

Minutes of the Western Weber County Planning Commission held June 09, 2015, in the Weber County Commission Chambers, commencing at 5:00 p.m., 2380 Washington Blvd., 1<sup>st</sup> Floor, Ogden, UT

Members Present: Jannette Borklund, Chair, Andrew Favero; Wayne Andreotti; Roger Heslop, Ryan Judkins, John Parke

Member(s) Excused/Absent: Mark Whaley

Staff Present: Jim Gentry, Principal Planner, Charles Ewert, Principal Planner; Christopher Crockett, Legal Counsel

- *Pledge of Allegiance*
- *Roll Call*

No Exparte Communication was declared.

1. Minute Approval: Approval of the May 12, 2015 meeting minutes

Chair Borklund declared the May 12, 2015 meeting minutes approved as presented.

2. Administrative Item(s):

- 2.1 Consideration and action on a request for design review approval of a storage building addition to Jensen Auto located at approximately 3192 S Midland Drive, Paul Jensen, Applicant

Sean Wilkinson referred to the staff report and indicated that the applicant is requesting approval of an addition to the auto repair business for a storage building that is approximately 2,400 sq. feet. The property is zoned Manufacturing M-1. A similar addition was approved and constructed in 2007. Three parcels were created over time at this business, one condition of approval is that those parcels be combined into one parcel as parking and storage is being conducted on all three properties. The resulting parcel would then be approximately 2.36 acres with frontage on Midland Drive. Across the middle of the property, Questar Gas has a pipeline and easement. An agreement with the owner of Questar Gas has been made to shift the location of the pipeline further east to allow for the 40 foot wide addition.

The addition will be attached and match the existing structure in color and will be metal sided with panels. The plans show a 30 foot wide future canopy section to be un-walled; however, since there is an easement for the gas line in this location, approval of this canopy is not part of the proposed approval. As this property is adjacent to the boundary of Ogden City and in their annexation declaration areas, staff contacted Ogden City regarding potential annexation. At this time, the property is not required to annex into the city, as the value of the site is less than \$750,000. If desired by the owner, Ogden City would accept an application for annexation of this property and any other surrounding properties.

MOTION: Commissioner Andreotti moved to approve DR 2015 03, a request for design review approval of a storage building addition to Jensen Auto located at approximately 3192 South Midland Drive subject to staff and other agency comments. The motion was seconded by Commissioner Heslop. A vote was taken and Chair Borklund indicated that the motion carried by a unanimous vote of all members present.

Commissioner Andreotti asked a question regarding the holding pond and how it will receive secondary water. Sean Wilkinson indicated that the culinary water company usually requires proof of secondary water. If the applicant has secondary water, then the water company will release the culinary water. Director Wilkinson indicated that if the property where the holding pond is located is not in the subdivision now, that would cause him concern. He will have to do some further research.

3. Public Comment for Items not on the Agenda - None

4. Remarks from Planning Commissioners - None

5. Planning Director Report —

- Director Wilkinson indicated that Charlie Ewert participated today on a panel regarding conditional use permits at the Utah Land Use Institute.

- June 30<sup>th</sup> is the deadline for two of the Planning Commission terms. So far, other than Andrew Favero submitting an application, we have received one other application.

6. Remarks from Legal Counsel - None

7. Adjourn

Adjourn to a Work Session

WS3. Weber County Land Use Code — Request to consider a land use code amendment to the Home Occupation Chapter

Sean Wilkinson indicated that there is a request to move Work Session Item 3 up to be the first item. Chair Borklund indicated that that would be fine.

Charles Ewert indicated that Mr. and Mrs. Thomassen are requesting an ordinance change to allow certain athletic instruction activities to occur on their residential property in the A-1 zone in Western Weber County. After considering their request staff concluded the best way for the code to be amended to accommodate the request whilst minimizing the potential effects of full scale recreational facilities in residential areas is to address the use as a home occupation. Through regulations of a home occupation, the County can provide regulating provisions to keep the use from turning into a full scale commercial activity.

Currently, home occupations are only allowed to use 400 square feet or less of the home, and may not be conducted outside the home. This proposal, if approved, would allow yard area and accessory buildings to be used for athletic instruction activities related to a home occupation. It is a shift from current policy, but appears to be keeping with the County Commission's desire to support economic development and small business ventures.

The Thomassen's own a five-acre residential property in Western Weber County in the A-1 zone (on 3500 West). There is a swimming pool and a large accessory building with an indoor basketball court and indoor batting cage currently on their property. They would like the opportunity to provide athletic instruction in those facilities. They approached Staff several weeks ago to discuss the idea, and then subsequently filed an application to amend the Land Use Code.

The proposal, as written by staff, is to amend the home occupation code to allow athletic instruction to occur outside a residence in a yard area or inside accessory structures. There are also other administrative and clarifying changes to the code. The question is can they do athletic instruction outside of the home such as swimming and tennis lessons. The Ogden Valley Planning Commission believed that instruction could occur outside a residence and they wanted to not just limit it to instruction outside of the home. The limitations imposed on the proposed athletic instruction uses will help keep it compatible with the residential nature of the surrounding area. As with any home occupation, if at some point the occupation gets so big that it cannot comply with the standards of the ordinance, the business owner will need to seek an appropriate business site elsewhere.

Mrs. Thomassen's indicated that their home was purchased with a gym. They want to be able to use the gym as a place of athletic instruction, but not charge for that instruction. The County is widening 3500 W which will reduce their lot size from five acres. They want to be able to implement their income with a home business. There is paved parking and the area is separated from their neighbors.

Commissioner Heslop indicated that he had a son that played athletics. He questions how they would handle a home business and the parking required. Mrs. Thomassen indicated that the home occupation would probably be limited to 8-10 youth.

Charles Ewert indicated that the parking will be regulated by the Land Use Code. The Planning Division has a zoning enforcement officer that will investigate complaints when made. Davis County limits the home occupation to the inside of the home. Cache County splits the uses out by a home occupation and a home based business. One use is permitted and the other is conditional. Box Elder, Summit, Wasatch and Morgan allow outside activities outside and in outbuildings provided certain conditions and parameters are met.

Chair Borklund indicated to her a home occupation should still look and feel like a home and not like a commercial business.

Charles Ewert stated that they should ask what the things are that make a residential business a business. Can they mitigate the things of a business in a residential home? Signage is an issue that is to be addressed in the code as well.

Chris Crockett stated that whatever they decide to review or to do, the courts will ask, "is it reasonably debatable?" If it is, the courts will be fine with it. It is a good idea to look at what other counties are doing.

Charles Ewert indicated that if they go the way that the Ogden Valley wants to go, any outdoor personal instruction would be allowed. The proposed ordinance language was reviewed.

Commissioner Andreotti asked if equestrian instruction would be allowed, and Mr. Ewert replied yes, if they met with all other requirements of a home occupation.

Commissioner Heslop asked if the child train rides through a petting zoo would qualify, and Mr. Ewert stated that he would argue that unless they had some type of instructional activities as part of that.

Charles Ewert indicated that the Ogden Valley Planning Commission essentially said to remove the words athletic instruction and that would open it up to any instruction being allowed if it wasn't harmful to the neighborhood and the detrimental effects could be mitigated. The Health Department would become involved if the instruction was going to be in a pool or if there would be shower facilities.

Commissioner Heslop asked if they know how many back yard garages they have in Weber County. Home occupation auto repair can become problems in a residential neighborhood. Chair Borklund asked about a vacation rental or a bed and breakfast, would they be considered a home occupation? Charles Ewert indicated that bed and breakfasts and nightly rentals are currently regulated presently in other portions of the code.

Chair Borklund asked the fees for home occupation. Director Wilkinson indicated that a land use permit for a home occupation is \$25 and the home occupation business license is \$35. It is believed that the fees are not enough to recoup the costs of administration.

Chair Borklund indicated that she believes that five days a week for a daycare is sufficient. The word "pupil" is still appropriate. The term senior day care or adult day care was discussed for possible inclusion in the code.

#### WS1. Weber County Land Use Code Revision Process: Conditional Use Code

Charles Ewert presented a report and presented the proposed changes to the Conditional Use Code. He indicated that the onus to approve that someone is in compliance has shifted a little bit from state code. This amendment is meant to fix that. Design Review is applicable for permitted and conditional uses. This is a complete rewrite of the Conditional Use chapter. He rewrote the whole section for clarity and to specifically remove one Section 102-43 Certificate of Occupancy Required. They wanted to make sure that no building could be issued unless in compliance with the land use code.

Chair Borklund asked if under line 44, the use has to be abandoned for a year before the Conditional Use would need to be reapplied for under the current code. Charles Ewert indicated that the burden of proof for to establish abandonment is on the property owner. The regulation is in other portions of the code.

Charles Ewert stated that Ogden Valley was concerned about water feasibility and at what threshold would be start asking about water. They wanted staff to start asking questions of where the water would come from, is it an exchange application, does the water right run with the land, what the water right number is so people can research it, etc. Weber County is not going to verify that there is secondary water; they will only ask that the water company verify that there is a system.

Code Enforcement. The writing of this code opens up another administrative procedure for enforcement. He is not sure if it is a good or bad thing at this point.

Decision requirements, in essence, indicate that we shall approve permits unless they cannot be successfully mitigated. There is some flexibility in the last section on Line 382 which is if the applicant can provide something better than what our code states; the Planning Commission has some flexibility to approve the voluntary alternative. The planning commission will look to the experts to determine what standards are applicable to this review.

Revocation procedures should be the last resort on a conditional use. Chair Borklund indicated she believes that a permit should be revoked by the same body that issued the approval. Chris Crockett indicated that there are due process rights.

WS2. Weber County Land Use Code – Title 108, Chapter 15 (Standards for Single Family Dwellings) and Title 108, Chapter 7 (Supplementary Land Qualifying Regulations)

Sean Wilkinson indicated that there is not much that is really changing in the code. They are bringing the standard 108-15 3 Exceptions. This section was added. It would allow the Planning Director or his designee to waive any of the architectural or matching standards if the dwelling owner can provide a letter from a professional licensed architect that explains their agreement to the waiver of any particular standard and certifies that in the absence of the subject standards the dwelling will be considered architecturally compatible with the surrounding neighborhood due to the integration and use of compensating materials and or architectural features.

The biggest problem they were having was that people wanted to have flat roofs. The old code required that 60% of the roof had to be at least a 2:12 pitch. The new code will eliminate the 60% and require the roof to be at least a 2:12 pitch unless the above letter is submitted and then they will consider the exception.

Chair Borklund indicated that she was confused with some of the redundant wording. Commissioner Heslop indicated asked how they handle multi-generational families living in one home. Is that still considered a single-family dwelling? Director Wilkinson replied that related individuals yes, but only up to four unrelated individuals can live together in a dwelling as a household unit for the purposes of what the county considers a family. Chair Borklund said on page 3 where it talks about exceptions, she questions why you would allow an exception. Director Wilkinson indicated that there is an architect in the Ogden Valley that designs with flat roof and it looks very nice; however, in some areas, it may not look so nice. Also roofs can be built with materials that may not be listed in the code.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Sherri Sillitoe, Secretary,  
Weber County Planning