

City of Green River

460 East Main Street, Green River, Utah

Planning Commission Minutes
Regular Meeting
Thursday, May 5, 2011

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

ABSENT: Amy Wilmarth

CONDUCTING: Chair, Robert Smith, the meeting began at 10:05 a.m.

ORDER OF BUSINESS:

1. Discuss/approve deny minutes for April 7, 2011. Jack Forinash corrected the footage amounts on the Habitat house in the minutes. **MOTION:** Katherine Brown moved to approve the minutes for April 7, 2011 as amended. Ben Coomer seconded the motion. **VOTE:** Katherine Brown, Robert Smith, Ben Coomer and Jack Forinash voted aye. The motion carried.

2. Discuss/approve deny Sp-1 Zone and New Zoning Map and recommendation to City Council after Public hearing comments. Robert Smith said the public hearing has been held and there were very few concerns or questions. He stated the posted ordinance did not have the phrase "the Zoning Administrator may discuss this with other entities" included in item #2 of the suggested guidelines. Ben Coomer had some concerns on the word may. He asked who was going to explain what that means. Robert Smith said that was another question asked at the public hearing that "the zoning administrator or building inspector may require tests or additional information if, in their opinion" is a very open statement. **MOTION:** Ben Coomer moved to add the phrase "the Zoning Administrator may discuss this with other entities" into item #2 on the suggested guidelines of the Special Overlay Zone and forward the zoning map and the overlay zoning ordinance to the City Council. Katherine Brown seconded the motion. **VOTE:** Katherine Brown, Robert Smith, Ben Coomer and Jack Forinash voted aye. The motion carried.

3. Discuss/approve deny Conditional Use form. Robert Smith said he would like to add to the form the following: Please describe why the proposed use would not be detrimental to existing or proposed uses in the surrounding area. He questioned the Justification part where the applicant would explain why the project is needed. Ben Coomer said for the commercial zone that may be relevant but for a house it could simply be that the applicant needs a place to live. Robert Smith noted the conditions attached to the use. Michael Bryant said the logic to the criteria is the planning commission needs to state where they are creating the condition from. The planning commission needs to state from the ordinance where they are creating the condition from. That way you can show the legality of the condition. Robert Smith said there is a section on the form for the City Council to sign off on the condition. Jack Forinash asked about notifying the surrounding property owners. Robert Smith said would be addressed in the conditional use ordinance. Jack Forinash wanted something on the form to trigger the process for the city to notify the surrounding property owners of the conditions. Ben Coomer disagreed with that. He wanted the least amount of government involvement with private property as possible. Ben Coomer said that all of the adjacent property owners within a 250 feet radius should be notified by registered mail of the intent of the property development. Jack Forinash asked if there should be a place on the form that that has been done before it is approved and sent off for a permit. Irene Daw suggested providing the applicant a list of the property owners whom they should notify. Michael Bryant said Helper City wanted to know what the applicant was calling the use because in Helper the uses are specifically laid out. Helper City has a line on the form that says specific use of the property and has an example of home occupation. If you don't care

what the use is then it doesn't matter but the problem with not knowing the use is how you are going to put conditions on it. You are only putting conditions based on the description opposed to the actual use. If you have a type of use then you are setting a precedent for the future. In Helper they thought it was beneficial. In Green River you have in your ordinance that states "all other uses are conditional." Someone can now ask for a pig farm to the moon. **MOTION:** Ben Coomer moved to integrate Helper City's form and the draft created by Green River City together into one document. Each entity is included into that document and the document shall stay together throughout the whole process. The Board of Adjustment section on the form needs to be stricken. Jack Forinash seconded the motion. **VOTE:** Katherine Brown, Robert Smith, Ben Coomer and Jack Forinash voted aye. The motion was carried.

4. Discuss revised expansion area map to be presented to City Council. Robert Smith said he put this on the agenda because he didn't know if the City Council has a copy of the expansion area map recommended by the planning commission. Conae Black said she provided a copy to the City Council. Irene Daw now report to the City Council. Robert Smith said if the City Council does not like it they can send it back to them for the changes.

5. Discuss/approve deny C-1 zone changes and presentation to City Council/Others. Robert Smith felt the C-1 zoning changes have been discussed and decided upon by the Planning Commission and is now ready to be drafted up and presented to them to review before it is sent to the City Council. He said that Conae Black has suggested that these changes should be sent to the codifiers to review for legality before it is presented to the public and adopted. Robert Smith's concern with that is the time it will take Sterling Codifiers to review and get back with may take several months. Conae Black said how you know how long it will take unless you give it a try. Michael Bryant said that Huntington City sent their ordinances over to Sterling Codifiers and they sent back a long list of things to review and it turned out that Sterling was looking at an old ordinance and not reviewing the right ordinance. Robert Smith said that Conae Black has also suggested sending the ordinances to the League of Cities and Towns for review. Michael Bryant said that may take a few months also. He did say that the League did get back fairly quickly with Helper City when they sent an ordinance to Meg Ryan via email. Robert Smith said Conae Black also suggested the City Council should send these ordinances over for review before adoption and not the Planning Commission. Ben Coomer disagreed. He felt that was the Planning Commission responsibility and an ordinance should not be submitted to the City Council until it is ready for adoption. **MOTION:** Ben Coomer moved to send draft ordinances to Sterling Codifiers for review and recommendations before an ordinance is submitted to the City Council. Jack Forinash seconded the motion. **VOTE:** Katherine Brown, Robert Smith, Ben Coomer and Jack Forinash voted aye. The motion carried.

6. Discuss/approve deny conditional uses revisions. Robert Smith said he wasn't sure if 10-13-7 Building Permit should be included. Ben Coomer and Michael Bryant both thought it should be a part of the ordinance as a protection to the city. Robert Smith said 10-13-6 Appeal to and Review by City Council needs to be rewritten because we want it to say that the City Council is the appeal authority. We want it to say the Planning Commission can refer directly to the City Council. Michael Bryant asked Robert Smith if he meant the Planning Commission can refer the use being applied for directly to the City Council for a decision. Robert Smith said if it is something that the Planning Commission feels should be determined by the City Council. Michael Bryant said if the City Council makes the decision and the applicant is not in agreement then their only way to appeal would be through the courts. Robert Smith said yes. Robert Smith used the example of large commercial development as something that the City Council should be involved with. If it is something that the Planning Commission does not want to approve then they should be able to send it right on to the Supreme Court. Ben Coomer said it sounded logical. Either tie it up or send it right on to court. Robert Smith said the Planning Commission should be able to have the option to send it on if necessary. Ben Coomer said there might be some things that are beyond this board expertise. The Planning Commission could approve, disapprove or send it onto City Council. He felt that it should be handled in a timely matter. Laws have been used to stall things in the past. Robert Smith said that according to what is currently written is any decision that is made has to sit for fifteen days before it is final. Ben Coomer said the reasoning for that is for any filings, appeals or court actions and should stay in there. Michael Bryant said if someone does not make an appeal within the fifteen day time line then the decision is final. Robert Smith said the Notice Provision out of example that Michael Bryant has provided should be added in. 10-13-10 is Permit Revocation which states if the City Council may revoke the conditional use permit if they find they are not complying with the conditions. He

thought that should be in the ordinance also. He said that the subdivision ordinance has a violation section to that ordinance. Ben Coomer thought that should be added to the conditional use ordinance also.

The discussion led to the section of the ordinance on home occupations. The planning commission was trying to determine the correct words to add to the ordinance that would explain the type of business vehicles that would be allowed. Irene Daw suggested allowing all noncommercial vehicles because if a vehicle is over 26,000 a CDL license is required to drive it. Ben Coomer said you can get some large rigs that are noncommercial.

Michael Bryant said there are some RV's that are 50 feet long. Ben Coomer said any vehicle used in a home occupation needs to be parked off of the street. Michael Bryant said you don't necessarily need to limit them on the number of vehicles is just that those vehicles need to be stored off site. He said the intent is that it is a neighborhood first and a business site second. Katherine Brown said any vehicle associated with the business needs to be contained on the property. Robert Smith asked if the vehicles needed to be enclosed. Ben Coomer and Katherine Brown said no. Ben Coomer said any vehicle associated with the employees should also be parked off of the street.

Robert Smith asked if they really wanted to put the adult oriented business into the ordinance. Michael Bryant said you do not have to permit adult oriented businesses but you do have to allow for them somewhere whether it is conditional or permitted. Robert Smith said they are allowed in the industrial area. Michael Bryant said this could be taken out completely if they are allowed in the industrial zone. Most places want to conditionally permit adult oriented businesses. Ben Coomer asked Michael Bryant if there are any case law studies that make that defensible. Michael Bryant said he believed there were as long as it is possible to be built there. If there is no way an adult oriented business cannot be built in the industrial zone then that is a different story. Robert Smith said it opens the door for adult oriented business in the commercial zone because we stated that all other uses are conditional. He thought it was better to have that in the conditional use ordinance. He felt it left things wide open to allow for an adult oriented business as a conditional use and state that all other uses are conditional. Michael Bryant said if you don't put these conditions in there for an adult oriented business then you can only regulate it based on the general criteria. For example you would not be able to set limits. For example you wouldn't be able to state how close it would be to the school or a bar. It doesn't show as much strength.

Robert Smith said where it is permitted right now there is not the worry of it being close to anything. Michael Bryant said if you want all other uses conditional then maybe you could add an exclusion stating "except these uses." Robert Smith said in one of them it states "unless they are expressly prohibited." Michael Bryant said he never understood what the word prohibited meant. Half of the time I thought it meant that it was only allowed here but it actually means not at all here. Some people may have that same understanding when they are reading the material especially when you are adding all of these things in. Michael Bryant asked what do you want to try to limit. What would be the detrimental effects that you would want to eliminate? Ben Coomer said traffic and exposure to underage children. Robert Smith said his concern was the extra traffic from visitors coming just for the adult oriented businesses. Ben Coomer said where it is zoned now he doesn't see any problem with it.

There is a restricted amount of signage. Michael Bryant felt an adult oriented business should be conditional. Then you can say all sorts of things like no graphic materials will be displayed for use or sale to the public. You would have to actually go into the business to see that stuff. It really should be conditional. Ben Coomer said if we want to control it then they are going to have to make it conditional. Michael Bryant said you could make this conditional in the industrial zone and leave this language in the conditional use ordinance and make it a prohibited use in the commercial zone. Ben Coomer thought that was a good idea. Michael Bryant said tattoo parlors often have graphic images. You could say all graphic imagery and sexually oriented content needs to be contained in a supervised area that is not accessible to people under the age of 18. This was discussed and the feeling was it was not a real problem in the state of Utah.

7. Discuss/approve deny subdivision ordinance changes. There was not any discussion or action taken on this agenda item.

8. Discuss/approve deny large scale developments changes. There was not any discussion or action taken on this agenda item.

9. Adjourn. **MOTION:** Ben Coomer moved to adjourn. Katherine Brown seconded the motion. The meeting adjourned at 12:23 p.m.

Robert Smith, Chair

Conae Black, City Recorder

Approved: _____