

1 **PLANNING COMMISSION MINUTES OF MEETING**

2 **Wednesday, May 9, 2018**

3 **7:00 p.m.**

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

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8 **MEMBERS PRESENT**

9 Cheylynn Hayman, Chair

10 Kevin Daly, Vice Chair

11 Kathy Helgesen

12 Kai Hintze

13 Gina Hirst

14 Logan Johnson

15 Becki Wright

16
17 **MEMBERS ABSENT**

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19 **STAFF PRESENT**

20 Cory Snyder, Community Development Director

21 Cassie Younger, Assistant Planner

22 Avalon Comly, Recording Secretary

23
24 **STAFF ABSENT**

25 Lisa Romney, City Attorney

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27 **VISITORS**

28 Interested citizens (see attached sign-in sheet)

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30 **PLEDGE OF ALLEGIANCE**

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32 **OPENING COMMENT/LEGISLATIVE PRAYER** Commissioner Helgesen

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34 **PUBLIC HEARING- ZONING TEXT AMENDMENT – CZC 12.55.110 FENCES AND**
35 **WALLS**

36
37 Cory Snyder, Community Development Director, introduced the Zoning Text
38 Amendment. He shared that staff was directed by the City Council to consider amending
39 fencing heights to mitigate or buffer after a citizen attended a Council meeting and shared
40 concerns about her neighbor's horse being able to lean over the fence that separates their
41 properties. Mr. Snyder reviewed several alternative options for the Zoning Text Amendment,
42 carefully reviewing pros and cons of each of these alternatives, and added that staff does not
43 take a position on the matter. Alternative number one (1) would leave the existing ordinance in
44 place, which limits fencing to 6 feet in height. Alternative number two (2) would add A-L and R-
45 L to the 10-foot allowance for other Zones. Alternative number three (3) would add a new
46 section to the ordinance just for A-L and R-L Zones and limit height to 8 feet.

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48 Chair Hayman asked Mr. Snyder if he was aware of any other residents who had asked
49 for higher fences in the A-L or R-L Zones. Mr. Snyder responded that there have not been any
50 requests the same as this one, but that staff does occasionally receive complaints associated

1 with privacy, especially in situations where there is a grade difference between neighbors'
2 backyards. Chair Hayman asked if there are other cities comparable to Centerville City that
3 allow fence heights up to 10-feet. Mr. Snyder said from his experience that there are some
4 circumstances where heights over 6 feet have been allowed for a buffer in other cities, but that a
5 10-foot fence is an anomaly.

6
7 Commissioner Wright asked for clarification on when building permits are required for
8 fences. Mr. Snyder clarified that fences 6 feet and under do not require a permit, fences from 6
9 feet to 7 feet fall in a Permitted Use category, and any fence over 7 feet requires a building
10 permit. Commissioner Wright asked for clarification on whether a horse putting its head over a
11 fence on a neighbor's property line could technically be considered trespassing. If this intrusion
12 could be considered trespassing, Commissioner Wright wanted to know if it would be the horse
13 owner's responsibility to ensure that their horse did not trespass. Mr. Snyder used an example
14 of a tree to respond to Commissioner Wright's question and explained that the owner of a tree is
15 the person on whose property the trunk resides, so while a neighbor could trim limbs that hung
16 over their property line, those limbs are still technically the possession of the tree owner. Chair
17 Hayman commented that there is no damage to a property owner by a temporary intrusion of a
18 horse's head over a property line, as there would be with a limb of a tree falling into a neighbor's
19 yard and damaging their property.

20
21 Chair Hayman asked if the character and consistency of existing neighborhoods could
22 change if the Planning Commission passed the Zoning Text Amendment and property owners
23 replaced existing fences with taller ones. Mr. Snyder replied that they could.

24
25 Commissioner Daly asked how the height of a fence is measured if there is a grade
26 difference between properties. Mr. Snyder responded that the height would be considered the
27 average height between the 2 grades. Natural grades of the lot are used for this calculation,
28 and not grades resulting from added fill to be installed after the fence.

29
30 Chair Hayman opened a public hearing at 7:16 p.m., and closed the public hearing
31 seeing that no one wished to comment.

32
33 Commissioner Johnson asked for Chair Hayman to clarify her previous point. Chair
34 Hayman clarified that if the issue requiring a taller fence is a trespass issue, there are viable
35 alternatives outside of a zoning text amendment. For example, neighbors could discuss a
36 solution amongst themselves, and if no solution can be reached there are legal recourses that a
37 neighbor could use. However, if a horse is just leaning its head over a fence, Chair Hayman
38 questions what the damage is to the neighbor. She expressed concerns about changing the
39 Zoning Text over complaints from one citizen, and what such a change could do to existing
40 neighborhoods. She also agreed with staff's concern about high winds potentially pulling down
41 higher fences.

42
43 Commissioner Johnson asked if the resident had mentioned a problem with allergies in
44 her comment before the City Council. Mr. Snyder confirmed the resident said she is allergic to
45 horses. Commissioner Johnson asked if there were other damages to her because of her
46 neighbor's horse. Mr. Snyder responded that there were not from his recollection.

47
48 Commissioner Wright said she is not inclined to vote for the Zoning Text Amendment as
49 she would be uncomfortable with this increased fence height. She expressed her concern for
50 the structural integrity of the fence in high winds, and said she felt there could be other remedies
51 for this complaint among the neighbors involved. She also said she feels that because the
52 property owner is living next to a piece of land that is zoned A-L, it could have been anticipated
53 that farm animals might be living in the neighbor's yard at some point. She was concerned

1 about how this amendment would affect Centerville as a whole, and did not feel that the very
2 few situations where a taller fence could be beneficial warranted such a drastic change in the
3 whole community.

4
5 Commissioner Hirst agreed with the other Commissioner's comments and expressed
6 that she is concerned that the sense of community could be lost. She also mentioned that taller
7 fences might block out too much sunlight in adjacent lots, especially if they are small, and this
8 could impinge upon property owners' abilities to plant gardens or enjoy their backyard as they
9 might otherwise.

10
11 Commissioner Helgesen agreed with what has been previously said and expressed that
12 she too is disinclined to vote on this Zoning Text Amendment.

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14 Chair Hayman made a **motion** to recommend denying the request for consideration for
15 findings one (1) through five (5) from the staff report, as well as finding number six (6) below.
16 Commissioner Daly seconded the motion. Commissioner Wright made a **motion** to add finding
17 seven (7) below. Commissioner Daly seconded the motion. Chair Hayman made a **motion** to
18 amend her initial motion to recommend denying the request for consideration for findings one
19 (1) through eight (8) below. Commissioner Daly seconded the motion, which passed by majority
20 vote (6-1), with Commissioner Johnson dissenting.

21
22 Findings:

- 23
24 1. Generally, it is common knowledge that fencing 6 feet or less do not require a City
25 permit, adding a requirement for a higher fencing will lead to confusion with the
26 general public.
27 2. Additional heights may require structural engineering to withstand the load weights
28 on the soil or high winds.
29 3. High winds are a particular problem for Centerville.
30 4. Higher fencing can potentially and will block/screen adjacent property owners
31 gardens and plantings from needed sunlight and air circulation.
32 5. Taller fencing has a visual fortress type of appearance, which may have a negative
33 visual/social quality to single-family style development.
34 6. The Zoning Text Amendment would allow for inconsistent and patchwork fencing in
35 existing neighborhoods.
36 7. Taller fencing would threaten the sense of community that exists in Centerville.
37 8. If the concern involves trespass issues, there exists an alternative legal remedy to
38 address that concern.
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40 **DISCUSSION: ADMINISTRATIVE DECISIONS – PERMITTED AND CONDITIONAL**
41 **USE PERMITS**

42
43 Cassie Younger, Assistant Planner, reviewed a chart attached to the agenda, which
44 outlined current administrative procedures and presented alternatives to streamline them. For
45 Home Occupations, the Alternative presented was that Conditions could be placed on the
46 application by the Zoning Administrator and appeals could be made to the Planning
47 Commission. For Temporary Use permits time limits could be extended, and all Conditional Use
48 permits could be approved by the Zoning Administrator. For Site Plans any residential
49 development outside a platted subdivision could go to the Zoning Administrator or could be
50 amended to a 1-step process.

51
52 Commissioner Daly asked for clarification on state rules for Temporary Use Permits. Mr.
53 Snyder recollected that it was 10 days per month in any one location that was allowed. Chair

1 Hayman asked Ms. Younger if she had considered adding in a "relief mechanism" for the Zoning
2 Administrator in her alternative proposed for approval of conceptual and final site plans for
3 residential development outside a platted subdivision. This would provide a means for the
4 Zoning Administrator to use his/her discretion to elevate an application to the Planning
5 Commission for approval if needed. Mr. Snyder responded that this could easily be added.
6 Commissioner Wright asked if there is an existing recourse for a citizen who is disgruntled by
7 the approval of a Temporary Use permit. Mr. Snyder verified that nothing would change in a
8 citizen's ability to appeal the approval of a Temporary Use Permit. Commissioner Wright further
9 asked if Conditional Use Permits for Temporary uses are required by statute to have public
10 hearings. Mr. Snyder responded that public hearings have been held to receive public input as
11 part of the discovery of mitigation. Commissioner Wright asked if there was still a way to
12 receive public input if Conditional Use Permits for Temporary Uses were approved by the
13 Zoning Administrator, as she would still like to give the public the opportunity to comment. Mr.
14 Snyder suggested that public hearings could be held during an appeal if required.
15

16 Chair Hayman opened a discussion on proposed Home Occupation changes.
17 Commissioner Johnson said that he is in support of making the changes that staff has
18 suggested. Commissioner Johnson asked if the Zoning Administrator could be granted the
19 authority to send certain permit applications to the Planning Commission to examine. Chair
20 Hayman agreed that she would like to empower the Zoning Administrator to use his/her
21 discretion to send things to the Planning Commission to review if needed. Chair Hayman asked
22 how the Commissioners felt about not providing notices to the public regarding Conditional Use
23 Permit applications. Mr. Snyder said that noticing would still be done, but the Commissioners
24 would need to decide how to deal with any comments received from the public. Commissioner
25 Wright asked if there is a way to design a comment section on the City's website. Chair
26 Hayman suggested that perhaps if one (1) or more members of the public made a comment
27 then the CUP approval could be elevated to the Planning Commission. Commissioner Daly
28 said he wanted to clarify the type of comment that would trigger an issue being elevated to the
29 Planning Commission, and suggested that he would like the Zoning Administrator to be given
30 the discretion to decide if public concerns warranted elevating the application to the Planning
31 Commission. Chair Hayman asked Mr. Snyder how staff would feel about being given this
32 discretion. Mr. Snyder said that very little is problematic with Home Occupation permits and it
33 should be reasonable for the Zoning Administrator to use his/her discretion when examining
34 public comments. Commissioner Johnson asked what the recourse would be for citizens who
35 feel the Zoning Administrator made an unfair decision. Mr. Snyder responded if a permit was
36 illegally approved it would be invalidated immediately, but reinforced that these issues do not
37 typically come up in Home Occupation Conditional Use Permits. Chair Hayman asked if the
38 Commissioners were generally comfortable with the structure of the proposed changes to the
39 Home Occupation Conditional Use permitting process. Commissioner Helgesen said she is
40 generally comfortable but that she is concerned about the public still having an avenue to be
41 heard in person, and is also concerned about just having an online forum for making public
42 comments when some people are not online. Chair Hayman expressed again that she would
43 like to create a way for a member of the public who has concerns to be able to elevate an
44 application to the Planning Commission so that a public hearing could be held. Commissioner
45 Daly expressed again that he is afraid of the potential for the public to abuse the option to send
46 things to the Planning Commission. The Commissioners requested that staff prepare a list of
47 Conditional Home Occupation Uses so that they can decide whether to move all of these to the
48 new process that has been proposed, or to parse out certain uses that will remain with the
49 Planning Commission for approval.
50

51 Chair Hayman moved to a discussion on the proposed changes to Site Plan approvals
52 for residential development outside a platted subdivision. Mr. Snyder suggested leaving on-site

1 detention issues in the hands of the Planning Commission and moving to a 1-step approval
2 process. Chair Hayman directed staff to prepare language to that effect.
3

4 Chair Hayman moved to a discussion on the proposed changes to Temporary Use
5 permit approvals for Conditional Uses. She expressed that she is inclined to defer to staff's
6 judgement on time extensions for Temporary Use permits. Chair Hayman directed staff to
7 provide the Commissioners with recommendations on extending time limits on Temporary Uses.
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9 **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

10 The next Planning Commission meeting is scheduled for May 23, 2018.

11 Mr. Snyder discussed items that will be on the agenda in the next Planning Commission
12 meeting.
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14 **CITY COUNCIL REPORT**

15 Mr. Snyder reviewed recent decisions made by the City Council.
16

17 Mr. Snyder asked the Commissioners who could be present at a Work Session on May
18 22, 2018 at 5:45 p.m. Commissioner Daly and Commissioner Wright said they cannot be
19 present, but the other five (5) Commissioners verified they are available for the meeting.
20

21 **MINUTES REVIEW AND ACCEPTANCE**

22 The minutes of the April 11, 2018 Planning Commission meeting were reviewed and
23 accepted as amended. Commissioner Helgesen made a **motion** to accept the minutes.
24 Commissioner Hirst seconded the motion, which passed by unanimous vote (7-0).
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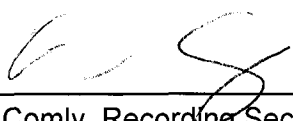
26 The minutes of the April 25, 2018 Planning Commission meeting were reviewed and
27 accepted as amended. Commissioner Helgesen made a **motion** to accept the minutes.
28 Commissioner Hintze seconded the motion, which passed by unanimous vote (7-0).
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30 **ADJOURNMENT**

31 At 8:27 p.m. Chair Hayman made a **motion** to adjourn the meeting. Commissioner
32 Wright seconded the motion, which passed by unanimous vote (7-0).
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42 Cheylynn Hayman, Chair

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6-12-18
Date Approved

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Avalon Comly, Recording Secretary

