

**VALLEY CENTER  
PLANNING COMMISSION/BOARD OF APPEALS  
MINUTES**

7:00 P.M., Tuesday, October 29, 2013  
Valley Center City Hall at 121 S. Meridian Avenue

**CALL TO ORDER:** Chairperson Park called the meeting to order at 7:00 p.m. with the following members present, Ronald Colbert Sr., Del James, Matt Stamm, Danny Park, Don Bosken, Terry Nantkes, and Dee Wretberg.

Members absent: Ricky Shellenbarger and Gary Janzen.

Staff Present: Warren Utecht and Deby Taylor Community Development Department.  
Those in the audience: Jake Jackson, John Dailey, Paul Eden, Don Bennett, Chris Strunk.

Meeting started with the Pledge of Allegiance to the American Flag.

**AGENDA:** A Motion was made by Commissioner Colbert, seconded by Commissioner Stamm to set the agenda. Motion passed unanimously.

**APPROVAL OF DRAFT MINUTES:**

A motion was made by Commissioner Wretberg, seconded by Commissioner Bosken to accept the September 24, 2013 draft minutes as written. Motion passed unanimously.

There were no public non-agenda comments.

**REZONING PETITION Z 2013-04** filed by Paul Eden (Eden's Auto Sales) to amend the zoning map from C-1 Central Business District to C-2 General Business District for 100 S. Meridian (the former Phillips Convenience Gas Station) was presented.

According to the Recording Secretary, a notice of this hearing was published in the Ark Newspaper on **October 3, 2013**, and notices were mailed to **21 property owners** of record in the City limits within 200 feet. The record shows that at least 20 days elapsed between the publication and the hearing date. No evidence to the contrary from anyone present was given.

Chairperson Parks asked the committee members if there were any disqualifications or ex parte communications that would disqualify anyone from participating. There were no disqualifications. Chairperson Parks declared there was a quorum of 7 present for this hearing.

Chairperson Park asked Zoning Administrator, Warren Utecht, to provide the committee with his staff review on the case. Mr. Utecht shared the applicant's reasons for Rezoning to remodel and convert the vacant Phillips 66 Convenience gas station for the purpose of opening a second used car sales lot. He also gave a brief history of the property at 100 S. Meridian as a vacant convenience gas station. The canopy, pumps, and sign have been removed. The property has been up for sale for a long time. He then reviewed the 17 Criteria for a Zoning Amendment per 17.11.01.H (*criteria in italics*)

1. *What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?*

The property contains an empty building originally built in 1965, which was occupied for many years by a convenience gas station. Underground tanks still exist on the property. The properties are generally commercial to the south, west, and north, and a utility company building is across the alley to the east.

2. *What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?*

- a. The current zoning of the property is C-1 Downtown Commercial District. The surrounding zoning and land uses are as follows:

- North: C-1 Downtown Commercial District (Emprise Bank)
- South: C-2 General Business (office building, Barber shop, auto repair)
- East: C-1 Downtown Commercial District (Utility Building)
- West: C-1 Downtown Commercial District (Eden's Auto Sales)

3. *Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?*

The property has been for sale for some time. It is a difficult property to market because it requires underground tanks to be removed and is designed to handle an auto-related business.

4. *Would the request correct an error in the application of these regulations?*

No

5. *Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?*

No. This only relates to an empty building and someone willing to address the underground tanks and completely remodel the structure.

6. *Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?*

The site has all necessary public sewer, water, gas, electric and communication utilities.

7. *Would the subject property need to be platted or replatted or in lieu of dedications made for rights-of-way, easements, access control or building setback lines?*

No, the area is platted and can be legally described.

8. *Would a screening plan be necessary for existing and/or potential uses of the subject property?*

There are no screening issues involved in this property in that it does not abut residential zoning or development. No site plan review is required for an existing building having no expansion plans.

9. *Is there suitable vacant land or buildings available or not available for development that currently has the same zoning?*

Existing empty Commercial buildings with sufficient parking area is limited in Valley Center.

10. *If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?*

This proposed car sales lot is an expansion of the existing Eden's car sales across the street. The owner feels a market exists for business expansion. There are no other used car dealerships other than Eden's Car sales in Valley Center.

11. *Is the subject property suitable for the uses in the current zoning to which it has been restricted?*

No, the Central Business and Downtown Neighborhood overlay district do not allow car sales and service establishments.

12. *To what extent would the removal of the restrictions, i.e., the approval of the zoning request be detrimentally to other property in the neighborhood?*

A car sales and service facility should not have any detrimental effect on surrounding properties in that it is not a high-volume business.

13. *Would the request be consistent with the purpose of the proposed zoning district classification and the intent and purpose of these regulations?*

Yes. A car sales and service use is a permitted use in the C-2 Zoning District.

14. *Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?*

The Future Land Use Plan for the parcel in question was shown as commercial. However, implementation of a Downtown Neighborhood Plan involved the creation of a Downtown Overlay District that narrowed the uses allowed in the Overlay District. A separate action will request this parcel to be removed from the overlay district.

15. *What is the nature of the support or opposition of the request?*

A public hearing notice and a sign with a Rezoning Notice have been placed on the property. No one has contacted the city at this point to ask questions or leave a message. Public comments in support or opposition may not be known until the public hearing.

16. *Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?*

No

17. *By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the request?*

Yes, even though this does not create a new commercial use, it will result in occupancy of a vacant building, improvement of the appearance of a very visible commercial corner in downtown Valley Center, and will create jobs.

Mr. Utecht's recommendation was to approve the zoning change from C-1 to C-2.

At 7:10 p.m. Chairperson Park opened the hearing for comments from the public. He called upon Paul Eden, the Applicant to make his presentation on the request and any response to the Zoning Administrator's report. Mr. Eden simply shared his desire to convert the current vacant building into a used car lot. Chairperson Park comment on Mr. Eden's good reputation in Valley Center. Commissioner Colbert asked what plans the petitioner has to remove underground gas tanks. Mr. Eden replied that KDHD will financially assist in tank removal, and any environmental issues.

Don Bennett, a 21 year business owner in the building south of the property being discussed, stated he would love to see the a new business on this corner. Mr. Bennett commended Mr. Eden on managing a well-kept business in the past and is confident he will maintain the proposed car lot in the same manner. He was very much in favor of Mr. Eden's plan.

Chairperson Park closed the public hearing at 7:18 p.m.

**RECOMMENDED MOTION:** Based on the City Staff recommendations, public comments, and discussion by the Planning Commission, Commissioner Colbert made a motion to approve the petition by Paul Eden to rezone the described parcel in this petition from C-1 Central Business District to C-2 General Business District. Motion was seconded by Commissioner Stamm and the vote passed unanimously.

**DOWNTOWN NEIGHBORHOOD OVERLAY REMOVAL.** Paul Eden Petitioned to remove 100 S. Meridian from the Downtown Neighborhood Overlay District to facilitate a Used Car and Service land use.

According to the Recording Secretary, a notice of this hearing was published in the Ark Newspaper on October 3, 2013. The record shows that at least 20 days elapsed between the publication and the hearing date. No evidence to the contrary from anyone present was given.

Chairperson Parks asked the committee members if there were any disqualifications or ex parte communications that would disqualify anyone from participating. There were no disqualifications. Chairperson Parks declared there was a quorum of 7 present for this hearing.

Chairperson Park asked Zoning Administrator, Warren Utecht, to provide the committee with his staff review on the case. Mr. Utecht shared that Paul Eden of Eden Auto Sales, LLC has petitioned for a rezoning from C-1 to C-2 to allow him to expand is Auto Sales on the previous Phillips 66 Convenience Gas Station. However, unless the Phillips 66 Convenience Gas Station property is removed from the Downtown Overlay District, Paul Eden will not be able to establish a second used car sales lot in the downtown in the C-2 Zoning District with the overlay intact.

Mr. Utecht's recommendation: Granted it would be preferred to wait for a use that would fit the criteria of the C-1 zoning district and the Downtown Neighborhood Overlay District. However, he stated this property has been for sale for over a year, the owners have dropped the price, and Paul Eden has been the only one who has made a legitimate offer. The property is on a highly visible

intersection of the city, and is creating a blighting influence on surrounding properties and the City as a whole.

Paul Eden, who is an established businessman in the community, has found a way to have the underground tanks (a serious hindrance to any buyer) removed and is willing to make a major investment to totally remodel the interior and exterior of the structure, repave the parking lot, and expand his used car sales business in Downtown Valley Center.

Mr. Utecht recommended Paul Eden's request to remove the property from the Downtown Neighborhood Overlay District be approved because he is likely going to be the only party who is interested in purchasing and improving the empty business.

Chairperson Park opened the hear for comments from the public at 7:23 p.m. There were no additional comments. Public hearing was closed at 7:24 p.m.

**RECOMMENDED MOTION:** Based on the City Staff recommendations, and discussion by the Planning Commission, Commissioner Stamm made a motion to approve the petition by Paul Eden to remove 100 S Meridian from the Downtown Neighborhood Overlay District. Motion was seconded by Commissioner Nantkes and the vote passed unanimously.

There were no additional communications.

There were no old or unfinished business.

## **NEW BUSINESS.**

### **LOT SPLIT PETITION: 212 S. Miles**

Mr. Utecht presented Jake Jackson's petition for a lot split to divide a large single family lot on the corner of Butler and Miles into two lots for the purpose of creating a buildable lot. Due to the late filing, the petitioner circulated a petition of "No objection" signed by all of the abutting property owners, rather than having a notice mailed to the affected property owners.

He noted that the petitioned lot is platted at 130 feet wide fronting Miles Avenue and 220 feet of depth fronting Butler Street. The petitioner has submitted a survey showing two lots. The existing home at 212 Miles (Parcel A) meets all bulk regulations and will contain 15,600 square feet. The new lot (Parcel B) measures 100 feet wide by 130 deep, or 13,000 square feet. The minimum lot area in the R-1B Single-Family Zoning District is 6,500 sq. ft. Construction of a home on the new lot will be somewhat hindered in its layout due to two utility easements, but ample space still remains to make it a buildable lot. Both lots meet adequate frontage on a publicly dedicated street. There are no special assessments involved in the lot split.

Mr. Utecht supports this lot split because the two lots will exceed zoning area and frontage requirements, a new lot is being created, and a new home will generate greater tax base without adding costs to the City taxpayers.

**RECOMMENDED MOTION:** Based on the City Staff recommendations, public comments, and discussion by the Planning Commission, Commissioner Wretberg made a motion to approve the petition by Jake Jackson to split 212 S. Miles into two separate lots. Motion was seconded by Commissioner Colbert and the vote passed unanimously.

## REVIEW THE VALLEY CENTER'S FLOODPLAIN MANAGEMENT PLAN ANNUAL REPORT AND VALLEY CENTER'S LOCAL MITIGATION STRATEGY

### Valley Center's Floodplain Management Plan

Warren Utecht shared with the committee the Annual Report – Activity 510 with 4 mitigation strategies and the CRS Activity 510 progress report for Valley Center. He stated this information was only for the committee's information at this time. Upcoming 2014 meetings dealing with the Comprehensive Plan will include an extensive discussion of Floodplain issue. The City Planning Commission and City Council will also need to be involved in future public hearings sometime in January regarding a new Floodplain map which will include many new homes, and watershed study conducted by AMEC (contracted by the county) that could alleviate future flooding issues.

### COMMITTEE AND STAFF REPORTS:

#### ITEMS BY PLANNING COMMISSIONERS:

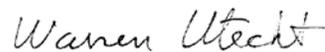
- Ronald Colbert Sr. – None
- Matt Stamm – None
- Dee Wretberg – None
- Don Bosken-None
- Danny Park – Thanked everyone for coming.
- Terry Nantkes – None
- Del James - None

### ADJOURNMENT:

Motion made by Commissioner Stamm and seconded by Commissioner Nantkes to adjourn. Motion passed unanimously.

Time of Adjournment 7:37 p.m.

Respectfully submitted,



Warren Utecht,  
Planning Commission Secretary

Minutes to be reviewed and approved by the Valley Center Planning Commission at the next meeting.

/Danny Park/  
Danny Park, Chairperson  
WU/dt