

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**
3 **January 10, 2012** beginning at 7:00 p.m. in the Lindon City Center, City Council
4 Chambers, 100 North State Street, Lindon, Utah.

5 Conducting: Sharon Call, Chairperson
6 Invocation: Ron Anderson, Commissioner
7 Pledge of Allegiance: Carolyn Lundberg, Commissioner
8

9 **PRESENT**

9 **ABSENT**

10 Sharon Call, Chairperson
11 Ron Anderson, Commissioner
12 Carolyn Lundberg, Commissioner
13 Del Ray Gunnell, Commissioner
14 Mike Marchbanks, Commissioner
15 Angie Neuwirth, Commissioner
16 Rob Kallas, Commissioner
17 Mr. Cowie, Planning Director
18 Woodworth Mataele, Planner II
19 Kathryn Moosman, City Recorder
20

21 The meeting was called to order at 7:05 p.m.

22 **APPROVAL OF MINUTES** – The minutes of the regular meeting of December 15,
23 2011 were reviewed.

24
25 COMMISSIONER NEUWIRTH MOVED TO APPROVE THE MINUTES OF
26 THE REGULAR MEETING OF DECEMBER 15, 2011 AS CORRECTED OR
27 AMENDED. COMMISSIONER LUNDBERG SECONDED THE MOTION. ALL
28 PRESENT VOTED IN FAVOR. THE MOTION CARRIED.
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30 **PUBLIC COMMENT** –

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

35 **CURRENT BUSINESS** –

- 36
37 1. **Public Hearing** – *Ordinance Amendment – LCC Title 18 Sign Ordinance.* This is
38 a request by Garrett Smith for approval of proposed changes to Lindon City’s sign
39 ordinance Title 18, specifically sections associated with “off-premise signs.”
40 Recommendations from the Planning Commission will be made to the City
41 Council for final approval.
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43
44 COMMISSIONER GUNNELL MOVED TO OPEN THE PUBLIC HEARING.
45 COMMISSIONER ANDERSON SECONDED THE MOTION. ALL PRESENT
46 VOTED IN FAVOR. THE MOTION CARRIED

2 Chairperson Call invited the applicants forward. Garrett Smith and Mike Curtis
3 from Tri-City Medical were in attendance as representatives for this agenda item. Mr.
4 Mataele opened the discussion by stating that this is a request by Garrett Smith for
5 approval of proposed changes to a portion of Title 18 in the Lindon City sign ordinance.

6 Mr. Mataele further explained that what will be reviewed tonight is the monument
7 sign as well as the off premise sign ordinance. He went on to say that the applicant has
8 applied for this ordinance change to permit an off premise monument sign. Currently
9 Lindon City prohibits off premise monument signs within the City. The business is
10 located at the Old Station Square business park, and this business complex includes a lot
11 of different businesses, with the applicant being Tri-City Medical Center, which occupies
12 one of the largest buildings in that complex. Mr. Mataele stated that the applicant is
13 essentially asking for permission to put a monument sign on State Street to allow
14 visibility for directional signs as well as provide advertising to businesses located off of
15 State Street.

16 Mr. Mataele further mentioned that in the past, Mr. Garrett has indicated
17 problems with patients needing emergency care and not being able to find the urgent care
18 location in the Tri-City Medical building. Mr. Mataele noted that tonight they will be
19 reviewing the sign ordinance with the Planning Commission, who will possibly allow this
20 amendment, and then recommend it be forwarded to the City Council for final approval.

21 Mr. Mataele then showed a photo of the proposed sign submitted by the
22 applicants. He further noted that the photo included in the packets is a depiction of the
23 actual sign. Mr. Mataele explained that the monument sign has a maximum height of 14'
24 that allows 110 sq. ft. on both sides of the sign. Mr. Mataele also presented a photo of
25 where the sign would be located just off of State Street.

26 Mr. Mataele asked the applicant if he had anything to add before going over the
27 ordinance. Mr. Smith stated that there are two purposes for this request as follows:

- 28 1. Directional guide for emergency and urgent care.
- 29 2. Advertise for businesses who have been struggling due to the lack of
30 visibility.

31 Mr. Mataele then went through the ordinance and noted that staff drew up the
32 draft (along with the proposals from the applicant). Mr. Mataele then went over the
33 ordinance with the Commission. Mr. Mataele stated that essentially this change would
34 allow one additional monument sign on the lot but it would be an off premise sign which
35 would accommodate the applicants. Currently there is a separation distance between two
36 (2) on premise monument signs of 100 ft. and this would allow the off premise sign to be
37 within 50 ft. of another monument sign. Mr. Cowie made sure the understanding of
38 what is being amended would technically allow a third (3) sign to be placed at least 50 ft.
39 away from any other two (2) monument signs.

40 Chairperson Call commented that when she looked at the area, and the narrow
41 strip by the map store, she thought that was the proposed site for the sign; it is not located
42 there, it is behind that narrow strip on the Map World property. Mr. Smith stated that
43 they do not care where it is located on State Street, wherever the City will allow it will be
44 fine. Mr. Cowie noted that the sign location depends on which business owner gives
45 permission. Mr. Smith stated that the owner of Utah Idaho Map World has already given
46 his permission for the sign to be at that location. Mr. Cowie noted there are requirements
47 to maintain clear visibility as to not be a visibility hazard. He also noted that the

2 applicants proposed sign location meets the required setbacks and required landscaping
(which would be subject to the landscaping at time of permit).

4 Chairperson Call asked if the applicant is aware that the landscaping has to be 120
sq. ft. around the monument sign. Mr. Smith replied that they are aware of the
landscaping requirements. Commissioner Neuwirth asked Mr. Cowie if it meets the 120
6 sq. ft. landscape requirement. Mr. Cowie stated that will be reviewed at the time the
building permit is submitted and will be required.

8 Mr. Mataele discussed the Off-Premise Monument sign regulations as follows:

- 10 1. Maximum height and size will be determined by the street frontage or
acreage of the parcel the sign is to occupy.
- 12 2. A maximum of one (1) off-premise monument sign is permitted on each
parcel.
- 14 3. A minimum separation distance of fifty feet (50') shall be required from
any other monument sign.
- 16 4. Off-premise monument signs are not permitted to be located within a
residential zone or on the same lot or parcel as a residential use.
- 18 5. Each business/use advertised by the off-premise monument sign must be
within eight hundred feet (800') from the center line of a major arterial or
20 collector street; State Street, Geneva Road, 700 North and 200 South.
- 22 6. Off-premise signs shall only be permitted on the same side of the arterial
or collector street as the business for which it is serving.
- 24 7. At the time of building permit, the sign owner must submit to the City a
written easement from the owner of the property for which the sign will be
26 located.

28 There was then some discussion between the applicants and the Commission
regarding monument signs. Commissioner Kallas asked about the maximum of one off
premise monument sign (#2) and suggested a change in the language. Mr. Cowie then
30 asked if the language should be changed to read, on Page 3 line 28 #2, "The maximum of
one off premise monument sign is permitted which serves a business or businesses off the
32 premise. Multiple off premise signs advertising the same business are not permitted."
Mr. Cowie asked if the Commission was comfortable with the change in the language.
34 The Commissioners were in agreement with the change.

36 Chairperson Call asked the applicants if it is their intention to have a 3ft. berm to
elevate the sign (included in the ordinance). The applicants stated that they will keep it
at street level, but also asked if it would be a problem to raise it. Mr. Cowie noted that
38 it could be raised if it meets all of the monument sign requirements.

40 Chairperson Call asked if there were any further discussion. Commissioner
Kallas commented that this action would be changing not only this monument sign
project but would also apply for other signage in the City and you may end up with a lot
42 of signage throughout the city. He also asked about the consideration of internally lit
signs and if it is required in the ordinance. Mr. Cowie replied that it is not required and it
44 is up to the applicant.

46 Commissioner Kallas asked what content is allowed on monument signs, just
name recognition or advertising. Mr. Cowie stated that the current ordinance states it is

2 limited to onsite advertising, and the City is content neutral. Commissioner Marchbanks
commented that typically on a project like this you will see nameplate recognition and the
4 address number so people know which building they are going to. Commissioner
Anderson stated that off premise signs could be limited to business name only with no
6 advertising to differentiate. City Attorney, Brian Haws, stated that we have to be careful
about the content of the signs regarding constitutional rights as we can't infringe on free
8 speech. Chairperson Call inquired what suggestions the Commission had to add or
change any other language in the ordinance. Commissioner Lundberg stated that this
10 issue is already protected in the language, and added that a business can only have one
off premise monument sign, so she did not feel like anyone could run away with this. She
12 further noted that this would allow businesses to have the advantage of visibility to obtain
some identification. Commissioner Anderson stated that these signs are expensive, so
this issue alone will limit and regulate them.

14 Mr. Cowie then discussed item #5 of the proposed regulations and the way it is
currently written, or proposed; the business has to be within 800 ft. of the center line of
16 the listed arterial roads. He asked about adding a comma at the end of the first sentence
and inserted the word "and 800 ft. from the proposed off premise sign"(page 3, line 33).
18 The Commission was in agreement to this change in the language.

20 Chairperson Call asked if there was any further discussion from the Commission.
Commissioner Kallas reiterated his concerns if an ordinance is changed it is being
22 changed for the entire city and future projects, not just for this project, so real thought
needs to be given to how it may apply to other projects. He went on to say from his
24 experience, monument signs in other communities are expected to be electrically,
internally lit, and used for name recognition, not for advertising. Commissioner
26 Anderson commented that internally lit signs should not be required because some people
want brick or other options, and some think internally lit signs look cheap; he also noted
that there are different opinions on signs, and it is up to the individual business owner.

28 Commissioner Gunnell asked about safety issues and if the 50 ft. spacing is
sufficient; he also asked about visibility being near a corner, and possibly putting the
30 sign on a pedestal, and if this would cause any concerns. Mr. Cowie replied that there is
a "clear vision triangle" and within the current ordinance, the visibility is good, but the
32 City engineer will evaluate it further. Mr. Curtis commented that safety is a major
concern for them also. Commissioner Lundberg asked the applicants if they were aware
34 of the future State Street widening project, and noted the project could possibly affect the
setbacks. Mr. Cowie noted, as far as he knows, the State Street widening project will not
36 change the sign setbacks as it will be on the east side of the street.

38 Chairperson Call asked if there were any further questions or comments and
stated that it appears all of the concerns had been discussed. Being no further comments
she called for a motion.

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42 COMMISSIONER NEUWIRTH MOVED TO APPROVE THE ORDINANCE
AMENDMENT TO LCC TITLE 18 SIGN ORDINANCE WITH CHANGES TO ITEM
#2 AND ITEM #5 AND RECOMMEND APPROVAL TO THE CITY COUNCIL.
44 COMMISSIONER MARCHBANKS SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

46 CHAIRPERSON CALL AYE

COMMISSIOENR KALLAS AYE
2 COMMISSIONER NEUWIRTH AYE
COMMISSIONER ANDERSON AYE
4 COMMISSIONER LUNDBERG AYE
COMMISSIONER MARCHBANKS AYE
6 COMMISSIONER GUNNELL AYE
THE MOTION CARRIED UNANIMOUSLY.

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COMMISSIONER ANDERSON MOVED TO CLOSE THE PUBLIC
10 HEARING. COMMISSIONER LUNDBERG SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED

- 12
2. **Training: “Due Process and Code Interpretations”**– This is a training item by
14 the Lindon City Attorney, Mr. Haws, to cover the topic of “Due Process and Code
Interpretations.” The Planning Commission will typically have annual trainings
16 that cover a variety of topics that are relevant to their position.

18 Mr. Cowie opened the discussion by stating that this is a training item to be
presented by City Attorney, Mr. Haws to cover the topic of “Due Process and Code
20 Interpretations.” City Attorney, Mr. Haws was in attendance to present information to
the Commission regarding due process and code interpretation. He began the discussion
22 by stating the role of the Planning Commission in the Legislative process and
Administrative function. He went on to say, in the legislative function, any land
24 ordinance receives the Planning Commission recommendation to go to the City Council
for approval. Mr. Haws noted that when exercising legislative function there is a broad
26 range of discretion in what the Commission is recommending and encouraging, and this
is the time to raise all of these issues and make those recommendations to the Council.

28 Mr. Haws further explained that once the City Council exercises their legislative
discretion and makes the law, then that discretion in applying the law reduces
30 significantly and we become a body that is functioned and controlled by the code when
adopted. When courts are looking at reviewing actions, it becomes a legislative function
32 and uses a standard that is referred to as “reasonably debatable.” Once a law is
established and the City Council passes the ordinance, then the level of discretion
34 changes and the standard is now one of substantial evidence. The Commission will then
take the code and look at it and follow it very carefully, and when decisions are made
36 they have to be supported by substantial evidence.

38 Mr. Haws stated the reason discretion is limited is because the purpose of the
code is to provide predictability and stability for the citizens. In forming the laws and
establishing the laws, broad discretion must be applied. Once the law is set up, it is the
40 Commissions responsibility to follow the plain language of the statute, and if the
language is not clear, or if there are questions, to look at what the intent is behind it. Mr.
42 Haws stated it is important to look at the plain language first and then look at the intent
behind the statute and lastly apply the law by traditional application. Mr. Haws further
44 discussed that first and foremost it is important to know the code and follow it as close as
possible. There was then some discussion between Commissioner Neuwirth and Mr.
46 Haws regarding the 6” curbing issue. Mr. Haws stated that he could look further into this

2 issue. Mr. Haws stated that equal protection of the law states that people in similar
4 situations are going to be treated similarly, and it is important to remain consistent in that
6 application. The Commission then thanked Mr. Haws for the training and valuable
8 information.

10 Chairperson Call asked if there were any further comments or questions. Being
12 none she moved on to the next agenda item.

- 14 3. **Continued Public Hearing**– *Ordinance Change – LCC 17.46 – R2 Overlay*. This
16 item was continued from the last commission meeting. This is a city initiated
18 request for approval of changes to LCC 17.46 R2-Overlay to permit detached
20 accessory apartments within Lindon. Currently, Lindon City Code only permits
22 attached accessory apartments and prohibits detached units. The proposed
24 changes cover requirements that would govern the approval of such units if
26 permitted. Recommendations from the Planning Commission will be forwarded to
28 the City Council for final approval.

30 COMMISSIONER KALLAS MOVED TO RE-OPEN THE PUBLIC HEARING.
32 COMMISSIONER NEUWIRTH SECONDED THE MOTION. ALL PRESENT
34 VOTED IN FAVOR. THE MOTION CARRIED

36 Mr. Cowie opened the discussion by giving an overview for the benefit of the new
38 Commissioners and Commissioner Gunnell, who was not in attendance at the last
40 meeting. Mr. Cowie noted that this has been an item of discussion with the City Council
42 and with the Planning Commission for detached accessory apartments; which has been
44 brought up since last fall with trying to get it drafted into an ordinance. Mr. Cowie
46 further discussed the R2 overlay ordinance and stated that it handles multi family housing
projects, and also has a separate section for accessory apartments. He further noted that
anything underlined in the ordinance is new and anything that has been struck out is what
is being proposed to be removed. Mr. Cowie pointed out that other than the definition
section on page 2 of the ordinance; there has been some clarification and new definitions,
but most of the changes start on page 7 of the ordinance. The shaded gray areas are
language that has been updated since the last meeting and these were items that the
planning commission asked to have changed or added in.

Mr. Cowie further explained that the intent or purpose of the detached accessory
apartment is to provide a provision for potential residents in need, i.e., seniors, single
parents, grown children moving back into the home, disabled parents, etc. which offers
an opportunity for people to remain in their homes and still maintain a neighborhood
character. There has been a lot of discussion on size of the breezeway and the size of the
apartment and that is what the discussion will be on tonight. Recommendations will go
to the City Council for approval. Mr. Cowie also noted that a table was drafted and
added in on page 12. He then directed the commission to turn to page 7 and 8 of the
ordinance for discussion and clarification.

Chairperson Call expressed her concerns regarding the intent of the ordinance is
to provide an accessory apartment; she does not feel the intent is to provide a second
home, and we are limiting the size of the detached accessory apartment to 800 square
feet. In her opinion she does not feel that just because there is a breezeway or sidewalk

2 should make the difference in allowing an additional 700 square feet, because a garage
could also be included, which would make it a large size home, and the intent of the
4 ordinance is to provide a secondary apartment. She also has issues in allowing the 1,500
square feet. Commissioner Lundberg disagreed, in that she is building an accessory
6 apartment and she stated that 800 square feet is very small. There was some discussion
between the Commissioners, Mr. Cowie and Toby Bath regarding the size of detached
accessory apartments.

8 Mr. Cowie noted that in Salt Lake City's ordinance the limit is 650 sq ft or not to
exceed the size of the dwelling, whichever is less. Chairperson Call also expressed her
10 concerns that there should not be such a big difference between a detached apartment and
the breezeway. Commissioner Lundberg noted, in her perspective, the size was already
12 reined in to 1,500 feet and as of the last meeting there was no limitation at all and it was
completely wide open to any square footage. Mr. Cowie noted that at the last discussion
14 the breezeway was extended to 18 ft. measured between the two foundation lines of the
structures. He also noted that in the proposal at the last meeting, these units would have
16 to meet the moderate income housing certification so the rental units would be capped
and recorded with occupancy restrictions on the property.

18 Chairperson Call called for discussion on limiting the size of the detached
accessory apartments, whether to keep the 1,500 square feet on the attached with an
20 easement or decrease the square footage. Commissioner Kallas stated that he has
observed other cities where they allow 50% of the size of the primary dwelling with a
22 maximum of a certain square footage.

24 After some lengthy discussion, the Commission agreed that with a breezeway it
may not exceed 60 % of the total footprint of the primary residence, not to exceed a
maximum of 1,200 sq. ft. of livable space, not including a garage.

26 The majority of the Commission felt that a 1,000 sq. ft. maximum of the living
space, not including the garage area, was appropriate for the detached accessory
28 apartment. Mr. Cowie noted that an occupancy restriction form has been added to the
ordinance.

30 Chairperson Call asked if there were any further comments or questions. Being
none she called for a motion.

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34 COMMISSIONER LUNDBERG MOVED TO RECOMMEND APPROVAL TO
THE CITY COUNCIL ORDINANCE AMENDMENT TO LCC 17.46 R2 OVERLAY
AS DETAILED BY CHAIRPERSON CALL WITH CHANGES AS DISCUSSED.
36 COMMISSIONER MARCHBANKS SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

38 CHAIRPERSON CALL AYE
COMMISSIONER KALLAS NAY
40 COMMISSIONER NEUWIRTH AYE
COMMISSIONER ANDERSON AYE
42 COMMISSIONER LUNDBERG AYE
COMMISSIONER MARCHBANKS AYE
44 COMMISSIONER GUNNELL AYE
THE MOTION CARRIED WITH 6 AYES AND ONE NAY.

2 COMMISSIONER NEUWIRTH MOVED TO CLOSE THE PUBLIC
HEARING. COMMISSIONER GUNNELL SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED

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- 6 4. **Action Item:** *Election of New Planning Commission Chair and Vice Chair –*
At the beginning of each calendar year the Planning Commission nominates and
votes on a new Chair and Vice Chair. The current Chair was Matt Bean, with
Sharon Call acting as the current Vice Chair. New nominations and votes will be
made, with the new appointments being effective at the January 24, 2012
Planning Commission meeting.

12 Mr. Cowie noted that each calendar year the Planning Commission nominates a
new Chair and Vice Chair; he further noted there needs to be four commission members
14 present to constitute a quorum. Mr. Cowie also stated that even though the Chair and
Vice Chair may be absent there could still be a meeting held. He then distributed the
16 ballots to the commissioners to elect the new Chair and Vice Chair, after which Mr.
Cowie collected and tabulated the ballots. Sharon Call was nominated for Chairperson
18 with Ron Anderson as Vice Chair.

20 Chairperson Call asked if there were any other comments or questions. Being
none she moved on to the next agenda item.

22 **NEW BUSINESS** – Reports by Commissioners

24 Chairperson Call asked if there were any reports from the Commission. Being none
she moved on to the next item.

26 **PLANNING DIRECTOR'S REPORT** –

28 Mr. Cowie reported on City Council updates as follows:

- 30
- 32 ● Project Tracking List is not included in the packets.
 - 34 ● The City Council approved the Standard Land Use Table.
 - 36 ● Matt Bean has been assigned by the Mayor and Council to be over the
Planning Commission and the Board of Adjustments.
 - 38 ● There was discussion regarding the west side and staff was asked to send
notices to property owners west of the freeway and to hold a public
hearing on changing the zoning in that area to match the general plan, but
they still want to have further discussion on the residential area around the
Fieldstone Development. This item will come to the next meeting.

40 Chairperson Call asked if there was any other new business. Being none she
42 called for a motion to adjourn.

44 **ADJOURN** –

2 COMMISSIONER KALLAS MADE A MOTION TO ADJOURN THE
MEETING AT 10:20 P.M. COMMISSIONER NEUWIRTH SECONDED THE
4 MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

6 Approved – January 24, 2012

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Sharon Call, Chairperson

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Mr. Cowie, Planning Director