



WILLARD CITY
Planning Commission Meeting – Regular Meeting
Thursday, April 6, 2023 – 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
Zack Hulse

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

Excused: Alex Dubovik, Blake Harrop, and Chris Davis, City Manager

Others in attendance: Mayor Travis Mote; Councilman John Seamons; Rew Wiley; Morgan Palmer; Larry Holmes; Ken Ormond; Ruth Ormond; and Chad Braegger.

The meeting was called to order at 6:34 p.m.

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

There were no comments.

5. CITY COUNCIL REPORT

Time Stamp: 1:46 04/06/23

Councilman John Seamons reported on the March 23rd Council Meeting. The Council spent a great deal of time talking about flood control. He appreciated all of the efforts being made by City employees and the Flood Control Board to prepare the City. Larry Holmes had reported on CERT's efforts to prepare for flooding as well. Chris Zeckler from Perry Development spoke with the Council about a new route for upsized sewer line for Perry Development. The City Council directed the administration to proceed with an agreement. Since the Council meeting, some things had changed. The Council discussed and approved the budget for the Waste Water Treatment Plant. The Council discussed Willard City's water plan. The Council was told there would be no more water rights extended to anyone in Box Elder County in an attempt to plan for future water use, water rights, and conservation of existing rights. The Council listened to a presentation from First Responder Counseling. The State had directed the City to provide counseling service for police and fire. The Council directed the staff to pursue a contract.

Mayor Mote stated that the City had set up sandbag stations in two locations for those who were able could come and fill their own sandbags. The City staff had filled a few more pallets of sandbags for people who were unable to fill their own. There were volunteers on Facebook who were willing to fill sandbags for those in need as well.



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6A. COMPLIANCE REVIEW FOR MORGAN PALMER'S CONDITIONAL USE PERMIT FOR AN EVENT CENTER LOCATED AT APPROXIMATELY 683 NORTH MAIN (PARCEL NO. 02-048-0098)

Time Stamp 5:28 04/06/2023

Bryce Wheelwright, City Planner, stated that in May of 2021 the Planning Commission approved a conditional use permit for Palmer Barn at 683 North Main. The conditional use permit had ten conditions. As the Planning Commission knew, there had been some discrepancy regarding fencing, landscaping, and noise. Palmer Barn had made an effort to fence the south property line to help alleviate some issues with their neighbor to the south.

Colt Mund, City Attorney, stated that Mr. Wheelwright had prepared a staff report that outlined the staff's position and provided guidance and direction for the Planning Commission. There had been complaints regarding noise, the landscaping, and the fence. He was comfortable with the findings and staff recommendations listed in the staff report. The Planning Commission had heard from Morgan Palmer during the previous meeting. She had given her perspective about the requirements of the conditional use permit. Her attorney also provided her legal perspective. The Planning Commission had seen his correspondence with her attorney, which outlined the staff's perspective about what the conditional use permit required. Mr. Mund said it was within the purview of the Planning Commission to make a decision on how it would like to proceed with the conditional use permit for Palmer Barn.

Chairman Bodily stated that the purpose of this agenda item was to make a decision regarding the conditional use permit for Palmer Barn. The Planning Commission members had discussed this issue a number of times. When Morgan Palmer started the approval process for her event center, she decided not to proceed because of the requirement for separate utility connections and impact fees. Then she decided to move forward. The Planning Commission had prepared a conditional use permit that everyone agreed to, including Ms. Palmer. He was flexible and willing to listen, but he felt the Planning Commission needed to be careful about the wording of the conditional use permit. All intentions needed to be voiced upfront. He didn't feel the conditional use permit should be changed every time the City received a complaint. The conditional use permit approved in May 2021 said 'the property will be fenced.' To him that meant all of the property. He was willing to consider changing to the landscaping plans. He felt that Ms. Palmer would want her venue to look nice so people would want to use it. He realized that water was a big issue. He wasn't sure what to do about the noise issue. The noise complaints may or may not be valid, but he didn't feel the Planning Commission could do anything until a citation had been issued.

Chairman Bodily felt that the Planning Commission needed to carefully review the wording of conditions when it approved conditional use permits.

Commissioner Baker stated that the staff recommendations included an option to give Palmer Barn time to comply with all of requirements. Willard was *small town USA*. Ms. Palmer's neighbors were now all on alert. She suggested that Morgan Palmer make sure the noise ended early. Most of Morgan Palmer's backyard was already fenced in. Her view was already obstructed. However, Morgan Palmer had put up a fence along the south property line. Commissioner Baker was comfortable giving Morgan Palmer the summer to comply.

Commissioner Hulseby was concerned about setting a long term precedent. He had reviewed the existing fence around the property. The event center was completely fenced except for openings onto the highway and onto Ms. Palmer's home to the west. There was fencing all around Morgan Palmer's home, except for



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a portion of the west side. He asked if there was a gate between the barn and Ms. Palmer's home. Morgan Palmer said there wasn't. It was just a 60-foot opening, which was the same width as her parking.

Commissioner Hulsey stated that this issue had proceeded to legal action. He wondered if legal action could have been avoided if the City or Planning Commission had acted sooner, when it noticed the fence had not been installed. At that point, the Planning Commission might have been okay with the current fence configuration. He was concerned about setting the precedence of doing something and then asking for forgiveness. He wasn't sure what the best course of action was to avoid setting a bad precedence and making Morgan Palmer's fence compliant.

Commissioner Hulsey felt the current fencing met the Planning Commission's intent of separating her home and neighbors from the commercial property. The landscaping did not follow approved conditions, but he didn't feel existing landscaping should be ripped out. He didn't have a problem with the current fencing. As far as he could tell, the intent behind the conditions had been met. One option might be a gate to completely separate the business from the residence and prevent access to the property to the west. He felt the City needed to make sure its Noise Ordinance was well written to provide the enforcement needed.

Commissioner Bingham said the conditions did say the property had to be fenced. He felt the fencing that had been installed so far met the intent of the Planning Commission. He suggested that the remainder of the property be fence with ranch-rail-type fencing, which would allow a view while and meet the fencing requirement. Ms. Palmer had to understand that if she had further problems with her neighbors, she might have to replace the rail fence with a privacy fence. When the staff and Planning Commission saw things like the jumper issue, they started wondering what else someone was trying to get away with. He suggested that in the future Morgan Palmer check with the City staff before making changes. He didn't think anyone on the Planning Commission would have objected to the landscape change. It was Morgan Palmer's property, and the whole point was to make it look nice. He didn't have a problem moving forward and giving Ms. Palmer time to put in the fence. He asked for the City Attorney's opinion.

Colt Mund stated that looking at the language of the conditional use permit, he felt the only reasonable interpretation was to require fencing around the entire property. He didn't feel it was reasonable to take the wording and say it only meant one side or two sides. He felt it was within the Planning Commission's purview to review and approve revised landscaping based on findings. There had been noise complaints about the Palmer Barn made at a public meeting. Those complaints had been made public. It was difficult to determine if there was sufficient evidence for the Planning Commission to make a finding regarding violation of the Noise Ordinance. It wasn't a criminal finding. His view was that if the Planning Commission had looked back at the meetings and believed that the fence was not required around the entire property, it could adopt that finding. The Planning Commission could find that Palmer Barn had complied, or it could find that it had not complied. More time could be given for compliance. The landscaping might be something that needed further exploration if the Planning Commission was open to something that wasn't proposed, such as vegetative versus xeriscaping.

Commissioner Hulsey asked what needed to happen if the Planning Commission was happy with the current landscaping and happy with the current fencing but wanted to make sure it wasn't setting a precedence. Could the Planning Commission provide Palmer Barn additional time to submit an alternate fencing and landscaping plan without setting a precedence? Mr. Mund felt there was some flexibility with the landscaping. The fencing concerned him. Waiving the requirement would set a precedence. If the Planning Commission found a good, reasonable basis to amend the landscaping, that would be fine. He felt the fencing was more challenging because it seemed clear to him what was required. The Planning Commission couldn't simply waive that requirement.



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Mayor More asked about Commissioner Bingham's suggestion to alter the type of fencing.

Commissioner Bingham felt that part of the reason for the fencing was to contain the parking. He wasn't sure it was solely intended for noise control. Colt Mund stated that the conditional use permit said *vinyl* fencing. In the recording of the meeting, Morgan Palmer offered to put up a vinyl, privacy fence.

Commissioner Bingham said that if there was flexibility on the fencing, he felt a ranch rail fence would be okay as long as Morgan Palmer understood that if there was a complaint about anything in the future, the fencing would have to be changed to a privacy fence.

Morgan Palmer stated that if a home was built next to her, she would want to fence the west property line, but right now it was open. That was her view. Her home was separated from the business. She didn't live at The Barn. She had separate places and spaces. Could she adopt a new landscape plan that showed the existing fencing? All four sides of the business had been fenced, except for access to her home.

Commissioner Bingham felt the requirement to fence the whole property was pretty clear. He felt Morgan Palmer could present a revised landscaping plan that showed a different type of fence in one area.

Commissioner Hulsey also felt that fencing the entire property was clear. It was also clear that the landscaping would be installed. If there was flexibility on changing the landscaping plan, he felt the Planning Commission could look at the intent behind the fencing. After listening to the meeting recordings and reading the minutes it sounded like the Planning Commission wanted to make sure that people using the business would not stumble onto neighboring properties and create safety issues. Maybe there needed to be a gate so the business was completely separate, and there couldn't be any entrance onto neighboring fields. He felt that would meet the intent behind the requirement. Her business would not be impacting the neighbors.

Colt Mund stated that one of the issues was that the parking was extending beyond the business area. As people congregated outside, they wandered onto other properties.

Commissioner Hulsey felt a gate would completely close off the business so no one could wander.

Morgan Palmer stated that the property west of her home had a wire fence and a ditch. Both prevented parking on that property. The only other reason to require fencing on her west property line was to set a precedence. By fencing the entire south side, she had given. She felt that she wasn't getting anything back. There wasn't a meeting in the middle. She had to keep spending and spending more money.

Chairman Bodily asked Morgan Palmer what she thought Item 4 of the Conditional Use Permit meant, "The property will be fenced with a vinyl fence within three months of this permit being issued." Ms. Palmer thought that condition referred to the fence shown on her landscaping plan. The condition did not say 6-foot privacy; it just said vinyl. She did put up a 6-foot vinyl, privacy fence where her landscaping plan showed it. By fencing the south side, she felt she had gone over and beyond to try and mend emotional fences.

Chairman Bodily said the permit said *the property*, not *the highway*. At the time the conditional use permit was approved, Morgan Palmer agreed to it and claimed she understood it.

Morgan Palmer said she thought she was agreeing to the landscaping plan.



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Commissioner Baker stated that the conditional use permit had time limits. The fence was supposed to be installed within three months; the landscaping was supposed to have been done within six. Two years later, neither had been finished. Morgan Palmer stated that the fencing shown on the landscape plan was installed within three months, and the landscaping was as well.

Commissioner Bingham stated that the parking shown on the site plan extended along the entire south side of her property, even in front of her home. Because of where parking was shown, he felt there had to be fencing around the entire property – house and business. Morgan Palmer stated that only half of her property had asphalt parking because that was all that was required. About only 50% of her events used that parking. Parking rarely overflowed into the area in front of her home. Commissioner Bingham said the purpose of the fence was prevent parking on property to the west when there was overflow parking.

Morgan Palmer asked about the possibility of putting in a ranch-style vinyl fencing (with post and rails) along the west side rather than a 6-foot privacy fence. That would allow her to see and enjoy sunsets, but the property would be fenced with vinyl.

Commissioner Hulsey said the conditional use permit said *vinyl fence*. It did not say privacy fence.

Commissioner Bingham was willing to compromise with a ranch style vinyl fencing on the west side with the condition that if there was ever a problem, Morgan would put in a 6-foot vinyl, privacy fence.

Commissioner Hulsey asked how the Planning Commission would substantiate a complaint. Chairman Bodily felt the Planning Commission would have to stick with what it agreed to.

Commissioner Hulsey stated that based on the recordings and the overflow parking shown on the site plan the west side did need to be fenced to meet the intent behind the condition. The Planning Commission was concerned about safety, people wandering around, and vehicles. A vinyl split-rail would help with vehicles, but people could still wander.

Commissioner Bingham felt Morgan Palmer had to install a fence along the west property line or put in a gate to completely block customers from using the area in front of her home for overflow parking. Commissioner Hulsey felt a gate completely blocking off her home from her business would meet the intent of the Planning Commission.

Commissioner Bingham felt that Morgan Palmer also needed to submit a revised landscaping plan.

Commissioner Baker asked about the problem with the landscaping plan. Commissioner Hulsey said that the landscaping Morgan Palmer installed was different than what she showed on her landscaping plan. Commissioner Baker suggested that Morgan Palmer put gravel between the fence and the highway.

Commissioner Bingham's only concern about a vinyl ranch rail fence was future development of the land to the west. Ms. Palmer said that if the land to the west ever developed, she would want a 6-foot, privacy fence. If the property to the west developed, she would ask the Planning Commission to allow different fencing.

Commissioner Hulsey asked the staff if a vinyl, split rail fence would meet the intent of the conditional use permit. Colt Mund said the permit did say *vinyl fence*. However, in the minutes, Morgan Palmer volunteered that the fence would be a 6-foot vinyl, privacy fence. The Planning Commission could say that they read the condition as just a vinyl fence, and that was what it was going to impose. He just wanted to make sure



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the Planning Commission understood the context. A 6-foot vinyl privacy fence was not pulled out of thin air. That was the type of fencing volunteered by the applicant.

Mayor Mote suggested that whatever landscaping was proposed along Highway 89 should be reviewed by the easement holder to make sure the City hadn't stepped outside its authority.

Colt Mund asked Morgan Palmer about the UDOT right-of-way on Highway 89. Morgan Palmer said the UDOT' easement extended all of the way to the ditch. There was a 3-foot easement on either side of the ditch, which was owned by Willard Irrigation Company. Willard Irrigation sprayed the ditch. She couldn't put anything there even if she wanted to. Her fence was a foot away from the ditch.

Commissioner Hulsey felt the landscaping plan referred to what was on the inside of the fence. Morgan Palmer stated that the landscaping she intended to talk about was what was inside her fence, and that was where she had xeriscaped. For the past two years, she had trimmed the weeds on the east side of the fence because she didn't want weeds in front of her business.

Commissioner Hulsey felt the Planning Commission was finding that Morgan Palmer was non-compliant right now, but it was willing to give her some time to submit a new landscaping plan. The Planning Commission was also finding that the entire property needed to be fenced, but the type of fencing was still in question.

Commissioner Baker felt Morgan Palmer was now well aware of the noise problem.

There was a discussion about a time frame. The Planning Commission agreed to give her three months.

Colt Mund asked that any motion include acceptance of the staff's findings.

Commissioner Hulsey moved to accept the staff's findings and to require Palmer Barn to comply with all requirements of the conditional use permit within a three month time frame (July 6, 2023). Anything that did not currently comply with the conditional use permit had to be approved by the Planning Commission prior to installation. Commissioner Baker seconded the motion. All voted unanimously. The motion carried.

Colt Mund asked Morgan Palmer if she understood the motion. Morgan Palmer stated that she was to bring a new landscape plan with the existing fence, proposed post and rail fence, and existing xeriscaping to the Planning Commission for approval prior to installing anything.

Mayor More clarified that Morgan Palmer had three months to bring the Planning Commission a revised landscaping and fencing plan for approval before she installed anything. She had three months to get the revised plan approved and the fencing installed.

Bryce Wheelwright asked that Morgan Palmer submit plans two weeks prior to the Planning Commission meeting.

7. CONSIDERATION AND APPROVAL OF MARCH 16, 2023, REGULAR PLANNING COMMISSION MINUTES

Commissioner Baker moved to approve the March 2, 2023, minutes as corrected. Commissioner Bingham seconded the motion. All voted" aye." The motion passed unanimously.



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8. COMMISSIONER/STAFF COMMENTS

Time Stamp: 48:44 03/16/2023

Colt Mund

Did not have any comments.

Bryce Wheelwright

Bryce Wheelwright stated that there were sandbag locations at the City Building and at the Nature Park.

Commissioner Baker

Commissioner Baker reported on the April 5th Box Elder County Commission meeting

Commissioner Bingham

Commissioner Bingham asked if the City needed to gather volunteers to clear debris out of the canyon before the runoff started. Mayor Mote stated that the Flood Control District had hired Ormond Construction to clear debris. Councilman Braegger seemed comfortable with what had been done. Flood Control members had also walked all of the canyons. Councilman Seamons felt the creek west of the highway, at Radtke's, could be a problem. Bryce Wheelwright said Ormond Construction had completed a lot of work around 300 North east of the highway. There was further discussion.

Commissioner Hulsey

Did not have any comments

9. ADJOURN

Commissioner Hulsey moved to adjourn at approximately 7:29 p.m. Commissioner Bingham seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: 5/18/23

Sid Bodily
Planning Commission, Chairman
Sid Bodily

Michelle Drago
Planning Commission Secretary
Michelle Drago

dc:PC 04-06-2023

