



# PLANNING COMMISSION AGENDA

**NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE PLANNING COMMISSION WILL HOLD A REGULAR MEETING AT 7:00 PM ON JANUARY 24, 2024 AT CENTERVILLE CITY HALL, 250 NORTH MAIN STREET, CENTERVILLE, UTAH.**

*Centerville City Planning Commission meetings are open to the public, unless otherwise closed for reasons allowed by law. Centerville City Planning Commission meetings may be conducted via electronic means pursuant to Utah Code § 52-4-207. In compliance with the Americans with Disabilities Act, individuals needing special accommodations due to a disability may contact the City Recorder at (801) 295-3477, at least 24 hours in advance of the meeting. The Commission reserves the right to modify the sequence of agenda items in order to facilitate special needs or provide greater efficiency.*

**The full agenda packet and backup materials can be found on the Centerville City website at:**

<https://centervilleutah.gov/129/Agendas-Minutes>

## **A. CALL TO ORDER**

- 1. ROLL CALL**
- 2. LEGISLATIVE PRAYER OR THOUGHT**
- 3. PLEDGE OF ALLEGIANCE**

## **B. BUSINESS ITEMS**

Business action or discussion items to be considered by the Planning Commission.

1. PUBLIC HEARING - Zone Text Amendment, CZC 12.55.110 Fences and Walls - LEGISLATIVE DECISION  
The petitioner, Richard Jensen, desires to amend the Zoning Ordinance regarding fences and walls to accommodate a retaining wall and fence combination he would like to construct on the east side of his lot.
2. Open and Public Meetings Training  
Required annual training on the Utah Open and Public Meetings Act

## **C. COMMUNITY DEVELOPMENT DIRECTORS REPORT**

1. Community Development Director's Report  
The Interim Community Development Director will give a report on upcoming meetings and updates to the Planning Commission.

## **D. MINUTES**

Minutes of prior meetings may be reviewed and accepted. Minutes review and approval shall comply with the Centerville City Minutes Approval Policy.

1. Minutes Review and Approval

## **E. ADJOURNMENT**

## **CERTIFICATE OF POSTING**

*I hereby certify that this notice and agenda was posted at Centerville City Hall, published on the Utah Public Notice Website, and provided to a newspaper or media correspondent in accordance with the requirements of the Utah Open and Public Meetings Act, including, but not limited to, provisions of Utah Code § 52-4-202.*

**Jennifer Robison  
Centerville City Recorder**



**PLANNING  
COMMISSION**

**Staff Report**  
**1/24/2024**

**Item No. 1.**

**Title:** PUBLIC HEARING - Zone Text Amendment, *CZC 12.55.110 Fences and Walls* - LEGISLATIVE DECISION

**Initiated By:** Applicant, Richard Jensen

**Staff Representative:** Whitney Black, Assistant Planner

**SUBJECT:**

The petitioner, Richard Jensen, desires to amend the Zoning Ordinance regarding fences and walls to accommodate a retaining wall and fence combination he would like to construct on the east side of his lot.

**RECOMMENDATION:**

CONSIDER RECOMMENDING DENIAL TO THE CITY COUNCIL

**BACKGROUND:**

The petitioner, Richard Jensen, desires to amend the Zoning Ordinance regarding fences and walls to accommodate a retaining wall and fence combination he would like to construct on the east side of his lot. The applicant applied for a building permit in October 2023 for the construction of a concrete retaining wall. During conversations with the applicant, he has explained that he has a retaining wall in this location that is failing, and he would like to replace it and put a 6' fence on top of it.

Unfortunately, during the staff's review of his building permit they discovered that the retaining wall and fence would exceed the maximum height allowed by the code. Staff initially denied the permit. The applicant resubmitted plans several times but ultimately could not achieve what he was wanting to construct within the parameters of the ordinance. In December 2023, the applicant applied for a text amendment hoping to get the code changed to build his desired project.

**ATTACHMENTS:**

1. 01-24-2024 PC Staff Report - Zone Text Amendment - CZC 12.55.110 Fences & Walls - Applicant, Jensen
2. Example #1 - Jensen Request - STAFF
3. Ordinance CZC 12.55.110
4. Applicant - Draft of proposed text amendment to CZC 12
5. Applicant - Reasons supporting the request for amendment

**CENTERVILLE CITY**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
**655 North 1250 West, Centerville, Utah 84014**  
**(801)292-8232**

**STAFF REPORT**  
**AGENDA: ITEM 1**

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|                           |                                                                                                                                                                      |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PETITIONER:</b>        | <b>RICHARD JENSEN</b><br><b>453 EAST CENTER STREET</b><br><b>CENTERVILLE, UTAH 84014</b><br><a href="mailto:jrichard10@msn.com"><b><u>jrichard10@msn.com</u></b></a> |
| <b>APPLICATION:</b>       | <b>ZONING CODE TEXT AMENDMENT</b>                                                                                                                                    |
| <b>APPLICANT REQUEST:</b> | <b>AMEND THE ZONING CODE TEXT REGARDING<br/>FENCES AND WALLS (CZC 12.55.110)</b>                                                                                     |
| <b>RECOMMENDATION:</b>    | <b>CONSIDER RECOMMENDING DENIAL TO THE<br/>CITY COUNCIL</b>                                                                                                          |

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**BACKGROUND**

The petitioner, Richard Jensen, desires to amend the Zoning Ordinance regarding fences and walls to accommodate a retaining wall and fence combination he would like to construct on the east side of his lot. The applicant applied for a building permit in October 2023 for the construction of a concrete retaining wall. During conversations with the applicant, he has explained that he has a retaining wall in this location that is failing, and he would like to replace it and put a 6' fence on top of it.

Unfortunately, during the staff's review of his building permit they discovered that the retaining wall and fence would exceed the maximum height allowed by the code. Staff initially denied the permit. The applicant resubmitted plans several times but ultimately could not achieve what he was wanting to construct within the parameters of the ordinance. In December 2023 the applicant applied for a text amendment hoping to get the code changed to build his desired project.

**CURRENT CODE INTERPRETATION – *APPLIED TO JENSEN PROJECT***

The current code reads:

*Height of Fences and Walls. No fence, wall, or other similar structure exceeding six feet in height shall be erected in any rear or side yard except for accessory buildings and structures permitted by this Title, except as provided below.*

1. *When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from:*
  - a. *The average elevation of the finished grade of adjoining properties at the fence line; or*
  - b. *If excavated or filled, the native elevation.*

In this case, there is a difference in grade between the applicant and his neighbor to the East. 1a. has been applied to the subject building permit application. The difference in grade between neighbors is about 4'. The overall height of the project is 10'. After taking the average elevation of the difference in grade, the final height calculation is 8'. See example #1 in the meeting packet. This is an overage of 2'.

#### **PROPOSED ZONING ORDINANCE TEXT AMENDMENT**

The applicant is purposing amending the zoning ordinance to reflect the following:

“Differentiate between non-structurally engineered walls and structurally engineered walls. Amend the allowed fence height from 6’ to 7’ for non-structurally engineered walls (typically chain-link, wood or vinyl) and 8’ for structurally engineered walls (typically concrete or CMU).”

Based on this information planning staff sees the proposed text amendment looking something like this.

*Height of Fences and Walls. No fence, wall, or other similar structure exceeding ~~six~~-seven feet in height if non-structurally engineered, eight feet in height if structurally engineered, shall be erected in any rear or side yard except for accessory buildings and structures permitted by this Title, except as provided below.*

1. *When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from:*
  - a. *The average elevation of the finished grade of adjoining properties at the fence line; or*
  - b. *If excavated or filled, the native elevation.*

#### **ZONING CODE TEXT AMENDMENT REVIEW PROCESS**

When considering a zoning code text or a zoning map amendment, the Planning Commission is to consider four factors stated in *CZC 12.21.080(e)*. Factors two through four relate specifically to zoning map amendments and do not apply to this zone code text amendment. The Planning Staff will limit their review to factor number one as provided below:

**1. Is the proposed Zoning Code Text Amendment consistent with the goals, objectives, and policies of the General Plan?**

The General Plan states the following about fences and walls:

*“Visually obstructing materials such as fences constructed of wood, composite materials, concrete or masonry are typically used. In determining the appropriate choice, maintainability and vulnerability to the elements, graffiti and other forms of vandalism, should be considered. Wood and composite materials are more vulnerable to vandalism and destruction and are more difficult to clean. Concrete and masonry construction is much more vandal resistant and may be constructed of graffiti-resistant surfaces which make removal of graffiti or resurfacing easier. Smooth, clean, lightly colored surfaces are more attractive to vandals and should be avoided. Textured surfaces, combined with landscape materials and plants which restrict access to the barrier, have a deterrent effect on vandalism and graffiti and should be used appropriate. In any event, walls and fences should be compatible with the design of the structures.”*

- **Staff’s Response:** The Planning Staff believes that the General Plan is unbiased concerning the height of fences or walls. Notwithstanding the absence of such a preference, it is the staff’s opinion that there are several factors to consider when discussing the height of fences and walls.

**FACTORS TO CONSIDER CONCERNING FENCE/WALL HEIGHT**

Several items need to be considered when discussing the height of fences and walls. The staff has provided a list of some of those factors:

- How would weather, specifically wind, impact a higher standing fence?
- Are there any safety issues that need to be considered with a higher fence?
- Should fences exceeding 6’ be structurally engineered?
- Should permits be required for fences exceeding 6’?
- Are fences higher than 6’ visually intrusive?
- Would higher fences create visual and safety issues regarding traffic or vehicle usage?

- Would higher fences impede access to utilities, easements, fire hydrants, or the like?
- Should the City distinguish between fences and walls?
- Retaining walls up to 8' are allowed in the Hillside Overlay Zone. Should that be taken into consideration during a fence and wall amendment?

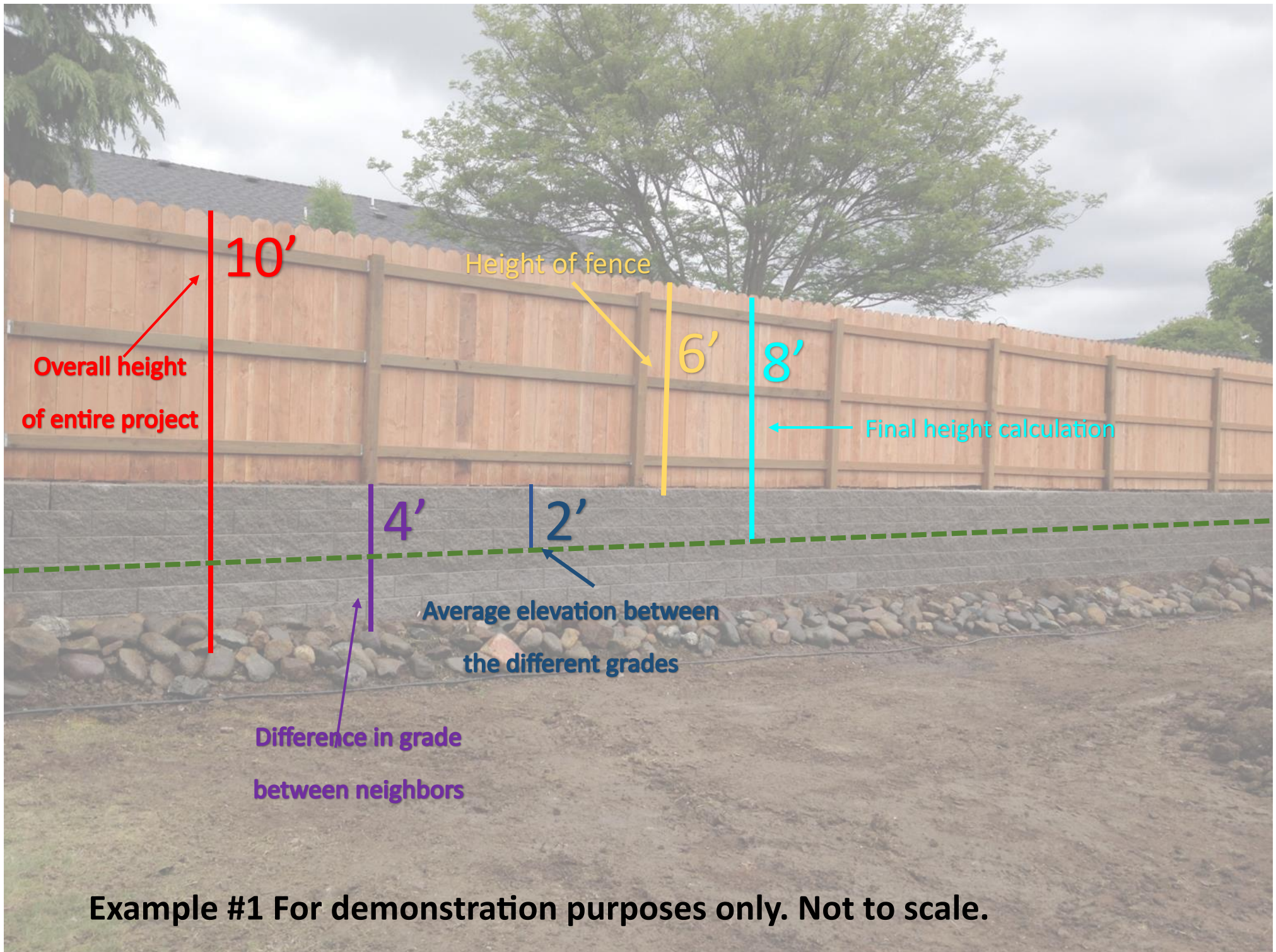
These are just a few of many questions that need to be considered and that have not been addressed with this application. Staff understands the applicants desire to be able to construct his project. However, after reviewing this request and the ordinance, the staff feels that there are several components of this ordinance that need to be reviewed and possibly amended. This application only addresses one issue. Staff recommends that a more comprehensive review of this ordinance be completed, and appropriate changes be considered, including how fence height is calculated, at a later time.

## **PLANNING STAFF RECOMMENDATION**

### **SUGGESTED MOTION #1 – DENY**

*“I hereby make a motion for the Planning Commission to recommend to the City Council **DENIAL** of the request from Richard Jensen for a Zoning Code Text Amendment regarding CZC 12.55.110 Fences and Walls. With the following reasons for action (findings):*

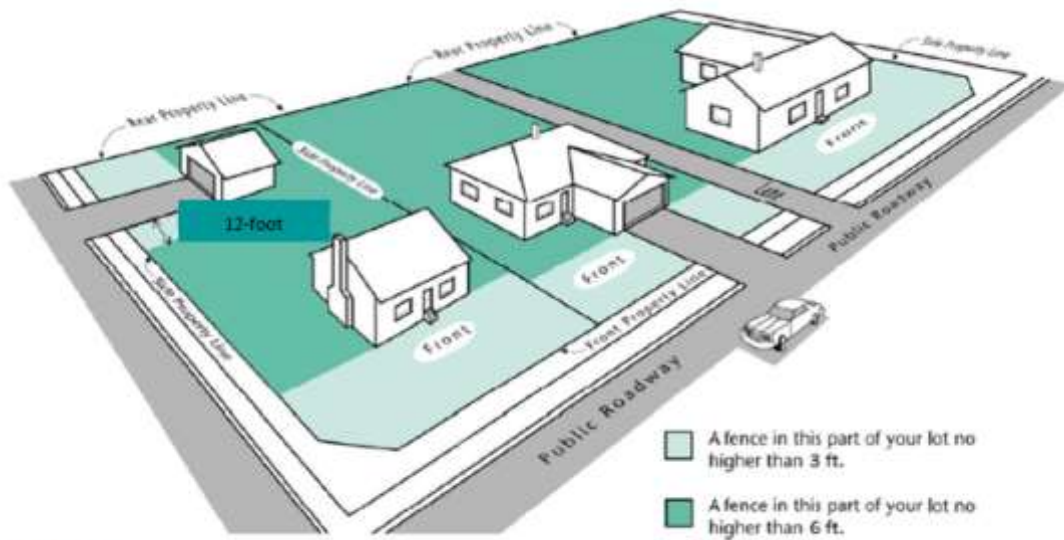
- 1. The Planning Commission finds that the application does not adequately consider the potential positive and negative impacts of increasing the allowable fence or wall height.*
- 2. The Planning Commission finds that a more comprehensive ordinance amendment than what is proposed in this application is needed for CZC 12.55.110.*
- 3. Therefore, the Planning Commission finds that the request for a Zoning Code Text Amendment regarding CZC 12.55.110 Fences and Walls should not be positively recommended to the City Council.*



## **12.55.110 Fences And Walls**

(a) Height of Fences and Walls. No fence, wall, or other similar structure exceeding six feet in height shall be erected in any rear or side yard except for accessory buildings and structures permitted by this Title, except as provided below.

1. When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from:
  - a. The average elevation of the finished grade of adjoining properties at the fence line; or
  - b. If excavated or filled, the native elevation.
2. No fence need be less than 48 inches in height.
3. The Planning Commission may approve a fence, wall or similar structure not to exceed 10 feet in a rear area or side yard in the A-M, R-M, R-H, C-M, C-H, C-VH, I-H, I-VH, PF-L, PF-M, PF-H, or PF-VH zones as part of a site plan review, or amended site plan, with the findings by the Planning Commission that is to be a benefit to the surrounding properties and/or help to buffer the use, and is in the City's best interest.
4. The Zoning Administrator may approve a fence, wall, or similar structure not to exceed a height of eight feet, as a buffering element, where a differing zone district boundary is present. Such fence shall be subject to the following:
  - a. A "permitted use" application shall be submitted to the City for any fence higher than six feet.
  - b. The increased height placement shall be limited to placement or location along a zone district boundary between two differing zones, when and where there is a difference in zone intensity and the higher intensity zone is missing the buffering element of CZC 12.51.070 or between any A-L and R-L Zone boundary.
  - c. In no case shall the increased height be placed, located, or extended into any front yard or street side yard setback requirement of any zone.
  - d. Where utility easements are present, the "permitted use" request shall comply with CZC 12.55.100 Easements.
  - e. All fencing above six feet in height shall comply with any or all applicable building code regulations and/or shall meet the adopted applicable wind loading regulations.
5. South side of Porter Lane, from 400 West to Main Street. For all legally approved rear yard fronting lots along the creek channel, the fence height shall not exceed eight feet in height along the rear yard lot line.
6. Street Side Yard, Corner Lots. For residential zones, fencing up to 6 feet in height may be allowed within the street side yard portion of a corner lot, as measured from an interior lot line of the lot to a line intersecting at the Front Yard Setback line of the lot along the other street. Exception, fences shall not exceed 4 feet in height for a minimum distance of at least 12 feet, when a driveway on an adjacent lot is located within 12 feet of the interior lot line of the corner lot (see Figure 1.1 for a visual reference).



**Figure 1.1**

- (a) Fences in Front Yard and Street Side Yard. Except as otherwise provided herein, no fence or wall or other similar structure exceeding 48 inches in height shall be erected within a front yard or a street side yard.

#### HISTORY

Adopted by Ord. [2016-20](#) on 7/15/2016

Amended by Ord. [2018-17](#) on 7/17/2018

Amended by Ord. [2021-19](#) on 9/7/2021

Draft of proposed text amendment to CZC 12.55.110 by R Jensen dated 12-3-23:

Differentiate between non-structurally engineered walls and structurally engineered walls.  
Amend the allowed fence height from 6' to 7' for non-structurally engineered walls (typically chain-link, wood or vinyl) and 8' for structurally engineered walls (typically concrete or CMU).

Reason(s) supporting the request for an amendment by R Jensen dated 12-3-23:

A structurally engineered wall on a sloped lot where the maximum height is 6' along any portion of the wall ends up having an average height of between 3' to 5' because the wall steps as the lot slopes down or up. This does not allow the wall to be a good visual and sound barrier between neighbors in the back yard. Good walls make good neighbors.



**PLANNING  
COMMISSION**

**Staff Report**  
1/24/2024

**Item No. 2.**

**Title:** Open and Public Meetings Training

**Initiated By:** Jennifer Robison, City Recorder

**Staff Representative:** Jennifer Robison, City Recorder

**SUBJECT:**

Required annual training on the Utah Open and Public Meetings Act

**RECOMMENDATION:**

**BACKGROUND:**

The City Recorder will provide a brief presentation on the basics of the Utah Open and Public Meetings Act. This training is required by law to be provided annually. A copy of the applicable statutes is attached.

**ATTACHMENTS:**

1. Utah Open Meetings Act - UCA 52-4-101, et seq.
2. Handout - Open Meetings
3. Handout - Closed Meetings

## **Chapter 4**

### **Open and Public Meetings Act**

#### **Part 1**

#### **General Provisions**

##### **52-4-101 Title.**

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

##### **52-4-102 Declaration of public policy.**

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

##### **52-4-103 Definitions.**

As used in this chapter:

- (1) "Anchor location" means the physical location from which:
  - (a) an electronic meeting originates; or
  - (b) the participants are connected.
- (2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.
- (3)
  - (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
  - (b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.
- (4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
- (5) "Electronic message" means a communication transmitted electronically, including:
  - (a) electronic mail;
  - (b) instant messaging;
  - (c) electronic chat;
  - (d) text messaging, as that term is defined in Section 76-4-401; or
  - (e) any other method that conveys a message or facilitates communication electronically.
- (6)
  - (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or

acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

- (b) "Meeting" does not mean:
  - (i) a chance gathering or social gathering;
  - (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or
  - (iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:
    - (A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or
    - (B) the conversation pertains only to day-to-day management and operation of the public transit district.
- (c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:
  - (i) no public funds are appropriated for expenditure during the time the public body is convened; and
  - (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:
    - (A) for which no formal action by the public body is required; or
    - (B) that would not come before the public body for discussion or action.
- (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.
- (8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.
- (9)
  - (a) "Public body" means:
    - (i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
      - (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
      - (B) consists of two or more persons;
      - (C) expends, disburses, or is supported in whole or in part by tax revenue; and
      - (D) is vested with the authority to make decisions regarding the public's business; or
    - (ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:
      - (A) consists of two or more persons;
      - (B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and
      - (C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.
  - (b) "Public body" includes:
    - (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;
    - (ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102; and
    - (iii) the Utah Independent Redistricting Commission.
  - (c) "Public body" does not include:
    - (i) a political party, a political group, or a political caucus;

- (ii) a conference committee, a rules committee, or a sifting committee of the Legislature;
- (iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;
- (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602; or
- (v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:
  - (A) the Research and General Counsel Subcommittee;
  - (B) the Budget Subcommittee; and
  - (C) the Audit Subcommittee.
- (10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
- (11)
  - (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
  - (b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.
- (12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.
- (13) "Specified body":
  - (a) means an administrative, advisory, executive, or legislative body that:
    - (i) is not a public body;
    - (ii) consists of three or more members; and
    - (iii) includes at least one member who is:
      - (A) a legislator; and
      - (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and
  - (b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).
- (14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Amended by Chapter 25, 2019 General Session

Amended by Chapter 246, 2019 General Session

#### **52-4-104 Training.**

- (1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.
- (2) The presiding officer shall ensure that any training described in Subsection (1) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Amended by Chapter 200, 2018 General Session

## **Part 2 Meetings**

**52-4-201 Meetings open to the public -- Exceptions.**

- (1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.
- (2)
  - (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
  - (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
    - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
    - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
    - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or
    - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Renumbered and Amended by Chapter 14, 2006 General Session  
Amended by Chapter 263, 2006 General Session

**52-4-202 Public notice of meetings -- Emergency meetings.**

- (1)
  - (a)
    - (i) A public body shall give not less than 24 hours' public notice of each meeting.
    - (ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.
  - (b) The public notice required under Subsection (1)(a) shall include the meeting:
    - (i) agenda;
    - (ii) date;
    - (iii) time; and
    - (iv) place.
- (2)
  - (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
  - (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.
- (3)
  - (a) A public body or specified body satisfies a requirement for public notice by:
    - (i) posting written notice:
      - (A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and
      - (B) on the Utah Public Notice Website created under Section 63F-1-701; and
    - (ii) providing notice to:
      - (A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

- (B) a local media correspondent.
- (b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).
- (c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.
- (4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).
- (5)
  - (a) The notice requirement of Subsection (1) may be disregarded if:
    - (i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
    - (ii) the public body or specified body gives the best notice practicable of:
      - (A) the time and place of the emergency meeting; and
      - (B) the topics to be considered at the emergency meeting.
  - (b) An emergency meeting of a public body may not be held unless:
    - (i) an attempt has been made to notify all the members of the public body; and
    - (ii) a majority of the members of the public body approve the meeting.
- (6)
  - (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.
  - (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
  - (c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
    - (i) listed under an agenda item as required by Subsection (6)(a); and
    - (ii) included with the advance public notice required by this section.
- (7) Except as provided in this section, this chapter does not apply to a specified body.

Amended by Chapter 77, 2016 General Session

**52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.**

- (1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.
- (2)
  - (a) Written minutes of an open meeting shall include:
    - (i) the date, time, and place of the meeting;
    - (ii) the names of members present and absent;
    - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
    - (iv) a record, by individual member, of each vote taken by the public body;
    - (v) the name of each person who:
      - (A) is not a member of the public body; and

- (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
- (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.
- (3) A recording of an open meeting shall:
  - (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
  - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "Approved minutes" means written minutes:
      - (A) of an open meeting; and
      - (B) that have been approved by the public body that held the open meeting.
    - (ii) "Electronic information" means information presented or provided in an electronic format.
    - (iii) "Pending minutes" means written minutes:
      - (A) of an open meeting; and
      - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
    - (iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.
    - (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
    - (vi) "State website" means the Utah Public Notice Website created under Section 63F-1-701.
  - (b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.
  - (c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.
  - (d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.
  - (e) A state public body shall:
    - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
    - (ii) within three business days after approving written minutes of an open meeting:
      - (A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;
      - (B) make the approved minutes and public materials available to the public at the public body's primary office; and

- (C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and
- (iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.
- (f) A specified local public body shall:
  - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and
  - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (g) A public body that is not a state public body or a specified local public body shall:
  - (i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes, make the approved minutes available to the public; and
  - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.
- (i) Approved minutes of an open meeting are the official record of the meeting.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Notwithstanding Subsection (1), a recording is not required to be kept of:
  - (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or
  - (b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 425, 2018 General Session

**52-4-204 Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.**

- (1) A closed meeting may be held if:
  - (a)
    - (i) a quorum is present;
    - (ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and
  - (iii)
    - (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

- (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
  - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
  - (D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
- (b)
- (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";
  - (ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or
  - (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
  - (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
  - (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
    - (a) the reason or reasons for holding the closed meeting;
    - (b) the location where the closed meeting will be held; and
    - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
  - (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 461, 2018 General Session

**52-4-205 Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

- (1) A closed meeting described under Section 52-4-204 may only be held for:

- (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
  - (i) disclose the appraisal or estimated value of the property under consideration; or
  - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
  - (i) public discussion of the transaction would:
    - (A) disclose the appraisal or estimated value of the property under consideration; or
    - (B) prevent the public body from completing the transaction on the best possible terms;
  - (ii) the public body previously gave public notice that the property would be offered for sale; and
  - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
- (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);
- (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;
- (k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;
- (l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;
- (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
  - (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
  - (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
  - (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
- (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- (o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:
  - (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and
  - (ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;
- (p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

- (i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and
  - (ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or
  - (q) a purpose for which a meeting is required to be closed under Subsection (2).
- (2) The following meetings shall be closed:
- (a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);
  - (b) a meeting of the Child Welfare Legislative Oversight Panel to:
    - (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or
    - (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and
  - (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.
- (3) In a closed meeting, a public body may not:
- (a) interview a person applying to fill an elected position;
  - (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or
  - (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 417, 2019 General Session

#### **52-4-206 Record of closed meetings.**

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:
  - (a) shall make a recording of the closed portion of the meeting; and
  - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
  - (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent; and
  - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) A recording, transcript, report, and written minutes of a closed meeting are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):

- (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and
- (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 425, 2018 General Session

**52-4-207 Electronic meetings -- Authorization -- Requirements.**

- (1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.
- (2)
  - (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
  - (b) The resolution, rule, or ordinance may:
    - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
    - (ii) require a quorum of the public body to:
      - (A) be present at a single anchor location for the meeting; and
      - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
    - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
    - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
    - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
  - (a) give public notice of the meeting:
    - (i) in accordance with Section 52-4-202; and
    - (ii) post written notice at the anchor location;
  - (b) in addition to giving public notice required by Subsection (3)(a), provide:
    - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
    - (ii) a description of how the members will be connected to the electronic meeting;
  - (c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
  - (d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and
  - (e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
- (4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 31, 2011 General Session

**52-4-208 Chance or social meetings.**

- (1) This chapter does not apply to any chance meeting or a social meeting.
- (2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

**52-4-209 Electronic meetings for charter school board.**

- (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:
  - (a) "Anchor location" means a physical location where:
    - (i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and
    - (ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.
  - (b) "Charter school board" means the governing board of a school created under Title 53G, Chapter 5, Charter Schools.
  - (c) "Meeting" means the convening of a charter school board:
    - (i) with a quorum who:
      - (A) monitors a website at least once during the electronic meeting; and
      - (B) casts a vote on a website, if a vote is taken; and
    - (ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.
  - (d) "Monitor" means to:
    - (i) read all the content added to a website by the public or a charter school board member; and
    - (ii) view a vote cast by a charter school board member on a website.
  - (e) "Participate" means to add content to a website.
- (2)
  - (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.
  - (b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:
    - (i) the chair verifies that a quorum monitors the website;
    - (ii) the content of the website is available to the public;
    - (iii) the chair controls the times in which a charter school board member or the public participates; and
    - (iv) the chair requires a person to identify himself or herself if the person:
      - (A) participates; or
      - (B) casts a vote as a charter school board member.
- (3) A charter school that conducts an electronic meeting under this section shall:
  - (a) give public notice of the electronic meeting:
    - (i) in accordance with Section 52-4-202; and
    - (ii) by posting written notice at the anchor location as required under Section 52-4-207;
  - (b) in addition to giving public notice required by Subsection (3)(a), provide:

- (i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;
  - (ii) a description of how the members and the public may be connected to the electronic meeting;
  - (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
  - (iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and
  - (c) provide an anchor location.
- (4) The chair shall:
- (a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and
  - (b) allow a charter school board member to change a vote until the end time for when a vote will be taken.
- (5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.
- (6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.
- (7)
- (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.
  - (b)
    - (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).
    - (ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.
  - (c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.
- (8)
- (a) A charter school board shall ensure that the website used to conduct an electronic meeting:
    - (i) is secure; and
    - (ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.
  - (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).
- (9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 415, 2018 General Session

#### **52-4-210 Electronic message transmissions.**

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

Enacted by Chapter 25, 2011 General Session

### **Part 3 Enforcement**

#### **52-4-301 Disruption of meetings.**

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

#### **52-4-302 Suit to void final action -- Limitation -- Exceptions.**

- (1)
  - (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.
  - (b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:
    - (i) the posting is made for a meeting that is held before April 1, 2009; or
    - (ii)
      - (A) the public body otherwise complies with the provisions of Section 52-4-202; and
      - (B) the failure was a result of unforeseen Internet hosting or communication technology failure.
- (2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.
- (3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 403, 2012 General Session

#### **52-4-303 Enforcement of chapter -- Suit to compel compliance.**

- (1) The attorney general and county attorneys of the state shall enforce this chapter.
- (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
- (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
  - (a) compel compliance with or enjoin violations of this chapter; or
  - (b) determine the chapter's applicability to discussions or decisions of a public body.
- (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session  
Amended by Chapter 263, 2006 General Session

#### **52-4-304 Action challenging closed meeting.**

- (1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

- (a) review the recording or written minutes of the closed meeting in camera; and
  - (b) decide the legality of the closed meeting.
- (2)
- (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.
  - (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.
- (3) Nothing in this section may be construed to affect the ability of a public body to reclassify a record, as defined in Section 63G-2-103, as provided in Section 63G-2-307.

Amended by Chapter 425, 2018 General Session

**52-4-305 Criminal penalty for closed meeting violation.**

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session



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### OPEN AND PUBLIC MEETINGS ACT

The Utah Legislature has adopted the Open and Public Meetings Act (Open Meetings Act), as set forth in *Utah Code Ann. §§ 52-4-101, et seq.* The Open Meetings Act applies to all administrative, advisory, elected, appointed and legislative public bodies of the City, including the City Council, Planning Commission, Board of Adjustment, and other boards and committees of the City. As a matter of public policy, the Utah Legislature has declared that the State and all of its entities and political subdivisions exist to aid in the conduct of the public's business. As such, the purpose of the Open Meetings Act is to ensure that the City takes its actions and conducts its deliberations regarding the public's business openly. By law, the Mayor is required to ensure that the members of the City Council receive annual training on the Open Meetings Act.

#### **Every Meetings Is Public (Unless Closed for Reasons Allowed by Law)**

Every meeting of the City Council shall be open to the public unless such meeting is closed for legitimate reasons provided by law. Meetings include regular meetings, special meetings, executive sessions, work sessions, field trips, or other meetings of the City Council where a quorum of its members is present and the purpose of the meeting is to discuss or take action on matters within the City Council's jurisdiction. A quorum of the City Council is defined by statute as three members, excluding the mayor. A chance meeting of a quorum of the City Council or a social event, such as the annual City dinner, does not constitute a "meeting" under the Open Meetings Act so long as the members of the City Council do not discuss or act upon matters of public business at the party. Lawful reasons to go into a closed session are summarized in a separate handout on Closed Meetings.

#### **Public Notice**

In order to provide the public with an opportunity to attend and participate in the public's business, the City is required to give at least 24 hours public notice of each meeting of the City Council. This public notice must include the agenda for the meeting and the date, time, and place of the meetings. The City must also provide public notice at least once each year of the City Council's annual meetings schedule. Public notice of the annual meetings schedule and the 24 hour notice of each meeting requires: (1) posting written notice at City Hall; (2) posting notice on the Utah Public Notice Website; and (3) providing notice to at least one local newspaper or local media correspondent. The City is encouraged to develop and use additional electronic means to provide notice of its meetings, which Centerville does by providing notice of all of its meetings on the City website. The City also provides public electronic access to all of its City Council meeting agendas and packet information through Novus as found on the City website. Other noticing requirements apply to various applications under Centerville City Ordinances in addition to notice required under the Open Meetings Act.

## **Written Minutes and Recordings**

Except otherwise provided by law, written minutes and a recording shall be kept of all open meetings of the City Council. Written minutes are not a verbatim transcript of the meeting but should include the substance in brief of the discussions of the Council and any testimony or public comment. The minutes must also include a record, by individual member, of each vote taken by the City Council. Approval of minutes by City Council shall comply with the City's Minutes Approval Policy. Pending minutes, approved minutes, and the recording of an open meeting are public records. Pending minutes of the City Council must be made available to the public within 30 days after holding the meeting. Approved minutes of the City Council must be posted to the Utah Public Notice Website within 3 days after approval. The recording of an open meeting of the City Council must be available to the public within 3 business days after the meeting. The City also posts audio recordings of City Council meetings on the Utah Public Notice Website. Written minutes from open meetings, once approved by the City Council, are the official record of the meetings and are generally retained permanently by the City Recorder. The Council should make sure the minutes properly reflect the actions taken by the Council.

## **Electronic Meetings**

The City Council may hold electronic meetings, such as conference call or video conferencing, in accordance with the City's Electronic Meeting Policy. In general, there must be an anchor location for the electronic meeting (usually City Hall), and there must be sufficient facilities and technology available at the anchor location to allow all participants of the meeting the ability to communicate with the members of the City Council, and so that each member of Council can communicate with all participants and other members. As extra noticing and facility set up is required for electronic meetings, it is requested that Council members provide sufficient advanced notice to staff of the need for an electronic meeting.

## **Fun Rules**

- A work session or executive session of the City Council that is held on the same day as a regularly scheduled public meeting of the Council is required to be held at the same place as the regular meeting (unless otherwise allowed by law); i.e. you can't have your work session at Dairy Queen.
- The City Council must list the proposed agenda topics and items for discussion and action by the Council. Each agenda item must be listed with reasonable specificity to notify the public as to the topics to be considered at the meeting.
- The City Council should avoid talking about matters that are not listed on the agenda and is prohibited from taking final action on any matter that is not listed on the agenda or included with the advance public notice of the meeting.
- Recordings of open meetings must be a complete and unedited record of all portions of the open meeting; i.e. you can't stop and start the recording to exclude discussions.
- You don't have to make a recording of an open meeting that is a site visit or traveling tour so long as no vote or action is taken by the City Council during the site visit or travelling tour.
- Notice requirements may be disregarded to consider matters of an emergency or urgent nature if the City gives the best notice practicable. Check with City Attorney for applicable requirements.
- Council members should not send emails or texts to other members of the Council when the Council is convened and Council members should avoid creating an electronic meeting through group email chats.
- Anyone can independently record all or any part of an open meeting so long as the recording does not interfere with the conduct of the meeting.
- Members of the City Council who knowingly or intentionally violate the Open Meetings Act may be guilty of a class B misdemeanor.



## CENTERVILLE CITY ATTORNEY'S OFFICE

250 North Main Street  
Centerville, Utah 84014  
801.335.8842

### CLOSED MEETINGS

The Utah Legislature has adopted the Open and Public Meetings Act (Open Meetings Act), as set forth in *Utah Code Ann.* §§ 52-4-101, *et seq.* The Open Meetings Act applies to all administrative, advisory, elected, appointed and legislative public bodies of the City, including the City Council, Planning Commission, Board of Adjustment, and other boards and committees of the City. Under the Open Meetings Act, all meetings of the City Council shall be open to the public unless lawfully closed for reasons permitted by law.

#### Lawful Reasons to go into a Closed Meeting

Pursuant to *Utah Code Ann.* § 52-4-205, the City Council may only go into a closed session for the following reasons:

- ⇒ Discussion of the character, professional competence, or physical or mental health of an individual;
- ⇒ Strategy sessions to discuss pending or reasonably imminent litigation;
- ⇒ Strategy sessions to discuss the purchase, sale, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would: (i) disclose the appraisal or estimated value of the property under consideration; or (ii) prevent the City from completing the transaction on the best possible terms;
- ⇒ Discussion regarding deployment of security personnel, devices or systems; and
- ⇒ Investigative proceedings regarding allegations of criminal misconduct.

#### Procedures to go into a Closed Meeting

In order to go into a closed session, a quorum of the City Council must be present at an open meeting for which notice has been provided. Two-thirds of the members of the City Council present at the open meeting must vote to approve going into a closed meeting. The following information is required to be publicly announced and entered into the minutes of the open meeting when the closed meeting is approved: (1) the reason or reasons for holding the closed meeting; (2) the location where the closed meeting will be held; and (3) the vote by name of each member of the City Council either for or against the motion to go into a closed meeting.

### **Minutes and Recording.**

Generally, the City is required to record all closed meetings and “may” keep detailed written minutes of such closed meetings. The recording of the closed meeting must be complete and unedited from commencement of the closed meeting through adjournment of the closed meeting. The recording and minutes of a closed meeting shall include: (1) the date, time, and place of the closed meeting; (2) the names of members present and absent; and (3) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of the closed meeting. If the City Council closes a meeting exclusively for the purpose to discuss the character, professional competence, or physical or mental health of an individual or to discuss deployment of security personnel, devices or systems, a recording does not have to be made of the closed meeting so long as the person presiding signs a sworn statement affirming that the sole purpose for closing the meeting was to discuss such exempted topics.

### **Additional Restrictions**

A closed meeting is only allowed if each matter discussed in the closed meeting is permitted under Section 52-4-205. The Council’s discussion is limited to the lawful reasons for which the Council voted to go into the closed meeting. No ordinance, resolution, rule, regulation, contract, or appointment may be approved in a closed meeting. The City Council is also prohibited from interviewing a person applying to fill an elected position or discussing the character, professional competence, or physical or mental health of a person whose name has been submitted for consideration to fill a midterm vacancy or temporary absence under Title 20A regarding vacancies in elected offices.

### **Challenges and Enforcement**

The Attorney General and the County Attorneys of the State are authorized to enforce the provisions of the Open Meetings Act. A person denied a right under the Act may commence suit in court to compel compliance with the Act, to enjoin violations of the Act, or to determine the Act’s applicability to discussions or decisions of the City Council. The court may award attorneys’ fees and court costs to a successful plaintiff. In a challenge to the legality of a closed meeting held by the City Council, the court shall review the recording or written minutes of the closed meeting *in camera* and decide the legality of the closed meeting. If the judge determines that the Council did not comply with the Act regarding closed meetings, the judge shall publicly disclose from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed. If the judge determines that the Council did comply with the Act in going into the closed meeting, the judge will dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

### **Criminal Penalties**

In addition to any other penalty provided in the Open Meetings Act, any member of the City Council who knowingly or intentionally violates or knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of the Act is guilty of a class B misdemeanor.



**PLANNING  
COMMISSION**

**Staff Report**  
**1/24/2024**

**Item No. 1.**

**Title:** Community Development Director's Report

**Initiated By:** Whitney Black, Assistant Planner

**Staff Representative:** Whitney Black, Assistant Planner

**SUBJECT:**

The Interim Community Development Director will give a report on upcoming meetings and updates to the Planning Commission.

**RECOMMENDATION:**

**BACKGROUND:**

The next Planning Commission meeting will be held on **February 28, 2024**. There is no meeting scheduled for February 14, 2024. We currently do not have any potential agenda items for that meeting. The deadline to be on that agenda is February 7, 2024.

**Updates from January 10, 2024, agenda items:**

1. S & S Auto - Parking calculations - *"More Than One Use on Lot. If a lot or parcel contains more than one use, parking spaces shall be provided in an amount equal to the total of the requirements for each use unless shared parking is permitted pursuant to this Chapter." - CZC 12.52.060*
2. Subdivision Ordinance - City Council approved the Subdivision Ordinance with some changes suggested by staff. The City Council ultimately decided to keep a public hearing at the Preliminary Subdivision step.

**ATTACHMENTS:**



**CENTERVILLE**  
*city*

**PLANNING  
COMMISSION**

**Staff Report**  
1/24/2024

**Item No. 1.**

**Title:** Minutes Review and Approval

**Initiated By:**

**Staff Representative:**

**SUBJECT:**

**RECOMMENDATION:**

**BACKGROUND:**

**ATTACHMENTS:**

1. 1-10-24 PC

1 **PLANNING COMMISSION MINUTES OF MEETING**

2 **Wednesday, January 10, 2024**

3 **7:00 p.m.**

4  
5 A quorum being present at City Hall, 250 North Main Street, Centerville, Utah, the  
6 meeting of the Centerville City Planning Commission was called to order at 7:00 p.m.

7  
8 **MEMBERS PRESENT**

9 Shawn Hoth

10 Mason Kjar

11 Amanda Jorgensen

12 Matt Larsen

13 Tyler Moss

14 LaRae Patterson

15 Heidi Shegrud

16  
17 **STAFF PRESENT**

18 Lisa Romney, City Attorney

19 Whitney Black, Assistant Planner

20  
21 **VISITOR**

22 Max Mikhailov, S&S Auto

23 Lisa Watts Baskin, Smith Hartvigsen

24  
25 **LEGISLATIVE THOUGHT/PRAYER** Commissioner Jorgensen

26  
27 **PLEDGE OF ALLEGIANCE**

28  
29 **ELECT CHAIR AND VICE CHAIR**

30  
31 Commissioner Patterson **nominated** Mason Kjar to serve as Planning Commission  
32 Chair. Commissioner Larsen seconded the nomination. With no other nominations, a vote to  
33 appoint Mason Kjar to serve as Planning Commission Chair in 2024 passed unanimously (7-0).

34  
35 Commissioner Jorgensen **nominated** LaRae Patterson to serve as Planning  
36 Commission Vice Chair. Commissioner Larsen seconded the nomination. With no other  
37 nominations, LaRae Patterson was elected by unanimous vote (7-0) to serve as Vice Chair in  
38 2024. Commissioner Shegrud agreed to finish the meeting as Acting Chair.

39  
40 **2024 ANNUAL MEETING SCHEDULE**

41  
42 The Planning Commission reviewed a meeting schedule for 2024. Commissioner  
43 Shegrud pointed out the proposed schedule included meetings on February 14<sup>th</sup>, Valentine's  
44 Day, and July 24<sup>th</sup>, Pioneer Day. Vice Chair Patterson **moved** to amend the proposed 2024  
45 meeting schedule to remove meetings scheduled for February 14, 2024 and July 24, 2024.  
46 Commissioner Larsen seconded the motion, which passed by unanimous vote (7-0).

47  
48 **PUBLIC HEARING – CONDITIONAL USE PERMIT FOR VEHICLE RENTAL OR**  
49 **SALE, LIMITED – S&S AUTO SALES LOCATED AT 595 N 1250 W SUITE #1**

50  
51 Assistant Planner Whitney Black explained the request for Conditional Use Permit for a  
52 used car dealership at 595 North 1250 West Suite #1, in the Industrial High (I-H) Zone. She said  
53 the business owner planned to display 3-4 vehicles inside the shop, serving customers by  
54 appointment from 9 a.m. to 5 p.m., five days a week. Ms. Black said staff believed the request  
55 was consistent with the intent of the General Plan, and could be served by existing

1 infrastructure. Ms. Black commented that a permit would be needed for the sign that was  
2 already in place. Although the business would be in a building that was part of a larger complex,  
3 the building itself (shared by a drone business currently occupying two suites) only had eleven  
4 parking spaces. The drone business should have twelve parking spaces according to City  
5 parking calculations, and was already deficient by one. No parking spaces remained to meet the  
6 required six for the proposed used car dealership. Ms. Black said staff recommended the  
7 Planning Commission deny the application, or table the matter to provide an opportunity for the  
8 applicant to apply for a parking modification or provide information regarding all businesses in  
9 the complex for recalculation of parking. The property owner could apply for a site plan  
10 amendment to stripe additional parking behind the building.

11  
12 The Planning Commission discussed parking calculations on individual buildings versus  
13 an entire complex. Ms. Black clarified that the subject complex had one property owner with  
14 buildings leased to individuals/companies.

15  
16 Max Mikhailov, owner of S&S Auto, said the complex had a lot of common parking that  
17 was always available during the day. He emphasized that his business was operated by  
18 appointment only, and said he did not see parking being a problem. Mr. Mikhailov said the  
19 property owner of ten years told him no one had ever complained of a parking problem. He said  
20 he would drive vehicles for sale to the site individually; vehicles would not be delivered by  
21 transport truck. Chair Kjar suggested the possibility of a shared parking agreement.

22  
23 Commissioner Shegrud opened a public hearing at 7:35 p.m., and closed the public  
24 hearing seeing no one come forward. Commissioner Shegrud said she viewed the situation as a  
25 whole-site problem for the landlord to solve. City Attorney Lisa Romney suggested the Planning  
26 Commission could table the matter and direct staff to look at how the site was approved,  
27 allowing time for the applicant to pursue one of the options discussed. Mr. Mikhailov commented  
28 that a dealership had previously existed in the complex.

29  
30 Chair Kjar stated the application as submitted was not in compliance with City ordinance.  
31 He said expanding the application would be the applicant's responsibility. Chair Kjar pointed out  
32 that similar parking situations had occurred in Centerville previously, with parking approved for  
33 initial tenants and insufficient parking remaining for subsequent tenants. Chair Kjar expressed  
34 the opinion that the landlord should monitor the parking available for each tenant, and not  
35 promise more parking than was available to potential tenants. Chair Kjar expressed support for  
36 tabling the matter.

37  
38 Commissioner Shegrud **moved** to table the matter and direct staff to work with the  
39 applicant to find a solution. Commissioner Larsen seconded the motion, which passed by  
40 unanimous vote (7-0).

41  
42 **PUBLIC HEARING – MUNICIPAL CODE AMENDMENTS – SUBDIVISION**  
43 **ORDINANCE UPDATES**  
44

45 Ms. Romney explained that proposed amendments to Title 15 of the Centerville  
46 Municipal Code were drafted in response to SB 174 (approved in 2023), related to residential  
47 land use development and management. Ms. Romney introduced Lisa Watts Baskin with Smith  
48 Hartvigsen, one of the firms hired by the State to help cities draft the amendments, which must  
49 be adopted by February 1, 2024.

50  
51 Ms. Baskin explained requirements of SB 174. She said the City Council may no longer  
52 be an approving body for residential subdivisions. In addition, cities can no longer mandate  
53 conceptual subdivision review for residential subdivisions. Specific review and approval

timelines were added. Ms. Baskin and Ms. Romney reviewed proposed amendments to Title 15 with the Planning Commission, and answered questions.

Ms. Romney recommended not including a public hearing with preliminary subdivision plat approvals because preliminary approvals were an administrative decision that involved very little discretion. If an application met City Code, the application should be approved. Ms. Romney suggested accepting written public comment for a specified time instead of a public hearing. She explained SB 174 had mandated final plat applications were to be reviewed and approved by staff, no longer by the City Council with a public hearing.

The Planning Commission discussed whether or not they wanted to include a public hearing with preliminary approvals. Chair Kjar said he would prefer to include a public hearing because sometimes allowing a vent for public frustration was exactly what was necessary. He said a public hearing could afford the public an opportunity to understand how the process worked. Commissioner Larsen expressed the opinion that inviting the public for a hearing on an administrative decision may result in public frustration, and put staff in an even more difficult position.

Commissioner Shegrud opened a public hearing, and closed the public hearing seeing no one come forward. The Planning Commission discussed welcoming written public comment for preliminary approvals. Commissioner Patterson pointed out a reference to Riverton City in the draft, and said there were additional corrections necessary. Ms. Romney indicated the document would be cleaned up.

Commissioner Shegrud **moved** to recommend approval of Ordinance No. 2024-01 to the City Council, subject to staff making changes discussed that evening and changes deemed necessary by staff and contract attorneys. Commissioner Larsen seconded the motion, which passed by unanimous vote (7-0).

#### **PUBLIC HEARING – MUNICIPAL CODE AMENDMENTS – IMPACT FEE ORDINANCE UPDATES**

Ms. Romney said staff had been working on updating and reorganizing Title 15 (Subdivision) and Title 20 (Impact Fees) before the State passed SB 174. She presented proposed amendments. Commissioner Shegrud said the amendments seemed straight forward.

Commissioner Shegrud opened a public hearing, and closed the public hearing seeing no one come forward. Chair Kjar **moved** to forward a positive recommendation of Ordinance No. 2024-02 to the City Council with no conditions, caveats, concerns, reservations, questions, criticisms, or otherwise. Commissioner Shegrud seconded the motion, which passed by unanimous vote (7-0).

#### **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

The Planning Commission was scheduled to meet next on January 24, 2024.

#### **MINUTES REVIEW AND APPROVAL**

Minutes of the November 8, 2023 Planning Commission Meeting were reviewed. Commissioner Shegrud **moved** to approve the minutes. Commissioner Patterson seconded the motion, which passed by unanimous vote (7-0).

Ms. Black updated the Planning Commission on recruitment efforts for a new Community Development Director. Chair Kjar expressed gratitude and appreciation to Heidi

Shegrud for all the effort she put into being Planning Commission Chair in 2023. Commissioner Shegrud spoke of the importance of promoting health and welfare in the community.

**ADJOURNMENT**

At 8:59 p.m., Commissioner Patterson **moved** to adjourn the meeting. Commissioner Larsen seconded the motion, which passed by unanimous vote (7-0).

\_\_\_\_\_  
Jennifer Robison, City Recorder

\_\_\_\_\_  
Date Approved