

PERRY CITY PLANNING COMMISSION MEETING THURSDAY, August 5, 2010
7:00 P.M. PERRY CITY OFFICE BUILDING—CITY COUNCIL ROOM
3005 S. 1200 W. PERRY, UTAH

PLANNING COMMISSIONERS PRESENT: Martin Hinckley (Chair), Steven Pettingill, David Walker, Mark Anderson

OTHERS PRESENT: Tom Peterson (Councilmember), Susan K. Obray, Minute Clerk, Duncan Murray (City Administrator, City Attorney), Ryan Tingey, Dave Schuster, Randall Hunsaker, Heike Hunsaker, Marsha Francis, Lani Braithwaite, Jay Newman, Carol Pickett, Shawn Warner, Amy Warner, John Bierer, Craig Pickett, Lehi Jenks, Rob Murray, Ardell Jenks, Jerry Capener, Sue Ann Capener, Ryan Udell, Kassi Capener, Dan Warr, Brandon Hansen, Candice Kunz, Kimberly Reeder, Dave Roberts, Kendall Reeder, Randy Capener

CALL TO ORDER AND OPENING CEREMONIES

Chairman Hinckley called the meeting to order at approximately 7:04 p.m.

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

Conducted by Chairman Hinckley.

B. DECLARE CONFLICT OF INTEREST, IF ANY

Questions initiated by Chairman Hinckley. None existed.

C. REVIEW AND ADOPTION OF THE AGENDA

Comm. Pettingill moved to adopt the agenda as written. Comm. Walker seconded the motion. All in favor.

D. APPROVE MINUTES FOR JULY 15, 2010

MOTION: Comm. Walker moved to approve the minutes. Comm. Pettingill seconded the motion. All in favor.

2. PUBLIC HEARING AND PUBLIC COMMENTS

MOTION: Comm. Pettingill moved to close the regular meeting and open the meeting for the public hearings that are on the agenda. Comm. Walker seconded the motion. All in favor.

- A. Public Hearing regarding an application for Capener Subdivision, a one lot (for new single family dwelling) and one remainder parcel subdivision, to be located on the north side of the 2000 South Street at approximately 100 West in Perry.

Randy Capener stated he is purchasing the land from his dad, Jerry Capener. Mr. Capener stated there is a 10 foot strip on the north side of the lot to keep the rest of his dad's property in

green belt. Gardner Engineering designed the road for future development on the east side. The 60 foot road will be dedicated to the city when it is developed in the future. Mr. Capener introduced James Coats from Gardner Engineering. Mr. Coats stated the road fits the Perry City Master Plan. He talked to the Perry City Engineer, Lorin Gardner, and he has looked at the plat and approved the lay out and questions were answered about the future road. Comm. Hinckley asked about the green belt status. Mr. Coats stated in order for the remaining property to stay in green belt it has to have 5 acres of agriculture property and has to be contiguous. The road connects the property from the east to the west.

- B. Public Hearing regarding an ordinance to amend Title 57 regarding the height requirements for fences in residential zones

Duncan Murray, City Attorney stated this ordinance has been simplified from 4 pages to 1 ½ pages. There was a provision in the prior ordinance that allowed for fences higher than 6 feet for swimming pools, tennis courts, or other circumstances where they could show a need for a higher fence for safety, security or other reasons, they could come in and ask the Planning Commission for a special exception. The exception was inadvertently removed from the current ordinance. The Special Uses and Appeals Board recommended the Planning Commission to look at the ordinance again and decide if the board wants to recommend it to City Council to be added back in the ordinance.

- C. Public Hearing regarding application for a zoning map amendment to change from RE ½ to R1 for a 10.775 acre parcel at approx. 2700 South 1200 West

Kim Datwyler, a representative from the Neighborhood Nonprofit Housing in Logan, presented a proposal to purchase the White Estate and is asking for a zone change from RE1/2 to R1 in order to do the project. NNHC is a nonprofit organization to provide self help housing program. It is a single family housing program. The families participate in the construction of their own homes. Families put in 35 hours a week and help other families in the neighborhood. No family moves in until all the homes are completed. They have projects in Corrine, Smithfield, and Nibley. He presented a photo album with pictures of the 20 floor plans that can be built. He brought recommendation letters from Smithfield, Nibley and Cache County recommending the self help program. Out of the 215 homes built, only one is under foreclosure (because of a divorce). He felt the reason why the foreclosure number is so low is that the families take pride in their homes because they helped build them.

Brandon Hansen: Mr. Hansen stated he has a signed petition against the zone change. He stated he has everyone from 2700 South and 1200 West. The concerns are that the city general plan shows it is RE ½. The residents moved in knowing that this is what the city plan was. Their decisions to buy or build were based on knowing this is what the zone was. He submitted the petition to the commission.

Lehi Jenks: Mr. Jenks is representing his aunt, Deanna Brewer. She stated in a letter that she is not against this project. She stated people have a right to do what they want with their land. Mr. Jenks handed out the letter to the commissioners. Mr. Jenks read the letter. (Letter added as part of the minutes).

Dave Putnam: He stated he has been informed the subdivision to the south is having a hard time selling ½ acre lots because of the high impact fees. His concern is if it is financially viable to change the zoning.

Ardell Jenks: He is one of the adjacent landowners. He stated the stub road on the concept plan messes up his property. He stated he has a good feeling for some of the people who are involved. He went to Corinne and talked to some of the people in the project and liked them. He suspects by the time the first group built their houses they would be best friends. He feels Boyd White Jr. should have the opportunity to sell his property for market value. He stated quarter acres are really tiny. He is not against this; it does not feel right to him. In Corinne they had a complaint about irrigation rights. The developers need to have good intentions and not go bankrupt.

Angie Cefalo: Perry is Perry because it has opportunity to have different types of housing. She agrees with Brandon Hansen when he said there are areas that have ¼ acre housing that is zoned for that. She hates to see an area that is zoned for animals be given up for housing because it will be harder to find. When the city plan was made, they made it so that it would be a city that would have those different zonings. She hates to see the city given up the animal rights and irrigation rights.

Kendall Reeder: The development is about 2 blocks from the elementary school. The upper end of 2700 South will probably not be required to have sidewalk. It is a narrow road with a lot of school kids walking up and down that road. With the additional residents that would live on a ¼ acre vs. ½ acre, lot it would be an additional burden on 2700 South street, which would be the main outlet for that subdivision. Concerned with the congestion and the school kids walking along 2700 South.

Rob Murray: His concern is the economic part of this. The city has had a hard time when it came to the population that we currently have. And how we spent in the past, that was a big part of the last election, how it affected us economically. His concern is it may produce a short term amount of building permits at \$16,000.00 a pop or whatever they will be charged. The long term issues are we need long term supplies and things and feels we don't have that. He stated there are plenty of lots available in Perry that are allowed to be sold. He felt it would decrease the value of the adjacent homes.

John Bierer: He agrees with Rob Murray on the economic side of things. There are a lot of homes on the market in Perry. Some are going into short sale which gives plenty of opportunity for lower income families to purchase those homes that already exist. He agrees with the others about the congestion and the speeding on 2700 South during school hours. The road is

sinking, which will require a lot of repair. The more it is used, the sooner it will have to be repaired.

Craig Pickett: There are 3 requirements in the ordinance that have to be met. (1) An application that has to be applied for to require more density. (2) A development plan, (3) significant benefit to the city above and beyond taxes or impact fees. He feels there hasn't been anything presented that is significant to the city. There are many things that have been present that are detrimental. It's about changing the zone and more density which will cause more congestion, impact on schools, more impact on infrastructure.

Randy Hunsaker: Agrees with all the comments on the congestion on 2700 South. He is not against people owning their own home and the desire to build their own homes. There are other places in Perry that are suited for this type of project.

D. Public Hearing regarding an ordinance to amend certain public notice and public hearing requirements for land use applications

Mr. Murray stated this item has come up recently in the previous public hearings, especially regarding the conditional use permits. State Law when it comes to ordinances and other provisions, they have to be noticed 15 days in advance. When it comes to most applications, state law doesn't give a specific number of days in advance the public needs to be notified. Most of the time it has been noticed 15 days in advance, sometimes we have 8 days. It is consistent with our ordinance. There is always a notice mailed out to residents within 300 feet and posted 3 places in the city. Mr. Murray is asking for input from the Planning Commission and from the public for the number of days to notice. It is 10 days by the state law, but because the paper comes out on Wednesday it is done 15 days in advance. Mr. Murray stated applications are accepted 14 days in advance, so they can go into the packets 7 days in advance. If we notice 15 days in advance it will require the applications to come in 21 days in advance, so we can get it to the paper. Mr. Murray stated we are trying to balance getting the applicants on the agenda quickly enough and get it noticed in the paper for the public. He asked if 8 days was adequate or 15 days (when 15 days is not required). Mr. Murray felt it didn't need to be noticed 15 days in advance for conditional use permits.

Jay Newman: He would like to see it noticed as much in advance as possible. He feels a month's notice is good advance notice. He believes the longer time and the more times it is published that would give 3 different issues of newspaper that would show of what was going on to the public. He feels if the time is shortened up it will be missed in the newspaper.

E. Public Comments
No Comments.

MOTION: Comm. Pettingill moved to close the public hearings and open the regular meeting. Comm. Walker seconded the motion. All in favor.

3. Land Use Application (Administrative Action)

A. A Subdivision application by applicant Kassi Capener for Capener Subdivision, a one lot (for a new single family dwelling) and one remainder parcel subdivision, to be located on the north side of the 2000 South Street at approximately 100 West in Perry.

Comm. Anderson asked if there is a provision at some point in the future of who would complete the road. Mr. Murray stated there would be a deferral agreement if there is any further development with it and they would have to put all the improvements in at that point. It would be recorded with the plat. Comm. Pettingill addressed the engineer as to the Perry City master road plan which articulated a north south traffic plan it is not included on the plan. Mr. Coats stated the development does not go north, he felt the one lot subdivision didn't need to show the north south road. Comm. Pettingill stated he would like to see it on the plan for the future. Comm. Pettingill stated if the development continues, he would like to know how, where and when. Comm. Hinckley stated one of the problems is we have a lot of east- west roads and no north-south roads. The problem it creates is when you have an emergency or a fire and Hwy 89 is blocked because of traffic coming from the freeway. There have been several times when that road is shut down and we have an emergency, the north-south access points become very important. There needs to be alternate routes for emergency vehicles. Mr. Coats stated he would show a future road on the plan. Comm. Pettingill stated it needs to line up with the other road. Comm. Hinckley stated it needs to be consistent with the master plan. Comm. Pettingill stated this is a preliminary plat and the commission needs to see a final plat. Comm. Hinckley asked if the Hendricks' access road is on the Capener's side. Mr. Capener stated that is was. The easement for the Hendricks' access road will be shown on the final plat.

MOTION: Comm. Pettingill moved to recommend this plat as preliminary and receive it as final next meeting. With recommendations to show the sketch drawing where the future road will connect as per our master plan and the Hendrick easement or right of way to be shown on the final plat. Also to include the deferral agreement for the road. Comm. Anderson seconded the motion. All in favor with a roll call vote.

Comm. Pettingill yes Comm. Anderson yes
Comm. Walker yes Comm. Hinckley yes

Motion Approved: yes 4 no 0

Comm. Pettingill made a recommendation to switch 4 B up to 4 A. All in favor.

4. Land Use Ordinances, Zoning, Design Guidelines, General Plan, Etc.

A. An ordinance to amend Title 57 regarding the height requirements for fences in residential zones

Comm. Hinckley stated he has an issue with the requirements as they are and as they are proposed. Comm. Hinckley stated the ordinance states around a swimming pool it has to be a minimum of 6 feet. The other requirement states around a residential area it can't be more than a maximum of 6 feet. It is impossible to be able to satisfy all of the criteria. There needs to be exceptions in some cases, such as swimming pools and other attractive nuisances. By law we need to have a minimum of 6 feet around

swimming pools and other structures that are like that. We put ourselves in a situation of liability if we approve something that creates a hazard for residents.

Comm. Walker felt for a swimming pool that a 6 foot fence should be conditional and they should come before the commission for approval. Comm. Hinckley stated an attractive nuisance should be a special case all by itself. Comm. Hinckley stated the commission needs to research the right language for attractive nuisance and fences that are associated with that and look at them separately. A swimming pool and a tennis court would be treated differently.

B. An application for an ordinance for a zone change by the Neighborhood Nonprofit Housing Corp., to change from RE ½ to R1 for a 10.775 acre parcel at approx. 2700 South 1200 West near southeast corner of the intersection.

Mr. Murray stated this parcel is on the corner of 2700 South and 1200 West. It is a 10.775 acre parcel. The house is a separate parcel. It is currently zoned RE ½ with animal rights, (¼ acre to the north and ½ acre to the south). Mr. Murray stated there is a presentation the applicant would like to show. It shows the development in Corinne. Mr. Datwyler stated it is broken into phases and no one can move in until the phase is complete. Comm. Walker asked where the funding came from. Mr. Datwyler stated they get federal funding to help with the loans. He showed some pictures of houses that are being built. All homes have a landscaping allowance and some have a fence allowance. They require no two homes be built together that are identical. Comm. Anderson asked if they have looked at a different configuration for bigger lots. Mr. Datwyler stated that due to federal funding guidelines, if you go much bigger than ¼ acre lots, the land takes away from the house and doesn't make it affordable for first time home buyers. Comm. Walker asked if they have looked anywhere else in Perry. Mr. Datwyler stated they have not, they have called on some, and part of the problem is the people that own lots are now over priced. The asking price is higher than an appraisal would come in and that is what the federal government makes them go by. Mr. Datwyler stated it is federally funding so there is no problem of a development that will get started and have homes that are half built. They are paying cash for the land, and are aware of the impact fees.

Comm. Pettingill stated he does not like placing affordable housing all in one subdivision. What he likes is placing affordable housing everywhere in the city. That we an ordinance is made designating every subdivision owner that comes before us, they supply the city with so many affordable lots for affordable housing. He feels they should be spread out throughout the community and welcomes them as neighbors. Mr. Datwyler stated the problem is your mixing \$300,000 and \$200,000 homes with lower priced homes, homeowners feel it lowers the values of those homes. Comm. Anderson stated he agrees it is a good idea, but not the place for it type of project. Mr. Murray stated that if the Planning Commission recommends approving this zone change, the commission needs to look at the 3 points in the ordinance: (1) It is consistent with the general plan, (2) a concept plan was submitted, (3) is there significant benefit to the city. He stated the road plan is good but that concerns of the adjacent landowners should be taken into account. Comm. Pettingill would like to encourage the applicant to look throughout the city for affordable lots to build affordable housing.

MOTION: Comm. Pettingill moved to recommend disapproval of the zone change application. Comm. Walker seconded the motion. All in favor.

Comm. Pettingill yes

Comm. Anderson yes

Comm. Anderson yes Comm. Hinckley yes

Motion Approved: yes 4 no 0

Comm. Hinckley stated the city need to work towards getting affordable housing. He stated it's not the issue of the affordable housing but it is the rezoning of the property to accommodate that is the issue. Mr. Murray stated this recommendation will go to the City Council 3 weeks from now.

C. An ordinance to amend certain public notice and public hearing requirements for land use Applications

Mr. Murray stated he agrees to give people as much notice as possible. Under state law ,on certain applications, you have to make a decision in 45 days. The commission only meets once a month that gives the applicant 2 chances. If you start extending the notice time and you don't hear it for a month, now you are only getting one chance. If you need more information and the item is tabled, you have to make a decision. We need to comply with state law and give the commission enough time to make a decision. Comm. Hinckley reported there is a difference in the noticing. When you have a zoning change, it requires a 2 weeks' notice, when you have an existing property that meets the code and the zoning for that location there is not a specified time line. Comm. Walker stated he likes the 8 days notice, except where required by law to have more. Comm. Hinckley stated there is a general consensus for shorter times except for those required by law.

D. Follow-up regarding an ordinance on Title 41 Definitions (Storage pods, Storage Containers, Etc.

No discussion. This item will be on the next agenda.

E. Follow up regarding an ordinance on changing the in-fill ordinance (Changing from allowing only duplexes to allowing fourplexes)

No discussion. This item will be on the next agenda.

5. Training, Handouts and Updates

A. City Council Report – Tom Peterson

No report.

6. Review Next Agenda and Adjourn

A. Add Agenda Items requested by Planning Commissioners

No items requested.

B. Motion to Adjourn

MOTION: Comm. Walker moved to adjourn. Comm. Pettingill seconded the motion. All in favor.