



Notice is hereby given that the
WILLARD CITY PLANNING COMMISSION
Will meet in a regular session on
Thursday, April 6, 2023 – 6:30 p.m.
Willard City Hall, 80 West 50 South
Willard, Utah, 84340

AGENDA

The meeting will be held in accordance with current COVID-19 guidelines.

(Agenda items may or may not be discussed in the order they are listed and may be tabled or continued as appropriate.) Public comment may or may not be taken

1. Prayer
2. Pledge of Allegiance
3. Roll Call
4. General Public Comment (Input for items not on the agenda. Individuals have three minutes for open comments)
5. Report from City Council
6. Discussion/Action Items
 - a. Compliance review for Morgan Palmer's conditional use permit for an event center located at approximately 683 North Main (Parcel No. 02-048-0098)
7. Consideration and approval of the March 16, 2023, regular Planning Commission minutes
8. Commissioner/Staff Comments
9. Adjourn

I, the undersigned duly appointed and acting Deputy City Recorder for Willard City Corporation, hereby certify that a copy of the foregoing notice and agenda was posted at the Willard City Hall, on the State of Utah Public Meeting Notice website <https://www.utah.gov/pmn/index.html>, on the Willard City website www.willardcity.com, and sent to the Box Elder News Journal this 3rd of April, 2023.

/s/ Michelle Drago

Deputy City Recorder

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS - In compliance with the American with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify the City Office at 80 West 50 South, Willard, Utah 84340, phone number (435) 734-9881, at least three working days prior to the meeting.

Willard City Corporation

80 West 50 South
Box 593



Willard, Utah 84340
(435)734-9881

March 27, 2023

STAFF REPORT FOR PALMER BARN CONDITIONAL USE PERMIT REVIEW FINDINGS

The Palmer Barn Conditional Use Permit ("CUP") has been brought up for review by the Planning Commission after approximately two (2) years from date of issuance. In May 2021, the Planning Commission issued a CUP to allow Palmer Barn to operate a venue in Willard City. In consideration of the business activity for Palmer Barn, and its residential and agricultural neighbors, the Planning Commission issued the CUP with a list of ten (10) conditions. Morgan Palmer, on behalf of Palmer Barn, signed the CUP.

Since the issuance of the CUP there have been several alleged violations of the CUP. First, Item # 3 of the CUP outlines that "...the landscape plan will be installed within 6 months of this permit being issued." To date, nearly two (2) years later, Palmer Barn has failed to install landscaping along the east side of their property.

Second, Item # 4 provides that "the property will be fenced with a vinyl fence within 3 months of this permit being issued." Based on the minutes from the several public hearings with the Planning Commission, it is the Staff's position that the Planning Commission's intent with Item # 4 of the CUP was that Palmer Barn would install a vinyl fence around the entirety of the property to reduce noise and preserve the privacy of neighboring properties and Palmer Barn, and to alleviate safety issues due to the irrigation ditches that run alongside the Palmer Barn property. Earlier this year, Palmer Barn has erected a fence running along the south side of the property. However, the west side of the property remains unfenced. Staff has some concerns, based on complaints that parking for the Palmer Barn venue has encroached on the property of their westerly neighbor. Erection of a western property fence would prevent any offsite parking from occurring.

Third, there have been neighbor complaints regarding noise coming from the Palmer Barn events center. Police have responded to these complaints, and no legal or criminal action has been initiated against the Palmer Barn as a result of these complaints.

Fourth, Item # 6 on the CUP states that "the building will have separate commercial sewer and water connections from the residence." After several months in operation, the Public Works Department went out to read the meter. They discovered there was a jumper in the meter box and that Palmer Barn had allegedly been using water without paying for it. Palmer Barn was fined, applied for a meter, and paid the fees and fine, so that problem has been resolved.

STAFF RECOMMENDATIONS

It is the recommendation of the Staff, that the Palmer Barn business meet the conditions of the CUP imposed upon them by the Planning Commission in order to maintain their CUP and adopt the findings outlined herein.

The Planning Commission may adopt the findings, reject the findings, or modify the findings herein. Based on the decision of the Planning Commission, they then may take any of the following actions:

1. Require Palmer Barn to comply with all the requirements of the CUP and allow Palmer Barn additional time to obtain compliance by imposing a certain time frame.
2. Waive the issues of non-compliance with the CUP.
3. Make a finding that Palmer Barn has not complied with the CUP and revoke the CUP. This will result in the revocation of the Palmer Barn business license.
4. Make a finding that Palmer Barn has complied with the CUP and dismiss the review action against Palmer Barn.

Staff recommends that the Planning Commission consider the long-term effects of its decision.

Bryce Wheelwright
Willard City Planner

CONDITIONAL USE PERMIT

DATE: 4/15/2021

ISSUED TO: Palmer Barn 683 North Main Willard Utah

PURPOSE: Events Center

THE FOLLOWING CONDITIONS WILL BE REQUIRED OF THE OWNERS OF THE PALMER BARN EVENTS CENTER TO DO BUSINESS AT 683 NORTH MAIN IN WILLARD UTAH.

1. A paved parking lot with a minimum of 40 stalls will be built before this permit is issued.
2. The building will meet all commercial building code requirements for this type of business.
3. The landscape plan will be installed within six months of this permit being issued.
4. The property will be fenced with a vinyl fence within three months of this permit being issued.
5. The Fire Marshal will sign off on the fire safety of this operation.
6. The building will have separate commercial sewer and water connections from the residence.
7. Hours of operation will be between 7:00 am to 1:00 am.
8. The business will stay in compliance with Willard City Noise Ordinance.
9. The Business will not hold over night events.
10. In the event that Morgan Palmer sells this business, or it changes ownership, then this Conditional Use permit is revoked.

ANY VIOLATION OF THE ABOVE CONDITIONS THAT ARE NOT RESOVED IN A TIMELY MANNER MAY RESULT IN THE BUSINESS LICENSE AND CONDITIONAL USE PERMIT BEING REVOKED.



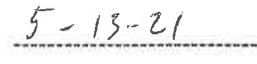
APPLICANT SIGNATURE



DATE



CITY PLANNER



DATE

**WILLARD CITY PLANNING COMMISSION
APPLICATION FOR PLANNING COMMISSION HEARING**

Application Date: 2-9-21

Assessor's Parcel Number _____

Applicant:
Damon & Morgan Palmer

Parcel Legal Description _____

Mailing Address
1827 North Main
Street Willard

Morgan Palmer

I hereby request a hearing before the
Willard City Planning Commission in
behalf of my application for:

Project Address _____

Same
435-225-10074

Phone Number
801-710-2900

Cell Phone _____

☒ Conditional Use Permit \$25 Fee

☐ Lot Line Adjustment \$25 Fee

☒ Other Fee variable, \$25 Min.
REZONE

NOTE: Fees will be charged on each application and are non-refundable. Additional applications on the same project will be considered as new applications and be charged accordingly. All applications, with required data and fees, must be filed in the Willard City Office at least two weeks prior to the scheduled hearing date.

Project description: (Attach additional sheets, as required.)

Complete Applicant Affidavit on back of this page.

- REZONE from residential to commercial
- Conditional Use permit for Palmer Barn LLC

APPLICANT'S AFFIDAVIT

STATE OF UTAH)
) SS
COUNTY OF BOX ELDER)

I, (we) Morgan Palmer, being duly sworn, depose and say that I; (we) am (are) the owner(s)*, or authorized agent(s) of the owner, of property located at 603 N Main Street in Willard City, which property is involved in the attached application and that the statements and answers therein contained and the information provided in the attached plans and other exhibits present thoroughly, to the best of my (our) ability, the argument in behalf of the application herewith requested and that the statements and information above referred to are in all respects true and correct to the best of my (our) knowledge and belief.

SIGNED Morgan Palmer

Property Owner(s)

AGENT _____

Subscribed and sworn before me this 9 day of February 2021

Don Cordon Barker

Notary Public



Residing in Brigham City
My commission expires: 11/26/2021

* May be owner of record, contract owner, part to valid earnest money agreement, option holder or have other legal control of property.

AGENT AUTHORIZATION

I, (we) _____, the owner(s) of real property described above, hereby appoint _____, as my (our) agent(s) to represent me (us) with regard to this application affecting the above described real property, and do authorize them to appear on my (our) behalf before any Willard City Boards considering this application.

SIGNED _____

Property Owner(s)

Subscribed and sworn before me this _____ day of _____ 20 ____

Notary Public

Residing in _____

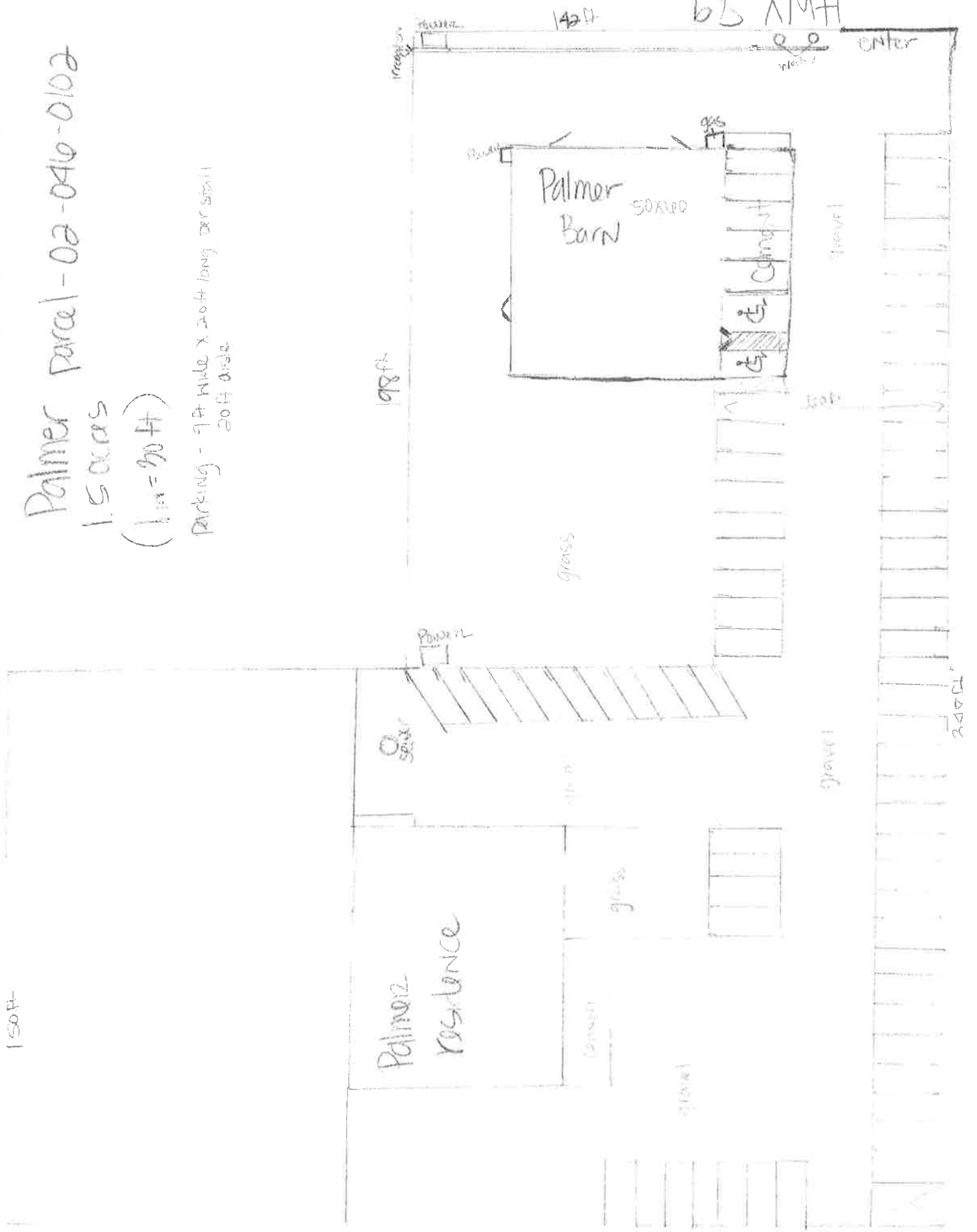
My commission expires: _____

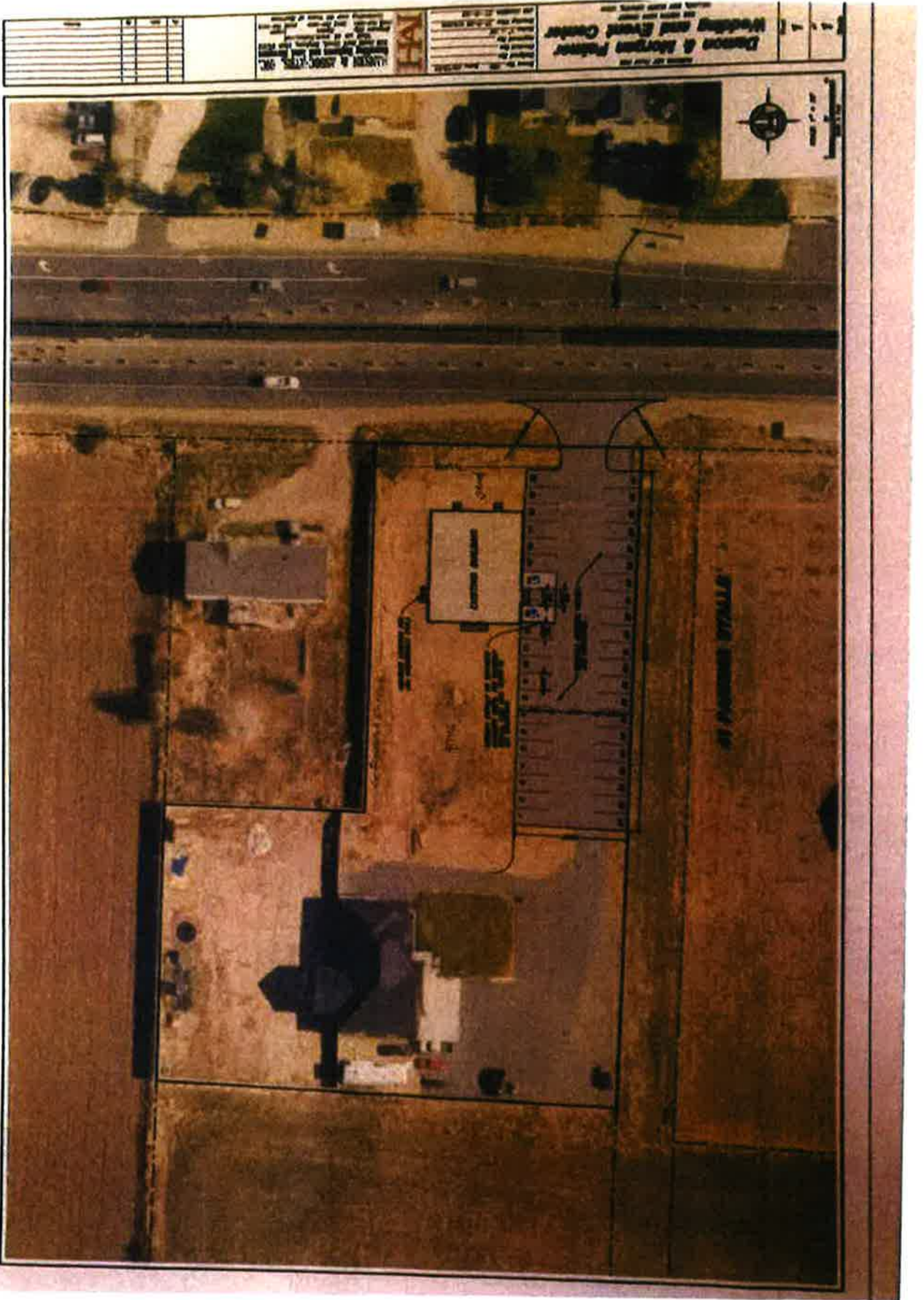
Palmer Parcel - 02-046-0102

1.5 acres

(1 in = 20 ft)

Parking - 9 ft wide x 20 ft long per stall
20 ft aisle





Mr. Davis suggested the Commission table this agenda item. He pointed out they do not have a full quorum and if this doesn't pass, the city had an ordinance in place that indicated if a rezone is denied, it cannot be reviewed for a year, which might happen. He reiterated it was his suggestion to table the item until they had additional information. He indicated that part of that can come from potential of additional development along with the review of the traffic needs.

Motion: Commissioner Bingham moved to table the rezone request for Trish Heath (Barker/Braegger) to rezone property located at approximately 110 South 250 West (02-054-0003) from A5 to R ½ so they can get the additional information Mr. Davis spoke of. Commissioner Hulsey seconded the motion. The motion passed unanimously.

Public hearing to consider a request from Damon and Morgan Palmer to rezone property located at approximately 683 North Main (02-046-0102) from R ½ to Commercial Neighborhood

Chair bodily entertained a motion to open the public hearing.

Motion: Commissioner Hulsey moved to open the public hearing to consider a request from Damon and Morgan Palmer to rezone property located at approximately 683 North Main (02-046-0102) from R ½ to Commercial Neighborhood. Commissioner Barker seconded the motion. The motion passed unanimously.

The public hearing opened at 7:32 p.m.

Mr. Wheelwright informed the Commission the Rezone petition was for the property located 683 North Main. The petitioners would like to do a commercial business at the location, specifically wedding receptions. He went on to say they came in and got a conditional use permit and rezone application. However, at that time, they changed their mind. Now it was back for the rezone, and they were working on the building to make it commercial friendly. He informed the Commission the property needed to be rezoned to commercial neighborhood.

Morgan Palmer, petitioner, addressed the Commissioner. She had nothing to add to what Mr. Wheelwright already informed the Commission.

Motion: Commissioner Baker moved to close the public hearing. Commissioner Hulsey seconded the motion. The motion passed unanimously.

The public hearing closed at 7:34 p.m.

There was an inquiry about Mrs. Palmer's conditional use permit. Mr. Wheelwright informed the Commission the property needed to be rezoned to neighborhood commercial first.

Mr. Mund informed the Commission there needed to be a commercial access from UDOT, and staff had not received anything from the state as of yet. He suggested the approval be made subject to the commercial access being granted by UDOT.

Mrs. Palmer presented the approval for the commercial access from UDOT to staff. Mr. Davis suggested that the Commission still approve the rezone subject to the commercial access being granted by UDOT and make sure they do have it.

Motion: Commissioner Baker moved to approve the request for Damon and Morgan Palmer to rezone property

located at approximately 683 North Main (02-046-0102) from R ½ to Commercial Neighborhood subject to the commercial access from UDOT. Commissioner Bingham seconded the motion. The motion passed unanimously.

Public hearing to consider an amendment to Chapter 12-110-4 of the Willard City Zoning Ordinance regarding notification for applications for zoning changes

Mr. Wheelwright informed the Commission the current ordinance specifies a rezone notice be mail to all property owners within one-quarter mile and be mailed via certified mail, which can be very costly. He noted that staff did not see a need for that. He went on to say they could be mail via U.S. Regula mail and state law allowed that. In regard to the mailing distance, state law did not require one-quarter mile. However, the state law was ambiguous; most cities utilize 300 feet.

Commissioner Bodily stated 300 feet it did not seem like very far. Mr. Davis indicated that was staff's recommendation based on state code and other communities. However, they would like to get the Commission's fee back and public comment. It was said in Willard, it may only be one neighbor. Commissioner Bingham stated he would like to see it stay at one-quarter mile. Commissioner Hulsey agreed.

Motion: Commissioner Bingham moved to open the public hearing to consider an amendment to Chapter 12-110-4 of the Willard City Zoning Ordinance regarding notification for applications for zoning changes. Commissioner Baker seconded the motion. The motion passed unanimously.

The public hearing opened at 7:41 p.m.

Travis Mote, 455 South 200 West

Mr. Mote pointed out if it was 300 feet, he didn't think it would be adequate. His property is 500 feet. He went on to say, he did not think he had been receiving the notices. Mr. Mote pointed out when the Braegger subdivision went in, the runoff went into the Randy Lemon property. He thought the mailing distance should be kept at one-quarter mile.

Morgan Palmer, 683 North Main

Ms. Palmer indicated she thought it should be kept at one-quarter mile as well; however, U.S. Regular mail should be fine.

Keith Larsen, 150 South 200 West

Mr. Larsen agreed. The city did not need to mail the notices certified mail – except the city would not have proof a resident has been notified (note: the notice were not mailed return receipt; only certified). He also thought the distance should be kept at one-quarter mile.

Motion: Commissioner Hulsey moved to close the public hearing. Commissioner Bingham seconded the motion. The motion passed unanimously.

The public hearing closed at 7:44 p.m.

It was said that some cities do not even mail out notices, they just post a sign on the property. Commissioner Bingham agreed with the public comment to keep the distance at one-quarter mile. Commissioner Baker agreed as well, and she indicated that she did not think the city followed the ordinance in the past.

Motion: Commissioner Hulsey moved to recommend that the Planning Commission approve the amendment to



WILLARD CITY
Planning Commission Meeting – Regular Meeting
April 1, 2021 – 6:30 p.m.
Willard City Hall – 80 West 50 South
Willard, Utah 84340

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

The following members were in attendance:

Sid Bodily, Chairman
Diane Baker
Chandler Bingham
Zack Hulsey

Christ Davis, City Manager
Colt Mund, City Attorney
Bryce Wheelwright, City Planner
Michelle Drago, Planning Secretary

Excused: Alex Dubovik and Blake Harrop

Others in attendance: Rachel McIntire; Trisha Heath; Morgan Palmer. Rod Braegger; and Don Waite.

1. PRAYER: Chandler Bingham
2. PLEDGE OF ALLEGIANCE: Zack Hulsey
3. ROLL CALL – Attendance was recorded by the secretary.
4. GENERAL PUBLIC COMMENTS (INPUT FOR ITEMS NOT ON AGENDA)

No comments were made.

5A. **CONSIDERATION OF A CONDITIONAL USE PERMIT FOR MORGAN PALMER FOR AN EVENT CENTER LOCATED AT APPROXIMATELY 683 NORTH MAIN (02-046-0102)**

Bryce Wheelwright stated that Morgan Palmer's rezone request was approved by the City Council on March 25th. She was now requesting approval of a conditional use permit for an event center at 683 North Main. The Planning Commission needed to consider and discuss conditions that would be appropriate for the proposed use.

Morgan Palmer said she was willing to talk about whatever concerns the Planning Commission had.

Commissioner Baker and Chairman Bodily asked about Morgan Palmer's landscaping plans. Morgan Palmer wanted to plant wildflowers and shrubs on the berm along the highway. The main open area west of the event center would just be grass. The back area would be gravel and xeriscape.

Chairman Bodily asked how many parking spaces she would have. Ms. Palmer said Willard's ordinances required her to have 40 paved parking spaces. There would be a total of 87 parking spaces. The extra 47 spaces were for overflow parking. They would be on her property, and they would be graveled.

Commissioner Hulsey asked about Morgan's lighting plans. Would there be lights along the highway? Morgan Palmer said she couldn't have lighting along the highway. She had the required egress lighting along the outside of the barn, and she had motion floodlights. All of the exterior doors had fancy, barn lights. Commissioner Hulsey asked if there would be any lighting in the parking lot. Ms. Palmer said there would not.



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Chairman Bodily asked about hours of operation. Morgan Palmer said most weddings were over and cleaned up by 10:00 p.m. Most private events ended around 11:30 p.m., but some private events could last until 12:30 a.m.

Commissioner Baker was concerned about how the neighbor to the north could be impacted. Would the floodlights bother them? Morgan Palmer said the floodlights were actually residential-looking lights. The light they produced was directed straight down, not out. She didn't want anything flashy that would deter traffic.

Commissioner Hulsey verified that there was only one ingress/egress and that it was from the highway. Ms. Palmer said that was correct.

Chairman Bodily asked if Morgan Palmer had received an access permit from UDOT. Bryce Wheelwright said she had.

Commissioner Hulsey asked if a single ingress/egress was a cause for concern. What happened if there was a fire? Colt Mund felt that was a valid question that should be answered by the Fire Chief. The Fire Chief could determine if anything should be required to mitigate a fire. Commissioner Baker asked how many exits the barn had. Morgan Palmer said the barn itself had four. She was only required to have two. There was only one ingress/egress for her house and the barn. When UDOT did their traffic study, it rated the ingress/egress for commercial. Commissioner Baker was okay with the access. Commissioner Hulsey asked if there was an option for a second access. Morgan Palmer said UDOT wouldn't allow another access on Highway 89. Commissioner Hulsey asked if there was a way to put in a second access from 750 North. Morgan Palmer stated that she would have to go through two private properties to access 750 North.

Bryce Wheelwright asked if Morgan Palmer had any fencing plans. Morgan Palmer said she would like to put in a fence.

Commissioner Baker asked if Morgan Palmer had hosted any large events that used a lot of the parking lot space. Morgan Palmer said most weddings were open house events with people constantly coming and going. Due to Covid, most events had been smaller. Her occupancy was limited to 148. She couldn't host a large event with 500 people.

Commissioner Baker asked about alcohol. Morgan Palmer said she could not sell alcohol, and she did not have an alcohol license. However, the Utah DBC allowed private held events to serve alcohol. If an event included alcohol, she required a security guard and a licensed and insured bartender. Commissioner Baker was concerned about someone drinking and pulling out onto the highway.

Colt Mund, City Attorney, asked if Morgan Palmer planned to hold outside events during the summer. Morgan Palmer said she planned to hold a few public events for the children in the community. They would be held in the large grass area.

Commissioner Hulsey felt that fencing should be required if there would be outside events; especially fencing along the highway. Morgan Palmer said she could put in a 6-foot, vinyl privacy fence.

Chairman Bodily asked if there was any concern about the hours of operation. Should there a restriction on 24-hour events? Morgan Palmer said an overnight restriction would prevent her from holding overnight events, such as sleepovers for Girl Scouts or Boy Scouts.



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Commissioner Hulsey was concerned that noise from an overnight event could affect adjoining property owners. He wasn't sure there was a quantifiable way to measure noise levels after certain hours. Morgan Palmer said other event centers in other communities had noise restrictions. Noise could be measured with a decibel test. She felt the highway produced much more noise than an event would. She required music to be turned off at 10:00 p.m. Commissioner Hulsey didn't care if people were in the event center 24 hours as long as they weren't keeping adjoining property owners up. Chandler Bingham felt the noise level should comply with the City's curfew regulations. Colt Mund said decibel levels had been used in other cities, but wasn't sure how well they worked. Morgan Palmer said most phones could measure decibel levels. In other event centers, noise was restricted to certain decibel levels after a certain time. She asked if the noise restriction only applied to outdoor events. Chairman Bodily felt that at a certain point the noise level had to drop to a specific level, no matter where the event was at – outdoor or indoor.

Chairman Bodily asked what the noise level should be. Morgan Palmer said Farr West and North Ogden had noise restrictions. Bryce Wheelwright thought Willard had noise restrictions in the Nuisance Ordinance. Colt Mund thought Brigham City had a Noise Ordinance. Commissioner Hulsey felt the noise could be monitored or managed by complaint. Commissioner Baker felt Willard should check on the decibel level used by Farr West and North Ogden.

Don Waite, 1389 North Main, stated that North Ogden's noise and lighting regulations were City wide. It was based on decibels. At 11:00 p.m. light and noise levels had to drop. He was surprised Willard did not have a noise ordinance.

Morgan Palmer felt Willard's asphalt regulations were overkill. She wanted to have a gravel parking for a more rustic feel. Willard required that she pave 40 required parking stalls. She asked that the Planning Commission grant her a variance on the asphalt requirement. Bryce Wheelwright stated that Willard required all off-street parking to be paved. Morgan Palmer asked that she be allowed to have gravel parking rather than asphalt. There was a \$40,000 difference in cost. She was trying to keep her expenses down as she started her business so she didn't go bankrupt. If she was allowed to have gravel, she would have to cement the handicap parking. Chairman Bodily said Morgan Palmer needed to have a surface that could support emergency vehicles.

Bryce Wheelwright said the City Council was the City's appeal authority.

Commissioner Baker felt the paved parking could be addressed again when Morgan Palmer's conditional use permit was reviewed in one year. After one year, she would know what problems needed to be addressed.

Chairman Bodily said the Commission and Morgan Palmer needed to follow the City's rules. He asked about the variance process. Bryce Wheelwright said the City's ordinance required that off-street parking stalls be paved with compacted asphalt, which Morgan Palmer had agreed to. Morgan Palmer said the ordinance required a surface that was bound together. Mr. Wheelwright said the City Engineer said a surface that was bound together was asphalt or concrete. Morgan Palmer said she had asked about rotomill, which would cost \$32,000 instead of \$38,000. Rotomill would get pressed and compacted. Chris Davis said the City Engineer said the surface had to be asphalt or concrete, not rotomill.

Commissioner Bingham felt the conditional use permit should be restricted to the current owner only. Morgan Palmer lived there. She would treat the use differently than an absentee owner. Chairman Bodily said a conditional use was usually attached to a property, not an owner. Could the Planning Commission



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restrict it to the current owner? Colt Mund said he would look into it, but he felt the Planning Commission make that condition.

Chairman Bodily asked if Bryce Wheelwright could look into appropriate noise levels. Colt Mund said he would work with Bryce on noise conditions.

Chairman Bodily felt Morgan Palmer would have to appeal the paving requirement to the appropriate authority. Colt Mund said the Palmer's could request a variance. Whether it would be granted was a different question. Chris Davis stated that right now the City's appeal authority was the City Council. Willard did not have a Board of Adjustment or a Hearing Officer. Morgan Palmer thought the ordinance said the Planning Commission had authority to grant a variance. If she didn't agree with the Planning Commission's decision she could appeal it to the City Council. Colt Mund said that would be the course Ms. Palmer would take if she were denied a land use. In this case, she was seeking a modification or alteration to the ordinance. The Planning Commission did not have the ability to grant a variance request or modify or alter the ordinances. Bryce Wheelwright said Morgan Palmer would have to make a request to be on the Council agenda to have her variance request considered. Colt Mund said the Planning Commission would have to approve a conditional use permit with an asphalt requirement before Morgan Palmer could make an appeal. Morgan Palmer would bear the burden of proving why the variance should be granted. A variance could not be self-imposed or economic. If her request was just to save money, he could comfortably say her request did not meet the variance requirements.

Chairman Bodily explained that the Planning Commission would probably table consideration of Morgan Palmer's conditional use permit to allow time to follow up on the concerns discussed. Bryce Wheelwright listed the concerns raised by the Planning Commission – landscaping, paving 40 parking stalls, lighting, fire safety, fencing, hours of operation, noise level, and restrict the use to current owner.

Chairman Bodily felt the hours of operation were tied to the noise level. Not matter how long an event lasted, its noise level needed to drop to a certain level after a certain time, such as 10:00 p.m.

Chris Davis stated that storm water detention was also a concern. Morgan Palmer stated that her site guy told her she could drain onto herself. He had already resolved the drainage.

Commissioner Bingham moved to table consideration of Morgan Palmer's conditional use until the next meeting in order to allow the staff time to address the Commission's concerns. Commissioner Baker seconded the motion. All voted unanimously. The motion carried.

5B. DISCUSSION REGARDING A REQUEST FROM TRISHA HEATH (BARKER/BRAEGGER) TO REZONE PROPERTY LOCATED AT APPROXIMATELY 110 SOUTH 250 WEST (02-054-003) FROM A5 TO R ½

Colt Mund stated that in the previous Commission meeting, there was discussion about access. The Commission wanted to make sure it was resolved. The Braegger's had been very accommodating. He would prepare an agreement that would give the City emergency access through their property which would function as the second access. Other concerns would be dealt with as they went through the subdivision approval process. He wanted to get feedback from the Fire Chief about what the City needed for a second access. He anticipated having an agreement done in two weeks so the Planning Commission could move forward. He asked that the Planning Commission table consideration of the Barker/Braegger Rezone until the next meeting when there would be a written agreement between the two parties.



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April 15, 2021 – 6:30 p.m.
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The following members were in attendance:

Sid Bodily, Chairman
Diane Baker
Chandler Bingham
Zack Hulsey

Chris Davis, City Manager
Colt Mund, City Attorney
Bryce Wheelwright, City Planner
Michelle Drago, Planning Secretary

Excused: Alex Dubovik and Blake Harrop

Others in attendance: Rachel McIntire; Trisha Heath; Morgan Palmer; Rod Braegger; and Travis Mote.

1. PRAYER: Zack Hulsey
2. PLEDGE OF ALLEGIANCE: Diane Baker
3. ROLL CALL – Attendance was recorded by the secretary.
4. GENERAL PUBLIC COMMENTS (INPUT FOR ITEMS NOT ON AGENDA)

No comments were made.

5A. **CONSIDERATION OF A CONDITIONAL USE PERMIT FOR MORGAN PALMER FOR AN EVENT CENTER LOCATED AT APPROXIMATELY 683 NORTH MAIN (02-046-0102)**

Bryce Wheelwright stated that during its last meeting, the Planning Commission discussed appropriate conditions for the event center Morgan Palmer was proposing at 683 North Main. He presented a draft letter outlining those conditions (copy filed for record). There were two issues that had not been resolved – a review by the Fire Chief and recommendations regarding noise restrictions. He tried to contact the Fire Chief, but he had not received a response. Colt Mund was going to look into the noise issue.

Colt Mund stated that he looked into the noise ordinances recommended by Morgan Palmer at the last meeting. Farr West just had a general noise ordinance. Ogden City used a decibel level; Tremonton City did too. Brigham City did not have a decibel level, but they had a general noise ordinance. He was unable to get any information from North Ogden. He felt most of the ordinances were pretty generic. Ogden City's was a very robust ordinance. He was concerned about imposing a decibel system because he didn't know what those numbers meant. If the Planning Commission wanted to consider a decibel level, he felt the City needed to find someone, maybe Chief Fielding, who could provide information about what decibel levels meant and what they sounded like. He felt the best and cleanest approach was to consider hours of operation.

Morgan Palmer said she had researched the noise issue too. Most cities had level of 50 to 60 decibels. Decibels were measured at the edge of the property line with a sound meter. She purchased one and tested the decibels around her property. The decibels from the highway were outrageous. They were well over 100. The noise level from the highway was still over 80 decibels on her west property line. The highway



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noise was above the decibel levels of most cities. If a decibel level didn't work, she was willing to restrict all outside music after midnight.

Commissioner Hulsey felt most events would have ended by midnight. He suggested that Morgan Palmer notify the City when an overnight event would be held. Then the City would know who to talk to if any complaints were filed. Colt Mund was more concerned about notification to neighbors than the City. The City would respond if neighbors complained.

Chairman Bodily was concerned about Item 7 of the draft Conditional Use Permit letter regarding hours of operation. If the hours of operation were restricted to 8:00 a.m. to 11:30 p.m., it would prevent overnight events. The proposed hours of operation would help keep noise levels down, but they did preclude overnight events. Bryce Wheelwright asked if the hours of operation should apply only to outdoor events.

Morgan Palmer suggested that she be allowed to operate 24 hours a day, but that all outside noise be limited between the hours of 11:30 p.m. to 8:00 a.m.

There was a discussion about hours of operation inside and outside and noise levels.

Commissioner Bingham suggested that Morgan Palmer comply with the City's current Noise Ordinance. Commissioner Hulsey agreed. If the City already had a Noise Ordinance, he didn't think anything else was needed. Commissioner Baker thought the current ordinance restricted noise from 10:00 p.m. to 6:00 a.m. Bryce Wheelwright said noise was restricted from 10:00 p.m. to 7:00 a.m.

Morgan Palmer asked that she be allowed to have noise until midnight

Commissioner Bingham felt the conditional use permit needed to clearly state that the conditional use was being issued to Morgan Palmer only. It would not remain with the property. Any future business or property owner would have to reapply for a new conditional use permit.

Commissioner Bingham asked if this conditional use would be re-evaluated in a year. Bryce Wheelwright felt a re-evaluation could be included as a condition. Colt Mund did not feel a conditional use permit could be changed every year. A conditional use was issued with conditions outlined. He didn't feel the Planning Commission could change those conditions unilaterally.

Chairman Bodily didn't feel Morgan Palmer would have a problem if she followed the conditions outlined in the conditional use permit.

Colt Mund was under the impression that Morgan Palmer was seeking approval to operate a reception event center, not a campground. He was trying to understand exactly what type of business Morgan Palmer planned to have. Morgan Palmer said her barn would be a venue that could be leased for any event – birthday parties, weddings, scouting events, funerals, family reunions, UFC fights, etc. It was a space that could be leased for people to get together. Her uncle owned a venue in Peterson that was leased for a lot of scout events, which were overnight events.

Chris Davis asked if there would ever be an event that would last for more than 24 hours. Morgan Palmer said she was a business. She had invested a lot of money. She wanted to be busy every day. Mr. Davis felt the discussion led back around to whether this could be considered a campground with trailers. Morgan Palmer said she didn't want that kind of use. Commissioner Hulsey asked if that would be a problem for the City. Mr. Davis said it would. The City already had an issue with the existing campground. He understood



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Ms. Palmer wasn't trying to operate a campground, but the question became how long an event would last. He could foresee a youth camp or conference lasting multiple days. Morgan Palmer asked why that would be a concern if she complied with the noise restrictions.

Colt Mund felt the Planning Commission needed to understand what approval for a venue meant. Did that mean a rock concert, a week-long youth conference, or a wedding? He advised the Planning Commission to consider what the venue meant. It might approach the conditional use permit for a wedding reception venue differently than it would a venue for a youth conference or anything like it.

Commissioner Hulseley asked if it would matter what events were held as long as Morgan Palmer complied with the conditions of the conditional use permit. Mr. Mund said it wouldn't matter if the Planning Commission wanted to leave the broad conditions. He advised the Planning Commission to consider what an open ended venue definition could mean. Had the Planning Commission considered all the possible events that could be held? Such a consideration could change the conditions.

Chairman Bodily said the City could end up with camp trailers. Morgan Palmer said she wouldn't allow something like that. She felt it could take a long time to cover every possible event. Chairman Bodily said that if the Planning Commission didn't consider it, it would happen. He felt the Planning Commission should restrict camp trailers.

Commissioner Bingham pointed out that Morgan Palmer's occupancy limited her to a certain number of people. The City didn't want any complaints about competition between her venue and the campground down the road upon which the City had placed restrictions.

Colt Mund asked if there was a limitation on the number of people. Morgan Palmer said her architect limited the number of people to 148. Colt Mund asked if there was a limit of people on the exterior. Morgan Palmer asked if a park had a limited capacity. Colt Mund asked if her venue was a park. Morgan Palmer said her property wasn't a park, but a park didn't have a capacity limit. Why should the exterior of her property have a limited capacity?

Commissioner Bingham pointed out that Morgan Palmer's property had a residential/commercial use. She only had 40 parking stalls. Any overnight events would have to be limited because she had a limited amount of parking and restroom facilities. Maybe there needed to be a daytime capacity and an overnight capacity. Chairman Bodily said there were adequate restroom facilities on the interior for 148 people. He suggested limiting the exterior capacity to the same number. Commissioner Bingham felt the capacity for a sit-down event would be different than the capacity for an overnight event. Multiple day and overnight events changed the conditions. Morgan Palmer suggested limiting events to one night. The only overnight event she could think of involved youth, such as scouts. She didn't want to allow more than that because she didn't want the liability issues related to children under 18. Commissioner Bingham felt an overnight event was different than a wedding. A large number of people attended a wedding, but they weren't all there at the same time. An overnight event involved a large number of people all there at the same time.

Morgan Palmer asked if a condition could be added to her conditional use permit requiring her to get special permission for an overnight event.

Chairman Bodily felt that an overnight event should be limited to one night only. Otherwise there would be requirements for bathing facilities.

Bryce Wheelwright suggested limiting the number of overnight guests to 50.



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Morgan Palmer explained how her architect calculated the occupancy capacity of her venue. She felt the capacity would be the same for an overnight event. Chris Davis suggested that Morgan Palmer's architect calculate an overnight occupancy.

Colt Mund pointed out that the City still didn't have the Fire Chief's requirements for overnight lodging. There might be International Fire Code requirements Morgan Palmer would have to meet. Chairman Bodily felt the Planning Commission needed to have an answer from the Fire Department up front.

Morgan Palmer had contacted her home town fire department. She was told that she had to have a turn around that met the fire code, which she did. Her turn around was more than 100 foot by 100 foot. Chairman Bodily said the Planning Commission needed to know what the fire requirements would be if people were sleeping in her building.

Commissioner Hulsey said the Planning Commission realized that things could occur that they had not foreseen. If the conditional use was reviewed in six months, could conditions be added or altered? Colt Mund wasn't sure the Planning Commission could issue a conditional use permit and alter it afterward. He would have to research that.

Morgan Palmer asked that the Planning Commission approve her conditional use permit without overnight events. She would consult her legal counsel. If she wanted to pursue overnight events she would make an application to have her conditional use permit amended.

Bryce Wheelwright asked about hours of operation. Morgan Palmer asked that the a.m. hours be the same as the City's Noise Ordinance, which was 7:00 a.m. She asked that she be allowed to operate until 1:00 a.m. to accommodate same longer events.

Commissioner Baker agreed with the proposed hours of operation and hours of quiet.

Commissioner Bingham liked the quiet hours of 10:00 p.m. to 7:00 a.m. He couldn't imagine anything after 10:00 p.m. being louder than the Noise Ordinance permitted. Morgan Palmer asked that the noise restriction be extended to midnight to accommodate an outdoor wedding.

Colt Mund said the City's Noise Ordinance would apply whether the sound came from the inside or the outside. The hours of operation were a separate issue.

Morgan Palmer felt that limiting noise at 10:00 p.m. would limit events which would limit her income. She didn't feel that would be fair.

Commissioner Bingham stated that all residents and businesses were required to comply with the City's Noise Ordinance; gravel pits included. He agreed Morgan Palmer's hours of operation could extend past 10:00 p.m., but he felt the noise needed to be in line with the City's Noise Ordinance.

Bryce Wheelwright felt the only thing Morgan would have to worry about was music after 10:00 p.m.

Commissioner Hulsey felt the hours of operation needed to include a definite end time to preclude overnight events.



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Morgan Palmer agreed with hours of operation from 7:00 a.m. to 1:00 a.m. She was willing to abide by the City Noise Ordinance. There wouldn't be outside noise after 10:00 p.m.

Bryce Wheelwright stated that he would modify the conditional use permit to include hours of operation, no overnight events, and compliance with the City's Noise Ordinance. The Planning Commission could approve the modified draft at the next meeting.

Colt Mund stated that the conditional use permit also needed to include a 'catch all' phrase for compliance with all City ordinances.

Morgan Palmer asked if the Planning Commission could approve the conditional use permit subject to the modifications. She agreed with the proposed changes.

Bryce Wheelwright felt it would take a few weeks to get her parking lot paved. Mrs. Palmer said her parking lot would be paved within a week.

Commissioner Bingham asked if the Planning Commission could approve a conditional use permit subject to suggested changes. Colt Mund said the Planning Commission could legally do that. It was up to the Planning Commission to determine if that was a prudent course of action. He reminded the Planning Commission that it was still waiting for input from the Fire Department.

Commissioner Hulsey asked if the City Council could approve the conditional use permit. That would save a week. Chairman Bodily said only the Planning Commission approved conditional use permits.

Commissioner Bingham felt the Planning Commission should table the conditional use permit until it received an answer from the Fire Department. Chairman Bodily agreed.

Chairman Bodily clarified that the conditional use permit would be modified to include hours of operation, no overnight events, compliance with the City's Noise Ordinance, and compliance with all City ordinances. The Planning Commission also needed an answer from the Fire Department.

Morgan Palmer stated that the Fire Department had to make a final inspection of her venue for her building permit. Why did there need to be an additional condition on the conditional use permit?

Colt Mund asked if Morgan Palmer would need an alcohol license. Morgan Palmer said the DABC (Department of Alcoholic Beverage Control) only required an alcohol license for public events. Private events did not require a license. She could not sell alcohol. She couldn't even buy it for her clients. A private party could provide alcohol for its guests. Colt Mund felt an event where people were invited and charged for use of the venue would be considered a public event. Ms. Palmer said her space was rented by private parties or individuals for their private events. They supplied the alcohol for their individual guests. Colt Mund said that the public was still coming onto Morgan Palmer's property for an event. It was still a business operation. The public was being invited to Morgan's place of business. He wasn't sure Morgan was accurate. If she was serving alcohol at her business she was required to have alcohol license.

Morgan Palmer stated that private events were not required to have a license. She had called the DABC to verify the regulations. She had to follow the DABC rules and agreed that condition should be added to the conditional use permit. Colt Mund felt the alcohol regulations should be verified.



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Chris Davis stated that by allowing alcohol she would have dramshop liability. Did she have dramshop insurance? Morgan Palmer said she had spoken with her insurance, the health department, and the DABC. Any private event had the right to serve their own food and beverages. They could have their own alcohol if they provided it. As a venue she could and did require a security guard and a licensed bartender, which did not work for her, to serve alcohol for the private event.

Colt Mund said the DABC website said any business where alcohol was consumed or sold was considered public. Morgan Palmer said she would not be selling alcohol. No one would be selling alcohol. Those who leased her space would provide alcohol for their guests. Colt Mund stated that this was a public business, not a private event. The law said a public business that allowed alcohol to be sold or consumed on its property was required to have a liquor license. Morgan Palmer said no alcohol would be sold. No money would be exchanged. Her clients would provide alcohol for their guests. Colt Mund felt he needed to verify the requirements for a State liquor license.

Chairman Bodily asked that Colt Mund verify the alcohol regulations and that Bryce Wheelwright get an answer from the Fire Department.

Commissioner Bingham moved to table consideration of the conditional use permit for Morgan Palmer and directed the staff to make the recommended changes to the conditional use permit, to verify the alcohol regulations, and to receive an answer from the Fire Department. Commissioner Baker seconded the motion. All voted unanimously. The motion carried.

5B. CONSIDERATION OF A REQUEST FROM TRISHA HEATH (BARKER/BRAEGGER) TO REZONE PROPERTY LOCATED AT APPROXIMATELY 110 SOUTH 250 WEST (02-054-003) FROM A5 TO R ½

Bryce Wheelwright stated that the Planning Commission held a public hearing for the Barker/Braegger rezone on March 18th. After the public hearing, consideration of the rezone was tabled. The rezone was tabled again on April 1st. The main issue was secondary access. He still didn't have any information from the Fire Chief.

Colt Mund stated that during the last meeting he told the Planning Commission that the rezone could be approved if there was a written agreement regarding secondary access. Subsequent research revealed that a rezone could not be approved contingent on a party's agreement. With that in mind, he reminded the Planning Commission that the second access had been discussed. It appeared that the applicant could comply with the second access requirement. The second access would be addressed at the subdivision application level and before any building permit was issued. The staff recommended that the rezone request be approved, and that the record state that the second access would be addressed before any subdivision was approved or any building permit issued. Another issue that had to be resolved was payment of postage for certified notices. The applicant had agreed to pay those fees.

Commissioner Hulsey stated that the Planning Commission denied the Vern Price rezone request because of access. Colt Mund said the Vern Price rezone was denied because there wasn't a possibility for a second access. Commissioner Hulsey said there was a second access to the Vern Price property between 4th and 250. Mr. Mund said there was, but Mr. Price didn't own the access. Neither Mr. Price nor the City could demand that the property owner allow access to Mr. Price's property. In the case of the Barker/Braegger Rezone, the current applicant was the property owner and could provide assurance of a second access. She would have to comply with the second access requirement, and she had the ability to do so.



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park. Chairman Bodily felt animal waste fell under trash removal and was regulated by the City's Nuisance Ordinance. Commissioner Dubovik suggested that a statement about compliance with the City's Nuisance Ordinance be included in both chapters. Colt Mund said he would review the Nuisance Ordinance to make sure the issue was covered.

Commissioner Baker and Hulseley didn't have any comments.

Commissioner Harrop moved to table consideration of the Mobile Home and Recreational Vehicles ordinances for two weeks to allow Colt Mund time to make the changes discussed. Commissioner Hulseley seconded the motion. All voted unanimously. The motion carried.

5B. **CONSIDERATION OF A CONDITIONAL USE PERMIT FOR MORGAN PALMER FOR AN EVENT CENTER LOCATED AT APPROXIMATELY 683 NORTH MAIN (02-046-0102)**

Bryce Wheelwright stated that the Planning Commission tabled consideration of Morgan Palmer's conditional use permit two weeks ago. Her conditional use permit letter had been amended to include the items discussed by the Planning Commission at its previous meeting. The Fire Marshal said there were five items that Morgan Palmer needed to address in order to pass a fire inspection:

1. There needed to be an exterior exit from the 2nd floor.
2. There needed to be lighted exit signs above all exits.
3. All doors must swing out and have "*Door must remain unlocked during business hours*" signs.
4. There must be a commercial fire extinguisher with sign on each level.
5. There must be a fire flow of 1500 gpm from Hydrant 75.

Mr. Wheelwright explained that the Fire Marshal was requiring an exterior exit from the second floor because the building plans showed that the second floor mezzanine would be used during events. Morgan Palmer stated that her architect included occupancy numbers on the plans, but the second floor would only be used for her office and storage. Mr. Wheelwright had relayed that information to the Fire Marshal who agreed to revise the first condition if Morgan Palmer put up a sign restricting public access to the second floor. Mrs. Palmer said there was a sign.

Bryce Wheelwright stated that the Fire Marshal had not checked the fire flow yet, but that wasn't Morgan Palmer's fault.

Morgan Palmer stated that her fire inspection was scheduled for Monday, May 10th.

Bryce Wheelwright stated that the building also needed an occupancy permit.

Commissioner Harrop asked about her landscaping plan. Morgan Palmer said there would be grass and gravel and flowers on the berm. The gravel was there, and the grass was growing.

Commissioner Hulseley asked if the conditional use permit should include the Fire Marshal's requirement regarding the second floor. Morgan Palmer felt regulations for the second floor were covered under the International Fire Code. Bryce Wheelwright stated that the Fire Marshal would be making periodic inspections. If there was an issue, he would shut her down. Colt Mund was comfortable with the conditional use permit as written. Yearly fire inspections would be part of the business license process.



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Chairman Bodily asked if the alcohol issue had been resolved. Colt Mund said it had. He was comfortable with Morgan Palmer's commitment to follow the law.

Chairman Bodily asked if Morgan Palmer had read the revised conditional use permit. Ms. Palmer said she had. She was comfortable with it.

Commissioner Hulsey moved to approve a conditional use permit for Morgan Palmer for an event center located at 683 North Main. Commissioner Dubovik seconded the motion. All voted unanimously. The motion carried.

5C. CONSIDERATION OF A LOT LINE ADJUSTMENT FOR DAVID GRANT LOCATED AT APPROXIMATELY 488 SOUTH MAIN (02-052-0023 AND 02-052-0039)

Bryce Wheelwright stated that the property in question was located at 488 South Main. It was also known as the Lynn Zundel house. The property was currently owned by David Grant. Mr. Grant also owned part of the field north of the house. He wanted to adjust the property line to make the home (Parcel A) a half-acre lot. Parcel B would be 2.5 acres and would eventually face 100 West. Mr. Grant planned to build a home on Parcel B. Mr. Wheelwright felt the proposed lot line adjustment met all of the criteria.

Colt Mund and Commissioner Hulsey asked about the zoning. Mr. Wheelwright said it was zoned R-1/2.

Chairman Bodily asked if the Planning Commission had any concerns.

Commissioner Dubovik asked about the current size of the parcels. David Grant said there was a total of three acres. Each parcel had 1 ½ acres. He wanted to shrink the home to half an acre and increase the field to 2 ½ acres.

There wasn't any further discussion. Chairman Bodily called for a motion.

Commissioner Dubovik moved to approve the lot line adjustment at 488 South Main. Commissioner Harrop seconded the motion. All voted unanimously. The motion carried.

5D. DISCUSSION WITH JEROME JENKINS REGARDING ACCESS TO 13 ACRES LOCATED AT APPROXIMATELY 625 SOUTH 400 EAST (02-049-0006)

Bryce Wheelwright stated that the property in question was located above (to the east) the Granite Ridge Subdivision at approximately 625 South 400 East. It was owned by Jerome Jenkins. Mr. Jenkins had access to his property from Haul Road. Due to legal issues, he was seeking another access to his property.

Jerome Jenkins hoped the Commission could help him. Both Staker Parson and the Granite Ridge Subdivision blocked access to his property. They were both corporations staffed by good people, but he was being left with the short end of the stick.

Mr. Jenkins said his property was located on the mountainside. The canal road ran through part of it. He had about four or five flat acres below the canal road. When he and his wife purchased the property in 2015 the former owner told them there might be access issues. In 2015 they could drive right to their property on the Haul Road. Haul Road extended from Highway 89 across the corner of his land and further east to the gravel pit. Granite Ridge's preliminary plan showed twelve lots along the west side of his property. There wasn't a stub shown for his property. Stubs were shown for other property owners, but not his. There wasn't



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September 22, 2022

By Email Only

Colt R. Mund (colt@mht-law.com)

Mann, Hadfield & Thorne

Willard City Attorney

98 North Main Street, P.O. Box 876

Brigham City, UT 84302

Re: Palmer Barn, LLC Condition Use Permit

Mr. Mund:

This firm represents Palmer Barn, LLC (Palmer Barn). This letter responds to your August 9, 2022 letter (Letter), which alleges that Palmer Barn has not complied with its Conditional Use Permit (Permit) and threatens to revoke it. Your Letter identifies three areas of alleged noncompliance: (1) failure to "install and implement the landscape plan"; (2) failure to "install a six (6) foot vinyl fence"; and (3) anonymous noise complaints.

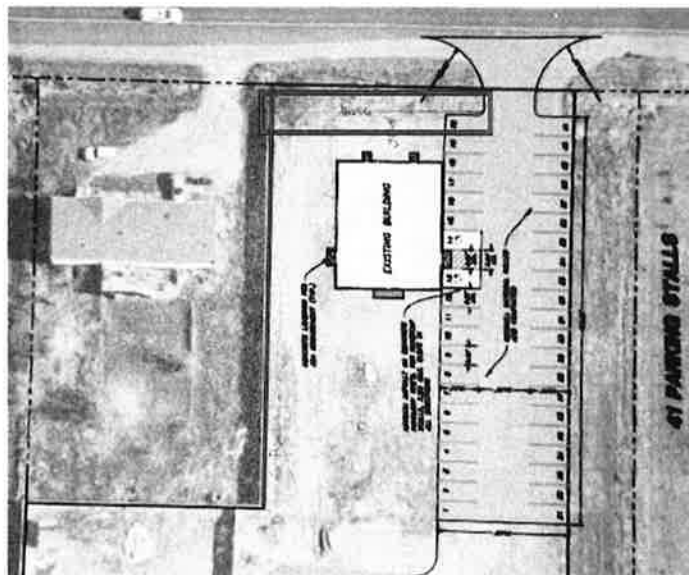
I understand that you met with Palmer Barn on September 21, 2022 and resolved the first and third items (if I am wrong, please let me know). So the only outstanding item is the vinyl fence. This letter addresses that issue.

Vinyl Fence

Your Letter, and later emails with Palmer Barn, alleges that the Permit requires Palmer Barn to place a vinyl fence around the entire property and that it has failed to do so. That's not true.

The Permit says the "property will be fenced with a vinyl fence within three months of this permit being issued." Audio from meetings on April 1, 2021 (First Meeting), meeting minutes from meetings on April 15, 2021 (Second Meeting) and May 6, 2021 (Third Meeting), and the plans Palmer Barn submitted to the Planning Commission show an agreement to install a fence on the east side of the property, along the highway, nothing more.

At the First Meeting, some commissioners worried about outside events with the property being close to highway 89. In audio from the First Meeting, one commissioner said that he believed fencing was important, "*especially along the highway.*" See First Meeting Audio at 10:35–40 (Emphasis added). Palmer Barn agreed. It said it planned to place a six-foot, vinyl-privacy fence along the highway, set back about 38 feet from Highway 89, that started at the property's entrance and extended to the corner of Palmer Barn's property. *Id.* at 10:44–11:37. Palmer Barn's plans identified this fence too:



The word “fence” and a hand-drawn line showing the rough location of the fence are boxed in red on the image above.¹ The purple line shows the location of a pre-existing fence separating Palmer Barn’s property from the neighboring property to the north. This was the only fencing discussed in the meetings and is the only fence identified on the plans.²

So when the Permit says the property will be “fenced with a vinyl fence,” the only fence the parties discussed and agreed to is the fence along the highway. It’s the only fence the Permit could be referring to. It is not a requirement to fence the entire property. That was never discussed or agreed to. The Planning Commission can’t change the requirements to overburden Palmer Barn.

This isn’t a small, simple change. To fence the entire property adds another 480 feet of fence, or more than 1.5 football fields. This would cost over \$20,000.00. Changing the Permit requirements is not right, fair, or—most importantly—legal.

Its also not practical. Willard City’s plans call for a road along the south end of the Property. If Willard City installs a future road, the fence would be ripped out.

At the First Meeting, the commissioners (when discussing whether to use gravel or pave the parking lot) acknowledged that they did not want to bankrupt Palmer Barn or make it financially infeasible to conduct business. But that’s what the fencing does, and for no good reason. It significantly harms Palmer Barn, was never agreed to, is unnecessary, and may need to be ripped out in the future.

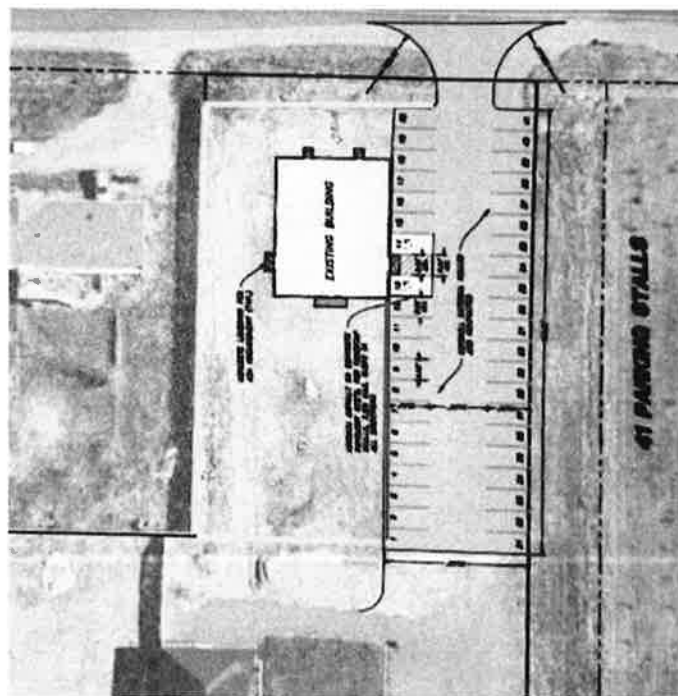
In short, Palmer Barn complied with the Permit’s requirements. It installed the vinyl fence along the highway as discussed in at the Planning Commission and as

¹ If the image is too small to read the handwriting, please see the full landscape plan provided to Willard City. If you need another copy, please let me know.

² Meeting minutes from the Second and Third Meetings do not address the fence and no audio is publicly available from those meetings.

outlined in the plans. The Permit (and the Planning Commission) did not require a fence on the south end.

That said, Palmer Barn wants to work with Willard City. As proposed by Palmer Barn in the meeting on September 21, 2022, Palmer Barn will agree to fence in the grass area as shown in the image below (current fence is in yellow, proposed new fence is in red):



This should satisfy any safety concerns that Willard City or Planning Commission may have had in their meetings and is a fair and reasonable compromise.

Conclusion

Palmer Barn wants to maintain good relations with Willard City. It hopes to be a productive business partner in this community for many years. It worked in good faith with Willard City to obtain the Permit and comply with its requirements. Palmer Barn is even willing—now, more than a year after the Permit—to go the extra mile and do

things the Permit does not require, like work with the city on anonymous noise complaints and install a fence that was never required.

But good relations are a two-way street. Willard City can't keep attacking Palmer Barn, adding extra, costly requirements (more than a year later) that were not part of the Permit, and repeatedly threaten to shut Palmer Barn down.

Palmer Barn will work with Willard City and welcomes good-faith dialogue. But if the City insists on a \$20,000.00, 480-foot fence that was never discussed or agreed to and threatens to revoke the Permit (or revokes it), Palmer Barn will exhaust its legal remedies and seek all available damages, including any lost revenue or income from changing the Permit, adding requirements, or revoking the Permit.

Palmer Barn looks forward to an amicable resolution of the fencing issue.

SKOUBYE, NIELSON & JOHANSEN, LLC

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

Nathan D. Anderson

Attorneys for Palmer Barn, LLC

cc: client (by email)

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Reed W. Hadfield (1930-2020)
Walter G. Mann (1906-1992)

November 17, 2022

Via Email Only
Nathan D. Anderson (nathan@snjlegal.com)
Attorneys for Palmer Barn, LLC
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Re: **Palmer Barn, LLC Conditional Use Permit Violations and Demand for Compliance**

Dear Mr. Anderson:

This letter is in response to your September 22, 2022 communication regarding the Palmer Barn, LLC Conditional Use Permit violations. As you know in May 2021, a Conditional Use Permit ("CUP") was issued to Palmer Barn for the operation of a business at 683 North Main, Willard, Utah. Pursuant to the CUP, several conditions were attached to the operation of the business by the Willard City Planning Commission which were required to be completed by Palmer Barn within a certain time period. Although all the conditions were agreed upon by your client and remain unchanged, the Palmer Barn Event Center is still non-compliant with three of the requirements of the CUP.

The following violations of the CUP are at issue: (1) failure to install and implement the landscape plan, (2) failure to install a six (6) foot vinyl fence, and (3) anonymous noise complaints. Your letter states numbers one (1) and three (3) were resolved in a meeting between me, Mrs. Palmer, AND Mayor Travis Mote on September 21, 2022. While it is accurate that we met to discuss the concerns, the City had regarding the Palmer Barn CUP, none of the outstanding issues were resolved.

Landscape Plan

Palmer Barn agreed to install flowers and shrubs within six (6) months of issuance of the CUP. While Mrs. Palmer indicated she did follow the landscape plan by planting flowers and shrubs, in a meeting with the Planning Commission, Mrs. Palmer said the plants and flowers "didn't take." Mrs. Palmer revealed at that time that she summarily installed xeriscape instead of the approved shrubs and flowers. Palmer Barn failed to discuss the matter with the Planning Commission, gain approval for the change of the approved plan and rather than replanting, they installed landscape that does not satisfy the

aesthetic previously agreed upon. Xeriscape however, allows Palmer Barn to financially skirt the costs associated with the long-term impact of the CUP landscape plan as the installation requires little to no effort or cost for Palmer Barn moving forward.

Vinyl Fencing

Your September 22, 2022 letter includes an image of the Palmer property. After discussion with the City Planner, it is unknown where this document originated as there is no record it was provided to the Planning Commission. Further, upon review of the audio recordings, no discussion was had in the Planning Commission meeting about an existing fence on the Palmer Property

The recording does not support a finding that the fence will be built from the property entrance and extended to the corner of the "Palmer Barn Property." That phrase was not used by the Planning Commission and your conclusions misconstrue the statements and context from the audio recordings. The reality of the recordings is that Mrs. Palmer volunteered to fence "the whole thing." Palmer Barn should know the questions, intent, and specific comments of the Planning Commission paint a clear expectation that if used for commercial purposes, the property must be enclosed to ameliorate the impacts on the neighbors. Indeed, many of the concerns stated by the Planning Commission during their several meetings regarding Palmer Barn are that the fence around the property is needed to protect and limit the impact on the neighboring residences. It simply would be irrational based on the concerns and discussion from the Planning Commission to fence only highway 89 and not the areas of the Palmer property which abut residences. Mrs. Palmer's assertions that the installation of a fence would be "illegal" and ripped out in the future is unfounded. I am uncertain how Mrs. Palmer came to this conclusion. The City staff is unaware of any City ordinance or building plans that support her conclusions. Moreover, as you are aware, this purported "issue" is never even discussed in any of the meetings Mrs. Palmer had with the Planning Commission.

Even if a road were installed in the future, the approved fence would be located on the Palmer Property not the roadway. Should the fence need to be removed or adjusted Palmer Barn would have standing to be made whole for any change to their property. Nevertheless, the possibility of a future roadway does not resolve the need for and value of the fence in the present. Especially given the nature and frequency of the events occurring at Palmer Barn and its position of being surrounded on three sides by residential property.

Mrs. Palmer's objection to the costs of a vinyl fence is ironic given that she is the one who initially suggested the type and location of the fence. Palmer Barn never lamented the costs associated with installing a fence of this kind during the approval process and therefore, the Planning Commission was led to believe the costs were known or alternatively that Palmer Barn was willing to pay whatever the associated costs would be in order to obtain a CUP. The approval of the CUP stretched over several months and Palmer Barn had ample time during this process to obtain fencing prices and raise an objection to the costs then. Any omission of obtaining pricing or raising the costs issue is their failure, not the Planning Commission's. Palmer Barn agreed to abide by these terms and now is dissatisfied that they are being held to their word.

There is an additional issue that has come to light since our meeting with Mrs. Palmer in September. Palmer Barn has been making use of additional parking space on land that is not its own. That parking encroaches on two neighboring properties and is one of the many varieties of unsavory impacts on neighboring land that the agreed upon fence is intended to prevent. Palmer Barn's proposed "red line" fence is inadequate and unacceptable for the nature and use of the event center and does not comply with the original CUP.

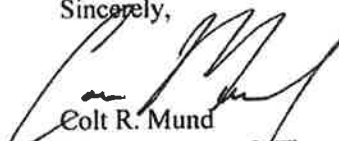
Noise Complaints

The City has received several complaints about noise coming from Palmer Barn property at late hours of the evening during events. The CUP requires Palmer Barn to abide by the noise ordinance in operating their business. However, this does not appear to be happening based on the complaints Willard City has received regarding the noise occurring on the property. At least one complainant has voiced the concerns at City Council and to law enforcement. In our meeting with Mrs. Palmer in September, she was simply asked to be mindful of her neighbors as Palmer Barn hosts events. However, it is my belief that the installation of the required fence would ameliorate many of the noise complaints that have been voiced over the past year. In fact, I believe the Planning Commission had this in mind when imposing the fencing requirement on Palmer Barn.

In sum, since August when your client was notified of the violations, Palmer Barn has made no attempts to obtain compliance with the CUP. Indeed, your letter indicates, as did our September meeting with Mrs. Palmer, that Palmer Barn is not willing to pursue compliance. As such, the Palmer Barn CUP will be scheduled for the Planning Commission to review. As you are aware, the Planning Commission may take whatever steps they deem appropriate to enforce the CUP, including revocation. Willard City invites Palmer Barn to begin taking steps toward compliance prior to the review meeting of the CUP with the Planning Commission.

Willard City looks forward to an outcome for this matter which both protects its homeowners from the unwanted impacts of commercial growth within residential confines and responsible businesses development.

Sincerely,



Colt R. Mund
Mann, Hadfield & Thorne
Willard City Attorney



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

4
5 The following members were in attendance:

6		
7	Sid Bodily, Chairman	Chris Davis, City Manager
8	Diana Baker	Colt Mund, City Attorney
9	Chandler Bingham	Bryce Wheelwright, City Planner
10	Alex Dubovik	Michelle Drago, Deputy City Recorder
11	Zack Hulsey	

12
13 Excused: Blake Harrop

14
15 Others in attendance: Mayor Travis Mote, Councilman John Seamons, Nate Swain, Morgan Palmer, Ken
16 Ormond, Ruth Ormond, Chad Braegger, Vanji Christensen, Nathan Anderson, and?.

17
18 The meeting was called to order at 6:31 p.m.

- 19
20 1. PRAYER: Sid Bodily
- 21
22 2. PLEDGE OF ALLEGIANCE: Al Dubovik
- 23
24 3. ROLL CALL: Attendance was recorded by the secretary.
- 25
26 4. CITY COUNCIL REPORT

27
28 Time Stamp: 3:33 03/16/2023

29
30 Councilman John Seamons reported on the March 9th City Council meeting. The Council heard a
31 presentation from a financial consultant, Lewis Young Robertson Burningham, regarding economic
32 development. The Council did not make a decision regarding a contract. It reviewed and approved bids for
33 the City's surplus property and approved the Lynn Beard rezone. The Council scheduled Willard's Spring
34 Clean Up for the 18th, 19th, 20th, and 22nd of May. The Public Works employees were thanked for providing
35 such great snow removal this winter. The City had received a \$1 million grant. Those funds needed to be
36 encumbered. Councilman Seamons felt the City was very responsive. During the Council meeting, it was
37 noted that sandbags were needed. The Mayor brought in the CERT committee and a sandbag project, was
38 organized. The project was carried out on Saturday, March 11th.

39
40 Councilman Seamons updated the Planning Commission on the status of the HOP Trail. He provided each
41 member a copy of the latest engineering plans and reviewed them plans so they could answer questions
42 from citizens.

43
44 5. GENERAL PUBLIC COMMENTS

45
46 There were no comments.



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6C. CONSIDERATION OF A LOT LINE ADJUSTMENT FOR THE OLD FARM STONE HOUSE
LOCATED AT APPROXIMATELY 7140 SOUTH HIGHWAY 89 (02-055-0042 AND 02-055-0067)

Time Stamp 15:10 03/16/2023

Bryce Wheelwright, City Planner, stated that Willard Land, LLC was requesting approval of a lot line adjustment for the stone house they owned at 7140 South Highway 89. They needed to adjust lot lines to meet the 60-foot road width requirement from the City Engineer. The road would provide the second access the State was requiring for their development. The adjusted lot line and new road meant the old home would become a corner lot. In Willard City, a corner lot was required to have a 30-foot setback on each frontage. In order to comply with the setback requirement, Willard Land planned to remove a wooden structure on the south side of the house. The home in question was part of the annexation, so it was located in Willard City. If the home complied with the City's setback requirement, the staff didn't have any issue with the requested lot line adjustment.

Commissioner Bingham arrived at 6:49 p.m.

Commissioner Dubovik asked if the lot line adjustment should be approved subject to removal of the wooden structure. Mr. Wheelwright said it should.

Commissioner Hulse verified that a new parcel would not be created by the adjusted lot lines. Bryce Wheelwright and Nate Swain, Willard Land, explained how the lot line would be adjusted. A new lot was not being created.

Commissioner Baker moved to approve a lot line adjustment for the Old Farm stone house located at approximately 7140 South Highway 89 (02-055-0042 and 02-055-0067) subject to compliance with the 30-foot setback requirement by removal of a wooden structure. Commissioner Dubovik seconded the motion. All voted "aye." The motion passed unanimously.

6A. REVIEW OF CONDITIONAL USE PERMIT FOR MORGAN PALMER FOR A RECEPTION
CENTER LOCATED AT APPROXIMATELY 683 NORTH MAIN (PARCEL NO. 02-048-0098)

Time Stamp 23:115 03/16/2023

Bryce Wheelwright stated that there had been some issues with the conditional use permit issued to Morgan Palmer for a reception center in May 2021. The issues being contested were landscaping, fencing, and noise.

Colt Mund, City Attorney, stated that the Commission members had been provided minutes from the 2021 meetings, recordings of the meetings, and a copy of the conditional use permit itself. The Commission had also received copies of correspondence between himself and Morgan Palmer's attorney, Nathan Anderson. The three principal issues were the fence, landscaping, and noise complaints. Since the latest correspondence, Ms. Palmer had installed a fence along the south side of her property. Several months ago, noise complaints were made about Ms. Palmer's event center. As far as he knew, the complaints never resulted in citations; there had not been any legal or criminal action. Complaints were made, but no further steps were taken by the Police Department. He reminded the Planning Commission that this was not a public hearing and no action was being taken.



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Commissioner Dubovik stated that according to the correspondence, there was going to be a fence on three sides. Morgan Palmer said the landscape plan she submitted in 2021 only showed fence on one side.

Colt Mund said there was a proposal for a fence, and a diagram of the fence was included in the legal correspondence. Commissioner Dubovik wondered about the status of the fence. Commissioner Bingham said there was now a fence on the north, east, and south sides of the Palmer property.

Chairman Bodily invited Morgan Palmer to speak.

Nathan Anderson, Salt Lake City, Morgan Palmer's attorney, felt the fence was the biggest concern and where the dispute was coming from. It had been two years since the Planning Commission considered Morgan Palmer's conditional use permit. The first meeting was held on April 1, 2021. Somewhere in the discussion someone brought up the need for a fence, and Morgan responded that she planned to put up a fence along the highway. She said the fence would be 38 feet from the highway, 6 to 7 feet from her entry to her property line. There wasn't any further discussion about what the fence would entail. At another meeting a month later, Morgan Palmer provided a landscape plan that showed a fence along the front property line. When the conditional use permit said fence, his client understood the fence was to be located where it was shown on the landscaping plan. He felt that is where the dispute stemmed from. The Commissioners may have had something different in mind. Palmer Barn installed a fence and thought they were in compliance. A few months later, issues arose regarding noise. Although Palmer Barn didn't feel it was necessary, they installed a fence along the entire south side of their property. The additional fence was about the length of a football field. It had been costly to install. Palmer's wanted to put in the fence to make sure they were being good corporate citizens and to help neighbors. They had tried to comply and do what they were asked. Mr. Anderson stated that there may have been noise complaints, but not a single citation had been issued. Police were called out so they had to show up to do their job. However, they interrupted special moments people were trying to have. Essentially they were being harassed. It was not the fault of the officers, but they were showing up at the wrong time.

Mr. Anderson felt Palmer Barn was doing everything they could to comply. They were trying to do what the Council wanted. They were trying to be good citizens and to be good neighbors. Palmer Barn would continue to keep fighting in order to remain open. This was their livelihood.

Morgan Palmer, 683 North Main, metaphorically asked the Planning Commission members to walk a mile in her shoes. A few years ago she looked out into an empty field covered with nothing but grass and lumps of dirt, and saw the potential for more. She saw the potential for love, laughter, and life if she built a place where families could come and celebrate. Last year she learned that, despite her every effort to share this joy and good fortune, she had been blasted by a couple who had failed to judge softly. This couple spoke negatively about them and went door-to-door to all of the Planning Commission members. They went to the private homes of the Sheriff and neighbors. They attended a public meeting without their knowledge; without allowing them to defend themselves. The paper wrote about the spectacle this couple made at the meeting. That is when she found out. All of that was done without the respect to speak to them. They only saw events from their own perspective. She thought they were friends

Ms. Palmer asked the Planning Commission to imagine how her guests had felt when the police entered her building on the most important day of their lives. As a young bride and her father danced arm in arm, the police arrived in response to a Noise Ordinance complaint from this couple. The officers were completely respectful and felt terrible about interrupting such a special, cherished moment. They had a duty to respond to every call, even from those whose judgment was harsh and definitely unwarranted. This had happened twice from the same couple. Imagine if that were your child's wedding.



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Ms. Palmer said she had tried to find common ground with this neighbor. She wanted to find a way to walk side by side so both of them could have their own dreams and also peace. Although it wasn't required in her landscape plan, she erected a 350 foot fence at her cost. The fence was installed to try and mend emotional fences. She made sure every City ordinance was followed at every event. Despite her efforts this couple stubbornly didn't seem to be willing to agree to any compromise short of her dream being destroyed.

Mrs. Palmer asked the Planning Commission to consider her family. This dream brought her happiness, and it fed and clothed her children. She was not a big, bad business lady who was uncaring of anyone. Her whole business was based on friendships and sharing her dream and space with anyone and everyone. That is who she was to the core. She felt she deserved peace. She realized she didn't have the right to impose her opinions on other's personal property. She had gone above and beyond by adding the 350-foot fence. In the past two years of business, she had had no issues. There had not been one valid complaint. Despite the rumors and conversations without them being present, the loudest voice was not always the right one. She asked that she be allowed to continue her business without fear at every event that there would be retribution. She brought value to the community as a business owner and as a citizen.

Commissioner Baker asked when Morgan Palmer talked to Blake Harrop about using his property. Morgan Palmer said they had a friendly neighbor relationship. He used the entrance to their property for his horses. It was just a friendly neighbor thing. There was never a written agreement. She had not lost any parking. They kept us his property to keep the weeds down. Her property was very clean.

Commissioner Baker asked if Blake Harrop's property was located between her new fence and the orchard to the south. Mrs. Palmer said it was. The south edge of the asphalt was where her property ended.

Morgan Palmer said she had not moved to Willard to be enclosed. They had been drawn to Willard by the views and the openness. The fence truly was not what she wanted for herself or her children. She didn't want to live in a compound. She didn't want to be locked in. There was 100 feet of unfenced property left on her west property line, right next to her home. That was her view and her sunsets. She needed that to remain open for emotional wellness.

Commissioner Baker asked about the size of her property. Morgan Palmer said she had 1.5 acres. The event center was located on the front half-acre. Her home was located on the remaining acre.

Chairman Bodily said that in 2021, the Planning Commission never talked about the lengths of any fences. Mrs. Palmer agreed. There had been one comment about the need for the highway to be fenced.

Chairman Bodily stated that on May 6, 2021, he asked her if she had a copy of the conditional use permit and its conditions. Morgan had responded that she did and was comfortable with them. The fourth condition on her conditional use permit said the property would be fenced. There wasn't anything on the permit that said any of the property would be omitted. Morgan Palmer agreed that that was what she had said. However, at the time she thought 'the fence' only meant the area shown on the landscape plan because the condition did not say 'the entire property.'

Chairman Bodily felt the west side of her property should be fenced. Mrs. Palmer said the condition did not say the entire property had to be fenced. If it had, she would have asked that the fence pertain to the business area and not her home.



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Chairman Bodily had heard there were some problems with parking on the property to the west. Morgan Palmer said parking could not occur on the property to the west because there was a two-foot ditch along the west property line as well as an electric fence. No one had ever parked there. That was a rumor.

Chairman Bodily said the Planning Commission had never talked about distances of fence. The conditional use permit said 'the property,' which Morgan Palmer had agreed with. There had been discussion about fencing the highway, but that was not what was written in the conditional use permit.

Morgan Palmer stated that when she spoke with the Planning Commission, she was under the impression that she was only fencing the highway. Chairman Bodily said the Planning Commission was under the impression that she would fence her entire property. Morgan Palmer stated that she gave the City her landscape plan. It was on the Utah Public Notice website. The landscape plan only showed fencing along the highway. It truly showed exactly where she thought she was being required to fence.

Commissioner Baker said the landscaping plan was supposed to have been completed within six months. All that was completed was the grass. Morgan Palmer admitted that the notes on the landscape plan were wrong. The discussion regarding landscaping said flowers and shrubs along the berm, not along the highway. The transcriptionist added 'the highway.' She could not landscape the highway. There was an easement and an irrigation ditch between her property and the highway. There physically was not a way for her to landscape the highway. Due to the drought, she put in xeriscaping. The xeriscaping was installed within three months.

Commissioner Hulsey asked what sections of her property were not fenced. Morgan Palmer said the only area that wasn't fenced was about 100 feet west of her home. She had over 1,200 feet of vinyl fencing around her property. She asked that the last 100 feet remain open. She didn't want to be confined. There was already a ditch along the west property line and an electric fence. No one would ever park there. The land west of her was being farmed.

Commissioner Bingham said he had not read anything that said the entire property, but he had understood that the fence was going to extend to the end of the parking lot and along three sides of her business. Morgan Palmer felt she had gone above and beyond that. She could not fence off her business from her home.

Chairman Bodily said the minutes talked about the highway being fenced, and the conditional use permit said 'the property' would be fenced. He did not see anything that omitted any part of her property.

Colt Mund stated that during the meeting in 2021, Chairman Bodily expressed concern about the west side of Morgan Palmer's property. He was concerned about someone walking into the ditch. Those concerns were discussed in context of the fence.

Colt Mund stated that his legal response to Palmer Barn said that at one point Morgan Palmer said she would fence the whole thing. He did not feel that any of tonight's discussion changed his response to Palmer Barn.

Morgan Palmer said that Chairman Bodily was referring to the ditch along the highway, not the west side. The Planning Commission never talked about east, west side, or south side. The ditch along the west side of her property was not there two years ago.



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Commissioner Hulsey stated that he had listened to the recording. There was a discussion about a fence along the highway. Chairman Bodily had expressed concern about people stumbling onto other properties. From his perspective, it was all other properties.

Morgan Palmer said she now understood the Planning Commission's perspective, but at the time she thought only the highway had to be fenced, which is what was shown on her landscape plan. If she had known the Planning Commission wanted the entire property fenced, she would not have been able to put it in. At that time, she did not have the funds. She would have asked that the fence only be required in the grass area around the barn. She would never have imagined fencing her entire property.

Commissioner Hulsey said that after listening to the recording, he felt Morgan Palmer did think that only the highway was supposed to be fenced.

Commissioner Dubovik stated that a lot of lessons had been learned. Morgan Palmer would probably have said things differently. The Planning Commission would have looked closer at the landscape plan and matched it up with the property lines. For him the bottom line for him was that the City wanted great businesses and partners. The Planning Commission would continue to refine the process.

Commissioner Baker had heard rumors. This was a neighbor issue, but the City was coming out as the bad guy.

Morgan Palmer felt the conditional use permit should fall back on what was discussed and the landscape plan.

Commissioner Baker asked about the noise complaints. The complainant said Morgan Palmer had outside amplifiers and that the music could be heard in their basement. Morgan Palmer said she did not have outside speakers. She had a microphone system that was used when vows were being spoken. A resident had the right to throw a party in their yard every night with music and speakers until 10:00 p.m. She was not breaking any rules by having a bride come down the aisle and saying vows. Vows were usually exchanged in the late afternoon to early evening. It was never until 10:00 p.m. There could be some soft music if people remained outside to visit and play games. She had the legal right to do that.

Commissioner Baker asked about the use of the event center's second story. The Fire Department said it had to have a fire escape if it was used for anything but storage. Morgan Palmer said it was used only for storage. There were signs prohibiting public access. She could not have guests on the second story who did not know where the exit was. People could only be on the second story if she was with them to show them where the exit was in case of a fire. Her co-workers and staff could be up there as long as she was with them. The second story was not available for an event. Her co-workers could attest that the second story was blocked off.

Morgan Palmer said she could have just put up the fence to the end of the parking lot and not fenced off her home where her children play, but she was trying to mend emotional fences.

Commissioner Hulsey asked if her neighbor had ever spoken to her. Morgan Palmer said she had not. None of her neighbors had said anything, and she was constantly asking them if there were any issues.

Chairman Bodily felt there must not be a noise problem if the police had responded to complaints and not issued citations. Morgan Palmer read from one of the police reports, *"There has been no issue. We are calling off the call."* She understood the police had to respond when they received a call, but they had found



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nothing wrong. Chairman Bodily did not feel the Planning Commission had anything to go on, if no citations had been issued.

Morgan Palmer asked to move on to the landscaping issue now the citation problem had been squashed.

Chairman Bodily felt that landscaping would be to Morgan Palmer's benefit. People wanted a nice plan to come to. Morgan Palmer stated most of her customers wanted a neutral space they could decorate. All of her decorations were neutral. She had black bark, white lighting, wood, green grass, white barn, and black doors. The inside was painted an agreeable gray. Her customers brought in the colors of their own wedding. That is why she asked that the landscape issue be squashed as well. She was a clean person. Her business was not a dirty place. She didn't have any weeds. She didn't need to be told where to have grass because she didn't know how to upkeep her property. She did know how, and she was trying.

Commissioner Hulseley felt the issue with the landscaping was the specific wording in the conditional use permit, which said 'the landscape plan,' the plan which Morgan Palmer had submitted. The landscaping she installed did not agree with the landscaping plan she submitted. Morgan Palmer agreed with that fact. She admitted that she changed the landscaping without coming to the Planning Commission. She changed the landscaping due to the drought and desires of her customers.

Commissioner Hulseley said the conditional use permit did not say install landscaping. It said the landscape plan. She revised the landscape plan without any approval, but he did not see the practicality of ripping everything out and going back to the original landscape plan. Mrs. Palmer stated that when she spoke with the City Attorney, she felt the fence was the biggest issue. The landscaping and noise complaints had been tacked on. She apologized for changing the landscaping plan. She would come to the Planning Commission if she changed anything else.

Colt Mund agreed that the fence had been the most glaring issue. He did not know if the noise complaints were invalid because there wasn't a criminal citation. He felt the Planning Commission needed to be very careful because there was a citizen in the community who literally felt like they had not been able to stay in their home during the summer when events were going on. He felt the noise complaints had been pushed to the side because there weren't any citations. A criminal citation required a prosecutor to prove beyond a reasonable doubt. A civil issue was a preponderance of the evidence. As a prosecutor, he dealt with a lot of issues where a complaint was valid, but it had not risen to the level of a criminal prosecution.

Chairman Bingham said he had watched a video and felt Mrs. Palmer's neighbor had a valid complaint. He felt the fence would help to repel the noise. That is why he thought the fence was supposed to be installed along the south side of the parking lot. He felt noise would continue to be an issue as long as Morgan Palmer was in business. She needed to be aware that her job was to try and keep the noise down.

Morgan Palmer stated that the Braegger's, the complainants, had to show burden of proof. They had called in two false police reports because the calls had been before 10:00 p.m. and no issues had been found. If they submitted five false reports, they would be prosecuted by the State. Ms. Palmer said that all citizens had the legal right to play music outside until 10:00 p.m. as long as it didn't exceed a certain decibel. Her business was located 200 feet off of the highway; Braegger's were only 60 feet. She was within her legal rights as a citizen and as a business. She felt the question that needed to be asked was whether the video was in the daylight before 10:00 p.m. If it was, she was within her legal rights.

Colt Mund stated that Morgan Palmer's hours of operation were 7:00 a.m. to 1:00 a.m., but the City's Noise Ordinance did not have a 10:00 p.m. limit. Bryce Wheelwright said it did not have a time. It just said if noise



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became a nuisance to those around. Chairman Bodily said that someone could be cited at any time if the noise became a nuisance.

Morgan Palmer stated that the three issues were fencing, landscaping, and noise. She asked if they had been resolved. Was she in compliance?

Chairman Bodily said that compliance was something the Planning Commission would have to talk about. Mrs. Palmer asked how she would know. Chairman Bodily stated that the Planning Commission would discuss her conditional use permit at the next meeting and make a decision about what would be enforced. The purpose of tonight's meeting was to gather information.

6B. REVIEW AND DISCUSSION REGARDING CLOSED OR ABANDONED CONDITIONAL USE PERMITS

Time Stamp: 1:09:11 03/16/1023

Bryce Wheelwright stated that a list of the conditional use permits that had been considered in Willard City had been compiled. Some of the uses had been denied, some were closed, and some were still active. There were a few the staff had questions about. They needed to be confirmed.

Michelle Drago, Deputy City Recorder, explained that the conditional use permits highlighted in yellow were still active. She had been unable to find any documentation regarding the conditional uses highlighted in orange.

Chairman Bodily stated that a conditional use permit was attached to property. What would it take to close the use? Bryce Wheelwright stated that if a business closed, the conditional use permit closed.

Commissioner Dubovik asked if there was an abandonment period. Commissioner Hulsey asked about the definition of abandonment. What did the City Council decide? Colt Mund stated that in order to give the Planning Commission maximum discretion *abandonment* had not been defined. He felt the time period for non-use was up to the Planning Commission. Mayor Mote felt the key was to notify the owner and determine if they wanted to keep a conditional use permit open.

Commissioner Dubovik asked if it would be appropriate to contact current owners of properties with closed conditional use permits to determine if they wanted to keep the use active. Mr. Mund said it was. Commissioner Dubovik wanted to get the closed conditional use permits off of the list.

Commissioner Hulsey asked what 'active' meant. Michelle Drago said it meant the use was still in effect and was being used.

There was a discussion regarding the conditional use permits highlighted in orange – Bill Comer's Trailer Court, Terry Ross's temporary business trailer, Ryan Thurgood's construction business, Melissa Wilkes, and Jacob Bodily.

Commissioner Bingham felt the conditional use permit for Granite Construction Company at 300 East 750 North was a temporary situation. He felt it should be changed from Active to Closed.

Commissioner Bingham felt his business should be on the list under his father's name.



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Commissioner Dubovik felt that conditional use permits that were replaced or transferred should also be deleted from the list. He suggested that the staff contact those with expired conditional use permits to determine if the original applicant wanted to close them out. Officially closed conditional uses could be deleted. The Commission wanted to get the list down to the active conditional uses it wanted to review every year.

Chairman Bodily asked why the list included conditional use permits that had been denied. Commissioner Dubovik felt they were there for the historical record.

Commissioner Baker suggested separating the list into three separate sheets – active, closed, and those with questions.

Commissioner Hulsey asked if the City had copies of the conditions for each of the conditional use permits. Michelle Drago said the staff could share the records the City had with the Planning Commission.

Commissioner Dubovik felt in the cases of conditional use permits without documentation, the City could recreate a conditional use permit without re-charging the applicant. He felt the City needed to get some document on file. Colt Mund felt that in those cases the Planning Commission could conduct a compliance review.

Mayor Mote asked how far back the City had minutes. Michelle Drago the City had minutes dating back to 1885. The oldest minutes had been sent to the State archives. Mayor Mote suggested that conditional use permits be recorded with the County Recorder so there would always be an official record attached to the parcel. When a conditional use permit was revoked, the revocation could be recorded. He felt recording the conditional use permit would resolve the lack of documentation.

Colt Mund was not familiar with that practice happening elsewhere, but it made sense. The record would then be attached to the property. It might be a way to help the City track conditional use permits. . Mr. Mund said he would look into it.

Commissioner Hulsey felt that would allow the public access to the conditional use permit as well

Chairman Bodily asked where the Planning Commission wanted to start. Bryce Wheelwright suggested that the staff contact the applicants attached to the closed conditional use permits to determine if they could be removed from the list. Chairman Bodily suggested that the Commission start with the conditional use permits highlighted in orange.

Commissioner Hulsey felt that if the City was going to hold Morgan Palmer accountable for compliance with her conditional use permit, it should be holding all conditional use permit holders accountable.

Commissioner Dubovik suggested that the active conditional use permits be reviewed on their anniversary months.

There was discussion about closing conditional use permits that had been inactive for more than a year.

6D. DISCUSSION REGRDING REVISED GENERAL PLAN

Time Stamp 1:31.00 03/16/2023



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Bryce Wheelwright stated that the Planning Commission had received a copy of the General Plan that had been revised based on discussion from the February 20th work session.

Chairman Bodily asked if any of the Commission members had any further comments or concerns.

Commissioner Baker stated that she had not been able to attend the work session. She had glanced through the revised General Plan, and she didn't have any issues.

Mayor More stated that he wanted to submit the final draft to the City's planning consultant as soon as possible. Chairman Bodily asked that the Commission members submit any concerns to Mayor Mote by Monday, March 26th.

Commissioner Baker asked if the General Plan would be impacted by the State taking the Bay Road. Mayor Mote said the City was working with the State to obtain an easement. The City Manager was going to contact Box Elder County because its General Plan showed a road from the Bird Refuge all the way to Willard Bay. Perry City was also interested in a connection to that road and had applied for corridor preservation funds. He felt both of those entities needed to weigh in on the issue.

Commissioner Baker asked about the Multiple Industrial Zone around Willard Bay. Mayor Mote said the new Future Land Use Map had replaced the Multiple Industrial Zone with a Commercial General Zone. Willard Bay didn't want vehicle traffic from industrial uses mixing with boats and trailers.

Commissioner Dubovik asked that the Planning Commission receive a copy of the final revision.

7. **CONSIDERATION AND APPROVAL OF MARCH 2, 2023, REGULAR PLANNING COMMISSION MINUTES**

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

8. **COMMISSIONER/STAFF COMMENTS**

Time Stamp: 1:38:49 03/16/2023

Colt Mund

Did not have any comments.

Chris Davis

Did not have any comments.

Bryce Wheelwright

Bryce Wheelwright stated that the candy store located at 45 South Main was open and accepting orders for Easter candy.

Commissioner Bingham



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Commissioner Bingham asked if the Highway 89 reconstruction project would include a crosswalk. Bryce Wheelwright said the highway wish list included a pedestrian bridge, but the reconstruction project did not include a crosswalk or a pedestrian bridge.

Commissioner Dubovik

Commissioner Dubovik asked about the \$1 million award received by the City. Chris Davis stated that the City had received a grant to extend a waterline from the existing well to 750 North.

Commissioner Dubovik asked if the HOP Trail had been funded. Mr. Davis said it had. Commissioner Dubovik asked if the funding included signage. Bryce Wheelwright said the City had received \$4 million dollars to build a trail from 800 North to the Box Elder/Weber County line. When the money ran out the project was done. There would be signage if there was sufficient funding.

Commissioner Baker

Did not have any comments.

Commissioner Hulsey

Did not have any comments

Chairman Bodily

Chairman Bodily asked about the status of the soda shop. Bryce Wheelwright said the owners were still working on it.

9. **ADJOURN**

Commissioner Dubovik moved to adjourn at approximately 8:12 p.m. Commissioner Hulsey seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: _____

Planning Commission, Chairman
Sid Bodily

Planning Commission Secretary
Michelle Drago

dc:PC 03-16-2023