

March 15, 2011

7:00 p.m.

Planning Division
Council Chambers

MEMBERS PRESENT: Chair Margaret Wimborne, Commissioners Natalie Black, Jake Cordova, Kurt Karst, Michelle Mallard, George Morrison, Leslie Polson, Paul Savidis and George Swaney.

MEMBERS ABSENT: Commissioners Donna Cosgrove, Brent Dixon and Gary Mills.

ALSO PRESENT: Planning Director Renée Magee, Assistant Planning Director Brad Cramer, Recording Secretary Donna Carlson and approximately six interested citizens.

CALL TO ORDER: Chair Wimborne called the meeting to order at 7:05 p.m. and reviewed the hearing procedures for the public.

MINUTES: March 1, 2011. Commissioner Karst moved to approve the minutes of March 1, 2011, as presented. Motion seconded by Commissioner Mallard. Motion passed.

Public Hearings:

Conditional use permit for New Life Assembly of God Church (addition of day care center), R-1 (Residential Single-family) zone: Lot 1, Block 1, Lakewood Aspens. Cramer reviewed the staff report, a part of the record. There is ample parking for the daycare center because worship services do not take place during the hours of operation for the daycare center or the junior high school classes held in the church building. Staff recommends signage for dedicated daycare parking due to higher traffic during junior high school pickup hours. Wimborne asked if the daycare center can expand without a new conditional use permit. Cramer answered yes because parking is not a limiting factor with this application.

The hearing was opened to the public.

Jay Spagenberg – 2170 E. 12th Street. Mr. Spagenberg is the pastor at New Life Assembly and the church sees the need for a daycare center. The facility is surrounded by apartments. The daycare will operate between the hours of 7:30 a.m. and 6 p.m. The greatest volume of traffic for the center is expected to take place outside the drop-off and pick-up hours for the junior high school. The main goal and vision is to provide a service for the community.

Polson clarified the junior high students use a different entrance than the daycare center utilizes. Mr. Spagenberg indicated the traffic pattern is a circle with the entrance and exit using the same access. Dedicated parking stalls will not affect the junior high students. Parked cars shown in the slides belong to junior high teachers and they can be asked to use parking one row farther from the building. The current school hours are 8:30 a.m. to 3:30 p.m.

The hearing was closed to the public.

Karst believes this is a reasonable request with no impact to the surrounding area. There is plenty of room in the facility, ample parking, an internal traffic pattern, and a good location for access in the central area between Hoopes and Ashment. **Commissioner Karst moved to approve the conditional use permit for a daycare center at the New Life Assembly of God Church as presented with the condition parking for use by the daycare be identified and properly signed. Motion seconded by Commissioner Cordova. Motion passed unanimously.**

Annexation of approximately 1.49 acres with initial zoning of I&M-1 (Industrial & Manufacturing) and final plat: Environmental Excellence, Division No. 4. Magee reviewed the staff report, a part of the record. Zoning in the surrounding area is I&M-1 in both the County and City. The Bonneville County Work center is located to the west of the Bonneville County jail. Access to Environmental Way is through a parking lot. Staff recommends approval of the annexation request, initial zoning of I&M-1 and final plat.

The hearing was opened to the public.

Rod Ellsworth – 253 1st Street. Mr. Ellsworth indicated the site plan for the parking lot and remainder of the project will be submitted upon approval. The aerial photos do not show the Bonneville County Work Center. Access will exist to the proposed storage building through the parking lot

The hearing was closed to the public.

Commissioner Cordova moved to recommend to the Mayor and City Council approval of annexation of approximately 1.49 acres with initial zoning of I&M-1 and final plat for the Environmental Excellence, Division No. 4, as presented. Motion seconded by Commissioner Morrison. Motion passed unanimously.

Zoning ordinance amendment to establish criteria to allow windmills of 70 feet in height on 5 acres or more. Cramer reviewed the staff report, a part of the record. Cramer presented an email from Commissioner Dixon to be included in the record. Dixon questions why this amendment is being considered at this time. Cramer said the issue resurfaced due to staff receiving an inquiry from the owner of a five acre parcel. There is only one residential parcel of five acres or more, but there are other five acre parcels such as schools, parks and churches.

Cramer reviewed the staff report. The wording for the proposed setback provision should read, "The minimum required setback distance from all property lines to a small wind energy system shall be no less than 1.1 times the proposed tower height." The wording "plus the rotor radius" should be dropped.

Savidis asked if a lifespan has been determined for windmills. He is concerned about non-working towers becoming a nuisance. Cramer said a provision can be added to address removal. Karst agreed an abandoned or non-working windmill should be removed and clarified the ordinance addresses the windmill being for power consumption on site only. Wimborne confirmed there is currently no provision for a windmill being located within the city limits without a conditional use permit. Mallard asked if this amendment is presented due to an interest from one property owner. Cramer said he received numerous phone calls in 2007 and 2008 and he informed people that windmills were not allowed. Interest appeared to wane and this request prompted a review of the situation. Polson confirmed one acre lots are not being proposed due to wind disturbance from nearby houses and trees. The County ordinance states claims cannot be filed against neighbors for wind obstruction on neighboring parcels. Cramer does not believe that provision is necessary. Polson agrees a sunset clause is prudent for abandoned or non-working windmills. She indicated the County ordinance limits noise to 45 dBA and added the noise generated is noticeable. The County ordinance shows the setback distance from surrounding property lines as well as overhead utility lines. Cramer said including overhead utility lines in the setback can be added.

Karst asked where windmills are currently allowed. Cramer said the windmill at Skyline High School is for educational purposes and is allowed under a conditional use permit. The two windmills at the CAES building appeared without being mentioned to staff. Karst agrees with the email from Dixon suggesting an exception to the one windmill per parcel limit for legitimate research purposes.

The hearing was opened to the public. There were no comments and the hearing was closed to the public.

Morrison suggested leaving the zoning ordinance as it currently exists. He believes the amendment sets a poor example of acting without a definite purpose. Mallard agrees a windmill will be a nuisance in town due to noise. Future owners may not maintain the windmill and it will deteriorate quickly. There is not enough advantage to justify the nuisance. The small energy savings does not warrant the implementation. Polson added the nuisance of shadow flicker was not previously mentioned. Wimborne clarified a conditional use permit can be used for educational institutions. Cramer believes the ordinance needs to be amended if windmills are allowed at research facilities. Karst said the CAES building is attached to three universities. Cramer said there are not many applicable situations but the INL is building two new facilities that are not part of a school. Mallard believes an amendment can be considered in the future if

there is an interest in windmills for research purposes. There is currently not much interest and amending the ordinance to include windmills has the potential to create problems.

Commissioner Morrison moved to recommend to the Mayor and City Council denial of the zoning ordinance amendment to establish criteria to allow windmills of 70 feet in height or less on 5 acres or more. Motion seconded by Commissioner Cordova. Motion passed unanimously.

Annexation of 3.65 acres with initial zoning of C-1 (Limited Retail Business): Hitt Road ROW annexation. Magee reviewed the staff report, a part of the record. It is standard practice to place zoning on a right-of-way in case there is a vacation in the future. This application allows implementation of the Memorandum of Understanding with Ammon. Cordova noted the road is known as Hitt Road but the signs indicate 25th East. The language in the Memorandum of Understanding uses Hitt Road.

The hearing was opened to the public. There were no comments and the hearing was closed to the public.

Commissioner Polson moved to recommend to the Mayor and City Council annexation of 3.65 acres with initial zoning of C-1 for the eastern half of Hitt Road (25th East) right-of-way. Motion seconded by Commissioner Morrison. Motion passed unanimously.

Business:

Sign Ordinance: Amendment to Section 7-9-42 regarding electronic message centers.

Cramer reviewed the staff report, a part of the record. The proposed sign ordinance amendments define the term “shopping center” as “a group of retail and service establishments planned, developed and managed as a single property” and having common access and common parking. A second proposed ordinance revision allows for electronic message centers with a conditional use permit (CUP). The amendment outlines the requirements for applications as well as the eight required findings. Under the proposed revisions, evidence of unified ownership or control must be substantiated and advertisement is only allowed for products and services available within the development.

Cordova asked how enforcement is handled. Cramer answered enforcement is time consuming and, due to staff constraints, a complaint is generally the trigger. Polson agreed with a comment in the email from Dixon regarding the difficulty of determining sign colors and architecture based upon the nearest building in a development. Cramer said staff can revise the wording to tie the sign into the general development rather than the nearest building. Polson believes tying the sign into the general development is covered under the seventh finding, e.g., the use of materials and colors characterizing the rest of the development conveys its connection to the development.

Karst asked about the usage of signs in very large developments who are hoping to draw people into the development rather than being limited to what fits on a sign.

The hearing was opened to the public.

Erik Isom – 901 Pier View Drive. Mr. Isom indicated the purpose for signage in Snake River Landing is to advertise businesses within the development. The challenge is how to bring people into the development without having a main street exposure. Snake River Landing wants the ability to advertise businesses within the development. If permitted, a sign may also be used for public events.

The hearing was closed to the public.

Polson favors the definition requiring both retail and service establishments. Karst indicated there was only one concern mentioned for the proposed electronic message center amendment.

Commissioner Karst moved to recommend to the Mayor and City Council approval of the proposed amendments to the sign ordinance, i.e., to define the term “shopping center” and permit LED signs for planned unit developments and property developed under unified ownership or control as a conditional use permit, provided the finding which mandates integration of the sign with the nearest building is deleted. Motion seconded by Commissioner Savidis. Motion passed unanimously.

In response to questions about procedure, Magee replied the sign ordinance is not governed by the local Land Use Planning Act and a public hearing is not required.

The meeting adjourned at 8:45 p.m.

Donna Carlson, Recording Secretary