

Erda City Planning Commission Minutes

3/29/2022 – 7:00 pm

Tooele County Building - Auditorium

1. Call to Order at 7:02 p.m.
2. Roll Call - Attending Russ Brimley, Jerry Hansen, Cory Warnick, Diane Sagers, Kathleen Mallis, Mark Gull, Matthew Lukar
3. Pledge and Prayer - Russ Brimley, Mark Gull
4. Approve Minutes from 3/15/2022. Diane Sagers corrections were made and Mark Gull was added to roll call. Matt Luker didn't read the minutes. Mark Gull made motion, Matt Luker second, all in favor.
5. Public Comment on general topics not on the agenda.
Dale Mart - Bronzewood. Lived in Stansbury Park and had a semi there parked in the appropriate space. Moved to Erda for rural area with no HOA. Building an 8,000 square foot shop. Has all permits, worked out the flack from the neighbors. Will park his semi in his shop and has special interest cars he would like to enjoy again. Had business license moved to Erda. Runs trucking company out of his house with his son (9 trucks). Met with a constitutional lawyer because he was profiled by a neighbor (dirty white trucker). Wants to slow down and will leave business for his sons. Moved specifically for rural community. Plows his road on a dead end street. Believes in being kind to neighbors. Is not moving freight. The stored materials are for his shop and they will disappear after the shop is complete. Takes pride in land. Doesn't intend to keep the weeds - will landscape after the shop is complete. Considered calling a councilman about what it takes to run trucks (snowplowing). This is his last home. Moved by Jerry Hansen to close public comment, Diane Sagers seconded.
6. Direction from City Council. None.
7. Administrative Items – No public input. Cory Warnick advised that the land use authority will have some changes by the City Council.
8. Legislative Items – Public input
 - a. Proposed Ordinance Restricting Simultaneous Applications on the Same Property. Erda passed T.C.'s ordinance. T.C. amended it to include no more than one land use application per property. Cory Warnick read the proposed ordinance. No comments from the P&Z commissioners.

- i. Open Public Hearing. Brimley made a motion to open public hearing, seconded by Hansen?. Chairman noted that public comment should be limited to 3 minutes. No one on line
 - ii. Close Public Hearing. CW moved, DS seconded. All in favor.
 - iii. Jerry Hansen motioned to move forward as written, Mark Gull seconded. Passed unanimously.
- b. Proposed Internal ADU Ordinance. Hansen commented that the property owner should reside on the property. Hansen realizes that he is different generation and doesn't believe it is important that the property owner reside on the property. There are investment companies that would rent it out and take care of it. Cory Warnick prefers the owner to reside there but he will vote to allow them to not be there. Diane Sagers prefers that the property owner resides there - the state government defined it as the owner living there. Diane Sagers believes that in good faith the owners should reside there. Jerry Hansen agrees. Matt Lukar asks if a business owner is required to live there? Hansen says his basement is ready to rent out and that is his decision to make as a property owner. Hansen believes a property owner should be able to make that decision. Brimley thinks its great as written and used example of having duplexes - what is best for the resident of Erda or the property owner? Likes a limit of time that they have to reside there. Kathy Mallis indicated that we know the owner of the property is doing it and she likes it as written. Mark Gull is okay not dictating that - but since it has been discussed and heard public comment - he is okay without a stipulation. How do you address the timing? Have a meeting every time it could change? Kathy Mallis believes that a remedy should be identified to resolve it. Cory Warnick said code enforcement. Brimley said people are invested in their communities and in his opinion renters are more bad. Mark Gull liked the PowerPoint from the Utah League of Cities and Towns that was brought up by Diane Sagers. It was about how it showed how ADU's are used nationally. Gull thinks the survey clearly showed that they were not used as purely rentals. Also it showed 1 or 2 people potentially living in that location which cuts down on impacts. Cory Warnick indicated that people who are only interested in rentals would likely not look in Erda. Diane Sagers said that we need to consider that they will all need access to the main septic tank and we do not want to contaminate the groundwater and there should be a stipulation. Matt Luker advised a building permit would not be issued until the water issue is resolved with the health department. Mark Gull motions for public hearing, Russ Brimley seconds to open a public hearing for internal ADUs. All in favor.'

- c. Public Hearing #2 - Dale Mart doesn't want rentals in Erda, apartments, condos, etc. He wanted to live in a rural community. Tanya Mulbey wants to be able to rent out her basement if something happens to her husband and wants to remain a rural community. Hallie Matram asked about VRBOs or AirBNBs. As a homeowner she feels the property owner should be on the lot if renting out part of your residence. She wants to know if VRBOs or AirBNBs have been discussed. Mark Gull motions to close. Diane Sagers seconds, all in favor. Diane Sagers knows about 3 VRBOs operating in Erda that are working out quite well. They are there overnight like a house guest. Tanya Mulbey asked if it is taxed like a business. That is probably decided by Tooele County. Matt Luker asked what is an AirBNB? Audience explained what it is. Mark Gull asks if there are state code stipulations on internal use. Cory Warnick said it is not a conditional use permit it is a permitted use. He has reviewed state code but not all of it and it does not say anything about living there. Jerry Hansen thinks if you have work done to make it an apartment you have to get a building permit. Cory Warnick said that it has to be a permitted use - for mother in law, family. State code says the municipality can require them to get a permit to rent it out. Matt Luker said it would then cause taxes to go up. Mark Gull feels that the internal one that is a permitted use that he would accept as is without the red-lining. Diane Sagers asked if they can have an internal ADU and an external ADU on the property and she was told yes. Jerry Hansen recommends for approval excluding the red-lined language in #2. Matt Luker seconded the motion. Kathy Mallis yes, Jerry Hansen yes, Russ Brimley no, Diane Sagers no, Mark Gull yes, Matt Luker yes, Cory yes. Motion passes 5-2.
- d. Proposed Detached ADU Ordinance. Discussions were had before and Cory Warnick tried to clean up #8. Jerry Hansen asked for clarification of #8 (the square footage) and asked to change "must" to "may" with a maximum. Mark Gull said that a minimum is kind of assumed and it is defining the larger limit. Russ Brimley asked about clarification of the minimum. Mark Gull clarified the maximum. The commissioners discussed the meaning of the sizes. Diane Sagers asked for a more clear definition of the maximum. Cory Warnick made a suggestion for amending language with a colon and an a) and b). Need to leave in "excluding garage". An entire engineering review will need to be completed. Cory Warnick read the amended language for the commissioners. Mark Gull believes it is more easily understood. Cory Warnick then brought up the owner-occupied topic. Should you have to live in the front house to build a back house? Cory Warnick brought up

that an investor may want to build them and turn them into duplexes and rent them out. Mark Gull asked the process and asked if engineering reviews first and then it goes to the P&Z. Mark Gull thinks that it isn't likely that a developer will come into larger lots and do that. Diane Sagers asked about the ½ acre lots - will they be able to do that? She thinks that needs to be considered. Jerry Hansen said if they were good neighbors they would talk it out - but if they don't like us they could put one there to spite us. Diane Sagers motions for a public hearing, Russ seconded. All in favor.

- i. Public Hearing #2: Michael Jensen gave suggestions to Diane Sagers questions. Said to allow it only on one acre lots. If our mantra is keeping it rural - we need to limit it to one acre lots. In #8, get rid of must because it doesn't have to be. Example - if he buys a 5 acre lot and only has money to build a 2,000 sq. foot home, then later he could build a bigger home and make the first home his ADU. Jeff McNeill: Please do not restrict those on ½ acre lots to not be able to have an ADU. Additionally, please insert "cannot exceed 75%" and state that there is no minimum ADU size because that is already restricted by code. Otherwise Jeff McNeill loves this ordinance and not restricting persons rights. He takes issue with owner-occupied as well and it isn't enforceable. Allison Kipp: asked about if an ADU is built only for the purpose for rental - does that income come to Erda? Clyde Christensen - extenuating circumstances is one thing but these exterior ADU's is another thing. If it is a rental, is it a business? What about water and sewer - those are challenges too. Cory Warnick motioned to close, Diane Sagers seconded, all in favor of closing. Mark Gull believes the tax revenue will be reported to the state. Matt Luker said if its a rental the property tax increases. Diane Sagers doesn't want to duplicate state code. She says state code says they are allowed and asked to be corrected. Cory Warnick said that only applies to internal ADUs. Mark Gull asked the #8 be clarified again. Cory Warnick read the amendments again. Mark Gull is concerned about an ideal situation that isn't addressed by this ordinance. Mark Gull hopes that people who plan to build larger homes later go in and state that the first home is an ADU. Jerry Hansen did that by putting on a trailer on his property. Mark Gull recommends acceptance without owner occupied portion, and with amendments stated by Cory Warnick. Cory Warnick seconds. Roll call: Matt

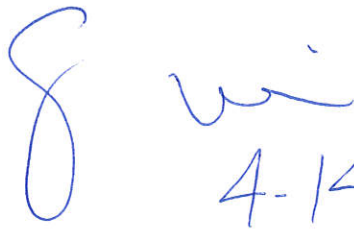
yes, Russ no, Diane no, Mark yes, Kathy yes, Cory yes, Jerry yes.

Diane asks to change her vote to yes with reservations. 6-1 passes

- e. Proposed Business License Ordinance. Cory Warnick asked for discussion first. Matt Lukar is for business licenses (\$45 per year) because it will help Erda. Russ Brimley agrees with Matt Lukar. The commissioners can help people if they know they are there by doing business with them. Cory Warnick discussed The code is 10-1-203 (7) (b) wherein it said the City cannot charge for operating a business. However, an administrative fee may be charged. Jerry Hansen agrees. Mark Gull wants to do more research because he feels like he is unaware and wants to do it independently outside of this discussion. Russ Brimley discussed how a home-based business can change to a commercial enterprise. Cory Warnick advised it only discusses home-based business. There was a general discussion among the commissioners. Cory Warnick asked what are they trying to accomplish? Cory doesn't want to make people jump through hoops. Russ Brimley said we are trying to keep neighborhoods, neighborhoods. Cory isn't concerned with the fees but asked why is the government always looking over people's shoulders? Russ Brimley says if you are a legitimate business then you won't have a problem with it. How does the business impact the neighbors and neighborhood? What will the categories be because you cannot identify each type of business? The City is close to hiring a Clerk who would handle that process. Mark Gull thinks it is for making sure it doesn't negatively impact adjacent property owners. Cory Warnick says the definitions really need to be worked on (i.e., low impact, no impact). Diane Sagers believes this only applies to residential zoning and not agricultural
 - i. Public Hearing is currently open. Dale Mart discussed his business and advised his neighbor has opened a teeth whitening business and there are 5-10 cars going down the road per day so P&Z needs to consider that. Michael Jensen discussed what is harm and is it real harm. \$5 begins to define that because residential neighborhoods are residential. He has a business and a CUP and he believes that it is coming together. He has employees (mostly live in West Valley) and he provides them with a truck that they drive home. If I had 20 trucks it would have a different impact. B(2) needs work. He didn't even consider an occupancy limit. B(4) - time frame seems to mean that all of these things can be done in the off hours. He has no problem paying a fee because he is impacting the neighborhood and it should be substantial. Having a license protects him from a neighbor issue in court. Hallie Matram

owns Proof Pawsitive. Paid for a license in Park City, West Jordan. Her husband is just starting a business. She has a CUP from Tooele County. His business started on the 25th. Has a question about vehicles/equipment have to be parked inside? They are working on the vehicle visibility part. Cory Warnick advised it has to be parked off-street.

- ii. Close Public Hearing. Cory Warnick moved to keep open, Mark Gull seconded. Russ Brimley moved to table the ordinance to the next meeting, Jerry Hansen seconded. All in favor. Cory Warnick wants everyone to review the read to some kind of consensus.
- 9. Comments from Commissioners. Diane Sagers invited everyone to come and bring their neighborhoods to the General Plan meeting on Thursday. Cory Warnick said the same thing. There will be food trucks.
- 10. Adjournment. Kathy Mallis made a motion to adjourn. Jerry Hansen seconded. All in favor.

 4-14-2022

CORY WARNICK
PLANNING COMMISSION CHAIR