

June 7, 2018
Planning Commission Meeting
3005 South 1200 West Perry UT 84302
7:02 p.m.

Commissioners Present: Chairman Devin Miles, Commissioner Blake Ostler, Commissioner Tresa Peterson, and Commissioner Nicole Butler

Commissioners Excused: Vice Chairman Stuart Grover

City Staff Present: Susan K. Obray: City Recorder
Bob Barnhill: City Planner

Others Present: Terri McCellan, Barbara Pincombe, Clifton Strait, Dale Schultz, Barbara Shultz, Faye Manning, Hugh Denniston, Jerrie Denniston, Layne Harris, Jeannine Jensen, Aaron Nielsen, Amber Nielsen, Jim Flint, Stefanie Madsen, and Steven Pettingill

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

A. Invocation-

Commissioner Peterson gave the invocation.

B. Pledge of Allegiance to the U.S.A-

Bob Barnhill led the Pledge of Allegiance.

C. Declare Conflict of Interest, if any-

None

D. Review and Adopt the Agenda

Susan Obray stated 3F needed to be removed from the agenda and Commissioner Peterson stated the date on 5B should be April 12th.

Commissioner Ostler asked for it to be noted that the removal of 3F was at the applicant's request.

MOTION: Commissioner Peterson moved to adopt the June 7, 2018 Planning Commission Meeting agenda with the amendments of striking 3F at the applicant's request and correcting the date on 5B. Commissioner Butler seconded the motion. Roll call vote.

Commissioner Ostler, Yes

Commissioner Peterson, Yes

Commissioner Miles, Yes

Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

2. Public Comments and/or Public Hearings

Chairman Miles opened the public hearing portion of the meeting.

A. Public Hearing regarding a home business application Mirrored Images-Massage by

Barbara, Location: 2325 S 450 W Perry UT, 84302 Applicant: Barbara Pincombe

Bob Barnhill stated this application is administrative in nature and this public hearing is in regards to if it is compliant with City Codes. He explained the comments from the public should be geared towards if this application meets City Codes or not. He said the

Commission and the City do not have the jurisdiction to deny an application based on any other reason than if the application meets City Codes.

Mr. Barnhill reviewed the information regarding this application's applicant, location, and operation hours. He stated the applicant has submitted a completed application, with a fire inspection being completed as well. He explained there were a few minor matters on the fire inspection which the applicant can speak too, and that other than this there are no Code violations he is aware of.

Barbara Pincombe (the applicant) stated she has supplied the Commission with her State licensing. She said she did not believe there would be a noticeable increase of traffic with her business. She stated she has been in business since 1999 and worked in multiple cities during that time.

Dale Shultz inquired about what the City Codes are regarding this application.

Mr. Barnhill stated he could get a copy of those codes to Mr. Shultz for his review or Mr. Shultz can look up Title 5 of the City Codes on the City webpage to review them.

Mr. Shultz stated he lives next door to this home with a mailbox between the two homes. He explained his concern is having cars park in front of this mailbox, causing him to not receive his mail.

Jerrie Denniston stated she lives across the street from the applicant. She explained she was told by the City that the applicant had withdrawn her application. She expounded many in the cul-de-sac feel that the HOA president did not have the authority to give the letter authorizing this use as their HOA rules state the homes are to be used for residential purposes. She said she has a petition to present to the Commission from members of the cul-de-sac and gave it to Mr. Barnhill. She stated a major concern is if they allow one business into their community it will set a precedent to allow other home businesses in the future.

A public member reiterated not having a business in their neighborhood. He stated he desires the traffic to remain the same as it is now. He advised that the applicant find another location in a commercial area for her business.

Terrie McCellan stated she is the applicant's daughter. She explained her mother's business as a massage therapist deals with 1-3 people a week. She said this is no different from her having visitors throughout the week. She explained she understands the concerns expressed, but feels there is a misconception in what her mom's business is and that it will not noticeably increase the traffic in the area.

Faye Manning stated she is representing a property she is a trustee of which is located in this cul-de-sac. She stated her biggest concern is in allowing one business, in contrast to the HOA rules, the precedent is set to allow others. She said she feels that if the HOA rules are not supported by the City, then it will be impossible to uphold them in the future.

Lane Harris stated he is representing the seller of the home the applicant is planning to run her business out of. He said he feels there has been some misinformation received by the HOA members regarding this business. He continued he knows that this applicant has met the City Codes and received permission from the HOA board (which were elected by the HOA members) for her home based business.

Bob Hodgson stated he is a former president of the HOA board and that the current board did not follow precedence. He explained a situation like this is supposed to come before the entire HOA membership and be voted upon. He explained the board is supposed to represent the membership and not make their own decisions for the HOA members. He stated he put forth a recommendation to the HOA president which was ignored. He said the issue is how this has been handled by the current HOA president, which has caused difficulty for both the applicant and the other HOA members. He wanted to clarify that they have no issue with the applicant.

Barbara Shultz reiterated that this is nothing personal against the applicant but with the issue with the lack of communication from the president of the HOA. She inquired if there are any codes which make sure this business cannot change into something else as time goes on. She thanked the Commission for hearing them today.

Hugh Denniston stated he lives in the cul-de-sac and they have never had a situation like this arise before. He said they do not want to set the precedent of allowing people to run businesses out of their homes. He stated he was told by employees in the Perry City Office that the offer on the home had been withdrawn, which led them to believe the business application had been withdrawn as well. He explained those in attendance were under this impression on attending this meeting and have been surprised to discover that this information was false.

Stefanie Madsen stated she is the broker representing the applicant on the purchase of this home. She said if the zoning allows for the use, then she has the right to enjoy the option of using her home for that use. She reiterated having 1-3 visitors throughout the week is not going to impact the neighborhood in any noticeable way.

Chairman Miles closed the public hearing section of the meeting.

B. Public Comment

No public comment received.

3. Land Use Applications

A. Application for Approval for a home business application Mirrored Images-Massage by Barbara Location: 2325 S 450 W Perry UT, Applicant: Barbara Pincombe

Barbara Pincombe reviewed what her business entails as a massage therapist. She stated she is sorry about the misunderstandings which have occurred. She stated she chose this area because she thinks it is a beautiful area and was told the people are loving and kind.

Commissioner Peterson asked about the lighting.

Ms. Pincombe stated the lighting is safe.

Commissioner Ostler inquired if the punch list given by the fire inspector had been completed.

Ms. Pincombe stated not yet, as she does not yet own the home.

Commissioner Ostler asked about the parking space in the driveway.

Ms. Pincombe stated there are two available spaces for her clients to park.

Commissioner Butler asked for clarification on conditional use permits and the responsibilities of the City in enforcing HOA rules.

Mr. Barnhill stated the City cannot legally enforce HOA rules, only the City Codes.

Commissioner Ostler reviewed the conditional use permit codes.

Mr. Barnhill stated that if the Commission desires, they can include the number of allowable visitors per day in the conditional use permit.

The Commission and Staff discussed whether it would be appropriate to set a number of visitors per day in the conditional use permit (they ultimately decided not to do so).

MOTION: Commissioner Peterson moved to recommend to the City Council approval of the business license and conditional use permit of Mirrored Images Massage, applicant Barbara Pincombe subject to the punch list given by the fire inspection being completed. Commissioner Butler seconded the motion. Roll call vote.

Commissioner Ostler, Yes

Commissioner Peterson, Yes

Commissioner Miles, Yes

Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

B. Application for Final Approval of Suncrest Subdivision Phase 3 with Recommendation to the City Council Applicant: Randy Matthews. Location: 100 W 1900 S and 100 W and 1925 S Perry 84302

Bob Barnhill reviewed this application for final approval with the Commission. He stated the City Engineer had no code issues with the drawings but did have a few minor changes, which Mr. Barnhill reviewed with the Commission.

The Commission discussed and clarified their questions and concerns regarding this application for final approval (matching with the Master Plan, future phases, etc.)

Jim Flint (representative of the applicant) stated the City Engineer's items have been addressed. He explained the City Engineer hasn't yet had time to verify this but the applicant has taken care of the concerns given.

Public Member Kent Jensen desired to have an opportunity to speak to this item. It was explained to Mr. Jensen that the public hearing for this item took place at the last meeting.

Chairman Miles allowed Mr. Jensen to address the Commission regarding this item.

Mr. Jensen stated his concern is regarding the lack of secondary access roads in this area. He reviewed codes in other communities regarding secondary access roads, and explained Perry City Codes need to be adjusted regarding the need for secondary access roads in the interest of public safety.

The Commission thanked Mr. Jensen for his comments and asked if he had any ideas for a solution to this problem.

Mr. Jensen stated his suggestion would be not allowing new development until secondary access roads are available in the area, and using eminent domain if development is necessary.

MOTION: Commissioner Ostler moved to recommend to the City Council final approval of Suncrest Subdivision Phase 3 subject to City Engineer/Staff verifying the City Engineer's concerns have been rectified, as well as, noting the public safety concerns of traffic flow. Commissioner Peterson seconded the motion. Roll call vote.

Commissioner Ostler, Yes

Commissioner Peterson, Yes

Commissioner Miles, Yes

Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

C. Application for Final Approval of Heather Ridge Estates Phase 5 with Recommendation to the City Council Applicant: Sally Simmons. Location: 2100 S St. Perry

Mr. Barnhill reviewed this application for final approval with the Commission. He explained this subdivision has already been approved but the applicant is desiring to change the plat from having 6 lots to having 3 lots. He stated the City Engineer did not identify any code violations with this application. Mr. Barnhill noted the change of the ownership, and therefore, maintenance of the retention pond would be deeded to the City instead of the responsibility of the HOA.

MOTION: Commissioner Peterson moved to recommend to the City Council final approval of Heather Ridge Estates Phase 5, adding in the discussed changes. Commissioner Ostler seconded the motion. Roll call vote.

Commissioner Ostler, Yes

Commissioner Peterson, Yes

Commissioner Miles, Yes

Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

D. Application for Preliminary/Final Approval for the Pettingill Subdivision Phase 2 with Recommendation to the City Council Applicant: Steven Pettingill. Location: Approx. 3110 S Hwy 89 Perry

Mr. Barnhill reviewed this application for preliminary/final approval with the Commission, including the salient items of (access road, proposed flag lot, and septic system usage)

Mr. Barnhill reviewed with the Commission the possible code violations he sees with this application, especially in regards to infills and flag lots.

Jim Flint (representative of the applicant) reviewed the code and his interpretation of it and how he feels the infill code supersedes the flag lot code (as there are some inconsistencies in the code).

Commissioner Ostler stated he felt this is an infill project and must meet those codes.

Steve Pettingill stated his opinion of the reasons for the current sewage and septic requirements and why the City set those codes at the time they were adopted.

The Commission and Staff established that this item has not had a public hearing, as it was removed from the April meeting.

The Commission decided to table this item due to the lack of a public hearing and legal counsel regarding the code violations.

The Commission and Staff decided to set a public hearing for this item at the July 5th meeting.

E. Application for Final Approval for ADL Storage Site 2 with Recommendation to the City Council Applicant: Aaron & Amber Nielsen, Location: 1150 W 3600 S Perry

Mr. Barnhill reviewed with the Commission this application for final approval. He stated there are 178 self-storage units proposed at this site. He reviewed the updated letter from the City Engineer. Mr. Barnhill reviewed the assertion by Mr. and Mrs. Nielsen of the existence for several years of a deferral agreement and how they have not been able to find this agreement for this property. He reviewed the pros and cons of a deferral agreement and the recommendations of the City Engineer if the Commission chooses to utilize a deferral agreement.

Amber Nielsen reviewed the updated application with the Commission and Staff which incorporate the City Engineer's concerns. She discussed and clarified the updates for the deferral agreement. She reviewed the remaining concerns of the City Engineer which they have no issue in completing.

Commissioner Ostler inquired if this current application is in line with when they widen that road [3600 South] to 66 ft.

Mrs. Nielsen stated it does incorporate this future widening of the road.

The Commission and Staff discussed the option of the deferral agreement and the future development of the roads, sidewalks, curb, and gutter in this area.

MOTION: Commissioner Butler moved to recommend to the City Council final approval for ADL Storage Site 2 with the City Engineer's concerns being met.

Motion Failed.

The Commission and Staff discussed the option of the deferral agreement in greater detail.

MOTION: Commissioner Peterson moved to recommend to the City Council final approval for ADL Storage Site 2, including the notes from City Engineer Brett Jones, especially in regards to deferring the utilities and surface improvements B-G- not including the 8-inch culinary main which would be taken care of by the City. The deferral agreement must be approved and signed before this application can go before the City Council. Commissioner Butler seconded the motion. Roll call vote.

Commissioner Ostler, Yes
Commissioner Miles, Yes

Commissioner Peterson, Yes
Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

- F. Application for site plan approval for Stokes Building TI's Renovation. Applicant: Ryan Stokes, Location: 2825 S Hwy 89 Perry**
Removed from agenda.

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

None.

5. Approval of the Minutes

(a) April 5, 2018 Regular Meeting Minutes

MOTION: Commissioner Peterson moved to approve the April 5, 2018 Regular Meeting minutes. Commissioner Ostler seconded the motion. Roll call vote.

Commissioner Ostler, Yes
Commissioner Miles, Yes

Commissioner Peterson, Yes
Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

(b) April 12, 2018 Special Meeting

MOTION: Commissioner Peterson moved to approve the April 12, 2018 Special Meeting minutes. Commissioner Butler seconded the motion. Roll call vote.

Commissioner Ostler, Yes
Commissioner Miles, Yes

Commissioner Peterson, Yes
Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

(c) May 3, 2018 Work Session Minutes

MOTION: Commissioner Butler moved to approve the May 3, 2018 Work Session minutes. Commissioner Ostler seconded the motion. Roll call vote.

Commissioner Ostler, Yes
Commissioner Miles, Yes

Commissioner Peterson, Yes
Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

(d) May 3, 2018 Regular Meeting Minutes

MOTION: Commissioner Peterson moved to approve the May 3, 2018 Regular Meeting minutes. Commissioner Ostler seconded the motion. Roll call vote.

Commissioner Ostler, Yes
Commissioner Miles, Yes

Commissioner Peterson, Yes
Commissioner Butler, Yes

Motion Approved: 4 Yes 0 No

(e) Report by Commissioner regarding last Council Meeting

Commissioner Butler gave an overview regarding the May 24th City Council Meeting.

(f) Make Assignments for Representative to Attend City Council Meetings (June 14, 2018 and June 28, 2018)

Chairman Miles will attend the June 14th meeting and Commissioner Ostler will attend the June 28th meeting.

6. Discussion

A. Subdivision Ordinance

None.

B. Agricultural Zone

None.

7. Training

A. None.

8. Review Next Agenda and Adjourn

A. Next Agenda: July 5, 2018

(1) Notification letters

(2) Pettingill Subdivision 2

(3) Stokes Addition

(4) Training-Petitions

B. Motion to Adjourn

MOTION: Commissioner Butler moved to adjourn.

Motion Approved: All Commissioners were in favor.