

CITY OF OREM
PLANNING COMMISSION MEETING MINUTES
June 17, 2020

The following items are discussed in these minutes:

- Public Hearing - Vacating Lot 3, Lake Park, Plat E and approving Lake Park, Plat H of the Newport Business Park located at 257 South Vineyard Road – Approved
- Site Plan – Site plan approval of Xpointe Plaza located at 572 West 1600 North – Approved
- Conditional Use Permit – Conditional Use Permit approval of the commercial daycare, Smiling Faces, located at 410 S Main Street – Positive Recommendation to City Council

STUDY SESSION

Place: Canceled

REGULAR MEETING

NOTICE OF ALL-ELECTRONIC MEETING

To minimize the potential spread of COVID-19, and as authorized by Utah Governor Gary Herbert's March 18, 2020 Executive Order, the Orem City Planning Commission meeting on June 17, 2020 will be an all-electronic meeting. There will be no public access to the Orem City Council chambers. Those desiring to view or participate in the meeting must do so electronically. You can view the meeting live at orem.org/meetings. If you want to make a comment, please use: orem.org/comments or PlanningCommissionPublicComments@orem.org

Comments will be accepted before and during the meeting. All comments received will be read into the record during the live meeting. Once an item has been voted on, that item will be closed to additional comments. Thank you for your cooperation during these challenging times.

Place: Orem City Council Chambers - Electronic

At 4:30 p.m. Chair Cochran called the Planning Commission meeting to order and asked Mr. Spencer, Planning Commission member, to offer the invocation.

Those present: Mickey Cochran, Planning Commission Chair; Ryan L. Clark, Development Services Director; Jason W. Bench, Planning Division Manager; Cheryl Vargas, Associate Planner; Brady Hale, Transportation Engineer and Steve Earl, Legal Counsel

Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker, Planning Commission members; Sam Kelly, City Engineer and Terry Peterson, City Council Liaison (via telephone)

Those excused: Jake Harding, Associate Planner; Grant Allen, Long Range Planner; Kendall Willardson, Planning Intern

Chair Cochran asked Mr. Bench to introduce **Agenda Item 3.1:**

Agenda Item 3.1 is a request by Michael Green for the Planning Commission to vacate Lot 3, Lake Park, Plat E and approve Lake Park, Plat H of the Newport Business Park located at 257 South Vineyard Road in the M2 zone.

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Staff Presentation: The existing property is currently all one lot with three buildings on it. The applicant would like to split that one lot into three separate lots so each building would sit on a separate lot.

The current Lot 3 of Lake Park, Plat E is 130,035 square feet or 2.98 acres. The proposal is to split it into three lots with Lot 1 being 60,637 square feet (1.39 acres), Lot 2 being 33,416 square feet (.77 acres) and Lot 3 being 27,307 square feet (0.63 acres). Each lot would then be owned and maintained separately from the other two lots.

There is a reciprocal cross access for parking and utility easements (including sewer, water and storm drainage) granted in favor of Lots 1, 2 and 3.

Recommendation: The Development Review Committee determined this request complies with the Orem City Code. Staff recommends the Planning Commission vacate Lot 3, Lake Park, Plat E and approve Lake Park, Plat H of the Newport Business Park located at 257 South Vineyard Road in the M2 zone.

Chair Cochran asked if the Planning Commission had any questions for Mr. Bench.

Chair Cochran invited the applicant to speak up via telephone. Mike Green introduced himself. He said this has been set up as a planned unit development with restrictive covenants to facilitate maintenance of the common right of ways and maintenance of the buildings.

Chair Cochran then opened the public hearing and invited those who wanted to make a comment on this item to send in their comments via email or chat.

When there were no comments/chats, Chair Cochran closed the public hearing and asked if the Planning Commission had any more questions for the applicant or staff. When none did, he called for a motion on this item.

Planning Commission Action: Ms. Jensen moved to vacate Lot 3, Lake Park, Plat E and approve Lake Park, Plat H of the Newport Business Park located at 257 South Vineyard Road in the M2 zone. Mr. Spencer seconded the motion. Those voting aye: Mickey Cochran, Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker. The motion passed unanimously.

Chair Cochran asked Mr. Bench to introduce **Agenda Item 3.2:**

Agenda Item 3.2 is a request by Gregory Peck for the Planning Commission to approve the site plan of Xpointe Plaza located at 575 West 1600 North in the North Village District Edge (NVD-E) Zone.



Staff Presentation: The applicant is proposing to construct two (2) small commercial buildings on the site which will each be one (1) story. While the rest of the zones within the districts require a minimum height of at least two (2) stories, the Edge Zone within the North Village District (NVD-E) does not require a height of two stories. Both buildings will not have any multifamily dwellings and will be one hundred percent (100%) commercial.

The south building will be 1,700 square feet and will have two primary entrances. One that faces 1600 North and another that faces the parking lot. The sides of the building that face 1600 North and State Street are primarily composed of Hardie board (wood) and masonry, both of which are “tier 1” materials approved for the North Village District. The other faces of the building are primarily comprised of EIFS and aluminum composites as trim, both of which are “tier 2” materials approved for the North Village District. This building will adhere to the maximum setback requirement by being constructed right at the front property line. This property line is about twenty-seven feet (27’) from the back of the curb on 1600 North.

A complete video of the meeting can be found at www.orem.org/meetings

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The north building is 1,503 square feet and will have primary entrance facing the east parking lot. The side of the building that faces State Street is primarily composed of the same “tier 1” materials approved for the North Village District noted above. The other faces of the building will have the same “tier 2” materials approved for the North Village District noted above. This building will have a drive through on the south face. This drive through will go between the two buildings on the site and will meet the drive-through requirements of the North Village District.

Both buildings are a part of the existing Cross Point plat and be meeting their parking requirements noted through the shared parking as part of that plat. At the time of the original plat, the development was proposed to have 53,072 square feet of retail space which would have required 266 parking stalls. This site and the one just to the west of it were originally proposed to have 5,600 square feet of retail space each. The Swig went in on that west site with 1,052 square feet and the proposed Xpointe Retail Plaza will only have 3,450 square feet, both are well below their allotted maximum and have decreased the required parking for the entire area by 35 spaces. The overall area requires 231 spaces and 285 are provided.

The applicant will be meeting the landscaping requirement. The required three trees (1 per 40') are provided along the street frontage. There is an eight foot (8') wide sidewalk provided along 1600 North.

Recommendation: The Development Review Committee determined this request complies with the Orem City Code. Staff recommends the Planning Commission approve the site plan of Xpointe Plaza located at 575 West 1600 North in the North Village District Edge (NVD-E) Zone.

Chair Cochran asked if the Planning Commission had any questions for Mr. Bench. Mr. Spencer asked what business is going in here. Mr. Peck said they are proposing a Dominos Pizza in the smaller of the two buildings and they have a letter of intent. The south building does not have a tenant at this time. Mr. Cochran asked if they are required to come under the State Street District. Mr. Bench said they are in the North Village District. There is an edge area where they are allowed to have a one-story building but are required to bring the building up to the 1600 North property line and they are complying with that.

Ms. Jensen said the south building looks like it is too close to the street. People turn in and out of that entrance on the east side of the building and she wondered if there would be a problem with people turning out to head west on 1600 North. Mr. Bench said the building is up to the property line, but there is a substantial right of way that will include the sidewalk and some of the landscaping that will allow drivers to be able to see east and west. In this location drivers will have to turn west and will not be allowed to turn east.

Chair Cochran invited the applicant to speak up via telephone. Greg Peck introduced himself. He said thanks for considering this project, thinks it will be awesome.

Chair Cochran called for a motion on this item.

Planning Commission Action: Mr. Cook moved to approve the site plan of Xpointe Plaza located at 575 West 1600 North in the North Village District Edge (NVD-E) Zone. Mr. Sakar seconded the motion. Those voting aye: Mickey Cochran, Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker. The motion passed unanimously.

Chair Cochran asked Mr. Bench to introduce **Agenda Item 3.3:**

Agenda Item 3.3 is a request by Smiling Faces LLC for the Planning Commission to approve the commercial daycare, Smiling Faces, located at 410 S Main Street in the R8 zone.

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Staff Presentation: The applicant's existing business is located nearby this site on State Street. In order to expand his current business, he is proposing to move it entirely to this new location. He is not proposing any changes to the site, it would remain as is. However, because the site is in a residential zone, he is required to receive conditional use approval.

Commercial daycares seeking conditional use approval within a residential zone are required to have an outdoor area in the rear yard that will be enclosed by a 6' site obscuring fence with self-closing, self-locking gates. There is an area existing in the rear yard that is currently surrounded by a 6' wood fence. As per State Code, this area will be required to have self-closing, self-locking

gates. The applicant will be providing these.

Commercial daycares seeking conditional use approval within a residential zone are required to submit a professional traffic study that shows the following:

1. No more than two car trips per hour shall be generated before 5:30am or after 9:00 pm.
2. No vehicle will back out onto a dedicated street.
3. Persons who arrive at the facility shall be legally parked on the lot or on that part of the street which immediately abuts the lot.
4. Ingress, egress, drop-off areas, traffic flow, and parking spaces will be contained on the site and will not adversely affect surrounding properties.

The submitted traffic study showed that the facility was going to require a minimum of twenty-four (24) stalls based upon on hundred (100) children attending the day care. The study also found that they would not generate more than two trips in the unpermitted times and that one of the stalls in the parking lot would be required to be used as a back-up area. If you combine the total stalls in both the existing parking lot and the on-street parking and remove the required back-up stall, twenty-six (26) stalls are available.

Recommendation: The Development Review Committee determined this request complies with the Orem City Code. Staff recommends the Planning Commission forward a positive recommendation to the City Council for the approval of the conditional use of the commercial daycare, Smiling Faces, located at 410 S Main Street in the R8 zone with the following conditions:

1. That all residents, visitors and employees who arrive at the facility in connection with the Commercial Day Care facility shall be legally parked on the lot occupied by the facility or on that part of the street which immediately abuts the lot.
2. That signage be provided in the existing off-street parking lot that clearly indicates pick-up/drop-off stalls.
3. That one stall in the existing off-street parking lot shall be used as a back-up area for vehicles in the off-street parking lot.
4. That the facilities have a maximum occupancy of one hundred (100) children for both buildings combined.
5. That two ADA stalls be provided in the existing off-street parking lot.

Chair Cochran asked if the Planning Commission had any questions for Mr. Bench and invited the applicant to speak up via telephone. Dave Bezzant, Avenue Consultants and German Pardo, Smiling Faces Preschool introduced themselves.

Mr. Sakar asked how many employees there are at this location. Mr. Pardo said he currently has eight employees and it may go as high as ten. Mr. Sakar asked if the employees will use the parking stalls. Mr. Pardo said most of the employees are part-time employees with three or four there at a time. Mr. Bench said they could use the on-street parking for employees and use the internal stalls for dropping off children. Mr. Sakar asked how many children there are. Mr. Pardo said they currently have forty children (lower than normal due to Covid 19). Mr. Cochran said it was presented that there are currently sixty children that come to the daycare facility and you are considering expanding to one hundred. Mr. Pardo said many families have multiple children and we will be able to accommodate them at this location.

A complete video of the meeting can be found at www.orem.org/meetings

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Mr. Jensen asked how many on street parking spaces are there. Mr. Cochran said the estimated onsite and offsite parking spaces is twenty-six. Mr. Bezzant said they typically go over the amount of parking that they need, and he does feel like this location has ample parking for the planned use. Mr. Pardo said as a small business owner, he wants to have a good relationship with the neighbors and wants to comply with the regulations.

The discussion continued regarding parking, dropping children off and picking children up. The major points were:

- Multiple parents dropping children off at the same time. Mr. Bezzant said they found in the traffic study that there were 10 parents at the most, at one time. Mr. Staker asked regarding that estimate of about ten drop offs in fifteen minutes, is that the current rate and will that double as the number of children go up. Mr. Bezzant said that is the current facility with sixty to seventy kids. He has done a similar study with another facility with one hundred thirty kids, within a five minute window there were eight people there at the same time over six months.
- Ms. Jensen said being a daycare, they are not going to have all parents there at the same time, this is a daycare versus preschool. Mr. Pardo said when they have large activities involving parents and family, they have a good relationship with UVU and other institutes that allow the use of their facilities.
- Mr. Staker asked if the children will be dropped off at the curb or in the parking lot. Mr. Pardo said parents have to sign in the children and sign them out so they cannot just drop them off at the curb.
- Mr. Staker had one more point of concern, from the entrance of the parking lot to the corner of 400 South the southbound lane narrows and if someone pulls over to drop off their child and they open their door, there is not enough room for a car to get around, and it seems dangerous. Mr. Hale said that is typically addressed with the Utah Traffic Code. By ordinance they are allowed to park there and the space from the crosswalk is twenty feet. Mr. Cochran said he believes there is a pickup/drop-off zone in the parking lot. Mr. Cook said he agrees with Mr. Staker and with only twenty feet from center stipe to gutter leaving an eleven foot lane and a nine foot stall, that is really tight if someone opens their door into that traffic on Main Street. Mr. Bench said Condition #2 requires signage to indicate drop-off/pick up in the parking lot. Mr. Hale said what is key here is the structure of drop-off/pick up. A condition can be made to limit no more than ten people picking up/dropping off at the same time, so they are not getting an excess amount of people, arriving at the same time. If it can stay at ten people, this site will function.
- Ms. Jensen said the applicant has had to make this work at his current location, and has shown that this is important to him, and he thinks it is doable. He has obviously had to work in a small space with a worse situation. She thinks he has made a huge effort to make it work where he is now, and he will make a huge effort to make it work at this new space. He will make it work for the children.
- Mr. Pardo said drop-off must be in the parking lot, it cannot be in the street. We are offering a service to the community, and the first concern is for the safety of the children.
- Mr. Bench said there are currently five conditions of approval. Number six can be all children must be picked up/dropped off within the parking lot. Number seven can be no more than ten drop-offs/pickups within a five minute period. Mr. Cook asked where does enforcement come from and how does that translate to reality. They have a schedule, but if someone is five minutes late or early, would it be based on complaints. Mr. Bench said yes, our office would go out and investigate and work with the applicant to resolve it based on these conditions that are imposed.
- Ms. Jensen thinks this is a good central location for this type of business, and it comes down to working with the neighbors. The applicant needs to make friends and be good to his neighbors and make it a priority so there are not complaints. Mr. Cochran said the public comments have had nothing against the business, just concerns about traffic.

Chair Cochran then opened the public hearing and invited those who wanted to make a comment on this item to send in their comments via email or chat.

Mr. Clark said a comment was received earlier from Darrin VandenBos and sent to all Planning Commission members for review (see attachment). In addition, Mr. VandenBos said ten employees could mean ten cars and he noted that Mr. Pardo had not spoken to him (regarding a comment by Mr. Pardo that he had spoken to several neighbors). Chair Cochran said all the comments had been addressed.

Brent Bartholomew signed on to the chat line but did not leave any comments.

A complete video of the meeting can be found at www.orem.org/meetings

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Chad Sumsion submitted a comment during the meeting (see attachment) including four questions with commentary. Would like to hear adequate and enforceable answers to the following:

1. Statistically, do clients of the daycare arrive and depart in similar timeframes or is it spread throughout the day. If traffic peaks, will the company's plan handle the required traffic flow.
 - a. Mr. Bezzant said that in the traffic study that was prepared, the number of people that arrived in the peak periods were accommodated, as well as the people that came throughout the day. The traffic flow question was discussed previously.
2. How does the company and City plan to enforce the parking only in the off-street parking lot or on the street that immediately abuts the lot.
 - a. Mr. Earl said he is trying to suggest that the employees park on the street not adjacent to the property. There is no way to enforce that. It is public street, if someone wants to park somewhere else, there is not a lot that can be done about that. What the owner can do is to strongly suggest the employees not park in those other areas.
3. Is it to be assumed that of the twenty-six identified parking stalls in the traffic study, the company's staff would always use the street parking, making the off-street parking available for drop-off and pickup. Or would it be the opposite, where the street stalls would be used exclusively for drop-off and pick up queuing.
 - a. Chair Cochran said that item had been discussed previously.
4. What is the company's plan for snow removal.
 - a. Mr. Pardo said they hire a professional to handle that. They will remove the snow and not put it on his property. Mr. Earl said technically if someone is pushing their snow on someone else's property, it is a trespass and the police can be contacted.

Chair Cochran closed the public hearing and asked if the Planning Commission had any more questions for the applicant or staff. When none did, he called for a motion on this item.

Planning Commission Action: Mr. Cochran moved to forward a positive recommendation to the City Council for the approval of the conditional use of the commercial daycare, Smiling Faces, located at 410 S Main Street in the R8 zone with the following conditions:

1. That all residents, visitors and employees who arrive at the facility in connection with the Commercial Day Care facility shall be legally parked on the lot occupied by the facility or on that part of the street which immediately abuts the lot.
2. That signage be provided in the existing off-street parking lot that clearly indicates pick-up/drop-off stalls.
3. That one stall in the existing off-street parking lot shall be used as a back-up area for vehicles in the off-street parking lot.
4. That the facilities have a maximum occupancy of one hundred (100) children for both buildings combined.
5. That two ADA stalls be provided in the existing off-street parking lot.
6. Children must be dropped off/picked up within parking lot
7. No more than ten drop offs/pick ups can occur within a five minute period

Ms. Jensen seconded the motion. Those voting aye: Mickey Cochran, Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker. The motion passed unanimously.

Minutes: The Planning Commission reviewed the minutes from the previous meeting. Chair Cochran then called for a motion to approve the minutes of June 3, 2020. Mr. Spencer moved to approve the meeting minutes for June 3, 2020. Mr. Sakar seconded the motion. Those voting aye: Mickey Cochran, Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker. The motion passed unanimously.

Adjourn: Chair Cochran called for a motion to adjourn. Mr. Cook moved to adjourn. Mr. Spencer seconded the motion. Those voting aye: Mickey Cochran, Carl Cook, Camille Jensen, Barry Roberts, Haysam Sakar, Ross Spencer and Mike Staker. The motion passed unanimously.

Adjourn: 5.59 p.m.

Approved: July 15, 2020

Jason Bench
Planning Commission Secretary

A complete video of the meeting can be found at www.orem.org/meetings

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Public Comment received 6.16.2020:

I've lived for 30 years in the home that borders 410 S Main Street on the west. I have several concerns about the conditional use permit for the day care. 1) Traffic: I'm not sure the traffic study accurately reflects the difficulty of that multiple intersection area (400 S \ Main and 400 S \ Orem Blvd). Both high traffic numbers and traffic congestion (backup) from the Orem Blvd lights impacts turning both left and right onto 400 South from Main Street, not to mention poor westbound visibility when cars are parked on 400 South (along the property frontage). No center turn lane on 400 South anymore (removed to accommodate bike lane) impacts turning off of 400 South onto 60 West (left turn) and onto 400 South from 50 West (right turn) which will both be done by westbound cars needing to turn around and use the property's frontage parking stalls on 400 South. These are just two examples of the already difficult (and dangerous) traffic in the area.

2) Parking: The request says that there are 24 parking stalls. It also says they have 8 employees. In reality, that means 16 parking stalls for up to 100 children. The parking study says that the current daycare parking never exceeds 10 stalls used even at the busiest time of the day. But the current daycare has around 60 children. The math doesn't add up for me. So, if that is the case, and there are parking issues, who is going to enforce the conditional use requirement that "Persons who arrive at the facility shall be legally parked on the lot or on that part of the street which immediately abuts the lot"? Is the business going to train their clients on appropriate parking areas? Are they going to monitor and police themselves and be firm with their clients when they complain? In short, are they going to be a good neighbor or a negligent neighbor that requires external policing? I recognize that this is a negative, worst-case scenario, but it seems to be a real possibility which is why I'm asking.

I want to make it clear. I have nothing against this business. I've looked at their website and they offer a great service to the community. I just don't feel like it is a good fit based on the property's traffic and parking limitations.

Thank you.
Darrin VandenBos

Public comment received 6.17.2020:

Agenda Item 3.3 Conditional Use Permit – 410 S Main Street – Smiling Faces daycare

My name is Chad Sumsion. I own property directly east of the property seeking to receive this conditional use permit. I believe a daycare could be a great use of the existing buildings, and is obviously a need in our society. However, I would like to hear "adequate" and "enforceable" answers to the following questions prior to giving my full support to approving the conditional use permit:

1. Statistically, do clients of the daycare arrive and depart in similar timeframes, or is it spread throughout the day? If traffic peaks, will the company's plan handle the required traffic flow?

It would seem that just before and just after normal work hours for parents would statically be when customer traffic for a daycare would spike, instead of being a consistently spread out flow.

2. How does the company & city plan to enforce the parking ONLY in "off-street parking lot" or on the street that "immediately abuts the lot?"

I would fully support their parking plan as stated, if it were kept. However, observation makes me believe these types of promises are unenforceable. I foresee at least one temptation to break this promise are the trees that provide shade on the street just south of the daycare property.

3. Is it to be assumed that of the 26 identified parking stalls in the traffic study, the company's staff would always use the street parking, making the off-street parking available for drop-off and pick-up? Or would it be the opposite, where the street stalls would be used exclusively for drop-off and pick-up queuing?

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The traffic study concluded that there would be 26 stalls available between the off-street parking lot and immediately abutting street spots. Aerial photos show about 13 parking stalls off-street, so that would mean 13 on street are planned. Seems like 10 or so employees would effectively use all of the non-ADA off-street parking.

4. What is the company's plan for snow removal?

Because there apparently is no space on-site to pile snow when it is plowed, contractors for the prior operator of the property would push their snow totally out of their "off-street parking lot" and straight across the street, piling it on my property or on the street curb adjacent to my property. Doing what has been done in the past is obviously not an acceptable solution.