

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
September 29, 2020

*This meeting was held electronically
to allow Councilmembers and Staff to participate.*

4:00 P.M. WORK SESSION – CITY COUNCIL CONFERENCE ROOM

CONDUCTING	Mayor Richard F. Brunst
ELECTED OFFICIALS	Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Deputy City Manager; Greg Stephens, City Attorney; Marc Sanderson, Fire Chief; Karl Hirst, Interim Police Department Manager; Ryan Clark, Development Services Director; Charlene Crozier, Library Director; Chris Tschirki, Public Works Department Manager; Brandon Nelson, Finance Department Manager; Debbie Boone, Interim Recreation Department Manager; Jason Bench, Planning Division Manager; Pete Wolfley, Communications Specialist; and Jackie Lambert, Deputy City Recorder

NOTE: The referenced report and presentation documents for each discussion may be viewed at orem.org/meetings under “City Council Presentations”

PRESENTATION – Valley Visioning

Ari Bruening, CEO of Envision Utah, and Ryan Beck, VP of Planning, gave a presentation on Phase Two of the Valley Visioning project. Mr. Bruening said more information could be found at envisionutah.org/valley-visioning. He said by 2065 Utah Valley would add 1 million people to its population, 85% of which would be from internal growth. Mr. Beck said Phase 1 of the project had been all about public engagement and listening to what the people had to say. Phase Two of the project identified priority group topics, including: air quality, water quality and quantity, workforce and education, agriculture and open space, housing, and transportation. Mr. Beck said once the priority group topics were identified they consulted with industry experts to generate scenarios about how and where the growth should take place.

The five overall scenarios were:

- Scenario A – Current Conditions
 - Growth continues as it has for the last 20 years

- Scenario B – Organized Centers
 - Growth occurs in mixed-use centers near high capacity transportation
- Scenario C – Westward Growth
 - Growth primarily occurs west of the lake into Cedar Valley
- Scenario D – Southern Growth
 - Growth primarily occurs south between Provo and Santaquin
- Scenario E – Urban Infill
 - Growth is primarily accommodated in existing urban areas

Mr. Beck explained the scenarios and shared maps with suggested growth patterns. He showed the scenario results by location, age group, and gender, with people generally favoring Scenarios B, C, and E.

There was continued discussion on the proposed scenarios, and transportation needs that would be critical in how growth developed in Utah County. In response to questions about a bridge providing connection across the lake, Mr. Davidson said UDOT and MAG had much discussion about the project. There were still many unknowns about the location, cost, and timeline for that connection and the City would watch that closely going forward. Cameron Martin, formerly with UVU, said UVU and Orem had worked in collaboration with the Utah Valley Chamber of Commerce to further this planning project and he thanked Mayor Brunst for being so supportive.

Mr. Beck said he appreciated being able to present the information to the Council and asked that suggestions and comments regarding the Valley Visioning project be directed to himself or to Mr. Bruening.

UPDATE – UTA Services

UTA Board of Trustee member Kent Millington provided an update on the effects of the COVID-19 pandemic on the UVX transit line. He said ridership was down approximately 75% system-wide in the first part of April; now ridership was rebounding to around 65,000 riders. Mr. Millington said much of that increase was because of the opening of schools in Utah County. He felt ridership would continue to recover if the pandemic were contained. Mr. Millington also spoke about studies currently underway to determine how best to increase transportation facilities in the face of the projected population growth. He referred to the North Lakeshore Area Study being conducted by MAG, which was to help unite and connect northern Utah County to Salt Lake County. He said more information could be found at mountainland.org/nlstudy.

Mr. Millington continued discussing other studies in progress. He said the UVX Bus Rapid Transit (BRT) project was regularly cited as an example of a successful BRT line and several other cities in Utah and other states were hoping to replicate that success. General discussion ensued regarding MAG and UDOT transportation studies, connectivity from the northern end of the state through Utah County, and light rail projects in the future. Mr. Millington encouraged the Council to reach out to him with any questions regarding the ongoing studies.

DISCUSSION – City Retention Schedule

Ms. Lambert stated this was the next section of the ongoing approval for the overall retention schedule. This would cover the remaining sections of the Public Works Division, namely Cemetery, Parks, Public Utilities, and Volunteers.

DISCUSSION – Orem City Center

Mr. Davidson provided an update on the municipal campus and the City Center building. He said the COVID-19 pandemic had changed the way people were thinking about their work spaces in a number of ways and had also brought about some historically low interest rates, which was one reason to have this discussion at this time. Mr. Davidson shared the square footage of the City Center, Library buildings including the new Library Hall, the Public Safety building, and the justice court. He said some ideas were explored pre-COVID-19 assessing the required space for existing needs as well as accommodating future growth. Part of that process had been in-depth review of the condition of the existing City Center building, which had raised some significant concerns. Seismic improvements were gravely needed, as the building predated seismic building code regulations and posed a significant threat to anyone within or near the building in the event of an earthquake. Mr. Davidson said experts had reviewed the needs and costs to shore up the building to current seismic standards at approximately \$2.6 million.

Mr. Davidson said though the seismic concerns with the current building were considerable, they were by no means the only concerns of the condition of the building. Built in 1970, the City Center's mechanical, electrical, plumbing, security, technology infrastructure, and other systems were also in need of substantial upgrades. He reviewed some of the key upgrades needed for the electrical and mechanical systems in particular. Mr. Davidson then shared cost estimates completed in 2019 for seismic upgrade construction only as well as cost estimates for seismic upgrades and operational renovation construction. The seismic upgrade and operational renovation cost estimate was approximately \$17.6 million. The estimated project budget for a new municipal center at approximately \$22.6 million or \$453/square foot and included a justice court facility.

From 2017 to the present approximately \$1.2 million had been spent on needed capital improvements to the City Center. Mr. Davidson said the building was built before ADA accessible design standards were required and it would take significant renovations to be brought up to existing codes. He shared additional information about building renovation needs and costs. Mr. Davidson said there had been conversations with Joe Smith from Method Studio about the possibility of creating a conceptual project site and design that would complement existing library buildings. Mr. Davidson said it would take 90 days and cost approximately \$15,000-\$50,000 to create the conceptual plan. He said he also spoke with Laura Lewis of Lewis Young Robertson & Burningham (LYRB) for the financial analysis for the project with current municipal bond interest rates and construction costs. He shared data regarding municipal interest rate trends, pay-as-you-go vs. bonding, and debt service funding availability and alternatives. Mr. Davidson lastly addressed how best to assess public sentiment towards reconstruction of the City Center.

Mr. Sumner commented that there were a lot of old buildings in Orem and the county generally, and he did not understand the hurry to get this particular one rebuilt. Mr. Davidson said the reason they were having the conversation now was because of the opportunity to benefit from a

historically low interest rate for the next 30 years which may not be available again. Mr. Sumner said he would prefer to wait and to put the project on the ballot for public vote.

Mayor Brunst said waiting could result in paying much more for a new building down the road. He felt introducing a General Obligation (GO) bond was the wrong way to go forward because it would require the raising of property taxes. He said rebuilding using a revenue bond was preferred; though it did not place the item on a ballot for public vote, it did not raise property taxes. Mayor Brunst said he did not feel comfortable with the building not meeting ADA accessibility requirements especially in the restrooms and the elevator. He was also concerned about the stability of the building if a seismic event occurred, and the possibility of loss of life. In his opinion, Mayor Brunst felt continuing to spend money on upgrading an old building with so many needed renovations was counterproductive. The cost to rebuild was comparable to renovation costs; now was the time to take advantage of beneficial financing opportunities.

Mr. Macdonald commented that the Mayor's passion for this project was well-known, but he himself had concerns particularly about the cost and financing for such a capital project. Mr. Macdonald did not see the urgent need to pull the trigger based on favorable interest rates when the Federal Reserve System had announced the interest rate would stay the same until 2023. He also agreed with Mr. Sumner in wanting the item on the ballot for public vote as he felt the project would need overwhelming public approval. Mayor Brunst reiterated his feelings about the effects of putting the item to vote on the property tax rates and said the public would not like that aspect.

Discussion continued about the projected costs and financing options. Mr. Lambson said he felt there was a big cost difference in retrofitting versus rebuilding. Mayor Brunst asked for the Council members' thoughts on moving forward with a conceptual project design. Only Mr. Spencer and Mrs. Lauret were in favor of at least seeing a general concept. In response to a council question, Mayor Brunst said they would not move the project forward without council consensus though he was disappointed that more of them were not as "forward-thinking" as he hoped they would be.

Agenda Review & Preview of Upcoming Agenda Items

The City Council reviewed the evening's agenda. Discussion ensued regarding the scheduled items that would be considered.

City Council Reports & City Manager Information Items

There were no Information Items shared by the City Manager.

6:00 P.M. REGULAR SESSION – COUNCIL CHAMBERS

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Deputy City Manager; Greg Stephens, City Attorney; Marc Sanderson, Fire Chief; Karl Hirst, Interim Police Department Manager; Ryan Clark, Development Services Director; Charlene Crozier, Library Director; Chris Tschirki, Public Works Department Manager; Brandon Nelson, Finance Department Manager; Debbie Boone, Interim Recreation Department Manager; Jason Bench, Planning Division Manager; Steve Earl, Deputy City Attorney; Pete Wolfley, Communications Specialist; and Jackie Lambert, Deputy City Recorder

CALL TO ORDER

INVOCATION /

INSPIRATIONAL THOUGHT Mayor Brunst

PLEDGE OF ALLEGIANCE Mayor Brunst

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Mayor Brunst read the following to begin the meeting:

“Pursuant to Mayor Richard F. Brunst's Proclamation dated September 1, 2020, the Orem City Council meeting on September 29, 2020 will be an all-electronic meeting. There will be no anchor location for the meeting. The City cannot ensure the recommended minimum of six feet of social distancing for meeting participants at the usual anchor location in the Orem City Council Chambers. Therefore, holding the meeting at the City Council Chambers would present a substantial risk to the health and safety of those who may be present at the meeting and may contribute to the spread of COVID-19. 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.

To view the meeting please go to orem.org/meetings.

To make a comment please submit your comment through:

orem.org/comments

OR

CityCouncilPublicComments@orem.org

Comments will be accepted before and during the meeting. All comments received will be entered into the record and forwarded to each City Council member for review. Comments will also be read aloud during the live meeting when required by law or when time permits. Once an item has been voted on, that item will be closed to additional comments. Thank you for your cooperation during these challenging times.”

REPORT – Library Advisory Commission (LAC)

Suzanne Whitaker, Library Advisory Commission Chair, presented a report of the activities of the commission this past year and thanked Mr. Sumner for his support as the current City Council liaison to the LAC. Ms. Whitaker said this year was unusual for the library because of the closures caused by the COVID-19 pandemic, but she said there was still a lot of interaction with the public during that time. She said library staff had created videos and other online options for programs like story time and the Summer Reading drive. Ms. Whitaker said they were able to have a drive-thru finale for the Summer Reading program where participants could drive through to get treats and celebrate with library staff. She said when they were able to reopen the library new services like book bundles and technology-driven e-book rentals were in place to help returning library patrons. Finally, Ms. Whitaker said the new Library Hall would be completed in the coming weeks, and the LAC was excited for the public to get to enjoy the facility and participate in library programs together soon.

In response to Mrs. Lauret's question, Mrs. Crozier said the e-books had been heavily used during the closure and they struggled to meet demands. They also saw an increase in the number of books people would rent at once when the library reopened. She did not have specific statistics to share, but said this year would be an anomaly in annual statistics for libraries everywhere.

PERSONAL APPEARANCES

Time was allotted for the public to express their ideas, concerns, and comments on items not scheduled as public hearings on the agenda. Those wishing to make a comment provided staff with written comments.

The public comments submitted were read into the record. Comments that were submitted for "Public Appearance" are attached to the end of the minutes in their entirety.

CONSENT ITEMS

- APPROVAL OF MEETING MINUTES
 - Minutes of Special City Council Meeting – September 1, 2020
 - Minutes of City Council Meeting – September 8, 2020
- RESOLUTION – Approval of certain sections of the City of Orem Public Works Department Retention Schedule
- RESOLUTION – Amending the City Council Meeting Policies and Procedures

Mayor Brunst moved to approve the Consent Agenda as listed. **Mrs. Lauret seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

SCHEDULES ITEMS

PUBLIC HEARING

ORDINANCE – Amending the Orem General Plan map by changing the land use designation on approximately 23.75 acres from LDR (Low Density Residential) to MDR (Medium Density Residential) and amend Section 22-5-3(A) and the Zoning Map of the City of Orem by rezoning the property located generally at 505 West 400 North from the R8 zone to the R7.5 zone and rezone approximately 0.79 acres to the HO (Hospital Overlay zone)

Mr. Bench said the applicant IHC Health Services proposed to amend the general plan land use designation and to change the zoning on the subject property as described above in order to make the classifications of its property more consistent with the classifications of the surrounding property (which was largely in the R7.5 zone). One property that the applicant owned was previously excluded from the hospital overlay because the hospital did not own it at the time. That property was proposed to be included in the Hospital Overlay Zone as part of this rezone request.

The applicant had no plans to change the existing hospital site now or in the future. A neighborhood meeting was held on August 10, 2020. The Planning Commission discussion centered on how the nature of this request was a minor change and that the zone would remain as a detached single family zone with the potential for slightly smaller lots.

Mr. Peterson said he heard the discussion from the Planning Commission meeting and he did not feel like there was a compelling reason behind the requested change. He was especially unclear on why the applicant wanted the rezone when they repeatedly said they were not going to do anything with it. The specified property had both R8 and R7.5 zoned areas around it and the land was currently used for the hospital. Mr. Peterson said he intended to vote against the request because there did not seem to be a good reason for the change. Tom Uriona with IHC Health Services said they periodically reviewed their properties relative to land use and felt this was an asset management change that would make it more consistent with the current zoning. Mr. Uriona said medical services were changing and there may come a time when they would need to use the property for other things, but it was not their plan to do so currently.

Mr. Lambson asked about neighborhood support and the effects to property value. Mr. Bench said there were comments from the neighborhood that were similar to those made by Mr. Peterson. He also said property values were discussed at the Planning Commission meeting but he was not sure of the impact the change could have.

Mayor Brunst opened the public hearing at 6:28 p.m. Public comments that were submitted for Item 9.1 are attached to the end of the minutes in their entirety. Mayor Brunst closed the public hearing.

Mayor Brunst moved, by ordinance, to amend the Orem General Plan map by changing the land use designation on approximately 23.75 acres from LDR (Low Density Residential) to MDR (Medium Density Residential) and amend Section 22-5-3(A) and the Zoning Map of the City of Orem by rezoning the property located generally at 505 West 400 North from the R8 zone to the R7.5 zone and rezone approximately 0.79 acres to the HO (Hospital Overlay zone). **Mr. Lambson seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, David Spencer, and Brent Sumner. Those voting nay: Terry Peterson. The motion **passed**.

PUBLIC HEARING

ORDINANCE – Annexing 1.86 acres of property located generally at 1526 South 1250 West and amending the Orem General Plan map by designating the property LDR/SW (Low Density Residential/Southwest), and amending Section 22-5-3(A) and the zoning map of the Orem City Code by zoning the property OS5

Mr. Bench said the applicant submitted a petition for annexation into the City of Orem a few months ago. The City Council accepted the application on June 8, 2020. After an application for annexation was accepted, the state law allowed a 30-day period for the City and the County to determine that the proposed annexation met applicable requirements. After that period, a 30-day protest period began to run.

This 30-day period ended on September 2, 2020. During the 30-day protest period, one comment was received by the City. The comment was made by the neighbor immediately to the west of this property. They came in person to the Development Services desk to express their concern about the irrigation ditch running through the proposed annexation property to their property. They were concerned as to whether their access to the ditch might be removed or limited by this annexation. Staff explained that if the annexation were to happen, their water rights would not be infringed upon and would be reviewed at the time of development.

Staff recommended the property be designated in the General Plan as LDR/SW (Low Density Residential/Southwest) consistent with the recently adopted general plan land use designation category for the area and zoned to the OS5 zone. The City had not received any plans to develop the property at the time of this meeting. Applicant Mark Steffensen said he and his business partner owned land contiguous to this property and they purchased the property in the hopes of combining the whole piece to have one joint residential development.

Mr. Sumner asked about the utilities in the area. Mr. Clark said they were currently in the process of updating the City's utility master plans. When the project was submitted for site plan approval they would look at the capacity. Mr. Bench added that the infrastructure planned there would accommodate the density they were proposing.

Mrs. Lauret asked to clarify that any development on this property would be subject to the recent ordinance that planned residential developments (PRDs) near the Orem LDS Temple could only have up to seven units and not eight. Mr. Bench said that was correct.

Mayor Brunst opened the public hearing at 6:36 p.m. No public comments were received, so Mayor Brunst closed the public hearing.

Mayor Brunst moved, by ordinance, to annex 1.86 acres of property located generally at 1526 South 1250 West and amending the Orem General Plan map by designating the property LDR/SW (Low Density Residential/Southwest), and amending Section 22-5-3(A) and the zoning map of the Orem City Code by zoning the property OS5. **Mr. Spencer seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

PUBLIC HEARING

ORDINANCE – Amending Section 22-11-35(L)(1) of the Orem City Code pertaining to the location of residential units in the PD22 Urban Village zone and amending portions of Appendix Q of the Orem City Code pertaining to the overall concept plan for Northgate Village, the Commercial/Retail Area Designation Plan, and the Public Streets, Building Heights, and Land Uses map

Mr. Bench said applicant Bruce Dickerson owned the property at 1140 West 950 North in the PD22 zone. The property was originally owned by the Church of Jesus Christ of Latter-Day Saints and the concept plan for the PD22 zone contemplated a church being developed on this property. Mr. Dickerson wanted to make ordinance amendments to allow residential development to now go on the property. The applicant would like to build residential condominiums on the property similar to the Villa D’Este Condominiums located to the east of this property.

To make this possible, three maps in Appendix Q needed to be amended. These maps included the overall concept plan for Northgate Village, the Commercial/Retail Area Designation Plan, and the Public Streets, Building Heights, and Land Uses map. In the PD22 zone, a maximum of seven hundred residential dwelling units were allowed. The applicant proposed to reallocate some allowed, but unused, residential units from the Mixed-Use area (112 units) and the Mix-Use Towers area (19 units) and transfer those units to the Residential Only Area. The applicant also wished to amend Appendix Q to include the subject property as part of the Residential Only area. The total number of allowed residential units in the zone would remain the same. Mr. Bench said the Planning Commission recommended approval of the three changes and reallocating some of the density from the Mix-Use Towers area to residential.

In response to a question from Mayor Brunst, Mr. Dickerson said these would be affordable housing units for private ownership. He said there was an owner-occupied restriction on the units that would keep them from being turned into rentals. He said 90% of the residents that occupied his other projects in Orem were young couples or single working professionals, and the goal was to help these young families with affordable housing that would cost less than if they were renting. Mr. Dickerson said the cost would likely be in the low \$200,000 range, and he had gotten Federal Housing Administration (FHA) approval for the units. Mr. Macdonald asked about older residents, like empty nesters and retirees, as well as common areas such as a clubhouse. Mr. Dickerson said there were plenty of older folks looking for smaller homes with less upkeep. He said there was not a clubhouse but there was a large open park area in the first phase for residents to use.

Mr. Sumner asked what would stop investors from buying units and turning them into rentals. Mr. Dickerson said there was overall restriction on the whole property that restricted only two adults per unit. He said the FHA typically required a 50/50 balance of owner-occupiers and rentals but in Orem the split was 60/40. They could only have 10% ownership in any given building, and most people buying units as investment properties were small mom-and-pop landlords looking to supplement their income.

Mr. Lambson asked about the parking per unit ratio. Mr. Dickerson said there were two parking stalls per unit, and there was an on-site property manager to keep an eye on things.

Mr. Peterson said sometimes there was a tendency to think of high density housing as being low income housing, which was not the case for developments like The Aston at University Place.

These proposed kinds of units were in a completely different market that needed to be addressed, and he thanked Mr. Dickerson for his efforts in providing FHA approved housing in the city.

Mayor Brunst opened the public hearing at 6:57 p.m. No comments were received, so Mayor Brunst closed the public hearing.

Mayor Brunst moved, by ordinance, to amend Section 22-11-35(L)(1) of the Orem City Code pertaining to the location of residential units in the PD22 Urban Village zone and amending portions of Appendix Q of the Orem City Code pertaining to the overall concept plan for Northgate Village, the Commercial/Retail Area Designation Plan, and the Public Streets, Building Heights, and Land Uses map. **Mr. Macdonald seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

PUBLIC HEARING

ORDINANCE – Amending Appendix A of the Orem City Code by enacting Standard Land Use Code 6422 Towing Services Business (with building) as a permitted use in the M2 zone

Mr. Bench said Standard Land Use (SLU) Code 6421 of Appendix A of the Orem City Code currently referenced impound yards. However, SLU 6421 did not distinguish between impound yards that had a building as part of the yard and those that did not.

The Business Licensing department proposed to amend Appendix A to add new SLU 6422 for Towing Services Business (with building) to distinguish such uses from SLU 6421 which referred only to impound yards.

Making the distinction between tow yards that had a building and those that did not would be helpful to Business Licensing because the two different types of yards were treated differently for purposes of business licensing. Some towing companies had their offices in another city and were licensed in that city. If a towing business was licensed in another city and had just a yard with no building in Orem, they were not required to pay a business license fee in Orem. Staff requested an amendment to Appendix A to clarify.

Mayor Brunst opened the public hearing at 7:02 p.m. No public comments were received, so Mayor Brunst closed the public hearing.

Mayor Brunst moved, by ordinance, to amend Appendix A of the Orem City Code by enacting Standard Land Use Code 6422 Towing Services Business (with building) as a permitted use in the M2 zone. **Mr. Spencer seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

PUBLIC HEARING

ORDINANCE – Amending Section 22-8-17(7), Additional Provisions for Specific Uses, of the Orem City Code pertaining to location requirements for Climate Controlled Storage units

Mr. Bench said this request was to clarify language in the Code for Climate Controlled Storage unit developments. The current language stated that no more than two (2) climate-controlled storage businesses/buildings may be located in the C2 zone. When the limit on climate-controlled storage buildings in the C2 zone was created in 2015, the intent was to prevent these types of uses from crowding out retail uses along the State Street corridor. In 2018, the five State Street District zones were created. These five zones included a significant amount of land that had been in the C2 zone. Most of these new zones allowed all of the same uses that were permitted in the C2 zone. One of the two climate-controlled storage uses that had been in the C2 zone was included in the North Village District zone. This opened the door to confusion about whether the limit on climate-controlled storage uses applied to the new State Street District zones. The proposed amendment would clarify that the limit of two climate-controlled storage units was a limit on the combined total of such uses in the C2 zone and all of the State Street District zones.

Mr. Bench said staff had filed an application on August 10 to make the modification to the code language. Julie Smith filed an application for a climate-controlled storage facility at 44 East 800 North. He said Ms. Smith had reached out to the Council saying she too submitted an application on August 10 but it was actually filed on August 11. Mr. Bench said the application filed by Ms. Smith was incomplete; it was a single page without any civil drawings, traffic studies, or any of the types of documents required with application submittal. Staff rejected the application based on it being incomplete, and nothing additional has been submitted since that time. Mr. Bench said Ms. Smith's attorney Bruce Baird had reached out about the timeline of application submittal and the subsequent rejection of his client's application, saying that Ms. Smith's application brought attention to this issue and that was when staff began working to modify the code language. Mr. Bench said that was not the case and they had already submitted an application the day before Ms. Smith submitted hers. They followed proper noticing procedures for the process and were not attempting to "sneak through" the modification.

In response to Mayor Brunst's question, Mr. Bench said the reason the Council limited the number of storage units in the C2 zone in 2015 was because percentage-wise Orem had more than its fair share of storage businesses.

Mayor Brunst opened the public hearing at 7:10 p.m. Public comments that were submitted for Item 9.5 are attached to the end of the minutes in their entirety. Mayor Brunst closed the public hearing.

Mrs. Lauret asked about the previously planned mixed use development with VASA Fitness that would be at this location. Mr. Bench said he was not sure the cause but part of the original plan had not gone forward. He believed the original developer was no longer attached to the property project. In response to Mrs. Lauret's question, Mr. Bench said this seemed like an "easy" use and not a higher and better use in a zoned district.

Mr. Peterson said the space was a great opportunity for expanding recreational facilities like pickle ball and tennis courts, especially when the VASA already had indoor tennis courts. He said he did not understand enough about the storage units to have an opinion, but felt there were other options that would be beneficial for the community.

Mr. Sumner asked about the occupancy rates of the existing storage facilities in the city. Mr. Bench said he did not have specific statistics but knew they were relatively full and well used. The concern was more about having so many of the same businesses in the city and not having the space for other desirable businesses.

Mayor Brunst said the two existing climate-controlled storage facilities on State Street were attractive and well-kept, and he was not opposed to having a third. **Mayor Brunst then moved** to deny the request and amend the language to allow for three (3) storage facilities. The motion died for lack of second.

Mr. Macdonald moved, by ordinance, to amend Amending Section 22-8-17(7), Additional Provisions for Specific Uses, of the Orem City Code pertaining to location requirements for Climate Controlled Storage units. **Mr. Spencer seconded** the motion.

Mr. Earl said if the Council approved the code amendment tonight the applicant still had the option to submit application and come forward with a specific design plan to prove their requested use would be in the best interest of the City. The Council could then approve the development at their discretion.

The Council then voted on the motion made by Mr. Macdonald and seconded by Mr. Spencer. Those voting aye: Jeff Lambson, Debby Lauret, Tom Macdonald, David Spencer, and Brent Sumner. Those voting nay: Richard F. Brunst. Those abstaining: Terry Peterson. The motion **passed**.

PUBLIC HEARING

ORDINANCE – Amending the Current Fiscal Year 2020-2021 Budget and Amending the Compensation Program of the City

Mr. Nelson presented the City Manager's recommendation the City Council hold a public hearing to discuss amending the current Fiscal Year 2020-2021 Budget, and, by ordinance, amend the Fiscal Year 2020-2021 Budget.

The Fiscal Year 2020-2021 City of Orem budget had many adjustments that occurred throughout the fiscal year. These adjustments included grants or donations received from Federal, State, and other governmental or private entities or organizations; interest earnings on unspent 2019 G.O. Bond funds; impound yard business licensing fees; accessory apartment fee; a new public safety salary structure; and a 3% employee merit pay adjustment increase for those employees not a part of the new public safety program. A new SLU code was introduced for impound yards and thus, the business licensing fees associated with this change have been added and/or modified based on whether an office was located on the property or not.

A new fee was proposed to be added for those desiring to remove a legal accessory apartment. The fee for this affidavit to rescind a legal accessory apartment was to cover the costs associated with staff time to record such a removal in city and county records. Management had worked with various public safety personnel at all levels to develop a new salary structure (referred to as the Public Safety Hybrid Step Program) for both police and fire personnel. Sworn Public Safety personnel would no longer participate in the merit based system. Thus, the program would replace

all grades and ranges for positions shown in Exhibit “D” and “E” of this budget amendment and as listed in the Compensation & Benefits section (Exhibit C) of the FY 2020-2021 Adopted Budget document.

Mr. Nelson reviewed the notes addressing the budget amendments. He specified that the 3% merit increase was for non-public safety employees, who were proposed to be in a separate compensation program. He said both were expected to be funding through increased sales tax revenues. Mrs. Lauret asked whether the public safety personnel system would be funded by franchise or sales tax. Mr. Nelson said it was complicated with the event of the COVID-19 pandemic, but originally they did not budget the franchise tax portion to fund anything but be part of the General Fund. When it was decided to reduce sales taxes, they covered that reduction by using the expected street lighting portion of the franchise taxes to achieve a balance. He said now they were more confident in the sales taxes therefore they were going to raise those to cover these particular compensation costs.

Mr. Nelson continued reviewing the amendments and the exhibits to the ordinance. He said the recent implementation of the Landlord Licensing program had led to an increase in calls from people that wanted to remove their legal accessory apartment from the records of the city and the county. This removal on city and county records would mean they did not have to pay the licensing fee of \$50 each year, but also that they would no longer be able to rent out the apartment. Mr. Macdonald asked if there was anything in place to ensure they honored that. Mr. Clark said homeowners would have to sign an affidavit spelling out the legal ramifications if they removed the legal accessory apartment but continued to rent. They could be charged criminally for such actions. Mr. Bench said the majority of homeowners interested in this change had built the accessory apartment but had never actually rented it out. In response to Mr. Sumner’s question, Mr. Earl said he believed the number of individuals actually prosecuted on these charges was extremely low, as there were several steps preceding a criminal charge to rectify the situation. Mr. Nelson said the proposed one-time fee to rescind the designation of accessory apartment was \$50.

Mayor Brunst opened the public hearing at 7:46 p.m. No public comments were received, so he closed the public hearing.

Mr. Spencer moved, by ordinance, to amend the Current Fiscal Year 2020-2021 Budget and Amending the Compensation Program of the City. **Mr. Lambson seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

COMMUNICATION ITEMS

There were no Communication Items to share.

CITY MANAGER INFORMATION ITEMS

The City Manager said he would be ready by the end of the week to recommend a new police chief.

Fire Chief Sanderson thanked the Mayor, Council, and City Administration for the restructure of the compensation. He said it would make a huge difference and he appreciated their support.

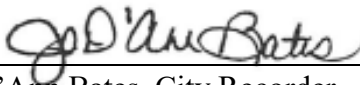
ADJOURNMENT

Mayor Brunst moved to adjourn the meeting. **Mr. Spencer seconded** the motion. Those voting aye: Richard F. Brunst, Jeff Lambson, Debby Lauret, Tom Macdonald, Terry Peterson, David Spencer, and Brent Sumner. The motion **passed**.

The meeting adjourned at 7:51 p.m.

Approved: October 13, 2020




JoD'Ann Bates, City Recorder

PUBLIC COMMENTS – September 29, 2020

7. Personal Appearances

RYAN (unknown last name):

Months ago, a house in my neighborhood was purchased and transformed into a massage parlor. The following are some observations and facts that have led my family and other neighbors to be concerned:

1 - The clientele are 100% males. The men rarely park at the residence, usually around the corner or in a parking lot for a church. Many of the men walk strange paths back to and from their cars, not the shortest path.

2 - When police cars are present in the parking lot, the people giving the massages have been seen waving off clients, signaling them not to come into the house.

3 - The business is listed on various websites that list massage parlors that will perform sexual acts.

4 - Orem Police have informed us that they suspect illegal activities are going on at the residence. They've spoken with clients who have said they were offered sexual services.

5 - On the same block of this massage parlor live over 15 children who are elementary school aged or younger along with a handful of other children under the age of 18.

6 - The staff are mostly all Asian women who speak very little to no English. There is a concern that many of these women may have been forced or pressured into this work.

7 - The homeowner does not live in the home. It is solely used as a massage parlor. We were informed that this fact alone means the business is operating improperly.

8 - A Sargent from Orem Police Department expressed his frustration with us that Orem doesn't currently have tools in place to deal with these massage parlors. In his words, "We are playing whack-a-mole." In addition, he said this is a growing problem and will only get worse.

The Sargent from Orem Police also proposed some potential solutions. He mentioned that Provo city has had more success in dealing with illegal massage parlors. Provo has a department or person that will do on-site inspections, leading to revoking business licenses from these illegal locations. We were informed that in the history of Orem, the city has never revoked a single business license, ever.

We are concerned that Orem City has either been unaware of this problem or unwilling to address it, and this negligence is putting our families at risk. It is one thing for these places to pop-up in commercial locations, but when it is happening next to our homes, next to our children, we become very concerned. We ask the Orem City Council to address this problem before massage parlors with sex workers are littered throughout our city.

SCOTT SWAIN:

I would like to propose an item for the agenda. At SCERA Park there is a lot on the far south end with a cell phone tower in it. My understanding is that the city owns this lot and the red brick house on 720 South. I would like to propose that we put a living farm there with an educational theme. This farm could have a petting zoo, a greenhouse to learn where our food comes from, fruit and

nut trees and farm animals, and information on how they provide food, clothing, fertilizer, etc. for us. The main floor of the home could be used to show videos and to teach school children and others about the purpose of the farm before entering the living farm. USU interns and a full-time staff member/director could live in the home and direct the upkeep of the farm and run the educational element there. It could be a non-profit and we could apply for community development grants to fund this since the main theme of the farm is educational. This property once belonged to my great grandfather, Otto Julius Poulson who was a community builder. We could include information on him and a short history of Orem as it has developed from a farming community to a more urban, high-tech community. It would be easily seen and used being right next to the swimming pool and the SCERA Theater. I would be willing to help achieve this goal and work with a committee and the City to accomplish it.

9.1 Public Hearing Comments

Applicant IHC Health Services requests the City amend the Orem General Plan map by changing the land use designation on approximately 23.75 acres from LDR (Low Density Residential) to MDR (Medium Density Residential) and amend Section 22-5-3(A) and the zoning map of the City of Orem by rezoning the property located generally at 505 West 400 North from the R8 zone to the R7.5 zone and rezone approximately 0.79 acres to the HO (Hospital Overlay zone)

NANCY HAIGHT:

I would just like to add, in agreement with Tom Uriona, that in passing this item you've created and island of zone 8 homes to the east of the existing hospital property. Since the areas on three sides of the property is zone 8 it makes more sense to leave the property at zone 8 than to change the designation to zone 7.5. The same comments were expressed in the planning commission meeting by others who are property owners in the area. I tried to make the same comment during the planning commission hearing but was unable to figure out how to do so.

9.5 Public Hearing Comments

Development Services requests the City amend Section 22-8-17(7), Additional Provisions for Specific Uses, of the Orem City Code pertaining to location requirements for Climate Controlled Storage units

JULIE SMITH:

Mayor and Members of the City Council,

I represent the owners of the old Vasa Fitness Center located on 800 North and Main Street. The owners have made many efforts to market their facility and have found that it has little viability for retail use, however there is a strong demand in the immediate area for climatized storage that

will have a sales tax aspect as it will sell moving and storage supplies.

Several weeks ago, I made application for this use at this site. The letter from Mr. Baird details that application and the staffs' refusal to accept it.

When the original restriction on climatized storage was adopted for the C-2 zone in 2015, two concerns were expressed by the council, not wanting to loose out on tax revenue and wanting time to see if there were any negative impacts not anticipated. To date there has been no reported negative impacts on the City with the climate storage.

If the intent of the Council was to restrict the number of "climate controlled" facilities in other zones they had the opportunity to do so when the zones were adopted. Instead they have reacted to a valid application with an attempt to change the restriction without proper notice to property owners who will be affected and by having a "so called public meeting" in which no serious discussion can be held. At best this is "governance by ambush"!

If the city feels the necessity to restrict this right, it needs to be done in an open forum with adequate notice to property owners, a detailed list of negative impacts this use has had on the city and good reasons to restrict the use on 800 North.

Please continue this item until a genuine public forum can be achieved or allow three climatized storage units in the C2 and State Street Zones.

MARK HAMPTON:

I've owned property in Orem and have become very familiar with the Vasa (once Storehouse Market) land for more than 30 years. In the past with the various uses in the building, the traffic has been a concern for me and the local residents.

I have reviewed the applicants plans and find it very appealing.

Not only will the existing building be repurposed to a beneficial use, the use has little to know impact on the surrounding community. No children, no police service, very little traffic, less congestion in our community. There is no downside for the City. In fact, a new façade on the existing building will be a huge improvement. In fact the City benefits from allowing the climatized indoor storage realizes the City added tax revenue, and the City is only to provide very limited services. What a wonderful thing for Orem City.

If the developers are forced to tear down the building and produce a true "mixed use" project in this location as per the City code, the impact on infrastructure, schools, police and public safety, etc. would be dramatically increased. I am in complete favor of this project and hope that you will be as well!

BRUCE R. BAIRD, PLLC.:

Dear Orem City Council:

I am counsel for North Orem Investments, LLC, the owner of the property located at 44 East 800 North in your fine city. I am also counsel for Ms. Julie Smith who was the applicant for the mixed use site plan at that address which included, among other useful developments, a conversion of the Vasa Fitness building to be a climate-controlled storage facility.

Early in the morning on August 10, 2020, Ms. Smith made an application to the City for the

proposed project. The City staff kept her application but wouldn't accept her payment of fees due to a confusion about the nature of the application. The application for the climate-controlled storage portion of the development was, at the time, allowed by City Code.

The property is zoned CX. The CX Zone incorporated by reference the "uses" allowed in the C2 Zone. Those uses included climate-controlled storage. At the time the C2 Zone, but not the CX Zone, had an explicit limit on the number of climate-controlled storage allowed. Thus, there was either no limit on climate-controlled storage buildings in the CX Zone, or, at the least, the climate-controlled storage facilities in the C2 Zone would not count against the number allowed in the CX Zone. Either way, the proposed climate-controlled storage was an allowable component of the mixed-use project being proposed.

Apparently, Ms. Smith's application caused the City to recognize the issue raised above and to initiate, later the same day, the proposed text change that is before you now. No one from Orem City advised Ms. Smith of this pending change until I was advised of it by Mr. Steve Earl on the literal eve of a Board of Adjustment appeal of a staff decision that the climate-controlled storage use was not allowed due to the zoning interpretation above. Had we known about this issue earlier we would have made public comment about it to the Planning Commission when the Commission was considering the draft Ordinance that is now before you.

Mr. Earl was very candid during his call including pointing out that one of the two uses climate-controlled storage building that triggered the potential conflict was not, itself, located in the C2 zone any longer (that property had been re-zoned to another one of your various State Street Corridor-related zones) and thus did not count towards any limit. Mr. Earl did mention to me that he thought that the City staff may have been considering and talking about this potential issue before Ms. Smith's application on August 10 but given the immediately proximate timing of the filing of the Application by the City to effectuate this change I am not sure he is correct about that.

Either way, I believe that Ms. Smith's application should be considered legally vested. She applied in the manner customary for such an application in Orem and paid (or at least tendered) the application fee while the use was legal and before the City triggered the "pending ordinance" doctrine.

At the very least, even if Ms. Smith's application is not vested for some reason, it is not fair to Ms. Smith or North Orem Investments to deny the application. As the United States Supreme Court has written: "government should turn square corners with its citizens". I submit that changing the rules of the process for land development while applications are being filed fairly and legally by a private property owner (whose rights the Utah Supreme Court has stated are almost sacred) is just inherently not fair. It is not how the Council Members would want themselves to be treated.

It would be very easy to craft an adoption of this proposed ordinance that allows this project to proceed while still meeting the intent of the City regarding the C2 Zone on a going-forward basis. I would be happy to work with the City Attorney's Office to do that. We would also be happy to discuss this matter with you in person if you would open up the hearing to public comment in the future.

I thank you for your consideration and look forward to resolving this matter peacefully with you. Thank you and please stay safe.