



Minutes of the **Regular Meeting** of the **Riverdale City Planning Commission** held Tuesday, **June 25, 2013 at 6:33 p.m.** at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Brent Ellis, Chairman
Kathy Eskelsen, Commissioner
Steve Hilton, Commissioner
Lori Fleming, Commissioner
Michael Roubinet, Commissioner
David Gailey, Commissioner

Member Excused: Blair Jones, Vice-Chairman

Others Present: Michael Eggett, Community Development Director; Ember Herrick, City Recorder and six members of the public including Greg Nichols, Brenton King, Bob Strong, Michelle R. Schmidt, Robert Collier and Jason Jones.

A. Welcome & Roll Call

Chairman Ellis welcomed everyone to the meeting and stated for the record all members of the Planning Commission are present except for Commissioner Jones who is excused.

B. Open Communications

Chairman Ellis invited any members of the public present who would like to speak during the open communications portion of the meeting to come forward and there were none.

C. Presentations and Reports

Community Development Projects Status Report

Community Development Director Michael Eggett said In-N-Out Burger is expected to open in August and he asked if there were any questions or comments about the Community Development Projects Status Report and there were none.

D. Consent Items

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Chairman Ellis asked for any changes or corrections to the previous meeting minutes and none were noted.

Motion: Commissioner Fleming moved to approve the consent items. Commissioner Eskelsen seconded the motion.

There was no discussion on the motion.

Call the Question: The motion passed unanimously.

E. Action Items

1. Consideration of amending a Conditional Use Permit between Hokulia Shave Ice and Riverdale City

Mr. Eggett said the Planning Commission approved a Conditional Use Permit for Hokulia Shave Ice on May 14, 2013 and now the petitioners Brenton King and Mark Scott are requesting an amendment to enhance the experience for patrons by creating a seating area. According to Mr. Eggett the concerns include safety as the stand and proposed seating area are located in a parking lot and possible negative impact on the image of the shopping center. He said a representative from the property owner DDR sent a letter stating they approve Hokulia's request.

Mr. King introduced himself as the franchise owner and said Hokulia's product is large and patrons in Riverdale are currently standing in the parking lot or sitting on the curb to eat their shaved ice. He said this request to amend the conditional use permit will allow him to create a seating area by roping off several stalls of the parking lot, which will help minimize safety hazards to customers. According to Mr. King, Hokulia is currently using the outdoor seating at Honey Baked Ham through a verbal agreement but would like to have their own dedicated area for patrons. Greg Nichols also with Hokulia said his company has built state of the art shaved ice stands that meet all health code standards and now is requesting that Riverdale City allow them to enhance the area where they are located. Mr. Nichols said they would like permission to use several parking stalls to set up tables, chairs, umbrellas and string some lights to create an island oasis and increase safety. He requested the Planning Commission favorably recommend approval of this request to the City Council. Riverdale resident and Director for Hokulia Franchise Development Bob Strong said this product is unique in the shaved ice business and has ten locations across the state in Utah, Salt Lake, Davis and Weber Counties with seating areas that are well maintained and safe.

Commissioner Eskelsen said she would like to see the parking lot area cordoned off with barriers to discourage children from running out into traffic and she asked about garbage disposal. Mr. King said the Riverdale Hokulia staff frequently cleans the parking lot pavement removing garbage and putting ice on spills and he said the location at the Gateway Mall in Salt Lake City in near the Olympic fountain area on decorative bricks and keeping the area clean hasn't been a concern and no complaints have been received to date.

Commissioner Hilton said when the Planning Commission initially approved Hokulia's conditional use permit he was under the impression this was a traditional shaved ice stand where people would buy the product then walk off or leave in their cars to eat it instead of loitering in the parking lot. He said the picture of the Bountiful Hokulia included in the packet shows a large crowd and seating area and he said he has concerns with the current location as there isn't room to expand to accommodate crowds and the stand is only 15 feet away from Riverdale Road traffic. Commissioner Hilton asked if Hokulia would be willing to consider another location and he said there appears to be room to expand and better accommodate crowds on the West side of the parking lot which is still on DDR property and in a lower traffic area. Mr. Nichols said it would be difficult to move the business at this time as the current location was the only area in the parking lot near the required electrical outlets.

Commissioner Fleming said patrons are currently in danger from traffic by sitting on the curb to eat the product and she said in her opinion allowing Hokulia to create a barrier roping off an area for seating will increase safety. She said she hasn't noticed large crowds congesting the area and

as this is just a temporary business that will only be at this location for four months she would not be in favor of requiring Hokulia to relocate. Commissioner Fleming asked where the Bountiful Hokulia is located and Mr. Nichols said it is in a high traffic area but there have not been any problems with safety because the city allowed Hokulia to rope off an area to set up tables. Commissioner Fleming said establishing a seating area where children can sit and eat will reduce safety concerns and Mr. Strong suggested a bamboo or picket fence be used as a barrier to prevent children from wandering into traffic and to create a nice area for families to enjoy their shaved ice. Chairman Ellis asked if a fence could create a visual impediment for turning traffic and he said there are strict regulations on fencing in Riverdale City Hokulia would need to comply with. Mr. Nichols said instead of a fence, a barrier with flower planter boxes and ropes strung between them could be used and Mr. King said they could also use chains and poles like those used in the lines for the amusement park rides at Lagoon.

Chairman Ellis said these are all interesting ideas, but the petitioners need to pick one and present the Planning Commission with one concept to consider approving. Commissioner Fleming said the information included in the packet from the petitioners did describe a proposal to rope off an area of the parking lot for seating. She said the issue of patrons sitting on the curb or loitering in the parking lot to eat their snow cones needs to be addressed as quickly as possible and she recommended the Planning Commission approve a seating area be created and leave the details to the discretion of the petitioners. Chairman Ellis said if Hokulia plans to continue using Honey Baked Ham's seating area they will need to get an agreement in writing and Mr. King said if Riverdale City will allow them to create their own seating area they will no longer need to use Honey Baked Ham's seating. Chairman Ellis said he was under the impression using Honey Baked Ham's seating area was a part of the petitioner's proposal and Mr. Eggett said it is only a temporary solution to Hokulia's seating problem. Chairman Ellis said he still has concerns about this location because of the traffic hazard created by vehicles that cut through the parking lot to reach Applebee's Restaurant and he said it is the job of the Planning Commission to make sure requests are ready before forwarding them to the City Council for their consideration. He said the petitioner needs to be clear about what they are proposing and he recommended the Planning Commission table this request. Commissioner Gailey said if people see a roped off area it should act as a traffic calming measure and could also discourage vehicles from cutting through the parking lot at this location.

Commissioner Roubinet asked what the Planning Commission's next step should be and Mr. Eggett said they can approve the request with conditions, deny it or table it. Commissioner Hilton said he is concerned a rope won't contain children from wandering out into traffic and he said the only way he is comfortable approving this request tonight is if the motion clearly states that approval is conditional on the petitioner addressing the Planning Commission's concerns before this petition is advanced to the City Council for their consideration. Commissioner Roubinet said his only concern with tabling the request is that no safety measures will be put in place for several weeks until the Planning Commission can review an amended request at their next meeting on July 11, 2013. Commissioner Eskelsen said she is not comfortable approving this request until she is confident the petitioner will install an effective safety barrier between patrons and traffic. Mr. King said if this is tabled until the next meeting the current situation will continue with no barriers in place to prevent kids from running out into the street.

Chairman Ellis asked what barriers have been used at the other nine Hokulia locations in the state and how effective they have been and Mr. King said in Provo a nylon barrier is being used

and patrons line up on the sidewalk and Mr. Strong said at one location plastic tape is being used and Mr. Nichols said he would like a barrier that enhances the look of Hokulia. Mr. King said currently at the Riverdale location two small signs have been set out instructing vehicles to slow down because there are children in the area and patrons are using seating at Honey Baked Ham or sitting on the curb. Mr. Nichols said creating a seating area cordoned off from the parking lot with a rope, chain or fence barrier or any other type of material the Planning Commission wants to stipulate would be preferable to the current setup. There were no additional comments or questions.

Motion: Commissioner Roubinet moved to forward to the Council with a favorable recommendation the petitioner's request to amend their Conditional Use Permit with Riverdale City to allow a seating area at the Hokulia Shave Ice stand at 1135 W. Riverdale Road in a C-3 Zone with the condition that an aesthetically pleasing barrier be created around the seating area. Commissioner Fleming seconded the motion.

There was no discussion on the motion.

Call the Question: Commissioner Ellis, nay; Commissioner Hilton, aye; Commissioner Gailey, aye; Commissioner Roubinet, aye; Commissioner Eskelsen, nay; and Commissioner Fleming, aye. The motion passed with four in favor and two opposed.

Chairman Ellis asked the petitioners to work with Mr. Eggett to have a clear plan in place before taking their request to the City Council for consideration and Commissioner Gailey recommended the petitioners have a good drawing of their site plan before petitioning the Council.

2. Review and consideration of a Conditional Use Permit for an Electronic Cigarette Shop Vapor-Mania proposed at 1071 W. Riverdale Road Ste. 72 in a C-3 Zone.

Mr. Eggett said Vapor Mania owner's request for an electronic cigarette shop meets all state distance requirements for a smoke shop because the proposed location is more than 1,000 feet from a park, school, library or church and more than 600 feet from a residential area. He said the petitioner has completed a business license and affirmed that tobacco products will not be sold at this location. Vapor Mania Jason Jones said his business will not carry anything with tobacco or that is combustible. He said some of the electronic cigarette liquids sold contain nicotine and others are flavored. Mr. Jones said his current location in Sunset has reached capacity and he is looking to expand and he referred the Planning Commission to his website which shows photos of his Sunset store. He said no one under 19 years of age is allowed in the store and he has worked with the Davis County Health Department and Sunset Police to comply with all state and city standards and plans to do the same with Riverdale and Weber County.

Commissioner Hilton said he did review Mr. Jones' website in preparation for tonight's meeting and he said the Planning Commission is considering this application with the understanding that tobacco products and other controlled substances will not be sold at the Riverdale store.

Commissioner Roubinet asked if Mr. Jones' Sunset location has received any citations and Mr. Jones said they have not and were informed by the Sunset police recently that they conducted a

sting to see if the employees at his store would sell to a minor and service was refused in compliance with state law. Commissioner Gailey said if the Planning Commission approves a conditional use permit and the city issues this business license to Vapor Mania they will be subject to periodic inspections by Riverdale police and the Weber County Health Inspector and Mr. Jones said he understands that and has no concerns. Chairman Ellis asked if Vapor Mania will sell any other chemicals or synthetic products that could negatively impact the health of consumers and Mr. Jones said the liquids he sells for the electronic cigarettes contain propylene glycol, vegetable glycerin, food grade flavorings and nicotine.

Chairman Ellis said this store will be located in a high traffic area and he asked how many customers are expected on an average day. Mr. Jones said in Sunset they average 200 customers a day but most are in and out quickly with an average of five or six an hour. He said he does not anticipate that traffic or parking will present a problem at this proposed Riverdale location. Chairman Ellis asked if a traffic study should be performed and Mr. Eggett said when this shopping district was built parking was designed to work for any type of retail use and he does not feel a traffic study is necessary at this time. Mr. Eggett said traffic congestion could be addressed in the future if an issue were to arise. Commissioner Gailey asked if the City Council will also review this conditional use permit and Mr. Eggett said they will not for this type of request as the Planning Commission is empowered through ordinance to make the final determination.

Motion: Commissioner Gailey moved to approve a request for a Conditional Use Permit for an electronic cigarette shop 'Vapor-Mania' at 1071 W. Riverdale Road Ste. 72 in a C-3 Zone. Commissioner Hilton seconded the motion.

Chairman Ellis asked for discussion on the motion and Commissioner Fleming asked if it would be appropriate to add a friendly amendment to Commissioner Gailey's motion prohibiting Vapor Mania from selling tobacco products of any kind. Commissioner Hilton said legally tobacco sales could be allowed at this location so if the petitioner wanted to amend their business license at a later date to sell tobacco the Planning Commission could not prohibit their request. Mr. Eggett said he agrees there is no legal basis for this type of restriction. Chairman Ellis said the owners of Vapor Mania couldn't just start selling tobacco products; they would need to amend their license and appeal to the Planning Commission for a new conditional use permit first. Commissioner Fleming withdrew her friendly amendment. There was no additional discussion on the motion.

Call the Question: The motion passed unanimously.

F. Discretionary Items

Chairman Ellis thanked Community Development Director Randy Daily for his work with the Planning Commission as he is scheduled to retire at the end of June after 35 years with Riverdale City. Chairman Ellis wished Mr. Daily well with his retirement and said he appreciates all Mr. Daily contributed during his tenure with the city and will be missed. Commissioner Gailey reminded members of the Planning Commission that they are invited to a retirement luncheon in Mr. Daily's honor to be held at the Civic Center on Wednesday June 25, 2013 at Noon. There were no additional discretionary items.

Motion: There being no further business to come before the Planning Commission, Commissioner Roubinet moved to adjourn the meeting. Commissioner Eskelsen seconded the motion. The motion passed unanimously. The meeting adjourned at 7:25 p.m.

Approved: July 9, 2013

Attest:

Brent Ellis, Chairman

Ember Herrick, City Recorder