

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**  
3 **September 8, 2015 at 7:00 p.m.** at the Lindon City Center, City Council Chambers, 100  
4 North State Street, Lindon, Utah.

6 **REGULAR SESSION** – 7:00 P.M.

8 Conducting: Sharon Call, Chairperson  
9 Invocation: Matt McDonald, Commissioner  
10 Pledge of Allegiance: Andrew Skinner, Commissioner

12 <b><u>PRESENT</u></b>	<b><u>ABSENT</u></b>
13 Sharon Call, Chairperson	13 Mike Marchbanks, Commissioner
14 Bob Wily, Commissioner	
14 Rob Kallas, Commissioner	
16 Matt McDonald, Commissioner	
16 Andrew Skinner, Commissioner	
18 Hugh Van Wagenen, Planning Director	
18 Jordan Cullimore, Associate Planner	
20 Kathy Moosman, City Recorder	

- 22 1. **CALL TO ORDER** – The meeting was called to order at 7:00 p.m.
- 24 2. **APPROVAL OF MINUTES** – The minutes of the regular meeting of August 25,  
25 2015 were reviewed.

26  
27 COMMISSIONER SKINNER MOVED TO APPROVE THE MINUTES OF  
28 THE REGULAR MEETING OF AUGUST 25, 2015 AS PRESENTED.  
29 COMMISSIONER WILY SECONDED THE MOTION. ALL PRESENT VOTED IN  
30 FAVOR. THE MOTION CARRIED.

32 3. **PUBLIC COMMENT** –

34 Chairperson Call called for comments from any audience member who wished to  
35 address any issue not listed as an agenda item. There were no public comments.

36  
37 **CURRENT BUSINESS** –

- 38  
39 4. **Site Plan** – *Performance Motors, approx. 25 North State Street.* Brandon Pierce  
40 requests site plan approval of a 2,136 square foot commercial building with a  
41 caretaker dwelling, at approximately 25 North State Street in the General Commercial  
42 A (CG-A) zone.

44 Jordan Cullimore, Associate Planner, opened the discussion by passing out an  
45 email to the Commissioners received by Sonja Johnson today. He explained that this item  
46 was before the Commission several months ago as a zone change item of which the  
47 Council has since approved. The applicant is now ready to move forward with site plan  
48 approval. He then gave a brief overview explaining Brandon Pierce (who is in

2 attendance) is proposing to construct a 2,136 square foot commercial building on the lot  
4 located at approximately 25 North State Street. He noted the structure will be primarily  
6 used for used automobile sales, which is a permitted use in the General Commercial A  
(CG-A) zone. Mr. Pierce is also requesting approval of a caretaker dwelling on the  
second floor of the structure. He added that a caretaker dwelling is a conditionally  
permitted use in the CG-A zone.

8 He noted the required parking ratio for retail automobile sales in one space per  
250 square feet of showroom/office space plus one space per employee. Mr. Pierce has  
10 indicated that the facility will have 1,981 square feet of office space with three employees  
12 on any given shift. This will require 11 parking stalls with at least one ADA stall. The  
site plan proposes 11 stalls with one ADA accessible stall to satisfy the parking  
14 requirement. The Code also requires two bicycle parking stalls and the site plan proposes  
two stalls to meet this requirement

*He then referenced the Summary of Parking Requirements as follows:*

- 16 • Vehicle Spaces Required: 11
- Vehicle Space Provided: 11
- 18 • Bicycle Spaces Required: 2
- Bicycle Spaces Provided: 2

20 Mr. Cullimore further discussed that Subsection 17.48.030(4) requires a 20 foot  
22 landscaped berm along public street frontages, of which at least 70% is planted in grass.  
The Code also requires that trees be planted within the strip every 30 feet on center and  
24 this landscaping plan complies with these requirements.

26 He went on to say that the interior landscaping must be provided at 40 square feet  
per required stall. This site has 11 required parking stalls, which will require at least 440  
square feet of interior landscaping, exclusive of the required landscaped strip along street  
28 frontage. Additionally, the Code requires one interior tree per 10 required parking stalls.  
The landscaping plan proposes 744 square feet of interior landscaping and two trees in  
30 the interior landscaping to meet the Code requirements.

32 Mr. Cullimore explained that the Code requires that any parking lot adjacent to a  
residential use be screened shall provide a minimum 10' landscaped buffer from the  
parking lot to the adjacent residential use, and that trees be planted at least every 10'  
34 along the strip. Mr. Pierce has proposed a landscape strip adjacent to the parking that will  
meet this requirement.

36 Mr. Cullimore further explained that the Code also requires that a minimum of  
20% of the lot be maintained in permanent landscaped open space. The landscaping plan  
38 indicates that 25% of the site will be maintained in permanent landscaped open space to  
meet the requirement. He noted the Code also requires that a 7' masonry or concrete  
40 fence shall be constructed and maintained between a non-residential development and a  
residential use or a residential zone. Mr. Pierce is proposing a fence along the west and  
42 north property lines to meet this requirement. While the strip of land south of the parcel  
belongs to the residential lot to the west, staff has determined that the strip is not a  
44 residential use, so no fence has been proposed along that border.

46 Mr. Cullimore commented that the Lindon's Commercial Design guidelines,  
which govern architectural treatments in the CG zone, identify masonry building  
materials, such as brick, stone, and colored decorative concrete block as the preferred  
48 primary building material; and brick, stone, colored decorative concrete block, stucco,

2 wood/cement fiber siding, and timbers as secondary materials. He added that an  
architect's rendering of the structure and elevation details are included in the packets. The  
4 building materials proposed for the exterior of the structure include painted CMU block  
and corrugated metal siding.

6 Mr. Cullimore mentioned that the Commercial Design Guidelines indicate that  
earth tones are generally preferred over harsh or loud colors, except where more vibrant  
8 colors are used to create a special effect that is harmonious with the adjacent context. Mr.  
Cullimore stated the proposed structure meets setback and height requirements of the  
10 CG-A zone. He noted the City Engineer is working through technical issues related to the  
site and will ensure all engineering related issues are resolved before final approval is  
12 granted.

14 Mr. Cullimore stated that Mr. Pierce is also proposing a caretaker dwelling in the  
portion of the structure. He added that caretaker dwellings are conditionally permitted as  
part of a commercial site in the CG-A zone. Mr. Cullimore stated the following applies  
16 when considering an application for a conditional use permit:

- 18 • State Code defines a conditional use as " a land use that, because of its unique  
characteristics or potential impact on the municipality, surrounding neighbors, or  
20 adjacent land uses, may not be compatible in some areas or may be compatible  
only if certain conditions are required that mitigate or eliminate the detrimental  
impacts."
- 22 • Section 10-9a-507 of the State Code requires municipalities to grant a conditional  
use permit "if reasonable conditions are proposed, or can be imposed, to mitigate  
24 the reasonably anticipated detrimental effects of the proposed use in accordance  
with applicable standards." Once granted, a conditional use permit runs with the  
26 land.
- 28 • State Code further provides that a conditional use permit application may be  
denied only if "the reasonably anticipated detrimental effects of a proposed  
30 conditional use cannot be substantially mitigated by the proposal or the  
imposition of reasonable conditions to achieve compliance with applicable  
standards." Utah Code § 10-9a-507.
- 32 • Additionally, the Lindon City Code provides that a conditional use may be denied  
when
  - 34 ○ "Under circumstances of the particular case, the proposed use will be  
detrimental to the health, safety, or general welfare of persons residing or  
36 working in the vicinity, or injurious to property or improvements in the  
vicinity, and there is no practical means available to the applicant to  
38 effectively mitigate such detrimental effects;" or,
  - 40 ○ "The applicant cannot or does not give the Planning Commission reasonable  
assurance that conditions imposed incident to issuance of a conditional use  
42 permit will be complied with."

44 Mr. Cullimore then mentioned if the Planning Commission identifies potentially  
detrimental impacts associated with the proposed caretaker dwelling, they may impose  
reasonable conditions to mitigate the identified impacts. He added that staff has received  
46 an email from, and has had subsequent conversations with, Sonja Johnson, who is a  
resident in Harcliff Circle. Her email has been included in the staff packets. Mr.  
48 Cullimore mentioned that staff is in the process of researching some of these concerns.

2 Mr. Cullimore then presented an aerial photo of the site, photos of the site, the site plan,  
4 landscaping plan, elevations and colored rendering, floor plan for the caretaker dwelling  
and the earth-tone color palette followed by discussion. He then turned the time over to  
the applicant for comment.

6 Mr. Pierce stated that Mr. Cullimore covered the important points and details.  
Chairperson Call opened the meeting to public comment at this time. Several residents in  
8 attendance addressed the Commission as follows:

10 **Sonja Johnson:** Ms. Johnson stated that she is representing her mother, Els-Marie  
Johnson. She commented that they received notification last week and they are asking to  
12 delay this meeting for any approval to allow time for her mother (who is in the hospital)  
to be a part of the discussion as this will impact her personally. She noted they have not  
14 had the opportunity to review all the documents and when she tried to contact the  
planning department they were either out of the office or unavailable.

16 Ms. Johnson stated this does not meet the administrative definition of how the  
laws are applied because there are at least three areas where there is personal/private  
18 property involved that is being used as part of the site development that has not been  
discussed or approved by Mrs. Johnson. They include the following:

- 20 1. A fence along the west line - as the use of their fence has not been approved  
nor discussed with Mr. Pierce.
- 22 2. Water lines and gas lines that are being requested to be moved and there is  
question of who really own them. And if they are being moved there is a  
24 detriment to Mrs. Johnson as they need to establish pipelines/easements etc.
- 26 3. Fencing along the south side which is not being proposed right now. They are  
requesting a 7 ft. wall be put there for security issues.

28 **Lila Perry:** Mrs. Johnson's daughter. Ms. Perry confirmed they have concerns with  
security of their property and would request that fencing be implemented on the south  
30 side

Ms. Johnson re-iterated they have not had the time to review all of the issues, and  
32 these are just a few out of many, so they are requesting a continuation tonight to allow the  
time for Mrs. Johnson to review all items. Ms. Johnson then gave a brief history of the  
34 family property.

At this time Chairperson Call asked for input from city staff as far as the fencing  
36 and the utilities and the water lines. Mr. Cullimore stated they were not aware that the  
fencing had not been discussed and noted that regardless of how it all shakes out, they  
38 will have to come to an agreement and extend it or Mr. Peirce may have to construct his  
own 7 ft. fence on his side of the property. Mr. Cullimore explained that both solutions  
40 would comply with the code and would be acceptable to the city and could be included as  
a condition in the motion and could be worked out. Ms. Perry stated that there has never  
42 been a dispute between the neighbors as to whose fence this was and the wall is on their  
parent's personal piece of property. Ms. Johnson stated they also don't want the fence  
44 added onto because it is on an unstable area and her mother wants to control the fence.

Mr. Cullimore explained the issue with the gas line is between the property owner  
46 and Questar gas as the city does not provide services for gas. He noted that regarding the  
water line there has been discussion between the property owner and the Public Works  
48 Director and the City Administrator has also been involved in those conversations as

2 well, and the determination that has been made is that it is a private water line. The city's  
only interest would be to ensure that the service is preserved. There was then some  
4 discussion regarding the water line issue. Mr. Cullimore noted the city attorney has been  
consulted and there may be some legitimate concerns to work through regarding this  
6 issue but that is not discussion that this body can determine.

8 Mr. Van Wagenen commented that it is not the city's water line and how it gets  
moved is not the city's concern with the only concern being that the service is  
maintained; the application is showing that the service will be maintained.

10 Mr. Cullimore explained regarding the fencing along the south border of the  
property that through discussions with Ms. Johnson it was identified that it doesn't  
12 qualify as a residential use, however, this property was developed as one parcel and there  
is precedence there that this area didn't require a buffer that would typically be necessary  
14 to separate a residential use. Staff determined that the residential use occurs in the area  
and there wouldn't be justification to require the buffer. There was then some additional  
16 discussion regarding the zoning/use of the property. Mr. Van Wagenen made it clear that  
he has never confirmed the property to be an agricultural use.

18 Chairperson Call observed with the interpretation that city staff has made that  
would not be considered a residential use on that one side of the property. Mr. Cullimore  
20 stated the zoning is commercial and the current use would be considered vacant. Ms.  
Johnson stated they would also request a wall to add the separation between the  
22 properties for security issues. Mr. Pierce stated he will add a wall. Chairperson Call  
mentioned the other concern with the water line doesn't appear to be something this body  
24 can make a decision on and it is something the property owners have to work out with the  
movement of those lines and easements etc.

26 Ms. Johnson stated they would like this meeting continued as they only had two  
days to review this and they feel the Commission should make accommodations as they  
28 did not have the opportunity to review the documents and they have a lot of questions left  
unanswered and this is not ready for review and or approval by the Planning  
30 Commission. She added that this has been very disruptive as their mother has been in the  
hospital and they are here representing her since she is unable to; this is unacceptable.

32 Chairperson Call stated, as a body, the things they have been asked to evaluate  
tonight are parking requirements, landscaping, buffer, open space requirements, masonry  
34 fence etc. Chairperson Call pointed out that this item is not a public hearing.

36 Ms. Johnson commented that she has written letters to the planning department  
and has had zero response and asked how they, as neighbors, are supposed to protect their  
property.

38 Chairperson Call stated the items they have been asked to review meets the  
criteria. Mr. Cullimore stated regarding the property rights that there are avenues through  
40 which they can approach those concerns. He added the city has been advised by the city  
attorney that the planning commission is not the body to advise on this issue and none of  
42 the issues presented should hold up the site plan approval.

44 Ms. Johnson stated they have also contacted an attorney and was advised to let the  
city know that either they continue this item in order to allow the time to allow their  
mother to be part of the conversation or they will put a restraining order on any further  
46 building and will sue Lindon City and/or Mr. Pierce. That is not their goal but they will  
do it as they feel they are not being heard.

2 Mr. Van Wagenen then mentioned two points 1. The corrugated metal on the  
building and 2. The fence along the Johnson property. He noted that Mr. Pierce knew all  
4 along, unless there was cooperation with Ms. Johnson, that he would have to build his  
own fence and certainly this could be put as a condition in the motion. He further noted  
6 with the condition and as far as requirements on the site plan, and if it meet approval,  
staff feels this has met those conditions/requirements in that regard. He stated if the city  
8 is being threatened with legal action he would suggest to the Commission to finish this  
conversation and move on to what they feel is appropriate as far as approval or  
10 continuance and if there is a threat of legal action the city will have the city attorney  
present to advise.

12 Chairperson Call commented that the Commission has tried to be fair and allowed  
public comment even though this is not a public hearing. Mr. Johnson pointed out that  
14 there has not been any discussion about the caretaker apartment. Chairperson Call stated  
that she understands that it can be a conditional use and unless there is reason to deny that  
16 they are not able to deny a conditional use unless there are issues that cannot be worked  
out.

18 Ms. Johnson inquired how many people can live there and if it can be rented out  
to other parties. Mr. Cullimore stated it is treated as a single family residence as long as  
20 one person is acting as the caretaker. Chairperson Call asked Mr. Pierce what his  
intentions are for the caretaker apartment and who will live there. Mr. Pierce stated that  
22 he and his wife will live there and act as caretakers. Chairperson Call stated that could  
change as long as the person is considered a caretaker and there is not more than four  
24 unrelated individuals living there.

Commissioner Kallas asked if compensation has to be paid to be considered as the  
26 caretaker. Mr. Cullimore stated there is not any city requirement for that and it is not  
specifically defined. Ms. Johnson reiterated that they did not have proper notice. They  
28 received it on Monday and had no opportunity to work things out. Mr. Van Wagenen  
pointed out that the issues to work out are not relevant to the site plan. Chairperson Call  
30 stated as far as the decision the Planning Commission can make tonight is that it appears  
to meet the code and the conditions on the apartment. Commissioner Kallas commented  
32 that he feels the water line and gas line issues needs to be resolved, but that does not  
mean this cannot be approved or not tonight. Mr. Van Wagenen made it clear that the  
34 water line is the only thing the city will deal with because we provide water services, and  
the requirement is that the service be maintained through to the lot and how it gets there  
36 is not the city's concern. What has been provided with the site plan satisfies the  
requirement.

38 Chairperson Call observed that what staff has presented, as far as the decisions  
they have to make tonight, this appears to meet to all codes and ordinances. She also  
40 mentioned the architectural standards appear to meet the requirements but they can put  
conditions on it.

42 Commissioner Wily pointed out that this building is different from other buildings  
in the area, but there are no requirements that state the buildings all have to look alike and  
44 it certainly meets the architectural commercial guidelines. He added that Mr. Pierce is  
willing to put in considerable effort and to spend the money to make it right. He  
46 commented that the Commission relies on the advice of the city attorney and staff and  
they have a discreet list to consider as a Planning Commission, and the site plan appears  
48 to meet all requirements. He stated that the Commission has the discretion and the

2 obligation to approve the site plan and it is within their jurisdiction, and this plan should  
4 be voted on tonight. He feels the Commission has the obligation to approve it and feels  
the discussion has been sufficient.

6 Ms. Perry asked if there will be a public hearing. Chairperson Call stated that  
there will not be a public hearing with a site plan. Chairperson Call also asked if the  
8 corrugated metal on the building should be a condition in the motion. Mr. Pierce then  
described the type of metal to be used on the building. Following discussion the  
Commission agreed the corrugated metal meets the architectural guidelines.

10 Chairperson Call asked if there were any further questions or comments from the  
Commission. Hearing none she called for a motion.

12  
14 COMMISSIONER WILY MOVED TO APPROVE THE APPLICANT'S  
REQUEST FOR SITE PLAN APPROVAL WITH THE FOLLOWING CONDITION:  
16 THE APPLICANT CONSTRUCT AN INDEPENDENT FENCE ALONG THE WEST  
PROPERTY LINE. COMMISSIONER MCDONALD SECONDED THE MOTION.  
THE VOTE WAS RECORDED AS FOLLOWS:

18 CHAIRPERSON CALL AYE  
20 COMMISSIONER KALLAS AYE  
COMMISSIONER WILY AYE  
22 COMMISSIONER MCDONALD AYE  
COMMISSIONER SKINNER AYE

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

24  
26 Ms. Johnson expressed that they feel this was not fair and they were not supplied  
with sufficient time to address this issue and access city personnel. They feel that have  
28 been pushed out of the process and they want any future correspondence in writing. She  
stressed they are very unhappy and disappointed and re-iterated that they want any future  
30 fees waived. Chairperson Call stated that is not up to the Commission and is up to staff.

32 5. **Public Hearing:** *General Plan Map Amendment, approx. 115/117/119/ South State*  
*Street.* This item has been continued to the next available Planning Commission  
34 meeting. Leonard Lee of L.A. Lee Enterprises requests approval of a General Plan  
map amendment to change the General Plan designation of property located at  
36 115/117/119 South State Street (Utah County Tax IDs 14:070L0204 & 14:070:0306)  
from Commercial to Mixed Commercial. The Commission will consider the request  
and make a recommendation to the City Council.

38  
40 COMMISSIONER MCDONALD MOVED TO OPEN THE PUBLIC  
HEARING. COMMISSIONER SKINNER SECONDED THE MOTION. ALL  
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

42  
44 **Mr. Cullimore stated this item has been continued to the next available  
Planning Commission meeting.**

46 Leonard Lee of L.A. Lee Enterprises requests approval of a General Plan map  
amendment to change the General Plan designation of property located at 115/117/119  
48 South State Street (Utah County Tax IDs 14:070:0204 & 14:070:0306) from Commercial  
to Mixed Commercial. The Commission will consider the request and make a  
recommendation to the City Council.

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4 6. **Public Hearing** – *Zone Map Amendment, approx. 115/117/119 South State Street.*  
 This item has been continued to the next available Planning Commission meeting.  
 Leonard Lee of L.A. Enterprises requests approval of a Zone Map Amendment to  
 6 rezone property located at 115/117/119 South State Street (Utah County Tax IDs  
 14:070:0204 & 14:070:0306 from General Commercial (CG) to Mixed Commercial  
 8 (MC). The Commission will consider the request and make a recommendation to the  
 City Council.

10

12 **Mr. Cullimore stated this item has been continued to the next available  
 Planning Commission meeting.**

14 Leonard Lee of L.A. Lee Enterprises requests approval of a Zone Map  
 amendment to rezone property located at 115/117/119 South State Street (Utah County  
 Tax IDs 14:070:0204 & 14:070:0306) from General Commercial (CG) to Mixed  
 16 Commercial (MC). The Commission will consider the request and make a  
 recommendation to the City Council.

18

20 7. **Public Hearing** – *Ordinance Amendment, Commercial Design Guidelines.* This item  
 has been continued to the next available Planning Commission meeting.

22 **Mr. Cullimore stated this item has been continued to the next available  
 Planning Commission meeting.**

24 Lindon City requests approval of amendments to Lindon City Code (LCC) Titles  
 17 and 18, and to the Lindon City Commercial Design Guidelines, to change the Design  
 26 Guidelines to Design Standards. The Commission will consider the request and make a  
 recommendation to the City Council.

28

30 8. **Public Hearing** – *Ordinance Amendment, Commercial and Industrial Landscaping  
 Standards.* This item has been continued to the next available Planning Commission  
 meeting.

32

34 **Mr. Cullimore stated this item has been continued to the next available  
 Planning Commission meeting.**

36 Lindon City requests approval of an Ordinance Amendment to LCC chapters  
 17.47 Research and Business Zone, 17.48 Commercial Zones, 17.49 Industrial Zones,  
 and 17.50 Mixed Commercial to allow more water wise landscaping options.

38 Chairperson Call called for any comments or questions from the Commissioners.  
 Hearing none she called for a motion.

40

42 COMMISSIONER KALLAS MOVED TO CONTINUE AGENDA ITEMS 5, 6,  
 7 AND 8 TO A FUTURE MEETING DATE. COMMISSIONER SKINNER  
 SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

44 CHAIRPERSON CALL AYE  
 COMMISSIONER KALLAS AYE  
 46 COMMISSIONER WILY AYE  
 COMMISSIONER MCDONALD AYE  
 48 COMMISSIONER SKINNER AYE

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.



2

Chairperson Call called for any further public questions or comments. Hearing none she called for a motion to close the public hearing.

6

COMMISSIONER KALLAS MOVED TO CLOSE THE PUBLIC HEARING. COMMISSIONER MCDONALD SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

10

**9. New Business: Reports by Commissioners –**

12

Chairperson Call called for any new business or reports by the Commissioners. Chairperson Call mentioned a resident brought up a report that showed Lindon being named as number three as having the highest taxation in a number of cities in the state. Mr. Van Wagenen mentioned the “State of the City” report generated by Mr. Cowie addresses some of those concerns and he advised the Commission to share the report if anyone asks about the financial state of the city. Mr. Van Wagenen stated the information came from the Utah Taxpayer’s Association and it was measuring the amount of revenue coming from taxes per resident, so some of the numbers were skewed and some were not appropriate. He added that the State of the City report is a great overview of revenue sources etc. and it is more transparent.

22

Councilmember Bean mentioned the city spending may seem higher than other cities but we provide more amenities and some decisions were made by other councils, not that they were necessarily bad decisions.

24

Chairperson Call called for any further comments or discussion. Hearing none she moved on to the next agenda item.

28

**10. Planning Director Report–**

Mr. Van Wagenen reported on the following items followed by discussion:

30

- Fire station site plan is coming along.
- American Planning Association Fall Conference at Thanksgiving Point in Lehi, October 1-3.

32

34

Chairperson Call called for any further comments or discussion. Hearing none she called for a motion to adjourn.

36

**ADJOURN –**

38

COMMISSIONER SKINNER MADE A MOTION TO ADJOURN THE MEETING AT 8:45 P.M. COMMISSIONER MCDONALD SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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Approved – September 22, 2015

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Sharon Call, Chairperson

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Hugh Van Wagenen, Planning Director