

PLAIN CITY COUNCIL
MINUTES OF REGULAR MEETING
DECEMBER 17, 2015

The City Council of Plain City convened in a regular meeting on Thursday, December 17, 2015, in the Plain City Hall beginning at 7:00 p.m.

Present: Mayor Bruce Higley, Councilmembers Joel Maw, Mike McKean and Natalie Hale
Excused: Councilmembers LaFray Kelley and Kris Carrigan
Staff: Diane Hirschi, Rob Scott, Brandon Richards
Also present: Nancy McKellar, Carolyn McKean, Bill Walley, Buddy Sadler, Kathy Taylor, Rebecca & Roger Cannon, Jeff Johansen, Michael Dewey, Olivia Scott, Alley Manning, Rohni Baird, Sierra Hansen, Monica Hanks, Jacob Moore, Blake Neil, Ashlee Combe, Lauren Beal and Sean Jones

Call to Order: Mayor Higley
Pledge of Allegiance: Councilmember McKean
Invocation/Moment of Silence: Councilmember Hale

Approval of Minutes

Councilmember Maw moved to approve the minutes from December 3, 2015 as presented. Councilmember McKean seconded the motion. Councilmembers Maw, McKean and Hale voted aye. The motion carried.

Comments: Public

Rebecca Cannon noted her concerns about the rezone on 2600 N and 3600 W. She is concerned that there is not a crosswalk on 2600 N. She indicated that the size of the rezone is equivalent to 4 city blocks and that concerns her. The area is surrounded on three sides by residential houses and also a school. She mentioned that property rights have been brought up and she noted that people can ask but the city is not required to approve it. She would like to see a park between the commercial zone and the school. Currently there is no park in that area of the city. She noted a park will benefit the businesses also.

Monica Hanks is concerned about the commercial zone in her neighborhood. It will be surrounded by homes and a school. There are no sidewalks and it is scary to have the kids walk. She noted that there is no crosswalk on 2600 North. She also noted that the roads aren't wide enough for a turning lane. She would rather see a C-1 zone than a C-2 zone. She would also like to see a park in between the store and the school.

Nancy McKellar reported that she is the property owner rights fan. She also lives in the neighborhood. The property owners have asked for a rezone and it follows the General Plan. She feels that in 2007 the City knew what they were doing and it should be rezoned to C-2. Kent's Market will be good for the city and the neighborhood. The development will bring some sidewalks and improvements. She also noted that it would make that area safer and the city council does care about safety of the kids.

Kathy Taylor reported that her grandchildren go to the school and she noted that the problem isn't where the Kent's will be. It is around 2200 North. She suggested the possibility of a road behind Kent's that hooks into Taylor Parks Subdivision. She feels that would maybe relieve some of the traffic around the school.

Sean Jones voice his support for Kent's Market. He reminded the council that he has a petition of about 400 people that have signed in support of Kent's. He noted that with the development, sidewalks will be put in and help to improve safety.

Discussion/Motion for Ordinance: Rezone 11.10 acres – 2600 N 3600 W – RE-20 to C-2 Zone

Rob Scott went over his staff report to the council (in italics).

TYPE OF DECISION

When the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

BACKGROUND

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The applicant is requesting a zoning map amendment to change the zoning for property at approximately 2600 North and 3600 West from Residential Estate Zone (RE-20) to General Commercial Zone (C-2). This zone change will allow for the development of shopping center that includes a grocery store and other retail operations. A site plan has been provided showing a conceptual layout. (See Exhibit C) The Planning Commission conducted a public hearing on this application on September 10, 2015. The Planning Commission received comments from many residents; some for and some against the rezone.

The Planning Commission identified some additional information needed prior to making a recommendation to the City Council. Those items included a complete application form, identified two ordinance amendments that would need to be adopted, i.e., parking standards and the C-2 zone maximum lot area. The building height ordinance was later clarified that an ordinance amendment would not be needed for the grocery store parapet. Since that meeting ordinance amendments have been adopted eliminating the special parking requirements for the C-2 zone and the maximum lot standard has also been deleted. A development agreement will also be drafted and be part of any rezone approval. A dark store provision was identified and this will be addressed in the development agreement.

The Planning Commission further considered this item on December 10, 2015.

Application Form

The application form requests the following information that the applicant will need to provide:

1. Summarization of:
 - Current Plain City General Plan classification and zoning classification
 - Requested change to the General Plan classification and zoning classification
2. For what reason(s) do you suggest the change? The applicant is responsible for justifying the requested change to the General Plan and Zoning. Issues to be evaluated will include, but are not limited to:
 - Adopted goals and policies as expressed in the Plan City's General Plan
 - Adjacent land uses
 - Populations served
 - Transportation impacts
 - Public facilities (water, sewer, storm water, parks, schools, etc.)
 - The type of use requested and reasons why this use should be on this site
3. What is the estimated development schedule?
4. Attach a list of all adjacent properties within 500 feet. (Parcel#, name, mailing address)

Staff Comment: The applicant has provided additional information including a letter dated July 7, 2015 that addresses the needed information in the application form. (See Exhibits A and B)

Zoning Ordinance

In examining this request the Planning Commission reviewed the following provisions from the C-2 zone:

10-6B-1: PURPOSE AND INTENT:

- A. The general commercial zone is established to provide locations for a full range of office, retail commercial, and service uses which are oriented to serve the city as a whole, as well as a regional market in Plain City. A variety of activities are encouraged, especially those which promote both daytime and nighttime consumer activity.
- B. The general commercial zone includes uses usually associated with central business district and shopping facilities which are not ordinarily compatible with single-family residential uses.
- C. In order to stabilize, improve and protect the city's commercial areas, standards are established to ensure a quality urban environment with landscaping, light and air at street level, well defined urban spaces, and compatibility of building materials, colors, and textures. (Ord. 2004-12, 8-5-2004, eff. 8-5-2004)

Staff Comment: The purpose statement for each zone gives direction as to what the City desires from applying this zone classification. This will allow a comparison to the application and the City desires.

10-6B-2: USE REGULATIONS:

Staff Comment: The applicant has prepared in the draft development agreement a list of prohibited uses. The Planning Commission reviewed the submitted list of prohibited uses and made a recommendation. See development agreement section. (See Exhibit P)

10-6B-3: SITE DEVELOPMENT STANDARDS:

- A. Minimum lot area None
- B. Minimum yard setbacks:
 1. Front 20 feet for main building, walls or fences over 3 feet high
 2. Side None, except 10 feet adjoining a residential zone
 3. Side, facing street on corner lot 20 feet
 4. Rear None, except 10 feet adjoining a residential zone
- C. Building height:
 1. Minimum 1 story
 2. Maximum 35 feet
- D. Lot coverage The aggregate area of all buildings shall not exceed 40 percent of the entire lot

Staff Comment: The maximum size requirement for C-2 zones has been amended to not have a maximum size but judge each application on its own merits. The setbacks shown on the site plan are met. The current building occupies approximately 14% of the site.

10-6B-4: SPECIAL PARKING REQUIREMENTS:

Off street parking facilities shall follow the provisions of chapter 9 of this title.

Staff Comment: The parking standard in chapter 9 for retail businesses is: 1 space per 200 square feet of sales floor space in building. This equates to 5 stalls per thousand square feet of sales floor area; it does not include storage space. There are 357 parking stalls shown on the site plan and 67,875 square of floor space. 340 stalls are required. This requirement is met at 5.26 stalls per thousand feet of floor space.

10-6B-5: PROTECTION OF ADJOINING RESIDENTIAL PROPERTIES:

Where a general commercial development adjoins any lot in any residential zone, there shall be provided and maintained along such property line an opaque fence of not less than six feet (6') in height; provided, however, that such fence shall be three and one-half feet (3 1/2') in height

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along the property line which bounds the front yard of adjoining residential lots. At least fifty percent (50%) of such wall should be maintained with a minimum six foot (6') wide planting strip and landscaping with trees and shrubs. (Ord. 2004-12, 8-5-2004, eff. 8-5-2004)

Staff Comment: The landscape plan shows a 6-foot vinyl fence along the west and south boundaries of the project.

10-6B-6: GENERAL REGULATIONS:

A. **Ownership:** A C-2 zone may be established only upon land held in single ownership or under unified control, or where the planning commission determines that commercial development on separate adjoining properties should be coordinated to form a physically unified commercial facility which will be compatible with the surrounding land uses. At the time a C-2 zone is established and before building permits are issued, deed restrictions on the properties covered under the zone change shall be filed by the applicant or owners of the subject property with the county recorder and shall provide that development take place on such property or properties in accordance with the final site development plan approved by the city council and on file with the city recorder.

B. **Nonconformities Prohibited:** A C-2 zone shall not be established upon a tract of land which would contain a nonconforming use or its integration into planned development.

C. **Relationship to Master Plan:** The location of the C-2 zone shall have an acceptable relationship to and further the purposes of the master plan of the city as determined by the planning commission. (Ord. 2004-12, 8-5-2004, eff. 8-5-2004)

Staff Comment: Section A and C were addressed by the Planning Commission. Section A calls for the commercial facility to be compatible with surrounding land uses. The site design shows a vinyl fence on the west and south boundaries along with the required 10 feet of landscape buffer. The driveways have been aligned to generally be placed facing garages or at lot lines for the residential homes east of 3600 West.

A development agreement is recommended as part of any rezone approval.

Staff Comment: This will be addressed in a separate paragraph below.

Section C address the need to be compatible with the General Plan. A separate section will address these criteria.

10-6B-7: SUBMISSION OF APPLICATION:

A rezoning petition for a general commercial zone shall be submitted to the planning commission and shall be accompanied by a preliminary development plan for the commercial center showing a unified and organized arrangement of buildings and structures and their proposed uses, off street parking, internal and external traffic circulation and service facilities, and schematic architectural drawings, landscaping plans and sketches demonstrating the design and character of the proposed development. The developer shall submit all evidence deemed necessary by the city council and/or planning commission of his ability to undertake the proposed project. (Ord. 2004-12, 8-5-2004, eff. 8-5-2004)

Staff Comment: A development plan, building location, proposed uses, off street parking, internal and external traffic circulation and service facilities, schematic architectural drawings, landscaping plan and sketches have been submitted. The Planning Commission and City Council can and have requested additional information that is addressed in the next section. (See Exhibits A, B, C, D, E, and F)

JOINT WORK SESSION LIST OF CONCERNS

The City Council and Planning Commission held a joint work session on September 24, 2015 and identified additional items they wanted addressed. The applicant has provided a letter addressing these concerns in a letter dated November 23, 2015. (See Exhibit D)

LIST OF CONCERNS FOR THE DEVELOPMENT (September 24, 2015 Joint Work Session)

The following list contains those items the City Council and Planning Commission want to see addressed in the project design:

- Traffic access locations, truck routing within the project, semi access onto 3600 West, and the orientation of the entrances toward both 3600 West and 2600 North

Staff Comment: The applicant has provided an amended traffic study and analysis. Any improvements to 2600 North must be approved by the Utah Department of Transportation. The report indicates that the site design can be made to work. The applicant also addresses the mechanism for how the truck traffic will flow for the project area. One item that may also help with this is identifying the times when trucks will be on site.

- The entrances to 3600 West should be adjusted to line up with property lines of lots on 3600 West

Staff Comment: The driveway entrances onto 3600 West appear to either align with property lines or are directed to garages. The Planning Commission will need to determine if the design is appropriate as part of the site plan review.

- The amount of hard surface vs. landscaping

Staff Comment:

- The site is 11.1 acres (483,520 square feet)
- 313,883 square feet of hardscape including buildings,
- 67,875 square feet in buildings
- 38,555 square feet of landscaping or 9.15% of the site
- 100,000 square feet will be reserved for future development on pads A, B, and C
- Lighting and how this will be oriented as part of a dark sky design

Staff Comment: The outside lighting will be LED lights that project downward. Examples of lighting fixtures have been submitted. (See Exhibit D, and G - L). There will be exterior lighting on the buildings and in the parking lot. The exact locations will be provided on the final site plan.

- Building heights

Staff Comment: The applicant has indicated that the height of the buildings will meet the 35-foot maximum with some allowance for parapets. A building elevation has been provided showing a split block wall with accent materials for the front elevation; the peak elevation will be 35 feet. The exterior material for the other three sides will be a split block that is either painted or colored. The colors for the center will be earth tones. The final elevation, building materials and color palette will be approved as part of the final site plan approval. (See Exhibits F and Q)

- Provide adequate buffers to the residents on 3600 West and the property to the west in a combination of berms and landscaping that will not impact these homes from lights as well as being able to back out of their driveways.

Staff Comment: The landscape plan shows a one-foot-high berm with 3-foot high shrubs to provide a buffer. This will be approved as part of the final site plan review.

- Provide information on the future pads, the relationship to parking in the center and the size of the pads, e.g., can they be adjusted?

Staff Comment: The applicant has indicated that the pad size provides for flexibility in future design. These pads will be subject to the development agreement including a separate site plan review.

- Signage. The final sign plan will be submitted as part of the final site plan. Examples of similar signage are included. (See Exhibits D, M, N, and O)

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DEVELOPMENT AGREEMENT

The applicant has provided a draft development agreement that address the list of prohibited uses. (See Exhibit P) In addition to the list typical development agreements provide for the findings of how the project complies with the City General Plan and ordinances, specific future review process (site plan review including the review by the City Engineer and outside agencies), compliance with any special concerns or considerations, dark store provision, and the future development pads.

The Planning Commission identified several things they recommend be included in the development agreement. The City Council should review this list and make a determination of those items they want in the development agreement. The City Legal Counsel will include those items in the development agreement.

- *Compliance with the City General Plan and ordinances*
- *Site plan review process, including the review by the City Engineer and outside agencies, and the development agreement requirements*
- *Address the items in the September 24th joint work session*
- *Compliance with any special concerns or considerations*
- *Buildings and signs to be sensitive to the historical identity of Plain City*
- *No back lit signs; sign lighting to project downward*
- *Review width of 3600 West to determine if a 66-foot road width is more appropriate than a 60-foot width*
- *Future development pads. They are interested in identifying the size of each pad, what is the commitment to maintaining the pads while they are vacant.*
- *Dark store provision*
- *List of excluded uses from this property:*
 - Apartment, multi-family dwelling or trailer park*
 - Automobile body shop*
 - Automobile maintenance, repair, emission and inspection*
 - Car wash, automatic or manual*
 - Carpenter and cabinet shop*
 - Contractor shop*
 - Drive thru window for fast food vendors*
 - Households pet boarding*
 - Laundromat*
 - Lawn and garden equipment service and repair*
 - Motorcycle and scooter service and repair*
 - Outcall service (sexually oriented) adult or sexually oriented business*
 - Repair shop for any motor vehicle, motor boats, motors and RV's*
 - Smoke and or tobacco shops*
- *Other issues that the City Council desires to be addressed*

GENERAL PLAN

The Plain City General Plan was adopted in April 2007. The General Plan has an overall General Plan map and also other identified maps, e.g., a Parks map. The Parks map and the General Plan map are not consistent. The General Plan map calls for this property to be a combination of commercial and park land. The Parks map calls for this entire parcel to be a park. This was discussed and a determination made that this conflict will be addressed at the next General Plan update.

The Plain City General Plan was adopted in April 2007. Chapter 8 Economic Development Policy H: Evaluate Plain City's current and future commercial retail land uses to assure the City's commercial retail development reaches its full potential.

CITY COUNCIL CONSIDERATIONS

- *Is the application complete?*
- *Is the proposal consistent with the General Plan?*
- *Does the proposal comply with the Zoning ordinance?*
- *What items does the City Council want addressed in the development agreement?*

PLANNING COMMISSION RECOMMENDATION

The Planning Commission reviewed the attached application exhibits, City ordinances, General Plan, and the issues raised in the September 24th joint work session. They also discussed provisions that should be included in the development agreement.

The Planning Commission is recommending that the rezone be approved with the conditions within the staff report and subject to approval of a development agreement.

There was a discussion about dark store. Rob Scott noted an article about dark stores within the country. Big box stores have a shelf life of 25 years and then go dark and build somewhere new. This article had some good approaches. Councilmember McKean asked if the development agreement must be done before the rezone. Rob Scott noted that the rezone could be approved on condition of the development agreement. He noted that the development agreement is a legislative act and the site plan is administrative. Brandon Richards noted that the site plan is conceptual at this point. The Planning Commission has recommended approval onto the City Council contingent on the details and the write-up of the development. The list of uses that the Planning Commission recommended were discussed. Councilmember McKean noted that one of the recommendations is to not allow backlit signs, but yet we've allowed them at Maverik. He is concerned about not allowing drive-thru windows. Rob Scott noted that there are ways to work around that and it can be worked out with the applicants. He noted that drive-thru windows aren't just applicable to fast food because banks have them too. It was asked how much

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property is between the school and the proposed development. It was noted that there are about seven acres. Councilmember McKean asked about the landscaping on the fence line. Rob Scott noted that it will be inside of the fence. There will be an opaque fence on the west and south side. Bill Walley from Associated Foods asked if he could take a minute and maybe answer some questions the council may have. He introduced himself and Jeff Johansen and Jeff's daughter Alex. He reported that Kent's owns the property. Kent's is a family owned business unlike other stores that just have tenants. They do not have a lease on the property and Kent's have full control of what goes in. They have their own covenants and understand that they will have to adhere to city ordinances. He noted that typical development agreement that they have had concern roadways, timelines and commitments. He noted that when the Planning Commission went over that list of things to exclude, they weren't allowed to comment. The goal is to have a development agreement and project that is flexible and makes sense. One of the pads may have a Wendy's or it may have a bank. At this point they don't know. Some items they are happy to exclude. They understand that they will need to comply with the ordinance and are happy to work with the City. They plan to move forward with the site plan. Bill Walley discussed the berm. He will offset it the best they can, but is concerned about the line of site and feels that safety is important for the cars pulling on to the road. This can be addressed further in the site plan. He noted his concern about the dark store provision in the development agreement. He mentioned again that Kent's own the property and the want to grow the site. He would like to have conversations with the city about the development agreement in the near future. The Mayor asked if there were any more questions of the council. Brandon reported that the applicant is agreeing to the condition of having a development agreement. **Councilmember Maw moved to adopt Ordinance 2015-07 approving the rezone of the property from RE-20 to C-2 contingent upon a development agreement. Councilmember Hale seconded the motion. Councilmembers Maw, McKean and Hale voted aye. The motion carried.**

Motion: Approval of Business Licenses

There were none.

Motion: Approval of Warrant Register

See warrant register dated 12/01/15 to 12/15/15. It was noted that the testing from Brigham City was for the sewer treatment. The trees were a donation to the city. **Councilmember McKean moved to approve the warrant register as presented. Councilmember Maw seconded the motion. Councilmembers Maw, McKean and Hale voted aye. The motion carried.**

Report: Planning Commission

Buddy Sadler reported that they gave preliminary approval to Adams Subdivision. It is a two lot subdivision. The Planning Commission recommended approval of the rezone and they cancelled the meeting on December 24. Buddy suggested that for future meetings they might want to consider having the Planning Commission comments at the first of the meeting. That way the council could hear from the Planning Commission before the item is on the agenda.

Report: Council

Councilmember Maw reported that he has enjoyed being on the Council for the last four years.

Councilmember Hale thanked Councilmembers Maw, Kelley and Carrigan for their work on the council. She noted that she will need information for the newsletter by the 26th or 27th. She thanked the snowplow drivers for their work on the roads.

The Mayor thanked Councilmembers Maw, Kelley and Carrigan and appreciated their work. He appreciates the comments from the public and wants the public to know that he and the council do whole-heartedly care about the city. They have devoted four years and have served well and the satisfaction is heartfelt. They care tremendously for the future. He is looking forward to a new council and he echoes Councilmember Hale's appreciation for the city staff that does a great job on the snow removal. The Mayor reported that we are taking letters of interest for the Planning Commission. He noted his appreciation for Rob Scott, Brandon Richards, the Planning Commission and the office staff.

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At 8:13 p.m. Councilmember Hale moved to adjourn and was seconded by Councilmember Maw. The vote was unanimous.

City Recorder

Mayor

Date approved

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