

Parowan City Planning and Zoning Public Hearing and Regular Meeting
June 19, 2024 – 6:00 P.M.
35 East 100 North – Parowan City Office

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

MEMBERS ABSENT: Jamie Bonnett

COUNCIL AND STAFF PRESENT: Mollie Halterman, John Dean (City Council), Scott Burns (City Attorney), Dan Jessen (City Manager), Keith Naylor (Zoning Enforcement), Judy Schiers (Secretary)

PUBLIC PRESENT: Allison and Floyd McWilliams, Seth Fothringham

CALL TO ORDER PUBLIC HEARING: Larry Zajac called the Public Hearing to order at 6:00 P.M.

CONDITIONAL USE PERMIT FOR A GAZEBO – 435 WEST 200 NORTH: Floyd McWilliams said he doesn't see a problem with the gazebo. It is very well built. He said he will tear down the storage shed if he needs to. The gazebo is not attached to the house and didn't think there was an issue with it. Larry said it is considered a structure.

AMENDMENTS TO PAROWAN CITY MUNICIPAL CODE 15.50.010 AND 15.60.030 (D): There were no public comments on this item.

CLOSE PUBLIC HEARING AND OPEN REGULAR PLANNING AND ZONING MEETING: Jerry Vesely made a motion to close the public hearing and open the regular Planning and Zoning Meeting. Heather Peet seconded the motion. All members present voted in favor of this motion and the motion passed.

ANY CONFLICTS WITH ITEMS ON THE AGENDA: Troy said that he and Jerry are members of the Little Salt Lake Service Club, along with Floyd McWilliams, but does not feel it would be a conflict with voting.

CONDITIONAL USE PERMIT FOR A GAZEBO – 435 WEST 200 NORTH: Larry asked if the City customarily requires a permit for every accessory dwelling. Dan said that it has been historic precedence to require a permit for anything over 200 square feet. Larry asked Dan to cite the code. Dan said it is a precedence and not in code. Larry feels this is something we may want to look at. Keith confirmed that the gazebo is just under 200 square feet. Larry said he understands that when looking at some other issues at this property, that by installing the gazebo it would exceed the 25% free space of the backyard. He asked legal if that was a just cause to require a permit for the gazebo. Scott Burns said legal precedence, no, but will defer to the City Manager for historical precedence.

Dan said that issue is that the gazebo will violate the 25% rule. The code says that exceptions can be done by a conditional use.

15.8-100 "No accessory building or group of accessory buildings in any residential zone shall cover more than twenty-five (25) percent of the rear yard. Exceptions to this requirement may be granted by conditional use permit."

David asked Keith when he determined the 25%, did he take into consideration the survey or the existing fence that is there. David said in this instance there is a discrepancy where the fence is and the property line, and there would be more property based on the survey than the fence line.

Keith said it was calculated based on the fence and he is not sure where the fence is in relation to property line.

Floyd McWilliams said when he bought the house, he was told that the fence was in fact three feet in from the property line. The people behind him have a building setting right up against the fence and a tree running through the fence line. He had his front yard surveyed for the property line but did not have the whole property surveyed.

Larry said he did some research on the 25% free space rule and there were a lot of factors to be considered when the buildings are too dense; fire hazard, utilities, character of the community, water drainage. Some leniency has been written in our code. There are reasons for requiring a permit such as making sure that setbacks are adhered to and buildings are constructed in accordance with standard building codes. This request is for a conditional use permit to allow the resident to exceed the 25% rule in the back yard. David questioned if they were exceeding that percentage, if they consider the 3 feet behind the fence. Floyd McWilliams said he did not have a survey done of the whole property.

Troy asked if he tears down the shed, will that get him to the 25% before the gazebo. Keith said he is already over the 25% before the gazebo.

Jerry said that he feels we need proper measurements. Larry said that then we could potentially be forcing the applicant to have a survey done at some expense. Troy asked if Utah was an adverse possession state. Scott said yes, good faith of right, common law definition. Troy asked if it was self-actuating or a judicial process. Scott said a judicial process and he has not seen one in his years of practice. Scott said if you are talking fence lines, Utah is most definitely a state that recognizes the boundaries by an existing fence that has been in place.

Larry feels we would be placing an undue hardship on this applicant to force them to do a survey and figure out the fence line with the neighbor. Larry said he recommends that we go down the path of a Conditional Use Permit and make arguments for or against issuing one.

Troy said at the last meeting there was talk about whether the property owner needed to bring the Conex box into compliance before he seeks the conditional use permit. His position is when we approve the conditional use permit, this doesn't have any bearing and not a statement of whether he needs to come in compliance with the Conex box. He said that would be left up to city administration whether they would require the Conex box to be in compliance.

Floyd said his wife owned the Conex box for 16 years, but three years ago they moved it three blocks. He plans are to wrap the Conex box and paint it to match everything else to come into compliance.

Larry said the commission needs to discuss whether to grant a conditional use permit with potential mitigations that need to be placed with the conditional use permit.

Jerry asked if they issue a conditional use permit that usurps the 25% code, will that open a can of worms. Heather asked if we allow a permit, does the conditional use permit just allow a gazebo. Dan said it would permit the gazebo. He said on this property, most of the buildings are on the outside of the

yard with green lawn and open in the middle. If this was a backyard overgrown with weeds, that would be a mitigating factor.

Larry asked if there was going to be a fire pit or electrical. Floyd said no.

Larry asked if he will need a building permit. Keith said the county will not make him get a building permit, but Keith said he will sign off on the building permit packet for the City, so with that and the conditional use permit, he would be good to go.

Troy Hoyt made a motion to grant a conditional use permit for a gazebo at 435 West 200 North. Jerry Vesely seconded the motion. All members present voted in favor of this motion and the motion passed.

Alysen McWilliams initiated a discussion about nuisance properties and the City's role. Dan said we are aware of some issues and have talked with the City Council at length. He said they discussed if they want to get really heavy-handed. There are some instances, for example, a person is indigent and the City cleans up the property, they can lien the house and then force a sale to satisfy the lien. That is not ideal. If there are multiple complaints, the City can issue citations. He said there is not a dedicated code enforcement officer, but this is a burning issue that will become hotter, but it needs to start at the City Council.

AMENDMENTS TO PAROWAN CITY MUNICIPAL CODE 15.50.010 AND 15.60.030 (D): Troy Hoyt made a motion to make a favorable recommendation to the City Council the amendments to Parowan city municipal code 15.50.010 and 15.60.030 (D). Heather Peet seconded the motion. All members present voted in favor of this motion and the motion passed.

APPROVAL OF MINUTES JUNE 5, 2024: Heather Peet made a motion to approve the minutes from the June 5, 2024 meeting with the changes. Jerry Vesely seconded the motion. All members present voted in favor and the motion passed.

PERMANENT PLACEMENT OF A CONEX BOX – SETH FOTHERINGHAM 122 W 300 N: Seth said that currently on his property there are two really old sheds that are a hazard. They are trying to get some new storage available on the property. He said he has some land cleared, dirt brought in and compacted. The Conex box is a one-time use, 20-foot container with no graffiti. He will be tearing down the two sheds.

Keith said he doesn't see any issues with this application. The Conex box is currently sitting at the Painted Hills RV Park. Everything is in order and Seth is just going through the application process.

Seth asked about how the box should be sided and what is required. Larry said that the commission is not going to apply architectural guidance to the permit.

Jerry Vesely made motion to approve the permanent placement of a Conex box at 122 West 300 North, providing City Ordinances are adhered to. Troy Hoyt seconded the motion. All members present voted in favor of this motion and the motion passed.

SUBDIVISION CODE REVIEW: Larry sent the commission the Hansen Group official review. The members went through the document.

Major issues and opportunities for improvement:

- **Add a new subdivision application review process for a 1-2 family residential use.**
Dan said that is because the state designates there is a certain process if it is a single or dual family subdivision. There are a different set of rules to follow. Larry asked how this will be implemented if there is a subdivision with mixed zones. Will there be two different processes. Dan said he isn't certain the recommendation, but thinks it would look like one process, but with a subsection that says 1-2 family residential can skip certain things.
- **City council cannot be the subdivision land use authority.** Already addressed this.
- **City needs to describe an expedited timeline for review and approval**
Dan said current code is 45 days to review and approve a preliminary application. The new state law requires the city to complete an initial review of a one-two family residential application within 30 days, after the developer has submitted a complete application. The city can require modifications, but can take no longer than 120 business days total to review a subdivision approval plan. Dan said he is assuming Hansen Group got our classification right for the timelines. There are different timelines for city classifications.
- **The new law permits only one public hearing in the preliminary review process (and none in the final review process).** Hansen Group made a notation that the City's codes do not require a public hearing, but it should be aware of this limitation. Larry and Dan both said they think our code requires at least two, but we can only have one public hearing in the preliminary process.
- **According to the new law, the City is to consider subdivision improvement plans in either the preliminary or final applications.** Dan said we need to decide where we want the intensive review. Do we want it at the preliminary or final stage. Right now, our code has three processes. One, is a pre-preliminary (sketch), a preliminary, and then the final plat. We need to decide at which point we want our intensive review. Larry said he would think it would be in the preliminary phase. Dan said at the preliminary stage, we go into great detail to approve and make sure everything fits our code. We then tell them they can build the subdivision and when it is built, we will do a final plat. At that point, they can sell individual lots, but they need all the improvements in, before they can sell the individual lots. Utah law says we give the final plat, either with improvements first or issue a bond. Larry said he will research the bonding issue. Dan said we need to come up with a process so that we do not have the issues we have currently in the Diane Subdivision.
- **The new law gives the City a maximum of four "review cycles" when considering Improvement plans for 1-2 family residential subdivisions.** Dan said as long as they respond to our redlines, we can have up to four review cycles and then it shall be granted or denied. If denied, it has to be based on something.
- **The new law provides potential subdivision applicants the right to a pre-application meeting with the City.** Dan said this is if the developer wants it. The current City's optional "concept plan" will work, but the new law requires that a meeting to review the concept plan be scheduled within 15 days after the applicant requests one.

- **The new law requires municipalities to approve subdivision applications for 1-2 family residential use if those requirements “check all the boxes” and are compliant with local ordinances.** Dan said this is consistent with the City’s current approach. However, the City can protect the quality of development by making sure that the City’s land use ordinances and technical subdivision requirements are thorough and up-to-date. Dan told the commission about the last City Council and a potential subdivision and property annexation. He said we have all the discretion over annexation. The concerns are if someone does a subdivision, and we have to approve it. If this is a 1-2 family subdivision, and they meet all the requirements, we have to approve it. This is new law. Weston said that doesn’t mean we have to annex the subdivision. Dan said true, but if they are annexed and request anything other than a cut and paste 1-2 family subdivision, then we have the ability to slow down the process and make sure that we want to allow it

- **Add an appeal authority for subdivisions.** Dan said we have a board of adjustments, but they are not versed in the subdivision rules. We may need to think on this one.

- **Add a requirement for the City to notify water conveyance facilities and the Utah GeoSpace Resource Center.** Larry said this would be canal companies, ditches, pumpers, and anyone that might be affected. Dan said it would give secondary water companies a chance to review the easements and make sure it doesn’t affect them. Dan said we will need to add this in our code.

- **Clarify language around performance guarantees and required improvements.** City Code 14.10.040 will need clarification. We need a process to require performance bonds.

David asked what the GeoSpace Resource Center is. Dan said it is a GIS based coordination office.

Larry said it will be interesting to see if the Hansen Group is okay with the definitions we have been working on. Dan said they will make sure definitions that new laws require are included.

Larry said he does like the comment “Edit for plain language throughout” – In addition to the material changes suggested above, more minor edits throughout could increase readability in the City’s Code.

Dan said before the Hansen group can move forward, we need to decide if we want to see the heavy plans in the preliminary or the final stage. That is a decision they will need to determine how they write the code.

Larry said he thinks the Land Use Authority should get together and walk through a conceptual subdivision process, to determine what would work best for the City, then bring that decision back to the Planning Commission to present to them. The Land Use Authority is the Planning and Zoning Chair, Zoning Administrator, and Assistant Zoning Administrator.

Dan asked the Commission if they want to have the standard process for a multi-family subdivision and only have to fast track for what we currently have the fast-track on. The consensus was to only fast-track what we are required to fast-track.

Dan suggested that the Land Use Authority meet before the next meeting, come up with ideas and bring back to the next Planning Commission Meeting. Larry said he will let the Hansen Group know they can move ahead on some of the ideas discussed.

EXTERNAL ACCESSORY DWELLING UNIT CODE DEVELOPMENT: Larry said that at the last meeting the discussion was to not apply maximum sizes in code. The vote was, that in lieu-of maximum sizes, EADU's should not exceed 25% of front, side, and back yard. The Commission said that set-backs would still be applied.

Larry asked the commission if they wanted the statement "separate utility connections and separate utility meters for EADU's are prohibited: or the alternate statement "separate utility connections and separate utility meters for EADU's are allowed with the payment of impact and other associated fees." The Commission decided on "separate utility connections and separate utility meters for EADU's are allowed with the payment of impact and other associated fees, including water."

EADU's will have separate addresses, which could be the same address but with the distinction of "A" and "B."

Larry will modify that EADU's can be in the back, side, or front.

Larry read (c) - A detached accessory dwelling unit shall not exceed a gross floor area of, (eliminated the square footage requirement), in no case shall a detached accessory dwelling unit exceed 50% of the square footage of the primary dwelling on the property". He clarified that all maximum size was limited by set-backs and 25% rule. He will delete that section.

Larry asked if EADU's should have a minimum size. Heather said building code defaults to that. Larry said that we follow the IBC and that in turn follows the IRC. The IRC updated their minimum sizes, and defines habitable space and dwelling units. Habitable space has a definition with a minimum size of 70 square space, generally defined as a room. Larry gave the commission a document and asked them to read through it. Larry recommends they talk about a minimum size and define what it will be. He said that tiny homes would need to be part of that discussion. IRC appendixes do not apply to Parowan City, because we have not adopted the appendixes.

Larry also asked if an EADU would be required to have a foundation. Dan asked if an RV parked in the backyard and attached to power is considered an EADU. Larry said, absolutely not. Dan said we probably need to tighten up our RV ordinance. Larry read 15.56.030 "Application A. This ordinance applies as follows to RV's maintained for personal and immediate family use which are located on property which is owned or occupied by the person which owns the RV. 1 – Occupied RVs shall not be permitted in Parowan, Utah, except under the following conditions: (a) When located in an approved RV park; or (b) When temporarily located on a lot while a main building is being constructed thereon, but not for more than one (1) year.; (1) A validly issued, unexpired and revoked building permit is required (2) Applicants for a building permit shall submit a site plan, proof of proper sewage treatment or containment option, an approved culinary water source, and a "cabin equivalent" solid waste service for the RV." Dan said we have complaints with this and we need to be looking at this. Larry said it is a problem that we need enforcement on. There is a problem with sewage and where it is going among other things.

Heather said regarding tiny homes, it is a bigger obstacle to work through, but our focus should be on EADU's that are permanent. Once that is established, we can branch into looking at specific tiny home code. She doesn't want to delay EADU code to City Council for approval. Larry said understanding that there will be some conflict if there is already an EADU on the property and then putting a tiny home on the property could be conflicting. Heather said she understands that and doesn't think both can be allowed on a property.

Larry said another question he has, should EADU's be allowed as short-term rentals. Troy said he can't think of a reason that we should not allow it as a short-term rental. Weston said he has conflicting thoughts on this. They should be allowed to do what they want with their property, but also can see how that can affect the neighborhoods. Heather said that State has defined IADU's and they are not permitted to be short-term rentals. The purpose was to increase housing availability. She said she thinks we leave it open until the State defines this. Looking at code, if someone is looking at short-term rentals, they would have to do an EADU. Weston asked if you need a sign off to have a home business, can you could turn your casita into a hotel room without noticing your neighbors. Heather said you would also need to get a home occupation permit, which gives the neighbors an opportunity to protest.

Larry said he will write it in as EADU's are allowed as short-term rentals in accordance with short-term rental regulations and then address it when we get to the short-term rental code.

The commission discussed Parowan City Code 15.44.050 "Rural Estate." Larry asked the commission if they had concerns with this code. The set-backs are different than most of the other residential codes. Dan said with rural estate you generally have large lots, and if we restrict EADU's within the setbacks it would preserve the rural feel.

Larry also discussed the airport overlay which allows one dwelling per 10,000 per square foot. The overlay extends out two miles. The potential annexation to the west of 600 West, you could only have one dwelling per 10,000 square feet. Larry said we need to be looking at this. Dan said we need to update our airport overlay to be compliant with the State Code.

Larry said our code 15.30.060 (c) "Size of Building – The ground floor of any one-family dwelling shall not be less than 1,000 square feet, exclusive of open porches and carports." Dan said that this is the only place that says this and we either say EADU's in an R1 be not less than 1,000 square feet, or fix this code. Larry said this leads us back to the tiny home discussion. Larry said he read an article that talks about minimum home sizes, and how they are updated and changed on what the political climate is. He said he is open to suggestion. Heather said she would put not less than 400 square feet, because 399 is considered tiny homes. Larry said the R3 rezone for next meeting likely that development will become a PUD. When we get into the designing of the property, it will affect the density that we can adopt. The density on the document they sent us, according to our density codes is low. The density could be actually higher. But we need to look at the minimum square footage. When we talk about decreasing the minimum size of dwellings, we will need to look at our PUD code as well. Larry read through the PUD code requirements. He said we will need to go through our code and make sure our code is consistent.

Larry asked the commission to do some research on these issues. Dan said Enoch's approach was minimum length in one dimension. They specified by lineal footage, not square footage. Larry said IRC also has similar language.

Larry asked if we should allow EADU's in the Agricultural Zone. The commission didn't see a problem with that.

Larry said what if a group of buildings exceeds the 25% rule and someone comes in and wants an EADU. Weston said no, that is more substantial than a gazebo.

Larry asked the commission to go through these and have recommendations to the next meeting.

REPORTS: David said he noticed Falcon Ridge is moving forward and moving dirt. Dan said they have an early grading permit and we are waiting on a transfer of water. When the change application has been recorded, they will move ahead with their building permit. The water isn't official until the transfer is complete and if the water isn't transferred they will not get their certificate of occupancy.

David reported that the council approved a petition for annexation for Alex Meisner at last City Council Meeting. David said he was opposed on the grounds that he didn't feel like it was a complete application and that Alex should have been there to represent himself and answer questions. David said he asked the council to slow down, as he felt it was hurried and the application given was incomplete. David said this was the first step in the annexation process.

Troy, Jerry, and Weston had nothing to report.

Heather said she agrees with David Burton on the Meisner Annexation.

Dan went through the annexation process with the Planning and Zoning Commission. He said the City has 10 days or the next scheduled council meeting, after an annexation petition is filed, to respond. If they don't respond, it would automatically be approved. Dan said he recommended that they hold off, but technically they were within legal bounds to submit the application.

Mayor Halterman said she appreciates the Commission for their commitment and preparedness.

ADJOURN: Heather Peet made a motion to adjourn the meeting at 8:42 P.M. Troy Hoyt seconded the motion. The meeting was adjourned.