



WILLARD CITY
Planning Commission Meeting – Regular Meeting
Thursday, November 3, 2022 – 6:30 p.m.
Willard City Hall – 80 West 50 South
Willard, Utah 84340

The meeting was a regular meeting designated by resolution. Notice of the meeting was provided 24 hours in advance. A copy of the agenda was posted at City Hall and on the State of Utah Public Meeting Notice Website.

The following members were in attendance:

Sid Bodily, Chairman
Diana Baker
Chandler Bingham
Alex Dubovik
Zack Hulsey

Chris Davis, City Manager
Colt Mund, City Attorney
Bryce Wheelwright, City Planner
Michelle Drago, Deputy City Recorder

Excused: Blake Harrop

Others in attendance: Council Member John Seamons, Doug Younger, Mary Younger, Chad Braegger, Ken Ormond, Ruth Ormond, Morgan Palmer, Travis Wells, and Rew Wiley.

The meeting was called to order at 6:31 p.m.

1. PRAYER: Zack Hulsey
2. PLEGE OF ALLEGIANCE: Diana Baker
3. ROLL CALL: Attendance was recorded by the secretary.
4. GENERAL PUBLIC COMMENTS

There weren't any public comments.

5. CITY COUNCIL REPORT

Time Stamp 02:43 11/3/2022

Councilman John Seamons reported on the October 28th City Council meeting. The Council received a budget update. The City's budget numbers looked good. There was about \$600,000 in unbudgeted reserves. The Council also discussed the sewer bond payment. People were concerned that the City would not be able to meet the payment. The staff put together a presentation regarding the sewer bond which showed that the City's sewer bond payment would go up in small increments every year, but there would not be a large increase for another ten years. The City Council had a big discussion regarding conditional use permits. They had considered doing away with them altogether, but passed a six-month moratorium instead. The Council felt some things that should be added to the Conditional Use Permit ordinance were details and reasonable conditions. The Council wanted to commission a park impact fee study. It had tabled consideration of the ADU Ordinance. It was concerned the City would not get what it was asking for due to the way the ordinance was written. The Council had scheduled a work session for November 7th to discuss the employee compensation plan. Another work session would be held on November 16th, to discuss economic development with Mitch Zundel.



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6A. DISCUSSION REGARDING AMENDING CHAPTER 12-105 CONDITIONAL USE BY ADOPTING A CHECKLIST AND REVIEW PROCEDURES

Time Stamp 7:33 11/3/2022

Bryce Wheelwright stated that in 2020, the Planning Commission reviewed and revamped the Conditional Use Permit Ordinance, and the City Council held a public hearing regarding the ordinance in October 2020. After the hearing, consideration of the ordinance was tabled. It was never approved. The City was still using the old ordinance. The staff had found a conditional use permit checklist and felt it would be good to incorporate it into the CUP Ordinance. The staff was also suggesting that all conditional use permits be reviewed by the Fire Department, Police Department, Public Works, and administrative staff prior to the Planning Commission's consideration. The staff was seeking input from the Planning Commission regarding changes to the Conditional Use Permit Ordinance.

Commissioner Bingham liked the checklist. He thought the City was trying to keep conditional uses in the established zones. All uses had to comply with zoning requirements. A conditional use was a use that had conditions over and above what the zone required. There was a broad range of uses that fell into the commercial/residential zone. A use might be okay in one area, but not in another. Two years ago, the Planning Commission tried to get the zoning to take care of as many requirements as possible.

Commissioner Dubovik recalled that the tables in the Conditional Use Permit Ordinance determined where a conditional use permit could be considered. As a Commission member, he would feel more informed if a conditional use application was reviewed by the Fire Department, Police Department, Public Works, and the administrative staff before it was presented to the Planning Commission. Then he would have more confidence that he would be making an informed decision. He asked about the impetus for the Council's decision to place a moratorium on conditional use permits.

Bryce Wheelwright stated that conditional use permits were troublesome in all municipalities. A few years ago, he attended training provided by the Utah League of Cities and Towns. The League suggested the best thing cities could do was to get rid of conditional use permits. However, they were a necessary evil. A conditional use permit was an avenue to control things that weren't covered in the zoning ordinance. The League suggested that they be used sparingly.

Colt Mund, City Attorney, stated that in 2020 the Planning Commission did quite a bit of work on the conditional use permit table. The number of uses had been reduced from 200 to 70. The Planning Commission put together an ordinance and recommended that the City Council adopt it. The City Council held a public hearing, but never actually passed the ordinance. The proposed ordinance included standards that would revise the existing Conditional Use Permit Ordinance. It gave the Planning Commission more direction on things it should consider. The current ordinance did not include a lot of direction for the Planning Commission. Mr. Wheelwright was correct, if the world was perfect there would not be conditional use permits. However, there were some uses that should be considered that might not fit strictly into a zone. They needed certain safe guards and protections to make them work. The City Council was concerned about how to make the conditional use permit process easier for the Planning Commission. It had discussed having a staff review committee that could make recommendations for the Planning Commission. The City Council was also concerned about the enforceability of conditional use permits. The current ordinance allowed the Planning Commission to take whatever action it deemed necessary. The ordinance could be amended to give the Planning Commission more authority to review conditional use permits to provide remedies for violations.



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Mr. Mund said that when the City Council discussed the Conditional Use Ordinance at its last meeting, it had not remembered the ordinance proposed in 2020. He had reviewed the City Council minutes from 2020. After the public hearing, one Council member suggested that a change be made, but the change was not specified. Consideration of the ordinance was table pending the change. The Council's purpose for instituting the moratorium was the City time to step back and look at conditional use permits process. Some of the work may have already been done in 2020.

Chairman Bodily asked if conditional use permits could be reviewed yearly. Mr. Wheelwright said they could. Chairman Bodily said he could not find a yearly review in the Conditional Use Permit Ordinance. Mr. Wheelwright said the yearly review could be included as a condition of the conditional use permit itself. The ordinance did not give a lot of direction on enforcement. Mr. Mund felt that was something that could be added to the ordinance.

Chairman Bodily felt enforcement was the City's biggest problem with all of its ordinances.

Chris Davis, City Manager, stated that the City Council had suggested a more robust review of conditional use permits that included recommendations from the various departments to begin with. Then the Planning Commission would have more specific information up front.

Chairman Bodily stated that even if the Planning Commission received more information up front, enforcement was still an issue. He asked who did enforce conditional use permits.

Colt Mund stated that the Planning Commission was the enforcement body. Under the current ordinance, the Planning Commission could revoke a conditional use permit. He explained that if a conditional use permit was brought to the Planning Commission for review, the Planning Commission would review the conditions and evidence that those conditions were not being complied with. If the Planning Commission felt it was appropriate, it could revoke a conditional use permit based on findings. The staff's job was to vet and verify complaints to determine if violations were occurring.

Bryce Wheelwright stated that if conditions were not detailed when the conditional use permit was approved, enforcement was difficult.

Commissioner Hulsey clarified that the purpose of a conditional use permit was allow some uses, but only with conditions. The reason conditional use permits fell under the Planning Commission was because they dealt with properties and site plans. He wondered if it made sense for enforcement to be handled by a different body. He felt it would be difficult for the Planning Commission to enforce anything.

Colt Mund stated that the Planning Commission would be acting on information provided by the staff. In different cities, the city staff, planner, or code enforcement officer, provided a recommendation and findings to the Planning Commission. The Planning Commission reviewed the evidence and heard from the applicant. It weighed the evidence to determine if there had been violations. If it found there had been violations, it would determine what action to take. If the Planning Commission determined there weren't any violations, there wouldn't be any action to take.

Commissioner Dubovik expressed confusion about the enforcement process. If a conditional use permit was revoked, the business would continue to operate, which would involve another layer of enforcement in the form of a business license revocation or a ticket. The Planning Commission couldn't issue a ticket or turn off utilities, only the City had power to do those things. Colt Mund stated that if a conditional use permit for a commercial business was revoked, the business license would be revoked, which was a City issue. If



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a conditional use permit was revoked, the City business license would no longer be valid. Operating a business without a business license was a misdemeanor offense.

Colt Mund stated that the applicant had the right to appeal the findings of the Planning Commission to an appeal authority. If the appeal authority agreed with the Planning Commission, the applicant could appeal to the district court. There were remedies to contest the findings of the Planning Commission, but it started with the Planning Commission.

Commissioner Hulsey felt the checklist was very helpful. He suggested that the process of addressing enforcement and violations be added to it. He felt that would be fair to both the Planning Commission and an applicant. Everyone would know the process.

Commissioner Baker said that Councilman Mund felt the enforcement process needed to be outlined in the ordinance.

Commissioner Bingham stated that the enforcement process was addressed in the ordinance proposed in 2020. He felt the Planning Commission should review the ordinance it proposed in 2020 to determine if anything needed to be changed.

There was a discussion about the review process of the 2020 ordinance.

Chris Davis stated that since 2020, the City had appointed an appeal authority.

Colt Mund gave the Planning Commission members a copy of the ordinance prepared in 2020 (see attached copy). He asked the Commission members to review it, the checklist prepared by Mr. Wheelwright, and determine if anything needed to be supplemented, such as enforceability and a pre-review committee.

Bryce Wheelwright stated that when the City received an application for a development or subdivision, it was always reviewed by the Subdivision Land Use Authority (SLUA), which was a staff committee consisting of the City Manager, City Engineer, City Planner, Fire Chief, Public Works Director, and the Deputy Recorder. He suggested that the same thing happen with a conditional use permit.

Colt Mund stated that some cities had staff review committees. Other cities had specific criteria that had to be addressed by a conditional use permit, such as lighting, parking buffers, etc.

Commissioner Bingham felt those items were addressed by the ordinance prepared in 2020.

Rew Wiley, 75 West 825 North, asked how long a business was allowed to use a conditional use permit. Colt Mund stated that a conditional use permit was attached to the land. The conditional use permit was good as long as the use continued and applicant complied with the approved conditions.

Commissioner Bingham stated that part of the enforcement involved citizens filing complaints with the staff. Those complaints became part of the evidence for the Planning Commission to consider.

Commissioner Hulsey asked if the Planning Commission had to wait for a review period to end to address violations. Could the Planning Commission schedule a review if it determined there were violations? He felt the one-year review was meant to ensure all of the conditions had been met. If conditions were not being met, it should trigger something. There needed to be an actual process outlined in the ordinance. If a complaint was filed, the City Planner should investigate and bring findings to the Planning Commission.



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Thursday, November 3, 2022 – 6:30 p.m.
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Commissioner Bingham felt the same process should be followed if there was a violation of the Zoning Ordinance.

Chad Braegger, 3790 South 1200 West, felt applicants would be more accountable if they knew their conditional use permit would be reviewed every year.

Colt Mund stated that when the City had potential violations, the City administration sent written notifications. It sought voluntary compliance. If the Planning Commission received an enforcement action, everyone knew what was going on. The applicant would not be encountering the enforcement action for the first time.

Commissioner Dubovik felt it was a matter of structuring a formal mechanism. Had the Planning Commission reviewed any conditional use permits on an annual basis that did not have a violations? Mr. Wheelwright said it had not.

Commissioner Hulsey said the City and Planning Commission didn't think about the conditional use permits if they weren't receiving complaints. They weren't a priority if there weren't any problems.

Chairman Bodily felt it was important to follow through with enforcement and complaints.

Chad Braegger didn't feel the City had to wait for a complaint to be filed. He felt the staff should be monitoring the conditional use permits.

Commissioner Bingham stated that one of the conditions for his business limited the number of employees he could have due to his business location and the limited room for parking. The City would not have any idea how many employees he had unless one of his neighbors complained. He felt enforcement was a manpower issue.

Rew Wiley asked how a complaint was filed. Was there a formal letter that had to be filled out?

Commissioner Dubovik asked if the staff pre-review of a conditional use permit application could be added to the approval process. Maybe the staff could review the conditional use permits annually. A physical inspection might not be necessary, but the staff could discuss each conditional use permit to determine if there were issues that needed to be addressed. He felt that would provide oversight without creating a huge workload. If a problem was found, it would trigger a review by the Planning Commission.

Doug Younger, 116 South Main, asked who made sure the conditions of a conditional use permit were met before the permit was issued. Chairman Bodily said that was the responsibility of the City Planner.

Commissioner Baker stated that an applicant signed the conditional use permit. The applicant was aware of the conditions.

Commissioner Bingham stated that a conditional use permit established conditions over and above the requirements of the City ordinances. A conditional use permit applicant had to adhere to the City code, as well as any added conditions.

Rew Wiley felt a conditional use permit should be revoked if the applicant wasn't comply with the City's ordinances.



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Chairman Bodily felt that complaints about ordinance violations needed to be investigated and enforced. Bryce Wheelwright stated that the City tried to address complaints when they were received.

Morgan Palmer, 683 North Main, asked who investigated and validated complaints. Mr. Wheelwright said he usually investigated complaints. Chris Davis said Mr. Wheelwright was the point person, but he wasn't the only one involved in the process. The Police Chief, Fire Chief, City Attorney, City Engineer, and Public Works could also be involved.

Commissioner Dubovik stated that he would like to see enforcement added to the Conditional Use Permit Ordinance and a staff review as part of the approval process. He suggested that the staff also review the updated ordinance. There might be some lessons that had been learned that weren't covered by the ordinance the Planning Commission wrote two years ago. If the staff had reviewed the ordinance, he felt it would be ready for a lively discussion by the Planning Commission.

6B. TRAINING

Time Stamp 47:42 11/3/2022

Chris Davis and Colt Mund were excused at approximately 7:20 p.m.

Bryce Wheelwright showed the Planning Commission a training video conducted by Meg Ryan from the Utah League of Cities and Towns regarding the Planning Commission's legislative, administrative, and quasi-judicial responsibilities.

7. CONSIDERATION AND APPROVAL OF SEPTEMBER 1 AND SEPTEMBER 15, 2022, REGULAR PLANNING COMMISSION MINUTES

Commissioner Baker moved to approve of the September 1 and September 15, 2022, minutes as corrected. Commissioner Bingham seconded the motion. All voted" aye." The motion passed unanimously.

8. COMMISSIONER/STAFF COMMENTS

Time Stamp: 1:03:35 11/03/2022

Bryce Wheelwright

Did not have any comments.

Commissioner Bingham

Did not have any comments.

Commissioner Dubovik

Commissioner Dubovik asked about the City land that was recently sold by sealed bid. Had the new owner submitted any development plans? Bryce Wheelwright said the new land owner wanted to build a home and a shop on the property. He didn't have any current plans to subdivide the property. Commissioner



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Baker asked how the road would be handled. Mr. Wheelwright said the road was located on private property. The land owner could do as he chose.

Commissioner Hulsey

Did not have any comments.

Commissioner Baker

Did not have any comments.

9. ADJOURN

Commissioner Dubovik moved to adjourn at approximately 7:36 p.m. Commissioner Hulsey seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: 12/1/22

Sid Bodily
Planning Commission, Chairman
Sid Bodily

Michelle Drago
Planning Commission Secretary
Michelle Drago

dc:PC 11-03-2022

