

**SPECIAL USES AND APPEALS BOARD MEETING**

**MONDAY, JUNE 9, 2009 6:00 P.M.**

**PERRY CITY OFFICE BUILDING—CITY COUNCIL ROOM**

**3005 S. 1200 W. PERRY, UTAH**

**APPEALS BOARD MEMBERS PRESENT:** James Felix, Suresh Kulkarni, Jon Rackham, Mark Stratford (Chair)

**OTHERS PRESENT:** Rachel Tribe (City Planner), Angela Erwin (Minutes Clerk), Heather Gibby, David Wayment, Julie Karlinsey, Brent Bevan, Kevin Haslam, Kaden Bevan, Diana Ayotte, Bruce Howard

**I. CALL TO ORDER AND OPENING CEREMONIES:**

Mark Stratford called the meeting to order at approximately 6:09 p.m.

**A. PLEDGE ALLEGIANCE TO THE U.S. FLAG**

Conducted by Mr. Stratford.

**B. DECLARE CONFLICTS OF INTEREST, IF ANY**

Questions initiated by Mr. Stratford. None existed.

**C. REVIEW AND ADOPT AGENDA**

No official motion.

**D. APPROVAL OF SEPTEMBER 23, 2008 AND JANUARY 12, 2009 MINUTES**

**Motion:** James Felix moved to accept the minutes of January 12, 2009 and September 23, 2008, as written. The motion was seconded by Suresh Kulkarni. No discussion. All in favor.

**II. PUBLIC COMMENTS**

A. RULES

B. GENERAL PUBLIC COMMENTS (NOT REGARDING SPECIFIC ITEMS ON THE AGENDA)

III. APPEAL AUTHORITY ACTION ON USE APPLICATIONS

None

IV. APPEAL AUTHORITY/REVIEW AUTHORITY ACTION ON BUSINESS LICENSE APPLICATIONS

A. MODIFYING A LIMITED NON-CONFORMING USE FOR ACCESS TO LOT 2 (LOCATED AT 991 W. 3450 S.)

Brent Bevan, applicant, said the property is owned by Perry Fourplex, LLC. Mr. Bevan is appealing to see if he can finish off the two bottom units, creating a four-plex. He justifies the application because of previous approval for the subdivision, which was signed by “everyone.” He would like to finish the bottom units, do some landscaping, and build carports on either end and a shop or a storage building. The original three lot subdivision was approved to build the current building. The two units he is asking to finish will not add any square footage. The building was designed as a four-plex and the access and outside stairs are already there. Mr. Bevan added that if this is approved it will clean up the area and hopefully set an example for surrounding areas.

Mr. Felix asked if this was originally approved for a four-plex. Rachel Tribe responded that it was approved as a duplex and it is zoned commercial. Mr. Bevan continued that he does not own the access, but owns “the right-of-way that has been deeded to the property.” It is thirty foot, secluded right of way that is used by a few other property owners. He said Perry needs additional affordable housing and this will increase the revenue for the city and county.

Mr. Stratford asked about the carports. Mr. Bevan said he would like to provide one covered parking spot and one uncovered parking spot for each unit.

Mr. Kulkarni asked for any ordinance violations to date with this property. Mr. Bevan said he was sorry, but he “can’t.” He does know that the fifteen foot area of the flag lot is owned by Bob Davis. The building was built in 2001 and sold to another individual who lost it in foreclosure. Perry Fourplex, LLC, then acquired it in 2004. Mr. Kulkarni asked if the ownership of the fifteen foot area was the only violation. Ms. Tribe said yes, and the city would also like the property to be connected to the sewer. The sewer is currently not available to the area. Mr. Bevan said he is willing to pay for the sewer hookups now. Ms. Tribe said there was not a date for the sewer line in the area, but it may be available in a few years.

Mr. Stratford asked how the “existing basement” is currently being used and Mr. Bevan said it is basically empty. Mr. Rackham asked how the storage sheds were

being used. Mr. Bevan said the landowners or tenants can use them and they are not allowed to rent them out.

Ms. Tribe said the building permit was denied because the applicant needs to own the access and the easement should be part of the parcel. She referred the board members to section 65.02.070 of city ordinances. Additional parking stalls or sheds would require purchasing the property and the city would like the sewer taken care of before the duplex is extended into a four-plex. Mr. Stratford asked if the zoning has changed. Ms. Tribe said it was previously zoned R ½. Mr. Stratford asked if residential was permitted in this commercial area. Ms. Tribe referred the board members to title 45, where it states duplexes, triplexes, and fourplexes are not permitted in NC3 zones. Mr. Stratford wanted to know why the ordinance requires the person to own the access. Ms. Tribe said she would have to inquire of Codey Illum, Building Inspector, about this.

Bruce Howard, Perry resident, owns land north of this subdivision. He heard this proposal violates the “zoning density ordinance” and is not allowed in a commercial zone. The original proposal was for a four-plex, but it was stopped by the city. He does not see any compelling reason for the city to grant this exception. He said it violated the zoning then and it violates the zoning now. He thought the idea of cleaning up the property and making it more useful was great. Mr. Howard is on the wastewater board and does not know of sewer line plans for the immediate future.

Mr. Stratford found section 52.03.060 which states, “each lot shall access a street by means of it’s own access.” This section also states that the minimum width of a staff portion shall be “a minimum of thirty feet or fifteen feet for each lot for two lots.” Mr. Stratford said even if the applicant acquires the fifteen feet, it does not resolve the question of whether two more units could be built. Mr. Rackham would like to see a letter from the health department stating that this would be permissible, since there would be four apartments on one-half acre. Mr. Felix had a problem with this request because the use is not permitted in a NC3 zone.

**Motion:** Mr. Rackham moved to table this application under the recommendation for the applicant to get a letter from the health department stating that a septic tank will handle all four units and that the special uses and appeals board be given more time to research (within thirty days or the next special uses and appeals board meeting). The motion was seconded by Mr. Kulkarni. Discussion: Mr. Stratford would like more information from city staff about interpretation of the subdivision ordinance, specifically minutes from the city council meeting regarding this issue. Mr. Bevan said affordable housing would be a benefit for the community. There would also be revenue from the sewer and water. When the property was set up it was deeded to the city to allow for a road to get the property in place. He would like the board members to consider what makes sense as opposed to an arbitrary rule.

**Roll call vote:** Mr. Felix-nay, Mr. Stratford-aye, Mr. Kulkarni, Mr. Rackham-aye.  
Motion passes **(3 to 1)**.

- B. C.U.P. (AND SPECIAL BUSINESS LICENSES) FOR A PROPOSED HOME BUSINESS EINSTEIN PRESCHOOL LOCATED AT 3293 S. 1450 W.  
Heather Gibby, applicant, is proposing an in-home preschool on Tuesdays, Wednesdays, and Thursdays from 9:30 a.m. to 12:00 p.m. There would be twelve kids and two adults. She said the planning commission requested she look into state requirements. She contacted the state and they said it would have to meet their requirements if it were more than four kids for more than four hours. Mr. Felix asked if there were any county restrictions and Ms. Gibby said none that she was aware. Ms. Tribe said the neighbors have been notified and there has been no comment from them. Mr. Stratford asked how the drop-off and pick-up of the children would work. Ms. Gibby said most of the children live in the neighborhood and would walk and she does not see the parking as an issue. Mr. Stratford referred the board members to section 62.02.040 which indicates that over six students would need to be approved by the building code official and meet the international building code. Mr. Felix was concerned with fire safety and health codes and he felt the building code official should address these issues.

**Motion:** Mr. Felix moved to table the conditional use permit for Einstein Preschool located at 3293 S. 1450 W. until the board members have a report back from the city building inspector as to conditions of the building as it relates to the international building code. The motion was seconded by Mr. Kulkarni. No discussion.

**Roll call vote:** Mr. Felix-aye, Mr. Stratford-aye, Mr. Kulkarni-aye, Mr. Rackham-aye. All in favor **(4 to 0)**.

- C. C.U.P. (AND SPECIAL BUSINESS LICENSE) FOR A PROPOSED HOME BUSINESS CHECKERED FLAG (SMALL ENGINE AND MOTORCYCLE REPAIR) LOCATED AT 1510 S. HIGHWAY 89  
David Wayment, applicant, is proposing a motorcycle repair shop. He is retired from Vesco's and would like to repair motorcycles and ATV's. Mr. Rackham and Mr. Kulkarni asked about the several motorcycles that are in front of his home. Mr. Wayment said he has friends who come by, but the bikes are not "for sale." Mr. Stratford asked if he has talked to his neighbors regarding noise issues or other kinds of disruptions. Mr. Wayment has not talked to the next door neighbor, but has talked to the people across the street. Ms. Tribe said his neighbors received notices and there were public hearings and no one has voiced concern. Mr. Stratford asked about the hours of operation and Ms. Tribe said the board can set regulations on the hours. Mr. Kulkarni asked about storage of hazardous waste. Mr. Wayment said he stores some solvent in a container and returns his used oil to Walmart. Mr. Rackham asked Mr. Wayment how much solvent he would have in his storage at one time. Mr. Wayment said about ten gallons. Mr. Felix asked about the storage of spare parts. Mr. Wayment said he does not have many spare parts, as he gives the used parts back to his

customers. He added that there are a couple of non-operable bikes in the back. Mr. Stratford asked if there would be a problem with storing used parts in the building and Mr. Wayment said he stores most of the parts in the building anyway.

**Motion:** Mr. Rackham moved to accept the special business license for Checkered Flag located at 1510 South Highway 89 with the conditions required by the planning commission. [The conditions include: the building needs to be uniform in appearance, there is to be no long term business related parking on highway 89, the hours of operation cannot exceed 7:00 a.m. to 9:00 p.m., and all chemicals should be stored per state requirements.] The motion was seconded by Mr. Felix. No discussion.

**Roll call vote:** Mr. Rackham–aye, Mr. Kulkarni–aye, Mr. Stratford–aye, Mr. Felix–aye. All in favor (4 to 0).

\*Break taken at approximately 7:37 p.m. Meeting resumed at approximately 7:44 p.m.

D. C.U.P. (AND SPECIAL BUSINESS LICENSE) FOR A PROPOSED HOME BUSINESS CENTREPOINTE LOCATED AT 2455 S. CHERRY DRIVE

Julie Karlinsey, applicant, is a massage therapist. She said her hours would be no later than 3:00 p.m. in the afternoon. Each appointment is one hour long and one client at a time. She will also be selling lotions and candles that she picks up from her family. She is the only employee. Mr. Stratford asked Ms. Karlinsey if she was comfortable with the parking requirements set by the planning commission [all visitors will park in the driveway] and she said yes. Mr. Felix asked if she had spoken with her neighbors about it and she said she had and there were no concerns.

**Motion:** Mr. Kulkarni proposed to approve the special business license for Centrepointe located at 2455 S. Cherry Drive. The motion was seconded by Mr. Rackham. No discussion.

**Roll call vote:** Mr. Rackham–aye, Mr. Kulkarni–aye, Mr. Stratford–aye, Mr. Felix–aye. All in favor **(4 to 0)**.

E. SIX MONTH REVIEW REGARDING SPECIAL HOME BUSINESS SERENDIPITY LOCATED AT 430 W. 2700 S.

Ms. Tribe has contacted the surrounding property owners and there were no complaints. Ms. Tribe said city staff has been visiting the house and not seen any issues. Mr. Stratford commented that this is an annual business permit and any upcoming concerns or violations could be addressed upon renewal. Mr. Kulkarni asked if the applicant was doing “her part” in cleaning up the area and Ms. Tribe said they had improved the area a little bit.

**Motion:** Mr. Rackham moved to give Serendipity located at 430 W. 2700 S. a business license. The motion was seconded by Mr. Felix. No discussion.

**Roll call vote:** Mr. Rackham–aye, Mr. Kulkarni–aye, Mr. Stratford–aye, Mr. Felix–aye. All in favor **(4 to 0)**.

V. FINAL LAND USE AUTHORITY ACTION ON SPECIAL USE APPLICATIONS (SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS, NONCONFORMING USES, ETC.)

A. DISCUSSION AND TRAINING REGARDING SPECIAL USES AND APPEALS BOARD RULES AMENDMENT (AS APPROVED BY THE CITY COUNCIL)

Ms. Tribe explained that the quorum of the special uses and appeals board is three, but the board’s membership has been increased to seven. Mr. Stratford asked if three more members would be appointed and Ms. Tribe said the city does not have anyone in mind, but applications are being accepted.

VI. CONSIDERATION OF ORDINANCES, PUBLIC WORKS STANDARDS, AND DESIGN GUIDELINES (LEGISLATIVE ACTION)

None

VII. TRAINING, HANDOUTS, AND UPDATES

A. TRAINING: JUNE 18, 2009, AT 6:00 P.M. (COMBINED WITH PLANNING COMMISSION)

Ms. Tribe said the city is hoping the Utah League of Cities and Towns will present, otherwise there will be representatives from BRAG or training from Duncan Murray, City Attorney. Ms. Tribe said planning commission training is scheduled for every third Thursday of the month and the members are always welcome to come.

B. HAND OUT ORDINANCE BINDERS

VIII. REVIEW NEXT AGENDA AND ADJOURN

A. ADD AGENDA ITEMS REQUESTED BY APPEALS BOARD MEMBERS  
None mentioned.

Mr. Stratford gave Mr. Felix a chance to explain his “nay” vote for agenda item IV.A. Mr. Felix said it is against the zoning ordinance for a reason and the planning commission spent a lot of time on this ordinance. He added that the building was built for a four-plex and there is a reason it is only a duplex.

B. MOTION TO ADJOURN

**Motion:** Mr. Felix moved to adjourn the special uses and appeals board meeting. The motion was seconded by Mr. Rackham. All in favor.

Meeting adjourned at approximately 8:08 p.m.