-trucks can enter regular neighborhoods, however, with a conditional use, the hours a semi-truck delivers can be restricted. As far as the traffic goes, if a landscaper comes and does landscaping, that is normal for a residential neighborhood. If there is increased parking during the holidays, it is normal for a residential neighborhood. Parking should be contained on site on a daily basis and can be dealt with by Code Enforcement if that is not the case. Parking restrictions can't be required beyond the parking ordinance requirements

Commissioner Fitzpatrick asked about the closest fire hydrant. Mr. Weaver said the fire access will replace the two units on the end with a hammerhead turnaround. He said fire issues would be addressed by the Fire Department during the site plan review.

Dave Whittaker, representing Pleasant View Assisted Living, 1550 West Gordon Avenue in Layton said he built the original building. He apologized about the theft. He said the building is sprinkled and when going through the site plan review and approval for the first building, the Fire Department gave the water line sizing needed for the future addition. He said the Fire Department said that as long as the building is sprinkled, there is not a need for the turnaround.

Commissioner Hansen asked if the dumpster would be relocated if the project moved forward. Mr. Whittaker said he was sure that they could work with the trash collector and arrange pickup during the

day. He said with the other assisted living buildings he had built, there aren't semi-truck deliveries, and he was certain the owner of this facility could arrange for something else.

Commissioner Hansen asked how construction machinery would be handled during construction. Mr. Whittaker said he would be lying to say there wouldn't be some inconveniences during construction and perhaps some of the workers could park off-site and be brought to the site in a van. Some trucks and materials would have to access the site and may need to park on the road.

Commissioner Van Drunen asked if the Planning Commission would review a site plan, and Mr. Weaver responded by stating that a site plan will be reviewed and approved administratively.

Chairman Gilbert said that the current hearing was just for the rezone and a recommendation to the Council. He thanked the citizens for voicing their concerns. Commissioner Hansen echoed Chairman Gilbert's comments and asked the Staff to review the parking requirements and provide the citizens with a timeline on the process.

Mr. Whittaker said he would encourage the owner to take care of the dumpster issues, the deliveries and the off-site parking concerns.

Chairman Gilbert recommended the owner meet with the residents.

Commissioner Weaver spoke about the nuisance ordinance as it relates to noise and in this case the noise from the emptying of the dumpster. Mr. Crane recommended the owner be contacted and informed of the nuisance ordinance hours and make sure the trash pick-up is not close to those hours.

Mr. Weaver said the City Council hearing for this item would be on November 20, 2014. Commissioner Hansen said the citizens would be able to voice their concerns at this meeting, and Commissioner Weaver recommended they appoint one person to be the spokesperson at the Council meeting. Commissioner Fitzpatrick said the Councilmembers' e-mails are on the City website.

Chairman Gilbert called for a motion on the item. Commissioner Nilsson moved that the Planning Commission forward a positive recommendation to the City Council to approve the rezone from A to R-S based on consistency with the General Plan recommendations for the residential zone in that area. Commissioner Van Drunen seconded the motion, and the voting was unanimous. Mr. Crane said that the comments from this meeting would be incorporated in Staff's recommendation to the City Council on November 20, 2014.

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

PUBLIC REVIEW:

2. DUANE JOHNSON PARCEL SPLIT

This property is located at approximately 3100 North 650 East. The applicant and property owner is Duane Johnson.

Mr. Weaver presented the request for a parcel split for an M-1 (Light industrial/manufacturing) zoned property with two already constructed office warehouse buildings, Buildings 1 and 6. He said the parcel split will separate Building 1/Phase 1 from the remaining property that will be developed with the remaining planned office/warehouses.

There were no questions from the audience or the Commission. 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 the parcel split subject to meeting all staff requirements as outlined in staff memos. Commissioner Nilsson seconded the motion, and the voting was unanimous.

3. AT&T WIRELESS – CONDITIONAL USE MODIFICATION TO ADD A BACKUP GENERATOR TO EXISTING SITE

This property is located at 2701 North Church Street. The applicant is AT&T Wireless represented by Anne Richards.

Planner I, Brandon Rypien, presented the request for conditional use approval for site #2 agreed upon by the Fire Department. Mr. Rypien said the proposal is an expansion of the existing facility. The proposed new backup generator will be north of the existing building and the fenced area should be screened with chain link with wood slats rather than the vinyl fencing he mentioned in the work meeting. He said the noise level of the generator would be 66 decibels which is equivalent to a residential air conditioning unit.

Mr. Weaver said staff recommends approval of the conditional use modification to expand the telecommunication facilities subject to the applicant meeting the following conditions:

1. The fence surrounding the backup generator shall be slatted on the north and east side to obstruct the view from the street.
2. All Building Division and Fire Department requirements shall be met prior to Final Inspection.

Mr. Rypien said staff would call the Fire Department about their generator.

Chairman Gilbert asked if AT&T was familiar with the conditions. Mr. Rypien said they had received the staff report with the conditions listed.

Chairman Gilbert called for a motion on the item. Commissioner Bodily moved that the Planning Commission approved the conditional use modification subject to Staff's conditions, which are hereby adopted as requirements. Commissioner Weaver asked for a third condition to be added that the generator run during the day. Commissioner Hansen said he didn't feel that was necessary due to the location of the generator. He seconded the motion, and the voting was unanimous.

4. RACHAEL GAUSS – CONDITIONAL USE REQUEST FOR A BEAUTY SHOP

This property is located at 1826 East 3100 North, Suite 2. The property owner is KTG Enterprises represented by Rachael Gauss.

Mr. Rypien said the applicant, Rachael Guass, is proposing to open a salon which is categorized as a barber/beauty shop. The salon will occupy 1400 of the approximately 2900 square foot building. He listed the tenants sharing the building as IRS Law Pros and Gilland Law Firm.

Mr. Rypien said Barber/Beauty Shops are required to have three (3) parking stalls per chair. The applicant has stated in her letter of intent that there will be a total of five (5) chairs, which would require fifteen (15) parking stalls. Based on the number of parking stalls available to this proposed business, the number of chairs has been reduced to four which would require 12 parking stalls, which meets the minimum parking requirement.

Mr. Rypien said existing landscaping has been installed according to code and no additional buffers are necessary for this use. The hours of operation are as follows: Mon., Fri. & Sat. 9am-6pm, Tues.-Thurs. 9am-8pm and Closed Sundays.

Mr. Rypien said staff recommends approval subject to the following conditions:

1. The applicant shall have a minimum of three (3) parking stalls per chair. Based on the proposal a total of twelve (12) parking stalls are required.
2. All Building Division and Fire Department requirements shall be met before occupancy.
3. The applicant must complete all of the conditions prior to receiving the Final Inspection.

A fourth condition was added during Work Meeting that a valid complaint of any noxious odors may be reviewed by the Planning Commission. Commissioner Hansen asked that the verbiage be changed to "must" review rather than "may" review.

Chairman Gilbert asked Rachael Gauss, 2242 Deer View Drive in Layton, if she had a copy of the changes in the conditions including the reduction in the number of chairs to four chairs. Ms. Gauss replied that she had no questions and would be compliant with the conditions.

Chairman Gilbert called for a motion on the item. Commissioner Hansen moved that the Planning Commission approved the conditional use with the four conditions hereby adopted as requirements. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

Chairman Gilbert called for a motion to close Public Review.

GENERAL DISCUSSION:

Mr. Crane said he was substituting for Assistant City Attorney, Steve Garside. He clarified that are no conditions on a zone change, only a recommendation to the City Council to approve or deny the rezone. He said there is an annexation agreement which covers all the concerns mentioned and there is no additional conditional use consideration. He said a lot of issues can be addressed by enforcement.

Commissioner Nilsson asked if there could be an amended motion on the item. Mr. Crane said when the item is reviewed by the City Council, he will indicate there are some concerns, but most concerns can be handled through enforcement.

Commissioner Hansen said some citizens have a frustration with working with the City Council and the staff. They want to be heard. People sometimes don't understand the process and flow of events and where the important activity occurs for them to inject their concerns in a forum where someone can

take an action. He recommended that there needs to be sensitivity to that and make sure the citizens have their say and take the opportunity to coach them.

Commissioner Fitzpatrick said citizens should be advised to contact the City Council Members. She said sometimes the call to the City doesn't work until the call goes to the City Council Member. The Planning Commission can only listen.

Mr. Crane said the Planning Commission does a good job of listening.

Chairman Gilbert called for a motion to close Public Review.

Commissioner Bodily moved to close Public Review. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

The meeting adjourned at 8:04 p.m.



Julie K. Matthews, Planning Commission Secretary