

**Pleasant Grove City
City Council Meeting Minutes
Regular Session
October 4, 2022
6:00 p.m.**

Mayor: Guy L. Fugal

Council Members: Dianna Andersen
Brent Bullock
Eric Jensen
Cyd LeMone
Todd Williams

Staff Present: Scott Darrington, City Administrator
Daniel Cardenas, Community Development Director
Deon Giles, Parks Director
Tina Petersen, City Attorney
Kathy Kresser, City Recorder
Britt Smith, Police Captain
Denise Roy, Finance Director
Drew Engemann, Fire Chief
Sheri Britsch, Library and Arts Director
DaSheek Akwenye, Recreation Director
Neal Winterton, Public Works Director
Kyler Brower, Assistant to the City Administrator
David Packard, HR Manager

The City Council and staff met in the Community Room, 108 South 100 East, Pleasant Grove, Utah.

6:00 P.M. REGULAR CITY COUNCIL MEETING

1) CALL TO ORDER

Mayor Guy Fugal called the meeting to order at 6:00 p.m. All City Council Members were present.

2) PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Andersen.

3) OPENING REMARKS

The opening remarks were offered by Council Member Bullock.

4) APPROVAL OF MEETING AGENDA

ACTION: Council Member Andersen moved to APPROVE the meeting agenda. Council Member Bullock seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

5) OPEN SESSION

There were no public comments.

6) CONSENT ITEMS

- A. City Council Minutes – None at this time.**
- B. To Consider Approval of Payment Request No. 5 for Cody Ekker Construction for the 1100 North Street and Utility Improvement Project.**
- C. To Consider Approval of Change Order No. 1 and Payment Request No. 1 for Kilgore Contracting for the 2022 Street Rehabilitation Project.**

ACTION: Council Member Jensen moved to APPROVE the Consent Items. Council Member Andersen seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

7) BOARD, COMMISSION, AND COMMITTEE APPOINTMENTS

- A. To Consider Approval of Mark Oliver as an Arts Commission Board Member.**

Mark Oliver introduced himself and stated that he is originally from England but has been in the United States for 20 years. He moved to Pleasant Grove three years ago and has a couple of businesses here that focus on real estate investments. His educational background includes graphic design and art history and he did graphic design work in London. He was looking to be more involved in the community here and help where he can.

ACTION: Council Member LeMone moved to APPROVE Mark Oliver as an Arts Commission Board Member. Council Member Jensen seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

PRESENTATIONS

There were no presentations.

8) **PUBLIC HEARING ITEMS**

- A. **Public Hearing to Consider for Adoption of an Ordinance (2022-21) to Amend City Code Section 10-14-27-3A: Density of Allowed Uses, by Changing the Requirement for Certain Dedicated Uses, for Buildings, Parking Areas, Drive Aisles, and/or Outparcel Directly Fronting Pleasant Grove Boulevard, within a Minimum Buffer of Sixty-Four (64'), only within the Grove Zone District – Boulevard Mixed-Use Overlay. (The Grove Zone District – The Boulevard Mixed-Use Overlay) (McKay Christensen, Applicant) Presenter: Director Cardenas.**

Community Development Director, Daniel Cardenas, reported that the above matter involves a Code Section Amendment to eliminate a 64-foot commercial parking buffer. The original ordinance was created by the City Council to encourage the retention of commercial frontage development in the area of proposed mixed-use housing by way of a commercial buffer. At that time, no projects were being proposed. It was noted that the proposal was for a Concept Plan. The applicant later submitted a plan for 75 townhomes to be located at the rear of the property. The plan was approved with the buffer retained in the front and a plat map developed.

Director Cardenas presented the original approved plat map. Lots 2, 3, 6, and 7 were identified as commercial lots, which must meet the 25,000-square-foot requirement for sales tax generating uses and the 64-foot commercial-only buffer zone. Lot 6 is elongated to preserve the buffer, which is designated by the red line. Lots 1, 4, and 5 were to be used for residential development. Lots 1 and 4 were approved and construction was underway. Lot 5 was planned for a large multi-family apartment complex. Lots 6 and 7 were ultimately consolidated to be one pad to accommodate commercial use.

Director Cardenas reported that an application for a plat and three site plans has been submitted. One site plan is for an apartment building and the other two site plans are for commercial uses. One of the commercial site plans is being proposed for use by Pritchett, a well-known bridal gown store, and the other commercial site plan will house two restaurants (a bakery and a pizzeria). Director Cardenas stated that they cannot approve the residential site plan because it is within the commercial buffer zone and impacts the parking. The text Code amendment would remove the 64-foot commercial-only barrier.

Director Cardenas reported that the Planning Commission recommended requiring a Development Agreement. Details to be included were:

- Timing of the development;
- Landscaping requirements; and
- Design standards.

He noted that it is a priority for staff and the Planning Commission to retain the area as commercial. The Council could approve, deny, or continue the item. The location of each project was identified.

The applicant, McKay Christensen, was present representing the developer and stated that they were trying to accomplish what amounts to a reshuffling of parking stall designations. The matter has been before the Planning Commission who recommended approval of the project with a Development Agreement. The development agreement was prepared months ago and provided to the City Attorney. They were in negotiations, which includes obligations on their part in exchange for the parking modifications.

Mr. Christensen reported that there were two primary requirements for the buffer. The first was for the 25,000 square feet of sales tax generated use. That requirement is challenging and they have been seeking and have found that the right tenant that would be consistent with the City's vision. He provided photographs of the 21,000-square-foot two-story building to be occupied by Pritchett. The Heirloom Building is a two-story commercial building with a second-floor eating area that overlooks the City. He provided renderings of the apartment building.

Mr. Christensen stated that the second buffer requirement was for the 64-foot buffer, which pertains to the need to retain commercial parking. The proposed amendment pertains only to the parking stall requirements. Mr. Christensen was open to suggestions. The buffer was intended to cover every parking stall that fronts Pleasant Grove Boulevard and an 18-foot drive aisle. He reported that the project meets the intent of the ordinance as it will provide 31,000 square feet of sales tax generation, which far exceeds the 25,000 square-foot requirement. Functionally, however, the parking, as currently designed, does not make sense for the commercial units or the residences. He commented that reshuffling it makes sense.

Mayor Fugal opened the public hearing. There were no public comments. The public hearing was closed.

Mr. Christensen stated that they proposed to increase the landscaping and buffering walls along the 53 parking stalls they want to use for residential parking. The details were set out in the Development Agreement. Such buffering would block the view of the vehicles. Director Cardenas stated that the City Council could adopt, deny, or continue the matter to allow staff to finalize the Development Agreement and include a timing element.

Council Member Jensen stated that it sounded as though mixed-use development was going away. Director Cardenas agreed and stated that it is important to have a Development Agreement. There was further discussion regarding mixed-use concepts and project timing.

Administrator Darrington reported that what was reviewed at the time of the buffer overlay was the original Concept Plan. The overlay was intended to accommodate the project. It did not lock in a certain Concept Plan as the developer has a right to change it. Rather, in exchange for requiring 25,000 square feet of sales tax-generating uses, the City allowed 23 units per acre. That is the density to which the applicant is entitled and he was now returning with a different concept. As the site plan for the residential units had not yet been submitted, they were unsure whether he could maintain the approved density. The uncertainty left them:

- Not knowing if the amendment is approved if the approval helps him achieve the requisite number of parking stalls; or

- If denied, he will be required to decrease the number of units.

City Attorney, Tina Petersen, recalled that at the time the buffer was introduced, the original Concept Plan was a mixed-use building and not an apartment building. Residential parking was not to be in front. He no longer has a mixed-use building planned for that area. There was discussion about the concept. Administrator Darrington stated that the original Agreement was entered into to ensure that they would get the 25,000 square feet of sales tax generated uses, which the applicant claims he has more than exceeded. The issue was that parking is problematic.

There was discussion regarding the location of the proposed building and parking. Council Member Andersen asked if a Development Agreement would solve the problem. Administrator Darrington explained that a Development Agreement would allow staff to address needed conditions and work toward a resolution.

Mr. Christensen noted that they can currently provide parking for 25,000 square feet of retail and all the apartments without the buffer. He explained that they acquired additional property after the former plan was submitted. The intent was for the residential parking to make sense.

There was discussion regarding potential conditions to be included in the Development Agreement such as building timelines, preserving the area for commercial uses, parking requirements, and the need to identify priorities. Attorney Petersen suggested that the City Council include desired conditions in any motion made.

ACTION: Council Member Andersen moved to CONTINUE the Adoption of Ordinance 2022-21 to Amend City Code Section 10-14-27-3A: Density of Allowed Uses, by changing the requirement for certain dedicated uses, for buildings, parking areas, drive aisles, and/or out parcel directly fronting Pleasant Grove Boulevard, within a minimum buffer of sixty-four (64'), only within the Grove Zone District – Boulevard Mixed-Use Overlay to require a Development Agreement that includes landscaping; the positioning of parking; the date showing when items will be constructed; and architectural standards. Council Member Williams seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

B. Public Hearing to Consider for Adoption of an Ordinance (2022-22) to Apply the BMU (Boulevard Mixed-Use) Overlay to Approximately .7 Acres on Property Currently Zoned The Grove Zone – Commercial Sales Subdistrict and CS-2 (Commercial Sales-2) Zone located at approximately 202 South Pleasant Grove Boulevard. (Sam White's Lane Neighborhood) (Boulevard Development, LLC, Applicant). Presenter: Director Cardenas.

Director Cardenas reported that the above item is a request to apply the Boulevard Mixed-Use (BMU) Overlay to approximately .7-acres located in the Commercial Sales-2 (CS) Zone. On an aerial photo, he identified the location of the Overlay. The applicant owns 11.5 acres in the Overlay, which is to be developed into residential units. He seeks to have the owner of the .7-acres join the applicant's property to qualify for an additional 16 units. The agreement would be in exchange for the applicant providing street access for the .7-acre property. Currently, the .7-acre property was thought to have

the same easement access as the Green Grove Apartments; however, the issue was currently in litigation. Director Cardenas reported that the .7-acre site, which has been referenced as Apex Motors, was previously approved as a commercial lot for the sale of used cars.

The applicant has obtained approval for 265 residential units, of which 75 townhomes have been built. Director Cardenas reported that the Planning Commission recommended denial of the request as the access issue is between two parties and could take place without a zone change. The proposed zone change reduces the number of options allowed on the .7-acres. He noted that the sale of used cars is not allowed in the Overlay. There was discussion regarding review of the impact the overlay would have on the .7-acre property and what uses would be lost. It was noted that if the overlay was added, the .7-acre lot could be used for residential use.

The applicant, McKay Christensen, reported that the Apex Motors property is useless because it is being refused street access. They were trying to be good neighbors and help that property owner in exchange for being able to use the acreage to gain an increased number of residential units. They have already made significant improvements to the property but utility and storm drain access are still needed. He stated that they may purchase the property. If adopted, the property owner would be able to use his property and the City would gain an economic benefit. Because the additional units would be in the apartment complex they will not be seen. There was discussion regarding the pros and cons of the motion including the use of a Development Agreement and the project's appearance.

Administrator Darrington had heard from the owner, Patricio, who entered into a Cross Access Agreement with the applicant. Mr. Christensen stated that that was not the case but they did provide him with goodwill access. Administrator Darrington noted that there already are driveway cross-cuts on the Green Grove Apartment property, which indicates that the .7-acre property already has street access. Attorney Petersen had documentation that claims that the property has a purchased easement that provides access to Pleasant Grove Boulevard. She noted that there is a difference in opinion as to whether the easement was donated or purchased. Council Member Williams stated that his preference was to have fewer residential units and more retail.

Mayor Fugal opened the public hearing. There were no public comments. The public hearing was closed.

There was discussion regarding access, access agreements, available options, and whether the amendment should be continued or denied.

ACTION: Council Member Williams moved to DENY Adoption of Ordinance 2022-22 to apply the BMU (Boulevard Mixed-Use) Overlay to approximately .7 Acres on property currently zoned The Grove Zone – Commercial Sales Subdistrict and CS-2 (Commercial Sales-2) Zone located at approximately 202 South Pleasant Grove Boulevard. Council Member Bullock seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

9) **ACTION ITEMS READY FOR VOTE**

- A. **To Consider for Adoption a Resolution (2022-057) Authorizing the Mayor to Execute a Construction Agreement/Contract with Layton Construction for the Hale Center Theater Project and Provide for an Effective Date. *Presenter: Administrator Darrington.***

Administrator Darrington stated that the bottom floor of Hale Center Theater will be a City facility that will house the theater, offices, and lobby. The second and third floors will have separate units that will be privately owned. Layton Construction was selected to act as the General Contractor for the project. They have begun working and are moving forward in good faith. Staff recommended approval of the proposed resolution.

ACTION: Council Member Jensen moved to ADOPT Resolution 20222-057 Authorizing the Mayor to execute a Construction Agreement/Contract with Layton Construction for the Hale Center Theater Project and provide for an effective date. Council Member LeMone seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

10) **ITEMS FOR DISCUSSION**

- A. **Continued Items from the Work Session, if Needed.**

Library and Arts Director, Sheri Britsch, reported that 150 participated in the Halloween Tuesday Night. The PG Players were currently performing *The Fantastics*, which Council Member Williams stated was one of the best shows he has seen. Director Britsch reported that the Veteran's Day celebration will take place in mid-November. She asked for suggestions on potential speakers.

Police Captain Brit Smith reported that Sergeant Carl Nelson and Officer Chris Ruiz have returned from their trip to the Navajo Reservation where they took supplies and donations. Officer Ruiz partnered with Choose Kindness, Home Depot, and Allred's Ace Hardware to obtain the goods and supplies provided. He noted that they delivered 600 backpacks as well.

Parks Director, Deon Giles, reported that they painted the Discovery Park tennis courts. There was some miscommunication about color between the Engineering and the Parks Departments regarding painting some of the areas, which will be done next spring. Low nighttime temperatures impact the drying and retention of the paint. He noted that the sound barriers coming from Florida have been delayed. Additionally, they received permission from the Forestry Department to get the concrete poured and gunite installed for the G Mountain Project before winter weather hits. Helicopters will be used to bring in heavy equipment and five semi-truck loads of gunite along with water. Updates will be provided on social media on the progress and the trail closures. Volunteers were being sought.

Community Development Director, Daniel Cardenas, reported that they are continuing with the departmental luncheons to recognize employees. Lunches were currently scheduled for the Library and the Recreation Department.

Public Works Director, Neal Winterton, stated that a new water year has begun and identified the water sources. He reported that the tank at Battle Creek was cleaned in preparation for putting it back online. The 600 North Detention Basin Project was underway. He requested an update on 100 East, which had a bid opening on September 22. With regard to the stop signs request, he noted that the process takes time. Staff will follow the manual requirements and make recommendations. He noted that October 15 is the official closing day for paving. Paving after that date can only occur with permission. Developers were working to get the work done, which will result in increased inspections.

Fire Chief, Drew Engemann, reported that staff is wearing t-shirts in support of Breast Cancer. Their three new employees are at the Training Academy, and the Department remains busy. When asked about a recent serious auto accident, he reported that there was one fatality. Others involved were hospitalized.

Human Resources Director, David Packard, provided his background for those who missed the last City Council meeting. He stated that a job description for a Water and Sewer Division Manager had been posted. Over the next few weeks, they will develop a Supervisor Academy to be held once a month for the next eight to nine months. Topics to be included were the law, finance, budget, payroll, and recruitment. They were also working on standardizing procedures.

Finance Director, Denise Roy, reported that the Budget Book was submitted to the Government Finance Officers Association ("GFOA") and the Auditors will be in the City in less than two weeks.

Attorney Petersen announced that the Legal Department has received its TAC certification and can conduct its own background checks for criminal cases and that will reduce the workload for the police records department.

11) **REVIEW AND DISCUSSION OF THE OCTOBER 18, 2022, CITY COUNCIL MEETING AGENDA**

Administrator Darrington reported that for the October 18, 2022, Work Session, there will be a presentation from Timpanogos Hospital in recognition of the Fire Department. There also will be a Recognition Ceremony for Recreation Director, DaSheek Akwenye. Project updates will be presented. During the general session, there will be Code Amendments and a public hearing on the Hale Center Theater Bond.

12) **MAYOR AND COUNCIL BUSINESS.**

Several Ribbon Cutting Ceremonies were announced along with the Employee Pickleball Tournament. Council Member LeMone reminded all of Viking Day on Saturday, which was to include a variety of booths and a Strong Man Contest. The Mayor commented on his recent trip to the Oregon Coast.

13) **SIGNING OF PLATS.**

14) **REVIEW CALENDAR.**

15) CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL (UCA 52-4-205(1)(a)).

ACTION: At 7:38 p.m. Council Member Andersen moved to ADJOURN to Closed Session. Council Member Bullock seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

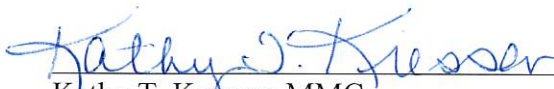
The City Council was in Closed Session from 7:38 p.m. to 8:31 p.m.

ACTION: At 8:31 p.m. Council Member Williams moved to ADJOURN Closed Session Meeting and go back into Regular Session. Council Member Bullock seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

16) ADJOURN

ACTION: At 8:32 p.m. Council Member Williams moved to ADJOURN. Council Member Jensen seconded the motion. Council Member Votes: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. The motion passed unanimously.

The City Council minutes of October 4, 2022, were approved by the City Council on November 1, 2022.


Kathy T. Kresser, MMC
City Recorder
(Exhibits are in Recorder's office.)

