

**April 12, 2017**  
**Planning Commission Meeting**  
**3005 S 1200 West Perry UT 84302**  
**7:00 p.m.**

**Commissioners Present:** Vice Chairman Devin Miles, Commissioner Blake Ostler, and Commissioner Stuart Grover.

**Commissioners Excused:** Commissioner Lawrence Gunderson, Chairman Travis Coburn, and Commissioner Vicki Call.

**City Staff Present:** Greg Westfall, Perry City Administrator, Susan K. Obray, City Recorder, Brett Jones, Perry City Engineer.

**Others Present:** Jim Flint: Hansen & Associates, Greg Hansen: Hansen & Associates, Dave Kallas, Ava Hansen, Malinda Gibbons, Wes Frampton, Kim Barnard, and Randy Matthews.

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

**A. Invocation-**

Commissioner Grover gave the invocation.

**B. Pledge of Allegiance to the U.S. Flag-**

City Recorder Susan Obray led the Pledge of Allegiance.

**C. Declare Conflict of Interest, if any-**

Commissioner Grover stated he received a notice regarding the Recreate Therapy, PLLC, business because he lives within 300 Ft. of the proposed business. He was concerned if this would be a conflict of interest.

Greg Westfall stated the only way it would be a conflict of interest would be if he had a strong bias against the business.

**D. Review and Adopt the Agenda-**

Item 2 C and 3 C were stricken from the agenda because the applicant has withdrawn their application. Commissioner Ostler requested adding Discussion Item 5A-Conservation Ordinance and Discussion Item 5B-R2 Zone Code.

**MOTION:** Commissioner Grover moved to adopt the April 12, 2017 Planning Commission Meeting agenda with the addition of Discussion Item 5 A and 5 B and stricken the items of 2C and 3C. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles, Yes**

**Commissioner Ostler, Yes**

**Commissioner Grover, Yes**

**Motion Approved: 3 Yes 0 No**

**E. Approval of the Minutes**

**(a) March 2, 2017 Planning Commission Minutes**

**MOTION:** Commissioner Grover moved to approve the March 2, 2017 Planning Commission Meeting minutes with the noted and discussed corrections. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles, Yes**  
**Commissioner Grover, Yes**

**Commissioner Ostler, Yes**

**Motion Approved: 3 Yes 0 No**

**F. Make Assignments for Representative to Attend City Council Meetings (April 13, 2017 and April 27, 2017).**

Vice Chairman Miles stated he would attend the April 13<sup>th</sup> meeting and Commissioner Grover stated he would attend the April 27<sup>th</sup> meeting.

**MOTION:** Commissioner Ostler moved to close the regular meeting and move into the public hearings as listed. Commissioner Grover seconded the motion.

**Vice Chairman Miles, Yes**  
**Commissioner Ostler, Yes**  
**Commissioner Grover, Yes**

**Motion Approved: 3 Yes 0 No**

**2. Public Hearings and/or Comments**

**A. Public Hearing for Recreate Therapy, PLLC, applicant: Ava Marie Crump Hanson, Location: 2935 S 1350 W Perry UT, 84302**

Ava Hansen stated she desires to open a private practice for Marriage and Family Therapy. She said it would be an outpatient operation, and the space is located at the Perry Dental Office in Suite 4. She stated she has spoken with Dr. Mackley and he is interested in renting her the space.

Greg Westfall stated this is a straightforward license application as it will be located in an already existing commercial building with an existing parking lot.

**B. Public Hearing for Footzoning by Malinda, Applicant: Malinda Gibbons, Location: 3295 S 1350 W Perry UT, 84302**

Melinda Gibbons stated she lives at 3295 S 1350 W and would like to do Footzoning from her home. She has done Footzoning for five years from a salon and now has the space to do it from home.

**C. Public Hearing for Rustic Retreat, Applicant: Heather Swenson, Location: 2935 S 600 W Perry UT, 84302**

Stricken from Agenda as applicant has rescinded application.

**MOTION:** Commissioner Grover moved to close the public hearing temporarily and resume the regular meeting. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles Yes**  
**Commissioner Ostler Yes**  
**Commissioner Grover Yes**

**Motion Approved: 3 Yes 0 No**

The meeting moved to Item 3 because the public hearing regarding Ordinance 17-E was scheduled for 7:40 PM and the meeting had progressed quickly, therefore, it was not yet that time. It was decided to give those public members the opportunity to show for this public hearing, so the Commission reopened the public hearing at the scheduled time.

**MOTION:** Commissioner Grover moved to again close the regular meeting and reopen the public hearings as listed. Commissioner Ostler seconded the motion.

**Vice Chairman Miles, Yes**  
**Commissioner Ostler, Yes**  
**Commissioner Grover, Yes**

**Motion Approved: 3 Yes 0 No**

**D. Public Hearing for Ordinance 17-E regarding proposed modifications to Chapter 15.31.020 pertaining to Gravel Pits of the Municipal Code of Perry City.**

Greg Westfall indicated that the City created a task force to review the Gravel Pit Ordinance. It was asked to create any recommendations or changes to the current ordinance. These items were then sent to the City Attorney. The only modifications made to the version of this ordinance presented to the Planning Commission were those resulting from the task force. The changes are now being presented to the Planning Commission for review.

Dave Kallas stated he works for Geneva Rock and Clyde Companies and stated they are currently operating under a permit from 2004 and it is a grandfathered use. He stated he knows there are disagreements between Geneva Rock and the City on a few matters in this ordinance. He stated the difficulty with the ordinance presented is it affects Geneva immediately and presents concerns that will take substantial amounts of time to be compliant with.

Mr. Kallas explained Geneva Rock was sent a draft version of this ordinance and was asked for feedback from the City. He stated it was difficult to see the adjustments on this draft because they were not redlined. He stated he read through the entire form and said some things have been removed and added. He explained Geneva Rock provided a redlined copy of concerns and none of their concerns have been addressed or adjusted in this copy which is frustrating to Geneva Rock.

Mr. Kallas stated the Application Procedure and the Operating Procedure sections are Geneva Rock's two main concerns. He explained the requirement of a 3 to 1 slope is a big concern as Geneva Rock currently runs on a 2 to 1 slope. He stated with the proposed ordinance they can have a geotechnical report done to state it is safe to use a 2 to 1 slope but it doesn't state that with this report they can operate on a 2 to 1 slope. He said Geneva Rock pits statewide are a 2 to 1 or a 1 to 1 slope and didn't understand why Perry would require a 3 to 1 slope.

Mr. Kallas said in the ordinance it states that if an appeal is filed Geneva Rock must appeal to the City Council. He stated this is unusual and that usually a gravel pit would appeal to a Special Uses Board. He explained the ordinance doesn't distinguish from an operating slope and the final slope and stated it is very difficult to maintain a 3 to 1 slope and they would like clarification on this.

Mr. Kallas stated Geneva Rock would like an emergency clause which allows them to work outside their usual operating hours. He explained if there is an emergency like a forest fire and they need to operate, this ordinance does not allow them to do so without receiving permission from both the Mayor and the Council. He stated in real life that is not a realistic expectation. He reported Geneva Rock would like this emergency clause added to the ordinance.

Mr. Kallas stated the ordinance currently says Geneva Rock has a 10 year end of use and they would like this changed to a 1 year end of use. He explained the reasoning behind this is they could have a

large job within that 10 year timeframe which would take up years of use, leaving them to wait for years before they can apply the end of use. He explained the current ordinance states that the setback requirements for rock crushing is 1000 ft. which is an issue for Geneva Rock, and they would like a 500 ft. set back so they can rock crush in an area that will be further from a residential zone but is currently within the 1000 ft. zone.

**E. Public Hearing for Pheasant Hollow Subdivision Phase 1, Applicant Randy Matthews, location: 1200 W north of Cherry Ridge Subdivision in Perry UT, 84302**

None.

**F. Public Comment**

None.

**MOTION:** Commissioner Grover moved to close the public hearing and resume the regular meeting. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles** Yes

**Commissioner Ostler** Yes

**Commissioner Grover** Yes

**Motion Approved:** 3 Yes 0 No

**3. Land Use Applications**

**A. Approval for Business License Application for Recreate Therapy, PLLC, Applicant: Ava Marie Crump Hanson, Location: 2535 S Hwy 89Ste. #4 in Perry UT, 84302.**

Commissioner Ostler reviewed the code title 5 (Business License and Regulations) and the table in title 5 (5.01.090). He stated his personal opinion based on the code in title 5 is that Greg Westfall (City Staff) can recommend this specific business license application to the City Council and then it is complete. For it to come to the Planning Commission it would be a land use decision. If so, it becomes a designer review application which wouldn't make sense since the location is an already completed office building.

Greg Westfall stated he agreed with Commissioner Ostler and he would recommend this business to the City Council.

**B. Approval for Business License Application for Footzoning by Malinda, Applicant: Malinda Gibbons, Location: 3295 S 1350 W Perry UT, 84302.**

Commissioner Grover stated this location is an R2 zone and would be a conditional use permit with visiting clientele. He reviewed the operating hours of Monday- Saturday 9 AM-5 PM. He expressed concern with what the customer parking would be as the location is a corner lot.

Malinda Gibbons stated her clientele would be parking in her driveway and not on the street.

Commissioner Grover inquired if she would have signage.

Ms. Gibbons stated she would not as she has an established clientele.

Commissioner Ostler stated in the code it says that a conditional use permit must be achieved first before a business license can be issued for home businesses. In the packet there is no conditional use

permit. He stated if the Planning Commission approves this license without the conditional use permit it is giving a business license stating this home can be a footzoning business indefinitely. At this point he is not sure what to do about the conditional use permit for this particular application.

Commissioner Grover wondered if they could approve it with the condition of having a conditional use permit completed.

Ms. Gibbons wondered if because her home has already been approved for a business by the previous occupant how that would affect her application process. She stated the previous occupant ran a construction company from his home and wondered if that meant her home was already approved for a business even though her business is not construction.

Commissioner Ostler stated the conditional use permit pertains to the specific use listed. Therefore the prior owners conditional use permit would not carry over to a different business even though it is in the same location. He stated the suggested motion would be for the Planning Commission to move to recommend to the Special Uses and Appeals Board that the approval of the business license would be subject to the completion of a conditional use permit.

Vice Chairman Miles inquired how the Planning Commission could do this with the Special Uses and Appeals Board only meeting once a year.

There was a discussion on who the appeal authority was on conditional use permits. It was established that an Administrative Law Judge is the authority on this matter.

Commissioner Ostler stated he believes the applicant has done her best effort and said he feels comfortable with the proposed motion idea by Commissioner Grover.

**MOTION:** Commissioner Ostler moved to recommend approval of the business license for Footzoning by Malinda, acknowledging that it is a conditional use permit and would recommend approval of a conditional use permit. Commissioner Grover seconded the motion. Roll call vote.

**Vice Chairman Miles** Yes  
**Commissioner Ostler** Yes  
**Commissioner Grover** Yes

**Motion Approved:** 3 Yes 0 No

**C. Approval for Business License Application for Rustic Retreat, Applicant: Heather Swenson, Location: 2935 S 600 W Perry UT, 84302**

Stricken from Agenda as applicant has rescinded application.

**D. Final Approval for Pheasant Hollow Subdivision Phase 1, applicant Randy Matthews, Location: 1200 W, North of Cherry Ridge Subdivision in Perry UT, 84302**

Commissioner Ostler inquired what has been adjusted since the last time the Planning Commission has reviewed this subject.

Brett Jones reviewed the changes which have been made and stated most of the concerns from the Planning Commission were addressed. See Brett Jones Memorandum in packet.

Commissioner Ostler inquired about the temporary storm drain basin and Mr. Jones stated it was functioning well. Mr. Jones stated it will be a privately maintained basin for the time being. Commissioner Ostler inquired about street lights and plans for doing street trees along 1200 W. Mr. Jones said they would follow City Standards. Commissioner Ostler inquired about the fencing to separate the area from the agricultural area. He stated he was looking under Title 15 in Chapter 23 which addressed landscape regulations. Mr. Westfall stated landscape regulations would need to be addressed at the building permit phase.

Commissioner Grover wanted clarification on point 2 on Mr. Jones' memorandum regarding storm drainage.

Mr. Jones stated per City Code this is not an option, it is included to clarify compliance that this condition is met. Commissioner Grover inquired about the landscaping of the temporary storm drain basin which is in City Code.

Mr. Westfall stated landscaping this storm drain basin will be difficult as it is a temporary structure.

Mr. Jones stated landscaping isn't necessarily defined into what exactly must or must not be planted or done with the area.

Greg Hansen stated in his opinion landscaping a temporary system like this basin would be a waste of funds and resources. He explained once Perry City has their water system fixed (i.e. water sources are limited for new development). Phase 2 will occur and this basin will no longer exist.

Commissioner Grover stated where that might be true the code states no exceptions regarding storm drain basins being landscaped. He continued, however, there is no clarification on what landscaping standard must be met. Randy Matthews stated that he would landscape the temporary storm drain basin.

**MOTION:** Commissioner Grover moved to approve the recommendation to the City Council the final approval of the Pheasant Hollow Subdivision Phase 1 subject to (1) storm drain piping to extend to the northern boundary (2) culinary water loop being completed (3) fire marshal approval (4) retention basin to be landscaped. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles** Yes  
**Commissioner Ostler** Yes  
**Commissioner Grover** Yes

**Motion Approved:** 3 Yes 0 No

**E. Preliminary Approval for Suncrest Subdivision Phase 2, Applicant Randy Matthews,  
Location: Maple Hills Drive and 1850 S.**

Brett Jones said he has one correction to his Memo which he needs to state, upon review he noticed that Lot 14 has already been approved.

Commissioner Ostler clarified that there is a written ordinance for flag lots (14.01.040) and they are acceptable per this ordinance. Commissioner Ostler communicated that he desires that the flag lot in this proposed subdivision be checked by City Staff for compliance with the flag lot code requirements.

Brett Jones reviewed his Memorandum with the Planning Commission. See attached Memorandum Packet.

Some concerns were discussed and addressed regarding the connection road for Suncrest Subdivision.

**MOTION:** Commissioner Grover moved to approve the Preliminary Approval for Suncrest Subdivision, Phase 2. Commissioner Ostler seconded the motion. Roll call vote.

**Vice Chairman Miles** Yes  
**Commissioner Ostler** Yes  
**Commissioner Grover** Yes

**Motion Approved:** 3 Yes 0 No

**4. Land Use Ordinances, Zoning, Design Guidelines, General Plan, Etc. -Recommendation to the City Council.**

**A.** Discussion of Approval of Ordinance 17-E regarding proposed modifications to chapter 15.031.020 pertaining to Gravel Pits of the Municipal Code of Perry City.

Commissioner Ostler inquired what is desired of the Planning Commission regarding this Ordinance.

Mr. Westfall stated to look at the ordinance in its entirety and make sure it is in the best interest of the City.

Commissioner Ostler inquired if the Commission could get a copy of the changes made.

Mr. Westfall stated he could supply a mostly completed one.

The Planning Commission then reviewed with Mr. Westfall the changes Mr. Westfall was aware of.

Mr. Westfall noted the changes made are directly from the suggestions from the task force the City formed to review this specific ordinance. He stated he could forward the email the task force received to the Commission to assist in showing the intent of the task force. He invited the Commission to review it and give their feedback.

Commissioner Grover suggested having a work session regarding this issue. He inquired if at this work session they could have a redlined copy of the changes which have occurred to assist the discussion in being more efficient.

Mr. Westfall stated the task force did not go through the existing ordinance but simply supplied any new concerns or suggestions in regards to the Gravel Pit Ordinance. Mr. Westfall stated the reason why the suggestions of Geneva were not implemented in this draft is because the City felt these suggestions were included in the process. He stated there was a meeting with Geneva and the City and none of those concerns were presented by Geneva at that time. He acknowledged that the wording resulting from the task force's review needs to be addressed in some areas, so the intent is better clarified.

Commissioner Grover inquired what the need was for the task force regarding this ordinance.

Mr. Westfall stated Perry City has enacted a moratorium for any new gravel pits in Perry City which will be in place soon. He stated this moratorium brought to light issues with the current ordinance regarding the current gravel pit and this was what led to the formation of the task force.

## **5. Discussion**

### **A. Conservation Subdivision Ordinance**

Commissioner Ostler stated he sent out the drafted Ordinance and is awaiting feedback from the Commissioners.

Commissioner Grover inquired how the City will be moving forward with this ordinance. He said he was concerned there is not enough land left in the City for many Conservation Subdivisions. He explained he found a summary that a Conservation Subdivision should specify a specific minimum amount of "Common Land" used for Conservation Subdivision (which usually starts around 50%).

Commissioner Ostler explained the drafted ordinance (which is based on Farmington City's Ordinance) complies with this minimum amounts; the Commission can determine what these minimum amounts should be. He also stated his idea in regards to this ordinance is maintain Perry's beauty as it continues to develop and grow community-wise.

Mr. Westfall stated we need to define open space from green space. He stated this will be creating an HOA for a traditional subdivision. He explained Perry City would need a mechanism to enforce the maintenance of green space without having to go door to door.

Commissioner Ostler stated the ordinance requires a plan to be laid out on what the open space and green space can be used for and how they will be maintained.

Commissioners Grover inquired what the next step will be in moving forward with this ordinance.

Commissioner Ostler stated he felt holding a work session with the Planning Commission would be the best step in moving forward.

Mr. Westfall stated due to the plethora of items in need of the Planning Commissions review, it might be wise to hold a work session before every Planning Commission Meeting.

### **B. R2 Zone Code**

Commissioner Ostler read the R2 Zone Code and wondered if the wording was correct from what the Commissioners had agreed upon in action.

Mr. Westfall stated he believed it was directly pulled from the motion approved and said they can pull up the motion to see what exactly was passed and proceed from there.

## **6. Training**

### **A. Open Meeting Act**

Video by Gavin Anderson, Deputy Attorney Salt Lake Attorney's Office

## **7. Review Next Agenda and Adjourn**

- a. **6 PM Work Session**
- b. **Public Hearings- Suncrest Phase 2 and Transportation Circulation Element**
- c. **Discussion- Civic & Agriculture Zone, Gravel Pit, and Conservation Subdivision Ordinance**

**A. Motion to Adjourn**

**MOTION:** Commissioner Grover moved to adjourn. Commissioner Ostler seconded the motion.

**Motion Approved:** All Commissioners were in favor.