

Vernal City Planning Commission Minutes
January 11, 2011

MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers – 447 East Main Street

January 11, 2011

7:00 p.m.

Members Present: Chair Eric Olsen, Glenn Spencer, Sonja Norton, Gary Redden, Kathleen Gray, George Bingham

Alternates Present: Ken Latham

Excused Members: Ben Mahaffey, Vernie Heeney

Absent Members: Stuart Branham

Staff Present: Allen Parker, Assistant City Manager; Richard Zohner, Building Official, Sherri Montgomery, Administrative Clerk

WELCOME AND DESIGNATION OF CHAIR AND MEMBERS: Chair Eric Olsen called the meeting to order and welcomed everyone present, including new Commissioners Gary Redden and Ken Latham. All Commissioners present will be voting. Allen Parker explained that Vernie Heeney asked to be excused from the meeting. Ms. Heeney also has a conflict every month with the new date and time of the meetings and indicated that she will not be able to remain on the Planning Commission if the date and time of future meetings remain the same.

Mr. Parker addressed the Commissioners and audience regarding the request from Vic Condie to amend the preliminary subdivision plat located at 100 East 860 South in Vernal. Mr. Parker stated that this request was scheduled as a public hearing item for this meeting, but the applicant has withdrawn his application and wishes to reapply at a later time. Chair Eric Olsen opened the public hearing portion of the meeting for this item. There being no comments or questions, Mr. Olsen closed the public hearing portion of the meeting for this item.

ELECTION OF OFFICERS FOR 2011: Chair Eric Olsen opened the nominations for Chairman of the Planning Commission for 2011. Sonja Norton nominated Eric Olsen. Glenn Spencer seconded the nomination. Mr. Olsen nominated Glenn Spencer. George Bingham seconded the nomination. Ms. Norton moved to close the nominations for Chairman. Allen Parker handed out a ballot vote and tallied the results of the election. Glenn Spencer received three votes and Eric Olsen received four votes. Eric Olsen will be recommended to the City Council as Chairman of the Planning Commission for 2011. Mr. Olsen opened the nominations for Vice Chairman. Mr. Olsen nominated Glenn Spencer. Ms. Norton seconded the nomination. Ms. Norton moved to close the nominations for Vice Chairman. Mr. Bingham seconded the motion. Glenn Spencer will be the Vice Chairman of the Planning Commission for 2011.

APPROVAL OF MINUTES FROM DECEMBER 9, 2010: Chair Eric Olsen asked if there were any changes to the minutes from December 9, 2010. Sonja Norton noted that Ben Mahaffey was in attendance at the meeting, but was not listed as a voting member on the approval of the minutes from

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November 18, 2010. Allen Parker indicated that staff will check the audio minutes and make changes if necessary. Ms. Norton asked to change Line 45 on Page 2 where it states “parking development plan” to read “parking development study”. Glenn Spencer wanted it noted that he looked up the word verbiage and found two different meanings; therefore, it was correctly used in last month’s minutes. **There being a quorum of members present from the December 9, 2010 meeting, Sonja Norton moved to approve the minutes of December 9, 2010 as corrected. Glenn Spencer seconded the motion. The motion passed with Olsen, Spencer, Norton, Redden, Gray, Bingham and Latham voting in favor.**

REQUEST FOR APPROVAL OF A CONDITIONAL USE PERMIT FOR A NIGHTCLUB LOCATED AT 1684 WEST HWY 40 – APPLICATION #2010-021 CUP – ROSCOE WESTON MOTELS: Allen Parker addressed the staff report for Marc Hatch who is requesting approval of a conditional use permit for a nightclub at 1684 West Highway 40 at the site of the Weston plaza hotel. Mr. Parker mentioned that there has been a nightclub at this same location previously. This property and all other surrounding properties are zoned CP-2. This project is in compliance with all the requirements of the Vernal City Code and is an approvable application at this point. Mr. Parker reported that the preliminary finds no recommended conditions. George Bingham asked if the 500 feet Code is from residents or resident zone and reads Page 505 of the Vernal City Code Title 16, Section 16.52.040 on the uses of a nightclub. Mr. Parker mentioned that this section was meant for industrial zones. This section was not considered for this project, because it is located in a CP-2 zone. Section 16.48.030 is the applicable section for this particular project. Mr. Bingham noted that he thought at one time the distance was 1,000 feet. Mr. Parker explained that the State Alcohol Beverage Commission has its own regulations.

Chair Eric Olsen opened the public hearing portion of the meeting for this item. Darrin Brown with the Tri County Health Department stated that he had no problems with this application, but wanted to remind the applicant to submit the required plans and specifications on the establishment within 30 days prior to opening to receive the required permits. Mr. Brown also indicated that he would like to know what the establishment will be serving. Mr. Olsen asked Allen Parker if it is best for Mr. Brown to meet with the applicant one on one to get his questions answered or to ask them here at this meeting. Mr. Parker explained that the applicant is available now to answer any questions on the way the use will be conducted for this establishment. Sonja Norton stated that in this particular situation, it would be better if the applicant and the health department met one on one. Chair Eric Olsen closed the public hearing portion of the meeting for this item.

Chair Eric Olsen asked the Commissioners if they had any questions regarding this project. Sonja Norton suggested a brief explanation be given to the two new Commissioners on the definition of a conditional use permit (CUP). Glenn Spencer asked if they could also have an explanation of a CP-2 zone. Mr. Parker used the Vernal City zoning map to show the outline of the different zoning areas. Mr. Parker explained that CP-2 zone stands for planned commercial zone in Vernal City and that a planned commercial zone is structured for retail, office and apartments. With a conditional use permit, there are several types of uses that can take place such as nightclubs and apartments. There is a possibility with these types of uses, when they are adjacent to a residential property, that there could be conflict. The Code states that this is not what they call a permitted use, but a conditional use. This use is permitted within this zone, but the Planning Commission could place conditions on its operation in order to mitigate or ease the friction between the different uses. The Planning Commission is examining

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this use in context of where it is located in the surrounding activities to see if there are any types of restrictions that are spelled out in the Code that need to be placed on this use. Once a conditional use permit is issued, that permit will remain in force forever; unless the conditions are violated or unless abandoned. If an applicant stops what they are doing for one year, the conditional use permit will expire; therefore, the applicant would need to reapply. If the applicant sells the property, the conditional use permit transfers to the new owner and stays with the property.

Glenn Spencer asked if this project is where the old Stockman's Café was located. Marc Hatch stated that the nightclub will be down the hall from where Stockman's was located. Mr. Hatch explained that he is also involved with the Claim Jumper Steakhouse that will be connected to the nightclub. He further explained that the establishment will be more of a supper club or extension of a restaurant. Mr. Hatch noted that the nightclub will close at 10:00 p.m. during the weekdays. Mr. Spencer asked if there could be any potential conflict between the restaurant and the nightclub. Mr. Hatch explained that both establishments will share the same kitchen and does not foresee any problems. Jared Spencer asked for the definition of a nightclub. Mr. Parker read the definition of a nightclub found on the Vernal City website, Title 16 Planning and Zoning, Section 16.04.400. Ms. Norton asked if the list of definitions is in alphabetical order. Mr. Parker stated correct. Jared Spencer asked if there are any restrictions to keep a new owner from coming in and keeping the nightclub open until 3:00 a.m. Ms. Norton stated that the City has a code or ordinance that requires the establishment to close by 1:00 a.m. Mr. Hatch noted that the establishment must stop serving alcohol one hour before closing. Ms. Hatch also noted that the liquor commission has strict rules that the establishment must follow. Gary Redden asked what the hours of operation will be for this nightclub. Mr. Hatch stated that the nightclub will be opened from 4:00 p.m. to 10:00 p.m. Sunday through Thursday and could stay open until 1:00 a.m. on the weekends, but will depend on the amount of business. Mr. Spencer asked if there was any reason the City should apply restrictions other than what is in the Code for this application. Mr. Olsen stated that he personally could not see a reason. Mr. Spencer noted that the location of this establishment is not near any residential properties; therefore, does not see any reason for restrictions. Tom Bachtell, attorney and friend of the applicant, wanted it noted for the record that the name of the establishment will be Petroleum Club. **Sonja Norton moved to approve Application# 2010-021-CUP for the nightclub located at 1684 West Highway 40 with no conditions. Kathleen Gray seconded the motion. The motion passed with Olsen, Spencer, Norton, Redden, Gray, Bingham and Latham voting in favor.**

Chair Eric Olsen explained to the guests at the meeting that most of the time a conditional use permit deals with residents where a lot of conditions come into play such as directional lighting, sound, opening and closing of hours, etc. Where this establishment was not in the way of anything, there were no conditions to address. Mr. Parker stated that when an establishment is surrounded by so much open space, there are fewer conflicts. Mr. Olsen noted that if the establishment is an authorized use in that zone, the Planning Commission cannot deny the application, but can only place conditions on the applicant. Jared Spencer asked where the 500 feet is measured from the building or establishment. Mr. Parker explained that where it states within 500 feet of another establishment that sells alcohol, it would be measured from the corner of the physical establishment that sells alcohol to the corner of the next physical establishment that sells alcohol. Sonja Norton asked if it is from the closest point. Mr. Parker answered yes, between the structures themselves. Ms. Norton commented or within 500 feet to a residential property. Mr. Parker answered yes, to the edge of the zone or to the edge of the property. Ms. Norton mentioned that this is something we may want to take a look at clarifying.

ORDINANCE NO. 2011-01 OFF-STREET PARKING AND VEHICLE ACCESS STANDARDS:

Chair Eric Olsen reminded everyone that this item is for discussion purposes only and opened the floor for public comment. Being there were no comments or questions from the public, Mr. Olsen closed the floor for public comment. Allen Parker mentioned that this is a draft which has not been proposed to the City Council. Mr. Parker referred to Page 11, Section 16.26.230 (G), and asked for clarification from the last meeting on whether the Commission wanted 50% or to leave it at 25% for all uses permitted in a residential zone. Sonja Norton stated it was her understanding that it was to be changed to 50%. Kathleen Gray confirmed that she meant it to be 50%. Glenn Spencer referred to the minutes of the last meeting on Page 5, lines 156 and 157, which states the Commissioners agreed to change the Code from 25% to 50%. Ms. Norton referred to the same section and asked if it only allows 25% of the front yard area to be used for parking, is a property owner not allowed to park on their lawn. Mr. Parker stated no, it is stating that it is designated by the design of the site for parking. Mr. Parker also mentioned that forbidding a property owner from parking a car practically anywhere on their property gets problematic. Ms. Norton stated that she thought this was talked about before, and that the City could not keep a property owner from parking on their lawn. Mr. Parker explained that the City can create certain restrictions to keep a property owner from parking on their lawn; however, this could be challenging in court. Mr. Parker stated that when a house is built, it is required to have a certain number of parking spaces of which 75% of the front yard could not be used to meet that parking requirement. Ms. Gray stated that her concern was people parking on their lawns and asked if this section addresses the issue. Mr. Parker stated no, but the Planning Commission could create a regulation governing this problem. Ms. Gray also asked about parking on the street. Mr. Parker explained that the street belongs to the City, so any restrictions are easily enforceable. Ms. Gray commented that in some of the older neighborhoods, the streets are not wide enough to get cars on both sides. Mr. Parker explained that the public safety committee would need to make a general recommendation to the City Council to address parking on the street. Ms. Gray asked if the Code specifies how long a vehicle can be left on the street. Ms. Norton mentioned that after 72 hours, a vehicle must be moved. Mr. Parker stated there is an exception to the 72 hours when the snow plows are out. Ms. Norton noted that it is tough to enforce this issue, unless you have someone out watching and marking cars. Ms. Norton also stated that there is a misunderstanding with curb parking in front of a home. It is not the home owner's personal property and they cannot designate who can or cannot park there. Mr. Parker stated that in a few areas around town, you will find residents who have put up no parking signs on their property. This is not a legal requirement, but a preference of the property owner. Ms. Gray reported that she has a neighbor who parks all three vehicles in the street at all times. Mr. Parker explained that the police officer's will drive by and make sure all vehicles are registered in order to park on the street, but any other type of enforcement is difficult without red striping the curb and placing no parking signs. Mr. Spencer indicated that in some parts of City, the property line goes out to the middle of the street. Ms. Norton stated that it is a public right of way. Mr. Olsen mentioned that some properties are center line and some are the right of way, but a lot of times the specifications are written where the front set back is from the front property line. This could allow someone to build a home directly on the right of away. Mr. Parker stated that you cannot violate the right of way. Mr. Olsen mentioned this information came from Naples Code and is something for the City to think about.

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Allen Parker addressed the memo from Glade Allred regarding his concerns with the maximum driveway widths. Glenn Spencer stated that item #3 is a good point. Chair Eric Olsen indicated that all three items were valid concerns. Sonja Norton read the memo for the guests at the meeting. Ms. Norton indicated that the Commission was not talking about rolled curbs, but wider driveways. Mr. Parker mentioned that Mr. Allred views it as the same thing. If it is a wider slope driveway, people will be able to pull up and park generally in that area. This is a similar effect as rolled curbs as they are designed to drive over. Ms. Norton asked if the driveway width was changed to 36 feet. Mr. Parker indicated that the Commission talked about changing it from 34 to 36 feet, but decided to get feedback from Mr. Allred before making the final decision. Mr. Olsen asked what the reasoning was behind 34 feet. Mr. Parker noted that 36 feet came from three standard parking space widths of 12 feet each. Ms. Norton mentioned that when you drive back out of your garage, you should have room to curve without needing a full 36 feet to back straight out of your driveway. Mr. Parker asked the Commissioners if they would like to change it to 36 feet or leave it at 34 feet. After a brief discussion, it was decided to leave it at 34 feet. Mr. Parker mentioned that there has already been a public hearing on this issue; therefore, a recommendation can be forwarded to the Council. Gary Redden asked if there is a lot of construction currently taking place as to why people want to widen it to 36 feet. Ms. Norton stated that there are people adding garages and wanting them wider. Mr. Parker gave a brief explanation as to what the process is on changing the Code for the new members of the Planning Commission. There are certain sections of the Code where the Council has to approve the changes based on the recommendation from the Planning Commission such as the zoning ordinance. The Council will hold another public hearing on the parking ordinance and vote thereafter. **Ms. Norton moved to approve Ordinance No. 2011-01 Off-Street Parking and Vehicle Access Standards with the corrections to Section 16.26.230 (G) from 25% to 50%. George Bingham seconded the motion. The motion passed with Olsen, Spencer, Norton, Redden, Gray, Bingham and Latham voting in favor.**

VERNAL MUNICIPAL CODE – CHAPTER 16.20 GROUP DWELLINGS: Allen Parker reads Page 16, Chapter 16.20 Group Dwellings from the Vernal City Municipal Code and indicated that this item is for discussion purposes only. Mr. Parker asked the Commissioners to review the concerns and consider this as an action item at the next meeting. Mr. Parker stated that he discussed this issue with the City Manager, and Mr. Bassett recommended holding a special meeting if the Commission would like to consider changing Chapter 16.20 Group Dwellings.

Referring to Section 16.20.010 Yard Regulations, Mr. Parker indicated that there is already a separation specified in the building code of 21 feet. Richard Zohner stated that with the proper construction type, you can go down to zero. Mr. Parker mentioned that what you have is zero setbacks like in the downtown area. If there are apartment buildings that share the same wall such as row houses and they are three stories tall, according to the Code, you would have to separate each one of those buildings by 25 feet. Therefore, it defeats the fire code and also some of the higher density zones for how you can construct those buildings where it specifies each building has to be separated rather than creating a row house situation which is permitted in a R-4 zone.

Referring to Section 16.20.020 Development as PRUD, Mr. Parker stated that a PRUD is a subdivision and in most group home situations, you are not dividing land you are actually building an apartment complex, so forcing them to go through the subdivision process is legally difficult.

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Referring to Section 16.20.030 Compliance with conditional use provisions, Mr. Parker stated that this section is also addressed under each one of the use categories. This was pointed out by the Vernal Gardens Apartment complex which is under construction right now. The developers reported conflicts with the Code.

Mr. Parker made a recommendation to the Commission to consider deleting Section 16.20 Group Dwellings at the next meeting, since these items are addressed in other areas of the Code. Sonja Norton suggested having a reference page showing where these items are addressed. Mr. Parker stated that he will add a reference page to the staff report for the upcoming agenda. Mr. Parker confirmed that the Commission is in agreement to consider removing Section 16.20 entirely from the Code.

Chair Eric Olsen asked the Commissioners to make a recommendation regarding Vernie Heeney's scheduling conflict for future meetings. Mr. Olsen asked the Commissioners how they feel about the new date and time of the meeting. Mr. Olsen indicated that he personally would like to keep the new time frame and find a replacement for Ms. Heeney. Glenn Spencer mentioned that Ms. Heeney was not able to make several meetings even with the old date and time. Sonja Norton made a suggestion to look into Brenda Erkwine, who was considered at past meetings. Mr. Parker stated that he would contact Ms. Heeney to acquire her final decision. If Ms. Heeney chooses to resign, a list of previous names will be available at the next meeting.

Chair Eric Olsen made a recommendation to put the zoning map and general plan map in the monthly binders. Allen Parker indicated that these maps were in the reference guide binders. Mr. Olsen stated that he would like to see them in the monthly binder as well.

ADJOURN: There being no further business, **George Bingham moved to adjourn the meeting at 8:04 p.m. Glenn Spencer seconded the motion. The motion passed with Olsen, Spencer, Norton, Redden, Gray, Bingham and Latham voting in favor.**

Eric Olsen, Planning Commission Chair