

ROY CITY PLANNING COMMISSION

October 14, 2003

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on October 14, 2003, at 6:07 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:

Larry Peterson, Chairman	Tony Reynolds, Community
Doug Allred	Services Director
Brad Hilton	Mark Larson, Planner
Blaine Hoopes	Michelle Drago, Secretary
Gennie Kirch	
Bill Merx	
Karlene Yeoman	

Others present were: Bruce Crouch; Robin Secor; Melinda Secor; John Stark; Lori Stark; Care Provost; Cheryn Provost; Dave Schlack; Lois Biddle; Ray Baugh; Jelena Cantrell; Brad Baugh; Robert Fuller; Howard Terry; David Tracy; Bruce Nilson; Andrew Goodwin; Bernard Goodwin; Ken Reed; Manuel Martinez; Gayle Martinez; Wade Holbrook; George Glen; Larry Bouwhuis; Christian Forsyth; Tony Therber; Peggy Glen; Brad Lasater; Matthew Fatovich; and Trudy Gillman.

Pledge of Allegiance: Commissioner Hilton

1. APPROVAL OF SEPTEMBER 9, 2003, MINUTES

Commissioner Allred moved to approve the minutes of September 9, 2003, as corrected. Commission Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

2. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE FINAL DEVELOPMENT FOR BRUCE CROUCH AND A CONDITIONAL USE PERMIT FOR USED VEHICLE SALES LOCATED AT APPROXIMATELY 4785 SOUTH 3500 WEST

Commissioner Kirch moved to open the public hearing at 6:09 p.m. Commissioner Hoopes seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Mark Larson stated that Bruce Crouch had a dual request. He was asking that the final development plan for the Midland Commercial Center (better known as Triple Stop) be amended to show a used vehicle sales area. He was also requesting approval of a conditional use permit for used vehicle sales. The Midland Commercial Center was located at 4800 South 3500 West. The specific area in question was Lot No. 6 of the Midland Commercial Subdivision (4785 South 3500 West). Lot No. 6 was just north of the convenience store and east of the automated carwash. The Development staff was concerned about internal traffic circulation throughout the overall development. Mr. Crouch submitted a circulation pattern that showed vehicles would still be able to flow around the sales lot. The sales lot would not prevent traffic from moving internally around the center. Mr. Crouch's site plan showed three overhead lights around the sales lot. Mr. Crouch was proposing to surround the sales lot with a 30-inch high ballard post-and-steel cable type fence. Mr. Larson showed the Planning Commission an elevation of the proposed fence. There would be a 6-foot landscaped area between the sales lot and the east property line. Curb, gutter, and sidewalk had been installed along 3500 West from Triple Stop to the American Car Care Center. Mr. Larson reviewed the City Engineer's comments with the Planning Commission. He said the City assessed all hard-surfaced areas in commercial areas with a storm drainage fee. Mr. Larson pointed out that the State required Mr. Crouch to have an office for his sales lot. The office would be located in the existing building on the south side of the automated carwash. Mr. Larson felt the Planning Commission should discuss whether there should be curbing along the front of the sales lot to prevent vehicles from encroaching into the landscaped area. The staff was still working with Bruce Crouch to get the Midland Commercial Subdivision recorded.

Commissioner Hoopes asked how the sales lot would be accessed from 3500 West. Mark Larson said Bruce Crouch owned the entire center. Any of the accesses on 4800 South or 3500 West could be used to

access the sales lot. There were reciprocal parking and access agreements for the overall development.

Commissioner Merx asked if there was a size requirement for the used vehicle parking stalls. Mark Larson said the only parking stalls that had a size requirement were the three public parking stalls shown on the site plan. They had to be 9'x20'. Commissioner Merx asked if there was a limit to the number of sales vehicles Mr. Crouch could put in the lot. Mr. Larson said there was not. Mr. Crouch could put as many vehicles on the lot area as would fit.

Bruce Crouch, 1812 East Valley View Circle, Ogden, stated that he had been working with Mark Larson and Tony Reynolds. He felt they had covered most of the issues. There was a brand new approach on 3500 West just north of the sales area. There were plenty of acceptable access routes. He wanted to use a ballard-type fence that would be made from cast concrete. It would be very attractive. A similar fence had been used in the Gateway Center in Salt Lake.

Chairman Peterson asked if the steel cable would be bare or covered. Bruce Crouch said it would probably be something that wouldn't rust.

Chairman Peterson asked if there were any comments from the public. There were none.

Commissioner Hilton moved to close the public hearing at 6:18 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Commissioner Kirch felt this was a pretty straight forward matter.

Chairman Peterson said the Planning Commission needed to decide whether there should be interior curbing or parking bumpers on the inside of the parking lot rather than the fence proposed by Mr. Crouch. Something was needed to prevent cars from rolling into the street. Mr. Crouch said the fence along the front would do that. Commissioner Allred asked if there would be a concrete border or mow strip between the grass and the asphalt. Something needed to separate the grass and the asphalt, or they would migrate into each other.

Commissioner Allred moved to recommend that the City Council approve an amended final development plan for the Midland Commercial Center located at 4785 South 3500 West to show a used vehicle sales area and a conditional use permit for Bruce Crouch for used vehicle sales located at approximately 4785 South 3500 West subject to the conditions of the City Engineer's report and the Development staff comments and that a concrete mow strip be placed on the east side of the sales lot area to separate the grass from the planned asphalt area. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

3. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND SITE PLAN FOR ROBIN SECOR/UTAH DEALER EXCHANGE FOR A WHOLESALE BUSINESS LOCATED AT APPROXIMATELY 5523 SOUTH 1900 WEST # 5

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

Mark Larson stated that Robin Secor was requesting approval of a conditional use permit for a wholesale business at 5523 South 1900 West # 5, which was the Painter's Plaza just south of the old Ponderosa Paint building. It was an inner-block strip mall. The parking was in front of the building. Three parking stalls had specifically been assigned to Mr. Secor's space, which was a requirement of the State. Mr. Secor would be operating a wholesale business, not retail sales. He did not plan to display any vehicles for retail sales. He dealt directly with businesses. He outsourced all of his repair work. The City Engineer had looked at the site. They recommended approval of the conditional use without additional engineering conditions.

Robin Secor, 2559 North 1170 West, Clinton, stated that he had reviewed the staff's comments. His business was wholesale. He needed an office to meet the statutory requirements of the State. This site met the minimum requirements and kept his overhead low.

Chairman Peterson asked if the three parking stalls would be assigned to his business immediately. Mr Secor said they were already marked for Utah Dealer Exchange only. Chairman Peterson asked if the City would receive any sales tax benefit from Mr. Secor's business. Robin Secor said no sales tax would be generated from wholesale sales.

Chairman Peterson asked if there were any comments from the audience. There were none.

Commissioner Kirch moved to close the public hearing at 6:36 p.m. Commission Allred seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Commissioner Yeoman moved to recommend that the City Council approve a conditional use permit and site plan for Robin Secor/Utah

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Dealer Exchange for a wholesale business located at approximately 5523 South 1900 West # 5 according to the staff and engineering recommendations. Commissioner Hilton seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

4. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND SITE PLAN FOR WE GO INC. FOR A FOOD/MERCHANDISE DELIVERY COMPANY LOCATED AT APPROXIMATELY 1818 WEST 5150 SOUTH

Commissioner Allred moved to open the public hearing at 6:37 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Mark Larson stated that John Stark was requesting approval of a conditional use permit and site plan for a food/merchandise delivery company known as We Go Inc. The business would be located at 1818 West 5150 South, which was Building 4 in the Silver Creek Development. Several months ago, the Planning Commission discussed some incomplete items in this development with Kim Keller, the developer. Since then Tony Reynolds had been working with Kim Keller to resolve those items.

Tony Reynolds stated that Kim Keller was preparing an escrow estimate to complete the landscaping improvements, a dedication plat for 5150 South, and protective covenants. Mr. Reynolds was confident that the remaining items would be resolved before Mr. Stark's conditional use request was presented to the City Council.

Mark Larson stated that John Stark was proposing to operate a delivery service from 1818 West 5150 South in the Silver Creek Center. He had agreements in place with various companies in and around Roy. He planned to have two employees in the office and 6 to 10 people on dispatch to pick up and deliver for customers. He planned to have the drivers use their own vehicles to start with. They would operate as subcontractors. His hours of operation would 10:00 to 11:00 p.m. Monday through Saturday.

Chairman Peterson asked if Mr. Stark would store any merchandise at this office location.

John Stark, 3023 West 4450 South, stated that the only thing that would be stored at the office would be office equipment.

Commissioner Yeoman asked why he planned to be open until 11:00 p.m. Mr. Stark said he had agreements with restaurants that didn't have a delivery service but were open until 11:00 p.m.

Chairman Peterson asked if Mr. Stark would deliver things other than food products. Mr Stark said he planned to deliver anything to anybody, such as auto parts or computer parts.

Commissioner Kirch asked if he had any competition in this area. John Stark said he did not. There was an industrial server in Salt Lake.

Commissioner Merx asked how Mr. Stark planned to keep food products warm. John Stark said he planned to use thermo-electric coolers. Commissioner Merx asked about liability. John Stark said he had consulted with a lawyer. There would be no liability.

Chairman Peterson asked if there were any comments from the audience. There were none.

Commission Hoopes moved to close the public hearing at 6:48 p.m. Commissioner Yeoman seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Commissioner Hilton moved to recommend that the City Council approve a conditional use permit and site plan for John Stark/We Go Inc. for a food/merchandise delivery company located at approximately 1818 West 5150 South subject to all of the staff and engineering recommendations and the staff's report that the remaining items in Silver Creek would be completed. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

5. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE FUTURE LAND USE MAP (FIGURE 3) OF THE GENERAL PLAN AND A PETITION FROM ROY CITY TO REZONE APPROXIMATELY 13.02 ACRES LOCATED FROM 4997 SOUTH TO 5200 SOUTH ON THE WEST SIDE OF 2700 WEST FROM AN MP-1 ZONE TO AN RE-20 AND R-4 ZONES

Commissioner Kirch moved to open the public hearing at 6:51 p.m. Commissioner Hilton seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Mark Larson stated that the public hearing was to consider two separate issues - an amendment to the Future Land Use Map of the General Plan and a petition from Roy City to rezone approximately 13.02 acres on 2700 West from MP-1 to RE-20 and R-4. In order for the Planning Commission to consider the rezone petition from Roy City, the Future Land Use Map needed to be amended. The staff recommended that a small parcel located at approximately 2751 West 5200 South be changed from a light industrial use to a very high density residential use. The current property use was storage sheds. It was zoned MP-1. Roy City was requesting that the small parcel at 2751 West 5200 South be rezoned from MP-1 to R-4. Neighborhood storage units were a conditional use in the R-4 Zone. There was an R-4 Zone and storage units immediately to the west.

Mr. Larson stated that at one time the 2700 West area was on the edge of Roy City. At that time it made sense for that area to be zoned for manufacturing. Now the manufacturing area on 2700 West was in the middle of the City and was surrounded by single-family and multi-family uses. When the Planning Commission updated the General Plan last year, it tried to determine what the best future use of the 2700 West area would be. The Future Land Use Map showed the 2700 West area with a low density residential use.

Commissioner Allred asked if the property owners on 2700 West had requested the rezone. Mark Larson said they had not. Roy City was requesting that fourteen parcels from 4997 South to 5200 South on the west side of 2700 West be rezoned from MP-1 to low density residential. The City was also requesting that one parcel at 2751 West 5200 South be rezoned from MP-1 to R-4. The staff felt it was in the best interest of the City for these fifteen parcels to be rezoned. Mr. Larson said the property owner of 2751 West 5200 South had called the staff. He didn't have a problem with the rezone if it didn't affected the use of his property.

Mr. Larson said the staff report recommended that the properties on 2700 West be rezoned to RE-20. There were two low density residential zones - RE-20 and RE-15. The minimum lot width in an RE-20 Zone was 115 feet, and animals were a permitted use. The minimum lot width in an RE-15 Zone was 85 feet, and animal rights were a conditional use. There were five lots on 2700 West that had frontages with less than 85 feet. They would be non-conforming in the RE-15 Zone. However, most of the lots widths would be non-conforming in an RE-20 Zone. The staff felt the Planning Commission should consider an RE-15 Zone rather than an RE-20 Zone.

Commissioner Kirch felt it was very important for the public to understand that the current manufacturing uses would be non-conforming.

Tony Reynolds stated that Chapter 11 of the City's Zoning Ordinance addressed non-conforming uses. It read, "The non-conforming use of a building or structure existing at the time the applicable zoning regulations became or becomes effective may be continued," RCO 34-11-4(1). "A non-conforming use of a tract of land or portion thereof may be continued..." RCO 34-11-6. Mr. Reynolds said there was non-conforming land, buildings, and uses. All would be allowed to continue if the rezone was approved by the Planning Commission and City Council. Roy City had not used ammoritization of non-conforming uses. The Development staff did not anticipate that it would be used. With ammoritization, the City could phase a use out. That was not contemplated with this rezone. The City was simply trying to bring the current zone designation into compliance with the Future Land Use Map. The non-conforming uses would continue.

Commissioner Allred asked if a non-conforming use was tied to the owner of the property. Tony Reynolds said a non-conforming use was tied to the land or building, not the owner.

Chairman Peterson opened the floor for public comments.

Ray Baugh, Baugh Repair at 4997 South 2700 West, wanted to know who had proposed the zone change and why. Tony Reynolds stated that in 2002, the City adopted a new General Plan. It was decided that the future land use on 2700 West would be low density (RE-15 or RE-20) rather than light industrial. Mr. Baugh asked why they weren't notified about the General Plan two years ago. Tony Reynolds said the City had published general notices about the General Plan. Specific property owners were notified when a zone change was

considered. Ray Baugh said the zone would change the value of his property because he would not be able to sell it as commercial property. He would not be able to sell it. This was mass zoning against his will. The City was going to force this on them. Their commercial property would be worthless, and he would not be able to expand. He bought the property on 2700 West because it was zoned MP-1. He did not want to relocate.

Mark Larson stated that the manufacturing uses on 2700 West were pretty well established. Those uses could continue. The zoning change would stop a different type of manufacturing use on those properties.

Tony Reynolds stated that there were many properties in Roy City and throughout the Wasatch Front that were non-conforming. When they were sold, lenders and investors frequently requested rebuild letters from the appropriate city.

Members of the audience said they could not understand how the City would benefit from the rezone.

Tony Reynolds stated that the City was required to address the discrepancy between the manufacturing zone on 2700 West and the Future Land Use Map. The Development staff had reviewed both maps and made a recommendation to the Planning Commission that the area on 2700 West be rezoned.

Andrew Goodwin, 4917 South 2700 West, asked about properties north of the proposed rezone. What if owners wanted a manufacturing zone? Tony Reynolds said property owners could request a rezone. The Planning Commission and City Council would consider the Future Land Use Map in the General Plan and the current zoning map in making a decision.

Commissioner Kirch stated that the City was trying to solve a discrepancy.

David Tracy stated that he lived at 5121 South 2700 West. He owned a business at 5135 South 2700 West. He and his father had had a business in this area since 1971. The zoning had gone from manufacturing to agricultural to manufacturing again. He felt the City needed to change the Zoning Ordinance rather than the zone. There had not been problems between the businesses or those who had residential homes. There had not been a problem until now.

David Tracy stated that based on what the audience was saying, the City should have a manufacturing zone all of the way from 5200 South to 4800 South on 2700 West. He felt the City should be looking at creating more manufacturing areas rather than taking some away. Manufacturing areas created jobs. He didn't feel the City should jeopardize businesses that were already there. He was not in favor of ammoritizing the uses away. He didn't understand the impetus of the City to change the lives of those on 2700 West.

Commissioner Kirch stated that over the last three to four years, Roy City had been updating the General Plan. This rezone was part of implementing the new plan.

Howard Terry, 2509 West 5700 South, stated that he owned property on the east side of 2700 West. He felt the whole area should be taken back to an agricultural or farming use. He asked that the City correct its map. The boundaries of his property were in error.

Tony Therber, 5037 South 2700 West, did not see what the City had to gain from changing the zoning. This 'misfit' was his livelihood. He did not want to see it changed. He did not understand the details on grand fathering. If he got into a situation where he needed to reconsider sheet metal manufacturing, the zone change would limit what he could do. He wanted the option to keep his building if the bottom fell out of steel manufacturing.

Chairman Peterson asked if a non-conforming use would preclude Mr. Therber from changing the type of manufacturing he did. Tony Reynolds said that would depend upon how narrowly the City would construe the non-conforming use.

Tony Therber asked what the property owners to the north needed to do if they wanted to rezone the rest of the block manufacturing. Chairman Peterson said they needed to meet with the staff and file a rezone petition.

Commissioner Kirch stated that if the whole block was rezoned, people with current residential uses would be impacted. A zoning change to the north needed to come from the residents, not the City.

A gentleman spoke in behalf of Tony Therber. He felt the rezone would be an injustice to Mr. Therber. Mr. Therber's current business was an asset to the City. Its payroll put thousands of

dollars into Roy City and surrounding communities. Mr. Therber had plans to expand. The rezone would prohibit those plans. Mr. Therber was a caring employer. His business shouldn't be limited to its current status. The gentleman didn't feel a residential use near the railroad tracks would be wise because of danger to children. He was against rezoning to any type of residential use.

Matthew Fatovich, 2801 West 5175 South, agreed with the business owners. The overpass on 5600 South was built to decrease deaths from the tracks. He wanted to keep the manufacturing use for the benefit of the City. He couldn't see how the business owners or the City would benefit from making this area residential. The manufacturing zone needed to remain to allow future businesses. More businesses would help buffer the noise from the railroad track.

Commissioner Yeoman stated that when the Planning Commission put the General Plan together it tried to picture what the City would look like in 20 to 30 years. The Planning Commission did not feel a manufacturing use in this area would last because it was surrounded by residential uses. The Planning Commission felt that this area would eventually have a residential use. None of the decisions made by the Planning Commission were personal. The Planning Commission would liked to have received comments from the property owners in this area when it was putting the General Plan together.

Commissioner Kirch stated that the City did not have any plans to build homes in this area. The City was going through the process of implementing its General Plan. The future look of Roy City was different than today's look.

Commissioner Merx asked how many manufacturing businesses were located in the proposed rezone. Mark Larson said five of the fourteen properties had manufacturing uses. There were actually seven businesses. Two of them were storage units. Commissioner Merx asked how many people were employed by the businesses. A gentleman from the audience estimated there were about 40 employees. Commissioner Merx asked if the property values would go down if the properties were rezoned. The staff was unable to provide an answer to that question.

David Tracy asked if he would be able to expand his business if it was non-conforming. Chairman Peterson said that would depend on how the City interpreted the Zoning Ordinance.

Lois Biddle, 5131 South 2700 West, was concerned about extra children from apartments driving the business uses crazy. Commissioner Kirch said apartments could not be placed in a low density residential zone.

Commissioner Kirch moved to close the public hearing at 7:53 p.m. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Commissioner Kirch moved to table the rezone for at least three months to allow the Planning Commission and Development staff to consider options such as amending the Future Land Use Map or a citizens' rezone petition and directed the staff to notify property owners when it would be put back on the agenda. Commissioner Hoopes seconded the motion. Commission members Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." Commission member Allred voted "nay." The motion carried.

6. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND SITE PLAN FOR DAVE SCHLACK/TUSCANY GARDENS FOR A RECEPTION CENTER LOCATED AT APPROXIMATELY 1856 WEST 4500 SOUTH

Commissioner Hilton moved to open the public hearing at 7:56 p.m. Commissioner Kirch seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Mark Larson stated that Dave Schlack was requesting approval of a conditional use permit and site plan for a reception center to be known as Tuscany Gardens in the old Hayloft building at 1856 West 4500 South. Although the building in question was near Herefordshire Square, it was not part of the subdivision. It was a separate parcel. The site did have reciprocal parking and access agreements with the owners of Herefordshire Square. Mr. Larson said the building and site were existing. There were 17 existing parking stalls on the east side of the building. The site had more than the required 10% of landscaping. Mr. Larson said the site was unusual because the property line was actually 10 feet north of the existing sidewalk. When the site was originally approved, the City allowed a fence to be installed along the sidewalk. That was unusual because it was actually in the City right-of-way. Mr. Schlack wanted to replace the old fence with wrought iron. He also wanted to place a gazebo on the southwest corner of the site. There was some concern about a gazebo in that location blocking the 40-foot site triangle of the entrance into Herefordshire Square. The staff and Planning Commission needed to be careful not to create a visual barrier at the entrance.

Commissioner Hoopes asked if the gazebo would be a temporary structure or if it would be placed on a permanent foundation. Mark Larson was not sure. The staff assumed it would be a permanent structure.

Commissioner Merx asked where the new fence would be. Mark Larson said Mr. Schlack wanted to put it by the sidewalk where the existing fence was, which was in the City's right-of-way.

Mark Larson stated that Mr. Schlack had been working on the exterior of the building. There was still a lot of exterior work to be done. Because of the proposed use, Mr. Schlack wanted to make the exterior as attractive as possible. Mr. Larson reviewed the City Engineer's concerns. They needed a plan that showed all of the existing utilities. The sewer line from this building ran

northwest and connected to the sewer line in Herefordshire Square. There was a grease trap on the line. Mr. Schlack needed to have a reciprocal agreement with Cape Development, owner of Herefordshire Square, to allow him to use their sewer line. Mr. Schlack would have to follow all Building and Fire Codes during his remodeling. He would also have to work with the Health Department to meet the requirements for food preparation.

Commissioner Allred asked if the easement for the sewer line was already in place as this building had been a restaurant in the past. Mark Larson stated that the Development staff had not been able to locate one. Chairman Peterson stated that when this entire area was originally developed, it was owned by one person. Over time it had been split off.

Tony Reynolds said there were actually several property owners now: Dave Schlack (Tuscany Gardens), Cape Development (old Jubilee building), Scott Myers (You Can Tan building), and the office buildings north of the old Jubilee building.

Dave Schlack, Ogden, stated that he had reviewed the recommendations of the staff. Since he submitted a site plan to the staff, there had been a change of plans. Mr. Schlack showed the Planning Commission a revised site plan for the south side of the building. He proposed to grade the landscaping area two feet below the level of the sidewalk and put in a patio. He wanted to put the gazebo on the east side of the patio and surround it with a rock wall and landscaping. That would give the area more privacy. The rock wall would change to wrought iron on the southwest corner of the south side.

Chairman Peterson asked how high the rock wall would be. Dave Schlack said it would be four feet high from the sidewalk. On the patio side it would be six feet high because of the elevation difference. Mr. Schlack said the gazebo would be permanent.

Tony Reynolds stated that the Herefordshire Subdivision and Herefordshire Square were developed as a PRUD. The development standards for both were different than what was normally allowed.

Commissioner Allred stated Mr. Schlack would be improving and using property that was not his. Tony Reynolds pointed out that Mr. Schlack was required to maintain the 4500 South right-of-way. Commissioner Allred was not comfortable with Mr. Schlack developing beyond his property line. Mark Larson said the City had accepted

the landscaped area and fence along the sidewalk in the right-of-way when the original PRUD was approved. Commissioner Allred felt this was a good development, but he was concerned about it going beyond the property line. Chairman Peterson felt that Mr. Schlack needed to give the City indemnification if the right-of-way was used.

Chairman Peterson opened the floor for public comments.

Peggy Glen, 4455 South 1800 West, asked if Mr. Schlack would have a liquor license and what his hours of operation would be. Dave Schlack said he did not plan to have a liquor license for this reception center. He wanted to get away from having liquor at receptions. No receptions would be held outside. The patio area would only be used for wedding ceremonies. This building was in a residential area, and he would not allow music outside the building.

Commissioner Hilton asked what Mr. Schlack's hours would be. Dave Schlack said the majority of the receptions ended at 10:00 p.m. and were cleaned up by 11:00 p.m.

Trudy Gillman, Herefordshire resident, welcomed this business. She felt the Planning Commission should check into Mr. Schlack's other reception center, The Secret Garden, and Mr. Schlack's background information to make sure the City was dealing with a reputable business.

Dave Schlack stated that the receptions would be very similar to the banquets that used to be held at the Hayloft. The loud music would be inside.

George Glen, 4455 South 1800 West, was concerned about parking. The reception center only had 17 parking stalls, and they were all by the alley. There was already a problem with people accessing the alley. Chairman Peterson said there was a reciprocal agreement that would allow Mr. Schlack's guests to use the parking in front of Sparrows. The alley was not on Mr. Schlack's property.

Dave Schlack said receptions in Utah were different. There would not be 500 people in the building at one time. There was usually only 100 to 150 people there at a time.

Trudy Gillman wanted to make sure that Dave Schlack would monitor the receptions and prevent harm to their property.

Dave Schlack stated that he had never had the police called to The Secret Garden in Ogden.

George Glen was concerned that people would park in the back because that was where the on-site parking was located. Dave Schlack said there were two doors into the building, but the main entrance to the building was in the front.

Tony Reynolds explained that the Planning Commission had required Cape Development to clean up some of the problems at Herefordshire Square. The requirements included repairs to the fencing along the east side and a landscaped area to prevent vehicles from hitting the fence.

Peggy Glen asked when the fencing and landscaping would be installed. Mr. Reynolds said it would be done when Cape Development had a tenant for the old Jubilee building.

Commissioner Allred moved to close the public hearing at 8:30 p.m. Commissioner Hilton seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Commissioner Hilton moved to recommend that the City Council approve a conditional use permit and site plan for Dave Schlack/Tuscany Gardens for a reception center located at approximately 1856 West 4500 South subject to City Engineer and Development Services comments; a reciprocal agreement for utilities, parking, and maintenance; that Dave Schlack be allowed to use the City right-of-way south of the building for landscaping, including a 4-foot rock fence on the east side, a wrought iron fence on the west side, and a gazebo; and that Dave Schlack provide the City with indemnification for improvements in the right-of-way. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

7. APPROVAL OF A REVISED PRELIMINARY PLAN FOR WALKER ESTATES
SUBDIVISION NO. 4 LOCATED AT APPROXIMATELY 2950 WEST 4600
SOUTH

Mark Larson stated that in July the Planning Commission granted a 6-month extension to the preliminary approval of Walker Estates No. 4. Since then, Robert Fuller had submitted a revised preliminary plan for Phase No. 4 that included Lot Nos. 15 and 16 from Phase No. 3. Because of the change, it was necessary for the Planning Commission to approve a revised plan. There was an existing home on Lot No. 16. When a final plat was prepared for Phase No. 4, it needed to include a signature block for that homeowner. Because of the overhead power lines and easements, several of the lots in Phase No. 4 were restricted and were labeled with an "R". Mr. Larson said that some of the engineering comments (Item Nos. 1 and 2) in the staff report pertained to Phase No. 5. The problems in Phase No. 5 would be addressed later. Approval for Phase No. 3 had lapsed. At this time, Mr. Fuller was proposing to bypass Phase No. 3 and go to Phase No. 4. The staff wanted to know if Mr. Fuller planned to complete Phase No. 3. If so, when would it occur. Mr. Larson asked Mr. Fuller to comment on the sequence of events.

Robert Fuller, 3060 West 4600 South, asked that the Planning Commission grant him a revised preliminary and final approval of Phase No. 4. He felt it made sense to include Lot Nos. 15 and 16 in Phase No. 4. He planned to put 2950 West in and develop the east side. Once Phase No. 4 was recorded, he might take out a building permit for a home on the property where Phase No. 3 was located. He disagreed with the staff's recommendation that sidewalk for Phase No. 3 be escrowed with Phase No. 4. He already had an agreement with the City for installation and reimbursement of improvements on 4600 South. Approval of Phase No. 3 was deadlocked by the City Engineer's storm drainage requirements.

Tony Reynolds stated that Phase No. 3 had not been recorded.

Mark Larson asked about Robert Fuller's plans for Phase No. 3. Robert Fuller said approval of Phase No. 3 had expired. There was a single parcel of land where Phase No. 3 had been. He could get a building permit for one lot on that parcel. If Phase No. 4 was approved and recorded, there would be another parcel west of the road. He could get a permit for that parcel as well. He still hadn't decided what to do with the frontage on 3100 West.

Commissioner Hilton asked if Phase No. 3 had been cleaned up. Mark Larson said it had.

Commissioner Kirch asked about an overall preliminary plan for the subdivision. Tony Reynolds said that was addressed by the City Engineer's comments. Phase Nos. 1 and 2 were on the opposite end of the subdivision from Phase No. 4. The staff and City Engineer were looking for a way to connect them.

Robert Fuller felt it would be unusual for the City to require him to escrow sidewalk for Phase No. 3 along with seven lots in Phase No. 4. When the City chose to put the road in, it reached an agreement with him about how improvements would go in.

Commissioner Kirch moved to recommend that the City Council grant approval of a revised preliminary plat for Walker Estates Subdivision No. 4 located at approximately 2950 West 4600 South with the staff and engineering recommendations (noting that Item Nos. 1 and 2 of the City Engineer's comments were beyond the scope of Phase No. 4) and that the sidewalk issue for Phase No. 3 be addressed and resolved satisfactorily to all parties. Commissioner Allred seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

8. FINAL APPROVAL OF SUMMERS POINTE SUBDIVISION NO. 5 LOCATED AT APPROXIMATELY 2575 WEST 4000 SOUTH

Mark Larson stated that Bruce Nilson was requesting final approval of Summers Pointe No. 5. One of the main concerns during preliminary approval was storm drainage on 4000 South. Mr. Larson reviewed the City Engineer's comments about storm water. The flooding on 4000 South was caused by a 6-inch culvert. When Phase No. 5 was developed the 6-inch culvert would be removed. The storm water would flow down an open ditch from Phase No. 5 to a drain installed by UDOT when 4000 South was improved. The other big issue was how to handle the remainder of the Jackson property. The City Engineer recommended that the remaining property be identified as a lot in Phase No. 5. The final subdivision plat had not been changed to show that additional lot.

Bruce Nilson stated that he had worked closely with the City Engineer and was in agreement with the recommended solutions.

Mark Larson stated that all of the staff and engineering issues would be resolved before the subdivision was forwarded to the City Council.

Commissioner Hoopes moved to recommend that the City Council grant final approval of Summers Pointe Phase No. 5 located at approximately 2575 West 4000 South subject to the engineering report and staff recommendations being completed before the subdivision was forward to the City Council. Commissioner Allred seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

9. APPROVAL OF A SITE PLAN FOR FAMILY DOLLAR LOCATED AT APPROXIMATELY 5740 SOUTH 1900 WEST

Mark Larson stated that the Planning Commission tabled approval of Family Dollar's site plan at its last meeting. The site plan had been amended to allow a backup space for trucks, a different access location on 1900 West, and landscaping had been moved from the back to immediately in front of the building. After speaking with the staff, Mr. Forsyth had submitted a third plan that moved the landscaping to the frontage of 1900 West and along the north property line. The landscaping on the north side of the front parking lot included backup space for vehicle traffic. The City Engineer was still working out the details on the storm drainage. Mr. Larson felt there was certainly enough landscaping in the front and the back.

Commissioner Kirch asked how many parking spaces were in the front. Mark Larson said there was a total of 46 parking stalls overall. The site plan met the minimum parking requirements. The site plan still needed to show the required fence along the railroad right-of-way on the east side of the site.

Tony Reynolds stated that Chris Forsyth and Brad Lasater had graciously agreed to work with the City on implementing the 1900 West Street Scape Plan as a demonstration project.

Chris Forsyth stated that they had completed negotiations with the tenants of the mobile homes. They would all be relocated.

Commissioner Merx moved to recommend that the City Council approve a site plan (presented at the Planning Commission meeting) for Family Dollar located at 5740 South 1900 West subject to the required fence being included on the site plan and the staff and engineering recommendations. Commissioner Kirch seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

10. OTHER BUSINESS

Mark Larson stated that the City had received five responses to its RFQ on the Zoning Ordinance. The Development staff planned to review them and send out an RFP by the end of the month.

Tony Reynolds updated the Planning Commission on questions regarding the architecture at Roy Crossings (5600 South 1900 West).

11. ADJOURN

Commissioner Merx moved to adjourn at 9:55 p.m. Commissioner Hoopes seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Peterson, and Yeoman voted "aye." The motion carried.

Attest:

Larry Peterson
Chairman

Michelle Drago
Secretary
dc:poct1403