

PAYSON CITY  
PLANNING COMMISSION MEETING  
Payson City Center, 439 W Utah Avenue, Payson UT 84651  
Wednesday, September 28, 2016 7:00 p.m.

CONDUCTING Blair Warner, Vice-Chair

COMMISSIONERS Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols

COMMISSIONERS EXCUSED John Cowan, Kirk Beecher

STAFF Jill Spencer, City Planner  
Kyle Deans, Planning & Zoning Specialist

CITY COUNCIL Mike Hardy

OTHERS None

1. Call to Order

This meeting of the Planning Commission of Payson City, Utah, having been properly noticed, was called to order at 7:03 p.m.

2. Roll Call

Five commissioners present. Commissioners Cowan and Beecher are excused.

3. Invocation/Inspirational Thought

Invocation given by Commissioner Nichols.

4. Consent Agenda

4.1 Approval of minutes for the regular meeting of September 14, 2016

**MOTION by Commissioner Nichols to approve the minutes from September 14, 2016 as presented.** Motion seconded by Commissioner Hiatt. Those voting yes: Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols. The motion carried.

5. Public Forum

No public comments.

6. Review Items

6.1 PUBLIC HEARING – Request for preliminary and final approval of the Nielsen Estates Subdivision on Utah County Parcel #29-023-0009 located at 2194 West 1470 South in Payson. The subdivision consists of two (2) residential lots in the A-5-H, Annexation Holding Zone. (7:06 p.m.)

**MOTION by Commissioner Frisby to open the public hearing.** Motion seconded by Commissioner Billings. Those voting yes: Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols. The motion carried.

Staff Presentation:

Planner Kyle Deans explained that staff received a response from courtesy notice that was mailed to the surrounding property owners. The property owner south of the proposed subdivision (Lynn H & Cynthia R Tanner) has submitted a letter indicating concerns with the proposed subdivision.

Email received by Kyle Deans on September 26, 2016

Kyle,

Per our conversation this morning, see below for two issues we noted based on the information we have received up to this point. Given the short notice, we have not had proper time to perform appropriate diligence and seek the advice of legal counsel. I would ask your office to please provide me with all the relevant documents pertaining to the proposed sub-division, including a **copy of the staff report** provided to the Planning Commission.

Our initial concerns are as follows:

**Southern boundary** – The attached survey, provided to us by the surveyor in July of 2016, differs materially from the survey that was provided to the City. The survey provided to the City, and included in the Notice, does not accurately describe the southern boundary as outlined in both of the adjoining property deeds. It also omits the “Surveyors Notes,” provided in the initial survey, which state that “the tie to the section corner...is approximately 17 feet too far...” Further, the Boundary Description provided to the City makes references to several Boundary Agreements, none of which have been agreed upon by the owners of the Tanner Property adjoining on the Southern boundary. The attached, unexecuted, Proposed Boundary Agreement was provided by the surveyor in July of 2016 and at the time, the owners of the Tanner Property stated that they would not be able to agree to the Boundary Agreement, as contemplated, until further diligence could be performed on the proposal. Without a Boundary Agreement in place with the owners of the Tanner Property and with material differences that remain in the Surveyor’s Reports provided the City versus what was provided to the Owners of the Tanner Property, the southern boundary of the proposed subdivision is under dispute and cannot be considered for subdivision until resolved between the adjoining land owners. The City of Payson does not have jurisdiction to resolve property line disputes during the subdivision review process. As of the date of this email, the owners of the Nielson Property have not made contact with the owners of the Tanner Property in order to resolve the boundary issue and

therefore the current proposal to be reviewed by the Planning Commission is inaccurate and incomplete.

**Access** – Lot #1 of the proposed subdivision requires access along a private driveway that is listed erroneously as 1470 South Street in the proposed subdivision. The access listed as a “street” is in fact a private driveway that is completely encompassed on the Tanner Property to the South. There is no record on the Tanner Property deed of a road dedication from the county and/or City for the “street” listed as 1470 South Street or any iteration of “road” or “access” or any prior street name provided by the County and/or City. Additionally, there is no easement requirement from the Tanner Property to the current residence of the Nielsen Property. The occupant has used the Tanner Property private driveway for access instead of the actual access provided in the Nielsen Property deed which is granted off of 1450 West Street. As a result, under the subdivision proposal as currently contemplated, Lot #1, does not have access, and therefore cannot be subdivided under the current plans.

Once we receive the relevant documents pertaining to the proposed sub-division, including a copy of the staff report, we may revert with additional concerns for the record in advance of the Planning Commission meeting scheduled for Wednesday, September 28, 2016. Additionally, pending review from our legal counsel, we may revert with further concerns and inquires that may arise beyond the date of the scheduled planning commission meeting.

Best,  
Lynn Tanner

Planner Deans stated that due to the two (2) issues brought to our attention by the adjacent property owner, staff is prepared a new staff report with a recommendation to remand the proposed subdivision back to staff until these issues have been properly addressed.

Vice-Chair Warner stated that the Planning Commission can close the public hearing and remand the item back to staff or continue the public hearing at a subsequent meeting.

Commissioner Nichols asked for clarification in who is concerned with the access for the proposed subdivision.

Planner Deans explained that the letter was received from Lynn Tanner, owner of the property immediately south of the proposed subdivision. Mr. Tanner is suggesting that there is an access dispute for the parcel proposed to be subdivided.

Commissioner Hiatt commented that the mother (Tanner) recently passed away and the children own the property now. She explained a similar experience she has with access to her property. She shares the driveway with another property owner and access to the site had to be addressed before she secured a loan on the property. She is familiar with the property in question and she stated that

the access to the existing home has always been accessed from 1470 South, not from 1950 West as suggested by Mr. Tanner.

Discussion was held regarding the historical access to the subject parcel as recalled by Commissioner Hiatt who owns property in the area.

Planner Deans explained that he has reached out to Utah County for information regarding the road classification of 1470 South prior to annexation and they are researching the request. He doesn't feel comfortable with processing the subdivision without the access being resolved.

Commissioner Frisby asked if the subdivision can be approved on a road that does not meet the minimum requirements of the city.

Planner Deans explained the ordinance requires frontage on a public street, or private street approved by the City Council. If the access is a private driveway it will not satisfy the ordinance requirement for frontage.

Commissioner Billings asked for clarification regarding the proposed use of the vacant lot.

Planner Deans explained that the applicant is proposing to use the vacant lot for agricultural purposes at this time, but would be eligible to build a single family dwelling on the site.

Commissioner Billings asked for clarification regarding the disputed access. He wondered if the dispute is for 1950 West or 1470 South.

Planner Deans stated that Mr. Tanner believes that 1470 South is a private driveway on his property, not a public road. He further explained that the initial response he received from Utah County is that 1470 South is a development road with a 56-foot right-of-way.

Commissioner Frisby stated the designation of 1470 South suggests the access was approved as a road at some point in time.

Vice-Chair Warner recited the options regarding the motion and explained that the public hearing can be closed at this time or the Planning Commission could choose to continue the public hearing to allow additional public input at the next meeting.

Commissioner Billings asked if the public hearing would need to be noticed again.

City Planner Spencer explained that by conducting the public hearing tonight, the public hearing requirements of City ordinance and State Code have been satisfied. The Planning Commission could direct staff to publish another notice and mail courtesy notices to the surrounding property owners if additional comment would be helpful in making a decision on the request.

Planner Deans explained that the applicant (Nielsen) chose not to attend tonight's meeting because he was notified of the concerns raised by the adjacent property owner (Tanner) and that staff would recommend that the item be remanded. He stated that Mr. Tanner was not in attendance because he lives in California.

Commissioner Frisby suggested closing the public hearing because we are unsure when the access issue will be resolved. He would also like to see additional notice before this item is placed on a future agenda.

**MOTION by Commissioner Frisby to close the public hearing.** Motion seconded by Commissioner Nichols. Those voting yes: Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols. The motion carried.

**MOTION by Commissioner Frisby – Based on the information provided and the issues recently brought to our attention regarding access, I move to remand the proposed subdivision back to staff until the unresolved issues have been addressed and that another public hearing be noticed.** Motion seconded by Commissioner Hiatt. Those voting yes: Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols. The motion carried.

7. Presentation regarding ideas for possible development patterns on the west side of Payson. (7:22 p.m.)

City Councilmember Mike Hardy introduced the presentation item. He explained that the West Side Vision Plan was presented to the Planning Commission and City Council back in 2009. Recently, he suggested to staff that the presentation be shared with the current Planning Commission now that the City Council has annexed parcels in the West Mountain area and there has been some interest in development in the newly annexed areas. He is interested in hearing comments and ideas regarding the West Side Vision Plan from the Planning Commission.

Planner Deans presented the vision and concepts included in the West Side Vision Plan prepared and discussed with the Planning Commission and City Council in 2009. He explained the Vision Plan is very general in nature and does not contemplate specific land use plans such as those prepared for the Bamberger Ranch or the South Meadows planning area. The plan is not set in stone and it has not been adopted by the City Council.

#### West Side Vision

- Boundaries:
  - Includes approximately 13.5 square miles between 8000 South (county) and 800 South (Payson), and between Interstate 15 to 6000 West (county) in West Mountain area
  - The 3.98 square miles between 800 South (Payson) and 12400 South (county) and between Interstate 15 to West Mountain is not included in plan
- Planner Deans explained each land use category placed on the Vision Plan map, including:
  - A – Agricultural preservation
  - B – Conservation subdivision
  - C – ½ to 1 acre residential
  - D – 1-5 acre residential ranchettes
  - E – Mixed Use (retail, residential, office)
  - F – Neighborhood commercial (small retail)

- S3 – Retail, office, residential multi-family
- Development Patterns:
  - What type of development pattern do we want?
    - Traditional post war development pattern?
      - Goal – Maximize buildable space designed around the car; OR
    - Development patterns to preserve the character of Payson?
      - Goal – Maximize open space, and maximize livability
  - What type of development pattern will be needed?
    - It is anticipated that housing affordability is going to be the number one issue facing land planning and housing over the next decade if nothing is changed in the way land developments are designed and approved in the future. *Source: Stephen G. McCutchen “How the recession will change land planning and housing in Utah”*
- City Grid
  - Creates more walkable neighborhoods
  - Allows for a variety of densities
  - Combines a variety of uses
  - Allows for greater connectivity
  - Alternative traffic flow options (if necessary)
  - Less vehicle dependence, more environmentally friendly
- Conservation Subdivisions
  - Provide the solution for those who are not in a financial position to preserve their land using traditional methods. Landowners can receive full equity while retaining up to 75% of their land's unique features and still allow the same number of homes to be built on the property. *Source: landchoices.org*
  - Majority of Land Preserved - Conservation subdivisions (conservation development) preserve \*50% - 70% or more of the buildable land, in addition to unbuildable wetlands, steep slopes and floodplains.
- Typical Suburban vs. Conservation
  - Planner Deans presented images to demonstrate how two subdivisions with the same acreage and number of dwellings can be completely different using a traditional layout vs. conservation measures.
- Conservation and Clustering are not the same
- Conservation Tools to Augment the Conservation Style Development Process
  - Conservation easements
  - Conservancy lots
  - Transfer of development rights (TDR)
  - Purchase of development rights (PDR)
  - Density bonus program
  - Endowments
  - Traditional neighborhood development (TND)
  - Landowners’ compact
  - Limited development
- Transfer of Development Rights (TDR)
  - TDR programs permit a landowner to separate and sell the right to develop to a third party (i.e. transfer this right to another)
  - Realize economic value of land (often viewed as a landowner’s 401K...)

- Allow land to be assessed at a lower tax rate, decreasing property and inheritance taxes on the land
- Maintain current use of land
- Purchaser is usually a developer
- Two Utah cities have TDR ordinances: Mapleton and West Valley City
- How the TDR Program Works
  - TDR programs permit a city to guide development and conservation by identifying *sending* and *receiving* areas
  - Potential sending sites
    - Wetlands
    - Benches and hillsides
    - Agricultural areas
    - Parks and trails
  - Potential receiving sites
    - 5600 West & 8000 South
    - 5600 West & 9600 South
    - S-3
    - Historic Downtown Payson
    - Transit oriented development area (TOD)

The discussion focused on the following topics:

- Master planning in growth areas of Payson and how we can maximize opportunities to accommodate a wide range of housing products for a variety of incomes that will be supported by city leaders, staff, landowners, developers, and existing and future residents of Payson.
- Economic development cycle and the need for additional residential growth to accommodate new commercial businesses. The Commission discussed the population of Payson and surrounding communities and demographic criteria considered by businesses (i.e. retail, office) when identifying new commercial sites.
- Transfer of Development Rights (TDR) and the benefits and opportunities that could be realized with the use of this planning tool. Staff and the members of the Planning Commission discussed the paradigm shift in property ownership, preferred development patterns, lot sizes, and housing product. Many individuals in the market prefer to rent, not own, and would like to maintain a much smaller footprint. As the market continues to change, it is imperative for city leaders and staff to understand the changes in development priorities of the future residents of Payson.

#### 8. Commission and Staff Reports (8:23 p.m.)

City Planner Spencer referred to an email she sent to the Planning Commission and City Council with information about pending applications and projects under construction and asked if anyone had any questions. No feedback was offered.

Commissioner Nichols commented that there is construction equipment on the Farr's Ice Cream site.

Planner Deans mentioned that staff is still working with the applicant to address the conditions associated with Site Plan review and the applicant has not yet received approval of the Conditional Use Permit from the City Council.

9. Adjournment

**MOTION by Commissioner Nichols to adjourn the meeting.** Motion seconded by Commissioner Frisby. Those voting yes: Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols. The motion carried.

The meeting adjourned at 8:32 p.m.

/s/ Jill K. Spencer  
Jill K. Spencer, Payson City Planner