



AMENDED ALPINE CITY PLANNING COMMISSION MEETING

NOTICE is hereby given that the **PLANNING COMMISSION** of Alpine City, Utah will hold a **Public Meeting** on **Tuesday, January 17, 2023 at 6:00 pm at City Hall, 20 North Main Street, Alpine, Utah.**

The public may attend the meeting in person or view the meeting via the **Alpine City YouTube Channel**. A direct link to the channel can be found on the home page of the Alpine City website: alpinecity.org

I. GENERAL BUSINESS

- A. Welcome and Roll Call: Jane Griener
- B. Prayer/Opening Comments: John Mackay
- C. Pledge of Allegiance: Susan Whittenburg

II. REPORTS AND PRESENTATIONS

- A. **Training: Powers & Duties of the Planning Commission.**

III. ACTION/DISCUSSION ITEMS

- A. **Public Hearing: Code Amendment Section 3.07.030 #11-F to increase maximum parking requirements for automotive repair shops.**
- B. **Appointment of Planning Commission Chair and Vice-Chair.**

IV. COMMUNICATIONS

V. APPROVAL OF PLANNING COMMISSION MINUTES: January 3, 2023

ADJOURN

Chair Jane Griener
January 17th, 2023

THE PUBLIC IS INVITED TO ATTEND ALL PLANNING COMMISSION MEETINGS. If you need a special accommodation to participate in the meeting, please call the City Recorder's Office at 801-756-6347 ext. 5.

CERTIFICATION OF POSTING. The undersigned duly appointed recorder does hereby certify that the above agenda notice was posted at Alpine City Hall, 20 North Main, Alpine, UT. It was also sent by e-mail to The Daily Herald located in Provo, UT a local newspaper circulated in Alpine, UT. This agenda is also available on the City's web site at www.alpinecity.org and on the Utah Public Meeting Notices website at www.utah.gov/pmn/index.html.



PUBLIC MEETING AND PUBLIC HEARING ETIQUETTE

Please remember all public meetings and public hearings are now recorded.

- All comments **must** be recognized by the Chairperson and addressed through the microphone.
- When speaking to the Planning Commission, please stand, speak slowly and clearly into the microphone, and state your name and address for the recorded record.
- Be respectful to others and refrain from disruptions during the meeting. Please refrain from conversation with others in the audience as the microphones are very sensitive and can pick up whispers in the back of the room.
- Keep comments constructive and not disruptive.
- Avoid verbal approval or dissatisfaction of the ongoing discussion (i.e., booing or applauding).
- Exhibits (photos, petitions, etc.) given to the City become the property of the City.
- Please silence all cellular phones, beepers, pagers or other noise making devices.
- Be considerate of others who wish to speak by limiting your comments to a reasonable length and avoiding repetition of what has already been said. Individuals may be limited to two minutes and group representatives may be limited to five minutes.
- Refrain from congregating near the doors or in the lobby area outside the council room to talk as it can be very noisy and disruptive. If you must carry on conversation in this area, please be as quiet as possible. (The doors must remain open during a public meeting/hearing.)

Public Hearing vs. Public Meeting

If the meeting is a **public hearing**, the public may participate during that time and may present opinions and evidence for the issue for which the hearing is being held. In a public hearing there may be some restrictions on participation such as time limits.

Anyone can observe a **public meeting**, but there is no right to speak or be heard there - the public participates in presenting opinions and evidence at the pleasure of the body conducting the meeting.

ALPINE CITY PLANNING COMMISSION AGENDA

SUBJECT: Planning Commission Training: Powers and Duties.

FOR CONSIDERATION ON: JANUARY 17TH, 2023

PETITIONER: City Staff

ACTION REQUESTED BY PETITIONER: N/A

BACKGROUND INFORMATION:

In 2021 the Utah Legislature passed [HB 409](#) (10-9a-302 (6)(b)) which requires Planning Commissions in municipalities that meet criteria of certain populations to meet land use training requirements each year. [Alpine is considered a City of the fourth class](#) in a County of the second class. Based on population, Alpine is required to meet these training requirements.

Each calendar year the Planning Commission is required to complete four (4) hours of land use training. The training is completed in the following ways:

- One (1) hour of annual training on general powers and duties under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act.
- Three (3) hours of annual training on land use, which may include the following topics:
 - Appeals and variances;
 - Conditional use permits;
 - Exactions;
 - Impact fees;
 - Vested rights;
 - Subdivision regulations and improvement guarantees;
 - Land use referenda;
 - Property rights;
 - Real estate procedures and financing;
 - Zoning, including use-based and form-based; and
 - Drafting ordinances and code that complies with statute.

A planning commission member may qualify for one completed hour of training under the land use topic requirement if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the one (1) hour training requirement on general powers and duties.

STAFF RECOMMENDATION:

Review and participate in training provided by City Staff.

2.02.040 Duties and Powers

The Planning Commission shall:

1. make a recommendation to the City Council for:
 - a. a general plan and amendments to the general plan.
 - b. land use ordinances, zoning maps, official maps, and amendments.
 - c. an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application.
 - d. an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and application processes that:
 - i. may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - ii. shall protect the right of each:
 1. applicant and third party to require formal consideration of any application by a land use authority.
 2. applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 3. participant to be heard in each public hearing on a contested application.
2. prepare and recommend a proposed ordinance to the City Council that regulates the subdivision of land; prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the land in the City.
3. have the authority to grant concept and preliminary approval for subdivisions that fully comply with Alpine City ordinances and recommend final approval to the City Council for subdivisions that are in compliance.
4. review and make a recommendation to the City Council on site plans for buildings not located in an approved subdivision for compliance with Alpine City ordinances prior to the issuance of a building permit (see DCA 4.14 for more information).
5. as a land use authority, hear and decide applications for conditional use permits, other than administrative conditional uses (see DCA 3.23 for more information).
6. make a recommendation to the City Council for any extension and reconstruction of non-conforming buildings or buildings housing a non-conforming use (see DCA 3.22 for more information).
7. follow the appropriate procedures for public hearings and public meetings and shall give proper public notice as applicable.

(Ord. 98-01:1/28/98, Amended by Ord. 2006-17, 11/14/06; Ord. 2009-03, 2/24/09; Ord. 2010-02, 2/09/10)



Land Use Issues

How do we get anything done with
public participation?

January 17, 2023

H. Craig Hall and Steve Doxey



Legislative vs. Administrative Decisions

Historically, an invitation to a free (or expensive) altercation.

LUDMA tries to avoid this by differentiating between a land use *regulation* (legislative) and a land use *decision* (administrative).

Land Use Regulation

“A legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land.”

- Includes adoption or amendment of zoning map or zoning code text.
- Does not include a land use *decision* of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance.

Utah Code Ann. § 10-9a-103(33)(a) through (c).

Planning Commission's Role in Land Use Regulations

- Planning commission does not make, but may be called upon to recommend, the adoption of land use regulations (legislative decision):
 - ❖ Adopting or amending zoning map.
 - ❖ Adopting or amending land use code.
 - ❖ Adopting or amending general plan.

Land Use Decision

An administrative decision of a land use authority or appeal authority regarding a land use permit or a land use application.

- Land use authority means “a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application.”
- Land use application means an application that is required by a municipality and is submitted by a land use applicant to obtain a land use decision.
- Land use application does *not* mean “an application to enact, amend, or repeal a land use *regulation*” (emphasis added).

Utah Code Ann. § 10-9a-103(29) through (31).

Planning Commission's Role in Land Use Decisions

- Planning commission may make certain land use decisions, but is tasked with recommending others to the city council for decision.
- Example of land use decisions made:
 - ❖ Conditional use permit.
 - ❖ Concept and preliminary subdivision plat approval.
- Example of land use decisions recommended:
 - ❖ Final subdivision plat approval.
 - ❖ Extension or reconstruction of non-conforming buildings or buildings housing non-conforming uses.

DCA § 2.02.040

City Council's Role in Land Use Regulations and Decisions

- City council, as a legislative body, may make land use regulations (legislative) and land use decisions (administrative).
- Examples of land use regulations adopted by city council:
 - ❖ Re-zone, development code text change, general plan amendment.
- Examples of land use decisions made by city council:
 - ❖ Final subdivision plat approval, non-conforming use extension.

Confusion may arise as to whether the council's action is legislative or administrative (sometimes promoting expensive altercations).

Why does the classification of a decision as legislative or administrative matter?

- Legislative decisions are more difficult to overturn on appeal. Court presumes that a properly enacted land use regulation is valid, and determines only whether the regulation is contrary to federal or state law and whether it is *reasonably debatable* that it is consistent with LUDMA. *Utah Code Ann. § 10-9a-801(3)(a)*.
- Legislative decisions may be overturned by vote of the residents if statutory conditions for a citizen referendum are met.
- Administrative decisions may be challenged through the appeal process provided in city ordinance and, after all administrative remedies are exhausted, in court. Court presumes that a final land use decision is valid unless it is arbitrary and capricious (meaning not based on *substantial evidence*) or illegal. *Utah Code Ann. § 10-9a-801(3)(b), (c)*.

Case Example—*Baker v. Carlson* (2018)

- ▶ Holladay City created R/M-U zone specifically for redevelopment of Cottonwood Mall site.
- ▶ Vague, aspirational standards for adopting a site development master plan (SDMP) that meets the vision and purpose of the R/M-U zone.
- ▶ SDMP expressly to serve in same way as general plan does as a comprehensive but flexible guide for the overall development of the entire site; individual subdivision plats and building permits for construction within the site must conform with the SDMP.
- ▶ City adopted Ivory Homes' 2018 amendment to a 2007 SDMP to allow for increased building heights, much less commercial use, and higher residential density.
- ▶ Holladay residents petitioned for a referendum, making the council's decision subject to resident approval in an election. Holladay denied the petition, asserting that the 2018 SDMP approval was purely an administrative decision.

Baker v. Carlson—Decision

Utah Supreme Court found the resolution approving the 2018 SDMP was a legislative decision, thus confirming the referendum petition that resulted in an overwhelming reversal of the council's decision.

- Victory for the residents? Yes—but certain residents had paid hundreds of thousands of dollars to challenge the city council's decision, and *all residents* had paid at least as much money in taxes for the city to defend the council's decision.

Baker v. Carlson—Analysis

- Two “key hallmarks” of **legislative power**:
 - ❖ Involves the promulgation of laws of general applicability; and
 - ❖ Is based on the weighing of broad, competing policy considerations.
- **Administrative power** involves the *application of law* to particular individuals or groups based on individual facts and circumstances.

Baker v. Carlson, 2018 UT 59, ¶¶ 13-14, citing *Carter v. Lehi City*, 2012 UT 2.

Baker v. Carlson—Analysis (continued)

- A decision affecting only one piece of property is generally applicable if it applies to all present and future parties that meet its terms.
 - ❖ Site-specific rezone is generally applicable because all present and future owners are bound by the decision. *Baker v. Carlson*, citing *Krejci v. City of Saratoga Springs*, 2013 UT 74.
 - ❖ Conditional use permits and variances are not legislative decisions even though they run with the land because they do not involve the weighing of competing policy considerations. *Baker v. Carlson*, ¶ 16, n. 3.
- Adoption of 2018 SDMP, like general plan, involved weighing of broad policy considerations affecting entire city and was therefore legislative in nature.

Upshot

- Planning commission not likely to take legislative action ever, but will frequently recommend legislative action to the city council.
- Important to understand the statutory distinction between land use regulations and land use decisions.
- The planning commission may avoid legislative vs. administrative confusion by adopting land use ordinances with specific standards—not vague, aspirational standards that require the weighing of broad policy considerations.
- The planning commission should apply the law to particular land use applications, avoiding broad, competing policy considerations, in rendering its own administrative decisions.

Debate-Public Comment(s) vs. Public Clamor

Examples of Potential Public Clamor:

- If this development is approved, some child will die because of the increased traffic
- This development will cause our police and fire response times to be diminished
- This development will ruin the lifestyle in our city because of the smaller lots and too many people
- Crime will increase because of the apartments and townhomes being considered
- Why do we need higher density developments?

vs. Public Comment

- **What is the traffic impact to our adjacent neighborhood if the project is approved?**
- **What is the impact on the adjacent schools?**
- **The PC chair asks all to stand up in favor of (or against) of the proposal?**

Bottomline

Deference given to PC in the following applications

Legislative

Reasonably debatable

Administrative

Substantial evidence

Practice Pointers

- Why do we have “public comment” on our agendas?
- Does a PC member have to respond to every participant’s comments?
- Do all in the audience must have an opportunity to comment?
- Is 3 minutes per individual sufficient for meaningful comment?

Conclusion

What have we learned?

Questions?

H. Craig Hall

Steve Doxey

BENNETT TUELLER JOHNSON & DEERE

3165 E. Millrock Drive, Suite 500

Salt Lake City, Utah 84121

801-438-2000



ALPINE CITY PLANNING COMMISSION AGENDA

SUBJECT: Public Hearing- Code Amendment

FOR CONSIDERATION ON: January 17th, 2023

PETITIONER: James Lawrence, J&L Automotive Repair

ACTION REQUESTED BY PETITIONER: Recommendation of approval for code amendment for additional parking for automotive repair shops

Review Type: Legislative

BACKGROUND INFORMATION:

An application has been submitted for a code text amendment to section [3.07.030 #11-F](#) which regulates the maximum amount of parking spaces allowed for an automotive repair shop. Currently the requirement calls for no more than three (3) parking spaces provided per bay with no more than five (5) automobile bays per automotive repair shop. This would be a maximum of 15 parking spaces per shop.

The request is to allow for up to eight (8) parking spaces provided per bay as well as an additional 10 spaces for employee parking, which is currently not differentiated in City Code. With the maximum number of bays remaining at five (5) this change would allow for up to 40 parking spaces as well as 10 spaces for employees for a total of 50 parking spaces for the entirety of an automotive repair shop within the City.

Community References

Lehi	Four (4) Stalls per Bay. (Minimum)
Eagle Mountain	One (1) stall per 500 square feet of gross finished floor area plus two (2) stalls per bay.(Minimum)
Mapleton	One (1) space per 300 square feet of gross finished floor area. (Minimum)
Bountiful	Three (3) spaces for each stall for customers only (Minimum).
Brigham City	Three (3) spaces for each service bay plus one (1) space for every 300 square feet of retail sales area. (Minimum)
Vineyard	Three (3) spaces per service bay, plus one (1) space per 300 square feet of gross floor area excluding service bays. (Minimum)

Noticing

Notice has been properly issued in the manner outlined in City and State Code. A public hearing will be held tonight, January 17th, 2023, as part of this Planning Commission meeting.

STAFF RECOMMENDATION:

Because this is a legislative decision the standards for approval or denial are that the proposed code amendment should be compatible with the standards found in the general plan as well as current city code and policies. A recommendation should be made to the City Council for approval or denial based on those criteria.

SAMPLE MOTION TO APPROVE:

I move to recommend approval of the code text amendment allowing for an increase from three parking spaces per bay to up to eight and for up to 10 additional parking spaces for employees of the automotive repair shop.

SAMPLE MOTION TO APPROVE WITH CONDITIONS:

I move to recommend approval of the code text amendment allowing for an increase from three parking spaces per bay to up to eight and for up to 10 additional parking spaces for employees of the automotive repair shop.

- ****insert finding****

SAMPLE MOTION TO TABLE/DENY:

I move that the application for a code text amendment allowing for an increase from three parking spaces per bay to up to eight and for up to 10 additional parking spaces for employees of the automotive repair shop be tabled/ recommended to be denied based on the following:

- ****insert finding****

3.07.030 Conditional Uses

11. Mechanical Automotive Repair Shops

- a) Odors and noise shall be controlled as to not have an unreasonable adverse impact on nearby structures and/or property.
- b) There shall be no more than 5 automobile bays.
- c) No automobiles shall be stored on the property for more than 14 days.
- d) Mechanical automotive repair shops shall comply with the regulations of the applicable entities including but not limited to the State of Utah, Timpanogos Service District, Lone Peak Fire Marshal, and Environmental Protection Agency.
- e) Mechanical automotive repair shops must abut directly upon and have access to Main Street (south of southern property line of the property located at 30 South Main Street) or Canyon Crest Road within the Business Commercial zone.
- f) Mechanical auto repair shops shall comply with the off-street parking requirements excepting there shall be no more than 3 parking spaces provided per bay.
- g) Mechanical automotive repair shops shall conform to the provisions of the Gateway/Historic Zone (DCA 3.11).

ALPINE CITY PLANNING COMMISSION AGENDA

SUBJECT: Planning Commission Chair & Vice-Chair Appointment.

FOR CONSIDERATION ON: JANUARY 17TH, 2023

PETITIONER: City Staff

ACTION REQUESTED BY PETITIONER: N/A

BACKGROUND INFORMATION:

Alpine City Code 2.02.030 (1) Requires that in January of each odd year the Planning Commission elect one of its members to serve as Chair and a second member to serve as Vice-Chair for a two-year term and until a successor is chosen. The Chair and in their absence the Vice-Chair is responsible to preside at all meeting of the Planning Commission. A person may be elected to serve consecutive terms as the chair.

STAFF RECOMMENDATION:

Elect a member of the Planning Commission to serve as Chair and a second member to serve as Vice-Chair of the Planning Commission for a two-year term.

SAMPLE MOTION

I move to appoint Planning Commissioner (insert name) as Chairperson and Planning Commissioner (insert name) as Vice-Chair for a two-year term and until a successor is appointed.

2.02.030 Organization

1. At its first meeting in January of each odd year, the Planning Commission shall elect one of its members as Chair and a second member as Vice-Chair. The Chair shall serve for a term of two years and until a successor is chosen. A vacancy in the position of Chair or Vice-Chair shall be filled for the unexpired term by election at the next meeting of the Planning Commission. A person may be elected to serve consecutive terms as Chair.
2. The Chair shall preside at all meetings of the Planning Commission. In the absence of the Chair, the Vice-Chair shall preside. If both the Chair and Vice-Chair are absent, the Commission shall elect one of its members as Chair Pro-Tem to preside at that meeting.
3. Subject to the approval of the City Council, the Planning Commission shall adopt Rules of Procedure consistent with this Code for its own organization and for the transaction of business. Such rules shall not be inconsistent with any directive or instruction received from the City Council.
4. Meetings of the Planning Commission shall be held as frequently as the Commission deems advisable. The presence of four members of the Planning Commission shall constitute a quorum for the conduct of business. An affirmative vote of a majority of the members present shall be required to effect a decision or recommendation of the Planning Commission.
5. Reports of official acts and recommendations of the Planning Commission shall be made in writing to the City Council and shall indicate how each member of the Commission voted with respect to such act or recommendation. Any member of the Commission may also make a concurring or dissenting report or recommendation to the City Council whenever he or she so desires.

(Ord. 98-01:1/28/98, Amended by Ord. 2006-17, 11/14/06; Ord. 2009-03, 2/24/09; Ord. 2010-02, 2/09/10)

HISTORY

Amended by Ord. [2021-01](#) on 1/12/2021

ALPINE CITY PLANNING COMMISSION MEETING
Alpine City Hall, 20 North Main, Alpine, UT
January 3, 2023

I. GENERAL BUSINESS

A. Welcome and Roll Call: The meeting was called to order at 7:00 p.m. by Chair Jane Griener. The following were present and constituted a quorum:

Chair: Jane Griener

Commission Members: John MacKay, Susan Whittenburg, Alan Macdonald, Jeff Davis, Ethan Allen

Excused: Troy Slade

Staff: Jed Muhlestein, Ryan Robinson, Marla Fox, Heidi Jackman

Others:

B. Prayer/Opening Comments: Ethan Allen

C. Pledge of Allegiance: Alan Macdonald

II. REPORTS AND PRESENTATIONS

None

III. ACTION ITEMS

A. Sign Review: Blue Petal Foundation 40 W Main Street Court

Ryan Robinson said the Blue Petal Foundation located at 40 West Main Street Ct, is in the process of updating a sign for their building. [DCA 3.25.080](#) requires the following for approval of an application:

the color, size, number, and placement of business commercial signs is subject to recommendation by the Planning Commission, consistent with the guidelines set forth in the Gateway/Historic District, and approval by the City Council.

The following standards should be considered when reviewing a sign application for a commercial building sign as required in [DCA- 3.25.080](#)

1. Signs shall be painted on, attached to, or erected on the building that houses the business, or upon the property occupied by the business which the sign(s) advertise.
2. All signs attached to a building shall meet the approval of Alpine City to assure that the sign meets the applicable building and electrical codes.
3. The total area of all sign(s) on any one building shall not exceed 15% of the area of the side of the building that a sign is displayed.
4. The area of a sign shall be construed as the area of the overall background. Signs without a background, such as letters or numbers hung together, shall be assumed to be attached to a background which shall be depicted on the application rendering.
5. Permanent outdoor free-standing (monument) signs shall not exceed four (4) feet in height and six (6) feet in width.
6. Each planned commercial development shall display no more than one (1) permanent freestanding (monument) sign at each entrance.
7. Signs on cloth awnings shall be permitted subject to review by Alpine City and shall comply with the guidelines in DCA 3.25.080 Part 3, DCA 3.25.080 Part 4, and DCA 3.25.080 Part 9.

8. Within any planned commercial development or on any single building housing a number of uses, or in any arrangement of buildings or shops which constitute a visual entity as a whole, if addresses are to be used, all numbers, letter, or other symbols shall be identical in size, design, color, and installation.

Ryan Robinson said the applicant has met all the sign requirements.

MOTION: Planning Commission member Alan Macdonald moved to recommend approval of the sign application for the Blue Petal Foundation.

Susan Whittenburg seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Susan Whittenburg
Jane Griener
John MacKay
Alan Macdonald
Jeff Davis
Ethan Allen

Nays:

Excused:

B. Public Hearing: Droubay Setback Exception Request

Ryan Robinson explained that the applicant is requesting an exception to the rear yard setback requirement for property located at 328 N Blue Spruce Road. The property is lot 7 of the Alpine View Estates development and is in the Planned Residential Development (PRD) zone.

Section 3.09.060- Dwelling; Clusters; Lot Size; Buildable Area; Setback #4 of the Alpine City Code regulating setbacks in the PRD zone allows for an exception to the designated setback envelope standards. The standards require that *“the exception is appropriate for the proper development of the lot and the exception will not result in the establishment of a hazardous condition.”* A public hearing is also required as part of the review process.

The west (rear yard) and south (side yard) neighboring properties are designated as open space as part of the PRD zoning requirements for open space.

- City Code 3.01.110 defines a rear yard as: *“A space between the back wall of the nearest main building extending the full width of the lot and the lot line that is most distant from, and is most nearly parallel with, the front lot line.”*
- A rear yard setback is also defined as: *“The depth (or setback) of the rear yard is the minimum distance between the rear lot line and the rearmost part of the primary structure of the nearest main building at the foundation level.”*

Ryan Robinson said the exception is for the deck and not the main house. Jane Griener asked to see where this property is on a map. Ryan Robinson showed the property on a map.

Jane Griener opened the Public Hearing.

Morgan Brown, owner of lot 12, said he is not in favor of the boundary exception because it will hurt the view and be too close to the trail.

Alan Macdonald asked Jed Muhlestein if this situation was similar to the view corridor concerns on lot 12. Jed Muhlestein said this is a different situation and not the same as lot 12’s view concerns.

Robert Brown, builder, said the home on lot 8 will be set back farther than the deck so it shouldn’t interfere with any view. He said lot 12 should have no view corridor issues from this lot.

Jed Muhlestein said the ordinance states: The Planning Commission can recommend, and City Council can make an exception upon a finding to change the setback if the situation is appropriate of the development of the lot.

Robert Brown, builder, said he sent out letters to property owners surrounding their lot. He said they have not spoken to the owners of lot eight which is adjacent to their lot. He said lot eight would be affected, but not by a house, it would just be a covered deck. He said he feels like this exception is warranted because the lot drops on the rear.

Jane Griener closed the Public Hearing.

MOTION: Jeff Davis moved to deny there was no second.

MOTION: Planning Commission member John MacKay moved that an exception be recommended from the 30-foot rear setback for Lot 7 of Alpine View Estates as requested by the applicant because it does not create a hazardous condition.

Alan Macdonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Susan Whittenburg
John MacKay
Alan Macdonald
Ethan Allen

Nays:

Jeff Davis
Jane Griener

Excused:

C. Public Hearing: Cherrypoint Estates Subdivision Concept Review approx. 1528 N Grove Drive

Ryan Robinson said the Alpine Cherrypoint Estates Subdivision consists of 12 lots on 13.82 acres. The proposed lots range from .91 (40,002 sq. ft) to 1.3 (57,329 sq ft) acres in size. The development is located at approximately 1528 Grove Drive and includes five parcels as part of the proposal. Currently there are two homes and a variety of smaller structures spread throughout the projected site. The proposed property is zoned CR-40,000. The applicant is seeking concept plan approval.

Ryan Robinson said this subdivision will be single family homes with no connection to trails. These homes will be in the CR-40,000 zone with no roadways being affected.

Jed Muhlestein said the street layout provides good connectivity from one side of the development to the other. The code requires sidewalk improvement throughout the development, but we are not looking at that tonight.

Jed Muhlestein said this development fits within the water, sewer, and pressurized irrigation requirements and falls well within the master plans for serving the area with these utilities.

Jed Muhlestein said this development does not fall within the Geologic Hazard Overlay Zone. They will need to provide a geotechnical report. He also said Fort Ditch runs through the property and the ditch should be piped as part of the development and the irrigation company should sign off on the final drawings.

Jane Griener opened the Public Hearing.

Cory Russon, resident, asked if Grove Drive would be widened and asked how wide it will be. Jed Muhlestein said sidewalk was approved on the west side of Grove Drive but not on the East side. We are now requiring the new developer to make improvements to the road which will have sidewalk, curb and gutter and widen the road. He said he is not sure the width of the road but thinks it will be 34 feet wide.

Amanda Collins asked about the secondary access road from Box Elder South to Moyle Drive. She said this road has been taken off the street master plan and wants the city to put it back on the maps as a secondary access road.

Jane Griener closed the Public Hearing.

Nate Heaps, representing the owner,, said everything will be done at once.

Peter Christensen, resident, said this subdivision encroached on his lot and would like this development delayed until this can get cleared up.

MOTION: Planning Commission member Ethan Allen moved to approve the Concept application of Alpine Cherrypoint Estates as proposed.

Alan Macdonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

- Susan Whittenburg
- Jane Griener
- John MacKay
- Alan Macdonald
- Jeff Davis
- Ethan Allen

Nays:

Excused:

D. Mountainville Legacy Development Zone Change CR-40,000 to Business Commercial

Ryan Robinson said an application has been submitted to the city seeking approval for a zone change at approximately 476 & 501 S Alpine Highway. These parcels are currently zoned CR-40,000 the applicant is seeking a rezone to the Business Commercial Zone to qualify for a senior housing development within the Assisted Living Overlay Zone. [DCA 3.19.040](#) requires the underlying zone in the Assisted Living Overlay Zone be Business Commercial.

The plans submitted for review as part of the rezone request and communication with the applicant provide the following information about future uses if the rezone is approved.

- The total size of the development will be 7.72 acres, this rezone request is only for .88- and .95-acre parcels to be combined with adjacent property already zoned Business Commercial.
- The assisted living building will be the final phase of the project with the maximum of 100 residents but could be less. Concept drawings show 25+ or -.
- They are proposing an additional 100 units between the other two congregate living buildings.
- These updated concept plan submitted show a variety of open space and outdoor recreation options throughout the property.
- A café will also be included in one of the congregate living buildings.
- City Code 3.19.070 Overlay Development Standards & Regulations #11 allows for the total number of residents allowed in this zone shall be one resident per 1,000 square feet of lot area. This project could have up to 336 residents per the standards in this zone.

This proposal came before the Planning Commission during the December 6th, 2022 meeting where a public hearing was held. After listening to the public and a discussion by the Planning Commission, the following motion was made:

Jeff Davis moved to recommend that the zone change request at 476 & 501 S Alpine Highway from CR-40,000 to Business Commercial be tabled based on the following:

1. Developer brings a detailed plan of the project back to the Planning Commission. Susan Whittenburg seconded the motion. There were 6 Ayes and 0 Nays. The motion passed.

City Code

Sections of the code that would be affected by this application include

- [3.07 Business/Commercial Zone](#)
- [3.19-Assisted Living and Nursing Care Overlay Zone](#)
-

General Plan

- Policy 2.2 of the Alpine General Plan indicate the purpose of B-C zone is as follows: *Land zoned as B-C (Business Commercial) shall consist of professional office, retail and other commercial uses serving the community and situated within an environment which is safe and aesthetically pleasing. Limited residential shall be permitted as set forth in the Alpine City Development Code.*
- Policy 3.4 discusses the Assisted living and nursing care overlay zone: *The Assisted Living and Nursing Care Overlay Zone is to provide for increased land use flexibility to assure that health and human services are appropriately located in the community to meet the needs of aging residents.*
- Policy 3.1 describes the Gateway Historic District Overlay zone: *The Gateway Historic District Overlay Zone should maintain a high character of community development by regulating the exterior architecture characteristics of structures that are developed in the center of Alpine City (See Gateway Historic District Design Guidelines).*

The Planning Commission had a discussion on the process of the zone change, and then the senior housing overlay and how that would work. Jane Griener asked if we could recommend a lower density. Ryan Robinson said our ordinance states this development can have a certain amount of people based on square footage and we can't change that just because we don't like the density.

Ryan Robinson said two of the parcels need to be rezoned to business commercial and then all parcels need to be rezoned to a senior housing assisted living overlay. He said the use is for an assisted living and nursing overlay zone. This would be for assisted and congregate living facilities which are permitted uses in the Assisted Overlay Zone. A trail currently exists along the northern boundary.

Jed Muhlestein said this would be a private street and they have to provide safe and convenient vehicular movement to and from all off-street parking spaces. Private travel ways shall be not less than 20 feet width of asphalt. The fire department will need a turn-around or a hammerhead design to get fire trucks to the back building.

Jed Muhlestein said the development will be served water, sewer and Pressurized Irrigation and are currently in the street on Alpine Highway. He said the area would use more culinary water and sewer, but less pressurized irrigation.

Jed Muhlestein said this development is not located in a geologic hazard area, as identified on the city's geologic hazard maps, and therefore the development would only be required to submit the standard geotechnical report, making sure to find and identify the areas of undocumented fill. The Eastfield Ditch runs through this area, and they would be required to pipe the ditch as part of development. The Alpine Irrigation Company would also need to sign off on the plans in regard to the ditch design.

Dan Ford, developer, said the surrounding property is business commercial. He said there were concerns on the senior housing overlay. He said his primary interest is to provide senior housing. He said the senior numbers are dropping off here due to death or people moving out of the area because they can't keep up with their large property.

Dan Ford said this project would only increase traffic to 200 trips per day. He believes this project would be the least impactful on traffic compared to other commercial projects. He said his road with standards would be 28 feet wide. He said they couldn't expand the density even if they wanted to due to the property size. He said they want to build a nice property that will not be the cheapest out there.

Dan Ford said they want to improve the trail plan with a hard surface trail. He said they want to improve the development with gazebos and open space, café, exercise room, dog park, beauty salon, physical therapy, and transportation vans.

Jeff Davis asked if this is a benefit on our moderate housing. Ryan Robinson said it would be a positive for the moderate housing.

MOTION: Planning Commission member John MacKay moved to recommend approval the zone change request at 476 & 501 S Alpine Highway from CR-40,000 to Business Commercial as proposed with the following conditions/changes:

1. The property be approved for a senior housing overlay and concept plan.

Alan MacDonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Susan Whittenburg
Jane Griener
John MacKay
Alan Macdonald
Jeff Davis

Nays:

Ethan Allen

Excused:

E. Public Hearing: Mountainville Legacy Development Zone Change Business Commercial to Assisted Living Overlay Zone and review Concept Plan

Ryan Robinson said the plans submitted for review as part of the rezone request and communication with the applicant provide the following information about future uses if the rezone is approved.

- This project is located along Alpine Highway and has the following addresses/parcel numbers: 476 (11:023:0083), 501 (11:023:0129), 462 (34:260:0003), and 450 (34:260:0001) South Alpine Highway.
- The total size of the development will be 7.72 acres. This includes all or part of four parcels to make up the total size.
- The assisted living building will be the final phase of the project with the maximum of 100 residents but could be less. Concept drawings show plus or minus 25 residents.
- They are proposing an additional 100 units between the other two congregate living buildings.
- These updated concept plan submitted show a variety of open space and outdoor recreation options throughout the property.
- A café will be included in one of the congregate living facilities.
- City Code 3.19.070 Overlay Development Standards & Regulations #11 allows for the total number of residents allowed in this zone shall be one resident per 1,000 square feet of lot area. This project could have up to 336 residents per the standards in this zone.

Jane Griener opened the Public Hearing.

Paul Fjelstead, resident, said he has concerns about the flood plain and said there is a high infiltration rate for the soil in this area. He said the soil needs to be tested and said he is concerned about piping the water to other areas creating erosion problems.

Phil, resident, said he has elderly family members that he is concerned about. He said we have seniors that want to stay in Alpine and have lived here for decades. He said for that reason he is in favor of this concept.

Rose Fjelstead, resident, said she is not in favor of apartment style buildings at the entrance of Alpine. She said we'll see parking lots and very little open space. She said the view corridor will be destroyed by the people who live in that area. She said there will be heavy traffic and water issues due to the flood plain. She wants the open space and the beauty of Alpine protected.

She said we already have affordable senior housing in Alpine.

Suzanne Tyler, resident, said she is concerned about traffic. She said she already has a hard time getting out onto Alpine Highway. She said she will lose her view of the north mountain by a three-story building. She said these apartments will not be affordable for many seniors.

Michelle Shermer, resident, said Alpine Highway is a residential street. She said the senior housing doesn't meet the code unless it's assisted living which may or may not be built. She is concerned about traffic.

Pete Larkin, resident, asked what the total number of residents would be. Jane Griener said they could have 336 per the ordinance. The developer said they don't have room for that many and plan to have 130 units. He said traffic is pretty bad when Mountainville school traffic is coming and going.

Jim Sorensen, resident, said he would rather see the property left as open space for future generations. He wanted to know what the limit of beds would be in the assisted living building. He said he does not see this plan preserving open space and the beauty of Alpine.

Julia Sorensen, resident, said we need to preserve natural and open spaces. She said the code states we need to limit residents in this zone.

Brian Taylor, resident, said Alpine has a certain beauty and charm to it and this project lacks creativity and imagination. He said he see the usefulness of the project but doesn't meet the criteria of beauty and well being of the community and needs more work.

Brent Boulter, resident, asked where the pressurized irrigation will come from. Jed Muhlestein said they would hook into Alpine Highway. Mr. Boulter said the entrance and exit runs right to his driveway. He said the entrance doesn't line up with Bateman Lane and that will be an issue with UDOT. He also has concerns about the fire trucks.

Thomas Olsen, resident, said he is not in favor of this project. He doesn't want a light on the highway. He said he is a resident on the highway and plans to live there. He said families take care of their elderly.

Suzanne Tyler said her neighbor Chris is concerned about the traffic.

Pamela Pamela, resident, said she is in favor of the retirement home considering what could be built there. She thinks there could be a happy medium there if a beautiful building was built.

Matt Van Dam, resident, said we haven't talked about the setbacks of these buildings. He is concerned about the residents living next to a flood plain.

Todd, supports the idea of this project. He said he has need for his parents. He asks for a developed trail system.

Eric Larson, resident, said he and his sister have been caring for their parents for the last ten years. He said they could no longer take care of their parents but couldn't find a place close by. They had to move their parents farther away and think there is a need here for this project.

Jane Griener closed the Public Hearing.

The Planning Commission discussed the 8 points of Development code 3.19.040 Overlay Zone Created. They talked through each point to see if a senior housing overlay would fit the area.

MOTION: After considering the Development Code 3.19.040 Overlay Zone, Planning Commission member John MacKay moved to recommend approval the zone change request and Concept Plan at 476 (11:023:0083), 501 (11:023:0129), 462 (34:260:0003), and 450 (34:260:0001) South Alpine Highway from Business Commercial to the Assisted Living and Nursing Care Overlay Zone as proposed with the following conditions/changes:

1. Traffic Study be conducted on school days and presented to City Council;
2. Architectural designs for the Historic Gateway District be provided.

Jeff Davis seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Susan Whittenburg
Jane Griener
John MacKay
Alan Macdonald
Jeff Davis
Ethan Allen

Nays:

Excused:

IV. COMMUNICATIONS

Ryan Robinson said we will be having a training on the next meeting and election of the Chair.

V. APPROVAL OF PLANNING COMMISSION MINUTES: December 6, 2022

MOTION: Planning Commissioner Alan Macdonald moved to approve the minutes for December 6, 2022, as written.

Jeff Davis seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed unanimously.

Ayes:

Jane Griener
Susan Whittenburg
John MacKay
Alan Macdonald
Jeff Davis
Ethan Allen

Nays:

Excused:

MOTION: Planning Commissioner Susan Whittenburg moved to adjourn the meeting.

Ethan Allen seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed unanimously.

Ayes:

Jane Griener
Susan Whittenburg
John MacKay
Alan Macdonald
Jeff Davis
Ethan Allen

Nays:

Excused:

The meeting was adjourned at 9:24 p.m.