

PAYSON CITY
PLANNING COMMISSION MEETING
Payson City Center, 439 W Utah Avenue, Payson UT 84651
Wednesday, March 22, 2017 7:00 p.m.

CONDUCTING Blair Warner, Vice Chair

COMMISSIONERS Kirk Beecher, Adam Billings (7:26 p.m.), Ryan Frisby, Taresa Hiatt

COMMISSIONERS EXCUSED John Cowan, Harold Nichols

STAFF Jill Spencer, City Planner
Kyle Deans, Planning/Zoning Specialist
Kim Holindrake, Deputy Recorder

OTHERS Nedra Call, Darrick Whipple – Strawberry High Line Canal,
Leonard Ellis

1. Call to Order

This meeting of the Planning Commission of Payson City, Utah, having been properly noticed, was called to order at 7:00 p.m.

2. Roll Call

Four commissioners present.

3. Invocation/Inspirational Thought

Invocation given by Commissioner Beecher.

4. Consent Agenda

4.1 Approval of minutes for the regular meeting of March 8, 2017

MOTION: Commissioner Beecher – To approve the minutes from March 8, 2017. Motion seconded by Commissioner Frisby. Those voting yes: Kirk Beecher, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

5. Public Forum

No public comment.

6. Review Items

6.1 PUBLIC HEARING – Request for use of the RMO-1 Overlay Zone located at approximately 500 North and 450 East to accommodate twin homes in the R-1-75, Residential Zone (7:04 p.m.)

Commissioner Warner stated the petitioner asked to have this item stricken. It will be re-noticed for a later date.

6.2 PUBLIC HEARING – Request for approval of an accessory living unit located at 1039 South 530 West in the R-1-9, Residential Zone

Commissioner Warner stated the petitioner was not able to attend. The public hearing will be opened and continued to April 12th.

MOTION: Commissioner Frisby – To open the public hearing for item 6.2 and continue it to the next meeting. Motion seconded by Commissioner Hiatt. Those voting yes: Kirk Beecher, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

6.3 PUBLIC HEARING – Request for a recommendation of approval of a zone change located at approximately 800 South and Goosenest Drive from the R-1-12, Residential Zone to the MH-2, Mountain Hillside Zone (7:06 p.m.)

MOTION: Commissioner Beecher – To open the public hearing on item 6.3. Motion seconded by Commissioner Hiatt. Those voting yes: Kirk Beecher, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

Staff Presentation:

Kyle Deans stated the applicant is requesting a zone change to the MH-2, Mountain Hillside Zone for four parcels. Three parcels are owned by the applicant, and one is owned by the applicant's son. There is one home located on the second lot from the north. The purpose of the zone change is to build one more home on the properties. The MH-2 Zone requires one-acre densities. The R-1-12 Zone requires the extension of all the utilities, but the recent amendment of the MH-2 Zone allows properties that are 1,000 feet away from utilities to be serviced with a septic tank and well in accordance with Utah county standards. All utilities are at least 1,400 feet away. The Strawberry High Line Canal borders the property on the west and Goosenest Drive on the east. A deferral agreement will be required with any new construction requiring connection to utilities when utilities are within 1,000 feet. He contacted the two properties to the north, but they were not interested in rezoning because there was no benefit.

Applicant Presentation:

Nedra Call stated the southern two lots will be combined into one lot. She will be deeding two parcels to her son who will eventually own all the properties.

Public Comment:

Darrick Whipple stated he doesn't have any opposition but has some concerns. He respectfully requested that the canal company be apprised of these types of developments because they increase the canal's liability. In the past they haven't really been notified or included in these decisions. Because of that there have been easement encroachments and structural integrity concerns. He would like more information on this project and future notifications on any development along the canal. A breach or small leak of the canal could flood a basement so these changes create a liability for the company. It is a legitimate request to be notified of these types of requests. He questioned what

would it take to be included in the notifications. It is a significant liability. He is not planning to protest everything along the canal. There are structural integrity issues that arise with new buildings along the canal. He feels a building permit would justify a notification. He clarified that some of the canal is fee title and some is easement

Jill Spencer stated notification is given when development occurs but not with a building permit. Notification is sent to all property owners within a certain distance but not those with easements. The applicant submits stamped addressed envelopes for everyone owning property within a certain distance according to the Utah county tax rolls.

Commissioner Beecher stated that when the United States acquires property is not always clearly identified as ownership. In fact, most of the United States property is not recorded unless it is forest service property. It's unfortunate. They chose not to record those documents.

Jill Spencer questioned if other cities such as Salem or Spanish Fork are giving notifications with building permits, that they have included this in their processes. by having that notification... all the information is available on the state website.

Darrick Whipple stated absolutely. He then stated he is working with both cities trying to get this to happen. To answer the question, no. They are not getting Salem to help them on this either. He understands the city is not purposely leaving them out, but wants to know they can be put in the process.

Jill Spencer stated that Mr. Whipple is sent the DRC meeting agenda every week so he is being notified. She mentioned that the State of Utah has the public noticing website where anyone can sign up and receive notifications for any public meetings.

Darrick Whipple replied that this isn't a large group. The third item Mr. Deans pointed out was the High Line Canal. It's not a small ditch; it was acknowledged. He understands he can get on those mailing lists, but he wants more than notification. He would like to be involved in the process.

Jill Spencer stated that there is responsibility on both sides. Staff posts all the materials, not just the agenda, to the state website. Then you have the staff report that identifies the location of the High Line Canal as well as the maps. The city is providing that information.

Darrick Whipple stated Ms. Spencer is missing the point. Notification is one thing and involvement is another. He doesn't feel they should have to catch it and come running to the meeting. It doesn't seem the city is working together as partners. There could be a box on the application asking if High Line Canal has been notified, reviewed, and okayed. He stated the Jay from the canal company attends the DRC meetings and maybe he should attend as well. There is enough tension in the valley; he's not here to insist or demand. He requested that the planning commission review the process and include the High Line Canal in the notifications.

Jill Spencer stated the staff is working together. This item was taken to DRC and Mr. Whipple received notification. She agreed, it's not just notification of a meeting. It is done through the Development Review Committee where discussions are held about subdivisions, site plans, zone changes, ordinance amendments, and anything that comes before the planning commission. The DRC

is where it needs to take place, before it comes before the planning commission for a recommendation and a decision. She feels staff is providing Mr. Whipple the necessary and needed notification. It is coming together at the DRC meeting. He mentioned that there are a lot of homes around the mountain that have been built on the easement. The High Line is contracted with the government. If the government wanted to put their foot down, they could cause a lot of trouble with those homes because the easement goes through their back yard. The easement was there long before the homes were and we know what that means. He doesn't want to go there. Working together now will help prevent that from happening. If it continues, he promises eventually the government will come in and enforce these easements from one end of the canal to the other. It won't be pleasant for anyone. He and his board are progressive and want to see Payson grow. Certain things need to happen and in a certain order.

Commissioner Warner stated that the place to start is at the DRC meeting.

Commissioner Beecher stated he checked the county site and this is one of those parcels that is not recorded for ownership. It would help if the united states would record the documents. Then they would be on the list without any problem. It is something we can do.

Nedra Call stated this does not affect her property. She has had it surveyed and is very aware of the property line.

Leonard Ellis stated he owns property contiguous to Nedra and doesn't have any objection to the zone change. He is concerned with the canal. The predecessor who owned the property north of him some decades ago tried to get a building permit but the canal requirements prohibited him from building. He would like to know the canal company's requirements. If the canal leaks, no one wants their basement flooded or to have anyone put in danger. To require a property owner to put in a retaining wall because the canal isn't concreted or encased seems to be the wrong remedy. He needs to understand what the canal's ownership is going to demand to build below it.

Darrick Whipple stated he would have to look into the specific situation. The canal was there before the homes. The home owners were aware the canal was there. There is some dual responsibility. They are working to pipe the canal at about \$120 million or lining it would be about half. He would throw it back in Mr. Ellis's court asking what he would suggest.

Leonard Ellis stated that if you want to control property, you need to own it. He saw his neighbors demands from the canal company and was blown away that the canal company would require all that infrastructure before a building permit would be issued. Property owners need to know what the canal company expects from them. They expect, as a property owner below of a hazardous area, that the canal company take care of the hazard. If you had a hazardous area next to you, you would expect them to take care of it.

Darrick Whipple asked that we look at it from his point of view. The canal was there already and then people come in and build. How come all of a sudden it is the canal company's responsibility to make sure that the canal is piped or lined. Before building, it was fine how it was. It's the encroachment that is causing the liability. In the spirit of working together, he doesn't know Mr. Ellis's situation. It happened before he was here. He would like to revisit the situation and see how they can work together. At the same time for Mr. Ellis's sake and everyone below, they have to protect the integrity

of the canal. When pointing the finger that “we” own the canal means most of the citizens of Payson with secondary water own water shares in the canal. It’s more appropriate to say us. They could pipe the canal now if they put it on the backs of the shareholders as an assessment. He doesn’t know if that is reasonable. It goes back to his concern of working together to come up with a solution that works for you and us. A lot of this is required by the government, which is beyond his control. Alan Christensen works for the Bureau of Reclamation and is in the lands department. He guesses that the requirements for the neighbor probably came from the Bureau of Reclamation. He would be happy to look into it.

MOTION: Commissioner Beecher – To close the public hearing on item 6.3. Motion seconded by Commissioner Frisby. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

Commission Discussion:

Commissioner Hiatt stated her concern has been the integrity of the canal. It was put in many years for the people who needed the water before any homes were built. They need to take care of the canal. But also if you want to build underneath it, you take the chance that you may destabilize it. The homeowner takes the chance it may wipe out their house. She agreed that the deeds need to be recorded for the canal. This would ensure notification. She suggested he go before the city council so they are aware of the situation. Moving the large rocks there could destabilize the canal. She sees both sides.

Commissioner Warner stated the discussion is really talking about a zoning change. The commission needs to decide whether the zone is appropriate or not. The time of a building permit will take care of those other issues.

Kyle Deans stated that by ordinance they could build in the R-1-12 Zone by taking the utilities to the property.

Commissioner Beecher stated he doesn’t see any issues with the zone change. It is valid to approve the zone change for the area because it meets the criteria of the hillside zone.

MOTION: Commissioner Beecher – To recommend to the city council that the zone change be approved for changing from the R-1-12 Residential Zone to the MH-2, Mountain Hillside Zone for these four parcels. Motion seconded by Commissioner Frisby. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

6.4 Review and decision regarding inactive land use applications (7:41 p.m.)

Staff Presentation:

Jill Spencer stated there have been several projects pending for quite a while with some going back to 2007. For termination a notification was sent to the applicants. Feedback was only received from the Wilcock Vista project on 800 East and 300 North. Staff proposes terminating those that did not submit a response. The ordinance indicates that if they want to keep the project active, they have to take action. She spoke to Todd Wilcock and notified him that he would have six months to finalize the project, or it would be automatically terminated. A lot of the city regulations and fees have changed. The six months would begin with the motion today. The action needed is to record the plat.

Mr. Wilcock will have to revise the preliminary plan and final plat, pay electrical fees, transfer water, and submit a performance guarantee for public improvements. The Wilcock family just wants to sell the property to a developer.

MOTION: Commissioner Frisby – To terminate the projects on the following list except for the Wilcock Vista Subdivision and allow an additional six months for the applicant to complete the project as required. If the project is not completed after six months, the project would be terminated. Motion seconded by Commissioner Beecher. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Blair Warner. The motion carried.

7. Commission and Staff Reports

7.1 Discussion regarding a draft ordinance for accessory living units

Staff Presentation:

Kyle Deans stated this item has been discussed a couple of times. It is currently addressed as an overlay zone. Previous discussions included the requirements to make it a staff approval. Based on feedback from those discussions and evaluating other cities on what they do for accessory living units, he drafted a cohesive ordinance proposal. The main requests included two, hard-surfaced, off-street parking spaces each for the primary and accessory units. Currently the ordinance allows the city council to allow these to be inside the setbacks. The proposal requires that off-street parking cannot be in the required setbacks. Existing laterals and service connections need to be inspected to get the approval. Curb, gutter, and sidewalk would need to be installed or replaced if needed. Each unit would have a separate mail box and address visible from the street. Either the primary or secondary unit must be owner occupied with a notarized statement being recorded at the county. The accessory unit must have a separate exterior entrance and a securable connection between the two units. The accessory unit is not to exceed 30% of the primary living unit or 800 square feet, whichever is less. He would add a #10 based on a previous meeting stating that all the requirements of the underlying zone be met with setbacks and with lot coverage. If it exceeds the lot coverage, it would not be approved by staff. There is a provision for preexisting accessory units that if they had a building permit, can prove that Payson approved it, or there are separate utilities, they would just need an inspection at their cost to make sure it is up to code. The approval is not transferrable with the sale of the home, and every three years the owner has to prove it is owner occupied. He clarified there are mother-in-law apartments with separate utilities that would be grandfathered. Additional meters or separate utilities would not be allowed for new accessory apartments.

Commission Discussion:

The consensus of the commission is to move forward.

7.2 Other Reports (7:59 p.m.)

Joint Work Session

There will be a joint work session with the city council on the fifth Wednesday, which is next week on March 29th. Staff will discuss the importance of land use and infrastructure planning as well as the development process in general. Staff is making significant changes to the development process. Staff met with five cities on their processes. The roles of the planning commission and city council will also be discussed. Other cities address much of the technical issues at the staff level. Their planning commissions and city councils are addressing the bigger policy issues. The planning

commission meetings need to focus on the public comment and applicant. She asked the commission to be patient as the new process begins.

Vision of Downtown Payson

Two buildings have recently burnt down and those property owners have asked about the vision of downtown in Payson, not historic downtown. They would like to know what the building should look like, the building materials, and should it be more walkable. The city hasn't identified the vision of downtown. These property owners want to have a discussion of what the city wants in downtown. There are provisions in the ordinance that allows what they envision with maybe a few ordinance changes. One owner wants a mixed use product. An April meeting will have a work session to discuss the vision.

State Notification Web Site

The state notification web site is available to anyone. If the planning commission is interested in receiving the council meeting notifications, staff will add you to the state web site. The commission can then see the progress of any items they have addressed.

Project Updates

Jill Spencer will send out project updates soon.

City Email

The commission was reminded to set up their city email.

Notifications

Commissioner Beecher stated that his company has had cities pass ordinances that they are notified of development, which may be something to look at. No one wants to have a canal breach. Jill Spencer stated that planning commission and city council is too late. She agrees they need to be involved in the process and not just notified, and that is what DRC does. As she mentioned, he can register in the state web site and receive all the notifications for planning commission and city council. If there is an expectation and staff overlooks it, then the city is liable. She is concerned that they could hold up a project because they didn't receive notification. There was a previous situation on Goosenest where the High Line was to sign off on a subdivision, and the applicant could never get them to sign. The applicant finally sold the project and walked away. The applicant was not excavating into the hillside or changing anything. They cannot unreasonably withhold their signature. Staff agrees the canal is a concern. Staff will continue to notify the High Line of upcoming projects.

8. Adjournment

MOTION: Commissioner Beecher – To adjourn the meeting. Motion seconded by Commissioner Billings. Those voting yes: Kirk Beecher, Adam Billings, Ryan Frisby, Taresa Hiatt, Harold Nichols, Blair Warner. The motion carried.

The meeting adjourned at 8:17 p.m.

/s/ Kim E. Holindrake
Kim E. Holindrake, Deputy City Recorder