

ROY CITY PLANNING COMMISSION

January 23, 2007

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on January 23, 2007, at 6:00 p.m.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to the *Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following members were in attendance:

Bill Merx, Chairman	Tony Reynolds, Community
Doug Allred	Services Director
Dave Collins	Mark Larson, Planner
Blaine Hoopes	Andy Blackburn, City Attorney
Gennie Kirch	Michelle Drago, Secretary
Karlene Yeoman	

Excused: Brad Hilton

Others present were: Councilman Larry Peterson; Gail Larson; Gene Larson; Ron Amidan; Bonnie Amidan; Terry Smedley; Linda Toupin; Gerald ?; Norma Winchell; Lance Haycock; Julie Haycock; Ellen Blakley; Shirley Fackrell; John Gallegos; Benita Gallegos; Sherm Bingham; and Angie Rackham.

Pledge of Allegiance: Blaine Hoopes

1. APPROVAL OF JANUARY 9, 2007, MINUTES

**Commissioner Allred moved to approve the minutes of January 9, 2007, as corrected. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

2. PUBLIC HEARING TO CONSIDER A PETITION FROM GARY D. AND LINDA A. TOUPIN AND JOE F. AND ROSALIE TRUJILLO TO ANNEX APPROXIMATELY 6.82 ACRES LOCATED AT APPROXIMATELY 5160 SOUTH 3500 WEST WITH A ZONE OF R-1-10

**Commissioner Collins moved to open the public hearing at 6:04 p.m. Commissioner Hoopes seconded the motion. Commission members Allred, Collins, Hilton, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Mark Larson stated Gary and Linda Toupin and Joe and Rosalie Trujillo had requested that 6.82 acres located at approximately 5160 South 3500 West be annexed into Roy City and zoned R-1-10. The annexation consisted of four parcels. There were two homes and accessory buildings involved. There was curb, gutter, and sidewalk. The proponents were requesting annexation for future development of their properties. Mr. Larson said the City received comments from Hooper Water Improvement District regarding this annexation. Both homes in the annexation were currently connected to Hooper Water. They would have to disconnect from Hooper Water, deannex from the improvement district, and connect to Roy City. A copy of the annexation plat had been submitted to Weber County and a protest period was held, which ended on January 19<sup>th</sup>. No protests were received. The annexation area was part of the City's Master Annexation Declaration. Approval of the annexation would lessen the size of the unincorporated island in the City. The requested zone was in compliance with the Future Land Use Map. The DRC recommended that the annexation be approved with the requested zone.

Commissioner Allred asked about the condition stipulated by the property owners that the annexation be subject to the sale of the property. He wasn't aware that annexations were subject to conditions. Mark Larson said the property owners didn't want to spend money disconnecting and deannexing from Hooper Water if the sale of the property fell through. Tony Reynolds said the City Council accepted the property owners' condition when it accepted their petition for consideration.

Chairman Merx opened the floor for public comments.

A woman asked what kind of homes would be built on the property. Chairman Merx indicated that the Planning Commission was only addressing the zoning. Commissioner Kirch said an R-1-10 Zone would mean 10,000 square foot lots with 80 foot frontages.

Benita Gallegos, 3381 West 5125 South, asked about the plans for the property and time frames for development.

Mark Larson stated that UDOT had spent time and money improving 3500 West. There was already curb, gutter, and sidewalk along 3500 West. UDOT was restricting access to 3500 West. He showed the Planning Commission and audience a conceptual plan. The City didn't have any information on a development time frame.

**Commissioner Collins moved to close the public hearing at 6:14 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Commissioner Collins was concerned about the annexation being subject to the sale of the property.

**Commissioner Kirch moved to recommend that the City Council approve the annexation of 6.82 acres located at approximately 5160 South 3500 West submitted by Gary and Linda Toupin and Joe and Rosalie Trujillo and establish a zone of R-1-10. Commissioner Collins seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

3. PUBLIC HEARING TO CONSIDER A PETITION FROM ROY CITY TO REZONE APPROXIMATELY 11.62 ACRES LOCATED AT APPROXIMATELY 4577 SOUTH 3500 WEST FROM AN R-1-8 DESIGNATION TO A COMMUNITY COMMERCIAL DESIGNATION

**Commissioner Kirch moved to open the public hearing at 6:16 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Mark Larson stated that the Planning Commission would address four rezone petitions during the course of the meeting. All four were initiated by Roy City. For years the City Council's policy had been to steer away from R-1-6 and R-1-7 Zones. One of the goals and objectives listed in the 2002 General Plan, was: "Consider zoning the remaining residentially suited vacant and future annexed land R-1-10 (10,000 square feet minimum lot size) or greater to broaden the existing choices of housing types, size, and diversity." (Objective 2, Policy G, Page 63.) State law allowed cities to rezone properties. At the Council's direction, the staff and Planning Commission completed a study of undeveloped properties in Roy City and appropriate densities. The City Council reviewed the study and requested that these four rezones be initiated.

Mr. Larson said the first petition to be considered consisted of 11.62 acres located at approximately 4577 South 3500 West. It consisted of one parcel located between 3500 West and the Layton Canal. West Haven City was located to the north and east. The Triple Stop commercial area was located to the south. The property was currently zoned R-1-8. The Future Land Use Map designated it for a commercial use. In trying to follow its own General Plan, the City had initiated the petition to rezone this property from R-1-8 to Community Commercial. The proposed zone was in compliance with the Future Land Use Map and contiguous to commercial zones to the east and south. The DRC recommended that the rezoned be approved.

Chairman Merx opened the floor for public comments.

Shirley Fackrell, 4598 South 3600 West, stated that the rezone was behind her backyard. She asked what would happen to the Layton Canal. She didn't want to see anything big developed in her backyard. She didn't want to lose her view.

Chairman Merx stated that the only thing being discussed at this time was the rezone. The City was not aware of any current plans to develop the property.

Commissioner Kirch stated that rezoning the property from residential to commercial stopped the possibility of homes being constructed in to a commercial area.

Commissioner Yeoman stated that the Layton Canal extended north and south beyond this property.

Commissioner Allred stated that whoever developed this property would not be able to build over the Layton Canal. The rezone would not change the current use of the property by the Assembly of God Church.

**Commissioner Collins moved to close the public hearing at 6:24 p.m. Commissioner Kirch seconded motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

**Commissioner Allred moved to recommend that the City Council approve a petition to rezone approximately 11.62 acres located at approximately 4577 South 3500 West from an R-1-8 designation to a Community Commercial designation. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

4. PUBLIC HEARING TO CONSIDER A PETITION FROM ROY CITY TO REZONE APPROXIMATELY 3.00 ACRES LOCATED AT APPROXIMATELY 5555 SOUTH 2500 WEST FROM AN R-1-8 DESIGNATION TO AN R-3 DESIGNATION

**Commissioner Hoopes moved to open the public hearing at 6:25 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Mark Larson stated that the City had initiated a petition to rezone approximately 3.00 acres located at approximately 5555 South 2500 West from R-1-8 to R-3. The Future Land Use Map of the General Plan was recently amended to change the future designation of this property from Government/Churches to High Density Multi-Family Residential. The Zoning Map needed to be changed to comply with the Future Land Use Map. Part of the parcel was already zoned R-3. R-3 was a multi-family zone. The City was not aware of any current plans to develop the property. The DRC recommended that the rezone be approved.

Chairman Merx asked about the zone across the street to the north. Mark Larson said it was zoned R-1-8. There was currently a subdivision entitled on the property to the north.

Chairman Merx opened the floor for public comments.

Lance Haycock, 4126 West 4700 South, asked if the property being rezoned was where the holding pond and walking track were. Mark Larson said they were not. The track and holding pond were northwest of the parcel in question.

**Commissioner Kirch moved to close the public hearing at 6:28 p.m. Commissioner Collins seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

**Commissioner Hoopes moved to recommend that the City Council approve a petition to rezone approximately 3.00 acres located at approximately 5555 South 2500 West from R-1-8 to R-3. Commissioner Kirch seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

5. PUBLIC HEARING TO CONSIDER A PETITION FROM ROY CITY TO REZONE APPROXIMATELY 10.50 ACRES LOCATED AT APPROXIMATELY 4712 SOUTH 4300 WEST FROM AN R-1-7 DESIGNATION TO AN R-1-10 DESIGNATION

**Commissioner Collins moved to open the public hearing at 6:30 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Mark Larson stated that the City had initiated a petition to rezone approximately 10.50 acres located at approximately 4712 South 4300 West from R-1-7 to R-1-10. The rezone consisted of two separate parcels owned by Gail and Diann Larsen and Ron and Bonnie Amidan. The Larsen property was currently used for agricultural purposes. The Amidan property had a house and barns. The proposed rezone would not take away the properties' development possibilities. The City planned for both properties to eventually develop and had required the subdivision to the east to provide a stub road for that purpose. The proposed rezone complied with the Future Land Use Map. The DRC recommended that the rezone be approved.

Commissioner Allred asked if there was a restriction on the number of accesses onto 4300 West. Mark Larson said 4300 West was a City road. There wasn't a restriction on access.

Chairman Merx opened the floor for public comments.

Terry Smedley, Layton, asked if the City planned to continue 4300 West. Mark Larson stated that 4300 West was an existing road.

Mark Larson stated that the difference between the R-1-7 and R-1-10 Zones were lot sizes of 7,000 square feet versus 10,000 square feet and lot widths of 65 feet versus 80 feet.

Gail Larsen, 4380 South 2350 West, stated that he was adamantly opposed to having his property rezoned. This was hitting him in the pocketbook. His attorney had prepared an official protest for him, which he read(copy filed for the record). He asked the Planning Commission to reconsider what was being proposed by the City officials.

Ron Amidan, 4712 South 4300 West, stated that his neighbors had asked him why he wanted to rezone his property to R-1-10. His neighbors didn't want to see larger lots or homes. Mr. Amidan said he planned to use his property as a retirement supplement. He

didn't want to lose 1/3 to 1/4 of his retirement benefits. An R-1-10 Zone would look out of place. He asked that the zoning remain R-1-7. There weren't too many places left to develop in Roy.

Angie Rackham, 4665 South 4150 West, stated that when she moved into her home there wasn't a groundwater problem. After the development of property around her, her home flooded every year. Her sump pump worked 24 hours a day 365 days a year. If there were homes on the Larsen/Amidan properties, the problem would be worse.

The Planning Commission stated that the Amidan/Larsen properties were already zoned for a residential use. It was considering a change in lot size, not use. When the property developed, drainage would be addressed.

Angie Rackham felt the lot size should remain the same as hers. If homes were developed, they shouldn't have basements.

Commissioner Collins stated that if and when the Amidan/Larsen properties developed, drainage would be a major issue that would be addressed. He asked if a lot in an R-1-7 Zone could be larger than 7,000 square feet. Mr. Larson said it could.

Gene Larsen, 1996 West 4600 South, asked when the General Plan was approved. Mark Larson said the City had always had a General Plan. The current plan was adopted in 2002. Gene Larsen asked if the General Plan could be amended. Mr. Larson said it could. Gene Larson pointed out that an R-1-10 Zone would aggravate the shape of lots north of the stub road at 4650 South, which is what the study was supposedly trying to avoid.

Lance Haycock, 4126 West 4700 South, didn't feel an R-1-10 Zone would fit the neighborhood, which consisted mainly of an R-1-7 Zone, except for six lots along 4800 South that were zoned RE-20. If the lots along 4800 South were being rezoned to R-1-10 to provide continuity, the rezone might make more sense.

Mark Larson stated that several years ago, the six property owners along 4800 South filed a petition to have their properties rezoned from R-1-7 to RE-20. They all had larger lots and wanted to have animals.

Gene Larsen asked why the General Plan was changed. Mark Larson stated that one objective included in the 2002 General Plan was, "Consider zoning the remaining residentially suited vacant and

future annexed land R-1-10 (10,000 square feet minimum lot size) or greater to broaden the existing choices of housing types, size, and diversity." (Objective 2, Policy G, Page 63.) Sixty-five (65%) to 70% of the City was zoned R-1-8 or less. City officials wanted to provide a variety of lot sizes.

Gene Larsen stated that a lot of development had occurred in Roy City over the last five years. Commissioner Kirch pointed out that a lot of that development had been done with an R-1-10 Zone. The Planning Commission had heard repeatedly from the public that they wanted larger lots. The City Council directed the Planning Commission to review the community and determine if there were undeveloped areas that could be rezoned. There were only a few parcels that would work.

Gail Larsen felt the City was making this change at the expense of two to three property owners.

Commissioner Kirch stated that the Zoning Ordinance included a planning tool called a development agreement, which gave the City some flexibility when it came to lot sizes. That might be something that could help the Larsens and Amidans.

Commissioner Hoopes asked what the difference in net yield was between the R-1-7 and R-1-10 Zones. Mark Larson said that would depend on the design. He felt the estimate provided by Gail Larsen's attorney of five to six lots was probably close.

Gail Larsen stated that the infrastructure costs would remain the same whether there were five lots or 20.

Bonnie Amidan, 4712 South 4300 West, stated that she had planned on her property being her retirement. An R-1-7 Zone would mean a better value. She would like to have her options left open. This land was her future. She wanted to be able to keep her future intact.

**Commissioner Kirch moved to close the public hearing at 7:04 p.m. Commissioner Collins seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Commissioner Collins stated that there had been a lot of discussion about Roy having an abundance of starter homes and families moving away for something bigger. However, there was an older population

to be considered that was looking to scale down. It wasn't always true that people were looking to move up.

Commissioner Kirch stated that with increasing home prices, smaller homes and lots might be all people could afford.

Commissioner Yeoman didn't feel the zone for the Amidan/Larsen properties should be changed at this time. She understood the City's needs, but both property owners were opposed to the rezone. Commissioner Kirch agreed with Commissioner Yeoman.

Commissioner Hoopes had mixed feelings. He was surprised by the neighbors' comments wanting the same size lots rather larger ones. The inability to have basements in this area would make the homes higher in height.

**Commissioner Collins moved to recommend that the City Council deny a petition to rezone approximately 10.50 acres located at approximately 4712 South 4300 West from R-1-7 to R-1-10. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.**

Commissioner Yeoman was excused at 7:11 p.m.

6. PUBLIC HEARING TO CONSIDER A PETITION FROM ROY CITY TO REZONE APPROXIMATELY 4.74 ACRES LOCATED AT APPROXIMATELY 4950 SOUTH 3925 WEST FROM AN R-1-7 DESIGNATION TO AN R-1-10 DESIGNATION

**Commissioner Hoopes moved to open the public hearing at 7:11 p.m. Commissioner Allred seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, and Merx voted "aye." The motion carried.**

Mark Larson stated that the City had initiated a petition to rezone approximately 4.74 acres located at approximately 4950 South 3925 West from R-1-17 to R-1-10. The rezone consisted of three separate parcels. The largest parcel was owned by Katherine Horton. The two smaller parcels were owned by Countrybrook, LLC. The Development Services staff had spoken with both property owners. Katherine Horton was in favor of the rezone. She felt it would increase her property value. Terry Smedley, representing Countrybrook, LLC, was opposed to the rezone. Mr. Larson said the rezone was completely surrounded by development. There was an R-1-8 Zone on three sides. Mr. Larson reminded the Planning Commission that they had the option to recommend a zone different than the one requested on the petition.

Commissioner Collins stated that there was a holding strip along the west side of the rezone. Mark Larson said the small holding strip had been included in the rezone.

Chairman Merx opened the floor for public comments.

Terry Smedley, Layton, that the property in question was impacted by two stub streets. The options for subdividing the property were pretty limited. The two stub streets meant a cul-de-sac and corner lots. Corner lots and cul-de-sac lots were larger. He didn't feel there would be a demand for larger homes in this particular area due to the surrounding development. Due to the configuration of the property, he anticipated that the lots would be larger than 7,000 square feet.

Commissioner Kirch stated that the new Zoning Ordinance contained regulations for development agreements, which gave the City flexibility to work with property owners. Terry Smedley said the development agreements he was familiar with involved clustering.

Terry Smedley understood the City had the power of eminent domain. In this case, he felt rezoning the property from R-1-7 to R-1-10

might be considered a taking, which included compensation. He asked that the Planning Commission consult with the State's omnibusman about whether this was a takings issue.

Commissioner Kirch asked about the possibility of an R-1-8 Zone. Terry Smedley said he would not be concerned about an R-1-8 Zone.

Terry Smedley thought there might be a conceptual subdivision approval for this property. When the overall preliminary plan for the Countrybrook Subdivision was approved, it included this area.\*

Commissioner Collins asked the City Attorney to address the taking question.

Andy Blackburn stated that if the City changed the zone of these properties, it would not be a taking. The City would pretty much have to take all economic value away for it to be a taking. There was concern about the entitlement issue.

Terry Smedley stated that the Planning Commission had considered four rezone petitions from the City. Two of the rezones had increased property values; two would decrease property values. He didn't feel that was equal representation. He had reservations about an R-1-10 Zone; he didn't about an R-1-8 Zone. The only reason this area had not been developed was because he had not been able to reach an agreement with Katherine Horton. If Roy City had made the move to larger lots in the beginning, it would have made good planning sense. Doing it now did not seem logical. He wasn't sure larger homes would be built on these lots if they were increased in size.

**Commissioner Hoopes moved to close the public hearing at 7:31 p.m. Commissioner Collins seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, and Merx voted "aye." The motion carried.**

Commissioner Hoopes stated that he could see changing this area to R-1-8. However, an R-1-10 Zone in this area made less sense than the previous petition. He felt an R-1-8 Zone would be a good compromise as most of the property was surrounded by 8,000 square foot lots.

Commissioner Allred did not see how rezoning the property could be a taking. The whole issue had never been about value. It was about density, frontage, and setbacks. He didn't think the

Planning Commission could hang its hat on solving problems with development agreements. When talking about a small property like this one, the scenario did not change a whole lot. If the zoning wasn't changed to R-1-10, it might as well be left R-1-7. He didn't see the value of rezoning this property. He felt it would be more productive to look at development possibilities for this property. With no eminent domain and the property's difficult size, he didn't see the value of changing the zone.

Commissioner Hoopes agreed this property had difficult restrictions.

Commissioner Kirch felt an R-1-8 Zone was the right fit.

Mark Larson stated that an R-1-8 Zone was still a medium density single family zone and was in compliance with the Future Land Use Map.

Chairman Merx did not feel the Planning Commission had heard a compelling reason to change the R-1-7 Zone. He was inclined to leave the zoning as it was.

**Commissioner Collins moved to recommend that the City Council approve a petition to rezone approximately 4.81 acres located at approximately 4950 South 3925 West from R-1-7 to R-1-8 rather than the requested R-1-10. The Planning Commission felt the R-1-8 Zone as more fitting. Commissioner Kirch seconded the motion. Commission members Collins, Hoopes, Kirch, and Merx voted "aye." Commissioner Allred voted "nay." The motion carried.**

\*After the meeting, the staff researched the Countrybrook files to determine if a subdivision had been approved on this property. They found that the original overall preliminary approval included the rezone area. However, the overall preliminary had been changed several times. The most current overall preliminary plans did not include the rezone. It was the staff's opinion that there wasn't a current subdivision entitled for the rezone area.\*

7. ADJOURN

**Commissioner Hoopes moved to adjourn at 7:45 p.m. Commissioner Kirch seconded the motion. Commission members Allred, Collins, Hoopes, Kirch, and Merx voted "aye." The motion carried.**

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Bill Merx  
Chairman

Attest:

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Michelle Drago  
Secretary

dc:pjan2307