

**Perry City Planning Commission Meeting Thursday, December 1, 2011
7:00 P.M. Perry City Office Building-City Council Room
3005 South 1200 West Perry Utah**

Planning Commissioners Present: Chairman David Curtis, Commissioner Steven Pettingill, Commissioner Esther Montgomery, Commissioner Todd Bischoff, Commissioner Jerry Nelson, Commissioner Don Higley

Others Present: Duncan Murray, Perry City Administrator/Attorney; Codey Illum, Perry City Building Inspector; Lorin Gardner, Perry City Engineer; Tom Peterson, Councilman; Boyd Malan, Councilman; Susan K Obray, Minutes Clerk; Bridgett Clark, Kim Jenson, Valerie Neslen, Rob Christensen, Jenn Christensen, Brett Ormsby, Monty Hardy, Todd Lish, Karen Glauser, Diane Austin, Sharee Case, Kassi Capener, Randy Capener, Shandra Parkinson, Sharon Fairbourn, Lori Emerson, Boyd Malan, David Roberts, Lani Braithwaite

Excused: Commissioner Dave Walker, Commissioner Mark Anderson and Commissioner Harlan Brewer

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

A. Pledge Allegiance to the U.S. Flag

Pledge of Allegiance conducted by Chairman Curtis.

B. Declare Conflicts of Interest, IF any

Declare conflicts of interest by Chairman Curtis; there were none.

C. Review and Adopt the Agenda

MOTION: Commissioner Bischoff moved to adopt the agenda. Commissioner Nelson seconded the motion. All in favor.

1. Approx. 7:05 p.m. Public Comments (No Public Hearings)

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 Comments

Sharee Case: Ms. Case stated she and her husband have lived here for 5 years and one of the things they have appreciated is the small town and it feels nice and small. It also has the luxuries of the sidewalks and the curb and gutter and the varied utilities. She stated that she has the desire to put in the school and balance the funds that we have and to be able to put in the curb and gutter. She felt it was good to do it in time; it is definitely a desire of ours to put the school in with the improvements that the city wants. It has taken the city time and it will take us time, hopefully we will be able to take the time to put those in as the allotted funds come. One of the main focuses is to improve the community and to teach the children to contribute to the community and make it a better place.

David Roberts: My name is Dave Roberts 1010 West 2650 South. He stated he is coming into this not knowing what the concerns are and what the conversation will be about. He reported that he works for a school district and felt he needed to clarify some things. He stated as a school they are an entity in and of themselves, just like a water and sewer district. They are considered a public entity and have their own voting board. It has its own laws, policies and procedures that are not governed by a city. Mr. Roberts stated that anyone come to a city, they need to recognize they need to be a neighbor to the people who are already here. He hopes whatever the school is proposing to do that they will be neighborly in whatever they choose to do, that they will add to the prosperity and positive environment of Perry City, and will add to the community. Mr. Roberts stated being an entity in and of itself the School District, they are not required by law to pay for roads, and since it is a direct benefit to the city the city is receiving that service. The school is not required to pay for improvements. Mr. Roberts stated in his opinion to ask the school to dedicate property for a road is very appropriate, it is something that needs to be done. They need to add to the community. He stated they need to make the continuity and fluentness of the streets in a positive manner. They should not be selfish in what they are trying to do. Mr. Roberts noted again as a Planning Commission they cannot require them to do certain things. He commented that the school needs to come in with an attitude that they want to contribute and be a good neighbor. Mr. Roberts stated he feels there is a misunderstanding as a planning commission, which is looking at what kind of benefit the school can provide Perry City; he stated the school is the benefit. He stated the school provides a meeting place for voting, candidate night and a lot of community events.

Karen Glauser: Ms. Glauser stated that she just moved to Perry a few months ago. She stated she is excited of having a charter school. She stated that she has children from 15 to 8 and needs a different choice for a public school. She commented on how she has to take her younger kids to Ogden and is excited to bring them back up to Box Elder County. She asked the commission to do what's right for the children. She stated that charter schools do a lot of service for the community, and is excited they will be able to do service for this community. She asked the commission again to consider how it will benefit the children.

Sharon Fairbourn: Ms. Fairbourn stated they have lived in Perry a little of 3 years and one thing she has noticed about her children is that they do not all learn the same way. She stated she has a couple of children in the Three Mile Creek Elementary and also drives 20 minutes to meet the needs of some of her children. She expressed her excitement to have a school here in Perry and not have to travel and also for other children to have the opportunity of a different way of learning. She commented on the way we teach and reach our children will better the community in the future.

Randy Capener: Mr. Capener stated he has been a long time resident of Perry, currently a landowner in Perry. Mr. Capener stated he hoped for good Karma, he stated he represents a small band of husband who really want their wives back. Mr. Capener stated he believes in the school whole heartedly and is very excited about the school and hopes that Perry can work with the board in an expedited manner. He stated he knows they have a lot of timelines. Mr. Capener stated he knows they have a lot of time constraint and knows the Planning Commission has to do the right thing, he commented on how quality is the constant and time is the variable.

Rob Christensen: Mr. Christensen stated he is a father of 8 and many of his children will be going to this school. He told the commission about 4 years ago he planted a stick in the mud, someone called it a peach tree, and it did not look like one. He stated they watched it grow for a couple of years. He told how this spring the tree was full of blossoms and how excited he was looking forward to the fruit of that tree. Just before the fruit ripened one of the main branches broke, it had way to much fruit on it. He stated, as a result, the rest of the tree was off balance, and fell down as well and the entire tree was destroyed. The fruit ripened and he enjoyed the fruit from that year. He stated he is looking forward to putting another stick in the mud. He stated that he learned if you don't thin the fruit and you don't allow a small young tree to develop, and you try to take too much at once, you can destroy the entire tree. He stated his plea is to allow the school to develop and enjoy the fruits when they come because they will come and you will never regret having this school here. He told the commission they will be so glad they made the right decision.

Melissa Conover: Ms. Conover stated they have lived in Perry for 3 years; they came from California. She stated she has 5 kids ranging from College to a first grader. She stated she has kids in different school districts and different school philosophies. She commented on how happy she was to live in Perry and has been a blessing. She stated kids learn in different ways and schools have not always been as helpful to learn in the ways they needed to learn. She learned of this school and researched it and feels it will truly benefit the children.

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. Final Recommendation Regarding Design Review and Site Plan Approval for Promontory Charter School, Located near the Southeast Corner of 1200 West and 2700 South and Near the Intersection of 1050 West and 2700 South (Approx. 5.0 Acres of Parcel No. 02-028-0121)

Bridgett Clark introduced the Promontory School Board Members. Valerie Neslen, Board Chair, Rob Christensen, Vice Chair, Kassie Capener, Treasure, Shandra Parkinson, Sharee Case, and Sharon Fairbourn. She stated almost all are Perry Residents. Ms. Clark presented a power point to the commission. She had a picture of what the school will look like. She reported as of today there are 240 families who have applied to have their children attend the school. She stated there is a populace for 471 students. She presented a breakdown of where all the students are coming from. She stated that a lot of the students will be from Perry, but there are lot of families driving from Tremonton, Roy, Smithfield etc. She said people are willing to drive far for education alternatives. She reported currently there are three alternatives to learning, private school which is filled to capacity, home school, and charter school. Families are looking for educational alternatives. She stated they have the opportunity to teach expeditionary learning. She noted that expeditionary learning is a national recognized motto; it encourages team work, active learning and character growth. She stated the closest expeditionary school is Venture Academy in Marriott-Slaterville with a waiting list of 1,621 for a school that has a maximum enrollment of 500 students. She stated expeditionary learning is in demand. She said it would be very beneficial to Perry to have this school here, it would increase revenues because families would stop for gas, food etc. Ms. Clark enlarged the circulation map and showed the current road that goes in off of 3000 south and dead ends and that is where the proposed school is going to go. She stated there is going to have to be a jog in the road to make the two roads match up.

She stated they would like to propose to put the jog on the road right by the school building, and run it straight through so there is a good north/south flow. She said it would allow circulation from north/south and the connection to 3000 south and 2250 south. She commented by having the jog there it increases the safety for the children. She stated motorists will have to stop and look both ways before turning. She stated it will also slow traffic down in front of Three Mile Creek Elementary and the Charter School. She stated this plan would be consistent with the planning map because it has a road in between 1250 west and Highway 89 to allow traffic flow. She stated that state law does not require a school to develop a road, she stated as a board they want to benefit the community and so when they take possession of the property, they would like to offer the city a small piece of property to help offset the cost of the road. She showed the commissioners what the intent is for the extra land. There will be a nature center, green space, outdoor learning areas. Lorin Gardner, Perry City Engineer stated he has addressed each item; the majority of the items have been addressed and resolved. There are a few outstanding items that are not completed. Mr. Gardner stated there are 4 items that need to be addressed:

1) Dedication Plat for 2700 South right-of-way and showing easements. There are 3 items required to be dedicated. The public dedication of 2700 south, 8ft on the south side to complete the 33 foot half street width, dedicate a public utility easement, 10 ft wide along their frontage. Dedication of 1050 West, the north/south road. In the preliminary stage they were asked to prepare a preliminary plat with a legal description to be prepared to record. Because this has not happened yet that is why it has not been satisfied.

2) Improvements of 2700 South. Mr. Gardner stated it was required that they install curb, gutter and sidewalk along their frontage, which is approximately 5 acres. Their latest submittal does not show the improvements it shows the connection for the driveways, also an ADA crosswalk along 2700 south. There are a few culverts for drainage shown.

3) Dedication for the Water rights/Shares. This is related to the secondary water.

4) Copy of NOI (notice of intent) for SWPPP. Contractor related issue. He also added the storm water retention pond needed to be addressed. All other items in the staff report have been satisfied. Chairman Curtis asked if the jog in the road would slow traffic. Mr. Gardner stated a jog would slow down traffic. He stated you like to have an off-set from center line to centerline of 150 feet. Mr. Gardner stated this is between 190 and 200 feet. This allows for both roadways to get their left turns in without causing any major conflict. Commissioner Nelson asked if the city has taken into consideration the fact that all the traffic for Three Mile Creek accesses 2700 south and then over and now there will be 240 more vehicles. Mr. Gardner stated that 2700 South is a collector road and is intended to bring the traffic from the local roads out onto the major arterials. 1200 West is also a collector road. 1050 West is local road and its intent is to get people from 1050 South to a collector road. 1050 South is there to help with the north/south flow. Chairman Curtis asked if the roads are aligned. Mr. Gardner stated there is enough property to allow some flexibility. On the site plan they moved the road to the far east and also moved their driveway that used to align with 1050, and moved it to far west of the property. Chairman Curtis expressed concern over the traffic flow. His concern was at the heavy traffic time and having the right turn and the left turn on the west end. Mr. Gardner agreed there could be a possible conflict. Chairman Curtis stated Duncan has been working with the school board. An application for an opinion from the State land Ombudsman has been e-mail today. Valerie Neslen stated the 2700 south improvements from her understanding the city cannot require a school to put in improvements unless it causes safety concerns for the students at the school. Ms. Neslen stated their opinion is that putting curb, gutter and sidewalk on 2700 south does not increase the safety of the students. She stated there are sidewalks on the

north side 2700 south; there is a crosswalk and a sidewalk on the south side of 2700 south. Her concern with having sidewalk on the frontage is that it would encourage parents to drop their children instead of following the traffic flow and drop them off at the school doors. She felt they have already met the safety requirements. Commissioner Nelson asked if has been taken into consideration the kids that already cross the road and their safety. The safety concern is the doubling of the traffic. The cross walk is in the east side. The crosswalk will be painted. Commissioner Nelson would like to see another crosswalk on the upper east end of the school for Three Mile Creek students. Duncan Murray stated the State Property Rights Ombudsman's office is a mediator that gives legal opinions. An application has been submitted to them with the school's opinion and the city's opinion. He stated it is brand new law in what we are dealing with. Duncan passed out a copy of the application that was sent to the Ombudsman's office. Duncan read from the Utah code which states a municipality may not require a school district or charter school to participate in the cost of any roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property. As a city you need to show these two things, safety of school children and contiguity to school property. The difference of opinion between the charter school and the city is not the improvements, but rather it is the safety of the children. Chairman Curtis asked if it was an option to do a rural road agreement. Codey Illum was concerned with people cutting the corner where the crosswalk is. They will be driving off the asphalt onto the dirt and it will create a pothole for the city to fix because the road is not fully improved. He stated he puts the crosswalk signs where the engineer and the principal want them, and if the road is not fully improved, it will be hard to know where to put them. Commissioner Nelson stated he was concerned with kids already crossing the roads. Commissioner Higley stated he would like to see the improvements go in. Commissioner Pettingill stated that the improvements on 1200 West will become an issue when it is developed fully. It shows a parking lot as future developments on 1200 west. Commissioner Pettingill stated if the school doesn't put in the roads and curb, gutter and sidewalk then the residents of Perry will have to do it. He voiced his opinion that when 1200 west gets curb, gutter, and sidewalk, the Perry City residents will have to pay for those improvements in front of the school. He felt the school needs to be equal partners in the development process. He stated he wants the school in Perry but does not want to burden the residents of Perry. His concern was also for the children walking to school and their safety. Commissioner Pettingill asked that 1050 West be added to the application to the ombudsman's office. Commissioner Nelson stated we will have to accept the recommendation of the ombudsman's office.

Commissioner Montgomery stated she would like to see curb and gutter now and sidewalk at a later date. Commissioner Bischoff would like to see the improvements put in on 2700 South. David Roberts asked who paid for the Three Mile Creek Elementary improvements. Councilman Malan stated he thought the school district paid for the improvements; they also put curb, gutter and sidewalk on the south side. Brett Ormsby stated no one will be asked to pay for a bond for the school. Chairman Curtis stated if the school does not put in the improvements then the residents will have too. Mr. Ormsby said that the school will dedicate to the city \$50,000 in land. The improvements along 2700 south would cost around \$80,000. They would have to take things out of the school in order to pay for the improvements. The schools budget is \$4.2 million. The east of those improvements is a significant impact to the school. He felt it was fair to go to the state ombudsman. He felt the school has made an effort. Options are to: (1) Vote to not recommend to the City Council; (2) vote to approve as is, not require curb, gutter, and sidewalk; (3) vote to require curb, gutter, and sidewalk; (4) vote to approve accepting the ombudsman's decision. Chairman Curtis stated that we also need to put a condition in about the overflow for the storm water.

MOTION: Commissioner Pettingill moved to forward with approval to the City Council requiring the improvements (curb, gutter, and sidewalk) on 2700 south, the easements and the dedication of the street, the dedication of water rights, the NOI when ownership is established, and the overflow for the storm drain. Commissioner Bischoff seconded the motion. Roll call vote.

Commissioner Pettingill	yes	Commissioner Montgomery	yes
Commissioner Nelson	yes	Commissioner Higley	yes
Commissioner Bischoff	yes	Chairman Curtis	yes

Motion Approved: yes 6 no 0

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

(Planning and Quasi-Legislative Action)

- A.** Ordinance Regarding Title 52 (Subdivisions) and other land use provisions, including: concept site plans for certain types of applications; and dead end streets, cul-de-sacs, and “bulbs” and procedures to be placed on an agenda for final Planning Commission approval

No discussion or action. Tabled to the January Meeting.

- B.** Review Title 58 (Sign Ordinance)

Updated the Planning Commission members as to what the City Council would like them to do, including considering “Industry Standards” instead of “Numerical Standards.”

2. Training, Minutes, and Reports

- A.** City Council Report-Tom Peterson
B. Approve Minutes of November 3, 2011

MOTION: Commissioner Nelson moved to approve the November 3, 2011. Commissioner Higley seconded the motion. All in favor.

- C.** Recommend for appointment Chairman and Vice Chairman for the year 2012

After several motions, Commissioner Nelson was recommended to be Chairman and Commissioner Higley was recommended to be Vice Chairman/Chairman Elect.

3. Review Next Agenda and Adjourn

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

MOTION: Commissioner Nelson moved to adjourn. Commissioner Higley seconded the motion. All in favor.

- C.** Refreshments