

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD JULY 6, 2010 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Justin Stoker, Kathy Hilton, Nathan Gedge, Ellen Smith, John Winn, and Jesse Valenzuela. David McKinney was excused.

STAFF: Tom Burdett, Robert Thorup, Greg Mikolash, Julie Davis, Scott Langford, Greg Davenport, and Paul Brockbank.

OTHERS: Ryan Peterson, Mark Isaac, Robert McConnell, Kathy Olson, and Karl Augat.

The briefing meeting was called to order by Justin Stoker.

There was a discussion regarding noticing procedures. There was an update on the progress of a revision to the code for undergrounding utilities. A workshop including city council and planning commission to discuss the topic should be scheduled. There was a brief review of the updated franchise agreement with Rocky Mountain Power. Scott Langford explained the purpose for the proposed text amendments. He distributed a corrected handout for the staff report in item #4. A new signage type for TOD's was explained.

The regular meeting was called to order at 6:04 p.m.

**1. Consent Calendar
Approve Minutes from June 15, 2010**

MOTION: Nathan Gedge moved to approve Consent Calendar Item #1 the minutes from June 15, 2010. The motion was seconded by Kathy Hilton and passed 6-0 in favor. David McKinney was absent.

2. LAR Waiver Request; 4133 West Farm Road; Request for Waiver of Underground Utilities Requirement; M-1 Zone; LAR Manufacturing, Inc./Karl Augat (applicant) [#SPI20100001; parcel 21-31-476-003]

Scott Langford stated that the applicant had applied for an amended site plan for a 9,000 square foot building on their existing site. Upon review of the amended site plan application it was observed that overhead utilities exist. The planning commission has the authority to grant a waiver for the requirement to underground the utilities based on whether or not it is unreasonable or impractical. There are three existing poles on the property frontage. He explained that one pole on the corner of Farm Road and Cyrus Lane facilitates a junction where the service line splits off and goes north. The removal of that pole would require that the property to the north also be reworked to either add another pole where the lines came above or to bury the lines on the property to the north as well. The westernmost pole is similar as it is a junction to facilitate lines across Farm Road to service two businesses there. If that pole were undergrounded the driveway entrance on the subject site as well as the two entrances on the property south of Farm Road would be affected. Current underground utilities in the area include an 8" sewer line and 6" water line in Farm Road, and most likely undergrounding and cutting across Farm Road would require a substantial cost to mitigate impacts to those existing utilities. Mature landscaping runs along Farm Road with at least 3 mature trees that would have to be removed and replaced. Because of the changes, reconstruction, and demolition that would be required to underground the lines on both frontages staff felt that this was a special circumstance where the impacts to mitigate the visual blight would not really justify the impacts to the site and the surrounding properties.

Staff recommended that the Planning Commission grant the waiver from undergrounding utilities for the LAR Manufacturing project located at 4133 West Farm Road in an M-1 zoning district with the condition of approval as listed below. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

Condition of Approval:

1. Meet all conditions of approval for the final site plan.

Karl Augat, applicant, LAR Manufacturing, 4133 West Farm Road, had nothing to add.

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

Kathy Hilton said it appeared from the aerial photo that most of the adjacent properties were undeveloped, which would make an easier case for undergrounding at this time.

Greg Mikolash noted that the area is entirely developed except for the property across the street.

Justin Stoker thought that the reconstruction costs involved with undergrounding were anticipated when the ordinance was written. He wondered about the possibility of undergrounding the two corner poles and lines up to the northern and western property lines.

Scott Langford said he wasn't with West Jordan when the ordinance was created, but Mr. Mikolash stated that reconstruction costs were not a consideration at that time. He explained what would have to happen with the lines and poles if the poles at the intersection were removed.

Justin Stoker recapped the explanation.

MOTION: Nathan Gedge thought that the request was appropriate and moved to grant a waiver for the undergrounding of utilities for LAR Manufacturing; 4133 West Farm Road; LAR Manufacturing, inc. (applicant) with the one condition of approval as listed in the planning commission packet. The motion was seconded by John Winn.

Ellen Smith said she would vote in favor, but she wanted to state again that she was uncomfortable in granting waivers without a code in place that works. She wanted this issue taken care of as quickly as possible so that everyone that requests a waiver is on a level playing field.

VOTE: The motion passed 6-0 in favor. David McKinney was absent.

3. Text Amendment – Amend the West Jordan Municipal Code Section 14-3-8B Time Extensions; City-Wide; Peterson Development Co., LLC/Victor Barnes (applicant) [#TA20100001]

Scott Langford reviewed the history of this section of the code. In 2008 the time limit for an approved unrecorded final subdivision plat changed from 1 year to 2 years before expiration, and additionally the zoning administrator was allowed to grant a one-time, 6-month extension.

He noted that subdivisions, no matter their size or location, can create both positive and negative impacts to their communities, so the review allows staff to make sure they work well within the context of the community. The proposed text would allow an unrecorded final plat to remain valid for an undermined period of time. Staff has two major points of concern with this proposal. The first concern is that because West Jordan is a dynamic city, things are always changing. The capital improvement plan, master transportation plan, and utility plans are typically updated every five years, so an approved, unrecorded plat could tie their hands to react to the changing plans and would affect how the city can plan ahead in regards to serviceability, safety, etc. to the community. When the code was amended in 2008, research was conducted to determine the time limits of other nearby cities. This application prompted staff to conduct that research again, and with the possible time extensions an approved unrecorded final plat in West Jordan can remain valid for 2 ½ years, which is longer than any other city in this area. Staff felt comfortable with the current code. He stated that the amendments in 2008 were initially changed because the economy started to turn and there was difficulty in getting financial backing for

subdivisions. Although the economy continues to struggle, staff felt that the current code is fair, it provides developers flexibility to absorb some of the market changes while providing the city adequate protection needed to be proactive in changing the master plans.

Staff recommended that the Planning Commission forward a negative recommendation to the City Council for the request stated above based on the findings of fact as mentioned in this staff report.

Justin Stoker asked what types of changes West Valley was making to conform to State code.

Scott Langford noted some of those changes, which included allowing for the planning commission to approve plats instead of their city council and length of the initial approval. Planners in West Valley were concerned with the unlimited number of extensions that can be filed as well as giving the approval authority for extensions to the city manager, who isn't often involved with the specifics of the subdivision approvals.

Ryan Peterson, applicant, Peterson Development, 225 South 200 East, said two to three years ago when they applied for their subdivision approval they never would have thought that there would be a need to extend the approval time beyond 2 ½ years. Much of the request is due to the unique downturn in the economy. Regarding the request, he didn't know that they would ever need to use it again, because typically a developer would not go through the time and expense to see the project through to final approval only to sit on it. To use an engineering term, this situation is a '100-year storm', and it is a big reason for the request. He referenced the 20 years they have spent in the community and felt that there has been a good relationship with the city. They don't want to ask for special exceptions by and large. He didn't see how the amendment would lead to a large number of requests for long time extensions, and the power would still rest with the city council to grant the extension or not.

Justin Stoker asked the applicant why the plat isn't either just simply recorded or reconfigured so it better suits the market conditions.

Ryan Peterson said they had explored the possibility of reconfiguring or rezoning the subdivision to smaller more affordable lots. In order to record a plat they have to post a very expensive bond of approximately \$1.2 million, which would then be inaccessible for the near future.

Justin Stoker understood where problems could arise in allowing for indeterminate length of extensions with master planning, and he asked how the extension would be of benefit as it would still leave the developer in a gray area.

Ryan Peterson said if they are unable to get an additional extension on their subdivision, in September the money for the most part that they have spent on the engineering and the approval process will be lost. Re-engineering will be required to meet changes in the city standards and requirements and they have to go through the whole process again. They hope that the climate for selling lots and homes will change by this time next year. They finally sold Three Forks Phase 1 after 4 ½ years, but they lost a lot of money on it. Given the cost of improvements, they are not excited about coming out with a new subdivision at this time, but the extension would buy them time for the climate to improve. If the amendment is approved they hope there would be a marked improvement by March 2011, but the amendment would also give an option to petition the city council for further extensions.

Kathy Hilton asked what changes had occurred in the code that their current subdivision would not meet and which would cost more money. She understood that there hadn't been that many changes in the standards.

Ryan Peterson said fees for review and inspections would need to be paid again. He would have to defer to the city staff regarding the changes in the city standards.

Kathy Hilton asked if the bond would be posted at recordation or when permits are pulled.

Tom Burdett said a public improvement bond is required at the time of recording. The building permits themselves have minor bonds for landscaping, etc., which are paid by the home builder.

Ryan Peterson understood that a bond in the full amount commensurate with finishing the subdivision is required with the plat recording.

Kathy Hilton was concerned with the sentences that allow the city council to grant the extension before or after the zoning administrator extension and that the city council determines the length of the extension. She thought that the language would not allow the same treatment for everyone, which would open the city to lawsuits. Without set criteria it would be arbitrary and capricious. She also agreed with Mr. Langford that it would affect the master planning of the city should an approval be extended over and over again.

Justin Stoker said the applicant stated that there would be costs for reengineering from changing standards, but if there are changes in the standards there is a good reason for it and is in the best interest of the city to abide by the new standards. He asked why they wouldn't want to make those improved changes.

Mr. Peterson said additional standards, requirements, and engineering changes add to the complexity and uncertainty and is an additional cost to what could already be a dicey proposition for them in trying to sell the lots. Again, he noted their 17-year history prior to the 2007-2008 downturn that they had never turned in an application for a subdivision and then just sit on it. Their plan was never to do anything other than obtain approvals and move right ahead with construction of the subdivision. He understood in general the law of unintended consequences and what can happen with a change in the policy, but especially now, he felt that most all developers who make an application would have to be very confident about their prospects to go forward and would not want to just sit on an approval since an extension from the city council would not be automatic.

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

John Winn said the commissioners can all see the affects of the economic downturn, and he didn't think that any of the commissioners wanted to see a development fail. He was in favor of offering additional extensions and working with the developers, but not with the amendment as written. He asked if there were any other suggestions that would work for both the developer and the city.

Kathy Hilton said when the city council considered the amendment in 2008 they gave not only an additional year but also the 6-month extension. The intention was that the code would stay in effect for two to three years and then go back to the original time limits. Since this is still allowing for 2 ½ years she felt strongly that it was plenty of time even though the economy hadn't recovered as soon as hoped.

Ellen Smith agreed with Commissioner Hilton. It is important to have definite standards when granting an extension. She felt that they need to be able to re-evaluate the plans after a couple of years to see if they are still right for the area. The codes for the commission are pretty cut-and-dried without the pressures of the city council, and she felt that the code as currently written is generous compared to other cities.

MOTION: Nathan Gedge moved based on the discussion to forward a negative recommendation to the City Council for the request to Amend the West Jordan Municipal Code Section 14-3-8B Final Plat Time Extensions; Peterson Development Co. (applicant). The motion was seconded by Ellen Smith.

John Winn agreed that the current code allows for ample time, but when this code was adopted to help the developers through a difficult time they didn't foresee that the economy would be bad for this long. He still felt that the city can do something to help, so he will vote against the motion.

VOTE: The motion passed 5-1 in favor with John Winn casting the negative vote. David McKinney was absent.

Justin Stoker wondered if there were things that could be done outside of rewriting the entire ordinance.

Greg Mikolash said the economy has a lot to do with this, but also after a two to three year period staff has to review full sets of plans again, which can't be done free of charge. Typically the entire set of plans wouldn't have to be replaced, but only a few sheets that are affected.

John Winn said if the subdivision is exactly the same it shouldn't be as time consuming the second time.

Greg Mikolash said that the current fees don't even cover the cost of the initial review at this time. Also, there are instances of staff turnover where the original reviewer is no longer with the city.

Tom Burdett said from a community development perspective, they can meet with Mr. Peterson to see if there are other vehicles they can employ to help get to the goal. He felt it is important for the city to have a number as a standard, but there may be other ideas to consider before the amendment gets to city council. The options may come at an additional expense, but less than revalidating an entire subdivision.

4. Text Amendment - Amend the West Jordan Municipal Code making amendments to: Sign Definitions 12-1-4; Sign Standards 12-3-2, 12-3-4, 12-3-5; Types of Signs Permitted in Zoning Districts 13-17-2; Definitions 13-2-3; Planned Communities 13-5C-3, 13-5C-4, 13-5C-5, 13-5C-6; Transit Station Overlay District 13-6G-2 to 13-6G-12, 13-6G-14; Off Street Parking 13-12-1 to 13-12-3, 13-12-5 to 13-12-7; City-wide; City of West Jordan/Boulder Ventures/Utah Transit Authority (applicant) [#TA2010002]

Tom Burdett explained that when the city originally put the TSOD overlay in the code one of the purposes was to help promote ridership on the Trax line. Part of that was guided by regional policies to promote mixed use development and higher density. A proposal was brought forward for the South Station development, which was a false start for many reasons including the code as well as some others involved. The city is now working with Utah Transit Authority and a developer on what they think will be a model TOD project. As they looked at the code they found there were some improvements that could create better ridership and cohesiveness in the TOD. The proposed changes include critical items such as density, parking, building height, and signage. The applicability of this to a specific project will not only benefit a new design of the Jordan Valley station area, but also other TOD's in the city. The original ordinance probably covered 95% of what goes into a TOD ordinance, and these changes cover the 5%. He acknowledged other team members Kathy Olson, Robert McConnell, and Mark Isaac who were in attendance.

Scott Langford indicated a handout distributed in the pre-meeting that listed two changes to the staff report, which he explained.

Staff recommended that the planning commission forward a positive recommendation to the city council for the requested text amendments stated in this report, based on the findings of fact as mentioned in this staff report.

Robert McConnell, outside legal counsel for the developer entity, felt that the developer had put together a good team in designing a project and working with the steering committee. He said they were trying to be thorough yet also circumspect with the proposed changes, and they would like to move forward to the city council.

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

Kathy Hilton said there had been a lot of ideas coming forward at the steering committee meetings with the goal being to have the best possible model for the city as well as for the state. Although it hadn't been quite as easy as it sounded, she felt that it had been going very well.

MOTION: Kathy Hilton moved to forward a positive recommendation to the City Council to Amend the West Jordan Municipal Code as listed in the planning commission packet; City of West Jordan, Utah Transit Authority, and Boulder Ventures (applicant). The motion was seconded by Nathan Gedge and passed 6-0 in favor. David McKinney was absent.

Tom Burdett updated the commission regarding the general plan committee schedule. He also reviewed some possible changes to the intersections on Bangerter Highway. He encouraged the commissioners to send their comments and concerns regarding this project to UDOT.

MOTION: Nathan Gedge moved to adjourn.

The meeting adjourned at 7:09 p.m.

Justin Stoker
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2010