

**Perry City Special Planning Commission Meeting
3005 South 1200 West
7:00 PM September 29, 2016**

Members Present: Chairman Blake Ostler, Commissioner Stuart Grover, and Commissioner Devin Miles

Members Excused: Vice Chairman Travis Coburn, Commissioner Vicki Call, and Commissioner Lawrence Gunderson

Others Present: Greg Westfall, Perry City Administrator; Susan K. Obray, Minutes Clerk; Fairon Burton, Erik Siggard, Randy Matthews, Chris Weems, Lisa Weems, Rachel Doyle, and Robin Matthews

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

Chairman Ostler welcomed and called the September 29, 2016 meeting to order.

A. Invocation- Vice Chairman Coburn

The Invocation was given by Greg Westfall.

B. Pledge Allegiance to the U.S. Flag- Susan K. Obray

The Pledge of Allegiance was led by Susan K. Obray.

C. Declare Conflicts of Interest, If any

Conflicts of interest will be addressed on each item. None noted.

D. Review and Adopt the Agenda

MOTION: Commissioner Miles moved to adopt the agenda for the September 29, 2016 Planning Commission meeting. Commissioner Grover seconded the motion. Roll call vote.

Commissioner Grover Yes

Chairman Ostler Yes

Commissioner Miles Yes

Motion Approved: 3 Yes 0 No

E. Approval of the September 1, 2016 Minutes

Commissioner Grover and Chairman Ostler had several changes to the minutes.

MOTION: Commissioner Grover moved to approve the September 1, 2016 minutes with the corrections. Commissioner Miles seconded the motion. Roll call vote.

Commissioner Grover Yes

Chairman Ostler Yes

Commissioner Miles Yes

Motion Approved: 3 Yes 0 No

F. Make Assignments for Representatives to attend City Council Meeting(s)(October 13, 2016 and October 27, 2016)

Commissioner Ostler will attend the October 13, 2016 City Council Meeting and encouraged all other Commissioners to attend. Commissioner Grover will attend the October 27, 2016 City Council Meeting.

Commissioner Miles gave an update of the dates for the General Plan meetings. He stated that the Mayor reported that October 13, 2016 would be

the City Council de-briefing and October 20, 2016 would be the joint meeting with Planning Commission and City Council.

2. **Approx. 7:10 p.m. Public Hearing and Public Comment**

A. Public Hearing to amend the zoning map to change Parcel 02-035-0024 (comprising 13.74 Acres) north of Cherry Ridge Subdivision from “AL” Agricultural Zoning to “R2” Residential Zoning. Applicant: Randy Matthews

MOTION: Commissioner Miles moved to close the regular meeting and open the public hearing portion of the meeting. Commissioner Grover seconded the motion. Roll call vote.

Commissioner Grover Yes Chairman Ostler Yes
Commissioner Miles Yes

Motion Approved: 3 Yes 0 No

Greg Westfall explained that this application is for a parcel that runs east and west and is directly north of the Cherry Ridge Subdivision. He said currently the zone is Agricultural and they would like to rezone it to R2 which is equal to the same zone as Cherry Ridge Subdivision. Mr. Westfall stated that the intent would be to eventually develop the parcel into single family dwellings.

Lisa Weems: Mrs. Weems stated that she is concerned with dump trucks. She said they as citizens would like to be more interactive in this process. She stated that she has not sat in on one of these public hearings before. Mrs. Weems stated that she does not understand the different stages that they are talking about doing. She said she would like to interact with the Planning Commission and understand it. Mrs. Weems stated that she would like a better explanation of the process.

Greg Westfall stated that the zone change is the initial request that occurs when someone wants to do something else with their property other than the current allowable use for the zone they are in. That is happening tonight and that is why the letters informing of the zone change request were sent out. He said the changing or not changing of the zone is all that is happening tonight. He said then if the owner would like to subdivide then there is a subdivision process. The subdivision process is a concept plan that comes to the Planning Commission. He said then there is a preliminary plan that is a separate meeting. Mr. Westfall said the preliminary plan will be an engineer design. He stated that it will show where the streets are going to connect, water line, sewer line, and storm drain and that would have to come before the Planning Commission for approval. Mr. Westfall stated that stage is

working all of the kinks out and making sure it meets all of the city requirements. Mr. Westfall stated that there will be another public hearing that is noticed to all of the adjacent land owners. He said then there will be a final approval of the subdivision in front of the Planning Commission. He said that is at least three more meetings. Mr. Westfall stated that if it meets all of the city requirements then the Planning Commission will recommend it to the City Council for approval. Greg Westfall said that the earliest the City Council will look at it would be three weeks after the Planning Commission's recommendation for approval. Greg Westfall stated that you are looking about four months before a subdivision application is complete. Greg Westfall stated that the Planning Commission has to look at the application and see if it follows the General Plan.

Chairman Ostler stated that there are other resources for public information. He said you can call staff if you have any questions and attend the public comment portion of the meetings that are held and ask questions.

Rachel Doyle: She stated that she does not know the laws or regulations. She said that she lives across the street from the Weems. She said she abuts the orchard. Mrs. Doyle stated that when they bought their lot, which is a dead end they assumed that in the future there might be additional development. She said they hoped that it would be farther down the road. She explained that is why they moved to Perry because of the orchards and living amongst the farmers. She said they were excited about that aspect. She said that she has talked with some of her neighbors and they are starting to talk about moving and building somewhere else where they can have that orchard view. She said it is not her property and she understands. Mrs. Doyle stated that she is not super excited about having more houses next to her. She enjoys the feel of Perry as it is. Mrs. Doyle asked what the options were to buy the lots that are next to her.

Eric Siggard: He stated that his property abuts the subject property for the re-zone request. He said that his initial thought was concern because Perry has always been a small town. Mr. Siggard said that he understands that Cherry Ridge was originally an orchard at one time. He said he sees a continued loss of agriculture property in Perry. Mr. Siggard commented that he has seen multiple signs go up with lots of land being sold and being driven towards more to development, and that concerns him. Mr. Siggard stated that his concern is the loss of the fruit way. He said he understands as the landowner, he (Randy Matthews) needs to do what is financially viable to him. He said he wanted to make a point on Agricultural lots and feels

strongly that we are losing Perry. Mr. Siggard said soon we will become like Brigham City where Agricultural used to be big and now it is the exception to the rule. Mr. Siggard stated that he is concerned that the push is to go to medium density R2. He said that he understands that Cherry Ridge Subdivision is R2. Mr. Siggard stated that as part of the Perry City Ordinance it states that the R2 zone could also be zero-lot line homes. He said that regulates being able to put in townhomes and that is not what he wants next to his home. Mr. Siggard stated that he would like it stipulated that it is limited to a single family homes and not mixed use such as single family homes and townhomes together. He said he would like to see it zoned R1 so that it would not permit the use of the zero-lot line homes. He said that he has a concern with dust and debris and with that furnaces go out, filters get clogged and a lot more dust in the house. He asked what kind of mitigations will be put in place that would insure that if this goes through that these mitigations would be put in place, either permanent fencing put up, such as vinyl fencing along the back to ensure the dust is kept to a minimum. He said that is one of the biggest issues going on. He said those are his biggest issues with R1 versus R2. He asked are we losing Perry.

MOTION: Commissioner Miles moved to close the public hearing and open the regular meeting. Commissioner Grover seconded the motion. Roll call vote.

Commissioner Miles Yes
Chairman Ostler Yes

Commissioner Grover Yes

Motion Approved: 3 Yes 0 No

B. Public Comments

Lisa Weems: Mrs. Weems pointed out where she lives and where the property is for the proposed zone change. She said that they have lived in their home for five years and they did not realize that they would be living next to a noisy train. She stated that the property owner wants to put a development in next to a train track. Mrs. Weems stated that concerns her with kids. She said she is thinking about kids, trains, and the traffic along this road going out to 89 and the impact that is going to have. She stated that there are times during the day that traffic is heavy and just coming out of the subdivision and trying to get on to Hwy 89 is difficult. Mrs. Weems reported that they moved here because they wanted their neighbors to be an orchard. She said it was a huge deal for them. Mrs. Weems stated that they did not want to have neighbors behind them.

She said they specifically chose the house they have for privacy. She said by the information they got in the mail and the layout that they received there has been a lot of thought put into this. She said her main concern is traffic. She said we have sidewalks and the roads but we don't have any walking trails. She stated it would be nice for anything that is going to happen in the future that Perry would think larger in terms of things that create privacy between developments. Mrs. Weems said these are some of things that Perry City needs to think about for the residents. She said because we just don't want to live in a community where you jam a home into a subdivision. She stated that you need to look 50 years down the road. You need to think about how this is going to look in the long term. Mrs. Weems stated that she does not like the fact that it will all be consumed with homes and not have any forethought into the future. She asked that the Planning Commission do some critical thinking.

Farion Burton: He stated that there are two stubs coming into Cherry Ridge Subdivision. He asked if the developers were planning on using them. He said if they use the stubs it makes an extension to Cherry Ridge Subdivision.

Rachel Doyle: She stated that the residents in the Cherry Ridge Subdivision were never given a second access road. She said the roads that the developers would like to "T" into with their neighborhood would make the roads a lot more congested. She said maybe looking at the additional access point. Mrs. Doyle stated that there is not a second access point that was never developed or any street lights throughout the Cherry Ridge Subdivision. She said it is the frustration of adding another subdivision when Cherry Ridge was not up to City standard. Mrs. Doyle stated that there are not any public parks close to Cherry Ridge Subdivision. She said that the closest one is the Perry Park. She said is the City willing to put in more parks to make it more of a family friendly area.

Eric Siggard: He said when the Cherry Ridge Subdivision was originally developed there were certain agreements that were set upon with the original developer, and the original developer sold the property to the Butter's. Mr. Siggard stated that from his understanding very few of those agreements have been met. He asked if there are any agreements that are made with the property that is the subject of the re-zone request is there any way that they can ensure that any agreements that are made within the Planning Commission can be attached to the land and not attached to the land owner. He stated that the phase that is greenbelt in Cherry Ridge Subdivision was originally going to be a Perry Park. He said they were going to have a second

access point in Cherry Ridge Subdivision and it didn't occur. Mr. Siggard stated that he would like to have any agreements made with the Planning Commission with the current developer if sold to another developer would go with the land and not the developer.

Greg Westfall stated that Perry City has a General Plan that we are required to update every 5 years and we are doing it now. He said the General Plan is a way to document how that we would like Perry to grow and develop over the next 5 to 20 years. Greg Westfall stated that Mayor Cronin has set up some meetings at the Three Mile Creek Elementary School on October 5th and October 6th. Chairman Ostler stated that they are open house style. You can come and go when you want. Mr. Westfall explained this is an opportunity for residents to give input in how they would like to see Perry City grow. Chairman Ostler stated that he has noted during the public hearing some of the concerns which include walking trails, parks, agricultural loss, losing Perry, traffic planning. Greg Westfall stated these general plan open house meetings would be a great opportunity for residents to give their input. He said that the input will really help to mold the direction the Planning Commission and City Council will go with the General Plan. He said the General Plan helps guide us in knowing how to create ordinances for the city.

Greg Westfall stated that the Planning Commission's job tonight is to listen to the public and their concerns. He said they are bound by law to act on the application that they have in front of them. He stated that there were a lot of concerns that were valid and there were a lot of concerns that were brought up about issues in another subdivision. Greg Westfall stated those won't factor into what is being decided tonight, the Planning Commissioners have to be very specific on the zone change application. He explained the laws and ordinances on the books are what govern what the Planning Commission has to follow. He encouraged anyone who had questions could come into the office and talk with Staff.

Land Use Applications

Discussion /Action Regarding the Zone Change Application for Randy Matthews located on 1200 West, parcel # 02-035-0024 from AL Zone to R2 Zone.

Applicant Randy Matthews stated that he has lived in Perry all of his life. He stated that he is the 4th generation here. He said they have been farmers for over 135 years in Perry. He said he didn't think he was going to be a farmer but his dad died fairly young and Randy stepped in and took over the

farming. Randy said when he took over farming his objective was to do more farming and so he was trying to buy more ground. He said that most people really don't know the economics of farming. Randy said he ended up going out to west Corinne and buying more ground. He stated that he hated to see housing come because he was a farmer. Randy explained when he applied for his loan out at west Corrine he applied for a government loan. The loan officer said that no ground will pay for itself by farming. He said you are not going to make profit farming as it is not a very viable profession. Randy said when Cherry Ridge was starting out it was going to be 6000 square foot lots and ended up being 8,000 square foot lots. Mr. Matthews was asked at the last Planning Commission meeting to address three findings in the procedure for zone change. Those three finding are:

(A) The proposed amendment is in accord with the goals of the General Plan of Perry City, including the Transportation Master Plan and other elements of the General Plan and the Capital Facilities Plan.

Randy stated they would like to build a subdivision that would be similar to Cherry Ridge Subdivision, their neighbors to the south. He said it should be noted that when Cherry Ridge was built it did not meet Perry City Ordinances. He said in that it was too large for one entrance/exit. He said his proposal would give Cherry Ridge new and added entrances/exits. He stated this would help in case of emergencies. Randy said this would also allow connectivity (GP7.1) for our neighbors both to the north and south. Randy said that in the General Plan (GP2.1) it says that Perry City is seeking new growth. He felt that the proposed subdivision would add some less expensive and smaller lots than the majority of remaining lots. This would provide more growth. General Plan (GP2.1) states that creating new zoning guidelines allowing a variety and greater flexibility in lot sizes and densities is the goal. He said at the present time there are no other R-2 zones like Cherry Ridge. He felt that by allowing them in the R-2 zone they could have several smaller lots even though the majority would be at least 10,000 square feet. He said this would meet the General Plan and also add a few more affordable lots.

Randy stated that the General Plan (GP 6.1.b) states in regards to the Design Standards "Lot sizes may vary to provide for the market demand range of single family lot sizes and price ranges."

(B) A Concept plan is submitted with the application/petition indicating the proposed use of the property. This plan shall be

regarded as a Concept Plan only with more specific development plans to be reviewed with the Subdivision or Design Review process. Approval of the Zone Change Amendment shall not constitute approval of the concept plan for a particular proposed development.

An application and concept drawing have been submitted to the City and have been distributed to the Planning Commission members in their packets.

(C) The proposed amendment will provide a significant benefit to Perry City, said benefit being something other than just additional housing.

Randy Matthews explained as stated earlier it would provide additional entrances/exits to Cherry Ridge in case of emergencies. The detention pond could be used as an alternative pond if the rail road were to annex the bottom of the Cherry Ridge Subdivision. It may serve as an access to Cherry Ridge's detention pond, and may possibly increase the value of homes in Cherry Ridge Subdivision since the CCR's will be a little stricter. Randy stated that they want to come and build to complement Cherry Ridge Subdivision.

There were no questions to the Applicant from the Planning Commission.

Discussion by Planning Commission Members:

Commissioner Grover stated in the Ordinance under 15.07.080.6(3a) it states that the proposed amendment is in accord with the goals of the General Plan of Perry City. He said he is trying to reconcile the application with the General Plan. Commissioner Grover stated in the General Plan it states in 3.1.c R-2: Medium/High Density Residential an existing area of more compact residential development. The function of providing a more compact variety of housing is no longer to be provided by this land use. He states that he is struggling to get past that. Commissioner Grover stated that the application for R2 to him does not meet the intent of the General Plan. He said the application and concept plan have been submitted.

Commissioner Grover stated that they must provide significant benefit to Perry City. He said we have some rational there that justifies that. He said clearly there was intent there with the street layout, additional roads, they are not cul-de-sacs and the streets terminate. He said the reasons the Applicant gave was to connect to the "T" in the road, which is in the General Plan, the retention pond, and additional land for the exits. He stated that he

can see that there are potential benefits other than additional housing. Commissioner Grover stated that the General Plan appears in prohibiting this type of land use.

Commissioner Miles stated that his feelings are the same as Commissioner Grover's. He said the City has put a stop to R2 and the Applicant is asking to continue it. He stated if we allow it here when do we finally stop it. Commissioner Miles said that the Planning Commission has an obligation to up hold the General Plan.

Chairman Ostler stated that it is unfortunate that we have a very common problem that occurs in a small city. He said we have a General Plan that was put forth and then ordinances that were not made to match the General Plan. Chairman Ostler stated that the R2 zone still exists in the ordinance. He said it seems to him that a court would lean to the ordinance being the more binding. He said he looked a Brigham City's General Plan. It says if there is a conflict between the General Plan and the Ordinance then they have the option to choose between the two. Chairman Ostler stated that he looked for that language in our General Plan. He reported the closest he could find was in the General Plan #4 where it talks about the language that was used. He stated that it has advisory language, and mandatory language and that is about it. So if it is mandatory language then there is something that has to be done. Chairman Ostler stated that as far as he is concerned the Applicant has met the ordinance. He said as the language reads in the ordinance we don't have any other choice then to approve the application.

Commissioner Grover stated he could accept that the ordinance may still have R2 in it. He said but if you look at the intent in 3a, it says the proposed amendment must be in accord with the goals of the General Plan of Perry City. Commissioner Grover stated that this is the philosophy of the City and it says we don't want to do R2 anymore.

Chairman Ostler asked if philosophy trumps law. Greg Westfall stated that the ordinances trump the General Plan unless the city has adopted an ordinance that states otherwise. He said we are legally bound to follow the Perry City Ordinances. Chairman Ostler stated that the General Plan was adopted by the City Council on October 27, 2005 and in November the Planning Commission should have been to remove R2 from the Ordinances and propose it to the City Council, and it never happened. Greg Westfall stated that the General Plan contradicts itself regarding this very specific issue. He said if we don't like this we change the ordinances. He said with

the current application we are bound to follow the current ordinances as they are.

Commissioner Grover states he agrees with all of that. He said the problem that he has is the ordinance trumps the philosophical plan. It states that the amendment should meet the goals and it references back to the General Plan.

Chairman Ostler asked Staff if there was any work done to determine if it could be R1 and allow 2 lots at 8,000 square feet. Greg Westfall stated that they are not allowed to do that.

Commissioner Miles stated that the Applicant is asking for R2 preferably but if not, R1. Greg Westfall stated that if the R2 zone change is justifiably not granted then they would like to have the R1 Zone. Greg Westfall stated that Perry City does not allow for PUD's and zero lot line homes.

MOTION: Commissioner Miles moved to approve the zone change for the Randy Matthews Zone Change next to the Cherry Ridge Subdivision, from an Agricultural zone to an R2 zone. That the expiration of the application is not within the 45 days due to the public hearing timing and recommend it to the City Council for approval.

MOTION failed due to lack of a second.

Commissioner Grover stated that he is still having a hard time accepting it as a R2 zone. He said as it stands right now he cannot support it. He stated that he would like additional research and to meet with the City Attorney to have him provide clarification.

MOTION: Commissioner Miles moved to approve the Randy Matthews Zone Change from Agricultural zone to R1 zone with the understanding of the 45 day decision timeline required by ordinance due to the timing of the public hearing being held and recommend it to the City Council for approval. Commissioner Grover seconded the motion. Roll Call Vote.

Commissioner Miles Yes
Chairman Ostler Yes

Commissioner Grover Yes

Motion Approved: 3 Yes 0 No

Greg Westfall stated there may be chance the Planning Commission may see this again if the Applicant would like to appeal that decision.

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

A. General Plan Discussion

Chairman Ostler asked if the regular meeting for next week had been noticed. Greg Westfall stated that Shanna Johnson noticed the October 5th and October 6th meetings in the paper and on the website. Commissioner Miles and Commissioner Grover will be attending both the October 5th and 6th General Plan Town Hall meetings. Chairman Ostler asked if any of the Commissioners had heard from any residents regarding the meetings. He said that he received a flyer on his door and it has been noticed on the city website. Chairman Ostler asked if the the election signs with notices about the meetings could be put out around town. He felt this would be helpful in reminding the residents about the town meetings. Chairman Ostler stated that the General Plan meetings will be conducted by the Mayor, these are her meetings. He said as Commissioners they need to prepare to attend, listen, and help the Mayor where needed. Commissioner Miles stated as the public comes in they will be given dots. He said there will be large white sheets of paper with different topics written on them. Commissioner Miles stated the public will take the dots and go around and put the dots where there interests are. He said that there will be discussion about the topics for the ones that have the most votes.

Greg Westfall stated that there will be a lot of discussion and the public will have an opportunity to talk to the Mayor and Council Members. Susan Obray and Shanna Johnson will be at the meetings taking notes. He said these will be the very first meetings and there will be other meetings held after.

Chairman Ostler asked if there were any questions regarding the General Plan training material that was in their packets. Commissioner Miles stated that he like having the material put in the packet so that he can reference and learn.

5. Training

A. None

6. Review Next Agenda and Adjourn

(1) Discussion regarding the R2 zone

MOTION: Commissioner Grover moved to adjourn. Commissioner Miles seconded the motion. Roll call vote.

Commissioner Miles Yes
Chairman Ostler Yes

Commissioner Grover Yes

Motion Approved: 3 Yes 0 No