

**PAYSON CITY PLANNING COMMISSION
MEETING MINUTES
September 10, 2014**

REGULAR SESSION – CITY COUNCIL CHAMBERS

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Chairman John Cowan; Commissioners Harold Nichols (7:10 p.m.), George Van Nosedol, and Kirk Beecher; City Councilmembers Hancock and Mike Hardy; Planner Jill Spencer; Zoning Administrator Jon Lundell. Commissioners Blair Warner and Amanda Peterson excused. Commissioner Todd Cannon unexcused.

INVOCATION: Commissioner Beecher

CONSENT AGENDA

- Approval of minutes for the regular meeting of August 27, 2014

Motion by Commissioner Beecher to approve the minutes for the regular meeting of August 27, 2014. Seconded by Commissioner Nichols. Motion Carried.

PUBLIC FORUM

No comments

REVIEW ITEMS

PUBLIC HEARING – REQUEST TO REZONE UTAH COUNTY PARCEL 41-712-0099 LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF 1130 SOUTH AND TURF FARM ROAD FROM THE S-1, SPECIAL HIGHWAY SERVICE ZONE TO THE R-1-9, RESIDENTIAL ZONE.

Motion by Commissioner Nichols to open the public hearing. Seconded by Commissioner Beecher. Motion carried.

Planner Spencer presented information from the following staff report.

Background

In accordance with Section 19.2.8 of the Zoning Ordinance (August 6, 2014) it is proposed that the zoning designation for Utah County parcel number 41-712-0099 be changed from the S-1, Special Highway Service Zone to the R-1-9, Residential Zone. The parcel is located near the intersection of 1130 South and Turf Farm Road, immediately west of the Heritage Village Development. The applicants, Byron Bastian and Neil Craig are requesting the zone change to facilitate a request to construct an assisted living center on the 3.27 acre parcel.

The parcel was included in the Winegar Annexation that was recorded on December 14, 2000. At the time of annexation the parcel was zoned R-1-12, Residential to provide larger lots as a transition between existing residential development and agricultural uses, including an adjacent turf farm. Since that time, the land use characteristics in this area of the community has changed significantly. Walmart Supercenter opened for business in 2004 and sparked the construction of other commercial buildings in the vicinity. Over the past decade, residential growth has also increased with the Maples at Brookside development, Winegar Estates Subdivision, and the Heritage Village active adult community. Most recently, the intersection has become the gateway to the Payson, Utah LDS Temple that is currently under construction.

Development in the area has also prompted changes in zoning. To accommodate the density and design of the Heritage Village development the zone was changed to the R-1-9, Residential Zone. In conjunction with this request, the previous property owner agreed to rezone the 3.27 acres located near the intersection of 1130 South and Turf Farm Road from the R-1-12 Zone to the S-1 Zone to support the expansion of commercial development. Simply stated, the parcel currently proposed for rezone was annexed with a residential zoning designation, but

was rezoned by the City Council to support future commercial uses. The Planning Commission and City Council will need to determine if the land use and economic development goals of the City have once again changed.

Even though it is typical for a specific development request to trigger a zone change request, a zone change is more encompassing than an individual development. Changing the zoning designation of a single parcel or several parcels should be assessed in context of the affect the land use designation will have on the community, the goals and objectives of the City Council, and the potential to impact uses beyond the development site. Furthermore, it is critical to consider that once the zone change has been approved, a landowner can develop the property in any manner that satisfies the zoning requirements, not necessarily as initially indicated.

Approval of a zone change requires approval from the City Council following a recommendation from the Planning Commission. Both the Planning Commission and City Council are required to hold a public hearing and consider public input prior to reaching a recommendation or decision, respectively. Property owners within five hundred (500) feet of the proposed zone change have been notified, the notice has been posted in appropriate locations, and the public hearing was advertised in the newspaper for a minimum of fourteen (14) days.

Analysis

A zone change is a request to alter the allowable uses of particular parcels of property within Payson City. Approval of a zone change is a legislative action of the City Council and great deference is given to the City Council in reaching a conclusion about the appropriate land use designation of the property. The Planning Commission is under no obligation to recommend approval and the City Council is under no obligation to approve the zone change request. The applicants are eligible to use the property consistent with the requirements of the underlying zone, S-1, Special Highway Service Zone, which was the designation when the property was purchased.

The applicants would like to construct and operate an assisted living center on the subject parcel. As indicated in the applicants' written request, they believe the need for assisted living is expected to grow in demand as more and more baby boomers are becoming the age where assisted living is necessary. The applicants believe this site is an ideal location for this type of facility. The proximity to shopping opportunities and medical facilities make it convenient for future residents of the facility. Moreover, the assisted living center will be located adjacent to the Heritage Village development which is an active adult community of person 55+ years of age.

As previously mentioned, it is typical for Planning Commissioners and City Councilmembers to inquire about the anticipated use of the property, staff would suggest that a zone change is more significant than the current proposal. The Planning Commission should consider all of the potential uses allowed in the R-1-9 Zone because once the zoning designation has been changed, the owner of the property is entitled to use the property in any manner that satisfies the regulations of the designated zoning district. If the zoning designation is changed, any of the permitted, conditional, or accessory uses of the R-1-9 Zone would be allowed.

The parcel proposed for rezone is located at the northern entrance of the South Meadows planning area. The City Council recently authorized staff to engage a consulting firm to assist staff in completing the specific plan for the area between 1130 South and 2000 South (12000 South, Utah County coordinate system) and between 930 West and Interstate 15. The specific plan process will determine appropriate land uses, densities, transportation network, utility systems, among other things. The subject parcel is located at the entrance of the planning area and as the gateway will have a significant impact on the appearance and atmosphere of the entire planning area.

These decisions are very difficult for the Planning Commission and the City Council. Prior to the proposal to construct the commercial development where Walmart is now located, the owner of the property requested on several occasions to rezone the property to a residential zone. Past city officials recognized the importance of maintaining the commercial zoning designation and although it has taken several years to fully develop, the project is now a critical revenue source for the City, paying for the services provided to residential areas that do not generate the funds necessary to provide effective municipal services. Further reduction in commercial property could have an economic impact on the City. Therefore, even though the request involves only a single parcel, the decision could have a far reaching effect.

The applicant is only seeking approval of a zone change at this time. A discussion of development related issues would only serve to complicate the decision of the Planning Commission and City Council because staff has not completed a review of the available infrastructure, access, and density of the developable property in the area proposed for rezone. Once a zone change has been approved by the City Council, the property owner is eligible to develop the property in any manner that satisfies the requirements of the designated zoning district and the other applicable development ordinances of the City.

Recommendation

The applicant is seeking a recommendation of approval to change the zoning designation of Utah County parcel number 41-712-0099 containing approximately 3.27 acres from the S-1, Special Highway Service Zone to the R-1-9, Residential Zone. Following a public hearing to receive public input and a review of the allowable uses in the R-1-9 Zone, the Planning Commission will need to determine if it is appropriate to modify the zoning designation of the subject parcel.

Staff would suggest that the issue before the Planning Commission can be simplified into a question of whether the Planning Commission would rather encourage residential or commercial development in this location. If the Planning Commission determines residential uses are appropriate in this location and consistent with the land use goals and objectives of the City Council, the Planning Commission should recommend approval of the request. Conversely, if the Planning Commission determines residential uses are not appropriate in this location or consistent with the land use goals and objectives of the City Council, the Planning Commission should recommend denial of the request.

Any motion of the Planning Commission should include findings that indicate reasonable conclusions for the recommendation that will be forwarded to the City Council. If the City Council chooses to amend the zoning map to accommodate the zone change request, the amendment shall be completed by ordinance.

Curtis Payne with Assisted Living of Utah Association gave information regarding the style and layout of the proposed use and the reasons for the proposed zone change. The facilities are designed to provide a luxury residential feel rather than an institutional feel. They are seeking to develop 4 facilities on this location. He stated this is being built because of a large demand at their other facilities.

He presented the following letter from D. Todd Christopherson.

Dear Curtis,

This letter comes on behalf of my four brothers and me as an expression of thanks to you and all the staff at Assisted Living of Draper who provided such attentive care for our father, Paul V. Christofferson, in the months before his passing. It is always difficult for someone such as Dad to experience serious physical incapacity and pain toward the end of a long and productive life and to have to rely on others for even basic day-to-day functions and activities. We will always be grateful that all of you took such a personal interest in him from the chef, to the nurses, to the aides. Your innovation of having live-in care-takers meant that the number of CNA's giving sensitive, intimate care were just a few and always the same ones, so that a relationship of trust could develop, and Dad didn't have to give instructions over and over to a number of "strangers."

We also appreciate that Dad could spend his final months in an environment that was anything but institutional. It was a home and felt like a home. The architecture, the furnishings, the landscaping all gave a sense of home-like peace and comfort. We appreciate that you made it easy for our children and grandchildren to visit by welcoming them, providing a fun place for the younger ones to play, and even offering meals free to any who wanted to eat with Dad. It was wonderful to see the same happening with other residents and their families. Obviously the fact that it was actually located in a residential neighborhood made a real difference. I was surprised that an assisted living facility fit so well nestled in a residential area, but you succeeded in making it a pleasing part of the neighborhood while still accommodating enough people to create a sense of community-a group of friends living together. The plans you showed me for your new facility in American Fork next to the Mt. Timpanogos Temple look even more attractive and inviting. What a wonderful opportunity for aging parents to live in a residential setting, so close to a temple that can bring incomparable peace to the final years of life.

We are grateful we found your assisted living home, and wish you success in providing your unique form of compassionate care to many people such as our father in the years ahead. Please share this expression of appreciation with all there who assisted Dad in any way.

Sincerely,

D. Todd Christofferson

Mr. Payne stated that they are rated number one throughout the state and that this provides an opportunity for people in this stage of life to live in a facility that has a residential feel versus an institutional feel. It has many amenities, such as large lawn areas, playgrounds, splash pads, that will make it family friendly and a comfortable environment. They are planning on constructing 4 units with architectural design that are French European and the intent is to make it a luxury neighborhood.

Chairman Cowan asked about the size of parcel and if the lot would be subdivided.

Mr. Payne stated that the parcel is 3.75 acres and it had not been decided if the parcel would be subdivided due to lending situations that will be determined by the banks.

Chairman Cowan expressed concern with the likely hood that the facility would not be used as proposed and that the facility could be used for other uses such as disability rehabilitation facility.

Mr. Payne stated that the Payson City would be able to determine if that use would be allowed at that facility.

Commissioner Nichols asked for clarification on city's authority on determining the location of a disability rehabilitation center.

Planner Spencer gave clarification that such uses are regulated by Federal laws and the state licensing. Once a facility like this is constructed the use of the facility could be changed to a disability rehabilitation use, such as a drug or alcohol rehabilitation center, and the city would not have any ability to determine the use if the applicant had the proper state licensing.

Mr. Payne stated that the regulations are through the Federal Fair Housing Act and that there is federal protection for housing options located in residential neighborhoods. This regulation applies to any structure or home that is currently constructed.

Commissioner Nichols stated that on the master plan the area is designated as commercial and is concerned with it fitting in with the current and potential surrounding commercial uses and the possibility of the uses being changed

Mr. Payne stated that most assisted living facilities are located in a commercial type setting. He stated that this facility has more of a residential type feel and believes that more people would be willing to go to this facility instead of a hospital type. The facilities are very viable and he believes that the use would not be changed to a drug rehabilitation center. There would not be any place better. It is a state of the art facility with amenities such as therapy pools and hair salons. They are able to provide these services for half of the price as other assisted living facilities in the area. They are able to match prices by having live in staff, thus reducing CNA staff and startup costs

Commissioner Nichols asked how far along the process is the facilities in American fork.

Mr. Payne stated that they are in the beginning stages of the application process.

Commissioner Beecher asked for a time frame for construction.

Mr. Payne stated 10 to 12 months for construction and 3 to 6 months for full occupancy.

Commissioner Beecher asked what makes this a particular location a good fit for Payson City.

Mr. Payne stated the proximity to the Payson Temple. A large portion of aging people of the LDS faith are drawn to temples for the remaining portion of their life.

Commissioner Beecher asked how a residential zone is better fit for this area than in a commercial zone.

Mr. Payne stated that typically this type of facilities is constructed in a commercial setting. However a facility such as this constructed in a residential setting is preferable. He stated that currently there are residential uses surrounding the property as well as a 55 and up development located directly east of the parcel. This development would be a perfect feeder to this facility.

Commissioner Nichols asked if there was a copy of the general plan close.

Planner Spencer said that she didn't have a copy close. However, at the last Council meeting the City Council appropriated funds to finalize a master plan for this particular area.

Mr. Payne stated that the type of uses surrounding the development did not play a big part in the success of this development because the way the facility is designed it will draw from all of Utah Valley.

Commissioner Nichols asked what the average income was on their Draper facility.

Mr. Payne stated it is all over the map. He stated that the average elderly couple buys their last home at the age of 60 and at 85 years old they pay off the home, typically the husband dies first and then after a few years the wife falls and isn't found for a while. The daughter is trying to find a location for her mom to live in an assisted living facility. She is pressured by the mom to find a comfortable place for the mom to live. These facilities are designed for the average family to be able to afford.

Commissioner Nichols stated that Payson's median income is lower than Drapers.

Mr. Payne stated that income isn't an issue. Because the assets of the average resident are typically high enough that after they are liquidated and sold off they have enough to live in the facility for an extended period of time.

Chairman Cowan asked are the average costs at their existing facility and what the skill level of care givers is.

Mr. Payne stated that it ranges from \$3,000 to \$6,000 a month depending on elaborate the suite is. There are facilities in Utah County that charge up to \$7,000 to \$8,000 for a room. The State requires and that RN needs to be on site to regulate the CNAs, however it does not need to be full time. It can be as low as 10 hours a week. They do have a director on-site that manages the facility.

Commissioner Van Nosedol asked if this facility would be better located next to a medical facility.

Mr. Payne stated that he personally would rather spend his remaining days next to a thing of beauty. It is a matter of preference of the residents and their families.

Commissioner Nichols asked if the development would follow the site plan landscaping and amenities.

Mr. Payne stated that they would invest into the landscaping and amenities to allow for a comfortable family environment.

Penny Adams stated that there would be a possibility of her husband being in a similar facility she would prefer having him next door than across town to make it easier to visit. It seems to be a good fit.

Bentley Bastian stated that Heritage Village is selling 13 homes within the last 30 days. The temple is bringing a lot of people from surrounding states. He believes there is some truth in an LDS community wanting to be near a temple.

Chairman Cowan stated he has experience with such a situation and sees a need for an assisted living facility in Payson city. He is concerned with how this facility would fit in with the master plan. The City has a great opportunity with the temple being built that is surrounded by acres and acres of undeveloped land. We only have one chance to do it right and we need to get it right.

Commissioner Nichols stated that he likes what he sees. He expressed concern with how it fits in with the master plan. He expressed concern with the potential uses that could come in by changing the zone from commercial to residential in the future.

Commissioner Beecher stated that he agrees with Chairman Cowan that it should tie in with the master plan for the area. Currently the A-5-H does not give any direction for development. He is concerned if this development will direct the rest of the area's development

Bentley Bastian stated the 4, 1 million dollar homes residential would be a great entry into the residential area.

Mr. Payne stated that no one has more experienced with managing this type of facility than his company. No other facility would be a better buffer between residential and commercial in this location.

Chairman Cowan asked if this facility would fit into a commercial property.

Mr. Payne said that was determined by the city with allowed uses.

Commissioner Beecher stated that this is not an allowed use in the S-1 zone.

Commissioner Nichols asked what the zone residential neighboring zones where and the future plan for the areas is.

Planner Spencer stated that the neighboring residential zones are R-1-9. The general plan shows that the area directly north is planned to be commercial and the residential homes will be moved.

Commissioner Beecher stated that a 3 acre parcel wouldn't be an issue in regards to the entire master plan but stated that he still wants see the master plan.

Motion by Commissioner Nichols to close the public hearing. Seconded by Commissioner Beecher. Motion carried.

Planner Spencer stated that there is a need for facilities to treat people with a disability and they need to be provided within the city. The city has had issues in the past with facilities being converted into other treatment facilities. She stated that developing a master plan with constraints is much more difficult. The more land use applications that are approved prior to a master plan being developed creates more constraints to the development of a master plan and a vision of the area. There are too many questions regarding the master plan. Financial implications also need to be researched because of the City's reliance on sales tax revenue.

Commissioner Nichols asked if the Dehart's have shown any interest in selling their property.

Planner Spencer stated that they are not actively selling their property but there are entertaining options and proposal but they are interested in the master plan for the property. These types of requests are very helpful in developing the master plan for the area.

Commissioner Beecher stated that this particular parcel and the proposed use would not change the outlook and use of the lots to the south from an engineering stand point.

Motion by Commissioner Beecher to recommend approval to City Council of the zone change from the S-1 Special Highway Service Zone to the R-1-9 Residential zone, finding that the master plan is not completed in this area that it would not affect the master plan. Motion failed.

Chairman Cowan stated that his concerns with changing the Zone to R-1-9 stated are 1. How it meshes with the master plan and 2. Changing the zone to R-1-9 would allow other uses that may not be compatible with the master plan

Commissioner George stated that without the master plan anyone could come and request a change. By allowing this it could dictate what occurred throughout this area.

Commissioner Nichols asked about the possibility of changing the requested zone from R-1-9 to any other residential zone.

Planner Spencer stated that it would be possible. Any residential zone or the PO-1 Professional office zone would allow an assisted living facility.

Commissioner Nichols stated the proposed development would be a nice feature for entry into the residential area and that there is plenty of land for the area that the proposed use wouldn't be detrimental to the rest of the area.

Planner Spencer asked what would the planning commission rather see, a residential uses or commercial or professional office uses.

Cowan asked about the future extension of Turf Farm Road and the location of the potential for commercial uses past Walmart.

Planner Spencer stated that retail uses wouldn't be located in the area however offices uses could be there. Also Turf Farm Road would be a major feeder to serve the area.

Commissioner Beecher asked if it was a permitted or conditional use in the PO-1 zone.

Planner Spencer stated that it is a c use in the PO-1 zone and the residential zones. It is important to know that a zone change decision needs to consider all of the allowed uses in that are permitted in the new zone and not for one particular use that is being proposed.

Chairman Cowan asked what the time frame for the master plan would be.

Planner Spencer stated that it could be up to a year for the specific plan to be finished.

Motion by Commissioner Nichols to recommend approval to the city council to approve the zone change amending the application from the R-1-9 Residential Zone to the R-1-12 Residential Zone, finding that this would allow larger residential parcels in the event that the proposed plan does not happen. Seconded by Commissioner Beecher. Motion carried.

COMMISSION AND STAFF REPORTS

Planner Spencer invited everyone to the Patriot Day Celebration on September 11, 2014 at 9:30 a.m. at Memorial Park. She also gave an update on the zone change of the property North and West of the Post office and all property owners supported the zone change.

Motion by Commissioner Beecher to adjourn.

Meeting adjourned at 8:40 pm