

PLANNING COMMISSION MINUTES OF MEETING
Wednesday, October 27, 2021
7:00 p.m.

A quorum being present at City Hall, 250 North Main Street, Centerville, Utah, the meeting of the Centerville City Planning Commission was called to order at 7:00 p.m.

MEMBERS PRESENT

Kevin Daly, Chair
Mason Kjar
Matt Larsen
Heidi Shegrud
Spencer Summerhays
Christina Wilcox

MEMBER ABSENT

Becki Wright

STAFF PRESENT

Cory Snyder, Community Development Director
Lisa Romney, City Attorney
Mackenzie Wood, Assistant Planner

VISITORS

Russell Wilson, Symphony Homes
Kevin Anderson, Symphony Homes
Craig Salmon, Salmon HVAC
Jim Flint, Hanson and Associates

PLEDGE OF ALLEGIANCE

OPENING COMMENTS/LEGISLATIVE PRAYER Commissioner Shegrud

FINAL SUBDIVISION – SUMMERHILL LANE

Community Development Director Cory Snyder expressed the opinion that the Final Subdivision Plan submittal for the Summerhill Lane Development was complete, and the applicant met all conditions of Preliminary Plat Approval. He explained that the Packer Family filed an Appeal of the Preliminary Subdivision Approval for Summerhill Lane. The filed appeal raised the following two aspects of the approval: "(1) The Preliminary Plat did not include or otherwise reflect the Packer Easement even though the Easement was noted as Exception 17 in the Symphony Homes' title report submitted with its application; (2) The Packers are also entitled to a prescriptive easement from the north end of the 400 West Street to their property. This is not an easement of record, but one claimed by usage." Mr. Snyder informed the Commission that just prior to the holding of the Appeal Hearing with the Board of Adjustment, the Packer Family and Symphony Homes reached a settlement regarding the filed appeal. The settlement included the following elements:

- a) Symphony would revise the preliminary plat to include said "Prescriptive Easement," as was discussed by the parties.
- b) Both sides would reserve their rights, claims, defenses, etc. for litigation.

Upon completion and resubmittal of the Revised Preliminary Subdivision Plat, the City received notice from the Packer Family's Attorney that the Appeal was officially withdrawn. Consequently, the Revised Preliminary Plat submitted to the City by Symphony Homes was

1 included in the packet for Planning Commission consideration. Mr. Snyder advised that it was
2 not his or the Planning Commission's role to adjudicate on a claim of use not recorded against
3 the property. The prescriptive easement was included on the Revised Plat.
4

5 Responding to questions from the Planning Commission regarding buyer awareness of
6 the prescriptive easement, Mr. Snyder and City Attorney Lisa Romney stated potential buyers
7 would be able to see the notice of interest on the Plat. Mr. Snyder emphasized he did not
8 believe it was the Planning Commission's role to take either side. He spoke of the risks to all
9 parties moving forward, and commented on the Planning Commission's responsibility to make a
10 decision based on current City Code. Chair Daly said he understood it was not the Planning
11 Commission's role to perfect the claim, but pointed out that if the claim were to be perfected,
12 several lots on the north side of the street would be affected.
13

14 Commissioner Summerhays asked what mechanism was in place to update the Plat
15 after a final decision. Mr. Snyder responded that a plat amendment could change the notes, but
16 no mechanism was in place to force a plat amendment. Property owners would be able to
17 respect the easement, if perfected, without amending the plat. The Planning Commission
18 reviewed the Revised Preliminary Subdivision Plat.
19

20 Commissioner Shegrud asked who determined conditions placed on easements. Mr.
21 Snyder said easements were defined by type and purpose. The prescriptive easement under
22 discussion was not perfected or defined. It was the role of a judge in a court of law to define the
23 easement if a settlement was not reached by the parties.
24

25 Ms. Romney stated it was staff's position that the prescriptive easement and the
26 easement a pertinent had not been perfected and was not in the Title Report; therefore, it was
27 not existing and was not required under City ordinance to be shown on the Final Plat. She
28 suggested including a condition of approval specifying that Lots 120-134 were affected by the
29 notice of interest. Commissioner Summerhays expressed the opinion that failing to include such
30 a condition would potentially be harmful to future buyers.
31

32 Russ Wilson, Land Manager with Symphony Homes, stated the purported easement
33 was noted on the Final Plat and in the Title Report. He said a notice would be provided to
34 potential homebuyers that the purported easement existed. Mr. Wilson said lot sizes and
35 proposed home sizes would not be affected if the purported easement were established by a
36 court of law. Responding to Commissioner Kjar, Mr. Wilson confirmed Symphony Homes
37 intended to be bound by the statement that notice would be provided to potential homebuyers of
38 the purported easement.
39

40 Mr. Wilson explained the applicant worked extensively with the City Engineer to design a
41 drainage system. Responding to a question from Commissioner Shegrud, Mr. Wilson described
42 plans for open space in the development. Kevin Anderson, attorney for Symphony Homes,
43 stated his opinion of the Planning Commission's scope of consideration for the Final Subdivision
44 request. He said Symphony Homes had worked very hard to satisfy all City Code requirements.
45 Mr. Anderson recognized there was risk to Symphony Homes in moving forward with the
46 purported easement, and explained the applicant desired to move forward with developing lots
47 not impacted by the easement claim. He described the alley that would exist behind the affected
48 lots if the purported easement were established by a court of law.
49

50 Chair Daly commented that the situation had been difficult. He expressed the opinion
51 that the Final Plat application complied with City Code. Commissioner Wilcox said she agreed.
52 Commissioner Summerhays expressed concern that the specific lots affected by the notice of
53 interest were not noted on the Final Plat. Ms. Romney repeated that City Code required existing
54 easements to be specified on a final plat, and the notice of interest was not an existing

1 easement. She repeated the suggestion to include a condition of approval specifying that Lots
2 120-134 were affected by the notice of interest. Ms. Romney requested that the Planning
3 Commission add a condition that the developer shall enter into a long-term storm water facilities
4 maintenance plan with the City if required under City permit.

5
6 Chair Daly **moved** to recommend approval of the Final Subdivision Plat and Plan for the
7 Summerhill Lane Subdivision to the City Council, as submitted by the applicant to the
8 Commission, with the following conditions and reasons for action. Commissioner Wilcox
9 seconded the motion, which passed by majority vote (4-1), with Commissioner Shegrud
10 dissenting, and an abstention from Commissioner Kjar.

11
12 Conditions:

- 13
14 1. Developer shall enter into a long-term storm water facilities maintenance plan with
15 the City if required under City permit.
16 2. Applicant shall add "affecting Lots 120-134" to Plat Note #2 on the Final Plat.
17 3. Developer shall provide notice of claim of interest to potential purchasers of Lots
18 120-134.

19
20 Reasons for Action:

- 21
22 a) The Planning Commission finds that in November of 2020, the City approved a PDO
23 Rezone and Conceptual Plan for the Summerhill Lane Subdivision.
24 b) After review of the Final Subdivision Plan submittal, the Planning Commission finds
25 that the Final Subdivision Plan submittal is substantially consistent with the approved
26 PDO Rezone and Conceptual Plan Approval and associated terms and conditions of
27 that approval, as reviewed by the Commission in both the Preliminary and Final
28 Subdivision Plan submittals and staff reports.
29 c) After review of the Final Subdivision Plan submittal, the Planning Commission finds
30 that the Final Subdivision Plan submittal complies with the Preliminary Subdivision
31 Approval granted by the Planning Commission in April of 2021, as also represented
32 by the analysis of the Final Subdivision Plan in the associated Staff Report.
33 d) Therefore, in accordance with CMC 15.04.050, the Planning Commission finds that if
34 the Planning Commission determines that the final plat is in conformity with all
35 requirements and the ordinances of the City, the Commission shall recommend
36 approval of the final plat to the City Council.

37
38 **FINAL SITE PLAN – THE PASTURES PHASE 3**

39
40 Assistant Planner Mackenzie Wood stated the applicants submitted plans to build out
41 the third phase of The Pastures Business Park. She explained that a landscaping plan, an
42 irrigation plan, and accurate parking stall counts for current uses were not provided. Mr. Snyder
43 commented that the amount of parking needing for flex space varied widely depending on use.
44 In the Conceptual Application, the applicant and staff reviewed parking based on Warehouse
45 and Office uses. However, with further investigation, the use list of the site varies from the
46 proposed uses in the application. Staff reviewed the current uses and their required off-street
47 parking counts and found there was a wide discrepancy between approved uses and actual
48 uses, approved parking and required parking.

49
50 The Planning Commission and staff discussed parking requirements. Commissioner
51 Shegrud said she believed from personal experience that some of the current uses at The
52 Pastures Business Park did not need as much parking as was required.
53

Commissioner Kjar pointed out the applicant resubmitted a letter from the Army Corps of Engineers from 2011, but not a verification as requested. Ms. Wood agreed and suggested the lack of verification was another reason to table the Final Site Plan.

Craig Salmon, applicant, explained that nothing had changed with regard to the wetlands. He presented proposed updated parking stall counts, and said he considered his entire development to be shared parking (117 parking stalls). Mr. Salmon said he calculated required parking to be 110 stalls with current uses. He explained that the dance studio and karate studio operating hours began around 4:00 or 5:00 p.m., after many of the other uses in the complex had completed business for the day. He asked the Planning Commission to accept the shared parking request, and said he would prefer to not be required to commission a parking study. Mr. Salmon suggested that the ability to adjust parking requirements based on logical discussion should be granted to the Community Development Director/Zoning Administrator.

Responding to a question from Commissioner Kjar, Mr. Salmon confirmed he had acquired additional property for the project and changed the configuration since receiving the 2011 Army Corps of Engineers letter. He stated the property acquired from UDOT was not part of the wetland area, and emphasized that nothing had changed in the project that affected the wetlands.

Commissioner Summerhays said he wanted to be as flexible with parking as possible within City Code. Mr. Snyder responded the Planning Commission did have latitude within the Code. Ms. Romney stated the applicant could request a parking modification and make the argument that sufficient parking existed for current uses. Chair Daly summarized that the applicant could apply for a parking modification, or wait until the City had completed an update of parking requirements. Mr. Snyder added that the applicant could address parking needs for all current uses based on City categories in a parking tabulation with the Final Site Plan.

Mr. Snyder explained that staff were assuming the wetlands delineation had expired. Chair Daly **moved** to table the Final Site Plan for The Pasture Phase 3 at 1230 North 1300 West with the following directives. Commissioner Shegrud seconded the motion. Commissioner Kjar said he was deeply concerned that the Planning Commission had spelled out specific requirements that were not met by the applicant apparently because the applicant felt he did not need to. The motion passed by unanimous vote (6-0).

Directives:

1. Provide accurate parking stall counts for current uses in accordance with CZC 12.52.300, and request Parking Modification.
2. Provide a landscape plan in accordance with CZC 12.51.040.
3. Provide a temporary irrigation plan to maintain plantings.
4. Provide a letter from the Army Corps of Engineers clearing the property for wetlands, or a valid delineation of the wetlands.

FINAL SITE PLAN – ACC AUTO (TRUCK WORLD)

Mr. Snyder explained the applicant submitted application for Conditional Use Permit (CUP) and Final Site Plan. The application for CUP did not address everything expected, and the deadline for providing public notice of a hearing for CUP was missed. In order to facilitate the applicant's need to begin construction, Mr. Snyder suggested including CUP approval within 45 days as a condition of Final Site Plan approval. Mr. Snyder answered questions from the Commission regarding CUP conditions. Jim Flint with Hanson and Associates, representing the

1 applicant, said the applicant would address issues related to the CUP by the November 10
2 Planning Commission meeting.

3
4 Chair Daly **moved** to approve the Final Site Plan for the Final Expansion Phase for ACC
5 Truck World, located at 155 South Frontage Road, subject to the following conditions and with
6 the following reasons for action. Commissioner Kjar seconded the motion, which passed by
7 unanimous vote (6-0).

8
9 Conditions:

- 10
11 1. The Final Site Plan approval is limited to the proposed expansion and site
12 improvements, as depicted in the Final Site Plan submittal to the Commission, or as
13 amended by the City.
14 2. All outdoor lighting shall be fully shielded using cut-off type fixtures that will not allow
15 light dispersion or direct glare to shine above a 90-degree horizontal plane from the
16 base of the light fixture.
17 3. The applicant shall obtain secondary water service from the applicable third-party
18 company and construct all necessary improvements and payment of any related
19 fees.
20 4. The applicant shall submit the required final improvement construction drawings for
21 storm water management and any related bonding and fees, which shall be deemed
22 acceptable to the City Engineer.
23 5. The applicant shall obtain an amended CUP approval within 45 days of the Final Site
24 Plan approval, which shall at minimum address the following:
25 a. Alteration of the land use to the sale of pre-owned vehicles,
26 b. The desired business hours of operation, and
27 c. The mitigation of potential impacts to the adjacent residential area located to
28 the southeast (e.g., use buffering, lighting, screening, etc.).
29

30 Reasons for Action:

- 31
32 a. The Planning Commission finds that the Final Site Plan submittal is substantially
33 consistent with the Conceptual Site Plan Acceptance and its related directives.
34 b. The Planning Commission finds that conditions may be imposed with a Final Site
35 Plan approval, as necessary to achieve compliance with applicable code
36 requirements.
37 c. The Planning Commission finds that, subject also to the conditions of approval, the
38 proposal complies with the requirements found in the Zoning Ordinance, in regard to
39 development standards in the CV-H Zone and Final Site Plan Approval Standards.
40

41 **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

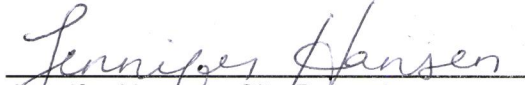
42
43 The Planning Commission was scheduled to meet next on November 10, 2021. Mr.
44 Snyder reported on recent actions by the City Council. The Planning Commission reviewed a list
45 of Commission goals.

46
47 **MINUTES REVIEW AND ACCEPTANCE**

48
49 Minutes of the October 13, 2021 Planning Commission meeting were reviewed and
50 amendments requested. Commissioner Summerhays **moved** to accept the amended minutes.
51 Commissioner Larsen seconded the motion, which passed by unanimous vote (6-0).
52

ADJOURNMENT

At 9:25 p.m., Chair Daly made a **motion** to adjourn the meeting. Commissioner Wilcox seconded the motion, which passed by unanimous vote (6-0).


Jennifer Hansen, City Recorder

11-10-2021
Date Approved


Katie Rust, Recording Secretary



PLANNING STAFF RECOMMENDATION

In order to facilitate the applicant's need to begin construction, staff is suggesting that the Planning Commission consider **APPROVING** the Final Site Plan, subject to the requirement that the Applicant obtaining CUP approval within 45 days of the Final Site Plan approval. Staff has slotted a space for the amended CUP review on the Commission's November 10, 2021 Agenda.

PROPOSED ACTION FOR FINAL SITE PLAN APPROVAL: *"I hereby make a motion for the Planning Commission to approve the Final Site Plan for the Final Expansion Phase for ACC Truck World, located at 155 South Frontage Road, subject to the following conditions:*

- 1. The Final Site Plan approval is limited to the proposed expansion and site improvements, as depicted in the Final Site Plan submittal to the Commission, or as amended by the City.*
- 2. All outdoor lighting shall be fully shielded using cut-off type fixtures that will not allow light dispersion or direct glare to shine above a 90-degree horizontal plane from the base of the light fixture.*
- 3. The applicant shall obtain secondary water service from the applicable third-party company and construct all necessary improvements and payment of any related fees.*
- 4. The applicant shall submit the required final improvement construction drawings for storm water management and any related bonding and fees, which shall be deemed acceptable to the City Engineer.*
- 5. The applicant shall obtain an amended CUP approval within 45 days of the Final Site Plan approval, which shall at minimum address the following:*
 - i. Alteration of the land use to the sale of pre-owned vehicles,*
 - ii. The desired business hours of operation, and*
 - iii. The mitigation of potential impacts to the adjacent residential area located to the southeast (e.g. use buffering, lighting, screening, etc.).*

SUGGESTED REASONS FOR THE ACTION:

- a. The Planning Commission finds that the Final Site Plan submittal is substantially consistent with the Conceptual Site Plan Acceptance and its related directives.*
- b. The Planning Commission finds that conditions may be imposed. With a Final Site Plan approval, as necessary to achieve compliance with applicable code requirements.*
- c. The Planning Commission finds that, subject also to the conditions of approval, the proposal complies with the requirements found in the Zoning Ordinance, in regard to development standards in the CV-H Zone and Final Site Plan Approval Standards."*