

**Parowan City Planning and Zoning Minutes**

**June 21, 2023 – 6:00 P.M.**

**35 East 100 North – Parowan City Office**

**MEMBERS PRESENT:** Larry Zajac (Chair), Jerry Vesely, Heather Peet, Weston Reese (Alternate), David Burton (Council Representative)

**COUNCIL AND STAFF PRESENT:** Mollie Halterman (Mayor), Keith Naylor (Zoning), Dan Jessen (City Manager), Judy Schiers (Secretary)

**PUBLIC PRESENT:** Mike Pierce, Barbara Barrick, Ray Vanderweerd

**CALL TO ORDER:** Larry Zajac called the meeting to order

**ANY CONFLICTS WITH ITEMS ON THE AGENDA:** No Conflicts were declared.

**APPROVAL OF MINUTES: (June 7, 2023):** Heather Peet made a motion to approve the minutes from the June 7, 2023 meeting with changes. Jerry Vesely seconded the motion. All members present voted in favor of this motion.

**OPEN PUBLIC HEARING REGARDING A ZONE CHANGE FROM A-1 TO R-3 FOR THE PARCELS OF LAND OWNED BY ALLISON DAWSON LOCATED AT AND SURROUNDING 277 WEST OLD HIGHWAY 91:** Jerry Vesely made a motion to close the public meeting. Heather Peet seconded the motion. All members voted in favor of this motion. Jerry Vesely made a motion to open the public hearing regarding the Zone Change from A-1 to R-3 for the Parcels of Land Owned by Allison Dawson located at and surrounding 277 West Old Highway 91. Heather Peet seconded the motion. All members voted in favor and the public hearing was opened.

Larry reminded those present that there should be no personal attacks and each person is limited to three minutes, but if you need more than three minutes speak the first three minutes, and then you can come back up after everyone else has their turn.

Barbara Barrick said she lives next door to Crimson Hills and came before the commission a couple of weeks ago for the prior zone change and was against that change. She said that she has no problem with them changing the zone to R-3, however, she said I have my property rights as well, and feel if something is built 15 feet from her garage on the slope it has would create a problem. She said the property behind her house has such a slope to it that maybe they could not even build anything. She offered to buy that property because she thinks it is unbuildable. She said at the last zone change request, this property was not included and now it is and feels this is a problem which infringes on her property rights. Larry asked Barbara to be more specific in her concerns. She said if they build something on parcel three (parcel in question), it is a steep incline and any drainage or run-off and noise would be right behind her house. If this remains agricultural and they want to run goats, that would be fine, but if they want to build apartments or condos it would infringe on her property rights and the right to enjoy her property.

David Burton asked Barbara what her property was zoned. She said Agricultural, A1.

Dan pointed out a couple of changes from the prior zone change request to the current zone change request. Last time parcel three was not included. Parcel three on our future land use map is light residential where the other parcels in this zone change are multi-family residential.

Heather asked what the empty space lot was between these parcels. Dan said it is government owned. Dan said regarding parcel three, he cannot give an opinion on if it is buildable at this time.

Larry said he walked the property and it is about 150 feet deep, north to south. The actual depth is not that deep because it is so steep and goes up the hill. The last approximate 75 feet is at a 45-degree angle. David said sometimes on uneven property you gain more ground area.

Larry said that parcel three would have to abide by our Hillside Development Standards (Code 14.18) to see if it was even buildable. The steeper it is, it is required to be left in a natural state. There are setbacks to consider, and you are not allowed to drop the fill or runoff onto the neighbor's lot.

Ray Vanderweerd said that the last time this came up we were given a packet for General Commercial and it did not include parcel 3. This time it does include parcel 3 to be zoned R3. He said on Iron County Zoning agendas they always give a reason why the zone change is requested and he has never seen anything from this owner why they want to change the zoning. Another question he said he has is if this is a general R3 change and he is wondering R3 what? There is no specification for that either. He asked the commission to think about if this was overall conducive to this neighborhood. Most existing lots in this area are still single-family residences. He said to have the neighborhood and town in general accept a cart Blanc zoning recommendation without knowing what is being put there is not feasible. He does not feel there is enough information for the commission to decide on this. He thanked the commission for looking into this.

Jerry Vesely made a motion to close the public hearing and open the regular public meeting. Heather Peet seconded the motion and all members present voted in favor of the motion.

Jerry said we are talking about four parcels; can we pick and choose which parcels to zone or not zone. Can we discuss the matter and recommend parcels one, two, or four to be changed and not include parcel three. Larry said he does not see why not. Otherwise, the commission would have to reject the whole thing.

Dan said he does not know if parcel three is buildable, but from his standpoint, the commission should determine if the zone change is appropriate based on the general plan, density, and other factors. To determine if it is buildable, that would be at the building permit stage is his opinion.

David asked if parcel three was zoned A1. Dan said yes, they are all currently zoned A1. He said in parcel one, and slightly encroaching on parcel two, is a non-conforming use of what he would call R3/Commercial. That is the where the hotel or apartment units are. Larry said according to tax records it is apartments. Dan said they operate this mostly as apartments but do have some short-term rentals. Parcel three has never been a consideration, it is just sitting as a mountainside property and our general plan shows this parcel as light density, where the other parcels show high density, which in our zoning code would be R3.

Dan said to address the comments regarding what is planned for on this property, notification to neighbors and how it is listed on the agenda, we do not have sub zoning within our codes. You either auto approve the zone, or you can approve the zone with conditions to that zone. Iron County codes are different than the City Codes and we do not have to follow their rules. By Utah Law property owners do not have to tell us what they are going to do with that property and we cannot legally demand they tell us what their plans are. If it seems they are being sneaky, the legislative body can say they do not feel comfortable approving a zone change request, but Planning and Zoning is just looking at it from an administrative standpoint. He said he would suggest that the buyers or developers of property are transparent, but we cannot demand.

Larry said it is just speculation but he would assume from the prior request they just wanted all the land to be the same zone to be able to sell it easier. This applicant may not have an idea what is going to happen to the land if it sells.

Dan said he does know that this property is being actively marketed as a R3 type parcel. Whoever buys it could do anything that is allowed in a R3 zone without a conditional use permit if there is a zone change. They could do multi-family, apartments, condos, and townhomes. Condos are a different process because of separate ownership. They are limited to density as per our code. They would have to have 10,000 square feet for the first residential unit and an additional 1,000 square feet for each additional unit. For example, if the property is 20,000 square feet, they could have one residential unit and an additional ten units for a total of 11 units. They would also have to make sure that the parking is sufficient for the property and other considerations. They could not put in a 200-unit apartment building. That is where the constraints are built into the code.

Jerry asked in the R3 zone if the setbacks were cast in stone. Dan said yes, our ordinances define the setbacks as 25 feet in the front, 20 in the back and a total of 20 feet on the side property, meaning one could be as wide as 8 feet and the other would need to be 12 feet.

Larry said that this speaks to a couple of things that were commented on in the public hearing. Assuming that parcel three would be built with the front of the lot facing to the north, they would have to be 25 feet back if it were a flat lot and it is not. He said this would be an assumption on his part, but having walked that lot and assuming the slope is 25% on that lot, 62% would have to be left in a natural state. That does not mean it would need to be left in the front, it could be in the back, but there are a couple of things that are restricting building on this lot.

Jerry said using his math and the dimensions of the lot which is 36,600, there could be a lot of units on that lot. Larry said another issue is that there is no direct access on parcel three unless a road goes through on the east side. He said he thinks the City has been putting money away to develop this roadway. Where parcel two and parcel four touch, there could be an access, but they would have to push a road up through parcel two.

Dan said if you build a residence in the A1 zone, you pretty much follow the code for the R1 zone. He understands why the seller would want to change the zone and sell them all together. If you sell them separate there could be an issue of a land lock parcel.

Larry said the concern is because parcel three on the Future Land Use Map shows parcel three as light residential, there is a chance we would not have sufficient justification to change the zone to R3.

Weston said he does not see how parcel three could be landlocked because 200 West is a plated street. Larry said you are probably right, it is just not in at this point. Dan said the city does own that property and it is to be a street at some point. Larry said the person who wants to develop that lot would be stuck with the development fees to push the 500-600 feet of roadway to get to the lot. Weston asked if that road is also steep. Larry said you could get to the property but it is on a grade.

Heather said that she would say lot three would need to stay A1 or go to R1, but is okay with rezoning parcels one, two and four to R3. Jerry agrees with this and to leave parcel three as it is for now.

Larry reminded the commission that the justification for making that decision should not include the buildability or access to the lot.

Christian said he has not seen the application, but they would need to provide the justification for why they want the zone to be changed. They do not have to say they want to build a gas station, but if it is just so that all the property is zoned the same is not sufficient justification.

Dan read the application request. "These parcels are occupied by an existing hotel located within the A1 zone. This zone change is made to bring the current zoning into conformance with the city Future Land Use Map (which, Dan said is not entirely correct with parcel three) designated as R3 for these parcels. Per discussion with the City Manager the existing use as hotel/motel may be continued to be utilized by current and future owners as non-conforming use, as long as the use does not lapse more than 12 consecutive months. Combined parcels are approximately 3.55 acres."

Christian asked if the hotel/motel was on all three of those parcels. Dan said their facility does cover parcels one two and four if the view finder on Iron County's website is correct. Parcel three does not apply as the hotel/motel is not on that parcel. Christian said then their application is reasonable for parcels one, two and four because they want to bring it in line with the Future Land Use Map and they have a non-conforming use now. But, the justification to make parcel three conform to the Future Land use map does not fit. When you asked earlier if you could rezone parcel one, two and four but not three, he said he suggests that they either amend their application or reapply with just parcels one, two and four.

Dan asked if this body could give a recommendation to the City Council that they amend their application before going to the City Council or start from scratch. Christian said either one is fine, he sees no problem with letting them amend their application.

Mike Pierce with Go Civil said he was just thrown into this because someone was not able to make it but the decision to add parcel three was because supposedly the Future Land Use Map was going to be updated and this property was going to R3.

Larry said the original request was to go to commercial on just lots one, two and four. Parcel three was not included in the original application. That application was rejected because it was a commercial request. Now parcel three has been included and based on the current Future Land Use Map that is not going to work. Dan said that the Future Land Use Map would be updated when the General Plan is updated and who knows when that will be done.

David said that parcel three being designated as low density is not going to be restricted if left as A1.

Heather Peet made a motion to give a positive recommendation to the City Council regarding the zone change request for land owned by Allison Dawson located at and surrounding 277 West Old Highway 91 from A1 to R3 for parcels one, two and four and a negative recommendation to City council for parcel three since it does not coincide with our Future Land Use map which shows this parcel as low density residential. Furthermore, that the applicant will either need to amend their application or reapply prior to submission to the City Council. Jerry Vesely seconded the motion. All members voted in favor of this motion.

Dan said there is a public hearing tomorrow at the City Council. He told Go Civil that if they decide to amend or reapply that when they change the plat, to remove the City Manager's approval. He does not need to be a signatory on this as zone changes are made by the City Council. Regardless, if they amend or reapply there is a public hearing scheduled for tomorrow's Council meeting.

David said as he understands it, the City Council cannot approve it unless it is amended. Dan said they could, as the Planning Commission is just a recommending body, but to be consistent with the Future

Land Use Map and General Plan, the request as presented does not conform. He said there is a debate if the Future Land Use Map is a guiding document or if you change the Future Land Use Map you also need to change the General Plan. He believes that Justin's opinion is that we update the General Plan if there is a zone change. Those would be different public hearings.

Larry said he has a different opinion on this. He said he agrees that the General Plan is a guiding document and we will do things in accordance to the Future Land Use Map. He said we would not necessarily update the General Plan because the Future Land Use Map is an attachment to the General Plan. If we do some major changes, we would change the General Plan. Dan said that the state code leaves in up to the municipality to decide whether you must update the map at the same time as a zone change and it varies from city to city. Dan said he thinks the City Council would not rezone as R3 without also updating the Future Land Use Map as part of it.

MEMBER REPORTS: Larry asked Dan to report on the flag pole. Dan said he has not seen any plans on this yet, but the Parowan Parkway Commercial Subdivision builder reached out and asked if they could build a 100-foot flag pole on their property. There are some things to think about on this. One, any structure over 35 feet would need FAA clearance and the developer is willing to go through that process. Dan said he does not think they can tell them no, but they will still need to get a permit. There have been some changes to the airport overlays and we need to make sure we are consistent with the changes. Dan is looking at this from a permitting stand point, the FAA standpoint and the International Building Code. Because it is the gateway into the City, he sent the request to the City Council and they were excited about it. He said because this has never been something done in town, he is just thinking from a land use perspective, if there is anything that would prohibit this.

Larry said in general we do not have any flag poles of that height in the City. He believes in places where there are these poles, they are considered accessory structures. Dan suggested they include the structure in the building permit, so when submitting to the County it would not be treated as separate.

Jerry said that large cell phone towers have lights on them. He is wondering if they need some sort of lighting. Dan said that may be something requested with the FAA permit. There was a discussion of flags and what type of flags could be displayed. Heather said just like the billboards, you cannot guarantee what flag is put up there.

Dan reported on some annexations and the progress of those. He reminded the commission of the process for annexation.

Heather made a motion to adjourn the meeting at 7:20 P.M. Jerry Vesely seconded the motion. The meeting was adjourned.