

CITY OF NORTH SALT LAKE
PLANNING COMMISSION MEETING
JANUARY 22, 2018

FINAL

Chairman Robert Drinkall called the meeting to order at 6:30 p.m.

PRESENT: Commission Chairman Robert Drinkall
Commissioner Ted Knowlton
Commissioner Stephen Garn
Commissioner Kent Kirkham
Commissioner Leslie Mascaro
Commissioner William Ward
Commissioner Brandon Tucker

STAFF PRESENT: Ken Leetham, City Manager; David Church, City Attorney; Sherrie Llewelyn, Community Development Director; Shannon Andersen, Planning Technician; Andrea Bradford, Minutes Secretary.

As the newest member of the Planning Commission, Brandon Tucker introduced himself and explained that he was currently a civil engineer in transportation design and construction and had previously worked for UDOT. He said he had lived in Davis County for fifteen years and had lived in the City for seven of those years.

1. PLANNING COMMISSION TRAINING
 - a. OPEN AND PUBLIC MEETINGS
 - b. POWERS AND DUTIES

David Church reported that training on the Open and Public Meetings Act was required annually per State law and would be a good introduction for the new members of the Commission and review for present members. He explained that the Planning Commission allowed for a balance between the public and local government in regard to land uses and private property. Government established the laws for land uses and a Planning Commission, who is familiarized with the laws, would then advise the City Council on enforcement and adoption of those laws.

State law requires that the Planning Commission make recommendation on a general plan and any amendments to that plan and also to make recommendations on land use regulations and amendments. The Planning Commission can also be designated in city code as the land use authority that would determine land use applications and should also be involved in making

recommendation on the application processes. The City Council can also delegate additional powers and duties as outlined in the city code. These additional duties could include preparing and recommending a general plan, recommend land use ordinances and maps, administering applicable State laws, recommend subdivision ordinances and amendments, recommend the approval or denial of subdivision applications, to advise the City Council, or approve or deny conditional use permits, etc.

Mr. Church said that generally the Planning Commission would act as the land use authority on certain applications like site plans and conditional use permits and that staff was the land use authority to issue building permits and zoning approval on business licenses. He said the conditional use permit was one of those duties delegated to the Planning Commission.

He also explained that an administrative law judge was the appeal authority for the City in the event of an appeal on a land use decision made by the land use authority. The Planning Commission for the City functions to administer the ordinance and participate in the legislative process by recommending changes to land use ordinances. He said that the Planning Commission could potentially act in a quasi-judicial manner as the appeal authority if the City ordinances gave that authority.

David Church then spoke on public input in regards to legislative items and said public feedback would be appropriate at those times. However; in the instance of the Commission administering an ordinance, such as approving a site plan or conditional use permit which requires the planning commission to apply existing law, public input cannot to be taken into consideration in the decision making. He explained that if an application came before the Planning Commission that met the City Ordinance then State law would compel the Planning Commission to approve the permit.

Mr. Church clarified that the role of a Planning Commissioner was to use their expertise to determine if an item met the city ordinance and as an appointed board the members did not represent the public, they represented the law, however; a commissioner could identify personally as a community activist.

David Church explained that requests, such as a zone changes are legislative actions, would require a public hearing and comment as part of the process. He then spoke on types of land uses identified in the code, he stated there are three types: permitted, non-permitted, and permitted with conditions. State statute requires that the City ordinance contain the standards and conditions for the approval or denial of the conditional use. The conditional use must be approved if reasonable conditions can be imposed to mitigate the detrimental effects of the proposed use.

Ken Leetham commented that the Planning Commission could not require things that were not in the code, or to coerce or bargain with an applicant. He said that is why city ordinances should reflect what the City would actually like.

David Church said while State code did not require public comment that most city codes allowed for a public hearing on conditional use permits.

Commissioner Knowlton commented that there had been several contentious meetings when the Planning Commission allowed for a public hearing to potentially allow the Commission to uncover information that would help the commission to make an informed decision.

David Church then reported that the purpose of a public hearing was twofold in that it would inform the public and to also allow the public to inform the Commission about specific issues. He said that the Planning Commission had adopted bylaws, rules and procedures, and held well run formal meetings which helped to keep the public meetings respectful.

Mr. Church spoke on the Open and Public Meetings Act and said it was a section of State law which applied to all public bodies. A public body is defined as any group created by law, ordinance, or policy and has a delegation to make recommendations on public business. He explained that all public meetings would need to comply with the Act by ensuring that a meeting would be the convening of a quorum of the public body for the purpose in which it was created. There were also two requirements for a public meeting in that the meeting would need to be noticed appropriately and appropriate records of the meeting be made. There must also be a specific agenda for each meeting which must be posted on the State website and sent to the news media at least 24 hours prior to the meeting. All meetings are public meetings but not all meetings are public hearings.

Sherrie Llewelyn asked if there were standards for how long the public could comment during a public hearing. David Church replied that the City had adopted rules and procedures to limit the length of public comment during meetings and that it only be a reasonable amount of time 3-5 minutes is generally acceptable.

Commissioner Drinkall clarified that the Planning Commission generally encouraged the public to keep their comments to two to three minutes and that each participant should provide new information to avoid repetition. David Church responded that when a public forum was provided the Commission could not dictate the content but could control the time, manner, and place of the speech.

David Church said that all decisions and deliberations made by the Commission must be made in an open meeting. He said there was no law against communicating or participating in social media but that the Commission should avoid deliberating online or outside of the public process.

David Church reported that the Commission could close a portion of the meeting for items such as pending or imminent litigation, competency of an individual, purchase or sale of real property, or due to an ongoing criminal investigation, etc. He said that a closed meeting required a motion detailing the reason, the meeting must be recorded, and the discussion limited to the topic reason.

Mr. Church spoke on the records and minutes of a public meeting and said that every meeting must be recorded with the recording publicly available three days after the meeting. The minutes must contain certain information including: the individuals present, the substance on what was said, and the vote of the public body. He said the rough and final drafts of the minutes must be available to the public and the final draft must be uploaded to the public notice website.

It was also explained that if the Planning Commission made a decision on an item that was not properly noticed on the agenda that the item could be voided if action is brought within 90 days of that decision.

Ken Leetham commented, in regards to the proposed conditional use permit for Granite Construction, and said that the public perception is that the item is a request for a rezone. However; the application is for a conditional use permit.

David Church explained that Granite had filed a conditional use application for the north and south parcel as one property. The City rejected that application due to the fact that the north parcel is currently zoned P (Planned) District and the south parcel is zoned S-R (Special Use Restricted). Granite responded that both parcels were zoned S-R and had since appealed this administrative determination. Granite then insisted that the City process the application, as they are entitled by state code to request a 45 day review, and Mr. Church determined that the Planning Commission should review and process with imposed conditions. Then in the event that a judge determined that both parcels were zoned S-R, the judge would have record of the other issues and conditions that the city has identified for the conditional use permit. Without the conditions in place a judge may give them a permit with no conditions, believing that city had already had the opportunity to identify the conditions and did not.

Ken Leetham said that the first condition on the conditional use permit required that Granite prove that the north parcel was zoned S-R and not P.

David Church also stated that the public would have the right as aggrieved parties to appeal an approval of the conditions use permit, if they believed the conditions did not adequately address

the impacts that need to be mitigated. He explained that an aggrieved party would be affected property owners, such as adjacent neighbors, but would be dependent on the complaint.

Sherrie Llewelyn commented on the conditional use permit for the south parcel and said that the proposed conditional use permit would change how the south parcel could be mined and would replace the existing conditional use permit.

David Church explained that based on the zoning determination made on the property the result would be in more homes closer to the pit or the pit/mining moved closer to the existing neighbors. He said that Granite had encouraged the City to rezone the north parcel to a P District when Brighton Homes was still interested in developing the property for residential use.

Commissioner Kirkham asked what the next step would be after the Commission made a determination on the conditional use permit application. David Church replied that Granite had filed an appeal for the zoning and that residents could also appeal the commission decision, within ten days, if they did not agree with the decision made by the Planning Commission. After the appeal is filed, a determination would be made by the hearing officer or the item could possibly continue to district court.

Commissioner Drinkall then reviewed the process for the public hearing and said that staff would introduce the item, the applicant would have time to comment, the public would be allowed to make comments, and then Planning Commission would make their decision.

David Church then concluded by saying that any time the Commission denied an application then findings of fact would need to be included to support the denial. He also said that the Planning Commission bylaws and code of ethics stated that any Commissioner who had a conflict of interest on an item must declare the conflict and possibly recuse themselves if they have a financial interest or cannot remain or may not appear to remain impartial.

2. ADJOURN

Chairman Drinkall adjourned the meeting at 8:02 p.m.



Chairman



Recorder



Secretary