

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
August 13, 2024

Approved 10.08.2024

6:00 p.m. – Regular Meeting

1. Regular Meeting:

I. Call to Order

Chairman Dennis Gunn called the Planning Commission Meeting to order at 6:05 p.m. and welcomed everyone present.

II. Roll Call

Planning Commission Present:

Chairman Dennis Gunn
Vice-Chairman Dave Richards
Commissioner Phil Jordan
Commissioner Josh Knight
Commissioner Tori Broughton
Commissioner Darek Slagowski
Commissioner Robert Wilson

Planning Commission Absent:

Staff Present:

Community Development Director Tony Kohler
Planning Manager Jamie Baron
Planning Office Admin Meshelle Kijanen
Contracted Planner John Jansen

Staff Participating Remotely:

N/A

Also Present:

N/A

Also Attending Remotely:

N/A

III. Pledge of Allegiance: By Invitation

Commissioner Tori Broughton led the recitation of the Pledge of Allegiance.

IV. Prayer or Thought: By Invitation: N/A

V. Recuse for Conflict of Interest: N/A

N/A

2. Consent Agenda:

- I. Planning Commission approval of minutes: 06.25.2024, 07.09.2024 and 07.23.2024

Motion: Commissioner Jordan moved to approve the items on the Consent Agenda. Commissioner Knight made the second.

Discussion: N/A

Voting Yes: Chairman Gunn, Commissioner Vice-Chair Richards, Commissioner Slagowski, Commissioner Knight, Commissioner Jordan, Commissioner Wilson, Commissioner Broughton. **Voting No:** None. The Motion Passed 7-0.

3. Action Items: N/A

4. Work Meeting:

- I. Central Heber Overlay Zone (Tony Kohler)

Planner Tony Kohler presented this item. He began with a short recap of the Council meeting in which this had been discussed. He said the Central Heber Overlay Zone draft had been prepared and would be discussed that evening, and noted it was an offshoot of the Envision Heber plan. He said they had asked for feedback from the Council about the draft, and the Council had asked for the Planning Commission to get the process started and hold a public hearing about the zone. Planner Kohler said one of the things they wanted to decide was when they might be able to hold a public workshop, and explained how the process for public noticing would work. He explained it would be fairly expensive to notice the public, so it would be best to post the notice for both the public hearing and the workshop at the same time. He suggested that the Planning Commission hold two separate meetings; one for the public hearing and one meeting for the Commission to go over the issue in more detail. He said depending on the feedback received, they might even want to hold more than one meeting, but he recommended that the Commission not make a decision at the public hearing. Planner Kohler explained once the Commission forwarded a recommendation to Council, the Council would debate the issue and then approve.

Planner Kohler explained there were two overlay zones; the infill district, which used to be called the cottage overlay zone, and the residential commercial overlay zone. He said the proposal was to take the two zones and divide them into subdistricts. He indicated on the map what this would look like, and provided more history on the cottage overlay zone. He said back in the 1990s, the City had allowed duplexes and triplexes, but they had opted to replace them with bungalows that focused on single families. He added that the residential-commercial zone allowed only specific commercial uses and did not allow for attached units either.

Planner Kohler said the overall geographic area would remain the same with the changes, though the Council had thought about adding another property as well. He explained within the overlay area, there would be three sub-districts and he explained

the differences between them. He said one would be something called the “Midway Lane sub-district, which already existed. They had created a “transition sub-district,” which would have the “missing middle,” attached housing, and some corner commercial. In the outer neighborhoods, there would be a sub-district called “infill sub-district” that would mainly have single-family homes, many with flag lots and private right-of-ways.

Planner Kohler acknowledged that Planner John Jansen had arrived and turned the time over to him. He asked Planner Jansen to explain the Code in greater detail. Planner Jansen shared the draft with the Commission. He said there were three sub-districts: the infill, Midway Lane, and transition sub-districts. He said the transition sub-district was meant to go from the C-3 zone downtown and bring it farther to the east and west.

Commissioner Darek Slagowski asked how long the Midway Lane sub-district had existed and Planner Jansen replied it had existed before he had started working for the City. Planner Kohler estimated it had been around since the 1990s and explained its purpose was to help maintain the character of the neighborhood, but allow specific commercial uses. Planner Kohler recalled some of the commercial uses had been for a masseuse, a bed and breakfast, and an office. Planner Kohler said all of the uses had been low intensity, and not many people had put commercial spaces in the zone.

There was a short discussion about the permitted uses in the zone.

Planner Jansen explained the infill sub-districts, and noted that they were geared towards single-family, lower density developments. He also explained the chart he had shared which showed the permitted, conditional, and not accepted uses in each of the sub-districts.

Planner Kohler explained notes number one and two. He said uses in the Midway Lane district that were marked with ‘note one’ were only permitted for properties fronting 100 South. He said any uses in the transition sub-district that were marked with ‘note two’ were only permitted along 100 West and 100 East. He elaborated that for instance, hotels of certain heights were allowed in those zones, but only if they fronted the roads.

He said everything in the zones had a height limit of 35 feet, and if a developer wanted to go higher than that they would need to request a rezone to C-3. Planner Kohler added the General Plan generally only supported the C-3 zone developing from 300 North to 300 South.

Planner Jansen then went over ADUs. Planner Kohler elaborated that throughout the City, generally only one ADU per property was allowed, but for these zones they had proposed to allow one internal and one external ADU in a single-family home. Planner Kohler added the owner would still be required to live on the property. Planner Jansen also stated there would still need to be one main entrance.

Commissioner Broughton asked about the lot line, and asked what the difference between having no lot line and a flag lot was. Planner Jansen explained the idea behind a flag lot was that there was an idea of how a flag lot would be developed. Planner Kohler explained part of their reasoning was to help people in the downtown area supplement their incomes, and said essentially they were trying to help people do

a flag lot. Planner Kohler pointed out that although flag lots were permitted in the zone, although it was a challenge to do a flag lot. Commissioner Broughton asked if there was anything that would stop a developer from purchasing multiple adjoining lots and creating flag lots, and Planner Jansen said that they had added language in the Code that said the main building needed to face the street. Planner Jansen commented there were few places where flag lots worked, and he did not anticipate that either flag lots or ADUs would become too common throughout the City.

Commissioner Richards commented that they will have to continue to consider how ADUs and flag lots supported the overall goals of the City. Planner Kohler pointed out that flag lots supported infill and allowed the potential for more housing units, which had the potential to lower housing costs. Planner Kohler added there were many flag lots in his neighborhood in Mill Creek, and noted that many of the owners actually liked living in those back areas. Planner Kohler said the people in the front houses did not like them as much since they had limited backyards.

Commissioner Richards said that some flag lots had very nice homes built on them and opined that historically, many people who owned flag lots used the back lots for agricultural purposes although that was no longer the case. Commissioner Richards thought many of these now-vacant lots which had once been pastures could be utilized for housing, and he felt it was better to use the lots to build housing rather than allow them to become eyesores as they became overgrown.

Planner Kohler that Heber City had allowed ADUs since 2009, although they only permitted either one internal or one external ADU on a property. He explained the distinction that they were making in this case is they would allow up to one external and one internal ADU per property in this zone. Planner Kohler specified that the lots would have to be owner-occupied for that to be legal. Commissioner Robert Wilson asked for clarity about internal and external ADUs. Commissioner Richards said an ADU was internal if the roofline was continuous. Planner Kohler agreed that was the way the State defined internal ADUs, though noted there were certain cases that they might need to interpret differently. Commissioner Wilson asked if a garage would count as an internal ADU and Commissioner Richards replied that it would as long as the garage was attached to the house. There was a brief discussion about the distinction.

Planner Kohler said flag lots had been added in 2023 as a legal use in the R-2 and R-3 zones, and he noted it was essentially not possible to do flag lots in other parts of the City. Commissioner Broughton asked about plowing and shoveling when it came to flag lots. Planner Kohler replied that people who lived on flag lots would have to have agreements with one another about snow removal. Planner Jansen said they did have some guidelines in the Code for snow removal, and also had parameters for things like fire lane access and public utility access. Planner Jansen said they had a meter down the street and could specify how wide the roads had to be, but said they did need to solve for some of the issues regarding utilities. Planner Jansen said they would need to

reach out to Engineering to work through some of these questions.

Planner Jansen then discussed commercial, retail, and services. He said tattoo parlors and pawn shops were not included in permitted uses, recalling that the previous Council had not been in favor of them. However, Planner Jansen did note that attitudes were changing. Commissioner Jordan asked if they had a list of undesirable developments that were not permitted, and Planner Jansen said only the kinds of developments that were explicitly permitted were allowed in the zone.

Planner Jansen noted that home daycares were permitted and explained the zone allowed for home-occupied childcare centers, not just small home daycares. He added that secondhand schools, signs, and public and private schools were all permitted in the zone. There was a brief debate as to if monument signs should be conditional uses rather than permitted. Commissioner Wilson said that in general, they did not want to see too many signs in the are. Planner Kohler summarized that he could look into ratios or percentages to determine how many signs should be permitted, and how big they could be.

Alternate Planning Commissioner Jami Hewlett, who was in the audience, commented. She asked what the setbacks currently were and Planner Kohler said they were 20 feet in the front and rear and 4 to 6 feet on the side, depending on if the zone was R-2 or R-3. Planner Kohler gave background on this and explained there had been a discussion with Council several weeks ago about utility easements. He said the end result of that discussion was the decision had been made to stick with a zero-foot setback in the C-3 zone, although they had added a requirement that utility boxes be placed behind the front face of the commercial building, or located in the rear of the building. He also explained the reason they had a ten-foot setback on the flag lots was to accommodate State-mandated public utility easements.

Planner Kohler noted that the small lot category was what was permitted in the infill district. He said they were suggesting a 45,000 square foot area of the lots.

Commissioner Hewlett spoke again and was asked to come up to the microphone. She did so, and made a comment expressing concerns about developers taking advantage of the small lots. She said she understood the intention with the small lots, but said she also knew how developers thought. Planner Kohler asked her if she was talking about historic preservation, and Commissioner Hewlett said she was not sure. Planner Kohler agreed with her that it was important to think about what their intention was for Old Town, and said they needed to decide if their goals were to preserve the area, or promote infill. Commissioner Richards replied to her comments as well, and pointed out that big developers would most likely not concern themselves with these lots anyway. Commissioner Richards said it was not realistic for a developer to buy up a lot of small lots and said he was not especially concern about developers taking advantage of this.

Commissioner Hewlett then asked what the steps were for someone to go though

before they could put the lots up for sale. Planner Kohler explained they would need to go through the subdevelopment process, which required putting water and sewer on the property. He noted that water and sewer, plus gas and electric, cost thousands of dollars and required City approval. He added they would also need to get the lot approved as a flag lot. Commissioner Richards added that they would also need to put in curb, gutter, and sidewalk. Commissioner Richards summarized this was an involved process that was both lengthy and costly.

Commissioner Hewlett thought it was a false equivalence to say that people could not have ADUs because people could not afford them, but then also say that people could sell their flag lots for extra revenue. Planner Kohler explained that developers cannot just come sell their land, but they had to go through a process that took a lot of time.

Planner Kohler said that developing land was hard and not for everyone.

Commissioner Broughton also pointed out that developing a lot was not significantly more expensive than an ADU. Commissioner Richards echoed this sentiment and pointed out that once the work was done on a flag lot it could generate revenue, just like any other development. Planner Kohler said an ADU, especially an internal one, would be cheaper than a subdevelopment lot. Commissioner Richards explained that while a flag lot was more money upfront, it had the potential to generate more revenue than an ADU over time.

Planner Jansen went over lots that were located on private right-of-ways. He stated that their proposal was to have a mini cul-de-sac or an off-set road that faced the public street. He noted that Engineering often did not like them, although they were used throughout the State. He explained that Engineering was not in favor of them due to drainage issues, and said they also had issues with them because residents often did not understand that the road was private and called the City to fix potholes or other issues on the road. Commissioner Richards said they would have to make sure that the road was clearly signed as private and make sure that the residents were made aware that the road was not maintained by the City.

Commissioner Richards and Commissioner Hewlett had a short aside about developers in infill districts, in which Commissioner Richards reiterated his comments that he did not anticipate developers taking advantage of infill areas, and noted it was not a lucrative thing for developers to do. Commissioner Hewlett said she was not opposed to it, but wanted to make sure it was done correctly. Planner Kohler also noted that developers who focused on infill zones were very specialized developers. Planner Kohler explained it was harder to develop infill zones due to more restrictions, which was why most developers did not do it.

Chairman Gunn asked about standard distances for public utilities on flag lots in other Cities. Planner Jansen said he had seen 10 or 15 feet most often, but said it varied. Planner Jansen noted that the flag lots in Mill Creek that he knew of did not have standardized distances for their utilities. He commented that he knew of one resident in another City who had a fire hydrant located 150 feet away.

Chairman Gunn then asked about how zero lot lines worked and Planner Jansen said they were allowed on lots with private right-of-ways, except for on the lot adjacent to public roads and the lot that was the farthest from the public street. He said they also needed to make sure that the next house had some distance as well. Commissioner Knight asked about the firewall on zero-lot line properties and Planner Kohler said the Building Code would require that the fire-rate the wall. Planner Kohler added that there could still be windows. Commissioner Richards expanded on firewall requirements. Planner Kohler added the main thing was that they did not want people who were not part of the zero lot line to be subjected to it.

Planner Kohler asked if the Commission wanted to go through how lots on private right-of-ways worked. He said there were a list of requirements for lots on private right-of-ways and directed the Commission to look through them. Planner Jansen commented they could not do much with duplexes due to State laws, but they could propose that the garages had setback requirements. Planner Jansen said their intention was to have the garage not be the only visible part of the house from the street. Planner Kohler asked about duplexes on flag lots or right-of-ways and Planner Jansen said they had not thought about that yet, but his inclination was to not permit that.

Planner Jansen stated they wanted to change the model on triplexes and fourplexes. He elaborated this was mainly due to their appearance, since they tended to look like single-family homes although they held multiple occupants. Planner Jansen discussed how several decades ago, the fourplexes generally were not kept in good shape and were less desirable.

Commissioner Broughton asked why Mansion-style apartments were more desirable than fourplexes, and voiced the opinion that Mansion-style apartments contributed to downtown areas becoming less desirable. There was a short discussion about how Mansion-style apartment complexes were laid out. It was clarified that residents shared a central hallway but had individual units. Commissioner Broughton asked about garages and Planner Kohler said generally there was no garage and the residents parked on the side of the street. Planner Jansen said the advantage of the Mansion-style apartments was that they contributed to the feeling of a single-family home since there was one main door. Planner Jansen added that some developers did include individual entrances, but put them in the back so they were not visible from the front.

Commissioner Royall commented that the Senator was now a Mansion-style home. Commissioner Jordan said that the area that would usually be a garage was generally used for storage in Mansion-style apartments. Planner Jansen agreed that single-family homes could be converted to Mansion-style apartments. Commissioner Broughton summarized that Mansion-style apartments were essentially fourplexes, but it was not clear from the street that the building was actually apartments. Planner Jansen said that was essentially correct and noted he would send photos of Mansion-style apartments to the Commissioners.

Planner Jansen moved on to townhome development. He reported that they had

suggested to not have more than six attached townhomes. He explained they wanted to make the townhome living experience nicer and said they needed to work through some issues with utilities. Commissioner Knight clarified that townhomes would need to be close to downtown, given their height. Planner Kohler replied they would be conditional in the infill district and permitted in the Midway Lane and transitional districts.

Planner Jansen brought up courtyard townhomes and noted they were part of the “missing middle.” He explained the townhomes would be arranged in a “C” shape and share a courtyard in the front. He detailed how the townhomes would be distanced from one another based on their height, though noted that the Mayor wanted more space. He said they could propose different distances. Commissioner Broughton asked how much space would be left on a block if they went with this layout. Planner Jansen explained these would not work on a lot that was too skinny and elaborated that developers could have the option to buy multiple lots. Planner Kohler added that a 100-foot setback was generally required for courtyard townhomes, and said that would be about a quarter of a block. Planner Kohler also noted that courtyard apartments were not permitted in the zone.

Commissioner Jordan asked if these townhomes would be an investment for people who wanted to live close to the downtown district and there was a short discussion about this. Commissioner Hewlett thought that people who wanted to live downtown wanted a single-family home rather than a townhome. Commissioner Broughton pointed out that there were not only new families moving to Heber, there were also older families. Planner Kohler commented that he had an adult son who lived in Provo and said they should not only provide housing for families; they needed to think about single people including returning missionaries, the elderly, and single adults. He noted that Heber claimed it wanted to be “family friendly,” but families also included single people who needed housing units as well. Planner Kohler said the townhomes were intended to provide housing for the “missing middle,” members of society who needed smaller, affordable places to live.

Chairman Gunn felt they were going into too far of detail about the townhomes, and thought they should not dive deep into it until they had an actual development proposal. Planner Kohler noted that if the townhomes were a permitted use then a developer would not need to bring the plan before the Planning Commission. Chairman Gunn still felt that they were being too granular at this stage, and he did not want to limit the use. Commissioner Jordan opined that if this was intended to be a transition zone, then the transitions were too tight. Commissioner Hewlett clarified that the infill zone is where the single-family homes would go.

Commissioner Knight asked if the Historical Society of Utah could protect the older homes. Chairman Gunn said that the homeowner generally had to apply for something like that. Planner Kohler said that the majority of homeowners would need to buy-in together if they wanted to designate an area as a historic district. Commissioner

Hewlett thought they should find buildings that were historic and zone them as historic and Planner Kohler explained that the State legislature did not permit that and the City could not do that. Planner Kohler reiterated that the homeowners would need to do that. He explained that their ordinance said that if a property owner wanted to raze a historic building, the City could request that the owner give three month's notice, which would give them time to find the money to buy the building. Planner Kohler explained that while he loved historic preservation, there was not community support for it and he did not have the jurisdiction to create a historic district without community support.

Commissioner Richards commented that he had a historic home and it did not generate any money. He told Commissioner Hewlett that they would have to raise taxes to support historic preservation, and he knew the community would not support that.

Commissioner Hewlett complained that they were not protecting the historic character of the City. Chairman Gunn explained the rules of historic preservation to her as well, and noted that the City did have the option to try and purchase historic buildings to preserve them. Commissioner Hewlett thought there should be an ordinance that protected historic buildings so they could attract tourists. Planner Kohler pointed out that Commissioner Hewlett had bulldozed a historic home that she owned and there was discussion about this.

Planner Kohler brought the discussion back around to the courtyard townhomes and asked the Planning Commission's perspective. Commissioner Richards brought up the missing middle and said they needed to have something which served that purpose.

Planner Kohler said that townhomes were allowed in the Midway Lane and transitional zones.

There was a brief discussion about the cut-off year for a home to be designated as historic. Planner Kohler said that homes had to be more than 50 years old, and sometimes there had to be proof that an event of significance had happened at the home, or someone of note had lived there. He said in some cases there also needed to be significant architecture. Planner Kohler said he had struggled in the past to get support from the community and the Council about adding more historic preservation to their Code. He commented that generally, people were not too upset when historic buildings were torn down. Commissioner Richards made some comments about how difficult it was to revitalize historic buildings in Heber. Commissioner Jordan brought up the high cost associated with preservation as well. Commissioner Jordan noted that if a homeowner could not afford to maintain a historic home, it would fall into disrepair that would lower the property value of the surrounding homes. Commissioner Richards agreed it was not cost-effective to preserve historic homes. Commissioner Jordan opined that good development around historic homes was what saved them.

Planner Kohler went back to the presentation. He discussed the mixed-use building and noted they were conditionally permitted in the transition and Midway Lane districts but not permitted in the infill district. Chairman Gunn specified what parts of town allowed them. Planner Kohler said if a developer wanted to see the full potential of a mixed-use building they would probably need to do a re-zone to the C-3 zone. Planner

Jansen commented that they had received some feedback that there were not many requirements for the new mixed-use buildings, and he noted that they did have to be a storefront. Commissioner Jordan asked about setbacks. Planner Jansen clarified that buildings in the C-3 zone could be taller, but had a larger setback requirement than mixed-use buildings.

Planner Kohler said those were all of the updates and asked Chairman Gunn if he felt ready to move forward with a public hearing. Chairman Gunn posed the question to the Commission and asked if they wanted to hold a workshop before they voted on the item. Chairman Gunn asked if they were required to hold a workshop. Planner Kohler explained the advantage of the workshop was that it provided a chance for them to educate the public about the item, but it was not required. Commissioner Richards recalled that there had been some issues with members of the public being rude to the Commission at their previous public hearing.

Planner Jansen suggested that they hold one Open House and one public hearing about the item, which gave them a chance to explain the item to the public and then solicit their feedback. Planner Jansen also explained the process for noticing the public hearing. Commissioner Jordan proposed that they split up the different topics into multiple meetings, so it was not confusing for the general public to follow the meetings. Commissioner Knight agreed it could be confusing, and suggested that they include visual aids to help the public absorb all of the information. Commissioner Broughton seconded this idea, and said the visual aids would need to make the areas that they were talking about very clear. Planner Jansen suggested that they present a map along with the various options of what could go in that area. Commissioner Knight asked if there was a PR Specialist for the City and there was a short discussion about candidates. Commissioner Knight said that a PR person could help communicate to the public what the City was trying to accomplish. Planner Kohler summarized they needed to communicate the intent of why they were there and what they wanted to do in the City.

Commissioner Richards anticipated that the Staff would receive a lot of questions when the initial public notice was sent out. Chairman Gunn agreed they would, and suggested that they include some graphics that showed examples of what they were talking about at the Open House. Commissioner Broughton agreed it would be important to illustrate to the public what they were talking about. The Commission then held a discussion about what date they should hold the Open House. Planner Kohler noted that they generally sent the notices out ten days in advance of the meeting.

Chairman Gunn clarified that they should hold the Open House before the public hearing. Planner Kohler replied that his suggestion was to first hold a workshop, then a public hearing, and lastly hold a public meeting in which the Commission made a decision.

Commissioner Royall said he was curious to know the public's thoughts on the flag lots,

and specifically noted that there were challenges with emergency access on the private roads. Commissioner Knight agreed with this and said he wanted to know the public's input.

Commissioner Jordan pointed out to Planner Kohler that there would likely be another Commission meeting after the Open House and public hearing, just due to the timing, and Planner Kohler acknowledged that was a good point. Planner Kohler said the Staff could plan on bringing more information to the Commission at that meeting. There was further discussion about possible dates for all the meetings. Chairman Gunn said it seemed like November 15th was the deadline for them. Planner Kohler replied that the Council wanted them to have finished all their public outreach before the holidays.

Commissioner Knight asked if Planning Admin Kijanen could email them a potential schedule that worked with everyone's dates. Commissioner Jordan asked if the Staff could have more information to present to the Commission on September 10th and Planner Kohler thought they could do that. Planner Kohler estimated the City needed to send out 12-16,000 notices for the public hearing, and reminded the Council they needed to send the notices at least ten days in advance.

The Commission debated several dates and Planner Kohler typed up the following tentative schedule:

- A prep meeting for the Planning Commission on September 10th
- An Open House on September 18th
- A public hearing on September 24th
- A Planning Commission recommendation meeting on October 8th
- A City Council work meeting on October 15th
- Another City Council work meeting on November 5th
- Adoption by City Council on November 19th

Planner Kohler also noted that they needed the Fire Department's input. There was a discussion about these dates, and they were agreed upon by Commission and Staff. Planner Kohler also noted that the Commissioners could attend the Council's meetings.

- II. Planning Commission Training -
https://www.youtube.com/watch?v=K_8etqfOAd0

Planner Kohler reminded the Commissioners that they needed to complete their training, and emphasized that if it was not completed they would need to complete the training in a meeting.

5. Administrative Items:

- I. City Council Communication Item

Planner Kohler gave a very brief summary of the Council meeting, since all of the Commissioners had been in attendance at that meeting. Planner Kohler shared that Roger Brooks was conducting a study of the downtown area, and said Mr. Brooks had reported on his findings at the meeting. Planner Kohler said there had been a short

presentation about National Day of Service. He also reported that Red Ledges had introduced themselves at the meeting and had shared that they had new leadership.

He stated that Red Ledges would be coming back before the Council to share their updated plans. Planner Kohler discussed that the City was considering entering into a contract with Midway for a possible law enforcement partnership. He also reported that they were doing a development agreement with MTECH, and would be coming back with more details on that. Planner Kohler announced that the City had amended its personnel policy on a number of issues, including an increase to the executive vehicle allowance.

6. Adjournment:

Motion: Commissioner Broughton moved to Adjournment:. Commissioner Jordan made the second.

Discussion: N/A

Voting Yes: 7. **Voting No:** None. The Motion Passed 7-0.

Meshelle Kijanen

Meshelle Kijanen, Administrative Assistant