

**ALPINE CITY PLANNING COMMISSION MEETING**  
**Alpine City Hall, 20 North Main, Alpine, UT**  
**March 5, 2019**

**I. GENERAL BUSINESS**

**A. Welcome and Roll Call:** The meeting was called to order at 7:00 pm by Chairman David Fotheringham. The following were present and constituted a quorum:

Chairman: Dave Fotheringham

Commission Members: Bryce Higbee, Alan MacDonald, John MacKay, Jane Griener, John Gubler, Sylvia Christiansen

Staff: Austin Roy, Marla Fox, Jed Muhlestein

Others:

**B. Prayer/Opening Comments:** Bryce Higbee

**C. Pledge of Allegiance:** Loraine Kirton

**II. PUBLIC COMMENT**

There were no public comments.

**III. ACTION ITEMS**

**A. Exotic Animal Request – Peacocks – Loraine Kirton**

Austin Roy explained that Alpine City ordinance approved various types of animals such as horses, pigs, goats, and chickens. He said any other animal was required to come before Planning Commission and City Council for recommendation by the Planning Commission and approval by the City Council.

The petitioner, Loraine Kirton, lived at 1118 East Village Way and was interested in acquiring two peacocks which would be considered exotic animals. Specifically, they were “Blue Peacocks” and would be coming from a property in Cedar Hills. The birds had lived in Utah for some time and were used to the climate and weather. The birds were friendly, and the petitioner was seeking two so that they could keep each other company. The proposal was for the birds to be free roam on the petitioner’s property with no animal enclosure being required. The birds primarily fed on bugs and table scraps, and the owner planned to keep them well fed to keep them happy.

Austin Roy stated that the petitioner would only acquire the birds if the neighbors all agreed and approved of the request. It was important to the petitioner that the neighbors be okay with the animals, since they may wander onto neighboring properties from time to time. If the neighbors did not agree then the petitioner would not acquire the peacocks.

Article 3.21.090.4 stated:

***Other animals.** Exotic animals or animals not mentioned above may be permitted after review and recommendation by the Planning Commission and approval by the City Council.*

Austin Roy presented an aerial map of the Kirtons' property, noting that they lived on approximately one-half acre. He said peacocks were not customarily kept in a cage, as they tended to graze like ducks. The Kirtons were proposing to have a fence around their property; however, the birds do fly and may wander around the vicinity. The key to keeping them in one area was to keep them well fed, which as stated previously, they would be well-cared for by their owners. The applicant would like to move forward unless there was opposition from their neighbors.

Jane Griener said her neighbor in the back of her home had peacocks and she had thus observed their behavior. She said peacocks roamed around a bit but stayed close to their food source. Occasionally they flew off and ended up on someone's roof. She said they were fun and quirky but could be loud, especially during the spring. While the City had allowed peacocks for other people in the City, each decision was determined according to how much space was available to the animals.

Alan Macdonald asked if any input from the neighbors had been received either verbally or in writing. Austin Roy said Mrs. Kirton had not checked with any of her neighbors yet and because she wanted to propose the idea to the Planning Commission first. Jane Griener asked if there were currently any requirements pertaining to minimum lot size; she recalled the Planning Commission turning down a fox because the property was too small. Austin Roy explained that in the case of the fox, the property was only a quarter acre and the applicant didn't have enough room for an animal enclosure that would meet the ordinance. He stated that animal enclosures needed to be seventy-five feet away from a neighboring house. Since peacocks were free roaming animals, they did not need an enclosure, and therefore these same requirements did not apply.

Alan Macdonald asked if the peacocks would wander in the road. John MacKay said the peacocks would try to find a place to roost in the night, which would likely be in a tree or someplace similar. Peacocks were very curious and usually greeted cars in the vicinity by jumping up on the hoods and looking at their reflections in the glass. They also made noise and he didn't think this type of an animal was appropriate for a half-acre property.

Sylvia Christiansen had a question about fowls in the ordinance. She said she thought the City allowed chickens but not roosters because they were noisy. Austin Roy said roosters were strongly discouraged, but the City currently did not have an ordinance that prohibited them. Jed Muhlestein said the idea was brought forward to ban roosters, but it was turned down.

Loraine Kirton explained that her kids had a treehouse where they planned to put a balcony; since peacocks liked to be up high, the balcony would help protect them from predators like raccoons. She stated that the peacocks would be coming from a farm in Cedar Hills and were tame. If the neighbors didn't like them or there were any issues, the current owner said he would take them back. She confirmed that they liked to eat bugs, snails, and food scraps, which she would supply. Mrs. Kirton said these birds were used to the cold and had been raised in this environment. However, when it got especially cold, they would stay in the treehouse at night where there would also be a warming light. Mrs. Kirton said the peacocks would stay in the treehouse at night and wander around during the daytime. Most people thought they were beautiful animals, but if her neighbors were not okay with them living next door, she wouldn't get them because she valued her relationships with her neighbors.

Jane Griener said one thing to consider was that peacocks made large messes that could spread to other properties. She said she didn't think a half-acre was large enough for these animals. There was subsequent discussion regarding the best decision to make on this item.

**MOTION:** Jane Griener moved to recommend approval of the Exotic Animal request for two peacocks for Loraine Kirton with the following condition:

1. Notification of neighbors within 175 feet and getting their approval.

Sylvia Christiansen seconded. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
 Alan MacDonald  
 John MacKay  
 David Fotheringham  
 Jane Griener  
 John Gubler  
 Sylvia Christiansen

**Nays:**

None

**B. Business Commercial – Car Dealership – Lonny Layton**

The petitioner was interested in putting a small car dealership on a lot within the Business/Commercial Zone located at approximately 235 South Main Street. A proposed concept site plan had been prepared which showed building layout, parking, access, lighting, landscaping and other intended uses for the lot.

The development code did not expressly outline “car dealership” or “car lot” as a permitted use within the Business/Commercial Zone. However, there was language within Article 3.7 which may be interpreted to allow for such a use. The petitioner was asking that the Planning Commission review the proposed site plan and Business Commercial section of the Development Code and make a recommendation to the City Council.

Austin Roy read the following language from the Development Code in the Business Commercial Zone:

*General retail stores and shops providing goods and services for sale at retail in the customary manor provided that all storage and sales activity shall be contained within the building.*

He explained that this meant all sales should occur inside a building. However, there was a “Special Provisions, Uses” section in the Development Code, which stated the following:

*All commercial activities and storage shall be conducted entirely within a fully enclosed building except those uses deemed by the City to be customarily and appropriately conducted in the open.*

Austin Roy said examples were gasoline dispensing, nurseries, parked automobiles, and Christmas trees.

Austin Roy said the applicant felt like the ordinance supported what they wanted to do with the car dealership. He presented a landscaping plan for the lot, which showed an ADA handicapped ramp on Main Street, and a sidewalk that went to the back of the property, the building where the offices would be located, three display stalls, landscaping that included trees and bushes, and an area in the center with xeriscape. Austin Roy said they had plenty of parking space with about six stalls on each side. The Planning Commission needed to determine if this was a permitted use inside the Business Commercial Zone and what recommendation to make to the City Council.

The Planning Commissioners had a discussion on whether or they thought the proposed business met the ordinance. Austin Roy explained that the City's ordinance had permitted and conditional uses. In the permitted uses, specific uses were permitted in the Business Commercial Zone. This type of business was not included in the list of permitted uses, nor was it a conditional use. However, it was retail sales, for which there was language in the ordinance. The City had conflicting ordinances in that one stated that sales had to occur indoors whereas another that stated it could be done outdoors. Austin Roy read from Section 12 of the Permitted Uses:

*Other uses which are determined by the Planning Commission to be similar to and compatible with the forgoing uses, and the intent of the zone.*

Alan MacDonald asked Austin Roy if he believed this proposal should be approved. Both he and Jed Muhlestein stated that the proposal could not be denied based on how the code was written. Bryce Higbee said in reviewing the minutes from the last meeting, the Attorney, David Church, said he thought it was okay as well. Austin Roy added that David Church had said if the Planning Commission wanted to interpret this as a permitted use, there would be no argument on the matter. Jane Griener said that some people would interpret it one way whereas others would interpret it another way; basically, the Attorney indicated he would not fight it either way. Austin Roy said if the Planning Commission recommended approval and the City Council gave final approval of the proposal, the Planning Commission would have the power to determine the details of the site plan. There was further discussion regarding how the business would fall under the Gateway Historic Guidelines, and as such, be regulated by those guidelines. Jane Griener listed some of the guidelines and how the look and feel would fit in on Main Street.

Lonny Layton said the purpose of the special provisions section of the code was for direction to be given to peculiar projects that were not otherwise thoroughly satisfied or detailed within the list of permitted uses. The retail sales language was very vague. There was no way to add every business plan in the code, which was why a special provisions section was added.

Lonny Layton presented a second site plan which showed what the business could look like in the future if it were to be expanded. Regarding xeriscape, he explained that he would like to bring the building back into shape. He would like to have a dealership license so he could sell cars legally. Mr. Layton noted that he was a pilot by day, and selling cars was a hobby that he did on the side; therefore, all sales would be by appointment only. He believed this would be a good resource for Alpine. If this business were to get bigger, he would like to focus on Alpine residents. He said he had no intention on advertising or hiring employees. Mr. Layton stated that other commercial buildings had parking out front, so he did not feel his proposal would significantly change the look and feel of Main Street.

**MOTION:** Sylvia Christiansen moved to recommend approval of the proposed Lonny Layton business use as a car dealership.

John Gubler seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

<b><u>Ayes:</u></b>	<b><u>Nays:</u></b>
Bryce Higbee	None
Alan MacDonald	
John MacKay	
David Fotheringham	
Jane Griener	
John Gubler	
Sylvia Christiansen	

### **C. Rules of Procedure - Discussion**

In 2011, the City adopted rules of procedure for conducting of all meetings of the Alpine City Council. The rules of procedure adopted by the City Council defined and outlined notice and agenda requirements, roles of the Mayor and City Council, and a code of conduct. Included in the rules of procedure were ten rules of order, detailed as follows:

1. Meetings were governed by the agenda.
2. Matters requiring a decision shall be done by motion.
3. One question and one speaker at a time.
4. General Consent may be used for all motions except those used for the purpose of the meeting minutes.
5. Only three forms of motions are allowed: Initial Motions, Motions to Amend, and Substitute Motions.
6. Up to three motions can be on the floor at the same time.
7. Debate can continue as long as members wish to continue to discuss.
8. Quorum is needed to pass an item.
9. A motion to reconsider requires a majority vote to pass.
10. Mayor and Council members shall adhere to code of conduct.

The City Council rules of procedure were being presented to the Planning Commission for review and discussion, with the intention being that the Planning Commission consider adopting something similar for Planning Commission meetings.

David Fotheringham stated that he would meet with Austin Roy and work on the verbiage of the Rules of Procedures. He would then present these rules to the Planning Commission.

### **IV. Communications**

There were no communication items.

### **V. APPROVAL OF PLANNING COMMISSION MINUTES: February 19, 2019**

**MOTION:** John Gubler moved to approve the minutes for February 19, 2019, as written.

Sylvia Christiansen seconded the motion. There were 7 Ayes and 0 Nays (recorded below). The motion passed.

**Ayes:**

Bryce Higbee  
Alan MacDonald  
John MacKay  
David Fotheringham  
Jane Griener  
John Gubler  
Sylvia Christiansen

**Nays:**

None

The meeting was adjourned at 8:15 pm.