

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD FEBRUARY 7, 2007 IN THE WEST JORDAN COUNCIL CHAMBERS

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

STAFF: Tom Burdett, Richard Lewis, Peter Simmons, Chris Gilbert, Madeline Galang, Reed Scharman, Ryan Carter, and Julie Davis.

OTHERS: Kris Berg, John Berg, Jeff Shaw, Ted Manwill, Pam Manwill, Scott Romney, Dr. Jack Rasmussen, Cameron Duncan, and Marty Biljanic.

The briefing meeting was called to order by David Beecher.

The minutes were discussed and minor corrections were noted.

Item #2 was briefly discussed regarding the M-P designations and the codes that are applicable. Each potential application will come before the Planning Commission to determine if it is appropriate for a specific site. The Commission should consider if this type of use would be appropriate as a conditional use in any of the three M-P zoning areas within the City.

Item #3 was discussed. Two letters were distributed from residents in the area with concerns of lighting on the property. The Commission can address the lighting issues in association with the amended site plan and consider possible options for mitigation.

The regular meeting was called to order at 6:08 p.m.

ITEM #1 CONSENT CALENDAR

A. APPROVE MINUTES FROM JANUARY 17, 2007

MOTION: Justin Stoker moved to approve the Consent Calendar as listed in the Planning Commission report with the amendments mentioned in the pre-meeting. The motion was seconded by James Dupaix and passed 7-0 in favor.

ITEM #2: TEXT AMENDMENT – AMEND THE WEST JORDAN MUNICIPAL CODE SECTION 89-3-703 TO ALLOW INDOOR RECREATIONAL USES AS A CONDITIONAL USE IN THE M-P ZONING DISTRICT; CITY-WIDE; ULTIMATE INDOOR/JEFF SHAW (APPLICANT) [#TA20060013]

Peter Simmons gave the overview of the request to allow Indoor Recreation in the M-P Zone. The applicant currently has two other facilities in Utah. There are currently three M-P zoning districts in the City. Staff felt that the request would meet the goals in the General Plan. The Parks, Recreation, and Trails element talks about having uses that meet the needs of the community in that area while working with public and private entities. The M-P Zone is a buffer between residential and industrial, and this use would be a good fit and would be compatible with the existing personal instruction services in the area that the applicant is considering. Staff did have a concern with the potential number of people who could attend the facility as it relates to parking. The proposed language of the text amendment addresses parking requirements specific to these types of uses. He explained that staff researched several facilities and codes that specifically dealt with indoor soccer facilities in order to arrive at the proposed parking requirement. They also compared it to similar uses in order to anticipate other indoor recreation activities besides soccer.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to amend §89-3-703, §89-3-705 and §89-6-603(b) of the West Jordan Municipal Code as attached in Exhibit "A"; based on the findings for criteria 1-5 listed in the staff report.

It was suggested that the two different parking calculations should be separated by the word 'or'. If the use dealt with playing fields it would be one calculation, and if it were another type of recreational use the other calculation would be used. If there is a question regarding the parking calculation the Zoning Administrator would make the determination, but generally the greater number would be used.

There was a concern with the traffic that could be generated during rush hour periods. If a traffic study is determined to be necessary it would be required at the time of the conditional use permit or site plan, but it would be well within the Planning Commission's area to require the traffic study based on the situation.

Jeff Shaw, Ultimate Indoor, 3798 North 4700 East, Eden, Utah, said he appreciated the work from staff and felt that the facility would be a benefit and a success. He stated that there are about 75-100 parking spaces at their Woods Cross facility, which is sufficient.

Nate Hendricks noted that the Kearns Oquirrh Park has an indoor arena, and they don't fill that many stalls. He wondered if 100 stalls would be excessive.

Jeff Shaw said they are proposing two fields. He said they wanted to make sure they have enough parking so people don't park on the street. He didn't think it was excessive.

Reed Scharman noted that they should consider that this zone, like other manufacturing zones, does not have sidewalks, and this use is not necessarily what the M-P zone was set up for. He recommended that they have the needed parking at the facility so they don't have to rely on cross access parking that could be dangerous for people walking to the facility.

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

Nola Duncan said she is not opposed to the use, but most of the indoor recreation uses will be held in the evening, and the time of day of operations would impact traffic as people are trying to get home from work. She felt that they should consider the traffic situations in all of the M-P districts.

James Dupaix said they should look at the traffic situations, but that should be with site specific applications and not with the ordinance. He felt that the M-P zone is more appropriate than the M-1 or M-2 zones for this type of use, because the other zones usually have more hazardous types of operations.

Justin Stoker was also concerned with the potential hours of operation if located next to residential districts and felt that an additional buffer could be considered.

James Dupaix felt that would be appropriate to consider when the conditional use permit application comes forward.

MOTION: James Dupaix moved to forward a positive recommendation to the City Council to amend Section 89-3-703, 89-3-705, and 89-6-603(b) of the West Jordan Municipal Code as attached in Exhibit A of the staff report to allow Indoor Recreational Uses as a conditional use in the M-P Zoning District; City-Wide; Ultimate Indoor/Jeff Shaw (applicant) based on the findings of the criteria 1 through 5 in the staff report. The motion was seconded by Ellen Smith and passed 7-0 in favor.

ITEM #3: 21-22-403-002, -003 MOUNTAIN VIEW BUSINESS CENTER; 6783 & 6785 SOUTH REDWOOD ROAD; AMENDED SITE PLAN AND CONDOMINIUM PLAT; SC-1(ZC) ZONE; CROWN ENTERPRISES, LLC/JACK RASMUSSEN (APPLICANT) [#SPCO20060040 & #SPCD20060005]

Peter Simmons gave the overview of the request. The original project was approved on October 28, 2005. One request is to convert the new building into three private ownerships with the first floor being one unit and the second floor being separated into two units. The amended site plan will add seven parking stalls to the north side. As the project was developed they realized a 12-foot gap existed between the two properties. Dr. Rasmussen's office purchased the entire piece. Some of the residents would like to speak on concerns with the site.

Staff recommended that the Planning Commission grant Amended Site Plan approval for the Mountain View Business Center Condominium located at 6783 and 6785 South Redwood Road with the conditions of approval 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.

1. Meet all requirements of Title 89 of the Zoning Ordinance and all previous conditions of approval as set forth by the Planning Commission at the time of original Site Plan approval in October of 2005.
2. Meet the conditions of approval as established by the Planning Commission for the approval of the Final Condominium Plat.
3. If determined applicable by the Planning Commission upon Staff's inspection, the Planning Commission shall request and require that the Applicant reduce the overall light output of the parking lot light bulbs and install shields on fixtures that currently do not have them, to alleviate and/or remedy the adjacent residential neighborhood concerns.

Cameron Duncan, Ensign Engineering 90 East Fort Union Boulevard, representing Dr. Rasmussen was present to answer questions.

John Berg, West Jordan resident, presented a DVD that showed where the lighting from the subject property spills down into his yard. He stated that their entire backyard is illuminated contrary to City code. He stated that this is an invasion of privacy. He noted that the Mountain America Credit Union site has lighting that is much less intense. He stated that one light standard had been turned off, but it still isn't good enough. Shields have been installed, but they are not effective. He understood that the lighting is for the safety of their employees, but he didn't know why the lights should burn after working hours. He noted that the lights also shine into the other neighboring yards.

Kris Berg, West Jordan resident, showed the Mountain America Credit Union lights compared to the subject site. She stated that they won't be able to enjoy family outings any longer as the light is right by their picnic table and fire pit. She distributed a handout regarding some trees that they lost due to the installation of the wall. She explained the history of the conversations that had taken place regarding the replacement of the trees and the connection of the fence. She stated that at the request of Dr. Rasmussen they faxed a bid on January 31 for the fence and the trees, which came to \$2195, but Dr. Rasmussen didn't respond to the fax or phone messages. She stated that she told Mrs. Rasmussen that they were filing in small claims for the items. They felt that if the City approved the condominium plat before they go to court there will be no assets to exercise a judgment against for Crown, LLC.

Ted Manwill, West Jordan resident, stated that his property is on the northeast corner of the subject property. He sent a letter to the City regarding the lighting as well. He was unhappy that they are addressing another zoning change with the property and that they are asking for approval after-the-fact. He stated that the 12-foot buffer on the north had been an issue for years with prior property owners. He stated that the parcel had previously been landscaped by Mountain America Credit Union, and now with the additional spaces they are left with a reduced landscape buffer. He hoped there was some way to provide a good faith tradeoff for the

landscape buffer with large caliper trees on the north and on the east. He stated that the zoning code states the lights must be adequately shielded. He didn't feel that the two lights on the east property line are necessary, and he would like to see the light standards and bases removed.

Dr. Jack Rasmussen, applicant, apologized for the problem that developed. They had tried to be good neighbors by doing at least or more than what was required from the site plan. The lights were installed exactly as they were specified on the site plan. They turned one light off because the Bergs were not happy. They would be happy to reduce the wattage of the lights. However, they didn't want to make a dark corner for the patients and employees at night. The previous trees were Russian Olives and Chinese Elms with the main trees being on their own property. The only trees that were left after that were those along the fence line, and any others would have been suckers. He had told Mr. Berg previously that he would be happy to plant some trees in his backyard. They haven't planted any landscaping yet because it is winter. In the first discussion with Mr. Berg, Dr. Rasmussen thought that they would be planting a couple of trees. On the second discussion Mr. Berg indicated that he wanted five trees, and now he wants six trees of a specific type. He didn't see where they were in violation of anything that they had approved. The landscaping between the credit union and the subject property has the exact same amount of landscaping they agreed upon, and that hadn't changed. There is the same separation between the residential properties. He stated that he asked Mr. Berg if he could wait for the trees until they did their own landscaping, but he was unhappy with that. When he settled with the other neighbor he asked Mr. Berg what it would take to settle the concerns and asked him to send a fax. He didn't hear from him for a couple of weeks and then went out of town until Monday night, and when he returned he didn't realize there was a fax. Mrs. Berg called his wife and threatened to sue and said the bill to settle would be \$2,500. They are happy to be good neighbors and have done exactly what they said they would. Until this moment they had intentions to do exactly that, but he didn't know at this point if they can make the Bergs happy. He didn't know what the condominium plat request had to do with putting in the fence that the neighbors required. He felt that the neighbors must have known that the trees would have to be removed to place footings for a 14-foot fence. They built the fence because the neighbors required it. He stated again that they would reduce wattage in the lights as long as it doesn't affect security, but he didn't want it to be a form of blackmail.

Nola Duncan asked what time the office closes.

Dr. Rasmussen said they close at 7:00 p.m., although they might close earlier than that at times. They need the lights until that time.

Nola Duncan explained that in other situations the applicants and neighbors had agreed upon a timer for the parking lot and to allow safety lights next to the building.

Dr. Rasmussen said they have a timer and would be happy to look into adjusting the hours. He stated that they didn't want to offend the Bergs or anyone else.

Nola Duncan asked if they were planning to install trees on the Berg's property at the time that they do their own landscaping.

Dr. Rasmussen said they offered to put trees on the Berg's property, and each time the number of trees increased.

Justin Stoker said the landscaping detail isn't included in the plan in the packet. Peter Simmons responded with the type and number of trees to be three Silver Linden and 7 Austrian Pines along that eastern property line near the wall. There will be an additional four Silver Linden along the north area. Pine trees are required to be 6-8 feet in height at planting and 2" caliper for deciduous.

Dr. Rasmussen said they didn't realize the lights would be a problem. They submitted the site plan and provided what was approved. They would like to work with the Bergs, but not under the conditions where they find out tonight that there is a lawsuit filed.

Nate Hendricks asked if they had considered other types of lights for the area, such as a bollard light. He understood the need for safety but thought there might be other options.

Dr. Rasmussen said they hadn't considered it, because they installed the same lights that were submitted and approved by the Commission. He acknowledged that their lights seem to be a higher wattage than the ones at the credit union. He said they are willing to do whatever is necessary. They did turn off one light to appease the neighbors.

Nate Hendricks was concerned that the additional parking spaces were added before the amendment was approved.

Dr. Rasmussen said they are happy to follow whatever recommendation the Commission makes regarding the additional parking.

David McKinney asked Dr. Rasmussen if he would agree to turn off the other light on the east side and reduce the wattage of the remaining lights.

Dr. Rasmussen said as long as it doesn't cause a security problem with staff and patients. However, in the letter submitted by the Bergs they stated it would not be enough. He felt that the time to discuss the lights would have been at the site plan approval. They were willing to do whatever was necessary and did only what they got permission to do. He said they would be amenable to turn off the other light, but he didn't know if it would satisfy the Bergs.

MOTION: David McKinney moved to have Mr. Berg return to answer some questions. The motion was seconded by Nola Duncan and passed.

David McKinney said he visited the site at 9 p.m. and agreed that the lighting was excessive, but the City ordinance doesn't have a maximum for illumination, so he understood how that issue would have been overlooked. He asked Mr. Berg if light comes into his yard from the lights in the parking strips next to the building.

Mr. Berg couldn't say, because the lighting from the standards was too intense. He stated that he can see the lights especially the one on the southeast side.

David McKinney asked if the two lights on the east were turned off if the other lights would still illuminate his yard. He asked if Mr. Berg would agree to a solution where the two east lights are turned off and the wattage of the other two are reduced.

Mr. Berg said a solution would be to eliminate the two standards and reduce the wattage on the others to match the intensity of the lights at the credit union.

Chris Gilbert noted that the current code now requests photometric studies and detail of the fixture so that shielding and direction can be reviewed.

A brief discussion was held regarding the possibility of replacing the lights with the types that would shine down instead of out. However, in order for a tall light to illuminate an area the light has to travel laterally some amount.

Ryan Carter stated that because there is an amended final site plan application in front of the Commission they are able to discuss the lighting regulations. Section 89-6-606 states that lights in a parking lot have to be arranged so as to reflect the light away from adjoining lots in residential districts, and based upon the evidence presented he saw where the present shielding isn't adequate. It may be a matter of enlarging the shield plates so they don't have any direct light beam that goes into the backyard. Ambient light is a different story, because that won't necessarily violate the code. The interior lights that point outward might also be in violation, but those could also have shields or skirts to point the light directly down. He felt that additional skirts might be the best, most reasonable solution given the expense that had already been given by the applicant to install the lights. He felt that the problem was inadvertent and was not a conspiracy to alarm or annoy property owners. He strongly discouraged the Planning Commission from acting on the request from Mrs. Berg to continue the hearing. The Planning Commission is in no position to hold an application hostage while some other opposing party files private litigation or civil action against it. The City doesn't have anything to say about the rights and remedies that are enforceable with regards to either party, especially where there is also a substantial question as to who has what rights in the trees that used to exist along the property line. Whatever happens between them regarding the property rights and the trees is between those property owners to resolve. He said that the City could hold up final certificates of occupancy until landscaping is in or bonded for in the amount to cover the cost of the landscaping. Any violations in the future can be dealt with by enforcement.

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

James Dupaix said he would like to add a condition of approval #4 that states, "Amend parking light structures so as to not allow any direct light to impede on adjacent properties". He noted that the HOA would administer the compliance of any code or the maintenance of the property of common areas, and it will be the responsibility of the HOA to keep the parking lights, structures, and facility maintained properly. He felt that Condition #3 on the condominium approval is sufficient to address the responsibilities of the condominium association.

Tom Burdett said the lighting criterion comes from the zoning code and should be focused on the site plan.

David McKinney suggested that 'amend' be replaced with 'modify' in the suggested condition.

Richard Lewis indicated that the building currently has temporary occupancy, and a landscaping bond had been posted. They will not issue a permanent certificate of occupancy until the landscaping and all other codes are met.

Justin Stoker asked that an additional condition be added to state, "The wattage be reduced to appropriate levels and that timers be installed to shut the perimeter lights off 30 minutes after close of business."

David Beecher asked who would decide what appropriate wattage is.

David McKinney said that condition appears to go beyond the requirement in the code, because it doesn't address wattage and timing.

Nola Duncan remembered that a previous application required a timer on the perimeter lights while still allowing safety lights next to the building.

Tom Burdett said if staff gets the performance criteria they can make sure it is implemented.

Nola Duncan always felt that whatever comes in last has the responsibility to mitigate themselves into the neighborhood. There needs to be a good faith measure that this will be remedied.

There was a discussion on wattage. Reducing the wattage would also reduce the ambient light.

There were no concerns regarding the condominium plat.

MOTION: Justin Stoker moved to grant Preliminary and Final Condominium Plat for Mountain View Business Center Condominium; 6783 & 6785 South Redwood Road; Crown Enterprises, LLC/Jack Rasmussen (applicant) with the conditions set forth in the Planning Commission report. The motion was seconded by James Dupaix and passed 7-0 in favor.

MOTION: James Dupaix moved to approve the Amended Final Site Plan for Mountain View Business Center Condominium; 6783 & 6785 South Redwood Road; Crown Enterprises, LLC/Jack Rasmussen (applicant) with the conditions of approval in the staff report, adding:

4. Modify parking light structures so as to not allow any direct light to impede on adjacent properties.
5. Reduce wattage to similar wattage as the adjacent north building, and set timing of perimeter lights to go off 1/2 hour after business hours. The motion was seconded by Justin Stoker and passed 7-0 in favor.

James Dupaix felt that the tree issue is beyond the purview of the Commission, and whatever can be arranged between the two parties would be a good thing to do. The landscaping season is coming, so it would be a good time to get it taken care of.

ITEM #4: 21-29-376-003 JORDAN LANDING PHASE VI SIGN REVIEW; 7766 SOUTH CAMPUS VIEW DRIVE; SIGN REVIEW; SC-3 (ZC) ZONE; FOURSQUARE PROPERTIES/MARTY BILJANIC (APPLICANT) [#SRP20060002]

Chris Gilbert gave the overview of the request for a sign package for Jordan Landing Phase VI. He showed the proposed signs and locations. Possible changes in the pylon signs are indicated on the map, but those changes would be requested at a later date. The Airport Center has its own sign package.

Staff recommended that the Planning Commission approve the sign development plan update for the new signage for the Phase VI retail project, located at 7766 South Campus View Drive, with the conditions as set forth below.

1. All signs will be maintained in a safe and attractive condition per §89-6-1105(b) of the West Jordan Municipal Code.
2. All signs required to obtain a building permit shall do so per §89-6-1102(a) of the West Jordan Municipal Code.
3. All businesses must submit for a business license prior to approval of a building permit for individual signs per §22-2-102(a) of the West Jordan Municipal Code.
4. All signs with blank sign or existing sign copy shall submit a change of copy permit for changes in sign copy for new businesses per §89-6-1102(a).
5. All temporary signs used on-site must obtain a temporary sign permit per §89-6-1102(a).
6. No new sign or part thereof shall be located on public property per §89-6-1104(b).
7. All signage shall be installed in such a manner and constructed of such materials as to wholly conform to the approved amended Sign Development Plan for Jordan Landing.

David McKinney was concerned with the number of M-2 monument signs on the proposal compared with the overall number in the rest of the development.

Chris Gilbert noted that only the property that is under the control of Foursquare Properties was shown, but there are also other categories of signage throughout the project. The M-2 sign is the best from an architectural appeal standpoint to be used for the entryways to Phase VI.

James Dupaix asked if the number of signs were needed because of the multiplicity of retail outlets in order to give adequate signage for location purposes.

Chris Gilbert said that is correct. He pointed out other areas in Jordan Landing that have the same type of placement of these signs used as entryway signs, and this proposal is continuing their traditional pattern.

Justin Stoker asked if the five M-2 signs and the one tower sign were the only six signs being added.

Chris Gilbert noted that there will be a directional sign to be used at an unknown location at this time. All other signs shown on the map are approved.

Marty Biljanic, Foursquare Properties, 3751 West Center Park Drive, #210, was available for questions.

Nola Duncan said this is very similar to the Airport Center and asked if that were to provide continuity.

Marty Biljanic stated that it was exactly the same.

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

MOTION: Justin Stoker moved to approve the Sign Development Plan Update for the new signage of Jordan Landing VI Retail; 7766 South Campus View Drive; Foursquare Properties/Marty Biljanic (applicant) with conditions 1 through 7 as listed in the Planning Commission report. The motion was seconded by James Dupaix and passed 7-0 in favor.

ITEM #5: SCHEDULED FOR CONTINUATION TO A FUTURE DATE TEXT AMENDMENT – AMEND THE WEST JORDAN MUNICIPAL CODE SECTION 89-1-202(d) REGARDING INTERPRETATION OF ZONING BOUNDARIES – STREET ABANDONMENT; CITY OF WEST JORDAN (APPLICANT)

Staff recommended that this item be postponed so that additional amendments to the Zoning Ordinance can be brought to the same Planning Commission meeting.

David Beecher noted that this item was scheduled for a future meeting.

Tom Burdett gave an update of City Council action. They denied the request to amend the Wildflower Phase #13 wall condition and are requiring the wall. Copperfield #2 rezone was approved with two additional conditions. The zone change only allowed for one additional lot. The accessory structure text amendment was approved with amendments to be more flexible with agriculturally related structures in the rural residential and VLSFR zones. Planning Commission training is set for February 28 with the Utah League of Cities and Towns who will give an overview of the role of the Planning Commission.

Richard Lewis gave a brief history of his 35 years in the planning field and stated that he will be leaving public service and the City of West Jordan the first part of March. During his time here he had seen a new general plan implemented, a new ordinance, the West Side Planning Area, a TSOD system, Trax, and many other items. He appreciated his association with the Commission and stated that he had only good things to remember from the experience.

The Commission wished him well and complimented his work.

Nola Duncan talked about the appeal policy and her concern that the view of the Planning Commission is not always fully represented except through the minutes.

Ryan Carter said there is a rule of procedure adopted by the City Council as to the appeal process. The appeal should only be concerned with the events of the Planning Commission meeting that are part of the record and should not be allowed to argue new items as a general rule.

Nola Duncan said the Planning Commission decision does not always follow the recommendation in the staff report.

Ryan Carter said the record provided to the City Council includes the minutes of the meeting and information they need to render their decision.

Nola Duncan noted that the Planning Commission initiated a change in the appeals process before it ever went to the City Council, and she didn't know if it were in the purview of the Planning Commission to recommend a change.

Ryan Carter explained the current process along with the time frame in which an appeal works. A purpose of the appeal process is to provide information and protect against hearing the entire item from the beginning at the City Council. He stated that if a Planning Commissioner would like to speak on an item of appeal at the City Council meeting they can't be prohibited, but he recommended that they should make their intention clear to staff before the meeting.

Nola Duncan was concerned that at a previous appeal the applicant had an attorney represent him, and additional information was brought forward at that time. The Planning Commission was not allowed to bring forth their point.

Tom Burdett stated that did not occur that the meeting last night.

Nola Duncan was just wondering if any of the attitudes of the Commission had changed regarding whether or not the Planning Commission should be able to verbalize at the appeal.

Ellen Smith was at the meeting the previous night, and her concern was that the City Council is reminded of the City's point of view and of the applicant's point of view, but in some cases when the Commission's decision is woven through the minutes they are not being reminded of what the Planning Commission's point of view is at that time. She felt that there might be some sort of disadvantage. Technically all of this should stand up so it's not an issue, and luckily that was the case last night.

Tom Burdett said the Planning Commission justification should be included. He had included the Planning Commission's decision in his comments.

James Dupaix said one place that made a difference was the Jordan West Village property for a new subdivision near the airport and runway. The view of the Commission was not properly and completely expressed to the City Council, and the decision was overturned. He said that after it was approved all of the City Councilmembers he talked to felt the City Council made the wrong decision. Now if the airport makes much improvement all of those homes will have to be purchased.

David McKinney said the lesson here may be to take special care with each decision to make sure the reason for the decision is very clear in the record. Perhaps prior to the motion they make a very clear statement explaining the action.

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

The meeting adjourned at 8:09 p.m.

David L. Beecher
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Community Development

Approved this _____ day of _____, 2007