

1 **PLANNING COMMISSION MINUTES OF MEETING**

2 **Wednesday, January 9, 2019**

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

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

8
9 **MEMBERS PRESENT**

10 Kevin Daly, Vice Chair

11 Cheylynn Hayman, Chair

12 Kai Hintze

13 Gina Hirst

14 Logan Johnson

15 Becki Wright

16
17 **MEMBERS ABSENT**

18 Kathy Helgesen

19
20 **STAFF PRESENT**

21 Cory Snyder, Community Development Director

22 Lisa Romney, City Attorney

23 Cassie Younger, Assistant Planner

24 Katie Rust, Recording Secretary

25
26 **VISITORS**

27 Interested citizens

28
29 **PLEDGE OF ALLEGIANCE**

30
31 **OPENING COMMENT/LEGISLATIVE PRAYER**

Commissioner Johnson

32
33 **ELECTION OF CHAIR AND VICE CHAIR**

34
35 Chair Hayman nominated Kevin Daly to serve as Chair of the Planning Commission.
36 Commissioner Johnson seconded the nomination. Commissioner Wright nominated Cheylynn
37 Hayman to continue as Chair of the Planning Commission. Commissioner Hintze seconded the
38 nomination. Commissioner Johnson made a **motion** to close nominations. Commissioner Wright
39 seconded the motion, which passed by unanimous vote (5-0). Ballots were cast and tallied.
40 Cheylynn Hayman was reelected Chair of the Planning Commission by majority vote (5-1).

41
42 Commissioner Wright nominated Kevin Daly to serve as Vice Chair. No other nominations
43 were made. Commissioner Johnson made a **motion** for Kevin Daly to continue as Vice Chair of
44 the Planning Commission. Commissioner Wright seconded the motion, which passed by
45 unanimous vote (6-0).

**PUBLIC HEARING – ZONING TEXT AMENDMENT – CZC 12.12 DEFINITIONS AND
12.36 TABLE OF USES TATTOO ESTABLISHMENT AND PERSONAL CARE**

Cassie Younger, Assistant Planner, explained that the applicant owns a business on Main Street called Taylor Kay Brows & Co. She would like to incorporate microblading and other permanent cosmetics into her business in Centerville. However, microblading on eyebrows is a form of tattooing, and tattoo establishments are not allowed within the city. Ms. Davis would like for this use to be allowed within Centerville code under "Personal Care" so her business does not have to be categorized as a tattoo parlor.

Chair Hayman expressed concern with regard to the city prohibition of tattoo parlors, the definition of tattoo parlors under constitutional law, and the possibility that adoption of the proposed text amendment would increase the City's risk of legal challenge to its tattoo parlor prohibition, should someone bring up the allowing certain forms of tattooing but not others. City Attorney Lisa Romney explained that federal courts are mixed on whether or not tattoo establishments are protected under the First Amendment as a form of free speech. The Ninth Circuit has held that tattoos and the process of tattooing are forms of free expression protected by the First Amendment and struck down an ordinance completely banning tattoo establishments as unconstitutional. Other courts have upheld reasonable zoning and permitting requirements for tattoo establishments. The question of whether tattoo establishments are protected under the First Amendment as free expression is undecided in the Tenth Circuit and has not been addressed by the Utah Supreme Court. Therefore, it is unclear whether the adoption of the proposed text amendments would open up the door to increased challenge, because the legality of prohibiting tattoo parlors and whether they are protected under the First Amendment has not been decided in Utah. If tattooing is deemed protected by the First Amendment, the distinction in the ordinance is likely not sustainable. Ms. Romney said, however, it could be argued that microblading is more of a procedure or form of makeup than expression through tattoo subject to reasonable regulation. Cory Snyder, Community Development Director, commented that a lot of cities have adopted a distinction between permanent makeup and tattooing as a form of self-expression.

Commissioner Wright agreed that the city ban on tattoo parlors could potentially be challenged, but said she does not think approving the proposed ordinance would strengthen that challenge. Commissioner Wright asked if any special signage is required outside the business indicating an age minimum. Vice Chair Daly asked if licensing is required to perform microblading and general tattooing. Mr. Snyder responded that general tattooing is regulated by the Health Department.

Taylor Davis, applicant, said she thinks there is a big difference between permanent cosmetics and tattoos. She said a lot of her patients have experienced health-related eyebrow loss and have benefited from microblading. Licensing requires a certification course, Health Department approval, and certification in CPR and bloodborne pathogens. Ms. Davis said she does not accept clients under the age of 18 for insurance reasons. She is not required to post an age restriction. Ms. Davis explained the microblading procedure. She said microblading is designed to enhance what is there or meant to be there and is not self-expression in the same way as tattoos.

Chair Hayman opened a public hearing at 7:29 p.m., and closed the public hearing seeing that no one wished to comment. Vice Chair Daly suggested the City identify and accentuate the difference between the cosmetic nature of microblading and the artistic nature of tattooing. He suggested the definition of permanent cosmetics include the requirement that it be done by a licensed cosmetician or aesthetician. Chair Hayman said she did not think including that

1 requirement would provide any additional legal right protection. Ms. Romney pointed out that a
2 tattoo license is required by the State to practice microblading and agreed with Chair Hayman
3 that the proposed language would not likely add any protection. Ms. Davis commented that an
4 aesthetician license is required to wax or trim eyebrows, but not to do microblading. If an
5 aesthetician license were required for microblading, it would need to be required for tattoo artists
6 are well. She said she does not know any tattoo artists with an aesthetician license.
7

8 Commissioner Wright made a **motion** for the Planning Commission to recommend to the
9 City Council the following changes in Zoning Code 12.12 Definitions:
10

11 **Personal Care Service:** An establishment primarily engaged in the provision of frequently
12 or recurrently needed services of a personal nature. Typical uses include beauty and
13 barber shops, permanent cosmetics, custom tailoring and seamstress shops, electrolysis
14 studios, portrait studios, shoe repair shops, tailors, tanning and nail salons, and weight
15 loss centers. The term excludes Tattoo Establishment.
16

17 **Tattoo Establishment:** Any location, place, area, structure, or business used for the
18 practice of affixing a permanent mark or design on or under the skin by a process of cutting
19 for the purpose of scarring or pricking or ingrainings an indelible pigment, dye, or ink in the
20 skin, or instruction for such a practice. The term excludes permanent cosmetics.
21

22 **Permanent Cosmetics:** A cosmetic treatment involving the controlled insertion of pigment
23 into the skin as a means of producing designs that resemble makeup such as eye brows
24 and eye lining and other natural enhancing colors to the face, lips, and eyelids and hairline.
25 Permanent cosmetic is solely for enhancing facial features that are already present or to
26 provide artificial eyebrows for those who have lost them as a consequence of old age,
27 disease, chemotherapy, genetic disturbance and to disguise scars and skin conditions. It
28 may be referred to as "Semi Permanent" because occasional touch ups are required.
29

30 The motion was seconded by Commissioner Hirst and passed by unanimous vote (6-0).
31

32 **PUBLIC HEARING – CONDITIONAL USE PERMIT – CAR SALES FOR SENSIBLE**
33 **RIDES AT 707 N 1000 WEST SUITE 4**
34

35 Cory Snyder, Community Development Director, explained that the applicant operates a
36 Vehicle Repair, Limited business, and desires to add sales use as an accessory use to the vehicle
37 repair activities. The applicant has a small sales operation with only a few cars per year for select
38 patrons of his business, so he does not need more than the minimum of three display stalls
39 required by the State. Mr. Snyder explained that parking is shared between multiple suites on
40 the property. He stated that staff has been unable to verify sufficient parking exists for the current
41 business and the added use involving the occupation of three parking stalls to double as a vehicle
42 sales display area. He presented two possible motions for resolving this matter.
43

44 Justin Manning, applicant, explained that all parking stalls in the center of the property are
45 allocated for his business through agreement with the property owner. Parking requirements for
46 the other businesses are met with the parking stalls in front of the offices. He said there is space
47 for three display stalls in front of one of his office spaces. Mr. Manning indicated he would be
48 willing to designate open space on the east side of the property for the three display stalls if
49 needed. He said his business occupies almost 50% of the property. Mr. Manning has a dealer
50 license, but he emphasized that his business is different from a regular dealership. Responding

1 to a question from Commissioner Johnson, Mr. Manning said he would not object if the number
2 of display stalls were capped at three.

3
4 Chair Hayman opened a public hearing at 7:55 p.m., and closed the public hearing seeing
5 that no one wished to comment. Commissioner Johnson made a **motion** to approve the
6 Conditional Use Permit request for Sensible Rides Auto Sales at 707 North 1000 West, Suite #4,
7 subject to the following:

- 8
9 1. This Conditional Use Permit shall apply only to the user space located at 707 North
10 1000 West, Suite #4.
11 2. This Conditional Use Permit approval is for a Vehicle Sales use.
12 3. All display vehicles shall be operable and in good condition, and the display of vehicles
13 shall be limited to no more than three (3) vehicles.
14 4. The display area shall NOT encumber the use of any required parking stall and shall
15 be located in an area that does NOT conflict with needed parking and vehicle
16 circulation lanes (*e.g. in the auto repair use facility, an approved storage area, or other*
17 *similar place*).
18 5. The display area location shall be provided using a site plan format to the City and
19 shall be reviewed and approved by the City's Zoning Administrator. Any dispute
20 regarding the approval of the Zoning Administrator shall be submitted to the Planning
21 Commission for resolution, prior to filing any related appeal.
22 6. The loading and unloading of vehicles for sale from a commercial transport truck is
23 prohibited.
24

25 Reasons for the Action (Findings):

- 26
27 a) The Planning Commission finds that the land use of vehicle and equipment rental or
28 sales is a conditional use within the Industrial-High Zone [CZC 12.36 (Table of Uses)].
29 b) The use is consistent with the expectation of the City's General Plan [Section 12-430-
30 1 & Future Land Use, Goal 1, 12-480-6].
31 c) The Planning Commission finds that the use of Suite #4 is the existing Vehicle Repair
32 business
33 d) The Planning Commission finds that the Vehicle Sales use is an accessory use to the
34 primary use of the applicant's business.
35 e) The Planning Commission finds that the applicant has a small sales operation with
36 only a few cars per year for select patrons of his business, so he does not need much
37 space or just enough to fulfill the state's dealer minimum requirements of three (3)
38 display stalls (see email dated 12-11-2018).
39 f) The Planning Commission finds that with the implemented conditions of approval the
40 criteria for issuance of the CUP have been satisfied, as described in the applicable
41 staff report.
42

43 Commissioner Hirst seconded the motion, which passed by unanimous vote (6-0).

PUBLIC MEETING – PARKING MODIFICATION – MISSION BUILDING – 803 N 1250 WEST

Ms. Younger explained the request for parking modification for the Mission Building located at 803 North 1250 West based on the different hours of use of the various tenants. The applicant reports that tenants in Suites 1 and 5 currently operate between 9:00 a.m. and 5:00 p.m., with a need for approximately 24 parking stalls during the day according to City code. Tenants in Suites 2, 3, and 4 primarily operate after 5:00 p.m. and on weekends, with 89 stalls needed according to City code. The applicant proposes to increase the number of parking stalls from 38 to 92.

Commissioner Wright said she knows from experience that the existing parking lot is frequently full in the evenings for recitals and performances. She said she suspects the use is higher and more frequent than listed. Vice Chair Daly commented that adequate circulation in the parking lot for dropping children off is an important consideration. Mr. Snyder explained that the application meets parking regulations for the shared-use standard. Centerville does not have a design standard to regulate whether a parking lot is configured appropriately for dropping off children. Commissioner Hirst said she suspects the evening uses begin at 4:00 p.m. rather than 5:00 p.m. Commissioner Wright expressed concern that overlap between day uses and evening uses would exacerbate the parking problem. Commissioners Hirst and Wright both commented on the need to provide a safe situation for dropping off children. Mr. Snyder emphasized the need to stay within the boundaries of the ordinance. The application is for shared-use consideration.

Troy Salmon, representing the applicant, said he believes going from 38 parking stalls to 92 stalls is a drastic change. Parking needs of the day use are minimal. He expressed willingness to place a sign to indicate that additional parking is available on the north side of the building.

Chair Hayman opened a public hearing at 8:25 p.m.

Grant Shupe – Mr. Shupe said he knows parking is an important question. He commented that with the increase to 92 stalls, parking problems would be unlikely. If a parking problem exists it would probably be mitigated by a tenant choosing to move to a different location. He agreed that child safety is a top priority.

The public hearing was closed at 8:27 p.m.

Commissioner Wright stated she thinks there must be something better than the proposed plan, but agreed that the significantly increased parking would improve the current situation. Ms. Younger confirmed that if tenants change and parking needs change, the issue will be reevaluated. Vice Chair Daly made a **motion** to approve the Parking Modification for Mission Building, located at 803 N 1250 West based on the following conditions and reasons for the action. Commissioner Hintze seconded the motion, which passed by unanimous vote (6-0).

Conditions:

1. This modification is only for Mission Building and is not transferable to another location or another user at this location.
2. The applicant shall paint and stripe according to our Parking dimension and design requirements as stated in CZC 12.52 in order to reach 92 stalls total, as shown in the provided site plan.

- a. This shall be done before the issuance of the remaining suites Certificates of Occupancy OR
- b. The applicant shall bond for the remaining striping on the lot.
3. Future tenants and uses may be altered with the approval of the Zoning Administrator. The total parking calculation of suites with peak demand during the same time period (daytime/evening) shall not exceed 92 stalls.
 - a. If there are any changes to tenants that exceed this calculation, OR if there are any complaints brought to the awareness of City Staff or the Commission, the Parking Modification shall be brought back to the Planning Commission for further review.

Reasons for the Action:

1. A parking modification is permitted with approval from the Planning Commission based on a parking study [12.52.110(e)(2)].
2. According to 12.52.110(c), the Commission may modify the required number of parking stalls for a commercial site.
3. The Planning Commission finds there is adequate parking for this site based on CZC 12.55.110(c) 2, 3, and 4.

**PUBLIC HEARING – ZONING TEXT AMENDMENT – 12.48 SOUTH MAIN STREET
OVERLAY ZONE**

On December 4, 2018, the City Council directed staff to bring back specific proposed ordinance amendments to the SMSC Overlay Zone regarding building setbacks and side yard distance between buildings. Staff prepared the proposed draft language for Council review, and on December 18, 2018, the Council directed the edits to be submitted to the Planning Commission for review and recommendation. On January 2, 2019, the Council met with staff to discuss the intent of the SMSC Overlay and General Plan. In the course of that meeting, the City Council stated the intention to have a replacement SMSC plan ready by June of 2019. Mr. Snyder explained to the Commission that because of the new direction, in his opinion, the relevancy of the proposed edits is not very high.

Requested Amendment #2 would change the "Civic Lot" Type Setbacks range from "15 to 25 feet" to "30 to 50 feet". Mr. Snyder stated the requested amendment is not consistent with the General Plan, which sets the maximum range at 15-25 feet. He recommended denial of Amendment #2.

Centerville Zoning Code states: "side areas that exceed 15 feet in width shall not be located to another side area that exceeds 15 feet in width unless the areas are used as a unified public gathering area or courtyard". Mr. Snyder said the Council would like to eliminate that requirement. Proposed Amendment #1 would add: "or other non-turf landscaping elements (e.g. garden plots, tree groves, flower beds, etc.), and/or design features (accent walls, fencing, sculptures/public art, etc.) that is approved by the City." Mr. Snyder repeated that the edits were requested before the January 2, 2019 discussion. He stated that if a new plan is put in place, the proposed edits become irrelevant.

Chair Hayman opened a public hearing at 8:52 p.m.

Grant Shupe – Mr. Shupe asked the definition of "Civil Lot" type. Mr. Snyder responded that Main Street has a defined "Civic Lot" type that is designed around civic uses. The "Civic Lot" type is not limited to the Civic Area within the SMSC. Mr. Shupe said he was concerned at the

1 last Council meeting he attended that because the Council did not like what the Planning
2 Commission had recommended, they sent it back to the Planning Commission without clear
3 direction. He said he hopes there is more communication between the two groups than he has
4 seen. He expressed appreciation for the Planning Commission and what they do. Mr. Snyder
5 commented that the two edits before the Planning Commission are in response to City Council
6 frustrations related to the new fire station, and are completely separate from the revised use list
7 recommended to the City Council by the Planning Commission.
8

9 Chair Hayman closed the public hearing at 9:05 p.m. Commissioner Johnson said he is
10 inclined to approve both proposed amendments in the interest of improving relations with the City
11 Council. Vice Chair Daly said the proposed amendments feel reactionary, like putting the cart
12 before the horse, and he is inclined to say no to both in favor of including them as part of a bigger,
13 holistic discussion, which he thought was the plan to begin with. Vice Chair Daly stated that the
14 Planning Commission is allowed to listen to the public on legislative issues, and in listening to
15 public comment they heard that Main Street should be opened up to more uses. Commissioner
16 Wright agreed, stating she would like to look at the whole picture and not put blinders on. Chair
17 Hayman expressed surprise that the Council said they want to look at the SMSC in a holistic way,
18 but then sent back a little piece for Planning Commission consideration. She expressed support
19 for denying both amendments.
20

21 Commissioner Wright made a **motion** for the Planning Commission to recommend the
22 following regarding the proposed text amendments for the SMSC Overlay District:
23

24 Amendment #1 – Denial of proposed language

25 Amendment #2 – Denial of proposed language
26

27 Reason for the Action:
28

29 The Planning Commission feels the overall plan of addressing the SMSC in a holistic
30 manner is the schedule agreed to with the City Council, and something the Commission would
31 like to continue. These issues will be addressed at that time.
32

33 Chair Hayman seconded the motion. Commissioner Johnson stated he is fine with
34 proposed Amendment #1, even taken out of order. He commented that the City Council faces
35 different challenges than the Planning Commission, and he would like to show support in that
36 direction. The motion to recommend denial passed by majority vote (5-1), with Commissioner
37 Johnson dissenting.
38

39 **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**
40

41 Mr. Snyder informed the Planning Commission of issues currently on the agenda for the
42 next Planning Commission meeting.
43

44 **CITY COUNCIL REPORT**
45

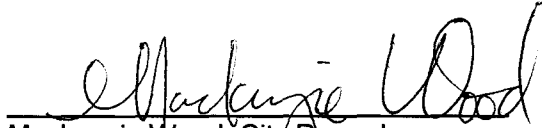
46 Ms. Romney reported on actions recently approved by the City Council. Discussion by
47 the Council of the SMSC table of uses is tabled to the second Council meeting in February.

MINUTES REVIEW AND ACCEPTANCE

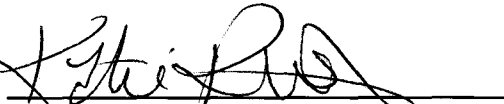
The minutes of the December 12, 2018 Planning Commission meeting were reviewed. Commissioner Johnson made a **motion** to accept the minutes without amendment. Commissioner Wright seconded the motion, which passed by unanimous vote (6-0).

ADJOURNMENT

At 9:20 p.m., Chair Hayman made a **motion** to adjourn the meeting. Vice Chair Daly seconded the motion, which passed by unanimous vote (6-0).


Mackenzie Wood, City Recorder

01/23/2019
Date Approved


Katie Rust, Recording Secretary

