

# MINUTES of the Vernal City PLANNING COMMISSION

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

August 14, 2012

7:00 pm

**Members Present:** Chair Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup

**Members Excused:** Mike Drechsel and Gary Redden

**Alternates Excused:** Adam Ray

**Staff Present:** Allen Parker, Assistant City Manager; Corey Coleman, Building Official; and Sherri Montgomery, Administrative Clerk

**WELCOME AND DESIGNATION OF CHAIR AND MEMBERS:** Chair Eric Olsen welcomed everyone present to the meeting. Mr. Olsen added that all members present will be voting.

**APPROVAL OF MINUTES FROM JULY 19, 2012 SPECIAL MEETING:** Chair Eric Olsen asked if there were any changes to the minutes from July 19, 2012. There being no corrections, *Sonja Norton moved to approve the minutes of July 19, 2012 as presented. Anders Fillerup seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.*

**REQUEST FOR RECOMMENDATION OF A MINOR SUBDIVISION FROM ROBERT KAY FOR THE PROPERTY LOCATED AT 43 EAST 200 NORTH, VERNAL, UTAH – APPLICATION NO. 2012-021-SUB:** Allen Parker explained that this application by Robert Kay is requesting approval of a minor subdivision for an existing two acre parcel from one parcel into three parcels. Each of the new parcels meet dimensional and area standards set forth in the Vernal City Code. Mr. Parker stated that the garage on parcel 2 does not meet the current setback requirements, but it is on an existing property line; therefore, the division of land does not impact it. There is a house, garage, and shed on parcel 3. Anders Fillerup wanted to disclose that he works for the surveyor. Sonja Norton mentioned that she thought this had been split before. Mr. Parker explained that it was discussed in the past, but there was no formal application submitted to make a recommendation. Ms. Norton asked if there was any reason why they made the property line on parcel 2 on the north side past the fence line cut the shed in half.

Harold Marshall at 2225 North 2500 West, Vernal, Utah explained that originally they planned on selling the parcel to be used for a commercial law office; therefore, they wanted extra room behind the home for parking. Currently, the offer for purchase is for someone who wants to use this for a home. Mr. Marshall stated that the shed was used as a root cellar and is not in very

good condition and will possibly be torn down. Chair Eric Olsen opened the public hearing for this item. There being no comments, Chair Eric Olsen closed the public hearing. *Sonja Norton moved to forward a positive recommendation to the City Council for a minor subdivision from Robert Kay for the property located at 43 East 200 North, Vernal, Utah – Application No. 2012-021-SUB. Ken Latham seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.*

**REQUEST FOR APPROVAL OF A CONDITIONAL USE PERMIT FROM WILLIAM REYNOLDS FOR A SIX FOOT FENCE LOCATED AT 133 WEST 500 SOUTH, VERNAL, UTAH – APPLICATION# 2012-019-CUP:** Allen Parker explained that this is a request from William Reynolds to install a six foot tall privacy fence in the front yard area of his house. The property to the east is the Uintah Recreation Special Service District. Mr. Reynolds is trying to create privacy between the public area and his yard. Mr. Parker stated that staff has reviewed this application and found it to be in compliance with the Vernal City Code. Mr. Parker recommends approving this application with no conditions. Sonja Norton asked if there is anything in writing that says they can never put a driveway or allow parking by that fence. Mr. Parker explained that they cannot create an obstruction for a clear vision triangle; therefore, they would not be allowed to put a driveway there without removing the fence or installing a four foot fence. Kathleen Gray asked if they wanted to pave next to the recreation center, would they be able to have parking. Mr. Parker explained that they could potentially have parking there depending on the design and landscaping. However, they would need to have a 15 foot offset to accomplish it. Ms. Gray stated that it looks like this would take parking spots away. Mr. Parker explained that they could have parking that fills up the entire corner; however, they would not be able to have access to the road.

William Reynolds at 133 West 500 South, Vernal, Utah explained that it is not very probable that the recreation district would want to have parking there, because they would have to rebuild the infrastructure with the way they have their water. Chair Eric Olsen opened the public hearing for this item. Mr. Reynolds explained that he is basically asking to go a little higher on the fence with the last 30 feet. Mr. Reynolds added that being next to the recreation center, he has people leaning over his fence and getting into his private belongings. Mr. Reynolds feels this will benefit both the recreation district as well as himself. The six foot vinyl fence will be installed professionally by a contractor. Chair Eric Olsen closed the public hearing for this item. *Anders Fillerup moved to approve a conditional use permit for William Reynolds for a six foot fence at 133 West 500 South, Vernal, Utah – Application No. 2012-019-CUP with no conditions. Ken Latham seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.*

**REQUEST FOR RECOMMENDATION ON AMENDING THE VERNAL CITY MUNICIPAL PLANNING AND ZONING CODE – CHAPTER 16.58 – SUBDIVISION CODE – ORDINANCE NO. 2012-29:** Allen Parker explained that this ordinance creates a provision for Vernal City to be able to install certain types of public improvements and recover the costs from the properties that are directly benefited by those improvements. This is based on the latecomer's agreement in the City Code that allows private individuals to install utilities and

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recover the costs from other properties that are benefited by it. This ordinance extends that benefit to the City as well. Mr. Parker gave an example of how this may be implemented. If Vernal City chose to install gas lines in a development at their own expense, this would give the City the ability to recover the cost of that installation from the properties that are benefited by those gas lines. Mr. Parker further explained that this is not intended to be improvements to existing infrastructure, but creation of brand new infrastructure.

Sonja Norton explained that this should hardly be used at all, but the City needs to have a mechanism in place if it is needed. Ms. Norton explained what happened with the Haven Estates Subdivision. The City received a bond, but the developer found loopholes and filed for bankruptcy. Ms. Norton explained that the developer had sold lots to individuals, and did not complete the infrastructure. There was not enough money in the bond left to finish the infrastructure; therefore, the owners of the lots now have to pay more, because they were not improved correctly. Anders Fillerup asked if this gives the City the power to build the infrastructure. Ms. Norton answered yes, so those lots can be developed. Ms. Norton added that most of the houses were built, but the City could not give them a certificate of occupancy without the infrastructure being completed. Mr. Fillerup asked if this ordinance would allow the City to finish the infrastructure and charge part of the cost to the individual property owners. Mr. Parker answered yes; they would pay a development fee.

Mr. Olsen asked if the residents would have a say in the installation. Ms. Norton answered no. Mr. Olsen voiced his concern over the owners not having a vote in the matter. Ms. Norton explained that the City would only do this if the property owners asked for it. Mr. Parker added that it is more of a legal issue of the property owners suing the City if it is not taken care of, and then the taxpayers will end up paying for it. Mr. Olsen asked why the City is responsible for it. Mr. Parker stated that it is the court's decision and precedence shows that here is a possibility that the city would be liable. Mr. Parker explained that currently the city does not have a mechanism in place to charge the property owners who are benefiting from the infrastructure, but the City does have the ability to charge the tax payers to install those improvements. Mr. Fillerup stated that is even less fair. Mr. Olsen asked if the City could add to the ordinance that there must be at least two thirds vote in favor from the property owners affected by this, so in the future they are not assessed a huge fee that they cannot pay.

Mr. Olsen asked if the property owners in Haven Estates want the City to build the infrastructure, and they are willing to pay for it. Ms. Norton answered yes. Mr. Olsen asked why the homeowners need the City to be the general contractor. Ms. Norton explained that the property owners do not have the money to pay for it all up front. The homeowners would pay it back to the City over time. Mr. Parker explained that the City cannot act as a lending institution and take payments due to State law. Mr. Olsen asked how the City plans to bill the property owners. Ms. Norton stated that it should be assessed at the time of getting the building permit or certificate of occupancy. Therefore, they could incorporate the cost into their construction loan or cost of building. Mr. Olsen asked if the City would pay for it all up front, and the property owners would be assessed. Mr. Parker explained that the property owners would be assessed at the time they want to use that infrastructure. Mr. Olsen asked if a property owner could tie that cost to

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their loan. Ms. Norton answered yes. Mr. Olsen asked what if the home is currently built, and the property owners already have a mortgage in place. Mr. Parker explained that they could have a construction loan, but they could not have a mortgage without a certificate of occupancy.

Mr. Olsen asked if a property owner will be assessed if he borders next to a subdivision where the infrastructure was installed. Mr. Parker stated that the property owner will only be assessed if he wants to use it. Mr. Olsen stated he is fine with it as long as the owner is not assessed until he uses it. Mr. Parker reads through section B of the ordinance. Ms. Norton stated that she thought the City could not accept payments. Mr. Parker explained that the City can take a deferred payment, but State law will not allow the City to act as a lending institution and make payment arrangements. Mr. Olsen asks about the paragraph stating that the formula will be set forth in the minutes of the City Council meeting. Mr. Parker explained that the formula will depend on the type of infrastructure being installed. Mr. Olsen asked about inflation costs for those who do not pay it back until years later. Mr. Parker explained that the City cannot charge more than the cost of the project. Mr. Olsen asked about charging interest. Ms. Norton stated that the City cannot have an interest bearing account. Mr. Olsen asked where the \$10 filing fee came from and if in 30 years, it can be amended to \$30. Mr. Parker explained that the fee was set by the attorney, and Mr. Parker added that he would like to talk to the City Council about removing that section about the fee, because it should be done by a resolution or a fee schedule. Mr. Fillerup moved to table this item for further review. Kathleen Gray seconded the motion. There was more discussion regarding this issue after the motion was made without a vote. Ms. Norton stated that there has been ample time for the Commission to review their packets and suggests moving forward tonight with a positive or negative recommendation to the City Council.

Mr. Olsen asked if there was a public hearing mechanism in this resolution regarding the installation of infrastructure in a subdivision. Mr. Parker answered no. Mr. Olsen suggests a public hearing be added to give the public a chance to comment. Mr. Parker explained that if a public hearing is added, there also needs to be discussion about noticing time requirements. Mr. Fillerup asked what a public hearing would be about. Mr. Olsen explained that it gives the property owners a chance to comment about the infrastructure. Mr. Parker asked if the Commission would like a notice to go out to the surrounding property owners affected by the infrastructure. Mr. Olsen answered yes. Mr. Fillerup voiced his concern over holding a public hearing, because it could possibly make it worse if the public perceives it as voting on whether they will have to pay for it. Mr. Olsen explained that is why there should be a public hearing, so the property owners know that they do not have to buy into it, unless they use it. Ms. Gray proposes moving forward with a positive recommendation with the addition of a public hearing. Mr. Olsen opened the public hearing for this item. There being no comments, Mr. Olsen closed the public hearing. Mr. Fillerup retracts his previous motion regarding tabling the issue. Ms. Gray retracts her second. ***Sonja Norton moved to forward a positive recommendation to the City Council on amending the Vernal City Municipal Planning and Zoning Code – Chapter 16.58 – Subdivision Code – Ordinance No. 2012-29 with the addition of a public hearing. Anders Fillerup seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.***

**REQUEST FOR APPROVAL OF A MASTER SITE PLAN FOR THE VERNAL TOWNE CENTER – LOT “K” – APPLICATION NO. 2012-022-MSP:** Allen Parker explained that this is a request by Gardner Development for approval of a master site plan for a new 164,115 square foot multi-tenant commercial building located at 1978 West Highway 40. The new structure will be used as an office for general retail. The site is located in a CP-2 zone which allows this use as a permitted use. Staff has reviewed the application and found it to be in substantial compliance with the requirements of City Code. However, two important sheets were not submitted until yesterday and review is ongoing with those items, which are landscaping and the lighting plan. The engineering review is currently underway, and they have found a couple of items that they would like to have more detail on, such as the flows between the ponds.

Chair Eric Olsen asked if all the drainage has been reviewed. Mr. Parker answered yes, and pointed out the two ponds indicated on the drawings in the packets. There is a connection between the two ponds. The engineer has a couple questions about the details on how that connection can be effectively accomplished to make sure it flows properly. There were some questions regarding the slope of the pipe and the ability to drain into the septic pond. Sonja Norton asked if this is taking on any of the water from the Lowe’s parking area. Mr. Parker answered yes. The ponds have been expanded to take not only water for this development, but water passing onto this property. Mr. Olsen asked if there was an underground retention pond under the parking lot. Mr. Parker answered yes.

Mr. Olsen asked if any businesses have been announced on who will occupy the retail spots. Scott Gardner, with the Gardner Group, explained that they are still negotiating with these businesses. Mr. Gardner stated that they are very close to giving the names of those tenants; however, there is nothing signed at this point. Mr. Olsen asked if the spots are full. Mr. Gardner explained that they are doing better with the big boxes rather than the smaller tenants and restaurants. The restaurants are waiting to see what happens due to the workforce in Vernal. Mr. Gardner stated that the restaurants that they are in discussion with are hesitating due to the high wages in this area and losing workers to the oilfield, but feels the restaurants will come when the big tenants are moved in. Mr. Gardner explained that they want to get moving quickly, before winter sets in. Mr. Olsen asked if in the parking lot there is a bunch of islands. Mr. Gardner stated there are not a lot, and they do stagger a little bit as you go from west to east. Mr. Olsen asked if the rock will be similar to what is in the Lowe’s area. Mr. Gardner explained that they have not picked out the theme yet with colors and rock. Mr. Parker added that the landscaping plan does not show sod on those islands. Mr. Olsen asked where the access goes to the bottom right corner of the parking lot. Mr. Gardner explained that the access goes over to Wal-Mart. Mr. Gardner stated that they are just as excited to know who will be the tenants and believes that this will not only be a Vernal Towne Center, but a Regional Towne Center. *Anders Fillerup moved to approve the master site plan for the Vernal Towne Center, Lot “K” – Application No. 2012-022-MSP with the engineering corrections as needed and staff recommendations. Sonja Norton seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.*

**REQUEST FOR APPROVAL OF A MASTER SITE PLAN FOR THE VERNAL TOWNE CENTER – LOT “J” – APPLICATION NO. 2012-023-MSP:** Allen Parker explained that this is a request by Gardner Development for site improvements to a lot at 1949 West Highway 40 on .83 acres. There is no new structure indicated in this site plan, so the improvements will simply be asphalted access areas from adjoining parking lots, utility stubs and grading. They will come back in and amend this site plan in the future when they have the structure in place or when they have sold it to the individual development. *Sonja Norton moved to approve the master site plan for the Vernal Towne Center, Lot “J” – Application No. 2012-023-MSP with any corrections by staff or engineering. Anders Fillerup seconded the motion. The motion passed with Eric Olsen, Ken Latham, Sonja Norton, Kathleen Gray, and Anders Fillerup voting in favor.*

**PLANNING COMMISSION ALTERNATE VACANCY – ALLEN PARKER:** Allen Parker reminded the Commission that there are currently two alternate vacancies that still need to be filled.

**NEXT MONTH’S MEETING CHANGE:** Allen Parker reminded the Commission that next month’s meeting has been changed to Tuesday, September 18, 2012 at 7:00 p.m.

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

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Eric Olsen, Planning Commission Chair