

Plain City Planning Commission
Minutes of Meeting
January 9, 2020

Minutes of the Plain City Planning Commission Meeting held on January 9, 2020 at 7:00 p.m. in the Council Chambers of Plain City Hall – 4160 W 2200 N, Plain City, Utah 84404.

Present: Chairman Jarod Maw
Vice Chairman Blake Neil
Commissioner Cheri Sparks
Commissioner Shawna Faulkner

Excused: Commissioner Kris Carrigan
Commissioner Dustin Skeen

Staff: Mike Kerswell, Dan Schuler, Paul Taylor

Attendees: Cody Rhees, Dennis Rogers, Jeff Hales

Welcome: Chairman Maw

Pledge of Allegiance: Commissioner Faulkner

Moment of Silence / Invocation: Chairman Maw

1. Roll Call: Chairman Maw conducted roll call and indicated; Commissioners Sparks, Faulkner, Neil and Chairman Maw were present. Commissioners Carrigan and Skeen were excused. Chairman Maw announced the resignation of Commissioner Carrigan and thanked him for his devoted service to Plain City.

2. Opening Statement: Chairman Maw read the Opening Statement.

3. Ex Parte Communication or Conflicts of Interest to Disclose: Chairman Maw reported receiving a phone call from a resident who was looking for business license information. He advised the caller to contact the City office.

4. Public Comments:

Plain City resident, Dennis Rogers indicated that he would like to see enhanced regulations on house additions, to prevent future issues with illegal use. He noted that he has researched existing stipulations and finds them to be unclear. He reported that his neighbor is constructing a legal add-on to the back of their house (larger than the original residence) that will be rented out, contrary to City ordinance, when the owner's mother-in-law vacates the space. He regarded the condition as two separate houses on one lot. He commented on technicalities in the international building code that allow such construction. He proposed that the Planning Commission recommend City Council development and adoption of a

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restrictive ordinance. Chairman Maw suggested that many of these issues were addressed in a recently drafted ordinance for Accessory Dwelling Units. The code was not ratified by the City Council. Dennis Rogers urged that the abandoned ordinance be reviewed. He stated that intent should be clearly spelled out in the regulation. Commissioner Neil recommended that Dennis Rogers speak to City Council about the matter.

5. Approval of Meeting Minutes for November 14, 2019 and December 12, 2019

Referring to the December 12, 2019 minutes, Commissioner Neil pointed out that sentences denoting Commissioner Sparks' restatement of her concerns give the impression she is oddly answering her own question. He noted that the date of the City Council meeting covered by Commissioner Faulkner is not recorded. Chairman Maw explained that the calendar of commissioner assignments for City Council meeting attendance must be adjusted, due to Commissioner Carrigan's resignation.

Motion: Commissioner Sparks motioned to approve the Meeting Minutes for November 14, 2019 and December 12, 2019 with changes as discussed. Commissioner Faulkner seconded the motion. Vote: Commissioners Sparks, Faulkner, Neil and Chairman Maw voted aye. Motion carried.

6. Technical Review Report

Chairman Maw reported meeting with Stillwater Construction Group representative, Justin Nielsen. The proposed project is a subdivision of Heslop property, near Tiffany Bluffs. He stated that the land is currently zoned A-1, but is designated for residential zoning on the Future Land Use Map of the General Plan. He indicated that the developer intends to peruse re-zoning of the property. He relayed committee concerns over access points. He located available access options. He presumed that a new subdivision layout and formal application will be presented to the Commission in March.

7. Legislative Items:

Discussion / Motion: Zoning Amendment, Residential Overlay Zone - Heritage North Subdivision - approximately 4000 W 2800 N

President of Heritage Craft Homes, Cody Rhees assessed the suitability of applying the Residential Overlay to property reserved for the Heritage North subdivision, currently zoned RE-18.5. He outlined edits made to the original proposal after consultation at Technical Review and a discussion during Planning Commission meeting. He gave lot size, frontage and density details. He commented on merging roads with those in the adjoining Brook Haven subdivision. He stated that the layout meets stipulations of the Residential Overlay Zone ordinance, as established when this petition was submitted. He calculated the average lot size, according to the new plat design. Chairman Maw made clear that the current application has already been considered by the Planning Commission and was found to be unacceptable. Cody Rhees indicated that the application was not denied at that point. He assumed that by making changes to the plan, the project could be considered anew, by the Planning Commission. Commissioner Faulkner affirmed that motion to recommend that City Council deny the Residential Overlay Zone – Heritage North (Andrea Folkman Property) approximately 4000 W 2800 N, was unanimously passed at the September 12, 2019 Planning Commission meeting. Chairman Maw noted that the request for the Overlay was not presented to the City Council thereafter, for an official ruling. Cody Rhees asserted that the recommendation for denial was based on a 34-lot concept which has now been amended. Chairman Maw indicated; the

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application is for Residential Overlay consideration – not for subdivision approval. He contended that denial was proposed with respect to principles in the Residential Overlay Zone ordinance; including, but not limited to location of the development. Cody Rhees asked Chairman Maw if he is stating that the presented project does not meet stipulations in the Residential Overlay Zone ordinance. He reiterated that recent modifications were made per Commission counsel. Commissioner Neil evoked that a requested Senior Overlay was denied for the adjacent Brook Haven subdivision, in 2016. He repeated the Commission’s position that the area is not suitable for Overlay consideration. Commissioner Faulkner remarked on the application process and informed; the application in question was correctly submitted, reviewed and appropriately acted on by the Planning Commission. Cody Rhees requested that the amended concept be considered and that a different motion be entertained. He indicated that continuation of the existing motion to recommend that City Council deny the Residential Overlay Zone – Heritage North (Andrea Folkman Property) approximately 4000 W 2800 N, opens the City to serious litigation if the plan meets the stipulations of the code. Chairman Maw disagreed with the proposition. Commissioner Faulkner read comments by the City Attorney from the minutes of the December 12, 2019 Planning Commission meeting discussion on application terms for the Mixed-Use Overlay Zone ordinance. “(Brandon Richards) indicated that a vote should signal closure of an application” and “... said that refusal to forward an application to City Council is a fundamental declaration, by the applicant, of their withdrawal of that application”. Cody Rhees submitted that the City Attorney’s comments at the December 12th Planning Commission meeting were not related to his application nor the Residential Overlay Zone ordinance. Chairman Maw explained that the comments were provided during deliberation on a typical Overlay application process. Commissioner Sparks indicated that further input from Planning Commission, at this point, can only be applicable to a demarcated project under a new application. Commissioner Faulkner asked Cody Rhees if he would like to submit a new application, in accordance with the recently approved, amended Residential Overlay Zone ordinance. City Engineer, Paul Taylor distributed written comments by former City Planner, Derek Moss, relative to the proposal.

The City has discretion in considering whether an application meets the purpose and intent of the residential overlay ordinance (i.e. “better planned and more desirable residential developments that provide various lot sizes”). The applicant makes a good case for “better planned...development”, considering for example, that the homes will use only the best building materials, enforced through CC&Rs. The application also mentions the many benefits of narrower frontage, lot 121 being preserved as agriculture and undeveloped, and maintaining and enhancing the historical values of the community. These benefits could all be interpreted as “more desirable” and meeting the intent of the ordinance.

When the draft ordinance was presented to the City Council, Council Member Weston asked if an applicant could simply create one large lot and a whole bunch of small lots to stay below the maximum density and create a semblance of “various lot sizes”. Staff responded, and the Council agreed, that this would NOT meet the intent of the Planning Commission or the intent of the ordinance. With that in mind, the maximum density requirement perhaps should only be applied to the approximately 7.23 acres (the 10.49 acres minus lot 121) and would result in a maximum of only 17 units (7.23 x 2.4). The proposal is for 21 units (not counting parcel 121). The application is requesting more units than the ordinance seems to allow (21 units versus 17 units) if the Planning Commission agrees that having one large lot and many small ones is contrary to the intent of the ordinance.

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The proposal does include “various lot sizes”, resulting in “more desirable” development in Plain City, lots ranging in size from 8,178 to 16,274 square feet. This will allow for various home sizes and meet the housing demand for various households and Plain City residents.

The intent with the subdivision seems to apply more to a cluster type subdivision. Cluster subdivisions attempt to preserve agriculture and undeveloped open space (“permitting the development of single-family and two-family dwellings on lots smaller than normally required...applied only where circumstances or natural features and land use make it appropriate and of special benefit to the residents of the subdivision and surrounding area”). This seems to be the desired intent of both the applicant and the city for this subdivision, to preserve undeveloped open space and preserve historic features. If the cluster subdivision ordinance were applied, the density of a cluster subdivision would allow for a maximum density of 2.35 units in 80% of the development (cluster subdivisions do not count acreage for roads when calculating density), or 19 total units (8.392 x 2.35). The application is requesting more units than even a cluster subdivision would allow (21 units versus 19 units) and lots would not meet the minimum lot size for cluster subdivisions in this zone (2/3 of the respective zone, or 18,500 square feet x .67) of 12,210 square feet.

Another consideration mentioned in the application is continuity with other subdivisions: the nearest subdivision minimum lot size is 14,800 square feet (1/3 acre) with an average lot size of 16,662 square feet (compared to a minimum lot size of 8,178 square feet and average lot size of 11,467 square feet in the proposal).

Commissioner Neil pointed out that the updated General Plan designates zoning of the area as Medium Density Residential 1, requiring a minimum average lot size of 18,500 square feet. He stated that recommendation for City Council denial of this application will stand. Chairman Maw explained that action has already been taken on this application by the Planning Commission; the next step in the process is to advance the request to City Council. Cody Rhees asked that his application be forwarded to City Council as soon as it can be put on the agenda. Commissioner Faulkner indicated that all documents and plans presented for Council approval shall be the same as were submitted when the Commission made a recommendation for Council action. She advised; if the recently modified proposal is to be considered, a new application must be submitted. She asserted that standards of the updated Residential Overlay Zone ordinance will be relevant. Commissioner Sparks confirmed that Planning Commission moved on the current application September 12th, 2019.

Discussion / Motion: Final Subdivision – Panunzio Estates Phase 1, 4100 W 1975 N

Developer, Jeff Hales requested that the Planning Commission table Discussion / Motion: Final Subdivision – Panunzio Estates Phase 1. He indicated that he received memos from the Public Works Director and City Engineer, after getting on the agenda, suggesting some alterations to the presented subdivision plat. He affirmed that a process to change the plan has begun. Chairman Maw asked what aspects will be adjusted. Jeff Hales identified street modifications and reported that a traffic study has been ordered. He commented on a future access point that is being considered. Paul Taylor reviewed his written comments on the project. Commissioner Neil remarked on requirements for mailbox pullouts.

Motion: Commissioner Faulkner motioned to table Discussion / Motion: Final Subdivision – Panunzio Estates Phase 1, 4100 W 1975 N. Commissioner Neil seconded the motion.

Vote: Commissioners Faulkner, Neil, Sparks and Chairman Maw voted aye. Motion carried.

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Discussion / Motion: Ordinance Amendment – Mixed-Use Overlay Zone

Commissioner Neil revisited issues pertaining to the area of stormwater detention or retention features being calculated as usable open space. Commissioner Faulkner acknowledged that it was formerly agreed; Formations that provide State mandated stormwater detention or retention do not qualify as developed open space. Chairman Maw voiced support of reinstating the disqualification. He noted that the clause should be uniformly stated under Landscaping regulations, 10-19-3B, 13 and 10-19-3C, 14. Commissioner Neil proposed removing the word “pullouts” from indications for mailbox provisions, 10-19-3B, 15 and 10-19-3C, 16.

Commissioner Neil moved to recommend City Council approval of the Ordinance Amendment – Mixed-Use Overlay Zone with revisions as identified. Commissioner Faulkner seconded the motion. Vote: Commissioners Sparks, Faulkner, Neil and Chairman Maw voted aye. Motion carried.

8. Report from City Council:

Commissioner Neil indicated that the January 2, 2020 City Council meeting was cancelled. Chairman Maw turned time over to Mike Kerswell for a report on the December 19th City Council meeting. Mike Kerswell commented on the approval of the FY2019 Audit Report. He reported input from unincorporated land owners at a Public Hearing on an Amendment to the Annexation Policy Plan. He indicated that the amended policy plan was approved by the Council.

9. Commission Comments:

Commissioner Sparks remarked on road width standards and requested details on street classifications. Paul Taylor reviewed street classifications, width requirements, and permitted traffic parameters. Commissioner Sparks commented on a strip of land that is included in the proposed Heritage North development that the developer has partial interest in. She maintained that the owner(s) of that parcel must sign an agreement, as part of the application, regarding shared access. Commissioner Neil noted that the parcel number for the property in question is not indicated on Cody Rhees’ application for the Residential Overlay Zone. He informed that a parcel number for the same five-acre property was not included on the application for an approved zoning amendment (A-1/RE-20 top RE-18.5), thus retains its original zone designation. Commissioner Sparks pointed out an inconsistency in the total project size, declared on the application form and in the developer’s written statement of intent. Commissioner Faulkner spoke of Dennis Rogers’ expressed concerns over home additions that might be readily adapted and used as rental units. She suggested that the specific condition be clearly defined and regulated by code.

10. Adjournment

Motion: Commissioner Neil made motion to adjourn at 7:55 p.m.

Commissioner Faulkner seconded the motion. Vote: Commissioners Sparks, Faulkner, Neil and Chairman Maw voted aye. Motion Carried.

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<u>Neil</u>	<u>Faulkner</u>	<u>Maw</u>	<u>Sparks</u>	<u>Skeen</u>	
Jan 2	Jan 16	Feb 6	Feb 20	Mar 5	Mar 19
Apr 2	Apr 16	May 7	May 21	Jun 4	Jun 18
July 2	July 16	Aug 6	Aug 20	Sept 3	Sept 17
Oct 1	Oct 15	Nov 5	Nov 19	Dec 3	Dec 17

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Planning Commission Chair

Planning Commission Secretary

Motion: Commissioner Skeen motioned to approve the Meeting Minutes for January 9, 2020, with changes as discussed. Commissioner Sparks seconded the motion. Vote: Commissioners Sparks, Neil, Skeen and Chairman Maw voted aye. Motion carried.

6. Technical Review Report

Chairman Maw explained that he was unexpectedly double booked for the hour of the Technical Review and apologized for missing the meeting without notice. He requested that other members of the committee present a report from Technical Review. Public Works Director, Dan Schuler reported that Ryan Taylor presented a proposal for a lot line adjustment. He explained that the applicant wants to attach Greenbelt designation to one of the modified parcels. He described potential a flag lot situation resulting from the modification. City Engineer, Paul Taylor noted that Ryan Taylor's family owns the surrounding land. He restated direction given to Mr. Taylor, by the committee. Existing frontage and access prospects were discussed. Dan Schuler indicated that the committee referred Mr. Taylor to Chairman Maw for additional guidance.

7. Administrative Items:

Discussion: Discussion: Land use application process

Commissioner Sparks reviewed agenda items from the previous Planning Commission meeting:

- Public Comments on "Mother-in-law" units
- Discussion / Motion: Zoning Amendment, Residential Overlay Zone - Heritage North Subdivision - approximately 4000 W 2800 N
- Discussion / Motion: Final Subdivision – Panunzio Estates Phase 1, 4100 W 1975 N
- Discussion / Motion: Ordinance Amendment – Mixed-Use Overlay Zone

Commissioner Neil explained that the land use application process was questioned during discussion about the proposed Heritage North Zoning Amendment. He made mention of comments on the matter, provided by the City Attorney and reiterated by Commissioner Faulkner as part of the discourse. He recommended that the stipulation be printed on all land use application forms. Commissioner Sparks commented on existing application time constraints in Plain City code. Paul Taylor suggested that the applicant's obligation to pursue settlement of an application with reasonable diligence be clearly discernable. Commissioner Sparks reflected on past experiences as a member of the Board of Adjustments. She contemplated capacities in which the Board of Adjustments might be included as part of the application process. Decisions by the approving authority to table, approve or approve with conditions were discussed. Specific recommendations that can be made by the Planning Commission were examined, as well as points pertaining to the tabling of an application. Chairman Maw commented on complications accompanying the Heritage North Residential Overlay Zone application. Commissioner Skeen considered a clause to stipulate what happens to open applications in the case of a connected ordinance amendment being adopted before the application process has been completed. Chairman Maw requested that City Attorney, Brandon Richards be invited to the next Planning Commission meeting, to assist in disposing ordinance and/or policy language pertinent to the land use application process. He mentioned City Council action taken on the Heritage North Residential Overlay Zone petition. Commissioner Sparks weighed incorporating a formal appeal process through a conventional Board of Adjustments. Commissioner Neil maintained that the City Council functions as the appellate panel when considering Planning Commission administrative decisions. He related occurrences in the Kent's Market development as it was processed through the Planning Commission and City Council. Aspects of application completeness were discussed.

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8. Report from City Council:

Chairman Maw indicated that Commissioner Faulkner was in attendance at the January 16th City Council meeting and forwarded her notes to him. He read excerpts from the outline:

- (Passed) Discussion/Motion Purchase of Fire Truck
- (Tabled) Discussion/Motion Ordinance - Residential Overlay Zone at Heritage North Subdivision – 4000 W 2800 N
- (Passed) Discussion/Motion Resolution – Acceptance of Annexation Petitions
- (Passed, with additional terms) Discussion/Motion Ordinance Amendment – Mixed-Use Overlay Zone

9. Commission Comments:

Commissioner Sparks yielded. Commissioner Neil presented no further comment. Commissioner Skeen deferred. Chairman Maw reported details of the exparte communication he spoke of at the first of the meeting. He remarked on corrections that have been made to the real estate marketing sign in question, after the offense was made known to the agent.

10. Adjournment

Motion: Commissioner Sparks made motion to adjourn at 7:51 p.m.
Commissioner Neil seconded the motion. Vote: Commissioners Sparks, Neil, Skeen and Chairman Maw voted aye. Motion Carried.

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<u>Neil</u>	<u>Faulkner</u>	<u>Maw</u>	<u>Sparks</u>	<u>Skeen</u>	
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Planning Commission Chair

Planning Commission Secretary