



**NOTICE OF
PLANNING COMMISSION MEETING
TUESDAY, JULY 9, 2019
6:00 P.M.**

AGENDA ITEMS:

WELCOME / OPENING

MINUTES:

June 11, 2019

COUNCIL REPORT:

City Administrator Adam Bowler

PUBLIC HEARING:

To Receive Public Comment on the Proposed Zoning Ordinance Revision as it
Relates to Appeal Authority.

PLANNING COMMISSION BUSINESS:

Item 1 Consideration of Recommendation to the City Council Regarding
Proposed Ordinance Revision as it Relates to Appeal Authority.

Item 2 Consideration of a Conditional Use Permit to Build a Duplex at
Approximately 70 E Main Street (Zoning C-1) – Doug Clove,
Applicant

NEXT SCHEDULED MEETING: August 13, 2019 at 6:00 P.M.

ADJOURNMENT

*Agenda items are flexible and may be moved to or heard in any order or time at the discretion of the Planning
Commission.*

Anyone interested in giving a prayer at a public meeting should contact the City Office.

City of Enterprise

Planning Commission Meeting

Meeting: Planning Commission Meeting

Date: June 11, 2019

Time: 6:00 P.M.

Place: Enterprise City Office

Present: Planning Commission Members: Jerald Hunt, Wyatt Banks, and Becky Hunt. City Clerk Mindee Davidson. Others: Ed Evans, Andrea Simkins, Irene Simkins, Ed Evans, Luke Rowley, Felicia Aguirre, and Ruben Aguirre.

Absent: City Administrator Adam Bowler, Julee Evans, and Zach Jones.

Welcome: Planning Commission Chairman Jerald Hunt welcomed everyone to Planning Commission Meeting.

Opening Remarks: Planning Commission Member Becky Hunt.

Pledge: Planning Commission Chairman Jerald Hunt.

Minutes: A motion to approve the amended Planning Commission Meeting minutes from April 9, 2019, was made by Planning Commission Member Jerald Hunt and seconded by Planning Commission Member Wyatt Banks and unanimously approved.

City Council Report: City Administrator Adam Bowler was absent so there was no report from the Council.

PLANNING COMMISSION BUSINESS

Item 1:

Consideration of a Minor Subdivision – 383 East 400 South, Ed Evans, Petitioner. Mr. Evans would like to split his existing lot into two parcels. The new parcel would be west of his existing home. The Commission looked over his plans and he meets all the requirements for set-backs. The area is zoned R-2. After discussion, Planning Commission Member Becky Hunt made a motion to recommend the City Council approve a Minor Subdivision at 383 East 400 South, Ed Evans Petitioner. The motion

was seconded by Planning Commission Member Wyatt Banks and unanimously approved.

Item 2:

Consideration of Conditional Use Permit – Private Recreation Grounds – 51 South Center Street, Irene and Andrea Simkins, Petitioners. Andrea explained to the Commission that she is staying with her mother, Irene Simkins, who is elderly and is in need of constant care. Her mother's home doesn't allow for her to have her own sleeping quarters. She would like to put a RV behind her mother's home so she would have a private space to call her own. She would like to hook the RV up to her mother's existing power, water, and sewer utilities. The Commission commended Andrea for coming in to get Conditional Use as most people do not, but also explained to her that there will be conditions that she will have to follow. They explained to her that only she can live in the RV and that friends or family members would not be permitted. She can have a guest visit, but they would not be able to live with her. She will need to be in compliance with the City's ordinances and will need to meet set-backs with the neighbors. Wyatt Banks read the ordinances with her.

17-16-030 CONDITIONAL USES. Conditional uses for the R-1 district are as follows:

- A. Child day care or nursery;
- B. Church;
- C. Duplex;
- D. Home occupation;
- E. Private recreational grounds and facilities, not open to the general public, and to which no admission charge is made;
- F. Public and quasi-public buildings and uses;
- G. Accessory uses and buildings customarily incidental to the uses set out in this section. (Ord. dated 5/14/82 §12-804(3))

17-16-040 HEIGHT. In the R-1 district, no building shall be erected to a height greater than two and one-half stories or thirty-five feet, and no dwelling structure shall be erected to a height less than one story. (Ord. dated 5/14/82 §12-804(4))

17-16-050 MINIMUM AREA, WIDTH, AND YARDS. A. Minimum area, width and yard regulations for the R-1 district are as follows: Yards in Feet District Area Width
Front Side Rear R-1 9,000 70' 25' 8 & 12 10 sq. ft. B. Modifying regulations for the R-1 district are as follows:

1. Side Yards. Private garages and other accessory buildings located at least ten feet behind the main building may have a side yard of two feet, except that the street side yard of a corner lot shall be the same as the front yard setback required for that district.
2. Rear Yards. Private garages and accessory buildings located at least ten feet behind the main building may have a rear yard of two feet provided that on corner lots rearing on the side of another lot the minimum rear yard for all buildings shall be the same as the minimum side yard requirement of the zoning district. (Ord. dated 5/14/82 §12-804(5) , (6))

The Commission reiterated that she cannot charge someone to stay in the RV and cannot open it to the public. It would have to be private for her only with no roommates. She can have visitors. She will need adequate parking for her vehicle. Andrea asked if

she can hook up to the existing home's water from underground or would she need to use a hose. The Commission told her that her RV will be considered an accessory building so she can hook up to the utilities. She asked if she could have a skirt around the bottom. The Commission said she can skirt it and would recommend that she does considering the winters here in Enterprise. They told her she can also have a deck as long as it is free standing and isn't permanent. She can build a porch on the deck as well as long as it is free standing. After discussion, Planning Commission Member Jerald Hunt made a motion to approve a Conditional Use Permit for a Private Recreation Ground at 51 Center Street, Irene Simkins, Petitioner, with conditions as quoted in the ordinances of 17-16-030, 17-16-040, and 17-16-050 previously discussed, and that it is for her only. She can have visitors but no permanent guests, and providing that she have off street parking for her vehicle. She can either skirt or not skirt the RV at her discretion and she can have a detached deck without a cover. She is also able to hook up to existing water, sewer, and power. The motion was seconded by Planning Commission Member Wyatt Banks and unanimously approved.

Item 3:

Consideration of Conditional Use Permit – Non-Commercial Kennel Permit – 560 East 250 South, Felicia Aguirre and Felipe Padilla, Petitioners. Mrs. Aguirre told the Commission where she is living and said she had received a copy of the City's ordinances on Non-Commercial Kennel Permits through the mail. Jerald read to her the ordinances:

6-04-110 REGULATORY PERMITS--REQUIREMENTS.

A. Non-commercial kennel.

1. Not more than five animals.
2. Dogs individually licensed.
3. Approval of the city of Enterprise planning commission.
4. Adequate runs (not necessarily concrete) are provided.
5. Other provisions of this chapter are complied with, and no dog or premises is deemed to be a nuisance.
6. The City Council shall approve by resolution any fee schedule(s) used by the City. (Ord. 2006-06, §3, 2006)
7. The amount of permit fees imposed by the provision of this chapter shall be deemed a debt to the City of Enterprise in any court of competent jurisdiction for the amount of any delinquent fees, penalties, attorney fees, and other reasonable costs in collecting the debt.
8. All remedies prescribed under this chapter shall be cumulative.
9. Willful failure to comply with any provisions of this ordinance and/or related resolutions is a Class B misdemeanor and is punishable as such to the full extent allowed by law.

B. Sportsman's Permit. Where permitted by other applicable ordinances of the city, the owner of purebred dogs may obtain a permit to keep up to five dogs in a residential area provided:

1. Such dogs are individually licensed;
2. Such dogs are registered with a national registry (AKC1 UKC, Field Dog);
3. Approval is granted by the appropriate zoning authority and department of animal control;

113 4. Adequate runs (not necessarily concrete) are provided; and

114 5. Other provisions of this chapter are complied with, and no dog or premises is deemed
115 to be a nuisance.

116 C. Nontransferable. A valid permit shall be posted in a conspicuous place in each
117 establishment, and a permit shall not be transferable to another location. The
118 permit-tee shall immediately notify the department of animal control of any change in
119 location or ownership.

120 D. Permit Fee and Term. The fee for commercial kennels, catteries, groomeries, pet
121 shops, veterinary clinics, or hospitals permit shall be as follows:

122 1. The City Council shall approve by resolution any fee schedule(s) used by the City.

123 2. The amount of permit fees imposed by the provision of this chapter shall be deemed
124 a debt to the City of Enterprise in any court of competent jurisdiction for the amount of
125 any delinquent fees, penalties, attorney fees and other reasonable costs in collecting
126 the debt.

127 3. All remedies prescribed under this chapter shall be cumulative.

128 4. Willful failure to comply with any provisions of this ordinance and/or related
129 resolutions is a Class B misdemeanor and is punishable as such to the full extent
130 allowed by law. (Ord. 2006-06, §6 2006)

131 E. Any permit issued pursuant to this section shall automatically expire on December
132 31st immediately following date of issue. Within two months prior to the expiration of
133 the permit, the permittee shall apply for a renewal of the permit and pay the required
134 fee. Any application made after December 31st, except an application for a new
135 establishment opening subsequent to that date, shall be accompanied by a late
136 application fee in addition to the regular permit fee. F. Rules and Regulations. The
137 department of animal control shall promulgate reasonable rules and regulations
138 governing the operation of kennels, catteries, groomeries, pet shops, riding stables and
139 veterinary clinics or hospitals. Such rules and regulations shall have the effect of law,
140 and violation of such rules and regulations shall be deemed a violation of this chapter
141 and grounds for revocation of a permit issued by the department of animal
142 control. (Res. 6.04.110-96, 1996; Ord. 88-7-13-241 (part), 1988: Ord. 13-241 §6-2-16,
143 1984).

144 6-04-140 NUISANCE CONDITIONS DESIGNATED. Any owner or custodian of an
145 animal causing a nuisance as defined in this section is in violation of this chapter and
146 subject to the penalties provided herein. An animal creates a nuisance if it:

147 A. Causes damage to the property of anyone other than its owner;

148 B. Is a vicious animal not in compliance with Section 6-04-160 of this chapter;

149 C. Causes unreasonable fouling of the air by odors;

150 D. Causes continuous unsanitary conditions in enclosures or surroundings;

151 E. Barks, whines, howls or makes other disturbing noises in excessive, continuous, or
152 untimely fashion;

153 F. Molests passers by or chases passing vehicles;

154 G. Attacks other domestic animals;

155 H. Is otherwise determined by the department of animal control to be a public nuisance
156 for any reason designated in Section 6-04-050 or Sections 6-04-160 through 6-04-220
157 of this chapter. (Ord. 88-7-13- 241 (part), 1988: Ord. 13-241 §6-2-9, 1984).

158 After reviewing the ordinances with her, Jerald discussed nuisances and that she can't
159 be in violation. Nuisances would include damage to property, a vicious dog,
160 unreasonable odor, any causes of unsanitary conditions in enclosures, barking, whining,
161 howling in excessiveness. Mrs. Aguirre stated that they have 3 Great Danes, and that
162 they are loud when they play. They do bark when strangers come or when they get
163 excited. She described the living quarters which includes a fence so they can't see out
164 of the yard, a dog run, and a dog door to go in and out of the house. Mrs. Aguirre
165 discussed a previous complaint that was sent to them. She explained that they were in
166 the process of moving to Enterprise and they had to leave the dogs alone for 3 days to
167 go get their things. They didn't know anyone here in town yet who to have watch the
168 dogs. Jerald explained to her that the kennel license would be given to her based on
169 her following the above criteria in the City's ordinances. If she doesn't follow them
170 ordinances, the license will be revoked. The fee, which the commission thought is
171 \$35.00 was also discussed. Jerald told her to be aware of the odor since she was
172 previously sent a letter regarding it. After discussion Planning Commission Member
173 Wyatt Banks made a motion to approve a Non-Commercial Kennel Permit at 560 East
174 250 South, Felicia Aguirre and Felipe Padilla, Petitioners, with the condition that they
175 stay in compliance with the statutes in 16-04-110 and 16-04-140 that were discussed.
176 The motion was seconded by Planning Commission member Becky Hunt and
177 unanimously approved.

178 As it was determined that there was no further business to conduct, Planning
179 Commission Chairman Jerald Hunt adjourned the meeting at 7:20 P.M.

180 The next meeting is scheduled for July 9, 2019 at 6:00 P.M.

181 Respectfully submitted,

182 Mindee Davidson
183 City Clerk

ENTERPRISE CITY

ORDINANCE NO. 2018-

AN ORDINANCE ESTABLISHING AN APPEAL AUTHORITY TO HEAR APPEALS ON CERTAIN LAND USE DECISIONS

WHEREAS, pursuant to the Utah Constitution and the partial delegation of the State's police powers to municipalities and counties to regulate land use and development of land within its boundaries, the Utah State Legislature adopted Chapter 9a of Title 10 (Municipal Code), known as the Utah Land Use Development & Management Act – "LUDMA" in 2005.

WHEREAS, pursuant to LUDMA, a municipality has been required to have at least one separate body (other than its governing body) to act as an "appeal authority" to hear appeals on various types of land use decisions or staff interpretations/applications of a city's land use ordinances as well as property owner's application's for variances from certain requirements of a municipalities land use ordinances.

WHEREAS, the Enterprise City Council ("City Council") has determined that the Mayor, with the consent of the City Council should appoint a single individual who will be the final arbiter of land use decisions and variances and who will preferably have considerable experience and training in Utah municipal law and particularly municipal land use law as well as Utah administrative law, Utah's Rules of Civil Procedure, Evidence, and Appellate Procedure.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENTERPRISE, STATE OF UTAH:

Section 1. Ordinance Adoption. Chapter 54 of Title 17 of the City of Enterprise Zoning Ordinance is hereby adopted to read in its entirety as follows:

17-54-010 PURPOSE.

This chapter of the planning and zoning ordinance of Enterprise is intended to create an appeal authority which will be the final arbiter of land use decisions and to create a process to determine variances.

17-54-020 DEFINITIONS.

For purposes of this chapter, the following terms shall have the following meanings:

"Appeal Authority" means the person appointed by the mayor with the advice and consent of council to be the final arbiter of land use decisions described herein.

"Land Use Applicant" means a property owner, or the property owner's designee, who submits to the city a land use application regarding the property owner's land.

“Land Use Application” means an application that is submitted by a land use applicant to obtain a land use decision. “Land use application” does not mean an application to enact, amend, or repeal a land use regulation, nor does it mean a request for a variance.

“Land Use Authority” means a person, board, commission, agency, or body designated by the city council to act upon a land use application.

“Land Use Decision” means an administrative written decision from the applicable land use authority regarding: (a) a permit issued by the land use authority; (b) a land use application; or (c) the enforcement of a land use regulation, land use permit, or development agreement. “Land use decision” does not include a decision on a request for variance.

“Land Use Regulation” means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land.

“Variance” means a waiver or modification of the requirements of a land use regulation as applied to a specific parcel of property.

17-54-030 APPEAL AUTHORITY.

- A. Appointment. *The Mayor, with the advice and consent of the City Council, shall appoint the Appeal Authority. The appointed Appeal Authority shall not personally benefit from land use decisions or variances. To determine possible appointees the City shall have the City Attorney prepare and circulate a request for proposals (“RFP”) to persons within the City and surrounding community. General preference shall be given to those persons who have legal training and general knowledge of Utah municipal law, land use law and administrative law.*
- B. Term. *The Appeal Authority shall serve for a term of two (2) years. Notwithstanding the preceding, the term of office of the initial Appeal Authority shall run from the date of appointment until December 31, 2020. Thereafter all subsequent terms shall commence on January 1st of every other year or until the Appeal Authority position is vacant on account of death, resignation, removal or disqualification. In the event of early vacancy, the position of Appeal Authority shall be filled in the same manner as an original appointment for the expired term.*
- C. Removal. *The appointed appeal authority may be removed for cause by the city council upon written charges, which shall be filed with the mayor, and after public hearing, if such public hearing is requested by the appointed appeal authority.*

17-54-040 DUTIES AND POWERS OF APPEAL AUTHORITY.

The Appeal Authority shall have the following powers and duties:

- A. To act in a quasi-judicial manner;*
- B. To hear and decide requests for Variances;*
- C. To hear and decide appeals of Land Use Decisions;*
- D. To hear and decide appeals from a fee charged in accordance with section 10-9a-510 of the Utah Code.*

The Appeal Authority may not entertain an appeal of a matter in which the appeal authority had first acted as the Land Use Authority.

17-54-050 APPEALS.

- A. As a condition precedent to judicial review, a Land Use Applicant must specifically appeal a Land Use Decision by, within fifteen (15) days of the Land Use Decision, by filing with the City a written appeal and paying the related fee as may be set by the City Council, amended from time to time, and designated in the City's Uniform Fee Schedule.*
- B. The Appeal Authority shall determine the correctness of the Land Use Decision.*
- C. Only those decisions in which a Land Use Decision affects a particular Land Use Applicant may be appealed to the Appeal Authority.*
- D. All documents and exhibits constituting the record upon which the action appealed was made shall be presented to the City Clerk with the written appeal.*
- E. For every appeal, the Land Use Applicant shall present to the Appeal Authority every theory of relief that could be raise in District Court by the Land Use Applicant. Failure to raise a theory of relief upon appeal to the Appeal Authority, constitutes a waiver of said right on appeal to District Court.*
- F. The Appeal Authority shall conduct each appeal as described by this section.*
- G. The Land Use Applicant that filed the appeal has the burden of proving that the Land Use Authority erred. The standard of review by the Appeal Authority is whether the Land Use Authorities decisions was arbitrary or capricious based upon substantial evidence in the record.*

- H. *The Appeal Authority shall respect the due process rights of each of the participants in providing them with proper notice, right to be heard at a hearing and right to have legal counsel present and participate at the hearing if the Land Use Applicant so desires.*
- I. *After the hearing, the Appeal Authority may give a preliminary decision, but shall issue a written decision within sixty (60) days after the hearing or after a Land Use Applicant has submitted an appeal for decision with a waiver, in writing, of the right to a hearing.*
- J. *If an appeal of a Land Use Decision is lodged with the City, the City Council may waive the requirements of subsection A, above and allow the applicant to make their appeal directly to the District Court for the State of Utah in and for Washington County.*

17-54-060 VARIANCES.

- A. *Any person or entity desiring a Variance may specifically request a Variance by filing with the City a written request for Variance and paying the related fee as may be set by the City Council, amended from time to time, and designated in the City's Uniform Fee schedule. The Appeal Authority may grant a variance only if:*
 - 1. *The literal enforcement of the Land Use Regulation would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Regulation;*
 - 2. *There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*
 - 3. *Granting the Variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;*
 - 4. *The Variance will not substantially affect the City's General Plan and will not be contrary to the public interest; and*
 - 5. *The spirit of the Land Use Regulation is observed and substantial justice done.*
- B. *In determining whether or not enforcement of the Land Use Regulation would cause unreasonable hardship, the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:*
 - 1. *Is located on or associated with the property for which the Variance is sought; and*

2. *Comes from circumstances peculiar to the property, not from conditions that are:*
 - a. *general to the neighborhood;*
 - b. *self-imposed; or*
 - c. *economic.*
- C. *In determining whether or not there are special circumstances attached to the property, the Appeal Authority may find that special circumstances exist only if the special circumstances:*
1. *Relate to the hardship complained of; and*
 2. *Deprive the property of privileges granted to other properties in the same zoning district.*
- D. *The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.*
- E. *Variances run with the land.*
- F. *The Appeal Authority may not grant a “use” Variance.*
- G. *In granting a Variance, the Appeal Authority may impose additional requirements on the applicant that will:*
1. *Mitigate any harmful effects of the Variance; or*
 2. *Serve the purpose of the standard or requirement that is waived or modified.*
- H. *The Appeal Authority shall respect the due process rights of each of the participants in providing them with proper notice, right to be heard at a hearing and right to have legal counsel present and participate at the hearing if the Land Use Applicant so desires.*
- I. *After the hearing, the Appeal Authority may give a preliminary decision, but shall issue a written decision within sixty (60) days after the hearing or after a Land Use Applicant has submitted a request for decision with a waiver, in writing, of the right to a hearing.*

17-54-070 INTERPRETATION OF LAND USE ORDINANCE.

Any person alleging there was an error in any order, requirement, decision, or

determination made by the Land Use Authority or City Staff in the administration or interpretation of the Land Use Regulation may request an interpretation and decision from the Appeal Authority in accordance with this Subsection.

- A. The Appeal Authority will grant a waiver or reverse interpretation and application of a Land Use Regulation made by the Land Use Authority or City Staff only as follows:*
 - 1. If the interpretation made by the Land Use Authority or City Staff conflicts with the intent or literal interpretation of the Land Use Regulation; or*
 - 2. If the interpretation of the Land Use Regulation by the Land Use Authority or City Staff conflicts with state or federal laws which pre-empt the Land Use Regulation or other ordinance of the City.*
- B. In some instances, the Appeal Authority may not fully understand the intent of a Land Use Regulation or requirement placed upon a person or Land Use Applicant by the Land Use Authority. Under these circumstances the Appeal Authority may obtain a decision from City Council prior to making a final decision (if applicable).*
- C. If the Appeal Authority requires an interpretation from the City Council, the Appeal Authority shall make a final decision within ten (10) days after that interpretation is given.*

17-54-080 DISTRICT COURT REVIEW

Any person or entity adversely affected by any decision of the Appeal Authority may petition the District Court of the State of Utah, in and for Washington County, for a review of the decision.

- A. In the petition for review, the petitioner may only allege that there was an error in any order, requirement, decision, or determination made by the Land Use Authority or Appeal Authority in the administration or interpretation of the Land Use Regulation.*
- B. The petition is barred unless it is filed within thirty (30) days after the Appeal Authority's decision becomes effective, which occurs three (3) days after the written decision is issued by the Appeal Authority and mailed via first class mail to the applicant at the address designated in the application.*
- C. The Appeal Authority shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings. If the proceeding was tape*

recorded, a transcript of that tape recording is a true and correct transcript for purposes of this subsection.

- D. Review of the Appeal Authority's decision shall be done by the District Court in the manner and upon the standards provided by law.*
- E. The petitioner has the burden of proving that the Appeal Authority erred. The standards of review shall be those set forth in Utah Code Ann. § 10-9A-801, as may be amended from time to time.*
- F. No person or entity may challenge in District Court a Land Use Decision of the City unless and until that person or entity has exhausted their administrative remedies as provided in this Section or elsewhere in the ordinances of the City.*

Section 2. Repealer. This Ordinance supersedes or repeals the provisions of any ordinance, resolution that are inconsistent with the provisions of this Ordinance.

Section 3. Savings Clause. If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

Section 4. Effective Date. This Ordinance shall become effective upon adoption by the City Council.

PASSED AND ADOPTED by the City Council of Enterprise City, Washington County, State of Utah on this ____ day of _____, 2018.

Councilmember Jared Moody	Aye _____	Nay _____
Councilmember Ron Lehm	Aye _____	Nay _____
Councilmember Darcy Holt	Aye _____	Nay _____
Councilmember Jared Bollinger	Aye _____	Nay _____
Councilmember Jared Holt	Aye _____	Nay _____

ENTERPRISE CITY
a Utah municipal corporation

ATTEST:

Brandon Humphries, Mayor

Wendy Paine, City Recorder



MAIN ST.

Proposed 20' wide Access

Proposed 20' wide Access

Proposed 10' wide Cat back

80'

70'

Proposed Building
Envelope for
Duplex

70'

185'±

185'±

Back Yard and
Underdeveloped Area

80'

Kerry Holt Farms

E-131-A-1

Kerry Holt Farms

E-132-A-2-a

Leonard Davis
E-134-2-1