

**MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD JANUARY 3, 2007 IN THE WEST JORDAN COUNCIL CHAMBERS**

**PRESENT:** David Beecher; Chair, James Dupaix, David McKinney, Justin Stoker, Ellen Smith, Nola Duncan, and Nate Hendricks.

**STAFF:** Tom Burdett, Ryan Carter, Julie Davis, Richard Lewis, Scott Langford, Chris Gilbert, Michael Meldrum, Chien Hwang, and Reed Scharman.

**OTHERS:** Thomas Densley, Greg Hansen, David Beck, and Bruce McMullin.

\*\*\*\*\*

The briefing meeting was called to order by James Dupaix. Election of Chair and Vice-Chair will be added to the Business Items.

Item #3 was discussed regarding the detention basin, fencing, road layout, double-fronting lots, and the homeowners' association.

Item #6 was discussed regarding renting accessory living quarters as it relates to enforcement and keeping the integrity of the single-family residential zone. This item will be for discussion only tonight.

James Dupaix stated that he would distribute at the end of the regular meeting for discussion proposed changes to the Commission by-laws.

\*\*\*\*\*

The regular meeting was called to order at 6:06 p.m. by James Dupaix.

**ITEM #1**

**OATH OF OFFICE FOR NEW PLANNING COMMISSIONERS**

City Clerk Melanie Briggs administered the oath of office for new Commissioners David McKinney and Nate Hendricks.

**ELECTION OF CHAIR AND VICE-CHAIR**

Nola Duncan stated she felt that James Dupaix as a person is a fine man, but she had concerns with him, as a developer, being the Chair as it may be a reflection of an appearance of conflict of interest. She said she had asked about 40 residents and some elected officials for their opinion regarding the matter, and there was a lot of concern expressed. Commissioner Duncan nominated David Beecher for the position of Chair.

David Beecher accepted the nomination and nominated James Dupaix as Chair.

James Dupaix said he didn't see a conflict of interest. If he did see one as being Chairman he would feel the same about serving as a Commissioner. The standard for conflict of interest would be the same for either position, and that is why he accepted the nomination.

The result of the secret ballot was 4-3 in favor of David Beecher.

Nola Duncan nominated James Dupaix for the position of Vice-Chair, and he declined the nomination.

James Dupaix nominated Justin Stoker who accepted the nomination.

Nola Duncan nominated Ellen Smith who accepted the nomination.

The result of the secret ballot was 5-2 in favor of Justin Stoker.

\*\*\*\*\*

**ITEM #2: APPROVE MINUTES FROM DECEMBER 20, 2006**

**MOTION: Nola Duncan moved to approve the Consent Calendar as listed in the agenda. The motion was seconded by Ellen Smith and passed 7-0 in favor.**

\*\*\*\*\*

**ITEM #3: 27-02-301-010, 016, 046, 084 TRIMBLE CREEK #2 SUBDIVISION; 1250 WEST 9100 SOUTH; PRELIMINARY SUBDIVISION PLAT; R-1-12G ZONE; GREG HANSEN (APPLICANT) [#SDMA20060011]**

Michael Meldrum gave the overview for the 21-lot preliminary subdivision plat approval. A masonry wall will be required between the commercial and residential uses. Other fencing requirements are shown on the plat. Staff was concerned with the additional financial burden and liability to the property owner of Lot 211 if the detention pond were to remain a part of it. Staff recommended that a homeowners' association be created for the maintenance and permit the City to assess fees to the homeowners for the maintenance of the pond if the HOA fails to perform. A portion of Lot 218 has an unbuildable section for an irrigation easement. Two speed tables have been provided for traffic calming.

Staff recommended that the Planning Commission grant Preliminary Subdivision Plat approval for Trimble Creek #2 Subdivision, located at 1250 West 9100 South with the conditions as set forth below. Planning Commission approvals do not include Fire, Building and Safety, or Engineering approval. Requirements by those departments must be met and site changes or additions may be required prior to staff approval of the Final Plat. Building permits will not be issued until all departments' requirements have been satisfied and the Final Plat is recorded.

1. All lots must meet the requirements of §87-5-103 of the Zoning Ordinance.
2. Meet all streetscape requirements for trees as described in §89-6-706(2) of the Zoning Ordinance.
3. A current title report must be submitted and approved prior to staff approval of the final plat.
4. A note must be on the plat (Mylar) indicating that the detention pond area cannot be filled in or built on by the purchaser of Lot 211.
5. A note must be included on the plat indicating to the purchaser identifying the unbuildable area of lot 218.
6. Replace the existing 5-foot high field fence with a 6-foot high chain-link fence along the south boundary of the subdivision.
7. A 6-foot high masonry wall is required along the north boundary of the subdivision plat as specified in §89-6-802 and §89-6-803(e) of the Zoning Ordinance.
8. Meet the design standards for the speed tables and curve warning signs as included in the City's Public Improvement Standards, Specifications, and Plans manual.
9. Create an HOA for this subdivision that permits the City to assess fees to the homeowners for maintenance of the detention pond if the HOA fails to perform.

Greg Hansen, Trade West, didn't have anything to add to the staff report. When asked, he stated that he'd rather not have a homeowners' association. He didn't see the need for it and felt that the maintenance of the pond could be handled through the restrictive covenants and architectural control committee. However, if the Commission would like to handle it that way it is not an issue for him.

There was some discussion regarding the possibility of double-fronting lots. Mr. Hansen stated that he didn't consider them to be double-fronting, and he didn't plan for them to have access onto Trimble Lane. Michael Meldrum pointed out that there is curb, gutter, and a strip of land that was created with the first phase of Trimble Creek.

Ellen Smith said that anyone can have access to those lots from the back, and that is a concern to her.

Michael Meldrum said the minimum fencing requirement in that location is chain-link, which is proposed on the plat.

Ellen Smith said she would feel more comfortable with some type of wall.

Greg Hansen said he wouldn't be opposed to a masonry wall in the rear of those two lots.

David McKinney pointed out the odd shape of Lot 221 and asked about the possibility of realigning the road to connect with Trimble Lane since the two roads are so close to each other. This would also eliminate the double-fronting issue.

Greg Hansen said this subdivision had been in the planning stage for three years. The initial issue was that the Fire Marshal wanted an additional access from 1300 West into that area.

Reed Scharman said this review had gone on for an extended period of time. At the time of the submittal the original Trimble Creek Subdivision dead-ended to the east, but now it connects to the River Oaks Subdivision and out to 9000 South. The issue concerning two accesses no longer exists.

There was continued discussion regarding a reconfiguration of the plat. The applicant was concerned that major amendments would require delaying the project yet another six months. Mr. Hansen asked if the approval could be given tonight with the details worked out with staff. It was pointed out that the distance between the two streets accessing 1300 West had been checked against the ordinance. The current proposal complies with the code.

The recorded subdivision Plat for Trimble Creek was obtained in order to see if the 10-foot strip of grass to the south of the proposed subdivision were privately owned or if it were dedicated to the City as right-of-way in order to see if the suggestion to change the road layout was even possible. The plat showed the property as dedicated, but it was unsure sure how that property was being maintained.

Reed Scharman stated that if the plat were to undertake a significant change to the layout, he would require another full review by staff, because there may be issues with water supply, fire flow, and how they would tie in to the lines.

Greg Hansen said he opposed the whole idea of reconfiguring the road. The existing residents in the Trimble Creek Subdivision have seen the proposal and agree with it. The proposal meets the City codes and ordinances. There had been too much planning work already to make that much of a change, and he didn't see the benefit. He restated that he would provide a cinderblock wall behind the two lots in question to assure there would be no access to Trimble Lane.

Thomas Densley, West Jordan resident, stated that there is a center median at the entrance to Trimble Lane, and he didn't think that the proposal from the Commission would work. He felt that the submitted layout was good, and the project would go back to square one if it were changed now. There are landowners in the process of trading property in order to make this work.

Further public comment was closed at this point for this item.

**MOTION: Nate Hendricks move to allow the applicant to return to answer a question. The motion was seconded by James Dupaix and passed 7-0 in favor.**

Nate Hendricks said the staff report pointed out that there is additional liability for the property owner who would own Lot 211 with the detention pond. He asked if it would be a problem to separate the pond from the lot and maintain it with the HOA.

Mr. Hansen said that would be fine.

**MOTION: James Dupaix moved to approve the Preliminary Subdivision Plat for Trimble Creek #2 Subdivision; 1250 West 9100 South; Greg Hansen (applicant) with the conditions set forth in the staff report, amending:**

- 4. Separate from Lot 211 the detention pond.**
- 6. Replace the existing 5-foot high field fence with a 6-foot high chain-link fence along the south boundary of the subdivision with a cinder block wall behind Lots 201 and 202.**

**The motion was seconded by Ellen Smith and passed 7-0.**

\*\*\*\*\*

**ITEM #4: 21-34-128-008 CROSS POINTE PLAZA; 7900 SOUTH REDWOOD ROAD; REZONE .46 ACRES FROM P-O (PROFESSIONAL OFFICE) TO CC-F (CITY CENTER FRAME) ZONE AND GENERAL PLAN LAND USE AMENDMENT FROM PUBLIC FACILITIES TO TOWN CENTER LAND USE DESIGNATION; BRUCE MCMULLIN (APPLICANT) [#GPA20060005 & ZC20060012]**

Michael Meldrum gave a history of the property and overview of the request for rezoning. At one time it was considered for expansion of the Civic Center, which is why it is designated as Public Facilities on the Land Use Map. However, the City has no future plans for the property now. Staff found positively for each of the findings in the criteria.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to amend the General Land Use Plan map from Public Facilities to Town Center and rezone 0.46 acres from P-O to CC-F, located at 7900 South Redwood Road, Bruce McMullin, applicant, based on the following findings:

1. The proposal is consistent with the purposes, goals, objectives, and policies of the General Land Use Plan, specifically Goal 2, Policy 1 (p. 19).
2. The location of the proposed zone change is adjacent to property already in the CC-F zoning district and therefore is harmonious with the overall character of existing development.
3. Granting the land use amendment and zone change on this property will not adversely affect adjacent properties because the property to the north is already in the requested commercial zoning district (CC-F) and the property to the south is developed as a fire station.
4. The proposed amendment is consistent with the provisions of the Redwood Road Overlay zoning district.
5. No additional demand on public facilities or services will be generated with this application.

Bruce McMullin, applicant, had nothing to add to the staff report.

David McKinney asked if there were any plans to change the building itself.

Bruce McMullin said they acquired the property last June and had re-roofed and renovated the interior. They are considering some ideas to update the exterior, but nothing had been finalized.

Further public comment was closed at this point for this item.

**MOTION:** Justin Stoker moved to forward a positive recommendation to the City Council for Cross Pointe Plaza; 7900 South Redwood Road; Bruce McMullin (applicant) to amend the General Land Use Plan Map from Public Facilities to Town Center and Rezone .46 acres from Professional Office to City Center Frame based upon the five findings in the Planning Commission report. The motion was seconded by Nola Duncan and passed 7-0 in favor.

\*\*\*\*\*

**ITEM #5: TEXT AMENDMENT – AMEND THE WEST JORDAN MUNICIPAL CODE SECTIONS 89-3-303; 89-3-1109; 89-6-103 REGARDING ACCESSORY STRUCTURES; CITY OF WEST JORDAN (APPLICANT) [#TA20060009]**

Chris Gilbert stated that the previously reviewed amendments from the Planning Commission had already been discussed by the City Council, but after that public hearing members of the City Council discovered that a condition they had desired regarding barns and agricultural structures in the Rural Residential zones was not adequately provided for. It is proposed to use the wording from the Agricultural zone for the Rural Residential zones, which meets the intent of the City Council. Some corrections of oversights are also being taken care of at this time. In the West Side Specific Plan ordinance it is being proposed to strike the language regarding accessory structures and adding language that refers to 89-6-103 in order to maintain consistency. In order to be compliant with the 2006 Building Code Series soon to be adopted the maximum square footage for accessory buildings before requiring a building permit will be reduced to 120 square feet. Lastly, the phrase ‘at the highest point of the roof’ will be removed when addressing measurement of the building height in order for all height measurements to be consistent throughout the zoning ordinance.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to amend Sections 89-3-303 and 89-6-103 of the Zoning Ordinance with the findings outlined below:

1. The text amendments enhance the Zoning Ordinance.
2. The text amendments comply with Goal 1 of the Urban Design section of the General Plan, which reads: “To promote and foster the concepts of good urban design at the community, neighborhood and individual project levels.”
3. The text amendments comply with Goal 2 of the Urban Design section of the General Plan, which reads: “To strengthen the identity and image of the City of West Jordan.”

It was explained that proposed language in the West Side Planning Area portion of the changes will still include unique provisions that were consistent with the intent of the West Side Specific Plan.

David Beecher pointed out some formatting errors.

A brief explanation was given for the difference in setback requirements for the R-1-6 zone. Tom Burdett explained that it was to accommodate larger homes on small lots.

Further public comment was closed at this point for this item.

**MOTION:** Justin Stoker moved to forward a positive recommendation to City Council to amend Sections 89-3-303, 89-6-103, and 89-3-1109 of the zoning ordinance with the findings 1 through 3 in the Planning Commission report. The motion was seconded by Ellen Smith and passed 7-0 in favor.

\*\*\*\*\*

**ITEM #6: TEXT AMENDMENT - AMEND THE WEST JORDAN MUNICIPAL CODE SECTIONS 89-1-203; 89-3-202; 89-3-302; AND 89-3-1105 REGARDING GUEST HOUSES; CITY OF WEST JORDAN (APPLICANT) [#TA20060011]**

Richard Lewis explained that several months ago when an application was submitted for a guest home it was realized although there was a provision to allow them there were no criteria. The Planning Commission eventually made a recommendation that the use be stricken from the code while staff look at options. The City Council supported that idea and asked that a proposal come back to them. As the community matures the City will hear more requests for this type of structure. However, they should consider ramifications of allowing the use. The Commission should give feedback tonight in order for staff to prepare a draft ordinance. However, the option is also there that they not be allowed at all.

Scott Langford stated that they should address the definition of the land use, which zoning districts they should be allowed in, and possible standards of approval. Staff proposed that the allowed zoning districts should be larger lots such as lots 1/2-acre and larger in the rural residential, residential estate, and agricultural zones in order to mitigate potential impacts to surrounding properties

Mr. Langford gave a proposed definition, which allows for more flexibility to allow accessory living quarters for different situations rather than just for guests. He discussed regulating the accessory living quarters by either making them prohibited, allowed but restricted in size, placement, design, usage, etc, in such a way as to disallow the rental or lease of such structures, or allowed as a rental or leased structure, but restricted in size, placement, and design to mitigate impacts to surrounding properties. It was pointed out that staff did not find any municipalities along the Wasatch Front that prohibited them altogether. Twelve proposed conditions are geared toward the second option and are designed to reduce the temptation of converting the units into rental units. He showed some examples of different types of accessory living quarters.

Staff recommended that the Planning Commission review the suggested amendments to the Zoning Ordinance and direct staff to prepare a final report scheduled for continued public hearing on the January 17, 2007, Planning Commission meeting.

James Dupaix suggested that some of the new zonings in the West Side Planning Area be included such as VLSFR and perhaps LSFR, which both have the opportunity to have 1/2-acre lots. He suggested that condition #1 should be one unit per primary dwelling unit. He wondered if condition #6 would limit the opportunity to lease or rent the property at all. He also did not want the time in which someone is staying in the structure to be limited, because a property caretaker may be there for longer periods of time. He also wanted to make sure that the ordinance allows for properties to be owned and occupied by more than one unrelated individual.

Scott Langford said the time limit was removed from the proposed conditions.

Nate Hendricks said he understood some of the drawbacks to leasing and renting a guest house, but he didn't think it is something that shouldn't be allowed.

Scott Langford said the general purpose of the single-family zoning district is for a single-family, and once they open the door for leasing you create the potential of destroying the single-family characteristic.

Nate Hendricks suggested that a special license could be required to allow for it. He gave an example of one who lives in the guest house and rents the primary structure.

Tom Burdett said in traditional zoning ordinances these provisions are allowed for family members who are elderly, handicapped, etc., and are associated with principal family living in the main dwelling unit. Over time some cities may allow them to be rented in order to meet affordable housing needs. These policy decisions are set by the Planning Commission and City Council to go in whichever direction they choose.

Ryan Carter said these are not easy issues, and any time they are looking at encouraging the ability to lease portions of property on a single-family residential area they will be laying that proposal at the feet of a City Council which zealously guards low density residential areas, and they don't want to see any mechanism that will circumnavigate that. They don't want this to be an end-run around the density designation for these zones.

Tom Burdett said it is a matter of what is a good fit for the neighborhood. Single-family is the most protected land use class, and how far they want to extend the rights of the owner is a matter of local rule. It's hard to know how many applications they would have for this, but they want to give the Planning Commission the tools to address the conditional uses if it were approved.

Nate Hendricks pointed out that the Daybreak development has a plan that includes a guest house, and it is more than 25% of the floor area of the home. He asked if there would be a mechanism for an exception to that rule.

Tom Burdett said it could be proposed in a flexible zoning district such as a Planned Community and Planned Residential Development. The proposed amendment is mainly applicable to the standard zoning districts.

Reed Scharman pointed out that they need to be cautious in that they don't have people circumventing the flag lot subdivision process to get an additional dwelling by calling it a guest house. They also have to address how the fire and engineering codes perform their function. There are certain access and safety issues that arise with smaller lots and placement on the lots.

Justin Stoker felt that a special use permit could provide for flexibility regarding the no rental condition. He felt that keeping single-family residential is important, but there may be situations such as a caretaker that would allow for exceptions.

David McKinney said he wasn't certain that flexibility on the rental issue is a practical restriction, because a line has to be drawn somewhere, and he questioned the legal aspects regarding equal protection.

Ryan Carter said there had been case law on prohibition, but the guest house needs to be considered an accessory use in an area that is zoned single-family residential. By specifying single-family residential as a regulation it doesn't create an equal protection area where they are talking about a zone where nobody is allowed to create a duplex in a single-family residential area. Insofar as they are operating within an area that is zoned single-family residential the limitations ought to be that the entire property be rented or not at all. He didn't support the idea that the dwelling could be rented in some circumstances but not others.

David McKinney agreed. He asked if there would be a similar problem if there is a size standard exception for planned unit developments.

Ryan Carter said they would be operating within the limits of the overarching zoning. When there is a different zoning designation that allows for flexible planning, as long as everyone within that zone is entitled the same basic opportunities for development there is not an equal protection problem.

There was some discussion regarding a condition of architecturally compatible dwellings. That review could be completed during the permit process by requesting materials samples that are consistent. There was also clarification regarding visibility of the access. The intent was that the front door not be visible in order to limit the ease of making the property a rental unit. This requirement was common in other codes. It was suggested that the entry door face away from the right-of-way, but it might be difficult for it to be totally unseen. These issues would be reviewed on a case-by-case basis with a possible provision that the Planning Commission has the ability to evaluate that condition in each situation.

Clarifications were made that condition #5 is referring to the gross floor area of the livable square footage. It was also suggested that the acreage minimum be 20,000 square feet in order to be consistent with the zoning classifications. Commissioner McKinney said he would be inclined to be against renting the dwelling separate from the entire property, and he didn't see any reason for a time restriction.

Nola Duncan said her greatest concern was how they would enforce the rental issue. She didn't think the City should be locked into a situation that is impossible to enforce. She asked what would happen if the property owners were found to be in violation of the conditional use permit.

Richard Lewis said a conditional use permit can be reviewed at any time based on complaints, and they can be made to come into compliance. Once a property had been found in violation the enforcement officers would be monitoring it much more closely.

Several concerns were raised with issues that could be opened up by allowing the units. Staff stated that currently these units are not allowed at all, and it was not their intent to say the Commission had to allow them.

Commissioner Duncan said they need to keep a good balance with the density, and if they start allowing two rental units per half-acre it may send the City in a direction that they don't intend.

Justin Stoker suggested that the minimum floor area could be raised to 30 or 33%, because some of the older, larger lots have smaller main dwelling units.

Clarification was given for condition #3 that intends that there isn't a separate stub off the main line, which makes it more difficult to rent out. It is not to limit alternative fuels and utilities, but to prohibit separate metering of utilities.

There was a discussion regarding the current code regulations for renting basements of a single-family home, which is not allowed. Children who pay rent to their parents to live at home are all members of the same family, which is permitted by the code.

Commissioner Hendricks suggested that special permits or licenses could be obtained every year with approval of the neighbors in order to rent the unit, because it is a turnoff to people when cities become so restrictive. However, neighborhoods need to be protected.

Tom Burdett said they wouldn't support that idea, because it is problematic to make it so subjective to have the neighbors sign on the approval. These issues should be based on physical properties of how the land is used, and not opinion and judgment. He reminded the Commission that the group of zoning districts they are suggesting is fairly narrow.

David McKinney stated that having a restriction of no rentals on the accessory units is no different than the current restriction for basement rentals. If complaints are made they would be followed up on, so enforcement doesn't seem to be problematic.

Staff explained that the City Council asked that the issue be considered and recommended by the Planning Commission. Staff will then draft an ordinance based on the recommendations.

**MOTION:** James Dupaix moved to give direction to staff regarding the proposed Text Amendment to Sections 89-1-203, 89-3-202; 89-3-302; and 89-3-1105 regarding Guest Houses. Overall the Commission wants to allow guest houses. He commented on the twelve suggested conditions in the staff report.

1. One guest house per dwelling unit.

2. This is a desirable feature.
3. Not served by separate metered utilities.
4. Needs to be more flexible, but they don't want the guest house to appear to be the primary residence or a separate primary residence. Suggested language could be that the entrance not face the public right-of-way. The entrance spoken of is the entrance into the living quarters rather than entrance by vehicles.
5. The suggestion for floor area is 33%.
6. This is a good idea, and the Commission had given direction on how they wanted that to go.
7. Stating at least 20,000 square feet made sense.
8. The recommendation is good. There was a discussion on having a maximum number of parking spaces. The parking would be reviewed as the conditional use permit comes to the Commission.
9. This is a good suggestion.
10. The principle dwelling unit shall not be leased or rented separate from the guest house.
11. There was a discussion regarding allowing some types of home occupations in the accessory living quarters. The current home occupation standards do not allow them in accessory structures, the square footage limitation of the structure size and maximum 25% square footage for the business may also be prohibitive. It was determined that a caretaker living in the accessory living quarters would not constitute a home occupation.
12. This condition should remain.

The motion was seconded by Nola Duncan and passed 7-0 in favor. Nate Hendricks stated he would vote in favor of the motion but wanted to make sure there was more discussion and that the motion didn't indicate this was the final recommendation. He would like information from other cities regarding how they deal with the issue of rented units, because he would like to consider some flexibility.

**MOTION:** James Dupaix moved to continue the Text Amendment regarding Guest Houses/Accessory Living Quarters to the February 21, 2007 meeting. The motion was seconded by Ellen Smith and passed 7-0 in favor.

\*\*\*\*\*

James Dupaix distributed some proposed changes to the Planning Commission by-laws. He described each proposal. Some of the main issues are to have more background information on the applicant provided to the Commission, the elimination of substitute motions, prohibiting the Chair from making or seconding motions with limiting voting to cases of tied votes. He asked that these suggestions be considered at the next meeting.

David Beecher stated that it made sense to him that the Chair doesn't make a motion, but he did not know why the Chair wouldn't want to vote.

Tom Burdett stated that Planning Commission training is being scheduled. Most of the Commission stated that February 28 would be a good date. He noted that the City Council would be holding a Strategic Planning Session on January 11 in which they are invited to attend, if desired.

**MOTION:** James Dupaix moved to adjourn. The motion passed 7-0 in favor.

The meeting adjourned at 8:47 p.m.

David Beecher  
Chair

ATTEST:

JULIE DAVIS  
Executive Assistant  
Community Development

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2007