

PERRY CITY PLANNING COMMISSION MEETING THURSDAY, December 2, 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, Harlan Brewer, Don Higley, Jerry Nelson , Mark Anderson, Dave Curtis

Others Present: Codey Illum, Perry City Building Official; Tom Peterson, Councilman; Lani Braithwaite, Officer Scott Hancey; Dave Schuster, Brandon Hansen, Reese Quayle, Karen Rustan, Les Taylor, Tanner Edgington, Brad Edgington, Dennis Billings, Lance Billings, Carol Billings, Mike Jensen, Lorin Gardner, Todd Bischoff, Levi Jenks

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

**A. Pledge Allegiance to the U.S. Flag**

Conducted by Chairman Hinckley

**B. Declare Conflicts of Interest, IF any**

Questions initiated by Chairman Hinckley. None existed.

**C. Review and Adopt the Agenda**

**MOTION:** Comm. Brewer moved to recommended 2 changes to the agenda. Move item C to Item A, Item A to Item B and Item B to Item C. In addition move item 4 to Item 3 and move Item 3 to Item 4. Comm. Curtis seconded the motion. All in favor.

**2. Public Hearings and Public Comments**

Rules: **(1)** Please speak only once (maximum of 3 minutes) per agenda item. **(2)** Please speak in a courteous and professional manner. **(3)** Do not speak to specific member(s) of the Planning Commission, staff, or public (please speak to the Chair or to the Commission as a group). **(4)** Please present possible solutions for all problems identified. **(5)** Action may not be taken during this meeting if the item is not specifically on the agenda.

**A. Public Hearing for Canyon Gate Subdivision No. 5, to be located at the northeast corner of Commerce Way and 1500 South Street (part of parcel number 03-154-0108**

Mike Jensen, with Hansen and Associates presented the commissioners with a drawing of the access road. Shirlene Peck decided to go with a different layout which shows access to the existing lot. There are no current plans to build anything on this lot; it will be an actual subdivided lot that would be available for development by building the road by default she ends up with another lot that someone could build on. Codey Illum, Perry City Building Official stated the office building she is in will be vacated because it is non conforming.

There were no public comments.

**B. Public Hearing on a general plan map and zoning map amendment, to revert back from 1/3 acre (no animal rights) on both maps to RE ½ (half are, with animal rights) on both maps,**

regarding the "Billings property," located north of 3000 South and west of Highway 89 (parcel number 02-029-0016,02-029-0063/02-029-0105 and 02-029-0076)

Carol Billings addressed the commission and stated it should just be the first parcel number (02-029-0016) and not the other parcel numbers. Mr. Murray stated there is a copy of city council meeting minutes from January 24, 2008 and February 28, 2008 included in their packet. There were general plan map amendments and zone map amendments and were approved by the city council on that date. Bob Thurgood wanted to tie in the other parcels in with the Billings piece to make it a larger piece of property; it was rezoned to 1/3 acre lots. When Mr. Thurgood went through the zoning process what the council approved was as part of the rezone there was going to be an exchange with a certain amount of money that would go into a nearby park which included a development agreement and if those things happened the rezone would stand if the development occurred within a certain amount of time. Because of the economy change Mr. Thurgood was unable to move forward. The council wants to revert back to RE ½ with animal rights. It was the council's direction to have the commission start the process reverting it back to its prior zone. Carol Billings stated she was never notified of the public hearing. Mr. Murray stated there should have been an individual notice sent to her. Mrs. Billings stated she was upset that she was not even notified of this hearing. She stated she is against it because it is being tied to the Boyd White property. She stated she was never properly notified by the city. She stated she did not request the zone to be changed back. Mr. Murray stated the council asked for this request. She wanted it on record that it was not at her request to have it changed back.

There were no public comments.

**MOTION:** Comm. Curtis moved to close the public hearing and public comment items and return to the regular meeting. Comm. Brewer seconded the motion. All in favor.

Public Hearing for a zone change (zoning map amendment) by Neighborhood Nonprofit Housing Corp. and Boyd White, to change from RE ½ (half acre zoning, with animal rights) to R1 (1/4 acre zoning, no animal rights) for a 10.775 acre parcel at approx. 2700 South 1200 West (not including existing house on corner), near the southeast corner of the intersection (parcel number 02-028-0121).

Duncan Murray presented a power point presentation of the type of housing that would be put in this development. Some of the other communities that have this development are Corinne, North end of Brigham City, Smithfield, and Nibley. Mr. Murray handed out letters from Nibley and Smithfield City Managers and their experience with having the Neighborhood Nonprofit housing in their cities. Mr. Murray reminded the commission they are here for a zone change and should focus on two main issues (1) Continue with animal rights and (2) lower the minimum lot size from ½ acre to ¼ acre. A development agreement was given to the commissioners in their packets.

**MOTION:** Comm. Curtis moved to close the regular meeting and open the public hearing on Items A, B and C. Comm. Walker seconded the motion. All in favor.

**Brandon Hansen:** Mr. Hansen addressed the commissioners and stated he bought the house because it was in an RE ½ zone in a rural neighborhood. 45 days later they put in an application to change it to ¼ acre lots. He felt he was cheated. He stated they have fixed up their property so they could have more animals. Mr. Hansen stated there are no RE ½ acre lots with animal rights on the market. His property borders neighbors with ½ acre lots and felt they were less likely to complain about the smell of animals. He urged the commissioners to keep the zone at RE ½ with animal rights.

**Lehi Jenks:** Mr. Jenks stated his family owns property next to the White property. His concern was for the high density housing next to farm land where they spray, and harvest early in the early morning. This is about changing the zone and not what is going there.

**Karen Rustan:** Ms. Rustan represents Mr. White as his realtor. He has the right to the highest and best use of his property. The taxes were \$7,000; he has been trying to get them lowered. He needs to sell his property.

### C. Public Comment

### 3. Land Use Application (Administrative Action)

Rules: (1) Documentation must be submitted to the planning staff two weeks in advance. (2) The applicant or a representative must be present for action to be taken.

#### A. Discussion on Final Application for Canyon Gate Subdivision No. 5, Final Plat Review (Northeast corner of Commerce Way and 1500 South Street, Part of Parcel No. 154-0108)

Lorin Gardner, Perry City Engineer stated the commission is here to approve the road and a 1 lot subdivision. Codey Illum, Perry City Building Official stated by creating the road it creates a lot. The development needs the access. Comm. Walker stated they have taken the little jog out of the road and it is now straight. Mr. Murray stated the applicant, Shirlene Peck preferred to taper the road down from 100 feet to 66 feet, this went to the council and at the last meeting they decided to keep it at 100 feet wide all the way to the intersection. He stated they talked about exactions and there is some chance that even though it is a 100 feet wide dedication it is already city land. The issue is the cost of the improvements. There is considerable more asphalt which is about \$6,000 for both sides there is a possibility the city will have to pay this. The council wants to submit this to the land use rights ombudsman's office and they will determine if this is an exaction and the city will submit to what their decision is. Comm. Pettingill asked if we are locked in with this road that proceeds south to go to 66 feet. Mr. Gardner stated it is on the master plan at 66 feet and ends up connecting to 900 West which is classified as a collector road, the large section of it from 2700 south to 2250 south is only 50 foot wide. Comm. Pettingill stated if it is not, can it proceed 100 feet wide as far as our commercial will go before we inhibit ourselves. Comm. Curtis stated

at a future time we ought to consider to move to 100 feet until we reach a physical limitation. Comm. Hinckley stated we have before us this plan for final plan review but we have issues with the preliminary review, it has not been accepted. Mr. Gardner stated the staff report was prepared when he received the application for final review, it was review and he made his comments. Since that time they have made some changes and updated things. Mr. Gardner handed the commission the latest drawings including the changes that were made. When the Planning Commission approved this preliminary subdivision there was a series of conditions that were set. Mr. Gardner stated he has gone through those and his staff report shows the ones that are still outstanding. They have since addressed all of those and incorporated them in this current plan. Mr. Gardner looked at it and made a few minor changes regarding his comments, they have updated the minor issues as of this afternoon. The couple of issues that are still under review are regarding the easement. They have provided an easement document or an easement description, he has reviewed that and stated it is adequate, but the whole document in transferring it needs to be drawn up. Mr. Gardner stated before there was a relocation of some utilities the old location was at the end of this road ?(which road) going east and then made a jog. Previously those utilities were going to be relocated down Commerce Way to the south and then east and back into the same location. This was based on a previous proposal by Shirlene. This set of plans have a slightly different alignment for those utilities, there are new descriptions that have been prepared. This is one item that is outstanding, the other is 1500 South Street, it is going east of Commerce Way and dead ends into some private property, that property extends to 1550 south, he asked if this road is going to extended through that property (church property) and become a public right of way. They have provided a temporary hammerhead turn around; he stated he assumes the road will extend further to the east. Mike Jensen stated the church has not disclosed what they are going to do with their property. Mr. Gardner stated the preliminary conditions were if that road is not going to go further east why we should have 1500 south there because it is only serving access to the church property. If it is, maybe there should be a permanent turnaround at that end and they would access their property via a driveway. They have addressed the issue with the secondary water the only outstanding item the water rights would have to be given to the city regarding the secondary water. Mr. Gardner stated with these outstanding items, the options could be to table this item until they can satisfy those items and still move forward. Mr. Murray stated there are still too many conditions to be met to give final approval. Mr. Jensen stated Mrs. Peck had one comment about the 10-1 tapper. He stated Mr. Gardner is requesting a 10-1 tapper which is on each side of the road. Mr. Gardner stated just on the north side only. Mr. Illum stated the city is spending money on the triangle piece of asphalt to maintain it

because there is not a transition. He stated the city has patched that hole every year. Mr. Illum stated do we do it as a city or have the developer fix it that is causing the problem. Mr. Illum recommended when the Planning Commission makes a motion to add that the old business building be vacated or she has a building permit. So Mrs. Peck knows this is a non-conforming use and she is required to get a building permit for a new building or an agreement to vacate this old building. Comm. Pettingill recommended to also adding to the motion the connection to 1500 south, so it can be addressed when the church comes in.

**MOTION:** Comm. Pettingill moved to table this item. Comm. Nelson seconded the motion. All in favor.

Comm. Pettingill	yes	Comm. Anderson	yes
Comm. Hickley	yes	Comm. Nelson	yes
Comm. Curtis	yes	Comm. Walker	yes

**Motion approved:** yes 6 no 0

**4. Land Use Ordinances, Zoning, Design Guidelines, General Plan, Etc.**  
**(Planning and Quasi-Legislative Action)**

- A. A general plan map and zoning map amendment, initiated by Perry City, to revert back from 1/3 acre (no animal rights) no both maps to RE ½ (half acre, with animal rights) on both maps, regarding the "Billings property," located north of 3000 South and west of Highway 89 (parcel number 02-029-0016, 02-029-0063/02-029-0105 and 02-029-0076)

Comm. Curtis asked Mrs. Billings if she was in agreement with the 1/3 acre change. She stated they agreed with it. He asked if she was in agreement to go back to ½ acre zone. She stated they might as well go to ½ acre because there is no plan to develop it; she did not want it to tie in with the Boyd White property. Comm. Pettingill stated as soon as they develop they will be back in for a zone change to ask for 1/3 or ¼ acre because that is where the money is and it is most beneficial to the city. Tom Peterson stated when Mr. Thurgood came and wanted to change if from ½ acre animal rights to 1/3 acre. If we did that he was going to give the city \$50,000 for a neighborhood park. Councilman Peterson stated it was not illegal to do this. The development did not take place because of the economy and so the council felt it needed to revert back to the old zone.

Mrs. Billings stated this has never been done before as long as Comm. Pettingill has been on the Planning Commission and as long as she was on the City Council. Mr. Murray stated they are looking at changing the ordinance that it will automatically revert back after a certain amount of time. Comm. Hinckley stated we need to go back to the original document and see what the time period is and adhere to the time period

to that condition and not act at this time. Mr. Murray stated it will be put in the next packet.

**MOTION:** Comm. Curtis moved to table this item until the commission can review the development agreement. Seconded by Comm. Anderson. All in favor.

Comm. Pettingill yes	Comm. Anderson yes
Comm. Hinckley yes	Comm. Nelson yes
Comm. Curtis yes	Comm. Walker yes

**Motion approved:** yes 6 no 0

- B.** Follow-up on an application for a zoning map amendment to change from RE1/2 (half acre minimum zoning, with animal rights) to R1 (1/4 acre minimum zoning, no animal rights) for a 10.775 acre parcel at approx. 2700 South 1200 West (not including existing house on corner), near the southeast corner of the intersection (parcel number 02-028-0121)

Comm. Curtis asked if this piece is fully contained in a ½ acre zone. Codey Illum stated it abuts to the zone they are asking for across the street. There is multi-zoning in that area. Comm. Curtis stated he went to 45.11.0.60 which reads: The proposed amendment is in accord with the goals of the General Plan of Perry City, including the Transportation Master Plan and other elements of the General Plan and the Capital Facilities Plan. A concept plan is submitted with the application/petition indicating the proposed use of the property. This plan shall be regarded as a Concept Plan only with more specific development plans to be reviewed with the Subdivision or Design Review process. Approval of the Zone Change Amendment shall not constitute approval of the concept plan for a particular proposed development.

The proposed amendment will provide a significant benefit to Perry City, said benefit being something other than just additional housing.

Comm. Curtis stated the city has to meet these three things by law before this can be approved. Any zone change it is required to meet these three things. There has been a lot of discussion about the property taxes this does not matter in the decision. We are not to make anybody better off or worse off by our decision.

Comm. Nelson stated he bought a home by this property and bought it for the animal rights. Comm. Nelson stated he wanted to take the time to go and look at the developments. He stated he did not get addresses to where this developments were, and was unable to go and look at the sites.

**MOTION:** Comm. Curtis moved to deny the zone change. Comm. Walker seconded the Motion.

Comm. Walker yes	Comm. Pettingill No
Comm. Brewer yes	Comm. Anderson yes
Comm. Curtis yes	Comm. Hinckley no
Comm. Nelson yes	

**Motion approved:** 5 yes 2 no

**5. Training, Handouts, and Reports**

**A. City Council Report-Tom Peterson**

Comm. Hinckley stated the conflict of interest is if you are directly impacted or harmed economically by an issue, then it should be disclosed.

**B. Elect Vice Chair/Chair-Elect for 2011-2012**

**C. Comm. Curtis nominated Comm. Brewer as Vice Chairman**

Comm. Pettingill nominated Comm. Anderson as Vice Chairman

It was discussed whether to have a roll call vote or a secret vote. It was resolved to have a roll call vote.

**MOTION:** Comm. Curtis moved to have the vote as a public aye or nay vote. Comm. Walker seconded the motion. All in favor.

Comm. Higley yes	Comm. Nelson yes
Comm. Curtis yes	Comm. Hinckley yes
Comm. Anderson yes	Comm. Pettingill yes
Comm. Walker yes	

**Motion approved:** yes 7 no 0

**MOTION:** Comm. Curtis moved to close nominations. Comm. Walker seconded the motion.

Comm. Higley yes	Comm. Nelson yes
Comm. Curtis yes	Comm. Hinckley yes
Comm. Anderson yes	Comm. Pettingill yes
Comm. Walker yes	

**Motion approved:** yes 7 no 0

**Vote on the nominees:**

Comm. Higley - Anderson	Comm. Nelson-Brewer
Comm. Curtis-Brewer	Comm. Hinckley-Brewer
Comm. Anderson-Brewer	Comm. Pettingill-Anderson
Comm. Walker-Anderson	

**Anderson- 3 votes Brewer-4 votes**

Comm. Brewer will be the next Vice Chair for the 2011-2012 year.

**D. Approve Minutes of November 4, 2010**

**MOTION:** Comm. Pettingill moved to approve the November 4, 2010 minutes. Comm. Nelson seconded the motion. All in favor.

**6. Review Next Agenda and Adjourn**

- A. Add Agenda Items requested by Planning Commission**
- B. Motion to Adjourn**

**MOTION:** Comm. Pettingill moved to adjourn the meeting. Comm. Curtis seconded the motion. All in favor.