

PERRY CITY PLANNING COMMISSION MEETING THURSDAY, September 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, David Walker, Mark Anderson, Harlan Brewer, David Curtis

OTHERS PRESENT: Tom Peterson (Councilmember), Susan K. Obray, Minute Clerk, Duncan Murray (City Administrator, City Attorney), Randall Capener, Kassi Capener, Jerry Capener, Lorin Gardner, Jim Felix, Lani Braithwaite, Nate Keith, Roy Keith

Call to Order and Opening Ceremonies

Chairman Martin 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 THE AUGUST 5, 2010

Comm. Walker moved to approve the August 5, 2010 minutes as written. Comm. Anderson seconded the motion. All in favor.

2. PUBLIC HEARING AND PUBLIC COMMENTS

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

A. PUBLIC HEARING FOR AN ORDINANCE TO AMEND TITLE 43 TO ESTABLISH THE PLANNING COMMISSION AS THE FINAL LAND USE AUTHORITY TO CERTAIN CONDITIONAL USES, OTHER SPECIAL USES, ETC., AND A CLARIFICATION REGARDING THE FINAL LAND USE AUTHORITY FOR DESIGN REVIEW NOT INVOLVING A SITE PLAN CHANGE ETC.

Duncan Murray, City Attorney explained they have the current and the proposed new ordinance in front of them. The proposed ordinance takes all of the conditional use permits that required the Planning Commission to be the initial authority (and Special Uses Board as the final authority) and now establishes the Planning Commission as the final land use authority. The Special Uses Board felt it was unnecessary to hear all of the conditional use permits. Most of the design reviews are more building

official items (if there is no change in the site plan). This ordinance was created to look at due process and not causing people an unnecessary delay.

Jim Felix: He stated that he serves on the Special Uses Board. There have been a few applicants come to them and felt like all it did was delay the citizens to have to go to another board. He would recommend it be accepted by the Planning Commission.

B. PUBLIC HEARING FOR AN UPDATED FLOOD DAMAGE PREVENTION ORDINANCE, INCLUDING PROVISIONS REGARDING DEVELOPMENT IN DESIGNATED FLOOD AREAS

Mr. Murray stated it looks like a lengthy ordinance and it is, not as far as the provisions they are focused on. Mr. Murray stated it is primarily a non land use ordinance but there are a few land use provisions that do require the Planning Commission's recommendation. Mr. Murray stated the city participates in the National Flood insurance program, through the federal government. Flood insurance is not provided by private Insurance companies because it is cost- prohibitive. The flood plain maps are updated every 20 to 30 years, the last map was 1980. Sept 29, 2010 is when the new map will take effect; the Planning Commission needs to make a recommendation to the council by Sept 29 so we can stay in compliance. This ordinance adopts the map and the study. The most important area's on the map are the zone "A" areas. Zone A is the main flood area that would have potential damage to property and structure. Mr. Murray stated the part that is the proposed change that is not in our current ordinance; It states: "General limitations on construction activities and designated flood areas. No construction of any building or structure other than a flood control building or structure is prohibited and no permit will be issued for any development in any area identified as Zone A on any current flood insurance rate map". Comm. Walker asked if filling up a Zone A would remove its designation as Zone A. Lorin Gardner, City Engineer stated that just the act of filling it in with material does not eliminate the Zone A. They would have to provide engineering for that and submit it to FEMA and have back up to have it removed from the A Zone. Mr. Murray stated there are not a lot of strict guidelines in this ordinance. You could go beyond the guidelines of the ordinance , there is an in between option to limit the future development or hold section H in advance and think about it and adopt the regular ordinance for now to meet the deadline of September 29th. Mr. Murray recommended having a separate public hearing and inviting those residences who live within these zones to have input.

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

It was requested to switch 4A and 3A .

Comm. Brewer asked if it was changed at the time of approval of the agenda. It was not. Mr. Murray recommended making another motion.

MOTION: Comm. Anderson moved to change 4A and 3A on the agenda. Comm. Brewer seconded the motion. All in favor.

C. PUBLIC COMMENTS

3. LAND USE APPLICATION (ADMINISTRATIVE ACTION)

A. A SUBDIVISION APPLICATION BY APPLICANT KASSI CAPENER TO 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.

Lorin Gardner, City Engineer stated he is satisfied with the subdivision plat and the language for the dedication of the road. They have included on the final plat a 1 foot holding strip on the south side of 2000 south. According to the engineering standards, the protection strips (or holding strips) may be allowed at the discretion of the city council after recommendation from the Planning Commission. Comm. Hinckley asked for clarification of a holding strip. Mr. Gardner stated the road way is a 60 foot right of way; they are dedicating 59 feet and holding the 1 foot so the adjacent property does not have frontage on a dedicated right of way. If they participate together, they share in those costs of the roadway. If the adjacent property owners want access to the right of way, they have to satisfy the owners in the share of the cost of the roadway and then the holding strip is dedicated and is able to be used. Mr. Gardner stated the Capeners have signed a rural road agreement. Once the final plat is approved, there are two things that need to be taken care of; one is the rural road agreement and the other is water rights transfer for the secondary water. Mr. Gardner stated they have shown the future roadway on the remaining portion on the plat. Comm. Hinckley asked if a rural road agreement was needed on the remaining parcel. Mr. Gardner stated no. The rural road agreement has been signed, the future road is shown, and the easement is on there also.

MOTION: Comm. Pettingill moved to recommend the final plat approval to the City Council for the Capener Subdivision including the 1 foot holding strip on the south side of the divided property, with the rural road agreement in place where there is a portion of 2000 South. Comm. Walker seconded the motion.

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

4. LAND USE ORDINANCES, ZONING, DESIGN GUIDELINES, GENERAL PLAN ETC.A. INITIAL DISCUSSION REGARDING APPLICATION FOR ZONE CHANGE OR CHANGE TO THE LAND USE CHART, BY NATHAN KEITH TO ZONE PROPERTY AT THE NORTHEAST CORNER OF 3600 SOUTH AND 1200 WEST AS MANUFACTURING/INDUSTRIAL

Nate Keith is the applicant for the zone change for future storage sheds. A concept drawing was submitted. On the land use chart it is only permitted in the manufacturing zone, not in the C Zone. Mr. Murray explained Mr. Keith wants some direction as to what zone to apply under before he has a public hearing. Mr. Murray explained one option could be re-zone to manufacturing or proceed under the zone. The KOA is also zoned C commercial. Mr. Murray stated that in the past, the current C commercial the Planning Commission has sometimes recommended extended exacting zones. The

better option for Mr. Keith is to apply to allow storage units as a permitted use (by design review) in the C zone. The zone directly to the south and the northeast is the R 1/3 residential zone. Mr. Keith stated that if a change in the ordinance was approved, his application will be for 245 storage units. There would be 90 open stalls. There is a water and sewer line. The fire hydrant is on the culinary water system. Comm. Pettingill stated that there are the commercial zone C spread through the center of the city near 1100 South. There are C, C1, NC2 and NC3 zones and the applications allowed in these zones reflect what is there. The NC2 and NC3 zones came 4 years ago and prohibited new residence. The C1 zone is more upscale commercial businesses. The regular C zone has been pushed around and has been moved out, and has not been addressed. What was in the commercial zone at that time has been removed. The KOA area is all C commercial. If this application would have been filed 8 years ago, it would have been allowed. Roy Keith was the previous owner of the KOA Kampground, stated the KOA area has always been zoned commercial.

MOTION: Comm. Walker moved to set up a public hearing to consider allowing storage units in the C commercial zone permitted by design review. Comm. Anderson seconded the motion.

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

Motion Approved: 6 yes 0 no

B. ACTION ON ORDINANCE TO AMEND TITLE 43 TO ESTABLISH THE PLANNING COMMISSION AS THE FINAL LAND USE AUTHORITY FOR CERTAIN CONDITIONAL USES, OTHER SPECIAL USES, ETC., AND A CLARIFICATION REGARDING THE FINAL LAND USE AUTHORITY FOR DESIGN REVIEW NOT INVOLVING A SITE PLAN CHANGE ETC., AND 2) AN UPDATED FLOOD DAMAGE PREVENTION ORDINANCE, INCLUDING PROVISIONS REGARDING DEVELOPMENT IN DESIGNATED FLOOD AREAS.

Comm. Hinckley stated the only item he sees that needs to change is the Planning Commission being the final land use authority on conditional use permits. Mr. Murray stated special exceptions for subdivisions and residential is also included in this. (See attached proposed changes included as part of the minutes).

MOTION: Comm. Curtis moved to approve the revised ordinance as written and send it to the city council for approval. Comm. Brewer seconded the motion. All in favor.

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

Motion Approved: 6 yes 0 no

C. FLOOD DAMAGE PREVENTION ORDINANCE, INCLUDING PROVISIONS REGARDING DEVELOPMENT IN DESIGNATED FLOOD AREAS

Comm. Hinckley voiced his concern that he did not get this ordinance in the packet and has not had time to read it. This item needs to be approved by September 29, 2010. The commission could hold a mid-month meeting if they did not feel comfortable in approving it tonight. Comm. Hinckley stated his concern was on the map, there is a sheet flooding zone, out of the area of the canyon to the north of Three Mile Creek we have had flooding clear down to Hwy 89 and it does not show sheet flooding zone on the map. Lorin Gardner, City Engineer stated FEMA sends people in and they map it and look at different channels and the flows coming down. 1 to 3 feet is the sheet flow. Comm. Walker asked if someone gets flooded and we allow them to build there, is the city liable. Mr. Murray stated there are potential liabilities. Mr. Gardner stated if you are in an "A" flood zone or a zone like that, you are required to get flood insurance. Comm. Hinckley asked what the changes are from the previous ordinance. There was not a red line copy given. Mr. Murray stated if we as a city do not adopt this ordinance, then we risk people's ability to get flood insurance. Comm. Hinckley asked if the city attorney reviewed all the language in the ordinance. Mr. Murray stated that he had. Residents in zone "A" and within 300 feet would receive individual notice about the public hearing on the zoning map.

MOTION: Comm. Walker moved to accept the flood damage prevention ordinance as written, except for Section H and the public hearing being held on October 7th. Comm. Anderson seconded the motion. All in favor.

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

Motion Approved: 6 yes 0 no

MOTION: Comm. Curtis moved to modify the part D of the 43.04.100 5C at the end after special applications, to include flood zone applications. Comm. Walker seconded the motion.

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

Motion Approved: 6 yes 0 no

Comm. Hinckley asked if there is any properties that would be affected by flooding in zones "A" that could affect access for emergency vehicles. Mr. Murray most of the roads are up higher.

D. ORDINANCE FOR STORAGE PODS AND CONTAINERS

This will be on the next agenda.

E. ORDINANCE FOR PUBLIC NOTICE AND PUBLIC HEARINGS

Mr. Murray stated if a public hearing is required by state law and it gives the requirements it will be followed. There are certain things by state law that do not require a public hearing but are required by city ordinance such as subdivision applications. The Planning Commission has the option to hold public hearing even if the state law or city ordinance does not require it. The requirements for public hearings required by state law is to A: publish it in the news paper at least 10 days in advance. We require applicants to get their applications turned in 14 days before a meeting. There are three proposed requirements for public hearings not required by law: A. The paper comes out on Wednesday and we have to have the notice to the paper by Monday, so with Thursday meetings, 8 days in advance. B. Put it on the agenda. C. Mailing notice 10 days in advance, we mail it to the applicant and the landowner and all the land owners within 300 feet. Comm. Curtis asked if we notice it in the Ogden Standard and do they charge for it. Mr. Murray stated the Ogden Standard charges a large amount to publish notices in the paper so we normally just use the Box Elder News Journal. Mr. Murray stated the public notices usually also go in the city newsletter that goes out with the utility billing.

MOTION: Comm. Walker moved to accept public notice requirements and public hearings as constituted. Comm. Curtis seconded the motion. All in favor.

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

Motion Approved: 6 yes 0 no

E. ORDINANCE REGARDING HEIGHT REQUIREMENTS FOR FENCES IN RESIDENTIAL ZONES

Mr. Murray passed out the current ordinance and the proposed ordinance for fence requirements. At the last meeting the big issues were, the conflicting 6 foot rule where residential fences cannot be taller than 6 feet, but a fence around a swimming pool needs to be a least 6 feet. Mr. Murray stated the issue with this is if the fence is less than 6 feet there is a violation and if it is over 6 feet there is a violation. There was an old provision in the ordinance for a special exception. When the ordinance was reduced in length it was mistakenly removed from the ordinance regarding health and safety risks and other attractive nuisance). Part 1 of the proposed ordinance states that if it is an attractive nuisance or swimming pool, they have to have a special exception. They have to go through the special exception process and it cannot be denied if the applicant does not comply with the laws and ordinances. 2. You can allow a fence around a tennis court or anything else if it is to prevent an intrusion onto the property owner. The Planning Commission can deny it if the applicant does not comply with the laws and ordinances, or if one or more adjacent land owners object, or if it does not accomplish the purpose of preventing the intrusion. This ordinance gives standards for the Planning Commission to follow. Comm. Walker expressed his concern about a child climbing over the fence and drowning, who is liable. Mr. Murray stated the City is protected with this ordinance (since we are providing for reasonable safety and the city is not responsible to own or maintain the fence). Comm. Hinckley inquired about the part of the ordinance where it states that any lights

used to illuminate swimming pools or assessor shall be arranged as to "reflect" the light away from adjoining premises. Mr. Murray stated to change this to "reflect or shine".

MOTION: Comm. Curtis moved to accept the ordinance for height requirements for fences in residential zones with the additional two word amendment. ("or shine") Comm. Pettingill seconded the motion. All in favor.

Comm. Pettingill yes
Comm. Brewer yes
Comm. Curtis yes

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

Motion Approved: 6 yes 0 no

G. IN-FILL ORDINANCE REVISIONS

This will be put on the next agenda.

5. TRAINING, HANDOUTS AND UPDATES

Nothing on this item.

A. CITY COUNCIL REPORT-TOM PETERSON

Councilman Peterson stated the City Council did not act on the recommendation to deny the rezone of the high density housing. The City Council wanted more information in regards to this item.

B. DESIGNATED COMMISSION MEMBERS TO ATTEND THE BRIGHAM/PERRY JOINT ADVISORY BOARD MEETING ON TUES., SEPTEMBER 14TH AT 7:00 PM IN BRIGHAM CITY.

Dave Walker, Martin Hinckley and David Curtis will serve on the Brigham/Perry joint advisory board.

6. REVIEW NEXT AGENDA AND ADJOURN

A. ADD AGENDA ITEMS REQUESTED BY PLANNING COMMISSIONERS

B. MOTION TO ADJOURN

MOTION: Comm. Curtis moved to adjourn. Comm. Brewer seconded the motion. All in favor.