

**PERRY CITY PLANNING COMMISSION MEETING
THURSDAY, SEPTEMBER 3, 2009 7:00 P.M.
PERRY CITY OFFICE BUILDING—CITY COUNCIL ROOM
3005 S. 1200 W. PERRY, UTAH**

PLANNING COMMISSIONERS PRESENT: Karen Cronin (Vice chair), Martin Hinckley, Harlan Brewer, Steve Pettingill (Chair)

OTHERS PRESENT: Duncan Murray (City Attorney), Lorin Gardner (City Engineer), Rachel Tribe (City Planner), Angela Erwin (Minutes Clerk), Lani Braithwaite, Michele Bowden, Earl Pannebaker, Jim Felix, Suresh Kulkarni, Josh Felix, Bob Thurgood, Kellie Reese, Kenneth Reese

I. CALL TO ORDER AND OPENING CEREMONIES:

Comm. Cronin called the meeting to order at approximately 7:04 p.m.

A. PLEDGE ALLEGIANCE TO THE U.S. FLAG
Conducted by Comm. Cronin.

B. DECLARE CONFLICTS OF INTEREST, IF ANY
Questions initiated by Comm. Cronin. None existed.

C. REVIEW AND ADOPTION OF THE AGENDA
No official motion.

D. APPROVE MINUTES FOR AUGUST 20, 2009

Comm. Brewer said on page two, the middle paragraph should read, “[he/she] can appeal” and five lines down on page two should read, “there [are] no.”

*Comm. Pettingill arrived at approximately 7:10 p.m.

Comm. Cronin summarized her changes (she had called Angela Erwin prior to the meeting to make the changes). Page three should read, “uncle[‘s] barn,” and “Marv Nef, [owner of the property]” should be added. She also changed “they” to “the” on page five and added “the Upland Square area” to the middle paragraph. Also to this paragraph, Comm. Cronin changed the wording to, “Comm. Cronin said the Upland Square zoning was a similar land use issue. Also, the planning commission told the developer who wanted storage space behind Walmart, that they would have to deny that application for storage, based on that parcel of land, because it was not a permitted use for that zone.”

Motion: Comm. Brewer moved to approve the minutes for August 20, 2009, as corrected. The motion was seconded by Comm. Hinckley. No discussion. All in favor.

II. PUBLIC HEARINGS AND PUBLIC COMMENTS

A. PUBLIC COMMENTS

Comm. Pettingill summarized the public hearing and public comment rules, as listed on the agenda, and asked if there were any public comments.

Jim Felix, Perry resident (309 W. 2000 S.), wanted to address the commission regarding changing the zoning on highway 89 from NC2. Comm. Pettingill explained that there are no plans to change the NC2 zoning, but it is on the agenda as a discussion item. Jim Felix said from 2006 to 2008 he spent a lot of time getting this area zoned the way it is now. There were a lot of hearings. He added, “don’t fix it if it ain’t broke.” He said don’t change it for one individual company who wants to put in residences. Jim Felix said Perry needs commercial zoning and he thinks highway 89 is the perfect place to have it.

Earl Pannebaker, Perry resident (2540 S. 550 W.), echoed what Mr. Felix said. He thinks Suresh Kulkarni’s letter, entitled “Land Zoning Adjacent to U.S. Highway 89 in Perry” is well written. He said Perry needs to maintain commercial area for tax base reasons. Mr. Pannebaker added that space needs to be kept for neighborhood commercial businesses.

Lani Braithwaite, Perry resident (997 W. 3450 S.), said those who currently own property in the NC1 or NC2 zones need their property rights protected. She agrees the zone should not be changed from commercial, but thinks “we” need to do what “we” can to protect the rights of those living on highway 89.

Suresh Kulkarni, Perry resident (2595 S. 1200 W.), put together a one page presentation entitled “Land Zoning Adjacent to U.S. Highway 89 in Perry.” He received a lot of input from people. He said there is a highway running through the city, which is a major transportation route. He is concerned that if there is a zoning change along highway 89 there will be an influx of residential homes. There are storage units by Bryce Auto Sales and goats nearby, so encroaching is already taking place. He said Mr. Felix walked the length of highway 89 when the zoning was set. He said just because there has been an economic downturn, the past does not reflect the future. He said on Brigham City’s Forest Street there are storage sheds and salvage yards. Now, Brigham City wants the area back for commercial development. He said Harrisville’s and North Ogden’s commercial is booming. Mr. Kulkarni added that those who live along highway 89 have been grandfathered to do with what they want with their land. If residential development is allowed along highway 89 there will be a safety issue with traffic and children. There will also be a lot of traffic noise. If non-commercial development is allowed, the commercial development will shy away because of demolition costs. He suggested talking with previous planning commissioners and neighbors of highway 89. Mr. Kulkarni recommended that the ordinance be looked at to make sure it is clear and tightened, but not changed.

Josh Felix, Perry resident (2585 S. 1200 W.), said there is a master plan for a reason. It gives guidance down the road. Decisions were previously made with foresight. These recommendations need to be stuck to and the master plan should stand for awhile. It does not need immediate change. He said Mr. Kulkarni made excellent comments and the planning commission should stand by the previous planning commission's efforts. The economy will change and there will be businesses on highway 89. Josh Felix added that when you open the door for residences you open the door to storage sheds, farms, and other things not intended for the area.

Ken Reese, Perry resident (2310 S. Madison Circle), said highway 89 is very valuable to Perry. If it is changed, Perry will have just what Willard has - nothing. Perry cannot afford to continue to allow houses to go where there should be businesses. Mr. Reese added that highway 89 should be left to the businesses.

Bob Thurgood, Perry resident (165 E. 1550 S.), owns property along highway 89. He said Mr. Kulkarni had good points and appreciated Jim Felix's hard work. He thinks there should be a balance. As logic indicates, there are not enough businesses to fill the commercial land. He thinks it is a good plan to have some commercial property set aside. He said the property owners along highway 89 have their hands tied. There are no commercial businesses coming. He tried to get the Mayor to write a letter to UDOT supporting Maverick. He said there is revenue coming into the city, but he could not get the Mayor to write a letter in support of Maverick. Annual taxes are being paid for the land to sit vacant. He said housing does not mean building a home facing highway 89. The state controls accesses along highway 89 and the state will not allow accesses all along highway 89. There can be affordable housing or condominiums, with a limited number of units. Mr. Thurgood added that a balance can be kept that will not tie the hands of those who own property along highway 89.

Comm. Pettingill invited those in attendance to read the minutes from the August 20, 2009 planning commission meeting. He said the different view points of the planning commissioners can be seen in those minutes.

III. DESIGN REVIEW/SITE PLANS AND LIMITED REVIEW PERMITS
(ADMINISTRATIVE APPLICATIONS)

None

IV. SUBDIVISIONS AND STREETS (ADMINISTRATIVE APPLICATIONS)

- A. DISCUSSION REGARDING MONUMENT MARKERS FOR NEW
SUBDIVISION (MAPLE HILLS)

Comm. Pettingill does not think monuments are important to the city. He is concerned with the long term maintenance. Comm. Hinckley does not see there being a problem if the developer maintained the monument. He does not think the city should have to maintain monuments. Comm. Cronin does not have a problem with a monument with no landscaping that needs to be maintained. She would agree with a home owner's association or the house bordering the monument maintaining the monument, but does not think the city should have to maintain the area around the monument. Comm. Cronin said the current monument [by the city office building in Perry] makes the area look nicer. Comm. Pettingill commented that the monument by the city office building does not comply with the sign ordinance. Comm. Hinckley is concerned with the "tagging" of monuments and other constant maintenance of monuments. Comm. Brewer does not want tax payers to pay any money "just because it makes someone feel good." Comm. Pettingill summarized the discussion points as: 1. The homeowner association maintain the monument, and 2. The monument conform with the sign ordinance. He, personally, does not want a monument, which makes for more signs and clutter in the city.

Motion: Comm. Cronin moved to organize a committee to draw up language to support allowing monument markers if they are maintained by a homeowners association or a private homeowner and that no tax payer money would be allowed to go towards maintaining markers, monuments, or any other kind of design. The motion was seconded by Comm. Hinckley. Discussion: Comm. Pettingill does not think Perry needs a whole city of markers.

Roll call vote: Comm. Pettingill–nay, Comm. Hinckley–aye, Comm. Brewer–aye, Comm. Cronin–aye. Motion passes (3 to 1).

Comm. Pettingill assigned Comm. Cronin, Comm. Hinckley, and Comm. Brewer to serve on a committee to further review this item.

V. SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS, AND MISC.
(QUASI-JUDICIAL APPLICATIONS)

None

VI. LAND USE ORDINANCES, ZONING, DESIGN GUIDELINES, GENERAL PLAN
(LEGISLATIVE ACTION)

A. DISCUSSION REGARDING LAND USE CHART TITLE 45 (NC2 AND NC3
ZONES NEIGHBORHOOD COMMERCIAL)

Comm. Pettingill said he does not believe the city council will allow pigs in the commercial zone. He thinks this is a "dead" issue. Comm. Cronin does not see this as a commercial zone issue, but as a land issue. It came about from a

nonconforming use that was not grandfathered in, and there was a complaint, and the zoning should be upheld to protect nearby landowners. Comm. Hinckley said there are constraints, consistent with what is tolerable in the community, that have to be put upon residents so that residents can get along with each other. If pigs are offensive to a neighbor, just because someone wants to raise pigs, does not mean they have the right to raise pigs. Comm. Hinckley believes this situation does not justify a change in the land use ordinance.

Comm. Hinckley continued that there is too much commercial property set aside, making it uncertain where the commercial is located in the city. He said the traffic will tend to be on 1100 S. and 750 N. because of traffic flow.

Comm. Cronin spoke to a person in Smithfield's planning department who said new housing is not being allowed along highway 91. The population in Smithfield has gone from 4,400 to 10,000 in 14 years. Smithfield has gone from four to five businesses along main street to annexing more land from the south to bring in more businesses. Smithfield is very strict about what types of businesses are allowed on highway 91. The businesses also have to conform to certain building codes. All the businesses that come in are willing to abide by the building codes. The people who are complaining are those who own houses along highway 91 because they cannot sell their houses. Comm. Cronin was also told by the person in Smithfield's planning department that she did not see why there should be houses along a major thoroughfare. Smithfield has to buy houses on highway 91 and tear them down. Comm. Cronin also spoke with residents of Harrisville who applauded their city for keeping 300 feet along each side of their highway open. Comm. Cronin asked if banks will go to the south or north end of Perry. She does not think Perry should change the ordinance just to change the ordinance.

Comm. Pettingill said he owns land in the area and he thinks his land is being held hostage. He said Perry already had a bank, and it moved out. There were three service stations that are now gone. There used to be five major service stations that are now gone. As the city grows the speed will be reduced along highway 89 and people will not want to come to Perry, but go on the freeway instead. He asked why the 640 acres are being held. He thinks the city needs to gain direction of where the city needs to go. There is R1/2 zoned on both sides of highway 89 where the least amount of people is limited next to a commercial zone. Comm. Pettingill added that a commercial zone should have the highest residential use, because there should be people there.

Comm. Cronin said holding land hostage is no different from the planning commission not allowing the landowner behind Walmart to have storage bays. Comm. Pettingill said the landowner behind Walmart had other commercial zone land use options. Comm. Hinckley said tearing down a storage shed is cheaper

than tearing down a house. He said maybe what Perry needs is not residential, but something that enables the growth of commercial, and does not discourage commercial. Comm. Pettingill said “money on the table” attracts a business. He said Smithfield built out main street and as the building reached south, a grocery store came. Now, Smithfield is annexing to obtain more ground for commercial. Comm. Cronin said Smithfield now has to demolish houses and quite a few houses are sitting vacant.

Comm. Brewer said conflicts with future guessing keep coming up. Comm. Pettingill said the city has provided a place for people to live in Perry for years and Perry is closing the door on 640 acres, period. Comm. Cronin disagreed.

Comm. Pettingill explained to Michele Bowden that he does not think the city council will approve the zone change that would allow pigs in a commercial zone. He said the “pig issue” needs to resolve itself with her and city staff. Ms. Bowden said there is a fine line with the current ordinance, as she does not have continuous animals on her property with 4H projects. She is concerned about not being grandfathered in when a specific animal leaves her property. Comm. Cronin read from ordinance 65.03.040, which states, “...the nonconforming use of land or any portion thereof is abandoned or changed for a continuous period of one year.” The commissioners explained to Ms. Bowden that as long as her land is kept in the same general use (the same animals she had when the ordinance was adopted) that she will be grandfathered in. Comm. Cronin suggested to Ms. Bowden she could take her pigs to “Smoot’s Farm.” Ms. Bowden said this defeats the purpose of 4H projects and prevents her children from raising the pigs. Comm. Hinckley said residents live as a community and there would be chaos in society if residents used their property the way residents want. People have to surrender their rights. He said to Ms. Bowden that her children can still have successful 4-H projects. Ms. Bowden said her grandmother’s land was sold to developers and is now weeds and a mess. She is landlocked and asked why the land around her is not developed. Comm. Cronin said the land was approved for development, but the developer did not proceed. Rachel Tribe said subdivisions and developments are at a halt right now. Comm. Hinckley said the planning commission can approve a development, but cannot make a development happen. Ms. Bowden would like something done with the property. Comm. Hinckley said the city can tell a person what he/she cannot do [with his/her land] but not what he/she will do [with his/her land].

B. DISCUSSION REGARDING FIRE OVERLAY MAP

Comm. Cronin, Comm. Hinckley, and Comm. Curtis are on a committee to further discuss this item. Comm. Cronin will contact the committee members.

C. STREET LIGHTS (APPROVED STYLES)

Lorin Gardner said Duncan Murray asked him to expand his research on street lights. He has contacted Rocky Mountain Power regarding the current lights and there is a possibility that Perry will be taking over all the traffic lights in the city. He is looking into making the lights more efficient. He does not have all the data yet. He has taken a copy of the street light map, which is not finished, and added the new lights. Comm. Pettingill asked how Rocky Mountain currently bills Perry. Mr. Gardner responded that it is based on a fee schedule and there are several different billing rates Perry is currently paying depending on who owns/maintains the lights (developer rates, Rocky Mountain Power rates, and rates where the city owns the light and just pays the power bill). Rocky Mountain is trying to get out of the street light business, where cities own the lights instead. Comm. Pettingill asked Ms. Tribe to get information on how much the city spends, per month, on lighting. Mr. Gardner added that there are possible grants for more efficient lights and he will be providing his recommendations.

D. DISCUSSION REGARDING FIRE STATION LOCATION

Comm. Pettingill said the committee met. Perry is applying for a grant with Brigham City, where there would be a joint fire station. Brigham City would like the joint fire station located near the border of their city. The consensus of the committee was that it would be better for Perry to have a more centrally located station. Yet, Perry would have to provide staff for the fire station in this case.

E. DISCUSSION REGARDING CLUSTER HOUSING

This will be discussed on the next agenda.

VII. TRAINING AND HANDOUTS

A. UPDATE ON ISSUES ASSIGNED TO STAFF

None mentioned.

B.

CITY COUNCIL
REPORT - TOM
PETERSON

Tom Peterson was not in attendance.

C. NOTICE OF SPECIAL TRAINING SESSION ON WEDNESDAY,
SEPTEMBER 16, 2009 AT 5:30 P.M. IN THE COUNCIL ROOM (TOPIC:
COMMUNITY DEVELOPMENT AREAS)

Ms. Tribe said training is set for September 16, 2009. Comm. Brewer and Comm. Pettingill will not be able to attend. Ms. Tribe will reschedule this training for October, 2009.

Comm. Cronin mentioned that Craig Call will be presenting training on September 24, 2009, in Hyrum. Mr. Call is inviting all the planning commissions and city councils from the area. Comm. Cronin said the fee is about \$125.00 per attendee. She is expecting a fax with further information. The cost of this training was discussed as a drawback to attending.

VIII. REVIEW NEXT AGENDA AND ADJOURN

A. ADD AGENDA ITEMS REQUESTED BY PLANNING COMMISSIONERS
None mentioned.

Mr. Gardner mentioned that he will be out of town and will not have information regarding lighting until the October planning commission meeting.

B. MOTION TO ADJOURN
Motion: Comm. Brewer moved to close the meeting. The motion was seconded by Comm. Hinckley. No discussion. All in favor.

Meeting adjourned at approximately 8:35 p.m.