

MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers - 374 East Main Street, Vernal, Utah

September 27, 2011

7:00 pm

Members Present: Eric Olsen, Sonja Norton, Kathleen Gray, Gary Redden, Ken Latham

Alternates Present: Anders Fillerup, Ben Mahaffey

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 welcomed everyone present to the special meeting of the Planning Commission. Mr. Olsen stated that Anders Fillerup and Ben Mahaffey would be voting members.

APPROVAL OF MINUTES FROM SEPTEMBER 13, 2011: Chair Eric Olsen asked if there were any changes to the minutes. Ben Mahaffey confirmed that he was not in attendance of the September 13, 2011 meeting, but is being shown as being in attendance and voting. Mr. Mahaffey also suggested that there be a new paragraph started after every four or five sentences. There being no further corrections, *Kathleen Gray moved to approve the minutes of September 13, 2011 with the corrections as noted. Gary Redden seconded the motion. The motion passed with Olsen, Norton, Gray, Redden, Latham, Fillerup, and Mahaffey voting in favor.*

Chair Eric Olsen asked if there needs to be a nominating process for Vice Chair to replace Glenn Spencer. Allen Parker explained that the election process for a new Vice Chair would be on the agenda for the next meeting.

REQUEST FOR APPROVAL OF A CONDITIONAL USE PERMIT FROM JULIE BATTY FOR THE PROPERTY LOCATED AT 541 EAST MAIN, VERNAL, UTAH – APPLICATION NO. 2011-016-CUP – ALLEN PARKER: Allen Parker referred to Page 6 in the meeting packets to explain the application from Julie Batty for a conditional use permit for amusement enterprises for the property located at 541 East Main in Vernal, Utah. The proposed activities to take place at this location include pool tables and other associated amusement devices, as well as inflatable bounce houses. This business is located in the old Bloom Master building. This property and all other surrounding properties are zoned C-2. Mr. Parker indicated that staff has reviewed this application and finds it to be in compliance with the Vernal City Code, and there are no recommendations for attached conditions. The applicant is in attendance to address any concerns and answer any questions. Ben Mahaffey asked if the parking is adequate. Mr. Parker explained that this is a fixed structure with no construction of a new building; therefore, the parking is at the discretion of the owner. Mr. Mahaffey asked if there will be food or beverages served.

Julie Batty, owner of “Jumpin n’ Jivin, explained that the address is actually 543 East Main in Vernal, Utah. Ms. Batty stated that there will be ice cream served, and the health inspector has already visited the facility to explain what needs to be done. Mr. Mahaffey asked if this business was directed toward the youth. Ms. Batty explained that it will range from toddlers to teenagers. Gary Redden asked if all

activities would be inside. Ms. Batty answered yes. Several Commissioners expressed their appreciation and excitement for this new type of business to the City. The Commissioners discussed this request and did not find a need to apply any conditions. Ms. Batty added that there are over 40 parking spaces, which should be adequate for the business.

Chair Eric Olsen opened the public hearing for this item. There being no comments, Mr. Olsen closed the public hearing. *Sonja Norton moved to approve the request from Julie Batty for approval of a conditional use permit for the property located at 543 East Main – Application No. 2011-016-CUP with no conditions. Gary Redden seconded the motion. The motion passed with Olsen, Norton, Gray, Redden, Latham, Fillerup, and Mahaffey voting in favor.*

REQUEST FOR APPROVAL OF A MASTER SITE PLAN FOR THE DIAMOND MOUNTAIN SHOPPING CENTER AT 1180 WEST HIGHWAY 40 – APPLICATION NO. 2011-017-MSP – ALLEN PARKER: Allen Parker referred to Page 8 of the meeting packets to explain the request from P.E.G. Development for approval of a master site plan in the Diamond Mountain Shopping Center. This request is for a new multi-tenant commercial retail structure containing three tenant spaces. The site is located in a CP-2 zone which allows a retail structure as a permitted use. Mr. Parker explained that the staff and Engineering Services have reviewed this request and find it to be in substantial compliance with a few corrections. There could be a possible change associated with the routing of traffic on the Northeast side of the property. There has also been discussion on considering a redesign to improve the traffic flow. Ben Mahaffey asked if there are already tenants ready to occupy these retail spaces.

Robert Schmidt, P.E.G. Development, at 180 North University Avenue, Suite 820 in Provo, Utah. Mr. Schmidt explained that there are two definite tenants, and the third tenant is still in negotiations. He added that for the building permit, two of the spaces will be built this year and the third space will be built in the spring. Mr. Mahaffey asked if the first two spaces to be built first are on the left. Mr. Schmidt stated correct. Chair Eric Olsen asked Mr. Schmidt if he could announce who they are contracted with for these spaces. Mr. Schmidt explained that he would like the businesses to have their own press release and public announcement. Mr. Olsen asked if the parking in the back would be for customers or employees. Mr. Schmidt indicated that the parking in the back would be for employees and service vehicles. Mr. Olsen asked if the road to the East was going to be widened. Mr. Schmidt answered yes. He also pointed out that the darker stalls in the front of the building are new stalls. Mr. Schmidt explained that the third tenant space will need to have parking stalls close to the door of the property, and the property to the right is currently under contract. He stated that they will coordinate with the owner of that property to improve the traffic flow between the two properties. Mr. Olsen asked if they were originally going to construct a building in the back of the property. Mr. Schmidt stated no, this is the original layout.

Mr. Parker reported that there are about 30 parking spaces in excess of what is required for this property. Mr. Schmidt indicated that between the three buildings, there are 106 parking stalls and only 69 stalls are required. Mr. Parker added that if there is a redesign to improve the traffic flow, they would be able to eliminate some of the parking stalls if necessary and still be in compliance. Mr. Mahaffey asked if the shaded area was landscaping. Mr. Schmidt explained that it is showing as paint, but to keep it consistent with the rest of the parking lot, and landscaping planters will be planted there. Sonja Norton asked if the storm water was checked. Mr. Parker explained that the storm water pond that currently

exists on the property was designed to accommodate this development. *Anders Fillerup moved to approve the request from P.E.G. Development for the Master Site Plan for the Diamond Mountain Shopping Center located at 1180 West Highway 40 – Application No. 2011-017-MSP with the recommended changes. Sonja Norton seconded the motion. The motion passed with Olsen, Norton, Gray, Redden, Latham, Fillerup, and Mahaffey voting in favor.*

REQUEST FOR APPROVAL OF A MASTER SITE PLAN FOR GINGER BOWDEN FOR THE PROPERTY LOCATED AT 50 SOUTH 500 EAST, VERNAL, UTAH – APPLICATION NO. 2011-018-MSP – ALLEN PARKER: Allen Parker referred to Page 11 in the meeting packets to explain the request from Ginger Bowden for a Master Site Plan of a new commercial bottling and distributing plant and a tavern. The new facility will function primarily as a brewery and bottling the beer it produces for sale off of the site. There will be a small section on the west side of the building where customers can sample the product produced at the brewery. The building is approximately 5,000 square feet and is located in a C-2 zone. There is a possibility of a restaurant being added in the future. Mr. Parker indicated that staff has reviewed the application and has found it to be in full compliance. A conditional use permit will be required for the small tasting area in the future. Mr. Parker mentioned that the engineering firm had a couple of questions on the berm for the storm water retention area.

Ben Mahaffey asked if this would be an actual brewery. Mr. Parker answered yes, and pointed out the layout of the structure to show the operations of the brewery, bottling, shipping, and tasting area. Mr. Mahaffey asked if the tavern will be the tasting part. Mr. Parker answered yes. He also noted that the tasting part of the business would have to be approved as a tavern, because the majority of their profit base is not food. This is different from State Code. Mr. Parker explained that State Code allows for a brewery manufacturing license as a combined activity.

Ginger Bowden at 50 South 500 East, Vernal, Utah. Ms. Bowden explained that in the State of Utah, you cannot give out samples of free beer. The beer must be purchased and must be 3.2% alcohol or below. Ms. Bowden mentioned that higher alcohol content beer cannot be served in the tap room, but can be sold in bottles for off premises consumption. Mr. Mahaffey confirmed that the production of beer to be sold to authorized distributors for purchase off premises will be 6.4% alcohol. Ms. Bowden stated correct. Mr. Mahaffey asked if the tavern will serve food. Ms. Bowden explained that according to Utah State Code, a business can have a tap room to serve beer as long as food is available. Mr. Parker explained that the way the state license reads, it allows a brewery to sell bottled product to a State liquor store or other authorized distributors for consumption off premises. They cannot sell the heavy beer from their tap room.

Mr. Mahaffey asked what feasibility study was conducted to determine there was a market for a brewery in Vernal, Utah. Ms. Bowden indicated that it was mostly word of mouth, popularity, and distance of other breweries. There was no actual study prepared. Mr. Olsen asked what berms are causing problems. Mr. Parker pointed out on the site plan where the storm water retention area is located. It will be a bermed area, because it has a slight slope. They have a very small impervious surface area with not much to retain, so it will surface flow into a capture basin. Mr. Olsen asked if there was a sump there too on the South of the loading dock. Mr. Parker explained that there is a sump to capture the water that runs down into the loading dock area. Mr. Olsen asked if the rest is going into the storm pond. Mr. Parker answered yes. It is the oval in the back of the property. Mr. Olsen indicated that there will have to be a berm or the water is going to run down into the loading dock and overwhelm that

sump. Mr. Parker explained that the sump will capture only what is going down that ramp. Mr. Olsen suggested they check with the engineering firm to confirm there is a bermed area, or they will have a lake in the loading dock. Mr. Parker stated that there will be a little retaining wall on the South side. Mr. Olsen indicated that he was concerned with the West side. Mr. Parker explained that the way it should be engineered is to flow it all off to the Northeast where the capture basin is located.

Ms. Norton asked if there was supposed to be areas marked for handicapped. Mr. Parker explained that he didn't include the full set of plans in the packet, but there are slides showing the handicapped areas. Mr. Mahaffey asked how many employees will be hired for this business. Ms. Bowden mentioned that initially they will hire around three or four employees with anticipation of hiring more in the future. Mr. Olsen asked if the East and the South are landscaped. Mr. Parker answered yes. Ms. Norton asked if there were residents on the South side. Mr. Parker answered yes and on the South property line. There will be a privacy fence installed. Mr. Olsen asked what type of landscaping is on the South and East. Mr. Parker mentioned in talking with the architect about the site, there will be natural grass that will be maintained and mowed in that area. Anders Fillerup asked if a brewery produces much odor. Ms. Bowden mentioned that odor should not be a problem. *Sonja Norton moved to approve the request from Ginger Bowden for the Master Site Plan for the property located at 50 South 500 East – Application No. 2011-018-MSP with any corrections as noted by staff and engineering. Ben Mahaffey seconded the motion. The motion passed with Olsen, Norton, Gray, Redden, Latham, Fillerup, and Mahaffey voting in favor.*

DISCUSSION ON AMENDING THE VERNAL CITY MUNICIPAL PLANNING AND ZONING CODE - SECTION 16.04 – DEFINITIONS – ALLEN PARKER: Allen Parker explained that this is not an action item, but for discussion only to be considered in the future. Chair Eric Olsen asked if there have been requests to have rabbits and chickens as pets. Mr. Parker explained that this has been an ongoing discussion over the past year, and several people have asked if the City allows a couple of domestic chickens as pets for egg laying purposes in a residential area. Rabbits have been excluded in the City from being pets. Mr. Parker explained that they would be regulated under the rest of the Code to allow four adult animals at any given time in a residential zone. Mr. Olsen asked if someone has a dog and a cat, then they can only have two chickens. Mr. Parker stated that is correct. They can mix and match up to four. Ben Mahaffey confirmed that it is based on the zoning. Sonja Norton indicated that she thought you could only have three dogs in the City. Mr. Parker explained that it has been four since he has been with the City.

Mr. Olsen asked the Commissioners what they thought about allowing rabbits as household pets. Mr. Mahaffey pointed out that rabbits are often for the purpose of breeding, which would mean more than two or four. He also noted that it is almost impossible to enforce. Mr. Parker explained that animal control can only enforce the issue if there is a complaint of some sort. Ms. Norton asked if pets are permitted inside the house. Mr. Parker answered yes. Mr. Parker explained that it would have to be treated the same as a dog or any other animal. Ms. Norton asked if it is four per household, residence, or per parcel. Mr. Olsen stated per parcel. Mr. Parker explained that almost everything in the ordinance is by parcel.

Mr. Olsen asked the Commissioners what they thought about allowing chickens as household pets in a residential zone. Mr. Mahaffey stated that they should not be allowed at all. Ken Latham mentioned that if someone wanted hens for laying eggs, then they would probably want more than two. Mr. Parker

explained that this would be in a residential zone such as a subdivision, so the Commission would need to decide how to approach it. He added that this section of the Code does not determine how many they can have and would need to be addressed in the zoning section. This ordinance would define it as a household pet; therefore, it could be regulated as a household pet in other sections of the Code. Mr. Olsen stated that although hens do not crow like a rooster, they do cackle. Mr. Olsen added that he would hate to allow chickens, unless there was a condition that they must be so many feet away from a dwelling if in a subdivision. Mr. Mahaffey asked why hen chickens are allowed, but not rooster chickens. Mr. Parker explained that this is typical, because roosters are extremely loud. Mr. Parker explained that there are a lot of ways to approach this information and asked the Commissioners to think it through for the next meeting.

Mr. Olsen asked if using the wording in the ordinance “of a number that do not constitute a health hazard or nuisance” replaces the four household pets currently allowed in a residential zone. Ms. Norton and Mr. Redden indicated that it contradicts itself. Mr. Parker explained that this verbiage is only for the purpose of defining household pets in smaller quantities and does not address the specific regulations on each one. Mr. Parker agreed that this is problematic language. After discussing this issue, the Commissioners agreed that the definitions should be rewritten to be more detailed. Ms. Norton suggested reviewing other cities to see how they have written the Code. Mr. Olsen asked if rooster chickens are currently permitted. Mr. Parker explained that it is currently not addressed in the Code; therefore, they are not permitted. Mr. Mahaffey suggested moving hen chickens down with rooster chickens as not being allowed. Mr. Olsen asked the Commissioners to take this information and be prepared to discuss it at the next meeting.

DISCUSSION ON AMENDING THE VERNAL CITY MUNICIPAL PLANNING AND ZONING CODE – SECTION 16.04.484 RODENTRY (COMMERCIAL BREEDING OF MICE AND RATS) – ALLEN PARKER: Allen Parker explained that there has been a request by an individual to breed mice and rats in an industrial facility for the purpose of feeders to sell to pet shops. This discussion is only for the purpose of looking at defining rodentry, so in the future when an ordinance is addressed, the definition will already be in place. After discussion by the Commission, it was agreed that the suggested definition was acceptable.

PLANNING COMMISSION VACANCIES: Chair Eric Olsen reported that the City Council would like recommendations to fill the current three vacancies on the Planning Commission. The Commissioners discussed options and names of people who to be considered for these appointments. *Sonja Norton moved to recommend Brenda Erkwine, Mike Weber, and Mike Drechsel to the City Council to fill the appointments on the Planning Commission. Gary Redden seconded the motion. The motion passed with Olsen, Norton, Gray, Redden, Latham, Fillerup, and Mahaffey voting in favor.*

MISCELLANEOUS: Allen Parker explained that there is an oversight in the sign Code. The buildings that have zero frontage in the CC-1 zone have signs that hang out over the right of way, because they are built right to the edge of the right of way. The sign Code does not allow for this and was an oversight when the sign code was revised. Mr. Parker recommended this be addressed. Sonja Norton explained that it mainly affects the area of 100 East to 100 West. Mr. Parker added that it would be anywhere that the City would allow them to build to the front of the property. Ms. Norton stated that it would be by

zone. She noted that the North side of Main Street from Vernal Avenue to 100 West has an awning built out already, which would be nice to look at signs.

Ben Mahaffey asked why spend time establishing an ordinance on signs if they are not enforced. He added that there are many illegal signs along the strip mall North of the Bull Ring. Mr. Parker stated that he would have Code enforcement take a look at it. Ms. Norton brought up a concern with the sign “What a Girl Wants” underneath the Betty’s Café sign. She added that this sign is not up to code and needs to be addressed. Mr. Parker explained that there was a question on what the federal rule was for US 40. UDOT, the federal government, and a number of people met to discuss the federal laws for off premises signs on all of US 40. No off premises signs are prohibited on US 40 including any from a viewing distance. Ms. Norton stated that the ordinance was changed, before the sign was placed there. Therefore, the sign is not in compliance. Mr. Parker added that it is also not in compliance with the state or federal laws. Ms. Norton asked if the sign for Landmark Inn was allowed, because it was there before the change. Mr. Parker stated yes, it was grandfathered in by UDOT and the federal government.

Allen Parker reported that the pond over by Lowes has developed a leakage problem. It was not designed to permanently hold water. The water is moving down in the alfalfa field in the County, and a portion of that field has turned into cattails. Mr. Parker stated that the pond was not an engineered pond. It was a bunch of clay pushed up by a bull dozer. Mr. Parker suggested changing the wording in the Code to say “if the walls are of a retaining pond or higher than three feet, they have to be engineered. Sonja Norton stated that she is not in favor of an above ground retention area and would like to look at not allowing them. She added that they seem to be problematic, and there is no way of enforcing the issue. Mr. Olsen explained that if the City starts doing things like that, it will cause the cost of construction to go up and could push developing firms out of the City. The Commissioners agreed that there is no necessity for action at this time.

ADJOURN: There being no further business, *Kathleen Gray moved to adjourn. Anders Fillerup seconded the motion. The motion passed with a unanimous vote, and the meeting was adjourned.*

Eric Olsen, Planning Commission Chair