# PLANNING COMMISSION MINUTES OF MEETING
**Wednesday, April 24, 2013**
**7:00 p.m.**

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

**MEMBERS PRESENT**
Tamilyn Fillmore
Brian Holman (arrived at 7:40 p.m.)
Steven Markham
Kevin Merrill, Chair
Debra Randall

**MEMBERS ABSENT**
David Hirschi
Scott Kjar

**STAFF PRESENT**
Corvin Snyder, Community Development Director
Brandon Toponce, Assistant Planner
Lisa Romney, City Attorney
Katie Rust, Recording Secretary

**VISITORS**
Interested citizens (see attached sign-in sheet)

**PLEDGE OF ALLEGIANCE**

**OPENING COMMENT/LEGISLATIVE PRAYER** Commissioner Randall

**MINUTES REVIEW AND APPROVAL**

Minutes of the Planning Commission meeting held March 27, 2013 were reviewed. Commissioner Randall requested an amendment, and **made** a motion to approve the minutes as amended. Commissioner Markham seconded the motion, which passed by unanimous vote (4-0).

**PUBLIC HEARING – CHITOSE JOHNSON SUBDIVISION – 200 EAST 1200 SOUTH**
**Consideration of a small subdivision waiver/lot split for the Chitose Johnson Subdivision, located on Lot 2 of the Bangerter Subdivision, 200 East 1200 South, in the R-M Zone. Ron Marshall, Maple Hills Realty, Applicant.**

Cory Snyder, Community Development Director, explained the applicant desires to subdivide Lot #2 within the Bangerter Subdivision into two lots. The lot is oddly configured within the existing Bangerter Subdivision with most of the lot area located between the commercial areas to the north and the homes of the same subdivision. There is a typical lot with stem that intersects with 1200 South creating full access to the property. The owner would like to build two homes at this time, with the possibility of further development in the future. Mr. Snyder stressed that in the future the subdivision rules could change and there is no guarantee that a proposed layout today for two lots may or may not inhibit future development.

A small subdivision is defined as a subdivision of not more than two lots. Since the property is being subdivided only into two developable lots, the applicant submitted a Small Subdivision Waiver Application. Lot #2 of the Bangerter Subdivision has about 80 feet of street frontage. The R-M Zone requires that each lot have a minimum frontage of 60 feet. Thus, the lot does not have enough frontage to divide into two lots. However, there is sufficient area to create and dedicate a public street. Thus, if the owner and applicant are willing to consider constructing and dedicating a public street that would serve as a road access into the major portion of the 3.31 acres and provide the needed turn-around, it would be possible to create the desired two lots. If this is the case, the proposed subdivision does not qualify for a small subdivision waiver, but could proceed forward with a preliminary and final subdivision plat approval. Staff recommends the Planning Commission accept the conceptual subdivision plan with conditions listed in the staff report. The owner can then choose to incorporate a dedicated road in the plan or look at other options.

The applicant, Ron Marshall, explained that the owner desires to build two homes on the property and is prepared to dedicate a road to the City. The homes will be built in strategic locations in case further development is possible in the future. Mr. Marshall showed on a map where the two homes would be located and explained the balance of the property would continue as farm land. The owner would like to begin construction as soon as possible.

At 7:21 p.m. Chair Merrill opened a public hearing.

Craig Adams – Mr. Adams lives in Bountiful near the property in question. He asked for clarification on the number of homes that will be built at this time. Mr. Marshall explained that two single-family homes will be built. Any future development of the property would also involve single-family homes.

Chair Merrill closed the public hearing at 7:22 p.m.

Commissioner Fillmore made a **motion** to accept the conceptual subdivision for Lot #2 of the Bangerter Subdivision, with the following directives:

***Directives:***

1. The subdivision is subject to submitting and receiving the applicable preliminary and final subdivision approvals by the City.
2. The preliminary and final subdivision plans need to provide sufficient area to create and dedicate a public street (i.e., 50-foot right-of-way).
3. Each lot must meet the zoning requirements for the Residential-Medium (R-M) Zone concerning street frontage and lot width.
4. The issue of installing either a cul-de-sac or a temporary turn around (if future development is desired) will need to be addressed with the preliminary and final subdivision plan submittals.
5. The preliminary and final subdivision submittal need to provide the proper public utility easements on each lot consisting of one 10-foot easement along a public road and two other 7-foot side or rear yard easements on each lot.
6. All required utility provider sheets shall be received by the City prior to the recordation of the subdivision.
7. The applicant will need to pay all applicable impact fees and post the related bonds for sewer, culinary water, and irrigation lateral extensions prior to recordation of the subdivision, as prepared by the City Engineer in accordance with City ordinances.

8. The applicant will need to provide the correct addresses for the new lots, as deemed acceptable by the Zoning Administrator in accordance with City Ordinances.

***Reasons for the Action (Findings):***

a. The Planning Commission finds that the subdivision for two lots is consistent with the goals of the Centerville City General Plan concerning development within Neighborhood 1, Southeast Centerville known as Extreme South Main Street Area [12-480-2(d)].
b. The Planning Commission finds that the subdivision could not qualify for the small subdivision waiver, in accordance with the criteria found in Section 15-2-107 of the Subdivision Ordinance.
c. The Planning Commission finds that the property is currently zoned Residential-Medium (R-M) and that the subdivision, with the directives, could meet the applicable development standards found in Chapter 12-32 of the Zoning Ordinance in regard to layout and proper street frontage.
d. The Planning Commission finds, with the directives, that the general requirements for all subdivisions can likely be addressed and satisfied [15-5].

The motion was seconded by Commissioner Randall and passed by unanimous vote (4-0).

**PUBLIC HEARING – DESERET INDUSTRIES – 94 EAST PAGES LANE Consideration of a conceptual site plan for Deseret Industries, which consists of demolition of the old bank building at 92 East Pages Lane, and converting the space to parking lot for the D.I., located at 94 East Pages Lane, in the C-H Zone. Craig Ames, P.G.A.W. Inc., Applicant**

Commissioner Markham disclosed that he works for the LDS Church, but does not work for a division that would have influence over the current issue before the Planning Commission. The Commission did not feel it necessary for Commissioner Markham to recuse himself from the issue. Brandon Toponce, Assistant Planner, explained the request to demolish the former bank building at 92 East Pages Lane and expand the parking lot for the Deseret Industries, creating an additional 36 stalls on the site. The applicant originally discussed keeping the lot separate from the other portion of the Deseret Industries parking lot. According to the Table of Uses, within 12-36 of the Zoning Ordinance, a parking lot within the C-M Zone is allowed with a conditional use permit. However, after staff reviewed the project, it was clear the applicant had two choices, the conditional use permit process or combining the property and approving the modification with the Deseret Industries parking approvals of 2005. Mr. Toponce described the two options available to the applicant, including landscaping requirements. Parking must be placed 15 feet from the back of the curb line and meet all City Standards for parking stall and parking isle measurements found in Table 12-52-1 of the Zoning Ordinance. The applicant will close off the driveway from Pages Lane into the center of the lot and replace the curb, gutter, park-strip and sidewalk in this location.

Staff recommended the Planning Commission accept the conceptual site plan, with the conditionals specified in the staff report for Options 1 and 2. Commissioner Fillmore asked why the 2005 modifications would apply in the second option. Staff explained that when the Family Services office was added in 2005, the applicant requested a waiver of the landscaping requirements to maximize the parking. A total landscaping requirement of 2.4% for the overall site could be required by the 2005 amended site plan. If Option 2 was chosen, the matter would be revisited, and there are arguments both for and against being required to uphold the 2005 waiver for this application.

Commissioner Brian Holman arrived at 7:40 p.m. Commissioner Randall pointed out that the building to be demolished is referred to in the staff report as both a computer store and a bank building. She requested a consistent reference to prevent confusion. Chair Merrill asked if a reciprocal use agreement for parking would be in place between the Deseret Industries and the adjacent gas station.

Craig Ames, representing the applicant, stated that the owner has elected to go with Option 1, keeping the lot completely separate from the rest of the Deseret Industries site. He stated he is not aware of a parking agreement with the adjacent gas station, but cross-access privileges are in place. He described landscaping intended for the site. The applicant intends to return quickly with a final site plan and apply for final site plan approval at the same time. The applicant will not be pursuing Option 2.

Commissioner Fillmore made a **motion** to accept the conceptual site plan for the Deseret Industries located at 94 East Pages Lane, not including Option 2, with the following conditions:

***Conditions:***

1. The applicant shall submit a final site plan application meeting the standards found in Section 12-21-110(e) of the Zoning Ordinance.
2. The applicant shall receive a conditional use permit approval for allowing a stand-alone parking lot subject to the standards found in Section 12-21-100 of the Zoning Ordinance.
3. The site plan shall be modified to include the 15-foot parking stall setback along Pages Lane.
4. Three (3) trees shall be planted along Pages Lane.

***Reasons for the Action (Findings):***

1. The conceptual site plan adequately depicts how the property may be developed [Section 12-21-110(d)(2)].
2. A complete conceptual application has been provided by the applicant [Section 12-21-100(d)(1)].
3. The site is located within the South Main Street Corridor Zone and is subject to regulations for the Pages Lane Mixed-Use Area.
4. Minor arterial requires a 15-foot setback from the back of curb to the edge of the parking lot [Section 12-51-070(f)(A)(ii)].

Commissioner Holman seconded the motion, which passed by unanimous vote (5-0).

## TRAINING FOR COMMISSIONERS

Lisa Romney, City Attorney, provided training for the Commission regarding land-use ordinances (zoning ordinance/zoning code). A copy of her presentation is attached.

## ADJOURNMENT

At 8:17 p.m. Chair Merrill made a **motion** to adjourn the meeting. Commissioner Randall seconded the motion, which passed by unanimous vote (5-0).

Kevin Merrill, Chair

5-8-2013
Date Approved

Katie Rust, Recording Secretary

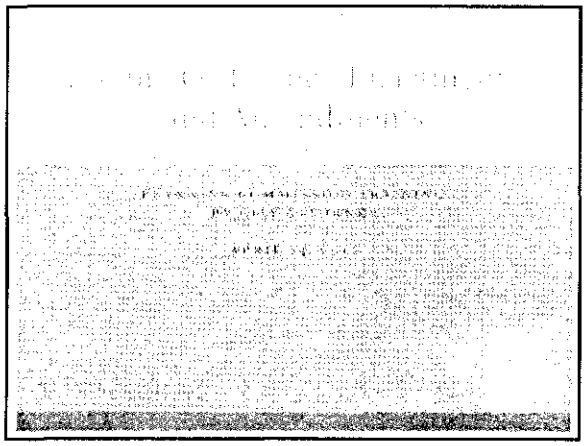
CENTERVILLE CITY NC
CORPORATE SEAL

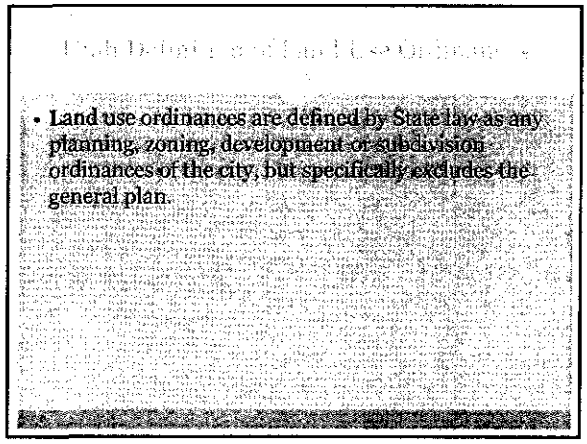
## CENTERVILLE PLANNING COMMISSION MEETING

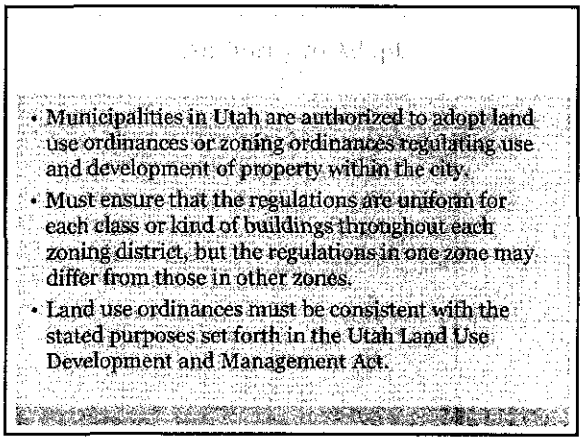
Wednesday, April 24, 2013
7:00 p.m.

| NAME (PLEASE PRINT) | ADDRESS** |
| --- | --- |
| CRAIG AMES | 5263 So. 300 W - Murray |
| Ron Mumford | 82 Cherrydale Ct - Bthl. |

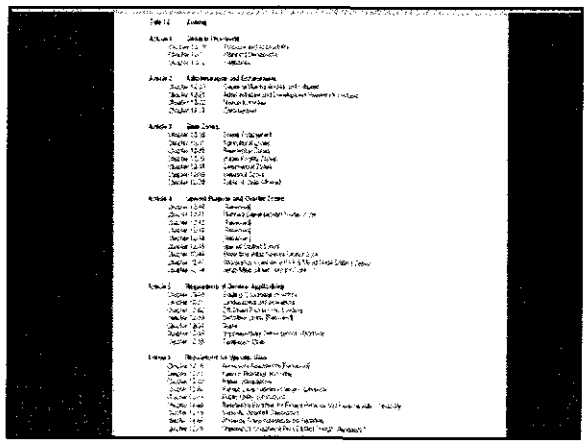
** Your address will be used only in the event the City staff needs to contact you pertaining to an issue discussed in the Planning Commission meeting.




• Land use ordinances are defined by State law as any planning, zoning, development or subdivision ordinances of the city, but specifically excludes the general plan.


• Municipalities in Utah are authorized to adopt land use ordinances or zoning ordinances regulating use and development of property within the city.
• Must ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.
• Land use ordinances must be consistent with the stated purposes set forth in the Utah Land Use Development and Management Act.

- Provide for the health, safety, and welfare of the community and its present and future inhabitants and businesses
- Promote the prosperity, improve morals, peace and good order, comfort, convenience, and aesthetics of the community
- Protect the tax base
- Secure economy in government expenditures
- Protect urban and nonurban development
- Provide fundamental fairness in land use regulations
- Protect property values



- An amendment to the Zoning Ordinance may be initiated by:

- Planning Commission is required by law to review and make a recommendation to the City Council regarding all Zoning Ordinance enactments or amendments
- Planning Commission is required to provide notice and hold a PUBLIC HEARING regarding any proposed Zoning Ordinance enactments or amendments
- City Council makes the final decision regarding Zoning Ordinance enactments or amendments based on Planning Commission recommendation
- City Council is required by Ordinance to hold a PUBLIC HEARING on any proposed Zoning Ordinance enactments or amendments

- Whether the proposed amendment is consistent with the goals, objectives and policies of the General Plan;
- Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity;
- The extent to which the proposed amendment may adversely affect adjacent property; AND
- The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and wastewater and refuse control

- What action will reasonably promote the public interest, conserve the value of other properties, avoid incompatible development, encourage appropriate use and development of land, and promote the general welfare of the community.

- The adoption of Zoning Ordinance or amendments is a legislative decision
- Courts give cities broad discretion in making legislative decisions
- Your recommendations regarding Zoning Ordinances should promote public good and general welfare
- Ultimate decision by City Council will be upheld if it is reasonably debatable that such action and policy will promote general welfare
- Legislative decisions are presumed valid and upheld unless there is no reasonable basis for the decision

- Zoning Ordinances are a tool to implement the policies of the General Plan
- Zoning Ordinances provide the details and regulations regarding land use and development within the City

## The End

# CENTERVILLE CITY ATTORNEY'S OFFICE

250 North Main Street
Centerville, Utah 84014
801.335.8842


## ZONING ORDINANCE ENACTMENTS OR AMENDMENTS

## PLANNING COMMISSION DECISION-MAKING PROCEDURES AND FACTORS

### 1. Authority.

The City has adopted Zoning Ordinances as set forth in Title 12 of the Centerville Municipal Code regulating land use and development within the City. The Zoning Ordinances apply to all property within the City except property expressly exempted by law, such as federally owned property. The Zoning Ordinances have been adopted pursuant to authority provided in the Utah Land Use Development and Management Act, as set forth in *Utah Code Ann.* §§ 10-9a-101, *et seq*. When reviewing an application to enact additional zoning ordinances or to amend the existing ordinances, such decisions are governed by applicable provisions of State law and City Ordinances.

### 2. Procedures – Public Hearing Required.

Zoning ordinance enactments or amendments must follow the procedures specified in *Utah Code Ann.* § 10-9a-503 and *City Ordinance* § 12-21-080 which require review and recommendation from the Planning Commission prior to consideration of any zoning ordinance enactment or amendment by the City Council. The Planning Commission is required by state to provide notice and hold a public hearing on all proposed zoning ordinance enactments and amendments and to forward its recommendation regarding the same to the City Council. Although not required by statute, the City Council is required by ordinance to provide notice and hold a public hearing on proposed zoning ordinance enactments and amendments. After receiving a recommendation from the Planning Commission and holding a public hearing on the matter, the Council may thereafter approve, approve with modifications, or deny the proposed zoning ordinance enactment or amendment.

### 3. Decision-Making Factors.

Decisions regarding zoning ordinance enactments or amendments are vested with the City Council as a legislative decision within the discretion of the Council. In reviewing a zoning ordinance enactment or amendment and making a recommendation to the City Council, the Planning Commission should consider the following factors set forth in Section 12-21-080:

a. Whether the proposed amendment is consistent with the goals, objectives and policies of the City's General Plan;

b. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;

c. The extent to which the proposed amendment may adversely affect adjacent property; and

d. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and waste water and refuse collection.

While these factors appear to relate more directly to zoning map amendments, the Planning Commission may also look to the factors set forth in Section 12-21-060 regarding legislative decisions. Section 12-21-060 provides the decision-making authority shall determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare.

**4. Legislative Decision – Reasonably Debatable Standard.**

The Council's review of a zoning ordinance enactment or amendment is a legislative decision, meaning such decision establishes public law and policy as opposed to an administrative decision that merely implements such policies or applies them to factually distinct and individual circumstances. As a legislative decision, the Council's decision is subject to the highly deferential "reasonably debatable" standard. Under the reasonably debatable standard, it must be reasonably debatable that the Council's decision promotes the public interest and general welfare. A reviewing court will ask whether the Council's decision is in the interest of the general welfare. The courts have also recognized under the reasonably debatable standard that public hearings and citizen comments are a legitimate source of information for the Council to consider in making legislative decisions. Similar factors should govern the Planning Commission's review and recommendation to the City Council regarding zoning ordinance enactments and amendments.

**5. Appeal.**

Any person adversely affected by a final decision of the City Council regarding a zoning ordinance may appeal that decision to the District Court by filing a petition for review pursuant to *Utah Code Ann.* § 10-9a-801, as amended. Such petition for review must be filed within 30 days after the Council's decision is final. Alternatively, a person adversely affected by a final decision of the Council regarding a zoning ordinance may file a complaint against the City which may include a variety of claims, including constitutional claims of due process or equal protection. A property owner may also file a request for arbitration of a constitutional taking issue with the Property Rights Ombudsman under *Utah Code Ann.* § 13-43-204. On a petition for review to the District Court under Section 10-9a-801, the court shall presume that a decision made under the land use statutes is valid and determine only whether or not the decision is arbitrary, capricious, or illegal.