

**WOODS CROSS PLANNING COMMISSION MEETING
SEPTEMBER 8, 2015**

MEMBERS PRESENT:

Leo Beecher, Chairman
Jennifer Bassarear
Dan Bradford
Curtis Poole

Brent Page
Gary Sharp
Matt Terry

STAFF PRESENT:

Tim Stephens, Community Development Director
Bonnie Craig, Secretary

VISITORS:

Lois Schrader
Don Schrader
Craig Johnson
Janice Johnson
Malorie Brask
Matthew Godfrey
Andrew Gale
Brandon Wicknick

PLEDGE OF ALLEGIANCE:

Brent Page

APPROVAL OF MINUTES

The Planning Commission reviewed the minutes of the Planning Commission meeting held August 11, 2015. After the review, Commissioner Poole made a motion to approve the minutes as written with Commissioner Page seconding the motion and the motion carried.

OPEN SESSION

Chairman Beecher then opened the meeting to items from those present that they would like to bring before the Commission that were not on the agenda.

There were no comments for the open session and Chairman closed the open session.

JOHNSON URBAN CHICKEN CONDITIONAL USE REQUEST—1438 WEST 2300 SOUTH—CRAIG JOHNSON

Mr. Tim Stephens, the Community Development Director, reviewed this item with the Commission and explained that Mr. Craig Johnson had applied to keep up to 10 chickens at his home located within the R-1-8 residential zone.

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Mr. Craig Johnson appeared before the Commission to answer any questions they may have regarding this agenda item. The Commission asked Mr. Johnson if he was aware of the city ordinances regarding the keeping of chickens which allows up to 10 chickens and does not allow roosters or turkeys. Mr. Johnson said he was aware of the ordinance and had no problems with the ordinance as outlined.

There were no further questions from the Commission and Commissioner Sharp made a motion to approve the conditional use for Mr. Craig Johnson and the keeping of up to 10 chickens. Commissioner Terry seconded the motion and all voted for the motion.

**GALE URBAN CHICKEN CONDITIONAL USE REQUEST—932 WEST 900 SOUTH—
ANDREW GALE**

Mr. Andrew Gale was not in attendance yet at the meeting so Commissioner Sharp made a motion to table this item until Mr. Gale was in attendance. Commissioner Page seconded the motion and the motion carried.

At 7:35 P.M. Commissioner Poole made a motion to un-table this item as Mr. Andrew Gale was in attendance. Commissioner Page seconded the motion and the motion carried.

Mr. Andrew Gale appeared before the Commission. The Commission asked Mr. Gale if he was in agreement with all conditions associated with the conditional use request regarding urban chickens and he said he was in agreement with them.

There were no further questions and Commissioner Bassarear made a motion to approve the conditional use request for Mr. Andrew Gale and the keeping of up to 10 urban chickens. Commissioner Page seconded the motion and all voted for the motion.

**CNG TECHNOLOGIES CONDITIONAL USE—1183 SOUTH REDWOOD ROAD—
BRANDON WICKNICK**

Mr. Stephens went over this agenda item with the Commission. He noted that CNG Technologies had been approved to operate this business at a location in the Skypark Industrial Park about a year ago and was now wanting to relocate at this time. CNG Technologies operates an auto repair, compressed air, natural gas kit installation business. Mr. Stephens said there had been no negative reports from anyone regarding the operation of this business.

The Commission asked Mr. Stephens if the conditions would be different at the new location opposed to where the business was located now. Mr. Stephens said they would be the same as at the present location the only difference being the present location is located in the AP Airport zone and the new location would be located in the I-1 Light Industrial zone but is about the same use.

Mr. Brandon Wicknick appeared before the Commission. The Commission asked Mr. Wicknick why they were moving locations and Mr. Wicknick said the new location is a better location and

they have outgrown where they are at the present time. The Commission noted they were pleased Mr. Wicknick was going to remain operating his business in Woods Cross City.

There were no further questions regarding this item and Commissioner Poole made a motion to approve this item with the following conditions:

1. At no time may the business operation negatively impact adjacent businesses or properties.
2. All business operations must be contained within the fully enclosed building.
3. At no time may any materials or vehicles be stored outside the enclosed building.
4. The applicant shall obtain an inspection and approval from the South Davis Metro Fire District and a copy shall be submitted to the city prior to the issuance of a business license.
5. The applicant's business operation shall be in conformance with any government agency having jurisdiction over the business operation or subject property.

Council Member Bassarear seconded the motion and the motion carried.

MAVERIK NON-CONFORMING USE ENLARGEMENT REQUEST—1431 SOUTH REDWOOD ROAD—MATT GODFREY

Mr. Stephens then went over the following information with the Commission and also noted there had been some recent changes in ownership and management at Maverik and with the changes in management, they were not aware of the restrictions that had been placed on the property which could have contributed to the non-conforming use enlargement without adhering to the proper restrictions:

“Maverik Country Stores operates a truck yard and service shop on property located on the northeast corner of Redwood Road and 1500 South. As you probably recall, Maverick petitioned the City and received approval of a nonconforming use extension approximately a year and a half ago. The expansion permitted them to enlarge their truck parking area eastward approximately 98-feet. As part of the proposal, Maverick agreed to install site obscuring slats in the fence and remove junk and debris that was stored in the existing parking area. The Planning Commission and City Council approved the non-conforming use request and Maverick enlarged the truck yard as per an approved site plan by the Planning Commission.

This summer, the city staff noticed the truck parking area had again been recently expanded and the berm pushed back even further to expand the truck parking area beyond the boundaries approved by the city under the previous non-conforming use expansion. As such, the City placed Maverick on notice and they have since made a new application to legitimize the additional truck yard expansion.

Maverick's property is presently zoned I-1 Light Industrial which makes the present use of the property for tanker truck parking a grandfathered or prior nonconforming use. As you know, typically nonconforming uses cannot be enlarged or expanded; however, our zoning ordinance

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does have a provision which may allow for the expansion, enlargement, or modification of a nonconforming use. Section 12-22-104 (b), entitled “Enlarging, Altering, or Changing Nonconforming Use,” states:

1. *No nonconforming use may be enlarged, altered or changed, and no nonconforming use of land may occupy additional land, except as provided in this Section.*
 - a. *Enlargement, Alteration or Change. A nonconforming use may not be enlarged, altered or changed unless authorized by the City Council in consideration of the prior recommendation of the Planning Commission based upon the following criteria:*
 - (1) *That the expansion, alteration or change of the use would not adversely impact the surrounding properties more than the existing nonconforming use;*
 - (2) *That the proposed expansion, alteration or change will make the building structure, or site more compatible with the surroundings and existing zoning;*
 - (3) *That the site of the proposed expansion, alteration or change of use conforms to all site development requirements as physically possible, given existing site limitations; and*
 - (4) *That the proposed expansion, alteration or change does not create new non-conformities.*

Given to the Commission is a site plan and a text from Maverick addressing the four criteria and their justification for nonconforming use expansion approval.

- (1) *That the expansion, alteration, or change of use would not adversely impact the surrounding properties more than the existing non-conforming use:* Maverick states in the attachment that the Maverick property is still approximately 150 feet away from a residential development around 1500 South. This expansion east would move the operation closer to the residential development. However, they state that the proposed expansion will still be approximately 375 feet away from the nearest residential home. Maverick states that their hours of operation will not change and, to date, I am not aware of any complaints from the residential area regarding Maverick’s business operations on the site. Maverick further states they are mitigating any possible impacts due to compactable soils and berming around the property. It should be noted that the Public Works department has concerns regarding the amount of rock and debris being tracked on to 1500 South from the previously expanded truck parking area. As part of the previous approval, Maverick agreed to cover the truck parking area with road base and a sufficient layer of ground asphalt to control dust and tracking material. According to Public Works, typically this material, if put on at the proper thickness, would, through the heat of the summer, compact into a solid asphalt surface. Based on the observations that Public Works have made, they believe that only a

thin layer of ground asphalt wrap has been placed on the site and it has not consolidated thus leading to the tracking of material on to 1500 South Street.

- (2) *That the proposed expansion, alteration or change will make the building structure, or site more compatible with the surroundings and existing zoning:* Maverick states in their written material that by extending the fencing and parking lot there are further improvements to the land and that the development is cleaner and matches the surroundings. I believe Maverick has missed the mark on the second criteria. The development might match some of the other surrounding, old nonconforming uses but is not as compatible with the neighboring residential areas or the new Tractor Supply Store. The newer land uses are the future of this area. Further development of these kinds of uses will only make the nonconforming truck yard less compatible with its future surroundings. Actually, the extension of the slatted fence and the removal of site debris make the site more compatible. Maverick has agreed to extend the slating along 1500 South to include the recently expanded area. The staff has noted to Maverick that since the previously approved expansion a year and a half ago, other items and debris have shown up in the vacant, abandoned refinery property adjacent and east of the expansion area. We have noted to Maverick that this is vacant ground and there is no nonconforming status to openly store or park vehicles in this area and storing such items in this area is a violation of the I-1 Light Industrial Zone.
- (3) *That the site of the proposed expansion, alteration or change of use conforms to all site development requirements as physically possible, given existing site limitations.* — As noted above, if this were approved, the fence would need to have slats added to it to the boundary of the recent expansion. In addition, Public Works has recommended a heavier layer of recycled asphalt both on the existing and the recently expanded areas in an attempt to have this material properly consolidate and prevent it from being tracked on to 1500 South. Also note that Maverick has not maintained the weeds along their property particularly east of the proposed expansion. Weeds on both the fence side and in the park strip are to a height that they encroach on the sidewalk. Any approval of this proposal should be conditioned upon continual maintenance by Maverick of weeds on their property and the park strip. All old debris, pipes, trailers, or other items must be removed from any portion of the old refinery site to the east. The city engineer also noted that, if this request is granted, any follow-up site plan approval must include a submittal to the staff of storm water volumes and calculations for the addition of the expansion area. The city engineer has stated that the size and use of the site now may require approval of a Storm Water Management Plan by the State of Utah. Also we have received complaints in the last year of tanker trucks proceeding eastward on 1500 South beyond 1450 West Street. As you know 1500 South east of 1450 West Street is closed to vehicles transporting flammable or hazardous materials. Maverick should be reminded to educate their drivers to avoid accessing their site through the restricted areas.
- (4) *That the proposed expansion, alteration or change does not create new non-conformities:* Maverick states that the fencing and parking lot will extend east so new nonconformities will not be created. The expansion will give trucks more room to turn around, park, and drive which encourages traffic away from Redwood Road.”

Maverick summed up their written request addressing their concerns such as asphalt being tracked on to the road. They attribute it to heavy rain fall and construction from across the street. However, it is clearly visible that the material being tracked on to the street is in proximity to their drive approach and coming from the Maverick site. They mentioned the use of magnesium chloride which is typically sprayed over dirt surfaces to control dust; however, Public Works has stated that if a proper layer of the asphalt wrap is placed this should not continue to be a problem. As you know, our ordinance requires that all vehicle areas be provided with an asphalt or concrete solid surface. In the past, under certain conditions, we have accepted the use of ground asphalt wrap as meeting this standard. When properly installed at sufficient thicknesses it is an effective solid surface and, as such, the use of magnesium chloride should not be necessary. They also state that the junk items are on the neighbor's property to the north; however, the staff is aware of those items but is actually concerned about items that are appearing in the thick trees and brush on Maverick's adjacent Caribou Refinery site. To my knowledge, some of those items are still on the property.

Planning Commission will need to carefully consider the criteria and Maverick's case that this further expansion of the property is justified. Of particular concern should be the protection of the nearby Clover Dell Subdivision. This unapproved expansion has placed the truck activity closer to the residential area and, to date, this unapproved encroachment has not generated any phone calls or complaints from nearby residents of the Clover Dell Subdivision. It is obvious that this expansion is the same as the previously approved expansion in terms of their proposal to further slat the fence and control the dust. If this request is approved as before, Maverick will still be required to return to the Planning Commission for a site plan amendment approval at which time we can in further detail review issues involving the truck parking surface materials and gravel and rock being tracked on to 1500 South Street. This can either be accomplished by a better installation of ground asphalt wrap or a traditional installation of a concrete or asphalt parking surface. If the Planning Commission chooses to recommend to the City Council approval of further enlargement of this use, they should support that recommendation using the four criteria in their motion.

The first being that the expansion, alteration or change of the use would not adversely impact the surrounding properties more than the existing nonconforming use: As before, the tanker truck use will not adversely affect some of the other nonconforming heavy industrial uses in the area. The best candidate for potential impacts will be the nearby Clover Dell subdivision. Due to the fact that they have already been using this expand area for some months now and it has not generated any complaints or concerns from the neighboring property owners or residents, appears to be evidence that this expansion has not adversely affected the surrounding properties.

That the proposed expansion, alteration or change will make the building structure, or site more compatible with the surroundings and existing zoning: As before the extension of slatted fencing along 1500 South to screen the yard definitely contributes to make the proposed expansion more compatible. Obviously, better surfacing for the truck yard is needed to prevent tracking of material on to the road and dust issues. This can either be accomplished by providing a better layer and installation of asphalt wrap or installation of more traditional asphalt or concrete

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surface. The removal of the junk pipe will also contribute to making the site more compatible; however, any consideration of approval of this request should include no use of the vacant refinery property being used in a manner inconsistent with the I-1 zoning, namely parking or storing of vehicles or materials within that fenced area.

That the site of the proposed expansion, alteration or change of use conforms to all site development requirements as physically possible, given existing site limitations; Of course, a proper asphalt surface in addition to the assuring that the expanded area is designed in a way to properly handle storm water run-off will make this site more compatible with the zoning and its surroundings.

That the proposed expansion, alteration or change does not create new non-conformities: There doesn't appear to be any obvious new nonconformities that would be created by expanding the parking area to the east or permitting two large Tuff Shed storage buildings on the site."

After the review by Mr. Stephens, Mr. Matt Godfrey appeared before the Commission. He said he felt that he could address what Maverik is doing to try to follow what has been outlined in the zoning ordinance.

He addressed the four criteria as follows:

In regards to item 1, Mr. Godfrey stated they are not changing the use. In regards to item 2 he said Maverik is planning on cleaning up the junk around the property and it is highly unlikely that the property east of the expansion would be sold. In regards to item 3 he said he believes it does and will work with the recommendations from staff of how to surface where the expansion is. And in regards to item 4 if they could talk to the operations department for Maverik they could find out how many trucks would be coming and going from the property and let the Planning Commission and City Council know what that number would be and what is known about further expansion in the future. Mr. Godfrey said Maverik plans on cleaning up the property and wants to protect the neighborhood with a berm and want to shelter the property from the neighbors by using the trees that are located on the property to be a barrier from the neighborhood. He also said the main reason for expanding is for ease for the trucks to maneuver within the site.

The Commission had a discussion about the expansion and expressed concerns over Maverik potentially expanding even further east and bringing in more truck traffic to the area. There was also concern over debris and mud being tracked onto city streets which will have an impact on the area. They also discussed if there might be a better use for the property further east of the expansion and if Maverik might sell the east property so it could be developed in the future. It was also noted this property had been a location in the past for a refinery and that also might have an impact on what the use of the property might be. The Commission also discussed with Mr. Godfrey some of the options for surfacing the expanded area to bring it closer to conformity and to help mitigate the mud and dirt being tracked into the streets. It was also noted that storm water collection issues will need to be addressed. It was also noted that environmental issues would need to be addressed regarding the property where the expansion is taking place.

The Commission then discussed if they were comfortable with the concept as it has been presented. Commissioner Page said he felt like number one listed on the criteria was met but it was questionable to him whether the others were met especially if they are going to be adding more trucks to their expanding business. He said he was not completely opposed but was leery about how far east this expansion might take place.

After discussing this issues and expressing their concerns about this expansion, it was noted the majority of the Commission felt that the four criteria had been met as best it could be from Maverik and they are trying to improve the property with the expansion. Commissioner Sharp then made a motion to forward the Planning Commission's recommendation to approve the Maverik Tanker Truck Parking Expansion with the concerns as expressed above. Commissioner Bassarear seconded the motion and all voted for the motion except Commissioner Page who voted nay. The motion carried with a vote of 6-1.

GENERAL AND PENDING

Mr. Stephens then noted there may be an interested developer looking at developing the property north of the Hampton Inn and would be coming in to present a proposal to the Commission in the future.

Mr. Stephens also updated the Commission on some of the proposed projects that were being considered for the redevelopment area around the old K-Mart site.

ADJOURNMENT

There being no further business before the Commission, Commissioner Bradford made a motion to adjourn the meeting at 7:44 P.M.

Leo Beecher, Chairman

Bonnie S. Craig, Secretary