

# **MINUTES of the Vernal City PLANNING COMMISSION**

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

August 10, 2021

7:00 pm

**Members Present:** Jim Linschoten, Troy Allred, Nick Porter, Eric Hunting, Samantha Scott

**Members Excused:** Corey Foley

**Alternates Present:** Brandon Parker, Stephen Lytle

**Alternates Excused:**

**Staff Present:** Allen Parker, Assistant City Manager; Matthew Tate, Building Official; and Gay Lee Jeffs, Administrative Secretary.

**WELCOME AND DESIGNATION OF CHAIR AND MEMBERS:** Chair Samantha Scott welcomed everyone present to the meeting.

**APPROVAL OF MINUTES FROM July 13, 2021:** Chair Samantha Scott asked if there were any changes to the minutes from July 13, 2021. There being no corrections, *Nick Porter moved to approve the minutes of July 13, 2021 as presented. Brandon Parker seconded the motion. The motion passed with Jim Linschoten, Troy Allred, Nick Porter, Eric Hunting, Samantha Scott, Brandon Parker and Stephen Lytle voting in favor.*

## **REQUEST FOR RECOMMENDATION TO CONSIDER A REZONE REQUEST FROM CAROL JUDD FOR THE PROPERTY LOCATED AT 313 SOUTH VERNAL AVENUE, VERNAL, UTAH FROM R-3 (RESIDENTIAL) ZONE TO A C-2 (COMMERCIAL) ZONE – ORDINANCE NO.2021-13**

Allen Parker introduced the rezone request. It is a property located at 313 South Vernal Avenue and would like to be rezoned from an R-3, residential zone to a C-2, commercial zone. It is a .24 acre lot with a single family dwelling on the property. It is currently unoccupied. The residential use is a permitted use in the R-3 zone and the requested rezone would make it into a legal non-conforming use. Mr. Parker informed that the land that surrounds the property is partially occupied by other residences, a commercial storage area to the south, a vacant lot that is adjacent to the property. The current zoning to the South of the property is CP-2 zone and R-3 zone on all other sides around it. The City's General Plan indicates the future land use for the area requested as Commercial it also has it as a Mixed Use area which allows further flexibility in the types of zones that may be approved without problems of spot zoning. The General Plan supports the rezone. Staff does not recommend a development agreement because it is fully in compliance with the requirements of the General Plan. It is an approvable application the way it is written.

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Carol Judd, 1555 South 460 East, Vernal, Utah, stated that it is a small Victorian house and that she is working to get the house repainted and landscaped. It is a nice historic home in a great location for a small retail store. Ms. Judd stated that she would like to keep the historic feel inside and outside of the home. It is not a State registered historic site. Samantha Scott asked if Ms. Judd had any prospects for the store. Ms. Judd stated that she has some ideas.

Chair, Samantha Scott opened the public hearing to receive comment from the public.

Barbara Risbon, 352 South Vernal Avenue, said that she lives across the street and two (2) properties down from Ms. Judd's lot. Ms. Risbon stated that a few of the neighbors had a concern about what the property's use would be and the other concern was about the property to the North and how it would impact Ms. Judd's property and if the owner of the property to the North had any plans to develop it. Ms. Judd explained that she has no plans on doing any other development on her property, but does not know what the developer's intentions are for the lot behind her. Mr. Parker pointed out that the CP-2 zone and the C-2 zone are slightly different from each other. A C-2 zone is a commercial zone and allows a property owner like Ms. Judd to have a retail store. Ms. Risbon stated that several of her neighbors did not receive a notice about the public hearing. Mr. Parker explained that the City would look into it, but typically there are no mailing requirements that go along with a rezone because rezones, by law, are not attached to property. Mr. Parker stated that if there was an error in the advertising, the City would hold another public hearing on the rezone request and follow the legal process.

Kurtis Bingham, 274 South 100 East, stated that he lives North of the inner property and wondered what the plan is going to be for the inner property. Ms. Scott explained that the hearing is for the small property on 313 South Vernal Avenue only and that the Planning Commission is not addressing the inner property.

Hearing no other comment from the public, Chair, Samantha Scott closed the public hearing.

Eric Hunting asked Ms. Judd if she would adequate parking for her property. Ms. Judd explained that she had inquired about the parking and is waiting to hear what she will need to do. Mr. Parker stated that if the footprint of the building is unchanged then there are no new parking requirements for the property. Mr. Hunting asked what a CP-2 zone is. Mr. Parker explained that a CP-2 zone is a planned commercial area. A planned development is more like a planned community. It has more requirements and is presumed to be an area with a multi-tenant development.

Tiffany Desiardin, 338 South Vernal Avenue, asked if customers would begin parking in front of her house if no new parking is required and should she expect it. Troy Allred asked if it would be legal for customers to park in front of Ms. Desiardin's home. Mr. Parker stated that parking on public roads is legal. Mr. Parker clarified that there is no restricted parking on Vernal Avenue; signs would be posted for any restricted parking and red paint on the curbs. Nick Porter asked if Vernal Avenue could have redesigned parking. Mr. Parker stated that it might be a possibility in

the future. Mr. Hunting asked about the boundary lines for the properties. Mr. Parker stated that the boundaries were drawn that way years ago.

*Eric Hunting moved to forward a positive recommendation to the City Council to consider a rezone request from Carol Judd for the property located at 313 South Vernal Avenue, Vernal, Utah from S-3 (Residential) zone to a C-2 (Commercial) zone – Ordinance No. 2021-13 Troy Allred seconded the motion. The motion passed with Jim Linschoten, Samantha Scott, Eric Hunting, Nick Porter, Troy Allred, Stephen Lytle and Brandon Parker voting in favor.*

**AMEND SECTION 16.04 – DEFINITIONS – DEFINITION OF A DWELLING**

Allen Parker presented this discussion item to the Planning Commission. Mr. Parker read the definition, “A building or portion thereof designated or used as the living quarters for one (1) or more families.” Mr. Parker stated that the intention of having a primary or principle use on a property is to make that the dominant use. If something is defined as a dwelling or a main structure that is purported to be the primary use of a property, it should be the dominant activity within that structure. There has been concern about a few structures that have been built in the City where that has not been the case and because there has not been anything in place to stop that kind of structure, the garage is ninety percent (90%) of the building and an apartment is ten percent (10%). That goes against good planning principles. Mr. Parker explained that the portion that was added is for discussion only. Mr. Parker read the added section, “The portion of the building that is classified as dwelling must not have more than fifty percent (50%) of its floor area dedicated to other associated uses, such as garage space.” So if it is a dwelling, at least fifty percent (50%) of the structure has to be classified as living space.

Mr. Parker stated that there is a definition for a dwelling under the building code. Matt Tate read the definition from the 2015 International Residential Code (IRC) for a living space, “Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes”. It is basically saying that it is anything not utility like a garage space. Mr. Parker suggested changing the word to “living space” instead of “dwelling”. So it would read as follows, “The portion of the building that is classified as living space must not have more than fifty percent (50%) of its floor area dedicated to other associated uses, such as garage space.” The ratio portion is what could be debated. Mr. Parker explained that if the City is saying that residential is the dominant use on a residential lot or on any lot used for residential purposes, then the square footage of the structure that represents the principle use on the property is occupied by at least fifty percent (50%) of that principle use. Jim Linschoten asked if the whole bottom layer of a structure was a garage then the top layer of the structure could be a house. Mr. Parker answered that it would be applicable. Mr. Parker clarified that the ratio would only apply to the dwelling category. Mr. Linschoten noted that there are number of metal homes that are being erected with completely open floor plans that property owners are trying to say constitute a dwelling by adding a cot and a porta-potty. Mr. Parker explained that the City Code prohibits that kind of dwelling. Mr. Tate explained that within the confines of the building code they would have to have a separation wall and separate the garage space from the living space.

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**ADJOURN:** There being no further business, *Nick Porter* moved to adjourn. *Stephen Lytle* seconded the motion. *The motion passed with a unanimous vote, and the meeting was adjourned.*

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Samantha Scott, Planning Commission Chair