

City of Green River

460 East Main Street, Green River, Utah

Planning Commission Minutes
Regular Meeting
Thursday, January 6, 2011

ATTENDING: Katherine Brown, Robert Smith, Ben Coomer, and Jack Forinash; Council Member Irene Daw; Employees, Conae Black and Bryan Meadows, from the Association of Governments Michael Bryant, Citizens, Jack Forinash

ABSENT: Amy Wilmarth

CONDUCTING: Chair, Katherine Brown, the meeting began at 10:06 a.m.

ORDER OF BUSINESS:

1. Discuss/approve/deny minutes for September 20, 2010 and December 2, 2010 regular meetings. Robert Smith corrected some typographical errors on both sets of minutes. **MOTION:** Robert Smith moved to approve the minutes with the corrections. Ben Coomer seconded the motion. **VOTE:** Robert Smith, Katherine Brown and Ben Coomer voted aye. The motion was carried.

2. Discuss/approve/deny meeting dates for 2011. Katherine Brown asked Robert Smith and Ben Coomer if they were willing to serve another year. They both said yes. Katherine Brown said there is a vacancy on the Board because Connie Copenhaver resigned. There were three people who are interested in serving on the Board which will fill the vacancy. Katherine Brown asked the members of the Planning Commission if they would like to continue meeting twice a month or once a month. It was decided that meeting once a month would be enough and if another meeting was necessary they would be willing to hold a special meeting. **MOTION:** Robert Smith moved to hold the regular meetings once a month on the first Thursday of the month at 10:00 a.m. and call special meetings as needed. Ben Coomer seconded the motion. **VOTE:** Robert Smith, Katherine Brown and Ben Coomer voted aye. The motion carried.

3. Discuss/approve/deny agenda items for the new year. Conae Black suggested that the Planning Commission should ask the City Council to update the subdivision ordinance. there was some concern expressed on the water and sewer hook-ups for Dan Harrison's subdivision. Conae Black suggested that the Planning Commission should work on the Conditional Use ordinance.

4. Discuss/approve/deny recommendation to the City for new Planning Commission member. Irene Daw said that Joanne Williams expressed to her an interest to serve on the Planning Commission. Jack Forinash is also interested in serving on that board.

5. Discuss/approve/deny conditional uses. Robert Smith said that Connie Copenhaver felt that if there were a conditional use they should set conditions for each of the important uses so they could look at it and have an idea on what kind of conditions it should be. That could mean a twenty page document which makes it very difficult. Ben Coomer asked Michael Bryant if you were able to set the conditions for a conditional use. Michael Bryant said there are certain criteria you should follow to set those conditions. You can set any condition you want as long as it relates to the criteria. The criteria are generally health, safety and welfare related. Sometimes it can get into design. He gave an example of a home business comes before you and it is explained to you what is involved with that business and you may say that lights is going to be a problem in that neighborhood so you set a condition to control the lights on the property. Then you tie that condition back to the criteria that it relates to such as line number six in your criteria list. Ben Coomer said if we have the right base ordinance then the planning commission should be able to fill in the holes. Michael Bryant said what he has provided for this planning

commission is things that can be difficult in setting conditions for such as child care facilities and home occupations. These have specific criteria for example adult oriented business they have to be 500 feet from the school and 500 feet from a place that serves alcohol. Those are conditions that the State allows you to impose and it helps you to further regulate some of those items. Otherwise if it doesn't have specific criteria then you use the general criteria. Again the general criteria provide for the health, safety and welfare such as noise, dust and fumes. This way you can create any condition as long it is reasonable for that particular use. Robert Smith asked Michael Bryant if they could set a condition to keep the character of the neighborhood. Michael Bryant gave an example saying a condition could be set stating that "standing within the character of the residential neighborhood you will have to operate within hours that are regular daylight hours, you will have to control the lights so that it will not trespass into people's windows or those kind of things. Robert Smith said not just business but anything; he is trying to be more general. Michael Bryant said the same thing can apply to a kennel. You are obviously going to have the odor from the dogs but as long as it can be controlled the right way and it is allowable in the zone you can create whatever conditions that would be applicable. Precedence is always given to the underlying zone and what is allowed in that zone. If it is a residential neighborhood then the idea is residents come first and you have to comply with the residents. If you can mitigate the detrimental things that would do then there is no reason why it couldn't work there. He said that Green River City put in their conditional use section in some of their zones that said "all other uses are conditional." He said that you need to realize that anything goes anything as long as they can meet the reasonable conditions since you can't put in specific conditions for every use then it falls under the general criteria. Ben Coomer said the old ordinance stated if it isn't permitted then it is prohibited. Katherine Brown said in the current conditional use ordinance there are different questions that need to be addressed in each zone. Michael Bryant said you could state that all other uses are conditional and then have a list of prohibited uses for example adult oriented uses are not permitted in this zone. Ben Coomer said you could end up with a long list. Katherine Brown said a long list is something that they were trying to avoid. Michael Bryant said it is best to list what you want there then there is no question. The worst case scenario is somebody may be delayed a few months in the process of getting the ordinance amended to allow that use. It is better to list everything that you want then to try to be open to everyone otherwise you end up with a disaster like Houston Texas. Ben Coomer said in Houston they have an elementary school right next to a chemical processing plant.

Katherine Brown said we already have a conditional use ordinance and asked the other members if they wanted to keep the same lay out. It was asked if everyone had a copy of what Michael Bryant has provided for them. Not everyone did. Conae Black asked if kennel should be a conditional use. Ben Coomer felt that kennels should not be allowed in a residential zone but should be allowed in the agricultural zone. Michael Bryant said an animal hospital is allowed in the commercial zone and asked if there was much difference. As long as the animals there were housed in an enclosure it should be alright. Ben Coomer agreed. Robert Smith asked if a resident owning three dogs should be required to have a kennel. Michael Bryant said he doesn't know where to draw the line. Katherine Brown said the first part of the ordinance provided to the commission by Michael Bryant is General Standards of Review. Michael Bryant said that is probably the most important part. Katherine read from the draft ordinance the following: "The City shall not issue a conditional use permit unless the Planning Commission concludes that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied." She asked if this is what they want to say. Ben Coomer said that it echoes what Michael Bryant just stated. You are holding yourself to whatever is in the written document so they have to be very careful of what is written. Robert Smith and Ben Coomer felt it was the right language. Katherine Brown said the general review criteria states things such as the use is not detrimental to the public health, safety and welfare. Michael Bryant said that is probably your best one because there are so many things that you can tie back to that. Katherine Brown continued saying sufficient utility capacity, sufficient emergency vehicle access, parking, a plan for fencing, screening and landscaping, exterior lighting compliance, etc.

Ben Coomer asked Michael Bryant if looking out for ones welfare could be damaging ones quality of life. Michael Bryant said you could make that argument and it has been done before but the way to quantify it would hard thing. An example would be someone could say they need the horses in the back yard because it helps me therapeutically but another person may say those same horse stink really bad. If it is welfare related then you state why it is welfare related. Katherine Brown asked if it was necessary for someone who is opening up a child care center to come before the Planning Commission. Michael Bryant said a conditional use runs with the land and not the owner. It is good to have that on file and documented. Michael Bryant explained the difference between an intermittent commercial use and a home occupation. He said an intermittent commercial use the business owner can have employees whereas a home occupation it can only be the home owner and the immediate family who live in the home. Adult Oriented Business was brought up. Michael Bryant said that this section of the draft ordinance was provided to him by the Utah League of Cities and Towns and was backed by case law. Ben Coomer said they allowed an adult oriented business to come into town but zoned them way out in the heavy industrial zone. Michael Bryant said if that can work then it would be fine. You don't have to permit them in every zone but make it a conditional use somewhere. Katherine Brown said the heavy industrial zone does not have a road leading to it. Michael Bryant said they should seek legal advice on whether it is allowable to permit that use in that zone. An adult oriented business only needs to be allowed in one zone. He suggested that if it is permitted in your heavy industrial zone to write some criteria for that use in that ordinance or in the supplemental ordinance or otherwise that business can do anything they want. Robert Smith said the heavy industrial zone is almost ten miles out and that is the only control there is on an adult oriented business. If we want more than that then they will need to amend the ordinance. Michael Bryant moved onto the sections in the draft ordinance that put conditions on small wind energy and solar panels. He said they were put into the Helper ordinance because most of their lots a very small. There are health issue related to wind mills and suggested having at least a minimum lot size or you may get so many decimals of noise and headaches are related to them. Ben Coomer felt they shouldn't be allowed at all in the city limits. Towers and antennas were discussed. Conae Black said there is not an ordinance setting any conditions on towers and antennas. Ben Coomer said they will have to allow a tower to be at least 100 feet tall because the city has already let one in town. He said the conditions that should be set are to only allow them in certain zones and they are not to exceed a certain height. Michael Bryant said the draft ordinance states that a tower cannot be any taller than the distance to the property line. In theory if you are 80 feet from the property line then the tower can be 80 feet tall. The reason for that is if the tower or antenna falls over then it will stay on your property. It was discussed to take the ordinance provided by Michael Bryant and mesh together the existing conditional use ordinance. Conae Black read form the commercial zone where it states that the final approval for a conditional use is made by the city council. Michael Bryant said that you have to allow for a conditional use if it meets all of the criteria. The criteria cannot be arbitrary. Michael Bryant suggested to the Planning Commission that once they have updated the conditional use permit they should take a look at all of the other ordinances.

6. Adjourn The meeting adjourned at 11:53 a.m.

Katherine Brown, Chair

Conae Black, City Recorder

Approved: _____