

**PAYSON CITY PLANNING COMMISSION  
MEETING MINUTES  
January 27, 2016**

**REGULAR SESSION – CITY COUNCIL CHAMBERS**

**CALL TO ORDER:** 7:02 p.m.

**ROLL CALL:** Chairman John Cowan; Commissioners Kirk Beecher, Blair Warner, Ryan Frisby, Harold Nichols, and Adam Billings; City Councilmember Linda Carter; City Planner Jill Spencer; and Planner Kyle Deans

**INVOCATION:** Commissioner Billings

**CONSENT AGENDA:**

- Approval of minutes for the regular meeting of December 9, 2015
- Resolution: Establishing the dates and time for the regular Planning Commission meetings in 2016

**MOTION** by Commissioner Beecher to approve the consent agenda and approval of minutes. Seconded by Commissioner Frisby. All voting in favor. Motion carried.

**PUBLIC FORUM:**

No public input.

**PUBLIC HEARING – Review and recommendation regarding a request for a conditional use permit for an assisted living facility on Utah County Parcel #41:712:0099 located at approximately 1200 South Turf Farm Road in the South Meadows Planning Area.**

Public hearing opened at 7:08 pm.

Planner Spencer presented information from the following staff report:

**BACKGROUND**

The applicant is seeking a recommendation of approval from the Planning Commission and approval from the City Council to construct and maintain a 65 bed Type II Assisted Living Facility known as the Heritage Village Assisted Living Center. A Type II Assisted Living Facility provides care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who need any of these services. As indicated in the applicant's written request, the facility will benefit the senior population in south Utah County and the location could enhance the quality of life of the seniors living in the adjacent Heritage Village active adult community by providing services for spouses that may need additional care. The proposed use (assisted living facility) is consistent with the land uses (senior housing) identified on the land use plan included in the South Meadows Area Specific Plan approved by the City Council on January 20, 2016.

The parcel is currently zoned S-1, Special Highway Service. Assisted living facilities and other residential facilities for persons with a disability are not allowed in the S-1 Zone; therefore, the applicant is also requesting approval of a zone change to the PO-1, Professional Office Zone which allows assisted living facilities as a conditional use. The zone change request was considered by the Planning Commission on September 10, 2014 and a recommendation was forwarded to the City Council (meeting minutes attached hereto). The City Council considered the zone change request on October 1, 2014; however, the City Council tabled the item at the request of the applicant, Byron Bastian. The zone change application will be reconsidered by the City Council concurrent with the conditional use permit request. A conditional use permit for the proposed assisted living facility cannot be granted unless the zone change request is approved by the City Council.

Anticipating approval of the zone change, the applicant is requesting approval of a conditional use permit to construct and operate an assisted living facility. As with any proposed conditional use, it is the applicant's responsibility to demonstrate to the Planning Commission and City Council that any potential negative impacts of the proposed use will be mitigated. To that end, the Planning Commission and City Council may impose reasonable conditions to ensure negative impacts are eliminated or mitigated to the extent possible.

It should be noted that the conditional use application does not include complete project drawings and engineering to address site construction requirements. The site plan included in the application is a conceptual layout and may not be consistent with the regulations of the development ordinances. If a conditional use permit is granted by the City Council, additional approvals and permits are required to ensure the site will be improved consistent with the regulations of the Payson City development ordinances. The applicant will be required to obtain Site Plan approval in accordance with Chapter 19.8 of the Payson City Zoning Ordinance and the site plan must be consistent with the development ordinances and the South Meadows Area Specific Plan.

## ANALYSIS

A *conditional use* is a land use that, because of its unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. In accordance with Utah Code, the conditions imposed by the City Council must be based on criteria established in the Zoning Ordinance. In this instance, those criteria are found in Chapter 19.13, Conditional Use Permits and Section 19.23.6, Special Needs Housing of the Payson City Zoning Ordinance.

In order to obtain a conditional use permit, the applicant will need to appear before both the Planning Commission and the City Council to discuss the proposed conditional use permit. Although the Planning Commission is not required to hold a public hearing, a recommendation from the Planning Commission is required before the City Council makes a final decision on the request. A public hearing will be conducted prior to the final decision of the City Council. Proper notice of the hearing will be provided before the public hearing, including courtesy notice mailings to the surrounding property owners.

Uses designated as conditional uses require special consideration from the Planning Commission and City Council. These uses may or may not be appropriate in particular locations or without the

imposition of certain conditions. The Planning Commission and the City Council must evaluate the proposed assisted living facility and determine if the use is compatible with, or may result in negative impacts on, the surrounding existing and future uses. In accordance with Chapter 19.13 of the Zoning Ordinance the Planning Commission and City Council should impose any necessary conditions to ensure the project will adhere to the following criteria:

1. Harmony of the request with the general objectives of the General Plan, Zoning Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.
3. Development or lack of development adjacent to the site.
4. Whether or not the request may be injurious to potential development in the vicinity.
5. Present and future requirements for transportation, traffic, water, sewer, and other utilities.
6. Suitability of the specific property for the proposed use.
7. Number of other similar conditional uses in the area and the public need for the conditional use.
8. Economic impact on the neighborhood.
9. Aesthetic impact on the neighborhood.
10. Safeguards to prevent noxious or offensive emissions such as noise, glare, dust, pollutants and odor.
11. Attempts by the applicant to minimize other adverse effects on people and property in the area.
12. Impact of the proposed use on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area.

*Criterion 1* indicates that the City Council should review the proposed conditional use with regard to the use being in harmony with the general objectives of the General Plan, Zoning Ordinance and Subdivision Ordinance. Staff would suggest that the use is consistent with the intention of the PO-1, Professional Office Zone and the General Plan for this area. However, the applicant will need to satisfy the requirements of Chapter 19.8 in order to be in compliance with the regulations of the Zoning Ordinance. In relation to Criterion 1, staff would suggest that the Planning Commission recommend mitigating conditions including:

1. Approval of the zone change from the S-1, Special Highway Service Zone to the PO-1, Professional Office Zone must be obtained by the City Council. If the zone change is not approved, the conditional use request must be denied because the proposal would result in violation of the Zoning Ordinance.
2. The applicant shall satisfy the requirements of the development ordinances of Payson City, particularly Chapter 19.8, Site Plans of the Payson City Zoning Ordinance. Furthermore, the parcel is included in the South Meadows Planning Area and the provisions of the South Meadows Area Specific Plan will need to be satisfied.
3. The applicant will need to obtain a business license and any other permit required to operate this type of business in Payson City. It should be noted that operation of an assisted living facility may require approvals and/or permits from other government agencies. It is the responsibility of the applicant to obtain and maintain all necessary licenses and permits.
4. Following approval of the conditional use permit and site plan approval, the applicant must obtain a building permit for the construction of the facility. The building plans must comply with the adopted building and fire codes and required inspections completed by the Payson City Building

Inspector and the Payson City Fire Chief. A Certificate of Occupancy must be obtained prior to occupying the structure.

*Criterion 2* addresses the harmony of the request with existing uses in the neighborhood. Staff would suggest that although the use is consistent with the provisions of the Zoning Ordinance, there are residential uses in the vicinity. In relation to Criterion 2, staff would suggest that the Planning Commission recommend mitigating conditions including:

1. All site and security lighting shall be directional lighting that provides adequate lighting while minimizing light pollution onto adjacent properties.
2. There are agricultural uses in the immediate vicinity of the proposed assisted living facility. The applicant will need to accommodate all existing agricultural uses including, but not limited to:
  - a. Any irrigation facility that traverses the project site must be retained in its current location, moved to a location approved by the irrigation company or piped in a location approved by the irrigation facility.
  - b. Dust, noise, odors and hours of operation of agricultural uses may not be compatible with the anticipated uses of the applicant. It is the responsibility of the applicant to explore the impacts of the agricultural uses and design the site to minimize the conflict between these to potential incompatible uses.

*Criterion 3* requires the City Council to consider development or lack of development adjacent to the site. The reason this is important is because any parcel improvements should expand the ability of the City to provide municipal services and should not impede, in any way, the ability of the City to provide services or adjacent properties to develop. In relation to Criterion 3, staff would suggest that the Planning Commission recommend mitigating conditions including:

1. All site improvements including the extension of infrastructure to the farthest property line, curb, gutter, sidewalk, and asphalt tie-in, and any other improvements required by the development ordinances of Payson City and shall be completed prior to the issuance of a building permit in the project.
2. Development of the property will need to be consistent with the provisions of the Annexation Agreement for the Winegar Annexation, the Development Agreement for the Heritage Village Subdivision, and comply with the provisions of the South Meadows Area Specific Plan.

*Criterion 4* asks the question of whether or not the request may be injurious to potential development in the vicinity. Staff would suggest that the conditions proposed for Criterion 3 will address the concerns raised by this Criterion as well. If the site is properly developed, staff would suggest that surrounding properties will benefit in terms of potential development because the infrastructure in the area will be expanded and the roadways will be improved from their current condition.

*Criterion 5* addresses the concerns surrounding present and future requirements for transportation, traffic, water, sewer, and other utilities. Proper development of the site will likely improve the infrastructure and circulation pattern in this area. While the condition associated with criterion 3 will adequately address these concerns, staff would like to reiterate the need to extend the infrastructure to the farthest extents of the project site and complete the necessary roadway improvements.

*Criterion 6* allows the City Council to discuss the suitability of the specific property for the proposed use. The proposed use (assisted living facility) is consistent with the land use plan included in the South Meadows Area Specific Plan. The proposed zoning designation of PO-1, Professional Office is appropriate for the anticipated use, provided the applicant satisfies the conditions imposed by the City Council to mitigate the any potential negative impacts.

*Criterion 7* addresses the number of other similar uses in the area and the public need for the conditional use. To date, there are only three (3) assisted living facilities in Payson. The applicant has indicated that these facilities are full or nearing capacity; therefore, a public need exists. The City Council has identified this area as an appropriate area for senior housing. As our population continues to age, staff would suggest that these facilities and other senior housing units will be necessary.

*Criterion 8* addresses the economic impact on the neighborhood. The Design Guidelines adopted by the City Council will ensure that the structure is attractive, well designed and includes appropriate landscaping. The applicant has provided elevations of the building for consideration by the Planning Commission and City Council; however, building design and project landscaping will be reviewed during the Site Plan process to ensure compliance with adopted regulations. Additionally, added traffic and non-residential uses may impact the adjacent residential uses if the property is not properly developed. Therefore, the applicant must be willing to satisfy the conditions imposed by the City Council to mitigate impact on the surrounding properties.

*Criterion 9* explores the aesthetic impact on the neighborhood. As stated above, if approved, the structure could have a positive effect on the built environment in this area. Although the building is large, the architectural features and design increase the compatibility with surrounding uses. The applicant has designed the structure to include residential attributes.

*Criterion 10* allows the City Council to include safeguards to prevent noxious or offensive emissions such as noise, glare, dust, pollutants and odor. There are no anticipated emissions from the project except during the construction period. In order to address this concern, staff would suggest the following conditions:

1. The applicant shall keep the project site clean and free of debris and waste at all times. Furthermore, the applicant shall appropriately water the site during the construction process to keep dust at a minimum.
2. The applicant shall observe the quiet periods of Payson City ordinance by only allowing construction activities between the hours of 7:00 a.m. and 9:00 p.m.

*Criterion 11* requires the applicant to indicate attempts to minimize other adverse effects on people and property in the area. The inconvenience of the construction process can be decreased with proper notification to surrounding property owners. Therefore, staff would propose the following condition in relation to Criterion 11:

1. The applicant shall notify the adjacent property owners of any anticipated road closures, utility disruptions, large material deliveries and similar inconveniences at least twenty-four (24) hours in advance of any such activity.

*Criterion 12* addresses the impact on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area. Staff is confident that if the conditions proposed above and those imposed in accordance with Chapter 19.8 and Section 19.23.6 of the Zoning Ordinance are appropriately addressed, the applicant will minimize the potential negative impacts on surrounding property owners.

In addition to the criteria listed in Chapter 19.13 of the Payson City Zoning Ordinance, the City Council has adopted criteria specific to retirement centers which are defined to include assisted living centers, convalescent centers, nursing homes or rest homes and skilled nursing facilities in Section 19.23.6 of the Zoning Ordinance. Following a review of these criteria, staff would suggest that the applicant address the following:

1. The allowable uses in an assisted living facility are limited to the following:
  - a. Lodging accommodations for residents, supervisory, security and counseling staff
  - b. Areas for preparation and serving of meals
  - c. Areas to satisfy the recreational needs of the residents
  - d. Office space for supervisory, security and counseling staff
  - e. Medical and therapy equipment, supplies and facilities consistent with the licensure of the applicant
2. The assisted living facility shall satisfy the density provisions of the Zoning Ordinance which is calculated by multiplying twenty (20) beds by the number of acres in the project.
3. The applicant shall provide information about the utility service demands of the facility to the City Engineer for review. If it is determined that the facility will place inordinate demand on public infrastructure, the applicant will be required to upgrade the infrastructure to mitigate the impact and restore the service level consistent with the underlying zone.

#### *Site Plan Considerations*

Beyond the regulations associated with the issuance of a conditional use permit, the applicant will be required to address the typical site planning requirements and any specific requirements of the underlying zoning district. Following approval of the conditional use permit, the applicant will be required to submit a complete Site Plan application in accordance with Chapter 19.8 of the Payson City Zoning Ordinance for review and approval by staff.

These items represent the issues staff has identified following a review of the applicable ordinances and resolutions of Payson City and the Conditional Use Criteria established in Chapter 19.13 of the Zoning Ordinance. If the items above are satisfied, staff would suggest that the proposed use (assisted living facility) would be appropriate in this location. Furthermore, if the provisions of Chapter 19.8 are properly addressed by the applicant, the site will be improved in a manner consistent with the regulations of Payson City. The validity of a conditional use permit is conditioned upon strict compliance with the conditions or requirements imposed upon the application by the City Council. The City Council shall be the final authority for all applications for conditional use permits.

#### RECOMMENDATION

Staff has reviewed the request for approval of a conditional use permit to allow an assisted living facility known as the Heritage Village Assisted Living Center in the PO-1, Professional Office Zone.

The Planning Commission will need to determine if the proposed use is appropriate and what conditions should be imposed to mitigate any potential negative impacts. The Planning Commission may:

1. Remand the application for the proposed conditional use permit back to staff for further review. This action should be taken by the Planning Commission if it is determined that there is not enough information provided by the applicant in order for the Planning Commission to make a well-informed decision.
2. Recommend approval of the conditional use permit as proposed. If the Planning Commission chooses to recommend approval of the conditional use as proposed and the City Council chooses to follow the recommendation of the Planning Commission, staff would suggest that an opportunity to require the applicant to satisfy the requirements of the development ordinances of Payson City and mitigate any potential negative impacts will be missed.
3. Recommend approval of the conditional use permit with the conditions proposed by staff or more or fewer conditions. Staff would suggest that with the satisfaction of appropriate conditions, the requirements of the development ordinances of Payson City can be satisfied and proper development of the property will occur.
4. Recommend denial the proposed conditional use permit. This action should be taken if the Planning Commission determines that the adverse impacts of the proposed conditional use cannot be mitigated by the applicant.

Any recommendation of the Planning Commission should include findings that indicate reasonable conclusions for their recommendation to the City Council in relation to the request for approval of a conditional use permit.

Planner Spencer described the location at the intersection of 1130 S and Turf Farm Road. The project is in the boundaries of the South Meadows Plan. It is currently zoned S-1, and would need to be changed to residential or professional office. She explained that the Commission isn't required to forward a recommendation to council regarding the zone change as that occurred in 2014.

Planner Spencer gave a brief overview of the South Meadows Plan and that this parcel is designated as Senior Housing on the plan.

Planner Spencer explained the current condition of the site, it is unimproved, no utilities, no road completion and the dry creek trail currently ends at the site.

Planner Spencer showed pictures of the current lot.

She explained that the applicant has not applied for site plan approval at this time. The applicant wants to know of approval of the conditional use permit prior to getting the entire site plan completed.

Planner Spencer showed the conceptual layout of the parcel and initial elevations.

The applicant will need to obtain approval of three land use applications to improve the property as proposed. The first is a zone change, which is pending, and will remain pending until the conditional use is approved and will be forwarded at the same time as zoning to City Council. The second is the

request for a conditional use permit for the proposed use (assisted living facility). The third is site plan approval which will be reviewed and approved by staff.

Planner Spencer stated that the conditional use considerations will take into account the effect on the surrounding area. The Planning Commission and City Council can require site plan specific issues.

Planner Spencer explained the proposed conditions for the conditional use permit.

The applicant, Chris Hermansen stated that they updated the site plan and distributed to commissioners, it includes trails, ponds. They aren't using the maximum amount of beds per acre, but the facility could be expanded later. They are working hand in hand with the 55+ community and using the existing facilities at Heritage Village.

Commissioner Beecher asked if the applicant has other facilities.

Mr. Hermansen stated that he is the owner of Elk Ridge Assisted Living. He has been involved in the industry for 18 years. They understand the growth that is coming from the Baby Boomers. They strive to keep people out of the hospital.

Commissioner Billings wanted to clarify that this isn't a hospice care development.

Mr. Hermansen explained that it is a Level 2 assisted living center. They don't compete with the nursing home type facilities.

Mr. Hermansen asked the commissioners if he needed to know the exact details of the South Meadows specific plan.

Commissioner Beecher explained that the plan indicates this parcel as senior housing.

Planner Spencer explained that the plan lays out the infrastructure and the roadways, and nothing really specific to senior housing.

Mr. Hermansen asked if we had an ordinance similar to Elk Ridge that a competing facility can't build within a half mile of this facility.

Planner Spencer explained that the entire 10½ acres on the specific plan indicates senior housing and explained that distance requirements are inconsistent with federal law.

Chairman Cowan asked about the condition of the crossing of the Dry Creek channel, and that it would most likely need to be improved or upgraded and who is responsible for those upgrades.

Planner Spencer explained that it was upgraded in the past, but probably can't accommodate the 5 lane crossing.

Discussion regarding the requirements of the road and the level of participation of the applicant.



Commissioner Frisby asked if the zone change before City Council is the R-1-12, Residential Zone as the PC originally recommended or the PO-1, Professional Office Zone.

Chairman invited the public to comment on the request.

Councilmember Carter asked if they would have kitchenettes and how many bedrooms.

Mr. Hermansen explained they would all have kitchens and they have options for single and double room units. They are competing with other facilities in the area and providing more square footage than their competitors in South Utah County. They have a total number of rooms around 65. He stated that most facilities offer an entry level a la carte, and each service is additional.

Commissioner Billings asked about how they would add more beds.

Mr. Hermansen stated that they would have to add another wing and explained that Legacy in Spanish Fork has 96 beds on 2 ½ acres and that Payson has the lowest number of allowed beds per acre at 20.

Commissioner Warner stated that the proposed facility sits on the northeast corner of the South Meadows plan and buffers Walmart and the neighborhood. His only concern is that the area south of there is targeted towards other housing options and he doesn't want the area to the south to lose the feel of the plan as it develops further south.

Commissioner Beecher wanted to clarify if Commissioner Warner was mostly concerned about it becoming more professional office. Commissioner Warner explained he is concerned that the spot zone of PO could possibly expand to the south.

Chairman Cowan expressed that with the temple they have a chance to make something really nice and they should include those thoughts in their recommendation.

Commissioner Beecher clarified that the entire 10.5 acres in the South Meadows Plan is designated as senior housing.

**MOTION** by Commissioner Nichols to recommend to City Council approval as proposed, with staff conditions and also recommend that the zone be changed to PO-1, Professional Office. Motion seconded by Commissioner Beecher. All voting in favor. Motion carried.

### **Discussion regarding the regulations for the RMO-A, Accessory Living Unit Overlay Zone**

Planner Deans reviewed the outline that was created from the initial Accessory living unit discussion and as detailed in the Planning Commission packet.

The planning commission liked the general requirements that had been discussed previously.

Discussion was held regarding square footage maximums and whether or not it is too limiting.

It was pointed out that it's not intended for long term housing but for short term transitional housing and that the square footage restriction will help to maintain that type of transition housing.

Planner Deans brought up the question regarding limiting it based on the zone or should it be based on meeting other criteria. This is brought up because there are properties in zones smaller than the R-1-9 that are larger lots and could easily accommodate all the requirements that are laid out in the outline.

After discussion it was decided that the zone requirement should be removed and that the other requirements should guide the approval or denial of an Accessory Dwelling Unit.

### **Commission and Staff Reports**

Planner Spencer passed out the Mountainland Transportation Plan 2040 plan for the Commissioners to look at and study when they have an opportunity. It provides good transportation plans for the future.

UDOT will be giving an update to City Council next meeting, February 3<sup>rd</sup> on the North Main Street Interchange project.

She explained that they had a kick off meeting for Tour of Utah today and they are looking for people to help.

**MOTION** by Commissioner Beecher to adjourn.

Meeting adjourned at 8:25 p.m.