

ON OCTOBER 8, 2015 AT 6:00 P.M., THE HURRICANE CITY PLANNING COMMISSION MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: John Johnson, Ryan Cashin, Bill Wilkey, Yovonda Hall, Bob Petersen, and Paul Fathering

Members Excused: Ralph Ballard and Branden Anderson

Staff Present: Planning Director Toni Foran, Planning Assistant Cindy Beteag, City Council Representative Darin Larson, and City Attorney Fay Reber

The meeting was called to order by Chairman Cashin at 6:00 p.m. The Pledge of Allegiance was led by Darin Larson and Bill Wilkey offered the prayer. Roll call was taken.

Approval of agenda: Toni Foran stated the applicant for application 2015-CUP-12 has asked to be tabled for tonight. Bob Petersen motioned to approve the October 8, 2015 agenda as posted. John Johnson seconded. Motion carried with all commissioners voting aye.

Chairman Cashin opened the public hearing at 6:02 p.m. to take comments on the following zone change request:

1. **On an 8240 sq. ft. lot to change from HC, Highway Commercial, to GC, General Commercial, located at the rear of 470 West State Street, the Desert Vet, to build a storage facility**

Dr. Bice stated his property is shaped like the state of Utah with the narrow end to the north. He would like to rezone the north end as General Commercial in order to build climate controlled storage units. Chairman Cashin clarified the access would be off State Street and the parking would be shared with Desert Vet. Darin Larson asked if it was on a separate parcel than Desert Vet or if the applicant needed a lot split. Toni Foran stated it will need a lot split and they have already started that process.

No comments from the public.

The Public Hearing closed at 6:04 p.m. and the Public Meeting began.

2015-ZC-08 Consideration and possible recommendation to the City Council for a zone change on an 8240 sq. ft. lot from HC to GC located at the rear of 470 West State Street, the Desert Vet, to build a storage facility – Kenneth Heaton; Rita & Allen Bice applicants

Chairman Cashin asked Dr. Bice if he had received the comments from staff. Dr. Bice stated he had discussed it with staff. Yovonda Hall commented the Commissioners discussed if this zone change would be in harmony with the surrounding properties at a previous meeting. *Yovonda Hall motioned to recommend approval of application 2015-ZC-08 to the City Council based on the following findings; 1. The proposed amendment is compatible with the goals and policies of the general plan by providing a commercial type that is a basic community service in a commercial area. 2. The proposed amendment is in character with the property around it. 3. The proposed amendment will not affect adjacent property as it is still commercial. 4. Public facilities and services are adequate to serve the subject property but are not connected. Bill Wilkey seconded. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, and Bob Petersen-Aye. Motion carried.*

2015-CUP-13 Consideration and possible approval of a Conditional Use Permit for a detached garage with an upstairs 2 bedroom casita that is taller and larger than permitted in the zone located at 2321 W. Ridgeview Drive – Heather Haught & Tracy Cavet applicant

Lorin Farr, representing the homeowners, was present to answer questions. Yovonda Hall stated she does not think this garage/casita would be harmonious to the neighborhood. Mr. Farr stated the adjacent homes are two story as well. Ms. Hall asked if there were any other larger or taller buildings in that area. Toni Foran stated no, they are not common in that area. Mr. Farr stated the garage will not be taller than the home itself and the only home it would block is directly behind it but it sits up higher so it shouldn't block too much of it. Ms. Hall stated her concern is the high elevation of the lot and if a tall building is built on it, then it will really stand out from the rest of the neighborhood. Mr. Farr stated that is what the owners wanted. He mentioned it would be the only lot with a detached casita. Bob Petersen stated the two story homes in the area have walk out basements and they are level with the street. Mr. Farr stated this is a weird lot and it is not possible to do a walk out basement. He stated there will be a lot of excavation. Mr. Petersen stated on the front facing north it looks like there are two terraces. He asked if they would have to do more retaining there. Mr. Farr explained the engineer is requiring them to stay fifteen feet away from the lava retaining wall. He stated there will be another rock wall fifteen feet back and then the back yard will be leveled off. Mr. Petersen asked what the plans are for the driveway. Mr. Farr stated asphalt then concrete. Chairman Cashin asked if the owners are aware a deed restriction is required for the casita. Mr. Farr stated he had explained it to them. Ms. Hall commented the casita is larger than most casitas and the applicant is asking for a large garage in an area where it would be prominent. She asked what the normal allowed height is for an accessory dwelling. Ms. Foran stated twenty feet. Mr. Farr explained in order to put anything above the garage it had to be a taller, steeper roof. Chairman Cashin asked if the materials will be the same as the house. Mr. Farr stated the owners want concrete board siding on both the house and the garage. Mr. Farr stated it will stand out but it is a large home that will bring up the values in the neighborhood.

Chairman Cashin commented he is having a problem with the height. He stated the expectation from neighbors is they want their privacy and their views not blocked. Mr. Farr stated anything that is built on this lot will be big and stick out because of the height and location. Paul Farthing stated his concern is the size; if this is approved it would be 66% bigger than what is allowed. Ms. Hall commented the garage is larger than her home so in reality it is two houses sitting on the lot. Mr. Farr explained the garage sits five feet lower than the current ground level. He commented only half of the garage will be visible from the road. Chairman Cashin mentioned the staff comment that states, *the general plan goals for this area include the "liveability" and quality of life that current residents enjoy*. He stated he doesn't want to infringe on the neighbor's rights. He stated it will probably help economics but it appears to be unusual for the area. Mr. Farr commented this lot and driveway isn't normal for the area. Chairman Cashin asked if any conditional use permits had been granted in this area because of weird lots. Ms. Foran stated not that she could remember any. Mr. Farthing asked if the JUC had reviewed this application. Ms. Foran explained the JUC have the option to review but they don't usually review residential plans. Mr. Farthing asked where the access was for emergency vehicles. Ms. Foran stated a site plan was handed out that shows the driveway. Ms. Hall stated there are two empty lots near this lot so if this is approved, then it sets a precedent for them to build bigger. Mr. Farr stated one of the lots would be able to do a walk out basement and the other lot would have to be a slab on grade. He stated he didn't think they would be able to do a larger home. Mr. Farthing stated he thinks it is too much on one lot. Ms. Hall stated she thinks the lot size is ok but the height is questionable. Mr. Farr stated keep in mind they have to drop the lot five feet. Chairman Cashin asked for the pitch of the roof. Mr. Farr stated 12: 12. He explained they had to do it that steep in order to get the living space. Darin Larson stated the house directly south appears to be elevated higher than the proposed property. He asked Mr. Farr what he estimates the elevation difference is for the two homes. Mr. Farr stated he thought the top of the proposed garage will possibly be at the main level of the home to the south. Mr. Larson clarified the home to the south is two stories. Ms. Hall asked for the height of the lava retaining wall. Mr. Farr stated about thirty feet. Mr. Farthing asked what is the typical size for a casita. Ms. Hall stated normally they are only one bedroom. Mr. Larson asked if the garage had access to the main home would the casita be legal. Ms. Foran stated yes. Mr. Larson asked the Commissioners to keep in mind this is only a conditional use

permit because it is detached so if the applicant wanted to build a large two story house with an attached garage and casita, the Commissioners wouldn't even review it. Ms. Foran clarified the casita is 830 square feet and the garage is 1206 square feet. She asked if the garage would be metered separately from the house. Mr. Farr stated they would be on one meter. Ms. Hall commented if this application gets rejected then the applicant could connect it and still build. Mr. Farr stated it would have to be engineered again but the owners will build. Ms. Hall asked the Commissioners what is the worst of the two scenarios; a bigger house with an attached garage or two separate buildings. Mr. Farthing stated if the Commissioners are concerned with the height, they could do story poles in order to see what would be blocked by the home. Chairman Cashin stated he doesn't see any large issues other than it will stand out from the rest of the neighborhood. Mr. Petersen stated he doesn't have a problem with the footprint but he does have a problem with the height. Ms. Hall stated they are pushed back fifteen feet from the wall and on a slope. Mr. Petersen asked how far it would be from the wall. Mr. Farr stated twenty feet. Ms. Foran clarified the height of the house is 25'3" so the garage is taller. Mr. Farr stated he doesn't think the height is a big problem because if it was attached it wouldn't be an issue. *John Johnson motioned to approve application 2015-CUP-13 based on the following findings; 1. The proposed building is in keeping with the General Plan and Land Use Code. 2. The greater size building will not have negative effects on surrounding properties where it is proposed to be located on the property. 3. The total buildings on the property will not cover more than 50% of the property. 4. The building's design is compatible with the main house on the lot. 5. Applicant can avoid any possible offensive affects by installing lighting that does not impact neighboring properties or the night sky on the structure. 6. A deed restriction limiting the use to family and guests only and no rental separate from the main building will be required because the accessory building includes a 2 bedroom casita. Paul Farthing seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Nay, Paul Farthing-Aye, and Bob Petersen-Nay. Motion carried.*

2015-FP-05 Consideration and possible recommendation to the City Council for final plat for Sky Ridge Phase 10 – Gemstone Homes applicant

Frank Lindhart stated this is for the final plat. He explained they will be getting ready to start work within a month or two and he is not aware of any issues or problems. He explained there is a verbal agreement with the property to the south regarding an easement to allow emergency vehicle access. He explained legal is reviewing the agreement before anyone signs but it will be six or seven months before they record. Yovonda Hall mentioned the email from Debra Proball. Toni Foran explained the email was brought to City Council last week and most issues have been resolved. She explained the 25' setback is there and the easement is in place but it isn't behind Ms. Proball's property. Mr. Lindhart stated Ms. Proball thought the 15' easement would be deeded back to her but it doesn't apply to her property. It was a misunderstanding. Ms. Hall asked if the concerns were resolved at City Council. Ms. Foran stated the email was brought up at City Council and Mike Vercimak took the comments to Mr. Lindhart. Mr. Lindhart then came in yesterday to discuss them. Ms. Hall asked if all lots have the 25' required rear setback. Ms. Foran stated two lots are the only ones that require it on this plat and they have room to meet it. The next phase that is brought in will have more lots with the setback requirement. Bob Petersen asked if the homes will still have a lower pitch roof. Mr. Lindhart stated yes on the lots they agreed to. *Bob Petersen motioned to recommend approval of application 2015-FP-05 to the City Council. Yovonda Hall seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

2015-FP-06 Consideration and possible recommendation to the City Council for a final plat for Painted Hills Commerce Center – Jerry Spilsbury

Toni Foran stated she told Jerry Spilsbury before the meeting but hadn't told the Planning Commission that an UDOT representative was here today and they would prefer any driveways be at least 500' from SR-9. She stated the access can be shown on the plat but if they can't get access it will have to be fixed before final site plan. Jerry Spilsbury stated they are in compliance with the City's Master Street Plan and Capital Facility Plans. He

stated that is what they matched after the last meeting and they had all the answers answered until he walked in tonight. Yovonda Hall asked if the proposed access is right in/right out. Mr. Spilsbury stated yes. Ms. Hall asked how many feet from SR-9 the access was. Mr. Spilsbury stated 250' which is the allowed amount. Ms. Hall asked if the State was going to deny it even if the City approves it. Ms. Foran stated that was the comment she received from UDOT. Ms. Hall asked City Attorney Reber if the Commissioners approve it with the access at 250', does it give the applicant a vested right. Mr. Reber stated no, it can be specified in the motion that approval from UDOT is required. Gerold Pratt stated they show two entrances so if the right in/right out is denied then they still have access to the property. Chairman Cashin stated the right in/right out is for convenience but at this point it doesn't affect the decision. He asked if they had worked out improvements on 100 North. Mr. Pratt stated they have submitted construction drawings into staff and they are in the process of working it out. *John Johnson motioned to recommend approval of application 2015-FP-06 to City Council conditional upon approval from UDOT on the right in right out access. Bob Petersen seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

2015-PP-11 Consideration and possible recommendation to the City Council for a preliminary plat for My Subdivision Phase 2, a single lot subdivision located at approximately 508 W 650 South – Barbara Goetsch applicant, Rand Lemmon agent

Rand Lemmon clarified lot 4 is not part of this subdivision. It is the applicant's home and just needs to be removed from drawing. He stated lot 3 is the same as the other two lots. He explained if the owner did more lots she would have to tear down buildings and she doesn't want to do that. He stated the gas line was run when the first lots were built and when 650 South came in the City installed a sewer stub to this property. *Yovonda Hall motioned to recommend approval of application 2015-PP-11 to City Council. Bill Wilkey seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

2015-PP-12 Consideration and possible recommendation to the City Council for a preliminary plat for Phases 2A and 2B of Peregrine Pointe, a 62 lot subdivision located at approximately 2875 W. 625 North – Perry Homes applicant

Yovonda Hall asked if the property next to the turtle preserve was part of the tortoise take zone. Gerold Pratt stated he thought a portion was but they will work with the people in charge to get it cleared. Toni Foran explained it is a simple process to get the land cleared in order to develop it. Chairman Cashin asked if the applicant was aware of the JUC and staff comments. Mr. Pratt stated yes. *Paul Farthing motioned to recommend approval of application 2015-PP-12 to City Council subject to staff and JUC comments; 1. Construction drawings will be required. 2. A drainage plan will be required with construction drawings. 3. Construction drawings must include bringing power to lots 131 and 176 recorded in phase 1a but never connected to power service. 4. Lot sizes meet the overall density requirements of the PDO. Most have a 70' frontage on the road. 5. Geotechnical information shows no geotechnical hazards and limited adverse construction conditions. 6. Will serve letter for sewer and water were provided. 7. It is unclear whether or not the property is in a tortoise take area as it is located adjacent to the Red Cliffs National Conservation Area. Developer should consult with the Conservation Area biologists to confirm. Bill Wilkey seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

2015-CUP-12 Consideration and possible approval of a Conditional Use Permit for a home Bed and Breakfast in an existing casita at 313 W. 1180 South – Keith and Mary Seely Applicants

Yovonda Hall motioned to table application 2015-CUP-12. Bill Wilkey seconded the motion. *The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

Approval of minutes: Cindy Beteag stated Ralph Ballard still showed voting after he was excused and that will be fixed before the minutes are published. *Yovonda Hall motioned to approve September 10, 2015 minutes with the changes. Paul Farthing seconded the motion. The vote was as follows; John Johnson-Aye, Ryan Cashin-Aye, Bill Wilkey-Aye, Yovonda Hall-Aye, Paul Farthing-Aye, and Bob Petersen-Aye. Motion carried.*

Toni handed out a new layout for the proposed townhomes at 2480 W 600 North. She stated this is the new drawing and they will proceed with final site plan with this layout. Commissioners discussed where parking was located. Applicants have addressed all issues.

Planning Commission and staff reports from Utah APA Conference

Ryan stated the APA conference was really good. Toni stated the Provo Mayor's presentation on how to reach citizens through social media was great. She stated he had great ideas about creating a City or planning blog. It is a good way to know what citizens think and get information out to everyone. Toni stated the Envision Utah results were presented. She stated they were very interesting. She requested Washington County results but she hasn't received them yet. Envision Utah wanted 50,000 responses and they got 53,000. Toni stated she thinks most responses were from Wasatch Front and would differ for Southern Utah. She stated preserving agriculture land was on the top of what people wanted.

Ryan stated a session that he thought was helpful was understanding the politics of the Commissioner position. He stated they are not a legislative body but still deal with political items. Some of the topics were don't allow public clamor to affect their decision, follow rules for public hearing and public meeting, and what the Commissioner's role is in giving support to the City Council.

Toni stated ULCT and Property Rights Ombudsman will be launching a new website for land use regulations that is going live in January. It will be available to the public as well.

Continued discussion regarding Residential Hosting and whole house vacation rentals.

Yovonda brought up an article about the effects in LA after Air BNB was allowed. She explained Air BNB started out as "sharing" extra space as a way to make extra income. The article gives a view of how it affected the City in the long run. She stated it created a tighter housing market, increased tourist traffic, altered the character of the neighborhood, increased safety risks, jobs were lost, and wages lowered. She stated the report explored the history of Air BNB. She stated an interesting survey showed that 95% of the Air BNB's were run by a leasing company not owner occupied. Yovonda stated the traditional bed and breakfast where the owner is present is not necessarily what Air BNB is and it could change the housing market. She stated the survey showed short term rentals hurt long term rentals and there was a huge drop in affordable housing availability. She stated in LA Air BNB creates overlapped density, competes with hotels, and increased the rate of rentals by three times. She stated LA is insisting Air BNB have liability on requiring the owners to be City licensed before they can advertise on Air BNB. Yovonda referenced another article regarding rentals in Paris. She read the numbers on users of Air BNB. Paris has very high fees and fines. She stated they had a legal requirement that an owner had to live in their residence for four months before it could be rented. She stated owner occupied needs to be defined. She stated she is concerned with the cost of homes going up if they allow short term rentals. She stated they drive the market up making it so people can't afford them and long term rental options go down. Ryan stated whole house rentals can drive up prices forcing people that work here out of the community. He stated they need to look at how many they allow in the City to reduce the impact. Yovonda stated Air BNB's theory is everyone can benefit from rentals but if Hurricane limits how many are allowed then you take away that theory. She stated it is a hotel if the owner doesn't live there. She stated the hotel industries have to compete so it lowers rates, wages and creates less jobs. Ryan stated his concern for residential hosting isn't as much as it is whole house rental because someone is on site. He thinks it must be the primary residence to do residential hosting. He stated he is comfortable moving forward with regulations on the residential hosting.

Yovonda asked if the City Council had discussed dropping the whole vacation rentals and only offering residential hosting. Darin stated no, they want two separate ordinances. Ryan stated he doesn't think they are far off, it just needs to be modified so it doesn't distract from the neighborhoods and create high density. Toni pointed out the enforcement handout from Fay. Yovonda asked if the fine penalties match up with state law. Fay stated yes. Commissioner agreed the penalties were a good step in the right direction. Yovonda asked how a vacation rental wouldn't disturb the neighborhood if it is a commercial activity. It is a hotel in a residential area. Ryan stated it helps people afford a second home. Commissioners discussed investors buying and operating whole house rentals. Ryan stated a solution could be to only allow one rental per person. Yovonda stated having multiple rentals on one street is what will upset neighbors. Toni mentioned the fire code states if a house is built for the purpose of vacation rental it should be built to different codes. Ryan stated it was suggested to record with new subdivisions the ability to only allow a percentage of vacation rentals in the subdivision. Yovonda stated Washington City requires a PDO resort overlay so everyone that lives there knows rentals are allowed. If an owner wants to do a single rental in a different neighborhood the owners have to get 75% of neighbors to approve. Fay stated there are great benefits but also some disadvantages for the City as well.

Ryan stated they have been given direction from the City Council to review the ordinances and bring back ideas to them. He stated he thinks they did a good job on the original ordinance, it just needs a couple things like enforcement defined. Yovonda asked how the Commissioners feel about requiring the rental be the owner's primary residence. Ryan stated for residential hosting it should be required but it doesn't work for whole house rentals. Yovonda asked how that would help density. She stated every time it is rented it doubles the density. Paul and Yovonda stated they have a problem with whole house rentals because they are a commercial activity and they need to be in area that is designated for that use. Darin stated the Council is in favor of allowing whole house rentals. They just want the Commissioners to review the definitions and regulations. Yovonda stated if they are allowed then people should only be allowed to have one rental per entity/person. Ryan stated the fee schedule needs to be reviewed because it is more work and regulations than a normal business license. Fay stated they have to be able to tie the application fee back to the cost of regulation. Ryan stated they need to decide on the fee, the enforcement, and how many are allowed. He thinks the easiest way to regulate how many are allowed is by requiring so many feet between rentals. Paul asked if they were going to limit it to certain zones. It was clarified whole house rentals are only currently allowed in R1-8, R1-10, R1-15 and Residential Agriculture zones.

Toni stated with residential hosting, Commissioners still need to clarify what zones they are allowed in and if the owner has to be present when it is rented. It was decided to not regulate if the owner is present. Toni asked if residential hosting should be allowed in casitas or only rooms connected to the house. Yovonda stated it creates a duplex by allowing the casita to be rented. Toni stated there needs to be something in the ordinance to reference the fire codes. Toni stated Hurricane has adopted an affordable housing plan that if rentals are allowed in casitas then they would prefer it to be for people that need affordable housing. Yovonda stated the deed restrictions on casitas need to stay in place. Darin asked if they could rent casitas long term. Toni stated no. Ryan asked if casita rentals are a need today or something needed down the road. Bob stated they have set a precedent by requiring deed restrictions and they should continue requiring them until there is a need. Yovonda asked when would that need be. Ryan stated when the housing becomes unaffordable. Toni stated the rental market is already deficient. All agreed casitas should not be allowed as rentals.

Yovonda asked if they limit the distance between whole house rentals, what a good distance is. Ryan stated 1000 feet is the number that people keep suggesting to him. Bob asked if any other cities regulated it by distance. Yovonda stated Washington City require approval from anyone within 500 feet. Darin suggested drawing circles around the currently licensed rentals to see how many could be allowed if they required 250, 500, or 1000 feet between each rental. Commissioners discussed having a conditional permit if there was another rental in the area.

Ryan reviewed what had been decided for residential hosting; not allow rentals in casitas and making it a permitted use in all single family zones if they can meet parking. Paul stated he is concerned about allowing

them in small zones. Ryan explained there are large lots in the smaller zones and if they can't meet requirements then they wouldn't get a license. Toni stated she thinks they will need to regulate how much yard can be parking and how close they can have parking to neighbors. Paul stated trying to put room rentals in high density will have more impact on the neighbors. He asked how many spaces are required for a residence. Toni stated two for the owner and one for each room rented. Paul stated a lot of people use the garage for storage and park on the driveway so they wouldn't really have four spots. Toni stated they would have to decide on stack parking because right now it is only allowed in multifamily by approval. Yovonda stated if all the houses on one street do residential hosting then there is a huge impact on traffic. Paul mentioned the fire in Stoney Pointe Subdivision where because of the density and cars parked everywhere the fire fighters couldn't get to the fire. He stated because of the higher density people don't have room on their property to park so they are all parking on the street. Ryan stated he thinks they need to look at if stack parking is allowed and how much of the yard can be used but the rest of it doesn't need to be regulated. He stated it would create too much enforcement and the City doesn't have enough people to do that. Toni stated it will be complaint driven. Ryan stated they need to keep it simple and deal with the majority of the problems. Ryan asked Toni to look at parking restrictions for the Commissioners to review. Toni clarified the Fire Chief clarified the no more than 10 is total occupancy not just number of guests. She stated they will have to change that section of the ordinance. Yovonda asked if a vacation home has occupancy for more than ten people can we require them to sprinkle it. She suggested requiring any vacation rental be required to sprinkle. Ryan stated it easier to put restrictions on the number of allowed guests. Toni will bring visual to next meeting showing distance between vacation rentals.

Meeting adjourned at 8:35 p.m.