

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
JUNE 9, 2015**

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

MEMBERS ABSENT: Randy Pulham

OTHERS PRESENT: Staff: Peter Matson, Weston Applonie, Nicholas Mills, Julie Matthews

City Council Member: Tom Day

PUBLIC HEARING:

1. FLINT/VAN DRIMMELLEN DEVELOPMENT AGREEMENT AND REZONE REQUEST (A) AGRICULTURE TO R-S (RESIDENTIAL SUBURBAN)

This 6.06 acre property is located at approximately 200 North 2200 West in an Agriculture zoning district. The applicant is Bryce Thurgood from Castle Creek Homes, representing the owners, Wayne H. and Cleone H. Flint and David J. Van Drimmelen.

City Planner, Peter Matson, presented the development agreement and rezone request. The western portion of this property was previously rezoned from A to R-S. Castle Creek homes is the applicant, representing the Flint and the Van Drimmelen family.

Mr. Matson said the 6.06 acre property is bounded on the west by a small set of power lines. On the north is the LDS church farm. On the East is 2200 West, and on the south is agriculture property on the corner of the intersection.

Mr. Matson said the proposal is to rezone this 6.06 acres and combine it with the western portion already zoned to develop an R-S lot averaged subdivision.

Mr. Matson said the development agreement was discussed when the entire property was proposed to be rezoned at the same time. The development agreement was to address the issue of how the width of 2200 West might be handled in the future if it is changed from a collector street to an arterial street. The development agreement would address the possible need to purchase property from the property proposed for rezone for the expanded right of way. This would need to be done before the preliminary approval.

Chairman Gilbert asked if there would be a lot facing 2200 West and Mr. Matson replied that it would have a circular drive, which would be about 350 from the intersection of Gentile Street and 2200 West.

There was a discussion of whether 2200 West or 2700 West would be the interchange for the West Davis Corridor. The Planning Commission recommended that the Council not continue to delay their decision since property would need to be purchased for an extended right of way before preliminary approval if 2200 West is selected as the interchange.

The Commissioner expressed concerns that the developer did not wait until the future of 2200 West was decided.

The developer, Bryce Thurgood, said when they first met with staff (including Woody Woodruff and Bill Wright) and prior to submitting the offer to the property owners, they were not informed about the possible widening of 2200 West. When they first came in and before submitting the offer, there was no talk about a possible road. They put the property under contract based on a certain yield.

When the subject of the road widening came up, Mr. Thurgood said he was told a decision would be made by May of 2015. Due to the indecision regarding 2200 West being a possible location of the West Davis Corridor interchange, the proposal to rezone the entire property was tabled by the City Council.

Mr. Thurgood said they don't know when the Council will make a decision. They have invested \$400,000 and have to close when Phase 1 is approved, so they need to get things in motion for Phase 2. They don't know when the council will make the decision. They have invested \$400,000 and have to close when phase I is approved and need to get the ball rolling on Phase 2.

Commissioner Bodily asked what the developers would do if 2200 West goes to a 100 foot right of way. Mr. Thurgood said they would lose three lots. He said they would like to progress and don't have the luxury of waiting for a decision on the interchange location to be made. They have been realistically set back six months and construction is expensive in the winter. He said they were told early that 2200 West would not be involved. He felt they had done their due diligence.

There was a discussion on the City having to buy the three lots and if the City is in a position to purchase the property before preliminary approval.

Mr. Matson said the City would not be able to give the development preliminary plat approval until the City makes a decision on the 2200 West or 2700 West interchange. If the 2200 West interchange location is chosen, then the City would need to purchase the property before preliminary approval can be granted.

Commissioner Fitzpatrick asked if the Utah Department of Transportation (UDOT) shows the interchange at 2700 West. Mr. Matson replied in the affirmative.

Mr. Matson said Staff's recommendation is that the Planning Commission determine if the proposal is a good land use. If it is, then forward a position recommendation to the Council to determine the development agreement and rezone.

Councilmember Day was asked what was holding up the Council's decision, and he said it was just getting the decision made.

There were concerns expressed about traffic moving south with new housing in West Layton and also concerns about backing onto a collector street.

Mr. Thurgood said the ordinance allows fronting on a 64 foot right of way.

Mr. Thurgood said they didn't want to sign a development agreement because they would have to wait a long time since it is an election year.

Commissioner Van Drunen reminded the Commission that the decision at this meeting was if there was any reason the property could not be rezoned to R-S. He said if the development agreement does not get signed it doesn't concern the Planning Commission. The development agreement protects the City, but it's not the Planning Commission's concerned whether or not he signs it. He said he agreed that it wasn't a good idea to have a home facing on an collector road, but that is something to be decided with a plat.

Mr. Matson said the exhibit in the agreement is just conceptual. If the City purchases the property for either width, the agreement states it will be raw ground and not platted lots. The Legal Department is trying to protect the City from buying the lots at market value. The agreement offers the best protection to the City at this point. The City Council will make the decision.

Chairman Gilbert said the code that allows lots to face on a collector street needs to be revisited.

Mr. Matson mentioned other alternatives such as absorbing the property into the lots next to it. He explained the difference between a major and a minor collector street.

Chairman Gilbert asked if R-1-6 zoning was a possibility, and Mr. Thurgood replied that they never wanted anything but R-S zoning.

Commissioner Fitzpatrick said she had been in some of the City Council meetings and May was the time when the determination was supposed to happen. She said she didn't believe it was right to hold up developers because the Council couldn't come to a decision. She felt it was a problem to have the developer sign a development agreement when the Council is undecided.

Mr. Thurgood said that the lack of decision is also causing an issue for the property owners, two of whom are Layton residents. The possible widening of 2200 West was a surprise, and the developers can't go back and renegotiate with the property owners.

Commissioner Nilsson asked if Mr. Thurgood owned the additional property between the home and lot 37. Mr. Thurgood said Lowell Johnson and his wife are keeping the remaining four acres. If the 2200 West option is selected, he will lose his home. Mr. Thurgood said that he doesn't like to front homes on a collector street, but they do the best they can with the ordinance and never in any of their projects have they asked for something that wasn't already in the General Plan.

Associate City Attorney, Nicholas Mills, said the Legal Department would recommend the development agreement be approved to protect the City's interests. He said the City couldn't string the developer on forever.

Commissioner Bodily felt it would be important for the City Council to make a decision before the Planning Commission makes a decision on the rezone.

Commissioner Weaver recommended making a decision on what was presented to the Planning Commission.

Chairman Gilbert felt the development agreement should be approved.

Commissioner Fitzpatrick asked how long the Council or Planning Commission could delay a decision. Mr. Mills said that it would depend on the circumstances, but he believed that a decision could not be delayed for more than a year.

Mr. Thurgood asked to not be tabled at the Planning Commission level.

There was more discussion on homes fronting on collector streets and further discussion of the difference between major and minor collector streets.

2. PAXMAN REZONE REQUEST – R-1-0 (SINGLE FAMILY RESIDENTIAL) TO R-S (RESIDENTIAL SUBURBAN)

This 1.23 acre property is located at 2475 East Oak Hills Drive in an R-1-10 zoning district. The applicant and owner is Angelika Paxman.

Mr. Matson presented the request for rezone to R-S to allow for a horse or two on the property. He said Staff felt it was a reasonable request and recommended the Planning Commission forward a positive recommendation to the City Council.

There was a discussion on the access to the property.

Commissioner Weese said he would recuse himself because he has a financial interest in the discussion.

3. LAYTON CITY ORDINANCE AMENDMENT – BEEKEEPING – AMENDING TITLE 19 (ZONING), SECTIONS 19.02.020, 19.06.010 (Table 6-1, 6-2) and 19.06.080(3) – ORDINANCE 15-17

This ordinance amendment establishes guidelines and regulations for beekeeping in residential and agricultural zoning districts.

This item was not discussed due to lack of time. Chairman Gilbert said to consider the evening as a time to gather public input, which is okay with Staff. The Commission can either table the item for further discussion or forward a recommendation to the Council.



Julie K. Matthews, Planning Commission Secretary

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OTHERS PRESENT: Staff: Peter Matson, Weston Applonie, Nicholas Mills, Julie Matthews

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Chairman Gilbert called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited and an invocation given by Commissioner Fitzpatrick.

Commissioner Hansen recognized a Boy Scout present in the audience to work on his Communications merit badge.

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

1. FLINT/VAN DRIMMELLEN DEVELOPMENT AGREEMENT AND REZONE REQUEST (A) AGRICULTURE TO R-S (RESIDENTIAL SUBURBAN)

This 6.06 acre property is located at approximately 200 North 2200 West in an Agriculture zoning district. The applicant is Bryce Thurgood from Castle Creek Homes, representing the owners, Wayne H. and Cleone H. Flint and David J. Van Drimmelen.

City Planner, Peter Matson, presented the request to rezone 6.06 acres from A to R-S. He said the lots will be 15,000 square feet or larger. He said most subdivisions in West Layton develop under the lot averaging scheme.

The concern is the future potential widening of the right of way from 2200 West from its present 66 foot right of way to an 80 or 84 foot right of way or a 100 foot right of way and reclassified from a collector street in Layton City's Master Transportation Plan.

Mr. Matson said the development agreement that was attached to the entire acreage when proposed for rezone is attached to this portion of the rezone.

Mr. Matson said the development meets the General Plan requirements for the City. He reviewed the owner's undertaking in the development agreement. Fourteen lots are proposed to be platted on this property. If 2200 West is designated as an arterial street with the increased right of way, the development of the lots would be reconfigured and the lot proposed to front on 2200 West would not do so. The City would purchase the needed right of way prior to preliminary plat approval.

Mr. Matson said Staff recommends the Planning Commission forward a positive recommendation to the City Council to approve the development agreement and the rezone.

There was a discussion of what would be a substantial change in the conceptual drawing per Article 4 in the Owner's Undertakings. Mr. Matson said that 14 lots are laid out in the exhibit. Different accesses or a different number of lots would be a substantial change.

Commissioner Fitzpatrick asked if the number of lots had to be reduced to 11 if 2200 West is reconfigured, would it be considered a substantial difference. Peter said a change in number of lots and/or access would be considered a substantial difference.

Associate City Attorney, Nicholas Mills, said if the developer has to reconfigure because of a change in 2200 West, it would be a necessary change rather than a substantial change. The Commission would look at what is left to develop as still substantially similar.

Commissioner Fitzpatrick felt the rezone should be subject to adopting the development agreement, which addresses the final design of the development.

Commissioner Weaver asked about the clause stating the owner should cause a Home Owner's Association (HOA) to be created. He asked when an HOA would be created and by what authority they operate.

Mr. Matson said the HOA would be for the maintenance of the landscape buffer, specifically for when there was a requirement for the entire 15 acres. He said this property may not need an HOA unless 2200 West becomes an arterial street.

Commissioner Fitzpatrick felt the HOA clause should stay in the development agreement in the event the lots are reconfigured, a green space might be created, which would require an HOA.

There was a discussion of meeting the setback requirements on Lot 37 if a circular drive is required. The developer, Bryce Thurgood, 165 East 1550 South, Perry, UT representing Castle Creek Homes and his business partner, Ed Green, 2150 North Valley View Drive, Layton, UT, said the setbacks could most likely be met.

Lowell Johnson, 47 North 2200 West, asked the Commission to approve the rezone but not include the development agreement. His concern is that his house will go away if 2200 W is expanded. Mr. Thurgood has made bargains and made decisions based on Staff guidance. The development agreement lets people know 2200 West may expand, which devalues his home and others around.

Ed Green, 2150 North Valley View Drive, Layton, said he built the Swan Meadows Subdivision. At that time 2700 was established as UDOT's connection to Layton Parkway. He said they met with staff when considering the current property, and the issue of 2200 West being the connection didn't come up. They invested \$400,000 and weren't told about the possibility. He said Staff didn't know that 2200 West could become a 100 foot right of way. He said UDOT has told the City that 2700 is their preferred location. The City is giving building permits to DR Horton to build homes that won't be able to remain if 2200 West is widened. He felt the amount of homes Layton City will be buying or in litigation to buy will be a lot. With the 2700 West option, no homes will need to be purchased. He said to put Castle Creek

on hold is not right. They have been waiting three months. He said there comes a point in time when the City Council must make a decision. He felt making 2200 West a big road will make it so that developers are damaged. The City only wants to buy extra ground for the road, but Castle Creek has already purchased two entire lots.

Marsha Ashby, 2668 East 1600 North, Layton, introduced herself as one of the trustees of the Flint Family Trust. She mentioned how the rezone was tabled at a meeting two months previous while waiting for the Council's decision on 2200 West. She said as owners of the property, they have waited several months with the hope that a decision would be made in a timely manner so that the contractors who have made an offer on the property can proceed and close the proceedings. She said she had a home on 2202 West Gentile Street that will not sell due to the uncertainty. She asked that the Planning Commission and City Council move forward with their decisions.

Chairman Gilbert said the Planning Commission would only be making a recommendation to the City Council.

Dennis Flint, from Delaware, and one of the trustees, encouraged the Planning Commission to come to a decision and he hoped the road would remain as is.

Mr. Thurgood clarified for the minutes, that the biggest reason to move forward with the rezone and not sign the development agreement is because it will hold Castle Creek hostage until the decision is made on 2200 West, which could be a month to six months to a year from now. They would like to be able to go to the City Council and encourage them to make their decision.

Commissioner Hansen asked how the developer could be held hostage with a phase to develop.

Mr. Thurgood said the interest on the loan will be difficult and they may lose three lots.

There was continued discussion on the issue.

Mr. Thurgood pointed out that if 2200 West is widened, it could be widened all the way to Antelope Drive and affect more properties; whereas 2700 West would not have that effect.

Chairman Gilbert felt the development agreement should be signed. He recommended a strong recommendation from the Commission to the Council to address the issue of 2200 West. He asked if the development agreement could be adjusted. Mr. Mills said terms can be altered on mutual agreement and approved by the Planning Commission or City Council. Mr. Matson said the City can make modifications to the recommended agreement. If substantially different, the Council can send the development agreement back to the Planning Commission for review.

Mr. Thurgood said they may agree if there is a drop dead date to sign the development agreement.

Commissioner Bodily felt there needed to be more discussion.

Mr. Matson recommended that the Planning Commission make a recommendation and move forward.

Commissioner Fitzpatrick asked there is an expiration date to the agreement

Mr. Mills said both parties would have to act in good faith and fulfill the agreement in the way they intend it to be fulfilled.

Commissioner Fitzpatrick asked what the City's good faith effort is in resolving this issue.

Mr. Mills said the City Council would have to move in a good faith effort. They could not table it for no reason or not approve it. They would have to move with good faith and not hold up the process. Commissioner Fitzpatrick continued to question the issue and asked if it would take a court to resolve the issue. Mr. Mills said that potentially it could.

Chairman Gilbert asked the staff to review homes fronting on a collector street. Mr. Thurgood said that if required he would put in a circular drive on Lot 37.

Chairman Gilbert called for a motion on the item. Commissioner Hansen moved with a strong recommendation to the City Council to quickly act on the 2200 West issue, that the Planning Commission forward a positive recommendation to the City Council to adopt Ordinance 15-18 approving the rezone from A to R-S. Commissioner Bodily seconded the motion, and the voting was unanimous.

Commissioner Hansen moved that the Planning Commission forward a positive recommendation to the City Council to adopt Resolution 15-25 approving the current development agreement recognizing that at some future time pending the disposition of 2200 West. Commissioner Weaver seconded the motion, and the motion passed with Commissioners Bodily, Hansen, Nilson, Van Drunen and Weaver in favor, and Commissioner Fitzpatrick opposed.

2. PAXMAN REZONE REQUEST – R-1-0 (SINGLE FAMILY RESIDENTIAL) TO R-S (RESIDENTIAL SUBURBAN)

This 1.23 acre property is located at 2475 East Oak Hills Drive in an R-1-10 zoning district. The applicant and owner is Angelika Paxman.

Mr. Matson presented the request for rezone for the 1.23 acre property for the purpose of marketing the property as horse property. He said that the zoning would allow 1 large animal for every 20,000 square feet of property.

Mr. Matson said Staff is recommending the Planning Commission forward a positive recommendation to the City Council to approve the rezone due the size and the proximity to other R-S zoned property.

There were no questions of the Staff or the audience.

Chairman Gilbert called for a motion on the item. Commissioner Fitzpatrick moved that the Planning Commission forward a positive recommendation to the City Council to adopt Ordinance 15-19 approving the rezone from R-1-10 to R-S based on consistency with the General Plan. Commissioner Van Drunen seconded the motion, and the voting was unanimous.

3. LAYTON CITY ORDINANCE AMENDMENT – BEEKEEPING – AMENDING TITLE 19 (ZONING), SECTIONS 19.02.020, 19.06.010 (Table 6-1, 6-2) and 19.06.080(3) – ORDINANCE 15-17

This ordinance amendment establishes guidelines and regulations for beekeeping in residential and agricultural zoning districts.

Planner I, Weston Applonie, presented the proposed beekeeping ordinance. The following are points he highlighted.

- Licensing – no fees
- Water source march 1 and October 31 minimizing nuisances
- Hives restricted to the rear yard only
- Hives placed on the property that directs the general flight pattern of bees
- Owner must have permission to put hive on property if they don't own or occupy
- Bee comb and bee keeping equipment must not be abandoned on the site
- Beekeeper must make attempt to thwart swarming
- Hive that creates a nuisance must be removed
- Water source
- Fly away barrier

Mr. Applonie reviewed the number of hives allowed and setbacks. This information will be included in its entirety with these minutes.

Mr. Applonie said Staff supports the adoption of a beekeeping ordinance and recommends the Planning Commission gather public input at the meeting and provide Staff with recommendations.

Mr. Applonie said the Davis County Beekeeping Association had given him packet of information about beekeeping and an analysis of the proposed Layton city ordinance.

Chairman Gilbert asked Mr. Applonie if he incorporated any of the guidelines from the beekeeping association in his presentation. Mr. Applonie said he did not because the draft had already gone out when he received the information and he didn't want to present anything different than what the Commission had already received.

He said Staff was recommending taking out the requirement for a fence because of the substantial burden to a resident to put in a hive.

Commissioner Fitzpatrick asked about the difference in the distance from the primary structure if the lot is less than an acre versus a larger property. Mr. Applonie said the intent would be to keep the hive as far from the primary structure as possible.

Commissioner Nilsson asked if the purpose for the ordinance is to monitor the keeping of bees. Mr. Applonie said the State regulates inspection. The City's intent would be to allow it as a permitted use where it currently is not. Registration with the City is required. Currently, Utah state redacted the location of the hives in the State. The City would like to know where the registered hive owners are and it would give an opportunity to explain regulations for compliance.

Chairman Gilbert reviewed the rules for the public comment period.

Richard Homer, 1236 East 300 North in Layton, and President of the Davis County Beekeepers Association, talked about the value of bees and the opportunity to bring bees back through individual beekeepers.

Mr. Homer talked about the State ordinances for the placement and maintaining of bees. He said beekeepers must register with State. The State does inspections on the hives. He said there were 41 registered beekeepers in Layton City.

Mr. Homer felt there was no need for beekeepers to register with the City when they are already registered with the State. The State doesn't want another agency looking over their shoulder especially when they have no expertise. He felt a City registration would be redundant and an additional cost to the City.

Mr. Homer said his fruit production tripled once he had bees. He said bees forage a mile from his home and are a benefit to other sections of the community. He presented a packet to the Commission outlining what the Davis County Beekeepers Association would like to see in an ordinance.

Mr. Homer said bees are docile and usually don't sting. The most critical is where you place the hive, the flight path and a flight away barrier.

Mr. Homer explained how hives are built and spoke about how to control swarms by giving the bees space. He said he didn't like the 5 foot limit on the height of the hive. There may be 100,000 bees in the mid summer. The height of the hive is an adjustment tool to manage the hive and control swarms.

Chairman Gilbert asked about how many people aren't registered. Mr. Homer thought that many more people have been getting registered.

Commissioner Hansen said it was a bit of an issue with the City not knowing the location of the hives. There was a discussion on the State redacted location information. He said all hives must have a phone number on them to contact if there is a problem. He said a swarm specialists could be called if there is a swarm problem.

Chris, the assistant President of the Davis County Beekeepers Association, explained how the GRAMMA act allows for government sharing of specific records. He said the State beekeeping register would be available under that act. He talked about ordinances in other cities and asked the Commission to move ahead and adopt the ordinance.

Ben Zehring, 906 Sherwood, said he has 3-5 hives on his larger corner lot. His back yard is too restrictive. His neighbors haven't been concerned about his hives

Mr. Applonie said the proposed setbacks were a combination of looking at 7 different cities and three cities outside of Utah. Of the Utah cities, two cities had no setback requirements. Three have 10 foot setback requirements. One is a 15 foot setback. He said it is not uncommon to have set back ordinances, but from a regulatory standpoint, it's not uncommon to have a setback regulation.

Chairman Gilbert said the Commission will review comments and take input. No one is going to enforce the beekeeping ordinance either.

Mr. Applonie has talked to several cities and found it hard to get negative feedback about beekeeping.

Chairman Gilbert said those here at the meeting are responsible. The others will not be compliant.

Commissioner Bodily asked why the City Council wanted the Planning Commission to research beekeeping. Mr. Applonie said residents have come forward at two City Council meetings and individually with Council members to request the ability to keep bees.

Commissioner Hansen said there should be guidelines and the Commission should be on the side of promoting the activity because it's essential to our survival as human beings.

Doug Cleave, 154 Blue Sage Lane, Layton, said the biggest challenge as beekeepers is misunderstanding. He thanked the Commission for giving the citizens opportunity for input.

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

Commissioner Fitzpatrick moved that the Planning Commission table the item to the July 14, 2015, Planning Commission Meeting. Commissioner Van Drunen seconded the motion, and the voting was unanimous.

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

The meeting adjourned at 9:01 p.m.



Julie K. Matthews, Planning Commission Secretary