

APPROVED MINUTES

AMERICAN FORK CITY PLANNING COMMISSION MINUTES FEBRUARY 17, 2021

The American Fork City Planning Commission met in a regular session on February 17, 2021 in an electronic meeting on the Zoom platform, viewable on the City's YouTube link, commencing at 7:00 p.m.

Present: Chairman John Woffinden
Cristine Anderson
Chris Christiansen
Rod Brocious
Harold Dudley
Geoff Dupaix

Absent: Ryan Hunter

Staff Present: Adam Olsen, City Planner
Ben Hunter, Engineer
Lisa Halversen, Administrative Assistant

Others Present: Davy Houle
Richard Berger

Public Comments Received: Letters from AF Utah, Keystone Construction, Neighborly Ventures, and Wadsworth Construction

Chairman Woffinden read the "Notice of Electronic Meeting."

1. Review and action on a site plan for an accessory structure located at 935 East 50 South in the R1-9,000 zone

Mr. Olsen stated that the applicant requests site plan approval to construct a 2,400 square foot accessory structure at 935 E. 50 S. The proposed accessory structure will be located at the north end of the property. The adjacent property to the north is undeveloped. The property is slightly over half an acre (.56 ac.). Access to the structure will be from a gravel driveway on the west side of an existing dwelling, off of 50 South. The Development Code stipulates in Section 17.5.105 that an accessory structure consisting of 1,000 square feet or greater requires approval by the Planning Commission. Accessory structures are not allowed to be used for any kind of living area, only storage, etc. The plans show a gas and power line going to the structure, this structure cannot be used for any kind of living structure.

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Mr. Ben Hunter said that the standards have been met, the Engineering Division doesn't have any concerns.

Mr. Davy Houle, applicant, indicated that he wants to build an accessory structure to house his toys and he would use the heat when he works in there. He stated that he will definitely not use it as a living structure. He has spoken with the neighbors and they are in support.

Mr. Dupaix moved to approve the site plan for an accessory structure with the findings listed in the staff report and subject to any findings, conditions and modifications listed in the Engineering report, with the condition that all residential uses are prohibited.

Mr. Brocious seconded the motion. Voting was as follows:

Chairman Woffinden	Aye
Christine Anderson	Aye
Chris Christiansen	Aye
Rod Brocious	Aye
Harold Dudley	Aye
Geoff Dupaix	Aye

The motion passed.

2. Hearing, review and action on amendments to Section 17.4.608.6.B of the American Fork City Municipal Code regarding requirements to provide office and/or retail uses

Mr. Olsen stated that the proposed revisions will allow clustering of commercial use on streets other than 200 South, within the TOD "mixed use core" area. The 25% equivalent remains in effect; however, clarification is given that the 25% may be clustered into one building or dispersed in separate buildings.

Staff recommends a timing structure be placed in the ordinance to ensure delivery of commercial elements (no later than 50% build-out of residential).

This issue was brought before the commission a couple months ago, council requested staff to change the code to allow commercial use to be consolidated and/or spread out. This item is the result of those deliberations at city council. Staff feel strongly about the 50% buildout requirement to ensure that the mixed-use component is delivered. The applicant has submitted comment, three other letters were received and will be entered into the record at the time of public hearing.

Ms. Anderson noted that they all probably agree that commercial is not required to be dispersed evenly through the entire project, but she also doesn't like the idea of all commercial space being consolidated in one building. She asked if there is there a possibility for language that requires the commercial to be dispersed among 25% of the project? This might give the developers some flexibility while still following the intent of the code. This could also allow commercial to be consolidated to the most commercial-friendly corner of the project.

Chairman Woffinden asked what her opinion is regarding the 50% buildout requirement. What does she feel is the correct balance between stipulating an earlier buildout and letting the market have an impact?

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Ms. Anderson respects that developers would like to wait until the residential is further along to put the commercial in so that the commercial is viable, but she also emphasizes the need for commercial in a mixed-use area. She expressed that she doesn't want to let the commercial get postponed. She suggested a compromise, maybe a 75% completion requirement.

Chairman Woffinden agreed that may be a good compromise. He is also concerned that if no requirement is specifically mentioned, the commercial uses may never come.

Mr. Brocious supports that idea as well, but he personally feels that the current 50% is the correct timing.

Mr. Dupaix mentioned that they have spent quite a bit of time mulling this over, he asked Mr. Olsen if he had looked TOD's in other areas regarding this issue, how were other requirements met?

Mr. Olsen replied that there is an average of 50% buildout requirements for the commercial. The goal is to allow for flexibility but meet requirements for commercial in the mixed-use area. He also stated that direction from council was to let the commercial be consolidated, developers could choose between consolidating to one building or dispersing it. This is a unique circumstance.

Mr. Brocious can see the advantages of distributing the commercial, but he also sees value in consolidating it as it gives the developer more flexibility. He's a little undecided about both scenarios, they both have advantages. Regarding buildout requirements, he is supportive of the 50% requirement.

Mr. Christiansen is concerned that if there is not a buildout percentage stated, is it just open ended? Could the residential be completely built out and the commercial left undone?

Mr. Olsen replied that the city would have no recourse or mechanism to enforce it.

Mr. Christiansen is concerned about the loss of leverage by the city if a percentage is not spelled out in the requirements. He feels like a 50% residential buildout is fair. It is a TOD area, commercial will be needed to fulfill the vision of a walkable community.

Ms. Anderson understands that council seems to prefer that commercial be allowed to consolidate into one building. However, she would like to give feedback to council that she thinks that as a matter of TOD planning, having commercial uses at street level and abutting the street is best for a mixed-use area. Commercial should be visible and accessible to pedestrians. Regarding how much they can consolidate, she sees the appeal of being able to consolidate into one building but that may not in our best interest. If that was specifically allowed in our code, that may be the default position that developers would gravitate to. She favors keeping a requirement that a certain percentage be commercial and limiting consolidation.

Mr. Dupaix said that council has already set the precedent that consolidation to one building will be allowed. If planning commission recommends something different, developers will say that the council has already decided this issue.

Mr. Olsen said that the council has made recommendations, but planning commission is free to make a motion for council to do whatever they think is right. The council values the opinion of the planning commission.

Mr. Dupaix replied there are places where consolidation into one building would make it more productive, but having the commercial a little more dispersed and ground-level would be more what they're aiming for in a mixed-use area. He is trying to find the sweet spot to reconcile both points of view.

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Mr. Dudley pointed out that if they give an exception by allowing consolidation into one building for one, it opens it up to all developers and he isn't sure that's what the vision is for that area.

Mr. Olsen noted that the code requirements should be straightforward so that everyone is playing with the same rules.

Ms. Anderson suggested an example of giving developers a percentage, i.e. if a developer has 10 buildings and the commercial requirement was for 20% then they could put commercial on the ground floor of two buildings. Does something like this make it both flexible for developers and still meet the code requirements?

Mr. Olsen said that the proposed code allows for commercial to be dispersed OR consolidated into one building, so that would need to be changed to require a percentage that must be dispersed AND a percentage that could be consolidated into one area.

Ms. Anderson asked for clarification on the wording.

Mr. Olsen stated that as an example, the code could state that "x%" of the required commercial space may be located in one building, the remainder being dispersed around the project on the ground level. He believes that the council is supportive of the idea that the commercial may be located in one building, but he will take them any recommendation from Planning Commission.

Ms. Anderson asked what the status was of these proposed amendments, are they just suggestions from the council or have they already been approved by council?

Mr. Olsen explained that staff was directed to amend the code to allow the commercial requirements to be satisfied by allowing consolidation into one building. Staff added on the 50% buildout requirement as a trigger point to ensure that we get the commercial.

Ms. Anderson asked how people feel about commercial being required to be on the ground floor? She felt that this would naturally tend to spread it out and disperse it.

Mr. Olsen indicated that the council seems to be supportive of multi-story commercial, there might be good uses for some businesses to have multiple stories. If commissioners feel strongly otherwise, they can make that recommendation to council.

Chairman Woffinden is supportive of commercial being on ground floor. That makes it more accessible.

Mr. Dupaix is fine allowing a couple of floors for commercial. That is common in larger cities. What he is struggling with is how to balance the dispersal requirement, he's still stuck about consolidating into one building.

Chairman Woffinden suggested opening the meeting for public hearing and having Mr. Olsen read the public comment letters.

Public Hearing Opened

Mr. Olsen read the following letters:

Keystone Construction, AF Utah, Wadsworth Construction, Neighborly Ventures



February 16, 2021

RE: Code Section 17.4.608.6.B revision - Agenda Item 2

Planning Commission:

This letter is to publicly express our support of Neighborly Ventures request to update the American Fork Code regarding the configuration of commercial/retail elements in the core blocks of the TOD. We feel that the City zoning for 25% of ground floor area to be designated for office and/or retail use is a good long term plan. However, to force a developer to build retail space before all the residential "roof tops" are in, or before the market has matured, may result in a rushed plan that results in vacant retail/commercial space that will not fully accomplish what it was originally intended to support in the neighborhood. We feel that it would be wise for Planning Commission to consider that retail be constructed when the "market is ready" rather than dictated by ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Grant Lefgren", with a long horizontal flourish extending to the right.

Grant Lefgren
Keystone Construction & White Horse Developers

AF Utah, LLC
4821 Atlantic Blvd.
Jacksonville, FL 32207
(904) 338-9524 / Fax 338-9527

February 17, 2021

Re: Code section 17.4.608.6.B revision- Agenda Item 2.

Planning Commission,

Thank you for your consideration of the city council's requested updates to the American Fork code regarding the configuration of the commercial/retail elements in the TOD area. We support the proposed changes but request one modification to the specific language proposed by staff.

The current language requires that the office/retail component be completed no later than the completion of 50% build-out of any residential portions of the project area. We would request that the language not contain this 50% timing requirement. Our specific proposed language is as follows:

*For buildings within the Mixed use Core sub-district, all buildings abutting 200 south shall have an equivalent of 100% ground floor area designated for office and/or retail use (Table 6E-Building Use). For all buildings **within project areas** abutting streets other than 200 South, an equivalent of 25% ground floor area shall be designated for office and/or retail use (Table 6E-Building Use). **The 25% equivalent may be satisfied collectively in one building, or dispersed throughout the project area in various buildings. Delivery of the office/retail use shall occur no later than at completion of 50% build-out of any residential portions of the project area. Designation of an area for office and/or retail use under this subsection does not require any particular order or phasing of construction of buildings.***

We believe our proposed change to the language is logical and will produce a more vibrant successful community in the end. We have outlined several factors to consider when discussing the timing element of this code change.

- 1) **Market:** While we understand and agree with the need and desire to have office/retail space incorporated in the TOD area, forcing it to be constructed contemporaneously rather than when market driven is not good policy. Building empty storefront causes a blight on the neighborhood and can actually prevent future commercial tenants who do not want to be in an empty building. We think that the TOD project area will be most successful and vibrant if the code, while maintaining a requirement for an office and retail component of the TOD project, does not artificially impact the natural development progression of the TOD project.
- 2) **Design:** Office and retail projects are best constructed and envisioned once tenants have been identified and leasing plans have been put into place. While residential developments can be designed to anticipate a particular residential tenant mix, office and retail projects are very much tenant driven and should be designed around specific tenant needs instead of in the abstract on a spec basis. In addition, allowing for time to construct a residential project to provide a customer and occupant base will attract stronger and better office and retail tenants.

- 3) **Financing:** It is very difficult to finance a mixed use residential and commercial project without preleased tenants to support the commercial aspects of the project. While lenders are comfortable financing ground up multi-family projects, they are typically reticent to provide financing for spec office and retail projects. So even if a developer would like to construct a spec office and retail component as a part of a mixed use retail project, that developer would likely not be able to obtain financing to construct that component. It is obviously a much easier proposition to obtain financing for a retail or commercial project with tenants in place to take occupancy once construction is complete. Once substantial residential growth has occurred around the area, it is much more likely to attract commercial tenants which will allow financing to occur.
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We have appreciated working with the City over the last year on the development of this project and the willingness of the City to update its code to allow the TOD project to unfold in a natural and organic way. We believe our project is well thought out and will be an asset to the neighborhood and the City. We request that the planning Commission approve the proposed code amendment without a timing component.

Thank you for your time and consideration.

Christopher Simms
Manager
AF Utah, LLC



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February 16, 2021

Re: Code section 17.4.608.6.B revision- Agenda Item 2.

Planning Commission,

Thank you for your consideration of the city council's requested updates to the American Fork code regarding the configuration of the commercial/retail elements in the TOD area. We support the proposed changes but request one modification to the specific language proposed by staff.

The staff's language requires that the office/retail component be completed no later than the completion of 50% build-out of any residential portions of the project area. We would request that the language not contain this this 50% timing requirement. Our specific proposed language is as follows:

*For buildings within the Mixed use Core sub-district, all buildings abutting 200 south shall have an equivalent of 100% ground floor area designated for office and/or retail use (Table 6E-Building Use). For all buildings **within project areas** abutting streets other than 200 South, an equivalent of 25% ground floor area shall be designated for office and/or retail use (Table 6E-Building Use). **The 25% equivalent may be satisfied collectively in one building, or dispersed throughout the project area in various buildings. Designation of an area for office and/or retail use within project areas abutting streets other than 200 South under this subsection does not require any particular order or phasing of construction of buildings.***

We believe our proposed change to the language is logical and will produce a more vibrant successful community in the end. We have outlined several factors to consider when discussing the timing element of this code change.

- 1) **Market:** While we understand and agree with the need and desire to have office/retail space incorporated in the TOD area, forcing it to be constructed contemporaneously rather than when market driven is not good policy. Building empty storefront causes a blight on the neighborhood and can actually prevent future commercial tenants who do not want to be in an empty building. We think that the TOD project area will be most successful and vibrant if the code, does not artificially impact the natural development progression of the TOD project.
- 2) **Design:** Office and retail projects are best constructed and envisioned once tenants have been identified and leasing plans have been put into place. While residential developments can be designed to anticipate a particular residential tenant mix, office and retail projects are very much tenant driven and should be designed around specific tenant needs instead of in the abstract. In addition, allowing for time to construct a residential project to provide a customer and occupant base will attract stronger and better office and retail tenants. Those tenants will know their customer base and be able to design their use around that base.

- 3) **Financing:** It is very difficult to finance a mixed use residential and commercial project without preleased tenants to support the commercial aspects of the project. While lenders are comfortable financing ground up multi-family projects, they are typically reticent to provide financing for spec office and retail projects. Even if a developer would like to construct a spec office and retail component as a part of a mixed use project, that developer would likely not be able to obtain financing to construct that component. It is obviously a much easier proposition to obtain financing for a retail or commercial project with tenants in place to take occupancy once construction is complete. Once substantial residential growth has occurred around the area, it is much more likely to attract commercial tenants which will allow financing to occur.
-

We have appreciated working with the City over the last year on our development in this TOD area. We also appreciate the willingness of the City to update its code to allow the TOD project to unfold in a natural and organic way. We believe that the code change as we proposed will allow for residential development to occur while reserving areas for quality retail/commercial to occur once the market is right. We request that the Planning Commission approve the code amendment as we proposed without the timing component.

Thank you for your time and consideration.

Richard Berger



Director of Development

(503) 584-4593 Direct

February 17, 2021

Re: Code section 17.4.608.6.B revision- Agenda Item 2.

Planning Commission,

Wadsworth Multifamily has worked for many years now with landowners and developers in the American Fork TOD area. We typically represent landowners in the sale of their property and work to maximize land values by identifying developers that understand current market conditions and work diligently to meet American Fork City's goals in the TOD area.

As you are aware, there is currently tremendous demand for housing in along the Wasatch Front, especially in northern Utah County. We fully support the American Fork City's vision for diverse housing product and a mixed use community incorporating commercial space in the TOD area. However, there is currently great uncertainty in the office and retail sector of the real estate market. This is largely due to the COVID-19 pandemic which has accelerated trends such as online shopping and the ability to work from home. No one knows what the landscape will look like for the commercial real estate market once the pandemic is behind us. It may take years for office and retail to fully recover. It is also a possibility that demand may never fully return to pre-pandemic levels for these sectors.

Consequently, lenders and investors are extremely hesitant to provide funding for mixed use developments with significant space allotted for office and retail. This in turn has a negative effect on land values in the TOD area. Few developers will take on the risk of mixed use projects due to great uncertainty in market. Those that will look to offset their risk associated with taking on commercial spec space which may remain vacant for the foreseeable future. This is accomplished by purchasing land at a significantly lower price, thus negatively affecting the current landowners who wish to sell their property.

While we hope the office and retail sectors will quickly bounce back in a post pandemic world, demand has evaporated for office and retail development and we do not know when it will return. However, demand for housing remains at an all-time high. Therefore, we propose that the city remove the current language requiring that the office/retail components be completed no later than the completion of 50% build-out of any residential portions of the project area. This is especially important while access to the TOD remains limited and the timeline for the improvements to 200 South is in flux.

The greatest chance for success in the TOD area is to first build housing, creating a core population of residents which can then support future office and retail development when the commercial market recover and the area matures. Additionally, office and retail space is most successful when it is created with a specific tenant in mind and leasing agreements have been but in place. By permitting developers to preserve space for future commercial development and allowing market demand to dictate the timing for the delivery of office and retail components, we firmly believe the TOD area will become the vibrant and successful community which American Fork City envisions.

Sincerely,

Andrew Wadsworth

Vice President of Investment Sales

Wadsworth Multifamily

801-922-0662

andrew@wadsworthmultifamily.com

APPROVED MINUTES

Mr. Richard Berger, of Neighborly Ventures, owns property in the TOD zone. They are a development and property management company, they will own the property for the long-term. They look for commercial uses as well in a mixed-use area. He wants to point out that the clustering concept of the commercial requirement only affects properties that do not front 200 South. Buildings along 200 South are the main commercial core and will still have to build retail as described in the code, when the building is built. Other properties can transition by consolidating commercial away from 200 South. Their company chose a premier corner to design a commercial retail building and have designed their project around that to create vibrancy. There is no guarantee a developer will ever build there, but they are guaranteed that this is the only use that can be built. Their plan is to build a parking lot, commercial pad at the same time as a residential, so the vision will be there. They will construct it all at the same time so that people will get the picture of what it is intended to be. Once they get their portion done, people will begin to see the vision. 200 South will be developed as a main commercial corridor. He believes in multiple clusters and multiple projects, and that commercial vibrancy will come with finding good tenants. Synergy comes when people move into the residential and want to be next to retail. Vacant commercial space is the worst nightmare, built just because it was required, and this will affect residential development as well. He feels that the commercial space must be planned for and a space reserved for it.

Mr. Christiansen still would like a timing requirement, he's open to a 75% requirement to give some flexibility. He doesn't think he can support anything without a timing trigger in it.

Mr. Olsen clarifies to ask Mr. Christiansen if that means he would like to see the 50% trigger changed to 75% and leave the rest as is.

Mr. Christensen said that he could support the 50% as well, he can be flexible, but he does think there needs to be fixed guidelines.

Mr. Brocious says that he can see the advantages to a 75% buildout, he just wants the assurance that the required commercial will come in.

Mr. Dupaix is fine with the 75%, he wants to ensure that there are still the commercial features in these transition zones. A business needs to understand what the vision is for that area.

Public Hearing Closed

Mr. Christensen moved to approve the proposed amendments, with the change that commercial development be built no later than 75% residential buildout.

Mr. Brocious seconded the motion. Voting was as follows:

Chairman Woffinden	Aye
Christine Anderson	Nay
Chris Christiansen	Aye
Rod Brocious	Aye
Harold Dudley	Aye
Geoff Dupaix	Aye

The motion passed.

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Ms. Anderson clarifies that she is in favor of the 75% buildout requirement, but is undecided as to the consolidation component, so she votes nay.

3. Other Business

Mr. Olsen indicated that the commission is still one planning commissioner short, and staff is working on it.

Ms. Anderson expressed interest in attending the hot-wash meeting on Wednesday morning before Planning Commission meeting. She asked if anyone else would be interested. If so, they can set up a rotation to attend.

Mr. Olsen responded that it would be helpful to have the chair and vice-chair at the meeting. To be in compliance with legal requirements there shouldn't be more than two or three commissioners attending.

Other commissioners indicate that they are fine with Chairman Woffinden and Vice-chair Anderson attending the meeting.

4. Site Plan Committee Report

Mr. Olsen reviewed the items for the upcoming Planning Commission meeting to be held on Wednesday, March 3, 2021. There will be two zone changes and a site plan approval for King & McCleary.

5. Review and action on the minutes of the February 3, 2021 Planning Commission Regular Session

Ms. Anderson moved to recommend approval of the minutes of the February 3, 2021 Planning Commission Regular Session.

Mr. Dupaix seconded the motion. Voting was as follows:

Chairman Woffinden	Aye
Christine Anderson	Aye
Chris Christiansen	Aye
Rod Brocious	Aye
Harold Dudley	Aye
Geoff Dupaix	Abstain

The motion passed.

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1 6. Adjournment

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3 **Mr. Dupaix motioned to adjourn.**

4 **Mr. Dudley seconded the motion. All voted in favor.**

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6 Meeting adjourned at 8 :15 pm.

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12 Lisa Halversen

13 Administrative Assistant