

**HEBER CITY CORPORATION**  
**75 North Main Street**  
**Heber City, UT 84032**  
**Heber City Council Meeting**  
**September 24, 2024**

**Approved 10.22.2024**

**6:00 p.m. – Regular Meeting**

**1. Regular Meeting:**

I. Call to Order

Chairman Gunn called the Planning Commission Meeting to order at 6:00 p.m. and welcomed everyone present.

II. Roll Call

**Planning Commission Present:**

Chairman Dennis Gunn  
Commissioner Phil Jordan  
Commissioner Josh Knight  
Commissioner Tori Broughton  
Commissioner Darek Slagowski  
Commissioner Greg Royall  
Commissioner Jami Hewlett-Smith

**Planning Commission Absent:**

Vice-Chairman Dave Richards  
Commissioner Robert Wilson

**Staff Present:**

Community Development Director Tony Kohler  
Planning Manager Jamie Baron  
Planner Jacob Roberts  
Planning Office Admin Meshelle Kijanen  
City Engineer Ross Hansen

**Staff Participating Remotely:**

N/A

**Also Present:**

Josh Lythgoe

**Also Attending Remotely:**

N/A

III. Pledge of Allegiance: By Invitation

Commissioner Phil Jordan led the recitation of the Pledge of Allegiance.

IV. Prayer/Thought by Invitation N/A ()

V. Recuse for Conflict of Interest N/A

**2. Consent Agenda:**

I. 08.27.2024 Draft Minutes for Approval

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

**Discussion:** N/A

**Voting Yes:** Commissioner Gunn, Commissioner Slagowski, Commissioner Knight, Commissioner Jordan, Commissioner Broughton, Commissioner Royall. **Voting No:** None. The Motion Passed 6-0.

**3. Action Items: N/A**

**4. Work Meeting:**

I. Discuss a proposal for an amendment to Day Care Standards (Tony Kohler)

Community Development Director Kohler stated that the Council had identified that they wanted to look at daycare standards, so he had done some research and analyzed their current daycare code. He summarized that in some ways, the current Heber Code was adversely impacting the development of daycare facilities in the City. He said they had six daycares and four preschools and indicated which zones they were currently permitted in.

Community Development Director Kohler explained that the City and Utah State had different rules for daycare. He said that while Heber specified outdoor play areas could not be in the front yard, the State just stated play areas could not be located in areas that might be dangerous, and added that Heber City and the State also had different rules when it came to zoning, employees, and maximum number of children when it came to daycare facilities. He summarized that overall, it was confusing and challenging to establish a daycare in Heber because it was so different from the State.

He recommended that Heber amend their Code to follow the State model.

Community Development Director Kohler went over the process to establish a daycare facility in the City. He said applicants would first need site plan approval, and in some cases, a conditional use permit. They would then need to go through their business license application, which included a background check, and then finally go through the State approval process. He said there was some overlap and redundancy with the State and City approval process. He added there was also an inconsistent use of terms which made things complicated, compounded by the fact that the State Code kept changing.

Community Development Director Kohler reiterated that the Planning Commission had been tasked by City Council to work on a Code update for daycare facilities and explained the purpose of this evening's agenda item was to put it on the Commission's radar. He summarized the recommendations he had compiled thus far, and shared those with the Commission.

Community Development Director Kohler recommended that the City allow home-based residential certificates in all residential zones, regardless of classification, and said this would allow up to eight children. He said there would be no parking requirement, though the applicant would still need to get a background check and business license. He added the recommendation that home-based licensed family be permitted in all zones as well, and said this would allow for up to 16 children. He said these would need at least one parking stall per employee as well as a loading/unloading zone. Lastly, he proposed that commercial licenses be permitted in residential zones, though they would require a background check, licensing, and parking. He explained in order to allow commercial licenses, they would need to eliminate the regulations in their Code that duplicated the requirements at the State level. He added the Commission could opt to include the restrictions about front yard play areas if they wanted, and asked for their feedback on the proposals.

Commissioner Knight asked if the reasoning behind the restriction on front yard play areas was so that people could not tell what children were at the daycare. Community Development Director Kohler assumed it was so the neighborhood could maintain a residential feel, as well for safety of the children.

Chairman Gunn asked how often the City got applications for daycares. Community Development Director Kohler said in the 20 years he had been with the City, he had not seen a lot of applications and noted there were not a lot of daycares in the City.

Community Development Director Kohler added that he had met with about a half dozen people over the years who had expressed interest in opening a daycare, but had been discouraged by the complications of dealing with both State and City Code.

Commissioner Jordan asked why there was concern over employees living in the R-zone in the current requirements. Community Development Director Kohler explained that the R-1 zone used to be more exclusive, though that was not really the case anymore. Community Development Director Kohler said the original intent had been to not allow employees in the upper-eschelon neighborhoods, and recommended that they remove that restriction. Community Development Director Kohler added that daycare facilities with less than eight children did not even need extra employees.

Commissioner Knight asked why smaller daycares did not need additional employees. Community Development Director Kohler explained it was to preserve the residential feel of the neighborhood, along with concerns over parking. Commissioner Knight asked if the Council would be open to changing that restriction, and opined that he did not think an additional employee should be an issue as long as there was a place for them to park that was not on the street.

Commissioner Royall asked how there would be an issue with an employee parking on the street to work at a daycare, and pointed out they would be on a public, City street.

Community Development Director Kohler said it might become an issue in the winter when the plows went through, and also noted that some residents might be bothered by someone parking in front of their home. Commissioner Royall thought that street parking was a sign of growth in the City and did not think people should be opposed to street parking. Commissioner Jordan said he personally agreed, though he understood why residents would be bothered by parking in front of their homes even if the street was public.

Commissioner Jordan asked why larger types of daycares were not permitted to be in cul-de-sacs. Community Development Director Kohler explained that bottlenecks formed in cul-de-sacs when parents picked up and dropped off their kids, and it also could pose a threat to access for emergency vehicles. Commissioner Jordan pointed out on the flip side, it ensured that traffic was not going by at fast speeds when kids were getting picked up and dropped off and Community Development Director Kohler acknowledged that point. Community Development Director Kohler added that the State Code did not prohibit cul-de-sacs. Chairman Gunn did not think they needed to do more than the State requirements. Commissioner Knight did not think cul-de-sacs posed a safety issue.

Commissioner Broughton asked what counted as a loading zone. Community Development Director Kohler thought a driveway would constitute a loading zone and said there was no specific definition. Commissioner Knight commented that he knew of a daycare that had their pick-up area on the street.

Commissioner Knight commented that as more young people moved to Heber City that wanted to have children, the City should work to make daycares easier to establish in the City. He said not everyone was able to get their kids into preschool, so it was important that the City allow for larger daycares as the population grew. Commissioner Broughton thought the ratios would split things up, since if there were more than eight kids in the daycare then additional employees and a loading zone were going to be needed. Commissioner Broughton said those requirements would eliminate some people. She also noted it would be good to keep a daycare within the same neighborhood that people lived in, as that would cut down on traffic overall.

Commissioner Broughton added that one's own children counted as part of the eight children in a daycare. She said since children in the household counted, the development of more daycare facilities would actually cause less overall impact in neighborhoods since it spread out the density. The other Commissioners agreed that was a good point. Commissioner Royall added that all daycares were priced differently which would also spread people out. Chairman Gunn noted daycare was expensive and having more daycares at different price points would facilitate affordable housing as well.

Community Development Director Kohler pointed out that generally, people only had daycares for a couple years anyway while their own kids were young, and then gradually phased out of the daycare as their own children got older. Commissioner Knight noticed that most of the daycares in town were concentrated on the east side of town. Community Development Director Kohler said preschools in particular tended to come and go.

Commissioner Broughton asked if there was a way to tell how many people in the City were taking care of other people's kids, and Community Development Director Kohler said the State had regulations in place to make sure that family members other than

parents who watched kids did not need to get a license. Commissioner Broughton wondered if people sometimes did not get licenses because it was a complicated process and she wondered if they would get a license if the process was easier.

Commissioner Royall asked if there were square footage requirements for the building and Commissioner Knight said the square footage requirements were per child, and said there were minimum indoor and outdoor square footage requirements listed in the Code. Community Development Director Kohler recommended that Heber update their square footage cutoffs to match the State requirements, noting that it was confusing to have the figures be different. Community Development Director Kohler recommended that their Code just mandate that the State requirements be followed, rather than list their own numbers.

Chairman Gunn thought as long as Heber met the minimum State requirements, they were good and did not need to add additional requirements in their ordinance. Commissioner Knight opined that he did not like how the State only required a four-foot fence around the play area, and noted that Heber required five feet. Commissioner Broughton thought they should require a taller fence if there were more than a certain number of kids. Chairman Gunn and the Commissioners discussed that it was the responsibility of whoever was watching the kids to make sure they did not get over the fence. Commissioner Broughton asked why the schools needed a six-foot fence and Chairman Gunn pointed out those schoolchildren were taller.

Community Development Director Kohler summarized the main issue was that Heber and the State had different requirements, but Heber could expand on minimum State requirements if they wished. Community Development Director Kohler said the problem was that Heber and the State measured square footage in different ways and recommended that Heber follow the State's lead with how to measure space.

Commissioner Jordan said he would be interested in limiting the number of daycares that would be allowed in a certain area or neighborhood, in order to protect quality of life for residents in the neighborhood. He thought it was the role of the City to make sure they did not end up with too many daycares in one area. Commissioner Knight said they could mandate that there only be one daycare per a certain number of feet, but worried they were over-regulating. Commissioner Jordan argued it was the job of the City to determine where businesses should be located, especially businesses that were potentially busy, and pointed out these daycares would be in residential areas.

Community Development Director Kohler agreed it would be a challenge if there were multiple daycares in one neighborhood. Chairman Gunn thought they should leave it up to the State and added that an HOA could decide to add other restrictions if they wished.

Community Development Director Kohler said there would be a public notice of the ordinance change, so local businesses would have a chance to share their opinion about the issue.

Commissioner Slagowski asked if daycares were allowed in their medical zone and Community Development Director Kohler said they were not, though he noted there

was only one medical zone within Heber. Commissioner Slagowski thought they should be allowed in any kind of business zone so that there could be on-premises daycares for employees.

Community Development Director Kohler summarized that he would take the Commission's feedback into account and continue working on the ordinance. He said this would come back before the Commission for further discussion, and to hear public comments. Commissioner Knight said it was important to hear the daycare center's needs.

## **5. Administrative Items:**

### **I. City Council Communication Item**

Community Development Director Kohler gave a report on the most recent City Council meeting. He said representatives from Wasatch Highlands came to Council to discuss the possibility of amending the Heber City Annexation Policy Plan, and explained this proposal would be brought to the Planning Commission for their consideration. He also announced Oscar Covarrubias would be speaking to the Commission about touring the property and directed the Commissioners to meet with Mr. Covarrubias to get more details. Community Development Director Kohler commented he had toured the property and found the visit to be enlightening.

Mr. Covarrubias addressed the Commission. He said he had been working on the planning for Wasatch Highlights for the last year and a half and invited the Commissioners for a presentation and tour at 11:45 AM on Friday of that week. He acknowledged how important the Commission's input would be, noting that he was a former Heber City Commissioner. He explained that they needed to amend the Annexation Plan, then ask for annexation to Heber City. He said SITLA representatives would be there on Friday and urged the Commissioners to ask them questions. He commented that they were in a long process and thought that visiting the site would give the Commissioners a better sense of what needed to be done at the site. Mr. Covarrubias expressed that there would be many amenities on the property that would be beneficial for the community, but said there was still a lot of work to be done and the City's feedback was greatly appreciated. He said he wanted to work with the City Staff, Council, and Commission, and thanked them for their time and willingness to work with him on the development.

Community Development Director Kohler said there would be at least two or three more meetings about the Annexation Policy Plan amendment, as well as a public hearing.

He said he would come back to the Commission with a map at their next meeting about this item.

Community Development Director Kohler then discussed Crossings Resort Annexation.

He reported the Council had talked about the impact on the bypass and had decided to move forward.

Community Development Director Kohler said the Council was going to consider a

development agreement for Karl Malone, and had held a preliminary discussion about this at the last Council meeting.

Community Development Director Kohler said there had been a nomination for the POSTT Committee, though he could not remember the names. He also stated there had been a presentation about new branding for the Pedestrian Pathway and Festival Street. He then said there had been a discussion about Code enforcement issues in the City, led by the Chief of Police and Code Enforcement Officer.

Community Development Director Kohler then reported on the Highlands Residential Subdivision Preliminary Plat approval. He said the Council had upheld the Commission's recommendation on this item and granted approval. He added Highlands would come back to the Staff for final approval and had already started breaking ground.

II. Planning Commission Training -  
[https://www.youtube.com/watch?v=K\\_8etqfOAd0](https://www.youtube.com/watch?v=K_8etqfOAd0)

Chairman Gunn confirmed the Commissioners had read through the Heber City bylaws and Code of Conduct. Planning Admin Kijanen said they also had a video about Land Use 101 and determined which Commissioners had already watched the video.

Planning Admin Kijanen went through the Heber City Planning Commission bylaws with the Commissioners. She read through the bylaw document, which noted things such as the length of terms, the number of required Commissioners, and definition of duties. The document also explained the process for electing the Chairperson and outlined their duties. Planning Admin Kijanen explained that if neither the Chair or the Vice-Chair were present, the remaining Commissioners would elect a temporary replacement.

Community Development Director Kohler suggested that they edit item 3B, which stated that the Chair would sign all final plats and transmittals to the City Council. He explained the document had been written at a time where the Council approved all the plats, but this was now done at the Staff level. Chairman Gunn thought it would be a good idea to amend it. Community Development Director Kohler pointed out it did not make much sense for the Planning Chair to sign approval on a final plat, since those did not come before the Planning Commission. Community Development Director Kohler added there was a signature line for the Planning Commission Chair on the plat documents, though it was a formality. Community Development Director Kohler and Chairman Gunn discussed that the change from Council approval to Staff approval had been done at the State level, so it made the most sense to amend the document to match State Code. Community Development Director Kohler said he would bring this to the attention of the City Attorney to determine if they needed to hold a public hearing in order to make adjustments to the bylaws.

Planning Admin Kijanen continued to read the duties of the Chair and Vice-Chair. She then went over the duties of the Secretary, which included the taking of minutes. She

also listed what details needed to be provided in the minutes. Community Development Director Kohler said these were specific bylaws for Heber City, and the State Code required that only findings and motions be in the minutes and an audio link was optional. Planning Admin Kijanen explained that she provided more content than what was required by the State.

Planning Admin Kijanen then went through the duties of staff of the Commission, and noted that the City Attorney was considered to be the legal counsel for the Planning Commission and any subcommittees. Planning Admin Kijanen also read the public noting requirements for meetings. Chairman Gunn confirmed there was a 24-hour notice requirement before a Planning Commission meeting.

Planning Admin Kijanen then explained the reasons that a Planning Commission member may need to recuse themselves from a discussion. Community Development Director Kohler added if the Commissioners were ever unsure if they needed to recuse themselves, they could reach out to the City Attorney. Commissioner Broughton asked what constituted a conflict of interest. Community Development Director Kohler explained that some of it was up to State Code, although it could also be the Commissioner's personal opinion. Community Development Director Kohler said that generally, if the Commissioner stood to have a financial benefit from a decision, they needed to recuse themselves, although if they knew an applicant or were related to them, those cases were up to their discretion.

Chairman Gunn added that the other Commissioners could also offer their input as to if there was a conflict of interest or not, and added it was always best to err on the side of safety. Chairman Gunn also stated it was always best to determine in advance of a meeting if there would be a conflict. Commissioner Jordan added that it was also possible to announce a conflict of interest but still participate in the discussion, as long as the Commissioner then excused themselves from the vote. Community Development Director Kohler said when that happened, the Commissioner usually left the room during the vote.

Planning Admin Kijanen explained how tie-breaking was done in the event of a tied vote. She also went over the process for creating the agenda, which included a requirement that no materials could be submitted less than six days before the meeting.

Chairman Gunn pointed out that there had been cases in which an applicant had come in last minute with photos or other presentation materials and asked if those would be prohibited.

Planning Admin Kijanen said they could amend the text to allow for that and the Commissioners discussed this briefly. Commissioner Hewlett-Smith, who was seated in the audience, said she liked to go through the agenda in advance of the meeting so she was not in favor of allowing last-minute additions. Commissioner Knight replied that the Commission would be able to discuss additional materials in the meeting.

Commissioner Jordan thought it should be within the purview of the Chair to allow or deny last minute materials to be added to agenda packets. Chairman Gunn added that the Commission could always vote to continue or table an item if they felt they had not

been given enough time to read through the materials. Commissioner Hewlett-Smith continued to explain her reasoning for not allowing last-minute changes to the agenda and the other Commissioners explained to her that they were not voting on any changes that evening; just noting items in the bylaws that might need to be amended.

Planning Admin Kijanen explained the order of items in the regular meeting, though noted this section was more relevant for the City Council. She also went through the protocol for public comment periods and making a motion. Community Development Director Kohler noted that there were rarely denials from the Planning Commission since by the time applications reached the Commission, they had already been vetted by City Staff to make sure they were eligible for consideration.

Commissioner Hewlett-Smith began to make another comment and Chairman Gunn invited her to come up to the podium, and noted that generally, audience members needed permission from the Chair to speak during a meeting. Commissioner Hewlett-Smith addressed the Planning Commission and said she thought the only reason applications came to the Planning Commission was if they were not in compliance. Community Development Director Kohler explained that was not correct. He said the Planning Commission was the land use authority for preliminary plats and so they needed to approve applications. Commissioner Hewlett-Smith thought there were cases in which an applicant could build without the Commission approval and Community Development Director Kohler explained further why all applicants needed Commission approval of their site plan.

Planning Admin Kijanen next explained the requirements for the submission of requests. She also overviewed the administrative calendar. She then went through the conduct of members of the Planning Commission. She noted that any Commissioner who was absent for more than three consecutive or four total meetings without approval could be removed from the Commission. She also explained how the Commissioners must disclose conflicts of interest or recusal to the Commission. Planning Admin Kijanen then read through how amendments to the General Plan could be made and added that a public hearing always needed to be held as part of the amendment process.

Commissioner Hewlett-Smith asked for clarification about full-time Commissioners and alternates and Chairman Gunn elaborated to her. Chairman Gunn commented it seemed to him that there had been an issue in the past with Commissioners being late or not showing up, although that was not a significant issue with the current Commission. Chairman Gunn said they needed four people to have a quorum, although they could have up to seven. Commissioner Jordan asked if a fifth Commissioner could be seated if there were four Commissioners holding a meeting and a fifth Commissioner joined the meeting. Chairman Gunn said the fifth Commissioner could join as long as there was permission from the Chair.

Planning Admin Kijanen noted that the Code of Conduct was quite lengthy. She said there was also a video that some of the Commissioners still needed to watch.

Community Development Director Kohler explained the Code of Conduct was about how the Commissioners personally conducted themselves, and the bylaws were the rules for the Commission as a whole. Chairman Gunn said as long as the Commissioners complied with the Code of Conduct and Planning Commission bylaws they were protected from being accused of engaging in a conflict of interest.

**6. Adjournment:**

Commissioner Knight moved to adjourn the meeting. Commissioner Jordan seconded the motion and the meeting was adjourned.

Meshelle Kijanen  
Meshelle Kijanen, Administrative Assistant