

**MINUTES OF THE  
SPECIAL MEETING OF THE  
PLANNING COMMISSION OF  
GARDEN CITY, UTAH**

The Garden City Planning Commission held a special meeting on December 20, 2013 at the Garden City Office, located at 69 N. Paradise Parkway, Bldg B. Planning Commission Chair Bourne opened the meeting at 9:00 a.m.

Commission Members present:

Lance Bourne, Chair  
Chuck Stocking  
Mike Schiess  
Jim Stone  
Susann House  
DeWayne Gifford  
Jim Hanselka via speaker phone

Excused:

Nate Gracey

Others present:

Kathy Hislop	Norm Mecham
Riley Argyle	Adam Mecham
Anita Weston	Bryce Nielson
Joey Stocking	Bobbie Coray
Bess Huefner	Chris Coray
Brian House	Ken Hansen
Tony Martineau	Jackie Bourne
Skip Duffin	
Mike Wahlberg	

**ROLL CALL**

Planning Chair Bourne asked for a roll call of Commission Members present: Commission Chair Bourne, Commission Member Stone, Commission Member Schiess, Commission Member Stocking, Commission Member House, Commission Member Gifford.

**Consider the height requested for Water's Edge project as previously presented,  
Discussion/Approval, Norm Mecham**

Commission Chair Bourne explained that the agenda today is the height discussion for Water's Edge project for Mr. Mecham. Mr. Mecham explained he took some pictures from the property, at different locations, to help explain and illustrate what he is requesting for the height of his buildings. He showed the plan that explains the height. He said that he has tried to minimize the

view corridor with the present plan. The current plan pulls the buildings in towards the middle instead of having the buildings spread out closer to the property lines.

Commission Member Schiess said that it is very important that when we look at the drawings with the site corridor in mind, there isn't one bit of the view of the lake that will be obscured with the current plan, looking south towards the lake. He said that Lake Meadow Lodge obscures their own view from the second set of buildings. He said that Lake Meadow Lodge completely obscures the view from anyone coming down the highway towards the lake. He said that Mr. Mecham has really taken into consideration what is there and it really is minimally impacted on the area.

Mr. Mecham gave his presentation showing the layout of the buildings, the current plan vs. the 25 foot requirement in Beach Development. Mr. Mecham said that they have really tried to take into consideration the views with this plan.

Mr. Mecham explained that one of the reasons we are here is because the Appeals Board determined that the Planning Commission has the authority, based on our ordinance, to determine what the height should be in a PUD. He stated that he is not saying what the height should be, he said that the Planning Commission, by our ordinance, has the ability to decide.

Commission Chair Bourne said that today's decision is one of the biggest that the Planning Commission will make. He said that once we make this decision and if we allow this development to be higher than our ordinance allows we open the door, and once we give up the lake it will be gone forever. One of our most important jobs is to protect our number one resource, which is the lake. We have the ordinances in place to do that and they have been there for years and years and we have defended the height restriction in the past. He would like the Planning Commission to stay within our own ordinances. He said that there is no benefit to the city to allow this development to go taller than the ordinance states. He feels that Mr. Mecham can refigure the height to make it fit within our own ordinances.

Commission Chair Bourne asked Mr. Mecham what his involvement is throughout this project. Mr. Mecham said that he will be involved as the contractor through the buildout, then it is not clear as to the long term ownership. Mr. Mecham said that this will be built in phases. He said that he will come in for approval of the preliminary plat and the final plat for each phase. He said that right now he is seeking approval for the overall development plat.

Planning Commission Chair said that we really need to follow our ordinances and keep Bear Lake beautiful.

Commission Member Stone said that he feels it is a great project and will be great for everyone but he needs to be fair, like we have treated everyone else. We don't want to get sued as a city because we do this wrong. We don't want to open this up for other developments. We need to stick to the ordinances. Commission Member Stone said that this may be a liability for the city if we don't follow our ordinances.

Commission Member Schiess said that in looking at the map presented by Mr. Mecham we need to determine what buildings are in question regarding the height of the buildings. Mr. Mecham said that this has been rezoned as a PUD and the ordinance does not specify the height on a PUD. There is not a mandatory point beyond which you can't go. The ordinance allows the Planning Commission to decide what that will be based on all of the things coming together. If you are looking at the beach development or the commercial zone then yes there is a height restriction. Mr. Mecham showed where, on the zoning map, where the line between the beach development and commercial zones.

Mr. Mecham said that with this project they are using 18% of the property with buildings. The ordinance allows 30%, so he could redesign the buildings if necessary. He said that the footprint of the buildings overall for the project leaves more open space and the view is minimized with his current plan.

Commission Member Stocking said that he feels that with the PUD development, a PUD, the height can be negotiated. He said that there isn't anything specific in the ordinance for a PUD. He feels that it is allowed in the ordinance and that we have the right to negotiate that height. He does like what the project looks like, the view corridor and stacking the buildings to protect that view. This is condensing buildings so you are not looking at the entire beach being plastered with buildings. He said that it makes more sense and we have the ability to negotiate this because it is allowed in the PUD zone. He likes the idea of doing it this way and having the higher buildings, rather than having it spread out across the whole beach.

Commission Member House said that she looked at all the buildings along the beach and there are a lot of buildings already on the beach that look taller than the 25' height restriction. She said that it doesn't seem fair that Mr. Mecham be punished while others have been allowed. Commission Chair Bourne said that when the Lake Meadow Lodge was being approved they asked for additional height and they were told no. They have said that they would sue the city if we allow this development to go higher. Commission Member House said that development was done several of years ago.

There was a lot of discussion regarding buildings in town and how tall they are.

Council Member Huefner explained the history of the height/buildings and the current ordinance. She explained that when we were going through the ordinances about 5 years ago, with Whisper Mountain, we tried to determine where the hotels should be located in Garden City. She said that we left that ordinance open ended and made the PUD ordinance so that if there was a hotel that we felt good about, we could negotiate with them. At that time we sent the ordinance to Mr. Martineau and he signed off on the ordinance stating that it was legal. She said these are the things that were decided as a group.

Commission Member Gifford said that he likes the pictures of what Mr. Mecham shows with the pictures he presented, which minimize the views that are obscured of the lake. He said that our important thing is the lake. The way he interprets the code is that the Planning Commission has the right to negotiate the height. If we don't have the right he feels that we should change the code so that we can, so we don't have the low and close view obstructions. He said that he

doesn't want to put the city in a legal battle so he will do what legally is decided by the Commission. He thinks we will be doing an injustice making him put the buildings closer to the property line and keeping with the minimum and having more of an obstructed view. He feels with that we would have more disgruntled neighbors. He said that his ultimate decision will have to be with the way the attorney tells them they must follow.

Mr. Martineau explained that when he reviewed the ordinance 5 years ago it was to allow changes with minor variations to the ordinance. He didn't anticipate 15 – 20 foot variance. He feels that the Planning Commission obligations are to interpret the ordinance, which is legislatively passed through the Town Council, and apply it in a way that fits the needs of the community. He feels that this should go to a variance.

Mr. Martineau said that his problem with the pictures that were presented today is that he has no way to verify it. He has no engineering to prove that it is actually to scale. He is concerned with the overlays that were done.

Mr. Mecham asked Mr. Martineau what is the maximum height allowed in a PUD according to the ordinance. Mr. Martineau said that it is subject to the zone you're in and trying to make it fit in those envelopes. Mr. Mecham said then it is not really specific that it has to be this height or this height. Mr. Martineau said that you have guidelines depending on the zone that you are in. Commission Chair Bourne read from the ordinance that states that no building shall be erected to a height greater than 35' in any zone.

Commission Chair Bourne said that today's vote affects the lake forever . He said that we can't go back if we make the wrong decision. He doesn't want to give the lake away to development. He said that this development can be done very nicely but it needs to stay within our ordinances.

Commission Member Schiess referred to PUD/PRUD ordinance, 11C-1953, which says that the following list is negotiable in a PUD, which gives several items that we can negotiate on. Height requirements are not listed.

Commission Member Schiess then read 11E-526, which states that no building shall be built to a height greater than 35'. Then, in that same section, it states; Nonetheless, the Commission may recommend waiver or deferral of the maximum height and the Council may grant additional height. Building height waivers shall consider impacts upon view corridors and ridgeline views above the overall allowable height for projects which may include but are not limited to...

Commission Member Schiess said that looking at the view corridor and looking at how restricting it is and how unimpeding it is in different places, there is an avenue for us to take into consideration of that view. Commission Member Schiess read from the notes from Mr. David Church, which states that the only way municipalities in Utah, can negotiate building heights which are minor or inconsequential violations of less than 14-18" in height, would be for such Town Councils to amend the municipality height regulations. Commission Member Schiess said that putting all of these items together, we can negotiate when a development comes for approval, but we can't negotiate height. It states that in 1 part of our ordinances, but then in another part of the ordinances we can take a look and review the view corridor and we can make

a determination of what we think will be best for our city, the neighbors, and the developer. We have the right to negotiate but we can only do that within a small amount, anything over that should be done legally by changing the ordinance. If we grant a height extension, the only basis on that should be, is that it must benefit the city, the neighbors, etc. It needs to be an improvement over a layout that will stifle the views.

Mr. Mecham said that 11E-526 is not relating to minor height variations; it is based on a number of things. He said that ordinance lists a number of things that the city may require in order to grant a height waiver. It's talking about granting waivers based on the negotiations.

Commission Member Gifford asked if the neighbors have the pictures that Mr. Mecham sent to the Planning Commission. They were not sent to all the adjacent property owners.

Commission Chair Bourne said that the ordinance says that we need to be consistent with the surroundings. He feels that 15 – 20' in height does not fit our master plan and the goals that we have set for our community.

Mr. Bryce Nielson said that there are multiple areas that we have a view of the lake. This location is not the only place that we can have a view of the lake.

Mr. Wahlberg, the Garden City Fire Chief, said that the equipment that the Fire Department has right now won't be able to fight a fire effectively at Ideal Beach because of the height of the buildings. Commission Member Stocking said that the fact that the ordinance allow things like fire protection to be required if there is additional height, should protect us in that situation, to require a fire truck for the additional height. Commission Member Stocking said that it does follow the master plan because it does preserve view corridors a lot better than what it could end up being and it also condenses the buildings in town.

Commission Chair Bourne said that today's decision affects this lake forever. He said that, before we make a motion, he would like to take a vote see who is in favor of granting the height and who is not in favor. Mr. Bryce Nielson said that is not proper protocol, Roberts Rule of Order does not indicate that.

Mr. Mecham said that the Bear Lake Blue Print has been adopted, and he feels that his project follows what the majority wanted in Garden City according to the public poles.

Commission Member Gifford said that he feels that the views are better with the plan Mr. Mecham is presenting. He said that it is very unclear because the attorney says one thing and he interpret the ordinance to be another way. Commission Chair Bourne said that Mr. Martineau is the one that has to defend us in court and he has given us his advice as our attorney.

Commission Member Schiess said that the ordinance says that we can make a height waiver, but our attorney is telling us to be cautious. He said, what if we received a request for a building that would be 125' tall, do we have the right to do that. Our attorneys are saying be careful, because you will impact a great deal of what the future will bring to our community. Because there is no

amount that we can increase that and stay within our ordinances, that is where the caution is coming from our attorney.

Commission Chair Bourne said that next month we will discuss areas where we may allow addition heights.

Mr. Bryce Nielson said that his interest is the hotel because it will bring in an economic benefit to the community. He feels that Garden City desperately needs an upper scale hotel in town. There is a benefit for people coming in, to leave us lodging dollars, restaurant dollars, etc. There is an economic value from this project. Commission Chair Bourne said that the city does need a hotel but at what cost, are we willing to give up the lake for that type of project.

Commission Chair Bourne asked for a motion.

Commission Member Schiess asked if we are negotiating the height for this project or are we giving a waiver to extend or maintain it to our level. Mr. Martineau said that we are not negotiating. Mr. Mecham said we are approving this plan as drawn or we are not approving it. All we are doing is approving the height as it is presented and sending that recommendation to the Town Council.

Commission Member Stone said that we do need a hotel but do we really need one 55' tall. If they are only using 18% of the property they should be able to meet our ordinance.

Commission Member Stone made the motion to make a vote on to stay within our height restrictions of 25' on beach development and 35' on all other buildings or we grant them their project and pass it on to Town Council. Motion died for lack of a second.

Commission Member Stone made the motion to vote one way or the other. Motion died for lack of second. Commission Chair Bourne said the motion that needs to be made is, are we going to accept or deny this development as submitted today, which is 50-55' in height.

Commission Member Stocking made the motion to grant the waiver of the height, do we grant it as a waiver? Commission Member Stone said that we just need to make a recommendation to the Town Council. Commission Member Stocking said that we make a recommendation to the Town Council that we grant a waiver of the height for this project. Commission Chair Bourne asked for a vote, in favor and opposed, no vote was taken. Commission Member Stone seconded the motion. Commission Chair Bourne said that means that we approve the height and it goes to the Town Council for approval. Commission Member Stone said that he misunderstood the motion. Motion died for lack of second.

Commission Chair Bourne said that we need the motion to say that we approve the plan as submitted today with the 55' height, yes or no. Do we approve it?

Commission Member Stone made the motion to deny approval for development plan for height restrictions. Commission Chair Bourne asked for a vote, no vote was take because there was no second to the motion. Motion died for lack of second.

Commission Member Gifford asked if we vote this way can we come back in a month or so to approve the height. Commission Chair Bourne said yes because it is already on the agenda to discuss this next month. He said that the attorney recommended that we discuss heights in PUD to create a zone where a development with extended height can be allowed. Commission Member House said that is what the PUD is already. There was more discussion regarding the ordinance and statements for additional heights.

Mr. Mecham said that if the Planning Commission wants him to hit every point of the Beach Development ordinance he can do that, he will just need to redesign the project. He can do that and it will be cheaper for him to design his project that way. He said that he doesn't feel that is in the best interest of the city.

Commission Member Gifford said that he feels that the way this is planned can be defended in court, that we approved it because we are preserving the view of the lake. Commission Member House said that not only preserving the view of the lake but also preserving the lake itself because if he is spreading out the buildings and they are getting closer to the water we are actually causing more impact to the lake by making them spread out and being closer to the lake.

Commission Chair Bourne said that if we approve this development with the extra height its going to come in over and over. We will have buildings that exceed, we just gave away the lake. If we let this in and let it go outside of our ordinances we open the door for everyone. Every single development that comes in after this will go for this waiver. He said that if the Planning Commission wants to give the lake away today and everything that we have protected with our ordinances, that is up to you.

Commission Member Stone made the motion to stick within our height restriction of 25' on beach and 35' on all others. Commission Chair Bourne said so that would be to deny this development as submitted today. Commission Chair Bourne asked for a second and there was no second. Motion denied.

Commission Chair Bourne said that he feels that this is at a deadlock. He said that in the next meeting we will be talking about areas for additional height.

Commission Member Stocking said that if someone comes in and wants a 125' building he would definitely feel different. He said that from the road there are no buildings that are above 35' looking out. He would feel different if the buildings were higher than the 35' looking out towards the lake, if it was he would definitely vote different. He said that this will not obstruct any additional views from the road. What is presented makes the view better for the homes on the sides. His opinion is that this will protect those views for the adjacent property owners. Commission Member Gifford said he agrees, he just wants to do the legal aspects right. If another development comes in and wants the additional height they will have to go through the same process, and we will work continue to protect the view of the lake.

Commission Member House said that she is good the way it is, she is just concerned with the lawsuit aspect of the whole thing. This is much better than to spread it all out.

Council Member House said that the Board needs to make a motion to approve what is submitted or not. Make the decision on the information that you have right now, and don't worry about the lawsuits, they may or may not come later. Make your decision on the information you have before you, everything else is totally irrelevant.

Commission Member Gifford made the motion to approve it the way it is if the development is not impacting the view of the lake within an acceptable percentage based on what is presented us. Commission Chair Bourne said that if you are doing that you are giving away the lake and every development will come in and want additional height. You are not looking at just this one project for height, you are looking at everything in the future. Commission Member Gifford said that he understands that but they will have to come to the Planning Commission and go through the exact same process. Motion died for lack of a second.

Commission Member Bourne said that he wants the motion to say that Norm is here for approval of the development plan.

Commission Member Gifford made the motion to approve it the way Mr. Mecham has presented it with the acceptable percentage of the view of the lake as has been presented, it can't be blocked more. That is the biggest problem is the view of the lake. He said that he believes that this has done just that, it's protected it. Commission Member Bourne said that this opens it up for every other developer to come in. Commission Member Stocking seconded the motion. A roll call vote was taken: Commission Member House, for; Commission Member Gifford, for; Commission Member Stocking, for; Commission Member Schiess, abstained; Commission Member Stone, opposed. Commission Member Stone said that we need to stay within our height so that everybody else has to, we have never done it before for anybody and I think what is fair is fair.

Commission Chair Bourne made the motion to adjourn the meeting. 10:33 a.m.

APPROVAL:

Attest:

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Lance Bourne, Chair

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Kathy Hislop, Town Clerk