

**Perry City Planning Commission
3005 South 1200 West
7:00 PM January 7, 2016**

Members Present: Chairman Blake Ostler, Commissioner Vicki Call, Commissioner Travis Coburn, and Commissioner Lawrence Gunderson (7:20 pm), and Commissioner Devin Miles.

Members Excused: Commissioner Craig Pickett.

Others Present: Greg Westfall, Perry City Administrator; Susan K. Obray, Minutes Clerk, Shara Holt, Brad Barto, Jayden Clark, Tevin Coburn

1. 7:00 p.m.- Call to Order and Opening Ceremonies

Chairman Ostler welcomed and called the January 7, 2016 meeting to order.

A. Invocation- Vicki Call

Invocation was given by Commissioner Call

B. Pledge Allegiance to the U.S. Flag-Devin Miles

The Pledge of Allegiance was led by Commissioner Miles

C. Declare Conflicts of Interest, If any

Commissioner Coburn stated that he may have a conflict as his home borders the Brad Barto property. Greg Westfall stated in order to have a conflict you would have to benefit from the project. Chairman Ostler asked Mr. Barto if he had any dealings with the Bank of Utah with this project. Mr. Barto stated that he did not.

D. Review and Adopt the Agenda

MOTION: Commissioner Call moved to adopt the agenda. Commissioner Miles seconded the motion. Roll call vote.

Commissioner Miles	Yes	Commissioner Call	Yes
Commissioner Coburn	Yes	Chairman Ostler	Yes
Motion Approved: 4 Yes 0 No			

E. Approval of the November 5, 2015 and December 10, 2015 Minutes

MOTION: Commissioner Call moved to approve the November 5, 2015 minutes. Commissioner Coburn seconded the motion. Roll call vote.

Commissioner Miles	Yes	Commissioner Call	Yes
Commissioner Coburn	Yes	Chairman Ostler	Yes
Motion Approved: 4 Yes 0 No			

MOTION: Commissioner Miles moved to approve the December 10, 2015 minutes. Commissioner Call seconded the motion. Roll call vote.

Commissioner Miles	Yes	Commissioner Call	Yes
Commissioner Coburn	Yes	Chairman Ostler	Yes

Motion Approved: 4 Yes 0 No

F. Make Assignments for Representative to attend City Council Meeting(s) (January 14th (Commissioner Ostler) and January 28th (Commissioner Miles)

Chairman Ostler reported that he will attend the January 14, 2016 City Council Meeting. Commissioner Miles stated that he was assigned to attend the January 28th City Council meeting and will not be able to attend. Commissioner Coburn stated that he would be able to attend that meeting.

G. Elect a Vice Chairman for the 2016 year and Recognize Blake Ostler as the incoming Chairman for 2016

Chairman Ostler read from the ordinance regarding electing a Chairman and a Vice Chairman.

MOTION: Commissioner Call moved to recommend to the City Council, Commissioner Travis Coburn as the Vice Chairman of the Planning Commission. Commissioner Miles seconded the motion. Roll call vote.

Commissioner Miles Yes

Commissioner Call Yes

Commissioner Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No

Chairman Ostler stated that this is the recommendation from the Planning Commission that Travis Coburn be recommended as the Vice Chairman and this will be passed on to the City Council as a recommendation.

H. City Council Report given by Council Member Lewis

Council Member Lewis was not in attendance.

2. Approx. 7:10 pm Public Hearing and Public Comment

MOTION: Commissioner Coburn moved to close the regular meeting and open the public hearing. Commissioner Call seconded the motion. Roll call vote.

Commissioner Miles Yes

Commissioner Call Yes

Commissioner Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No

A. Public Hearing regarding an application for Perry City Center Subdivision located at 900 West and 1030 West.

Greg Westfall stated that Perry City Center is a City project. He said he has come before the Planning Commission once before and received concept/preliminary approval. Mr. Westfall stated that it is on the agenda for

final approval and requires a public hearing. He said the property is directly east of the Three Mile Creek Elementary School. Greg stated that there are 4 lots that front the west and two that front the east.

Chairman Ostler asked if there were any public comments regarding the Perry City Center.

Brad Barto: He said it looked great.

MOTION: Commissioner Call moved to close the public hearing and open the regular meeting. Commissioner Miles seconded the motion. Roll call vote.

Commissioner Miles Yes

Commissioner Call Yes

Commissioner Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No

B. Public Comments

There were no public comments.

3. Land Use Applications

A. Final Recommendation to the City Council/Application for Perry City Center Subdivision located at 900 West and 1030 West.

Chairman Ostler stated that this is a final recommendation for the application for Perry City Center Subdivision. He said that the Planning Commission gave preliminary approval on November 5th. Chairman Ostler asked what the scope was for final approval. Greg Westfall stated that the difference is that we have more detail. He said the big difference in the plan is that at the last meeting they didn't have to choose if it would be developed or undeveloped lots. He stated at this point Perry City has brought it forward with a proposal to have the lots developed. Mr. Westfall explained that all the stub outs for water and sewer will be done on each lot. Greg said the only other change is that they had not decided what to do with the remaining parcel. He explained that there was a remainder parcel on lot 6, and we added it to lot 4 and that is how we will present it, because we do not allow remainder parcels.

Commissioner Coburn asked if the Engineer comments 2 a-e were the improvements that were going to be made. Greg Westfall stated that they were the improvements that were going to be made. Commissioner Call asked if each of the concerns that were addressed by the City Engineer will be addressed. Mr. Westfall stated that each item will be addressed.

Chairman Ostler asked each commissioner if there were any clarifying questions regarding Perry City Center. None of the commissioners had additional questions.

MOTION: Commissioner Call moved to recommend to the City Council final approval for Perry City Center Subdivision. Commissioner Coburn seconded the motion. Roll call vote.

Commissioner Miles Yes

Commissioner Call Yes

Commissioner Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No

B. Discussion and/Concept Approval Regarding Options for Brad Barto Subdivision located Approx. east of 2315 South and 900 West.

Brad Barto explained that the property is on 900 west just behind the development he did on Hwy 89. He said he did the commercial building and the condos on 2350 South and Hwy 89. He said that they put in the infrastructure on a 30' easement on 900 West. He stated that he has first right of refusal on the property owned by Richard Fix. Mr. Barto explained what he would like to have is something in between condominiums and full sized homes. Something that is affordable. He said that people 55 and older don't want to purchase a full size home. They can't afford it. Mr. Barto stated the option that he likes the most is option 2. He said option 1 is a true PUD, option 2 you still could have a legal description that goes to the street even though the lots sizes are a little smaller than what the city calls for a standard lot size. Mr. Barto stated that there is a demand for these types of homes. He said most of them are close to the 10,000 square feet lot size. Mr. Barto stated that option 3 is the full lot sizes. He said it is a little out of reach for the market they are trying to reach. Commissioner Gunderson asked if he is going to build all of these. Mr. Barto stated that he will build them all. Commissioner Gunderson asked what the setbacks requirements are on option 2. Mr. Barto stated that option 2 setbacks are a little smaller. They are 28 feet in the front of structures off the street instead of 30 feet. He said the side yards are 10 on each side. Commissioner Call asked if there were driveways going into each lot. Mr. Barto stated that there are separate driveways to each lot. Commissioner Call asked about lot 3 driveway if it would have to come in through the easement. Mr. Barto said yes it would be hard surface on the easement. Commissioner Call asked if it was his intention to build them all the same or would they be built to suit the owner. Mr. Barto stated that they would have covenants on what the structures would have to have to make them look nice. Commissioner Call stated that it appears that lots 3, 4, and 5 and potentially lot 2 driveways would be on the easement.

Chairman Ostler asked if option 2 are PUD like or do they have their own legal description. Mr. Barto stated that they will have their own legal description. He said option 1 would defiantly be a PUD with common ground, option 2 would be smaller lots with legal description to the street, and option 3 would be full lots. Commissioner Miles asked what his plan was for the large open space. Mr. Barto stated that he will probably just landscape it or use it for parking. Commissioner Gunderson asked if there was any water retention. Mr. Barto stated that was not a bad idea. He said Paul Nelson mentioned when they did the commercial development up above that it would need a storm drain down by Richard Hudson's house for runoff water. Commissioner Coburn asked if the cul-de-sac was a public road or a private driveway. Mr. Barto said that it will be a city street. Commissioner Miles asked if there was going to be curb and gutter. Mr. Barto stated that there would be curb and gutter.

Mr. Westfall stated if they are going to approve the concept it would be with the eye test that it fits. He said with option 1 is a PUD and the City doesn't allow PUD's. Also another challenge is the width of the road does not meet the City width requirements. He stated that the Staff would not recommend this be considered for concept because it does not meet the City ordinances. Mr. Westfall stated option 2 is not a PUD. It is single family units, the width of the road does not meet the City width requirements, the lot size requirements for single family dwelling requirements is 10,000 square feet. He said the City Staff does not recommend concept approval for option 2 according to our ordinances. Commissioner Call asked if the width of the road could be modified and couldn't the lots be modified also. Mr. Westfall stated that is where option 3 came about. Mr. Barto stated that option 3 is everything the city is asking for but puts it back to 4 lots in an area that is a different market. Mr. Westfall stated that option 3 the road width is adequate, the length of the cul-de-sac is adequate, and the lot sizes are adequate. He said if the Planning Commission deemed appropriate, the City Staff would be fine approving option 3 for concept approval. Commissioner Call stated somewhere up front of this property is the NC2 versus R1 boundary. She asked if anyone knew where it was. Mr. Barto stated that the line is between the previous development he did and this new project. Mr. Barto stated that he would like to take other avenues for option 2. He asked about a variance to get approval for option 2. Commissioner Call stated that they are trying to get away from Conditional Uses and variances. Mr. Westfall stated that PUD's have been brought before this body and that was not the direction that they wanted to go. Mr. Westfall stated that variances are required by State law with very strict guidelines. Greg explained that a

variance is very hard to obtain. He said that there are 5 or 6 requirements that the State has to approve a variance. He said one of the requirements is if there are things opposed on this property owner because his neighbors or common competitors don't have the same problem. He said if you answer the negative to any one of those, the variance cannot be granted.

Commissioner Coburn stated that he likes option 3 because the lots in the area are larger lots. Commissioner Gunderson leans to option 3 also because we are trying to follow our ordinances. He said that he felt he would be able to sell the homes. Commissioner Call stated that option 1 would need to be in alignment with our current ordinances and we need to stay away from conditional use permits and variances. She said once we allow this to start happening other people will want us to allow them to grant them variances for their projects.

Commissioner Call stated that there might be something between options 2 and 3 that might fit our ordinances. She said that we as a commission need to start to consider transition zones because we are going from a commercial area to a larger lot sized home. She stated we don't have anything in between. Commissioner Call commented that we have more and more people coming in and asking for this. She said we need to consider that. Commissioner Miles stated that option 3 would be his choice. He agreed with Commissioner Call regarding taking it back to the drawing board and coming up with something between option 2 and option 3.

Greg Westfall stated that the only one that would legally fit is option 3. Chairman Ostler stated that there is some comfort level with giving concept approval for option 3, or if Mr. Barto would like to go back and try something else and come back. Mr. Barto stated that he would like to come back with one more lot for density. Greg Westfall stated that whatever is on the books that is what the Planning Commission follows. Mr. Barto stated that he will come back with a different drawing that will have more than 4 lots.

4. Land Use Ordinances, Zoning, Design Guidelines, General Plan, Etc. Recommendations to the City Council

A. Discussion Regarding the Large Animal Ordinance

Greg Westfall explained that one of the City Council's main concerns was the R1/3 zone. The recommendation of the Planning Commission was not to have large animals in any zone denser than R1/2. Greg Westfall stated that the zones that were included for large animals were the R1A and RE1/2. He said

that the council chose not to act on it that night. They wanted more information and research done. Mr. Westfall stated that he talked to David Church attorney for the League of Cities and Towns, and got clarification from him. Greg stated that people who are grandfathered in will be taken care of administratively. Greg stated that the changes that were made were based on discussions with David Church, discussions between him and Commissioner Call, and his experience. Mr. Westfall stated that one recommendation was not to allow pigs in residential areas and some smaller animals such as peacocks, mink, and ferrets. Greg explained that in part of this ordinance it allowed for special conditions and we should have never had special conditions to allow people to interpret. Their recommendation is to take it out. Mr. Westfall recommended that the C1 zone be added. He said C1 is surrounded by the Agricultural zone and there are already large animals there. He stated another change that he recommends is that 1 large animal is allowed per 40,000 square feet and not 20,000 square feet with one additional large animal for every 20,000 feet of property. He said all initial 40,000 sq ft lots must be on one continuous parcel. Mr. Westfall stated that large animals will not be included in the 1/3 zone. Commissioner Call stated that there are people who live on R1/3 that have animals. She believes the city's intent is to grandfather anyone right now in any of the residential zones so they won't be affected by this change.

Chairman Ostler stated that the public comment driven tabling of this original ordinance was because of animals in R1/3 zones. He said it sounds like there are administrative procedures in place to deal with existing animals. Greg Westfall stated that the difference would be if you are in a zone where it is allowed you're just allowed. He said the people who have non-conforming uses (grandfathered) have to continually use it as that use. For example if someone had a horse and they had it there for one year or ten days to prove that, they are good. He explained that it is continual non use for 12 consecutive months which would lose their non conforming use. Mr. Westfall stated that another way to lose your non conforming use is to change the use of the property. Chairman Ostler asked if they sell the land. Greg Westfall stated that it stays with the land. Chairman Ostler stated that the ordinance sounds good and that administration takes care of the R1/3 zone residents. Greg said that administration would take care of them as a non conforming use. He stated that the only possible issue is for someone thinking of a future use. Mr. Westfall stated that there will be a public hearing at some point. Commissioner Gunderson asked the concern the City Council had with the R1/3 residents that had animals it wasn't the future. Greg stated that the people who were present currently have animals on their property.

Commissioner Gunderson stated that we as a planning commission have a responsibility to the people who own R1/3 property and want to put an animal on their property, but also to the surrounding neighbors who may not want animals. Commissioner Call stated that chickens were taken out and a reference added to the new chicken ordinance. She said the C1 zone is commercial and wondering why we recommend large animals in a commercial zone. She stated C1 is the land behind Wal-Mart and to the west of Wal-Mart there are cattle grazing out there. Commissioner Call stated it will probably be years and years before any business will come in this area. She asked should it be included in a paragraph that is titled rural residential because C1 is not rural residential it is defined as commercial principal. She said if we do allow it do we need to put some wording in the ordinances stating when the piece of ground is sold and commercial built on it then in that piece it is no longer allowed. Greg stated that if someone has been grazing cattle then we would include them on the grandfather and this would still allow them to do that. Commissioner Call stated that we need to do further research if there is a person who owns this land and is grazing this land that they are under the grandfather clause. Commissioner Call stated currently the ordinance is 1 large animal per 20,000 square feet. She said the City is a little bit more restrictive. She believes the Agriculture area is where you have your serious farmer types where you have your cattle, horses, etc. and they may even do it as a business. She believes that the R1A and the RE1/2 are like the gentleman farmer types who just want to have a couple of animals which would include 4-H families. She said to tell those people that they can only have 1 large animal per acre, would not allow for the 4-H type families. She said one thing they need to consider is raising animals versus penned animals. Commissioner Call stated that the 4-H family's pen and hay feed the animals so they could have 3-4 animals on an acre and not be very bothersome at all. She said we have left them out by being very restrictive that way. She would propose as a minimum to go back to our current ordinance for the number of animals. Commissioner Call stated that we are talking 1/2 acre versus 1 acre. She said that our current ordinance does not address penning of animals. Commissioner Call explained so to get more restrictive and totally put out of the picture parents who want to raise their children with the 4-H experience, we do not allow that right now in the smaller zones.

Greg said that he has seen in some cities where they have created a 4-H ordinance. Greg felt that restricting these types of animals is a good thing for Perry City. Commissioner Call asked if we want to force the 4-H families into the agricultural land. Greg stated that generally you see farmers with a lot of

land create a place for 4-H families and charge a small fee for the kid to have it out there and have the kid come out and take care of it. Commissioner Call stated her preference would be to leave the acreage sizes for larger animals the same as they currently are and not to make it more restrictive so that we can accommodate the 4-H families. Commissioner Call asked if we allowed for Llamas. Greg stated we can add Llamas to the ordinance. Commissioner Miles stated that we stick with an acre for large animals, and a 1/2 acre for smaller animals. Chairman Ostler stated that his opinion is what they talked about when they first started talking about the Large Animal Ordinance and what we feel that there ought to be in certain zones. Commissioner Call stated that we did accomplish that by eliminating the large animal in the classic residential zone and provided a rural residential zone for those who do want animals. Commissioner Gunderson supports the changes. Commissioner Miles stated to leave the 40,000 square feet for 1 large animal. Commissioner Call would like the references removed for the C1 zone and put it back to where it was before and to put it back to the 20,000 square feet for 1 large animal. Commissioner Gunderson stated to leave the 40,000 square feet per 1 large animal. Commissioner Coburn proposed to leave it as the 40,000 square feet. Commissioner Call asked how the commissioners would feel about delineating between large, midsized, and small animals. Greg stated that would create classes of animals but could be done. The commissioners agreed to delineate the sizes of animals and address the front yard corralling of animals. Commissioner Call will work up a draft of the large animal ordinance to be presented at the next meeting.

Review next Agenda and Adjourn

Review Agenda items for Thursday, February 4, 2016

- (1) Large Animal Ordinance
- (2) Open Meetings Law Training

Chairman Ostler stated that there is someone in town that is interested in the Orchard Conservation and it is still in the works with the City and will be discussed at a later meeting. Chairman Ostler stated that our ordinances require the commissioner to obtain a certain amount of training.

A. Motion to Adjourn

MOTION: Commissioner Coburn moved to adjourn. Commissioner Gunderson seconded the motion. Roll call vote.

Commissioner Miles Yes

Commissioner Call Yes

Commissioner Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No