

**PLANNING AND ZONING MEETING
THURSDAY, AUGUST 17, 2017
CITY COUNCIL CHAMBERS**

These minutes are a summary of the meeting. For full details view video online at www.casperwy.gov on the Planning Commission web page. The Planning and Zoning Commission held a meeting at 6:00 p.m., on Thursday, August 17, 2017, in the Council Chambers, City Hall, 200 North David Street, Casper, Wyoming.

Members Present: Bob King
 Fred Feth
 Randy Hein
 Susan Frank
 James Holloway
 Don Redder
 Ryan Waterbury

Absent Members: None

Others present: Craig Collins, City Planner
 Aaron Kloke, Planner I
 Dee Hardy, Administrative Support Technician
 Wallace Trembath, Assistant City Attorney
 Bob Hopkins, Council Liaison
 Kim Summerall-Wright, Casper Housing Authority,
 140 E K Street
 Becky Bulfer, 501 South Kimball Street

II. MINUTES OF THE PREVIOUS MEETING

Chairman King asked if there were additions or corrections to the minutes of the July 20, 2017 Planning & Zoning Commission meeting

Chairman King called for a motion to approve the minutes of the July 20, 2017 Planning & Zoning Commission meeting.

Mr. Hein made a motion to approve the minutes of the July 20, 2017 meeting. The motion was seconded by Mr. Holloway. All those present voted aye with the exception of Mr. Waterbury who abstained. Minutes approved.

III. PUBLIC HEARING

The first case this evening.

PLN-17-029-Z – Petition for a zone change of Lots 4, 5, 6, 7, 8, 9, 10 and the south 40 feet of Lot 11, Block 22, Nelsons Addition to the City of Casper, located at 140 East K Street,

from ED (Educational District) to C-2 (General Business). Applicant: Casper Housing Authority.

Aaron Kloke, Planner I, presented the staff report and recommended that if, the Planning and Zoning Commission finds that the requested zone change meets the minimum requirements of the Casper Municipal Code, and is in conformance with the Comprehensive Land Use Plan, staff recommends that the Planning and Zoning Commission approve the zone change, and forward a “do pass” recommendation to the City Council.

Mr. Kloke entered five (5) exhibits into the record for this case.

Mr. Hein recused himself and left the meeting at 6:06 p.m.

Chairman King opened the public hearing and asked for the person representing the case to come forward and explain the application.

Kim Summerall-Wright, Casper Housing Authority, 140 E K Street, spoke in favor of this case.

Chairman King asked for anyone wishing to comment in favor of or opposition to this case.

There being no one to speak, Chairman King closed the public hearing and entertained a motion to approve, and forward a “do pass” recommendation to City Council, deny, or table PLN-17-029-Z a zone change.

Mr. Redder made a motion to approve case PLN-17-029-Z a zone change of Lots 4, 5, 6, 7, 8, 9, 10 and the south 40 feet of Lot 11, Block 22, Nelsons Addition to the City of Casper, located at 140 East K Street, to C-2 (General Business) and forward a “do pass” recommendation to City Council. The motion was seconded by Mr. Feth. All those present voted aye. Motion passed.

Mr. Hein returned to the meeting at 6:19 p.m.

The next case.

PLN-17-030-Z – Petition for a zone change of Lots 1-4, Thomas D Ross #1 Addition, located at 802-808 North Washington Street, from R-3 (One to Four Unit Residential) to C-2 (General Business). Applicant: Cottonwood, LLC.

Aaron Kloke, Planner I, presented the staff report and recommended that if, the Planning and Zoning Commission finds that the requested zone change meets the minimum requirements of the Casper Municipal Code, and is in conformance with the Comprehensive Land Use Plan, staff recommends that the Planning and Zoning Commission approve the zone change, and forward a “do pass” recommendation to the City Council.

Mr. Kloke entered five (5) exhibits into the record for this case.

Chairman King opened the public hearing and asked for the person representing the case to come forward and explain the application.

Becky Bulfer, 501 South Kimball Street, spoke in favor of this case and explained that the reason for installing the fence was buffering from the adjacent motel, I-25 traffic and a shield to not see the adult shop. She advised that she has had trouble renting the end unit of her apartments and installing the fence would allow some privacy for renters and protect her investment.

Chairman King asked if there were questions from the Commission for Ms. Bulfer.

Mr. Feth asked how long the fence has been there and had there been any complaints?

Ms. Bulfer replied the fence had been there for approximately six (6) months without any complaints. She stated the fence has helped rent the property.

Mr. Hein inquired about the height of the fence and were the proper permits obtained.

Ms. Bulfer replied that the fence is six (6) feet tall, and a permit was not obtained.

Mr. Hein asked why she didn't fence the backyard.

Ms. Bulfer advised that the fence put in was what the funds would allow. She noted that had the motel built the fence it would be legal, because it would be considered their backyard. She stated that buffering should have been required when the motel was built many years ago. She felt that applying for a zone change was the best option available to her, after working with Code Enforcement.

Chairman King asked for anyone wishing to comment in favor of or opposition to this case.

There being no one to speak, Chairman King closed the public hearing and entertained a motion to approve, and forward a "do pass" recommendation to City Council, deny, or table PLN-17-030-Z, a zone change.

Ms. Frank for the purpose of discussion made a motion to approve case PLN-17-030-Z a zone change of Lots 1-4, Thomas D Ross #1 Addition, located at 802-808 North Washington Street, to C-2 (General Business) and forward a "do pass" recommendation to City Council. The motion was seconded by Mr. Holloway.

There was discussion on:

- The length of time the fence has been in place.
- Spot zoning. Spot zoning is defined as being inconsistent with the Comprehensive Land Use Plan, singling out or a different land use than the surrounding neighborhood, economic benefit of a single person.
- Setting a presedent for spot zoning.
- Lack of obtaining a permit required for the project.

- A six (6) foot fence doesn't require a building permit however an eight (8) foot fence does. A fence permit is required for both.
- Buffering; what types of materials may be used, lack of room to use buffering as the fence is property line.
- Would the zone change require a six (6) foot fence on the other side of the apartment building?
- Would allowing this zone change allow for any unintended consequences?
- Allowable uses and conditional uses listed in the staff report.
- Property in question is appropriately zoned for its use R-3 (One to Four Unit Residential).
- Zone change is a band-aide to correct something that was done wrong due to not getting a permit.
- Allow tapering of fence in front yards is a reasonable compromise.
- Hotel and adult shop existed in the 1980's when applicant purchased the property.
- Any other alternatives or options for the fence to remain. There are two (2) options an Ordinance change to the Municipal Code; or a variance which requires a hardship. The definition of a hardship is a physical condition of the land, unique to that land that deprives the owner of all economic benefit to that land. Staff advised the applicant that a hardship does not apply in this case.

Mr. Waterbury called for the question.

Mr. Trembath advised that it would require a two-thirds majority vote.

Chairman King asked members of the Planning and Zoning Commission to cast their vote to call for the question. With all members voting aye with the exception of Mr. Feth who voted nay. The motion passed.

Chairman King asked members to cast their vote for the motion on the floor.

All those present voted nay with the exception of Ms. Frank and Chairman King who voted aye. Motion failed.

Chairman King asked what options were available to the applicant.

Mr. Collins advised that the applicant may appeal the zone change to City Council, in writing with a ten (10) day time limit.

IV. COUNCIL ACTIONS:

V.

Generation Casper Comprehensive Land Use Plan.
A replat creating the ANB Bank Addition.

VI. SPECIAL ISSUES:

VII.

An Ordinance Amending Chapter 17.68 of the Casper Municipal Code, Pertaining to Gaming/Gambling in the C-2 (General Business) Zoning District.

Aaron Kloke presented the staff report and stated that staff had recently contacted by the Executive Director of The Pet Ring Foundation. The Pet Ring Foundation desires to install gaming/gambling machines at their establishment located at 2877 East 2nd Street (previously Godfather's Pizza). The purpose of the gaming/gambling machines would be to financially support the charitable foundation. The subject property is zoned C-2 (General Business), and gaming/gambling is listed as a conditional use in the C-2 zoning district, provided the use is located in excess of three hundred (300) feet from any school or church use. In this particular case, there is a church property located approximately eighty (80) feet from his property line, to the east. However, if the distance is measured between structures, rather than between property lines, the result is that the distance exceeds the three hundred (300) foot limitation. The Municipal Code is not explicit as to whether the separation requirement should be measured between property lines, or between structures. At a recent City Council meeting, the Council provided direction to staff that the separation requirement should be interpreted to be measured building to building. In order to address all future applications for gaming/gambling, the City Council was presented with five (5) options:

- Do nothing, and leave the three hundred (300) foot separation requirement in place;
- Reduce the required separation distance from three hundred (300) feet to a shorter distance;
- Clarify, in the Municipal Code, the method that separations are measured, i.e. property line to property line vs. building to building;
- Change gaming/gambling from a conditional use, to a permitted use, by right, in the C-2 zoning district;
- Amend all commercial and industrial zoning districts which have zoning restrictions on the location of gaming/gambling uses regarding proximity to schools and churches. This would include the C-2, C-3, C-4, M-1, and M-2 zoning districts.

The City Council reviewed the options presented, and directed staff to draft a Municipal Code Text Amendment removing the separation requirement, and changing gaming/gambling from a conditional use to a permitted use in the C-2 (General Business) zoning district. The City Council discussed the land use impacts of gaming/gambling uses, and determined that the impacts are no greater than many of the other permitted uses in the C-2 (General Business) zoning district. In that the proposed text amendment concerns zoning regulations, the Planning and Zoning Commission is required to review the amendment, and provide a recommendation to the City Council.

Chairman King asked if there was anyone in the audience wanting to give comments regarding amending Chapter 17.68 of the Casper Municipal Code relating to Gaming/Gambling in the C-2 (General Business) Zoning District.

There being no one to speak, Chairman King closed the public hearing and entertained a motion to approve, approve with conditions, deny, or table the Municipal Code Text Amendments to Chapter 17.68 pertaining to Gaming/Gambling in the C-2 (General Business) Zoning District. Ms. Frank noted a correction to the ordinance under Section 2, should read 17.68.030 and not 17.68.020.

Mr. Collins thanked her for catching that error.

Ms. Frank made a motion to approve the Municipal Code Text Amendments to Chapter 17.68 with the amendment and forward a “do pass” recommendation to City Council. For discussion purposes, the motion was seconded by Mr. Redder.

There was discussion on:

- Measurement building to building.
- Ordinance would eliminate the measurement and allow gambling in a C-2 (General Business) zoning district. Any form of gambling allowed in the Municipal Code.
- Gambling is regulated by State Statute.

Chairman King asked the Commissioners to please cast their vote, and record the vote. All members voted aye with the exception of Mr. Waterbury, Mr. Hein and Mr. Holloway who voted nay. The motion passed.

VI. COMMUNICATIONS:

A. Commission:

Mr. Hein asked if the Municipal Code permits contractors to place signage in yards of homes they are working on, and dumping concrete on lots after they have finished a job.

Mr. Collins advised he would look at the Code and report back on both items.

Mr. Holloway noted that the contractor signs are there for quite some time.

Mr. Holloway inquired about the effort by the Police Department to address those citizen who park on sidewalks. While walking in his neighborhood he has not noticed any change.

Ms. Frank asked about the Parkway Parking issue. She noted that Council has discussed the matter, but wanted to know if it had been resolved.

Chairman King advised that on Wednesday, July 26, 2017, there was a joint training session with Planning and Zoning and Casper Historic Preservation Commissions; Tuesday, August 8, 2017, he attended a Council Work Session and advised them on the vote by the Planning Commission regarding the Parkway Parking issue; and Friday, August 11, 2017, he attended a meeting with Council Members Bob Hopkins, Charlie Powell, Jessie Morgan, and City staff to discuss the scope for the Parking Study.

B. Community Development Director:

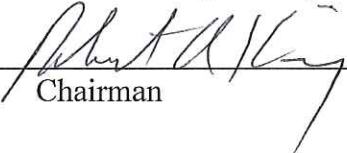
Aaron Kloke stated that the RFP for the Parking Study should be out by next Thursday, August 24, 2017. It is currently being reviewed by the Downtown Development Authority (DDA), Old Yellowstone District (OYD), and the

Downtown Casper Business Association (DCBA) for their feedback due to the impact of the study.

- C. Council Liaison:
Bob Hopkins, advised that Council is working on two different issues; Parkway Parking and a Parking Study. The Parking Study will focus on the downtown area. Preparations are currently underway for the Eclipse.
- D. Other Communications:
There were none.

VII. ADJOURNMENT

Chairman King called for a motion for the adjournment of the meeting. A motion was made by Ms. Frank and seconded by Mr. Redder to adjourn the meeting. All present voted aye. Motion carried. The meeting was adjourned at 7:11 p.m.



Chairman



Secretary