



Minutes of the **Regular Meeting** of the **Riverdale City Planning Commission** held Tuesday, **March 8, 2011 at 6:31 p.m.** at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Braden Mitchell, Chairman
Brent Ellis, Commissioner
Bart Stevens, Commissioner
Michael Staten, Commissioner
Mike Hall, Commissioner
Steve Hilton, Commissioner

Members Excused Blair Jones, Commissioner

Others Present: Randy Daily, Community Development Director, Ember Herrick, City Recorder, 8 members of the public.

A. Welcome & Roll Call

Chairman Mitchell welcomed everyone to the meeting and stated for the record all members were present except Commissioner Jones who was excused. He welcomed Boy Scout Troop 266 and the six 11-year-old scouts in attendance.

B. Open Communications

There were no comments during open communications.

C. Presentations and Reports

Mr. Daily stated that the only change to the report was the removal of Five Guys Burgers and Fries as the city has no firm location commitment from the restaurant at this time. Chairman Mitchell asked if In and Out Burger had begun the Design and Review process and Mr. Daily said that a meeting would be scheduled after the owners negotiate a compromise with other business owners in the complex where they plan to build. There were no additional questions on the Community Development Projects Status Report.

D. Consent Items

1. Consideration of meeting minutes from:

February 22, 2011 Work Session
February 22, 2011 Planning Commission

Motion: Commissioner Ellis moved to approve the consent items. Commissioner Hall seconded the motion

Call the Question:

The motion passed unanimously.

E. Action Items

1. Proposed new language for Accessory Buildings and Uses in residential zones.

Mr. Daily stated that the current draft incorporated the changes the Commission had suggested at the previous meeting regarding when to allow and prohibit accessory buildings to be constructed in residential zones. He said that with no additional changes being noted, this is the amendment

that will be presented at the public hearing on the 22nd and asked the Commission for their feedback. Commissioner Stevens asked for clarification on the changes. Mr. Daily said if the Commission wants additional language added he would recommend they voice their opinions now so that the latest draft can be reviewed by the public prior to the hearing in two weeks. There were no additional comments.

2. Discussion of Home Occupation Ordinance and the use of Accessory Buildings.

Mr. Daily said that in relation to amending the ordinance restricting the use of accessory building for use in home occupations he had included language from similar ordinances in the surrounding cities. He asked the Commission for input on the other city's ordinances and if they wish to set a public hearing to amend the ordinance. Commissioner Stevens stated that he doesn't support the proposed amendment. Chairman Mitchell said he had asked that the ordinance be looked at again because he was interested in the potential problems and benefits associated with running a home business out of an accessory building. He referenced the case of Commissioner Staten who owns a wood working business but can only use a percentage of his garage under the current ordinance.

Commissioner Stevens asked if Commissioner Staten should be excused from a vote as he has a personal interest in the outcome of the decision. Chairman Mitchell informed Commissioner Stevens that Commissioner Staten had already said he didn't think it was appropriate for him to participate in the discussion or vote on the proposed amendment at the last meeting. Commissioner Stevens was excused from that meeting.

Mr. Daily said that while the city's home business ordinance doesn't permit the use of accessory buildings, anyone could use a detached building for any legal purpose including hobbies, as long as they didn't violate the nuisance ordinance. Mr. Daily said the city doesn't get involved in how people use their accessory buildings after they are constructed. Commissioner Stevens asked for clarification on the distinction between a hobby and a home business. Commissioner Ellis said the difference is if a resident has a for-profit business. Mr. Daily said the definition of a home business is based on sales, an individual selling something or receiving money for a service. Chairman Mitchell asked the Commission if they would like to pursue amending this ordinance and the consensus was to not amend the ordinance at this time.

3. Discussion of Adult Day Care Facility/Assisted Care Facility in Commercial Zones.

Mr. Daily told the Commission that adult day care facilities or nursing homes are not listed in Riverdale's current ordinance as approved businesses in commercial zones, it only deals with child daycares. He said that the Community Development Department had received a request to open such a facility and asked the Commission for their input on amending the ordinance. Commissioner Stevens asked if the request could be dealt with by issuing a conditional use permit instead of changing the ordinance. Mr. Daily said a conditional use permit request would still need to be approved or denied by the Commission and reminded the group that all requests not specifically addressed by Riverdale's city code were subject to approval so long as they didn't violate the state code. He informed the Commission that an architect was currently in the process of drawing up new proposed building plans to address the safety issues associated with the Redman building they were interested in occupying for their adult daycare facility. Commissioner Stevens asked about state safety requirements and Mr. Daily confirmed that the building code requirements are extremely complicated for such facilities.

Commissioner Stevens said that he doesn't believe the ordinance needs to be amended until an actual proposal comes before the Commission. Mr. Daily warned that if the Commission seems unwilling to approve the ordinance first, it could discourage the prospective business and its owner as they will not be willing to invest a great deal of money in a property only to find out their business won't be granted a license in the end. Commissioner Stevens said that five years ago the Commission had gone through the code and stipulated which buildings were appropriate in each zone of the city. Mr. Daily said that five years ago no adult daycare facility had been interested in coming to Riverdale but now that one was, he thinks it is worth considering amending the ordinance to allow such facilities in all commercial zones. Mr. Daily added that the vacant Redman building is in RDA zone and currently considered to be blight on the city. Commissioner Stevens said it would be a benefit to the city to improve the property but he still wants to know how serious the developer is before proceeding to change the ordinance. Mr. Daily said he doesn't believe the developer will be willing to invest much money if the city seems unwilling to change the ordinance. Commissioner Hilton asked what the risk would be in losing the potential business if the Commission does nothing tonight. Mr. Daily said that the City Attorney Steve Brooks has made it clear on other occasions that his department cannot refuse reasonable requests to open businesses even if they are not specifically allowed in the code as doing so opens the city up to potential lawsuits. Mr. Daily stated that he believes the city could lose a potential developer and set itself up for a lawsuit by not allowing adult day care facilities in commercial zones in Riverdale. Commissioner Stevens said the threat of a lawsuit is an indication to him that there is something about a business that is questionable and that such threats shouldn't influence the Planning Commission in their decision making. He stated that in his opinion the city already has a lot of retail businesses and he would like to see more medical offices come to Riverdale like they have done in South Ogden.

Chairman Mitchell asked about Mr. Hansen's recommendations to the Commission that if they change the ordinance they also address other medical rehabilitation and nursing home facilities. Mr. Daily said that those additional business uses could also be added to the ordinance. Chairman Mitchell asked the Commission if they were interested in seeing a draft of a proposed amendment to the ordinance at an upcoming meeting. Commissioner Stevens said that he would like the Commission to discuss the proposal further. Chairman Mitchell asked about similar ordinances in other cities and Mr. Daily said that he would do some research and bring his findings back to the Commission at a future meeting.

F. Discretionary Items

None.

Motion: There being no further business to come before the Planning Commission
Commissioner Staten moved to adjourn the meeting. Commissioner
Hall seconded the motion. The motion passed unanimously. The meeting
adjourned at 7:10 p.m.

Approved: March 22, 2011

Attest:

Braden Mitchell, Chairman

Ember Herrick, City Recorder