

MINUTES OF THE MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SODA SPRINGS, CARIBOU COUNTY, IDAHO, HELD OCTOBER 12, 2021.

ROLL CALL SHOWED THE FOLLOWING PRESENT:

Charles Fryar–Chairman
Rod Worthington-Vice Chairman
Robert Johnson
Demian Guthmiller

ALSO, PRESENT:

Jon Goode, Councilmember
Gregg Haney, City Attorney
Andrea Haderlie, Secretary
Alan Skinner, City Planner/Engineer

EXCUSED:

Lori Anne Lau
Drew Erickson
Tysen Hopkins

6:05 PM Chairman Fryar called the meeting to order. Commissioner Johnson moved to dispense by reading the September 14, 2021 minutes and approving the written minutes. Vice-Chairman Worthington seconded the motion. All in favor, motion carried.

Chairman Fryar opened the discussion of the definitions Attorney Haney drafted for the Zoning Code amendment for R-1, R-2, and R-3. Vice-Chairman pointed out that in the draft of the adult content, there is a lot of detail. He questioned whether we need to go into that much detail. Attorney Haney mentioned that he helped the City of Kennewick, WA, write it into their code. He said that it was a real problem in Kennewick. Councilmember Goode mentioned that even with the city code that we may need in the future, it might pop up later. Vice-Chairman Worthington questioned whether a statement could be made that adult entertainment is not allowed and may be generic? He mentioned that one of the definitions is what adult entertainment was. Attorney Haney voiced that we have to be careful; if the courts find it ambiguous, they will not enforce it, so we must find the fine line. Vice-Chairman mentioned the definition of a church and how do we define it.

Attorney Haney mentioned that when he looked at other City's definitions of daycare, they are similar to our code with the number of kids. He said the idea of what daycare is and times are very similar also. Vice-Chairman Worthington mentioned other Cities; for example, Rock Springs, WY, have twenty-four-hour daycares to accommodate the shift work families. The Commission discussed at length daycares that we have in our City open at around 6 AM and close by 6 PM, and if after hour care is needed, citizens usually have family help if required.

Vice-Chairman Worthington mentioned in the previous meeting that the discussion was amending the Zoning Code for R-1, R-2, and R-3; they discussed C-1 and then narrowed down definitions. He informed the absent Commissioners of the discussion in the previous meeting, and in inconclusion, the Commission decided to narrow down definitions first then amend the zoning code. The Commission discussed school, preschool, and daycare definitions at length.

Chairman Fryar questioned if the State Board of Education regulates schools. He mentioned that preschools probably do not fall under the State Board of Education. Councilmember Good mentioned the nursery school definition that Attorney Haney added to the definitions. Nursery School: An institution for the care of children of preschool age, the

activity of which shall be conducted between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. Even though some instruction may be offered in connection with such care, the institution shall not be considered a "school" within the meaning of this title. He mentioned that this definition has more clarity that it is not a school. Chairman Fryar questioned wouldn't be easier to define schools by "directed under the State Board of Education"? Attorney Haney mentioned that it has become complex, and forty years ago, everyone knew what "school" and "Church" were, which is why definitions need to be clear. Councilmember Goode stated that Chairman Fryar has a good point and maybe add "governed by the state statute" to the definition or add the "State Board of Education." Chairman Fryar voiced that the State Board of Education or state statute level they have more jurisdiction, regulations, or standards they have to follow. He mentioned the same with daycares, governed by the state, to get a daycare license. They use higher standards than the City would have; the City would want to know hours of operation, conditions to the hours they can be outside, having a fenced yard, number of children in attendance. Councilmember Goode mentioned the Health and Welfare governs daycares. Vice-Chairman Worthington voiced the Lewiston ID daycare code; it is a good document and follows the state code designed for their community. The Commission discussed at length ABC Factory preschool and how many children attend, the new location on 2nd East, neighbors' concerns about traffic at drop off and pick up times, and if they had to have a conditional use. Planner/Engineer Skinner pointed out only a business license is required with the City currently. Vice-Chairman Worthington pointed out that they have four entrances and exits; they have different stipulations, drop off and pick up times. Secretary Haderlie mentioned that drop-off is after the buses have run for the morning, starting at 8:30 AM. Vice-Chairman voiced that Councilmember Goode is right; what happens if another preschool starts up and becomes a bigger preschool? Chairman Fryar mentioned that we have been fortunate to have different businesses, and they do a decent job; they abide by the rules and are courteous to other business owners. We have had a good experience with these businesses when it could have the potential to be bad. Vice-Chairman Worthington commented that we are a small town, but one or two bad comments take care of things fast, which comes down to daycares, preschools, and restaurants. Chairman Fryar voiced that ABC Factory does not consider their business a daycare; it is strictly a preschool. Councilmember Goode voiced we need that type of business in town, and the neighbors never got the opportunity to express concerns. Commissioner Johnson expressed that any daycare or preschool over a certain number should require conditional use. The Commission discussed the number in attendance, suggesting ten or more needing a conditional use, or more than 6 needing a conditional use, the number that the state requires a license. Commissioner Johnson commented that planning and zoning could hold public hearings to let the public express their concerns. The Commission discussed at length the number of children in attendance to be an allowed use and the number of children to have to apply for a conditional use permit, and if daycares and preschools should be lumped together. Vice-Chairman Worthington pointed out the Lewiston ID code for daycares and preschools states, "Approval of a Conditional Use Permit from the Planning and Zoning Commission is required, except in a zone where preschool is listed as an outright use. A Conditional Use Permit requires a public hearing before the Planning and Zoning Commission." He pointed out that was where the catch was as a school. He mentioned from the Lewiston

Code also "Compliance with State regulations, Building, Fire and Health Codes and City Standards is required. Preschool regulations are classified by the number of students ranging from 12 or less; 13-50 students; and over 50 students; Staffing ratios are one (1) adult staff member for each twelve (12) students. At least one (1) adult shall be on premises at all times who has a current certification in pediatric rescue breathing and first aid treatment from a certified instructor." Councilmember Goode expressed the City does not want to regulate staffing and CPR Certification, that is all state-regulated; the most simplistic would-be what Commissioner Johnson recommended where there is an accumulation of children 6, 10, or 12, we would like a conditional use permit for preschool or daycares and the State would regulate operations to govern them. Planner/Engineer Skinner expressed in the current code R-1 a School is allowed use, and daycare is allowed with a conditional use.

Attorney Haney suggested to the Commission getting the definitions the way they would want. When the definitions have been established, amend the zoning code for R-1, R-2, and R-3 and decide what will be permitted and which will need a conditional use. Vice-Chairman Worthington suggested that this be the vision we follow for the amendments.

Chairman Fryar questioned whether schools could be moved into the conditional use category. Attorney Haney commented you could do that, but you would not want to do that with a new elementary school and go through the conditional use process. He stated that if you buy a home next to a big open lot and they decide to build a school, there is nothing to say because zoning laws are allowed.

Councilmember Goode mentioned that there might be more daycares down the road due to funds that will be available from the Federal government for COVID relief, and Governor Little just released today the funds will be available for daycares. He voiced that six kids are the standard, but ten kids, is a big step; this way, there is consistency with the state with six. The state propagates on six or more will need a license. Chairman Fryar is in favor of 6 or more children needing a license. Commissioner Johnson expressed concern if you have seven or eight children, that is not a lot of revenue to require them to spend money on a conditional use. Attorney Haney mentioned that they still have to have state licensing, which costs about the same. The Commission discussed the cost of State Licensing, the cost of daycare per hour and/or per day, and the cost of the conditional use. Commissioner Guthmiller agrees to get the definitions together and then work on the zoning code for R-1, R-2, and R-3. Vice-Chairman Worthington agreed.

Attorney Haney commented that Nursery School should be defined, and does the Commission like the draft that he put together? He mentioned combining nursery school and preschool. Vice-Chairman Worthington agreed because you put the preschool age in that definition. He read aloud the definition "nursery school: An institution for the care of children, of preschool age, the activity of which shall be conducted between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. Even though some instruction may be offered in connection with such care, the institution shall not be considered a "school" within the meaning of this title." The Commission discussed at length if a set time was needed in the definition or establishing the time in the conditional use hearing and combining nursery school and preschools in the definitions. Vice-Chairman Worthington suggested adding a number of kids to nursery schools and preschools and adding 13 or more to the definition. Commissioner

Guthmiller suggested leaving the number of kids out of the definition and applying it to the conditional use permit. Commissioner Johnson agreed to leave the number out of the definition and associate it with the conditional use. Vice-Chairman Worthington voiced they have to add a stipulation to have a conditional use. Attorney Haney recommended that it be stipulated in the definitions. Vice-Chairman Worthington questioned where do we start with the minimum number? The Commission agreed to seven or more for nursery school/preschool. Attorney Haney asked if they wanted to change the time for the definition? Commissioner Guthmiller suggested defining nursery school/preschool as four-hour increments of teaching/educating, where daycares are designed for care while parents are working. Vice-Chairman Worthington read from the Lewiston code- "A preschool is a separate classification, defined as "a place of structured instruction where educational sessions last no longer than four (4) consecutive hours, not governed by the State Board of Education." The Commission agreed to use the Lewiston definition for preschools.

The Commission discussed the proposed definitions for daycare. Vice-Chairman Worthington likes the proposed definitions. The Commission discussed at length the number of children for each daycare type. Chairman Fryar suggested on the amended definitions- C. Six or fewer children, family home child care; D. seven or more or seven to twelve children, group daycare and remove adults; E. daycare provider would be thirteen or more children; F combine nursery school/preschool would be seven or more children and G. Seven or more children. Councilmember Goode suggested G. preschool center, instead of "place" change to building or structure? The Commission agreed to change to "building." Commissioner Guthmiller pointed out on G. do they want to remove the "custodial care and/or"? The Commission agreed to remove "custodial care and/or" from G.

The Commission discussed the definition of school. Chairman Fryar questioned if they should add the State Board of Education to the school definition? Vice-Chairman asked part of the definition for school- but excluding institutions such as business colleges or vocational schools, or whose primary purpose is the teaching of physical culture, music or dancing, unless a home occupation, trades or industries, or the combination of any two (2) or more of these. Attorney Haney voiced we are saying that these are not schools, but they could be home occupations. Commissioner Guthmiller agreed and stated they should not be. Attorney Haney pointed out we have different definitions for home occupations. Vice-Chairman Worthington recommended making "excluding" bold. The Commission agreed.

The Commission agreed the Church's definition is acceptable and did not change it. The Commission will discuss adult content at the next meeting.

Vice-Chairman voiced that it is essential to have all of the Commission at the meetings to voice their concerns and opinions to see both sides when amending codes.

7:28 PM Vice-Chairman Worthington motioned to adjourn the meeting. Commissioner Guthmiller seconded the motion. All in favor, motion carried.