

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD SEPTEMBER 6, 2011 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Justin Stoker, Kathy Hilton, Nathan Gedge, David McKinney, John Winn, Jesse Valenzuela, and Dan Lawes.

STAFF: Tom Burdett, Robert Thorup, Greg Mikolash, Scott Langford, Jennifer Jastremsky, Ray McCandless, Nathan Nelson, Paul Brockbank, Julie Davis, and Steve Holmes.

OTHERS: Greg Noyes, Colleen McDonald, John McDonald, Lori Gale, Philip DeLuca, Joshua Besler, Tim Hartig, Alene Benetly, Howard Hillam, Tim Dwyer, Peter Sobol, David Otero, Heather Romero, John Sczerba, Jonathan Taylor, Hal Jensen, Bonnie Fernandez, Ellen Smith, John Clayton, Kristen Buchanan, Craig Searle, Jacquelyn Hillam, Sharee Neal, and Eric Romero.

The briefing meeting was called to order by Justin Stoker.

Jennifer Jastremsky corrected language for a condition on Item #2. Clarification was given on the access locations for Item #3. The time frame for a possible code update regarding undergrounding utilities was discussed. There was a clarifying discussion regarding the development agreement associated with Item #4.

The regular meeting was called to order at 6:00 p.m.

**1. Consent Calendar
Approve Minutes from August 16, 2011**

MOTION: Nathan Gedge moved to approve Consent Calendar Item #1 the minutes from August 16, 2011. The motion was seconded by Jesse Valenzuela and passed 7-0 in favor.

2. Jordan Pines North Off-Premise Sign; 8981 South 3020 West; Conditional Use Permit; RR1-D Zone; Clayton Homes/John Clayton (applicant) [#CUPA20110008; parcel 27-04-153-007]

Jennifer Jastremsky explained that the Zoning Administrator heard the item on July 21, 2011, but due to concerns from a neighbor he referred the application to the Planning Commission. The proposal is for an off-premise development sign at 3020 West, which is a dead end cul-de-sac street. Staff believes unintentional use of 3020 West will be the exception rather than the rule for this site. The sign meets the size regulations at 32 square feet. There were suggestions during the administrative hearing of how to prevent people from turning down 3020 West. Staff felt the best option would be to include an arrow that goes straight then elbows right to instruct motorists to proceed to 3200 West before turning. The language on condition #7 was corrected as noted below.

Based on the findings set forth in the staff report, staff recommended that the Planning Commission grant Conditional Use Permit approval for Jordan Pines North Townhomes Off-Premise Development Sign located at 8981 South 3020 West in an RR-1D zoning district with the conditions of approval as listed in the staff report.

Conditions of Approval:

1. Directional arrows located on the east face of the signage shall indicate customers are to go straight past 3020 West prior to turning right onto 3200 west, similar to the arrow shown in Exhibit I of this report.
2. The sign shall be located outside of the Sight Distance Triangle, as determined by the West Jordan Road and Bridge Standard Drawing RD-85.
3. The Off-Premise Development Sign shall be removed from the property when ninety-five percent (95%) of the development has received a Certificate of Occupancy.

4. The signage will be maintained in good condition.
5. Any sign in violation of Titles 12 and 13 may be removed immediately if the illegal sign is not brought into compliance within seven calendar days after the owner is served with written notice, per City Code Section 12-5-2F.
6. The Administrative Conditional Use Permit is subject to review and/or revocation as per City Code Section 13-7E-10.
7. Per Code Section 13-7E-9, no conditional use shall be valid for a period longer than twelve months unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period or unless a longer time is requested and granted by the planning commission.
8. Approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

General questions about size and location were answered. There is no minimum or maximum distance from the development in which the sign must be located. It was clarified that the total height will be eight feet and not ten.

John Clayton, applicant, 5207 South Saddleback Drive, was available for questions.

The Commission asked the applicant if he was willing to change the arrow configuration for the sign or to add language to proceed to 3200 West. Mr. Clayton agreed that an arrow that goes straight and then turns right would be fine. He would use the existing language advertising the project but adding the arrow. He noted that the only other sign he has is on the project itself. Another suggestion by Commissioner Lawes was to add "turn right at the light".

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

David McKinney felt that condition #1 addresses the topic of the discussion and that the applicant is in favor of the condition. It would be nice if the sign could be closer to 3200 West, but the property owners were not willing to allow it.

MOTION: John Winn moved based on the findings set forth in the staff report and upon the evidence and explanations received to approve the Administrative Conditional Use Permit for Jordan Pines North Off-Premise Development Sign; 8981 South 3020 West; Clayton Homes (applicant) with the conditions of approval listed in the staff report 1 through 8, making the corrections in condition #7 as mentioned by staff. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

3. **Corner Shops at 90th South; 9022 South Redwood Road; Conditional Use Permit for Restaurant, fast food, Preliminary and Final Site Plan, and Request for Waiver of Requirement to Underground Utilities; SC-2 Zone; Proterra Development/Jonathan Taylor (applicant) [#SPCO20110013, CUPA20110009, MISC20110008; parcel 27-03-327-010]**

Scott Langford gave the overview of the project to construct a dual tenant commercial building on a vacant lot. Approximately 1500 square feet will be for Beans and Brews restaurant with a drive through that wraps around the northeast corner of the site. The remaining square footage will be leased for a T-Mobile store. Verification of the shared access easements will be required before a final building permit is issued. The driveway on Redwood Road closest to the intersection will be closed. The existing access on 9000 South will remain and be a right-in right-out access, and the traffic engineer is in favor of that configuration. The Firestone and Jiffy Lube businesses do not anticipate any impacts from this new building. All required findings for the site plan have been satisfied. Regarding the request for a waiver of undergrounding overhead utilities, there is currently a

single utility pole on the east property line, and two poles would be required in order to bury the lines. In the future staff will be looking at a city-wide policy update regarding this requirement. The conditional use permit has six findings of fact that have been met and the use is consistent with other similar uses in the general area as well as in all other SC-2 districts in the city.

Site Plan

Based on the findings of the report, staff recommended that the Planning Commission grant Preliminary/Final Site Plan of a new commercial building located at 9022 South Redwood Road in a SC-2 zoning district with the conditions of approval as listed below. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval. Approval by these City divisions or departments may be required.

Conditions of Approval:

1. The applicant shall address and adhere to all City of West Jordan Municipal Code standards in effect at the time of this approval.
2. A letter from UDOT granting access from the site to Redwood Road shall be submitted to the City prior to the issuance of a building permit.
3. The applicant must obtain a waiver from the Planning Commission absolving the development from the requirement to bury the overhead utility lines running along the east side of the site.
4. A Conditional Use Permit allowing a fast food restaurant must be approved by either the Planning Commission or City Staff.
5. Approval of a Preliminary/Final Site Plan shall become null and void if development does not commence within two (2) years of Preliminary/Final approval (Section 13-7B-5).
6. Provide verification of cross/shared access with adjacent properties prior to building permit issuance.

Utility Waiver

Based on the information set forth in the staff report, staff recommended that the Planning Commission grant a waiver to Section 8-2-4 requiring the undergrounding of overhead utilities for property located at 9022 South Redwood Road. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

Conditional Use Permit

Based on the findings set forth in the staff report, staff recommended that the Planning Commission grant a Conditional Use Permit to allow a fast food restaurant on property located at 9022 South Redwood Road, in an SC-2 zone, with the conditions of approval as listed below. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

Conditions of Approval:

1. The Conditional Use Permit is subject to review and/or revocation as per City Code Section 13-7E-10.
2. The Conditional Use Permit shall become null and void within twelve (12) months from the time of Planning Commission approval, unless a building permit is issued and a use commenced within that period (Section 13-7E-9).

Robert Thorup said the most recent examples of these situations have been done by means of a deferral agreement rather than an outright waiver, and given that there are some policies that may come in the near future a deferral agreement would be better suited to the City's needs as well as the applicant's rather than an outright permanent waiver.

Justin Stoker asked if any of the other properties on the west side of Redwood Road had been undergrounded.

Scott Langford mentioned that the Chevron to the north of 9000 South was granted a waiver to not bury the lines. The line is aboveground almost all the way up and down the west side of Redwood Road.

Justin Stoker remembered that on a different application in this area a berm was required in order to protect drivers from headlights. The headlights from this drive through could impact traffic turning right onto Redwood Road. He asked if berming were mentioned in this case.

Scott Langford said they looked at that, but there is a dense row of shrubs on the corner that will grow into a substantial hedge. The grading doesn't indicate any type of berming, and considering how narrow the area is it would be difficult to get much of a berm, but they could consider a small one with shrubs on top of that.

David McKinney asked if this utility line actually serves the development, because if not it doesn't pertain per the code.

Scott Langford said the applicant may know the answer to that question.

Tom Burdett said the lines in front of Redwood Professional Plaza have been buried.

Jonathan Taylor, applicant, 2231 East Murray-Holladay Road, said the plan doesn't account for any berming because it is a narrow landscape area and it would be hard to get anything to grow at the top with such sharp angles. They proposed ivory halo dogwood that will grow to 4-5 feet tall and is pruned to a thick hedge. He can build it up as high as possible without the topsoil falling down into the drive aisle or sidewalk. They could also extend the hedge further to the west. He said their power is coming from a pole-mounted transformer parallel to Firestone's south wall. He said if the lines are buried it would only be for 100 feet or less because there are so many transformer boxes, and it would add poles.

Hal Jensen said the dogwood shrub would lose its leaves in the fall, so an evergreen shrub such as a yew or holly would give more protection during the winter months.

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

MOTION: David McKinney moved to allow the applicant to come back to address the question regarding evergreen shrubs. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

Kathy Hilton said there are other water-wise plants that aren't evergreen and she didn't want to tie them to a specific type.

Jonathan Taylor said evergreens are slow growing. This location is full sun, and they won't take the heat well. The dogwood loses its leaves but they are densely formed. They could even double line it in order to help lessen the impact of the headlights.

David McKinney asked if he would agree to a condition to modify the landscaping plan to provide plantings adjacent to the drive through lane that would be calculated to help block headlights substantially year round.

Jonathan Taylor said they are open to that if they can work with staff.

David McKinney asked about appropriate language for a deferral as opposed to a waiver.

Robert Thorup said if they want to make that recommendation instead of approving a waiver they could approve a deferral subject to an agreement to be prepared by staff.

David McKinney asked if they made this motion and then a new procedure were to be adopted, would the new ordinance take precedence over the deferral agreement.

Robert Thorup said it would depend upon what the agreement said. He felt that they are close enough on this that they would probably draft the agreement to incorporate a reference to the new standards and the commitment to abide by them.

MOTION: David McKinney moved based on the findings of the city staff and the information and recommendations presented tonight as well as the testimony of the applicant and others to approve the Preliminary and Final Site Plan for Corner Shops at 90th South; 9022 South Redwood Road; Proterra Development/Jonathan Taylor (applicant) with the conditions of approval 1 through 6, adding:

7. The applicant modify the landscape plan to provide berming as practicable and adjustment of plantings to substantially block headlight interference adjacent to the drive through lane.

The motion was seconded by Nathan Gedge.

It was noted that condition #3 talks in terms of a waiver, so they would need to modify that if they were going in the direction of a deferral.

AMENDED

MOTION: Justin Stoker moved to amend the motion to amend condition #3, "The applicant must obtain a waiver or enter into a deferral agreement with the city regarding the requirement to bury the overhead utility lines running along the east side of the site." The amendment was accepted by Commissioners McKinney and Gedge and the amended motion passed 7-0 in favor.

MOTION: David McKinney moved based on the information set forth in the staff report and the testimony and information presented this evening to approve a deferral agreement between the city and the applicant regarding the undergrounding of utilities for the property location at 9022 South Redwood Road. The motion was seconded by Nathan Gedge.

There was a discussion regarding whether or not they were approving the deferral agreement, instructing the applicant to enter into a deferral agreement with the City, or if that was necessary since it was addressed in the conditions of the site plan. Robert Thorup agreed that with the change of condition on the site plan there isn't a need for the waiver.

The motion was withdrawn.

MOTION: David McKinney moved based upon the staff report and information and testimony presented in the hearing this evening to deny the Waiver to Section 8-2-4 Requiring the Undergrounding of Overhead Utilities for Corner Shops at 90th South; 9022 South Redwood Road; Proterra Development/Jonathan Taylor (applicant). The motion was seconded by Dan Lawes and passed 7-0 in favor of a denial.

MOTION: David McKinney moved based on the findings in the staff report and the testimony and information presented in the hearing this evening to approve the Conditional Use Permit to allow a fast food restaurant for Corner Shops at 90th South; 9022 South Redwood Road; Proterra Development/Jonathan Taylor (applicant) with the conditions of approval 1 and 2 in the staff report. The motion was seconded by Kathy Hilton and passed 7-0 in favor.

4. Philip the Tree Guy; 1595 West Cole Lane; Conditional Use Permit for Outdoor Storage and Operations; M-1 Zone; Philip DeLuca (applicant) [#CUPA20110010; parcel 21-22-402-029]

Scott Langford gave the history of the property that was zoned M-1. In 1997 the City entered into a development agreement allowing the M-1 zoning with the caveat that future development of the site could only include commercial storage facilities similar to those to the south. The code enforcement department was called out to the property with complaints due to noise from chain saws and other wood cutting machinery. The applicant was informed that they needed a business license, which they filed for. It was determined that they would need a conditional use permit for outdoor storage and operations. This type of use is common for M-1 property, but this request is different since it is surrounded by existing residential neighborhoods.

Staff reviewed the request specific in nature to its location and the impact to neighboring uses. The code highlights different actions that can be taken in order to address mitigation measures such as setbacks, open space buffers, screen walls, access, regulating hours of operation, and allowing for a trial period. The code states that if the reasonably anticipated detrimental effects of a proposed conditional use permit cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with the applicable standards, the conditional use shall be denied.

Mr. Langford reviewed the criteria for approval. Criteria #1 - consistency with the general plan – they have concluded that the general plan and zoning maps are not congruent. However, the property is zoned M-1 subject to the development agreement. Criteria #2 - will the use be materially detrimental to the health, safety or welfare of persons residing or working in the area – the applicant states that the use will be for stockpiling of lumber. Typical business days are Monday through Saturday and occasionally Sunday in emergency situations. Hours of operation are from 7 am to 9 pm except when emergency services are required. The intent is to hire three to five seasonal workers to process the firewood using a log splitter and chain saws. Mr. Langford stated that this equipment can reach decibel levels of 110 – 117. A normal human conversation from three feet away is approximately 60 decibels and a jet engine is 130 - 140 decibels. The applicant said he can limit the use of the chain saws and log splitter to the hours of 8 am to 9 pm with no loud music during that time. Other nuisances associated with this use could be with truck operations and loading and unloading of the firewood. Staff felt that in order to mitigate potential impacts to neighbor they could limit the hours to Monday through Friday from 9 am to 5pm, but that won't mitigate the impacts completely. Criteria #3 – regarding size of the site – the site is 1.33 acres and is large enough. However, there are some concerns that piles of firewood are too tall for the proximity to the property line. Other fire department regulations may also come into play. Criteria #4 – adequate access – Cole Lane is a private road along the South Jordan Canal. The fire department will require that the minimum width of 20 feet of drivable surface be provided as well as a hammerhead turnaround. Access to the site is not currently adequate. Criteria #5 – is the use compatible with surrounding uses – this is a unique situation with an industrial district in the middle of a residential neighborhood and it is precisely why we don't like to see this kind of land use occur and why there are zoning regulations. Staff did not feel that the use is compatible with surrounding uses. Criteria #6 – are adequate conditions or stipulations incorporated into the potential approval – staff is providing the Commission options of both denial and approval with conditions.

Option #1:

Based on the findings set forth in the staff report, staff recommended that the Planning Commission deny the Conditional Use Permit for Philip the Tree Guy located at 1595 West Cole Lane for outdoor storage and operation of a tree care business in an M-1 zoning district.

Option #2:

Based on the findings set forth in the staff report, staff recommended that the Planning Commission approve a Conditional Use Permit for Philip the Tree Guy located at 1595 West Cole Lane for outdoor storage and operation of a tree care business in an M-1 zoning district with the conditions of approval as listed below.

Conditions of Approval:

1. Normal business hours (including the operation of noise producing equipment) shall be restricted to the hours between 9:00 am to 5:00 pm; Monday through Friday. In no case shall chainsaws or log splitters be operated or the loading of firewood be permitted outside the normal business hours.
2. The Conditional Use Permit is subject to review and/or revocation as per City Code Section 13-7E-10.
3. Per Section 13-14-3B. "Materials within twenty feet (20') of the fence may not be stored higher than the fence." Prior to the issuance of a business license, an inspection shall be done to ensure compliance with this requirement.
4. All Fire Department requirements shall be met, including but not limited to the improvement of Cole Lane to have a minimum of 20 feet unobstructed width, beginning from the approach at Redwood Road to at least 60 feet past the midline of the intersection leading to the site, improvements to also include a paved driveway going south 70 feet from the edge of the Cole Lane. All paving must be asphalt or concrete and be a minimum 20 feet wide at all locations.
5. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval and additional requirement from these departments may be imposed at any time.
6. The Conditional Use Permit shall become null and void if business operation for the specified use does not commence within twelve (12) months from the time of Planning Commission approval. Commencement of business operation shall be defined as obtaining an approved City of West Jordan business license.

Jesse Valenzuela asked for the fire marshal's opinion of the request.

Paul Brockbank said through deterioration and lack of maintenance Cole Lane has several areas that are not 20 feet wide, and that will have to be repaired. If there hadn't been an application the road would stay the way it is. The applicant indicated to him that he is willing to resurface and repair the road. He supports the request.

Dan Lawes asked if this use meets the intent of the development agreement that limits development to only include storage.

Scott Langford pointed out on page two of the agreement under subsection 2, paragraph 2, that reads, "In exchange for the City Council not rezoning the property, the Owners agree to waive all rights to develop any portion of the property under the conditions of the M-1 zone as currently existing in the West Jordan Municipal Code ...". Staff felt that the proposal is more of a use and not a development; there are no physical structures associated with it.

Robert Thorup said the agreement talks in terms of development, and development has a clear meaning of solid, permanent uses like the adjacent storage unit buildings. This is just a piece of raw ground that is being used as a temporary site, so the agreement doesn't have any help for them on this.

John Winn asked how many fire hydrants are required and if there are any in place.

Paul Brockbank said there is one approximately 10 feet to the west of the property and another one further west toward Redwood Road. Because they aren't dealing with structures as a commercial site there only has to be one.

Philip DeLuca, 704 West Mackinac Drive, applicant, stated that the only complaint has been about chain saws, but loading wood and splitting logs isn't as noisy, so he asked if he could do those operations later into the evening and regulate the chain saws during the more restrictive hours. He stated that he has a hydraulic splitter that is quieter than a lawnmower or weed whacker. He would work with whatever hours the commission grants, but asked that the less noisy operations be done from at least 8 am to 9 pm. He wants to be respectful to the neighbors, but he wants to be able to support his family, and the limited hours of operation will make it difficult.

Dan Lawes asked if he is currently operating between the hours of 8 am and 9 pm.

Philip DeLuca said he is hardly ever at the lot. He is trimming trees during the day for his father's business. He wouldn't be able to do anything himself but would have to hire the work out. He doesn't get back to the lot until after 6 pm.

Kristen Buchanan, West Jordan resident, said she was representing several other neighbors and asked them to stand. The applicant had been operating for some time without a business license, which had given them an opportunity to see what it would be like if it were approved, and they were 100% against the use. They would ultimately like the property to be rezoned. The applicant was initially only parking vehicles there, but within the last year piles of wood appeared and then the constant sound of chain saws came. The noise is so loud that she has to turn on the television or fan to drown out the sound. They were concerned of a fire hazard with the logs catching on fire or the weeds on the other side of the fence that could spread to the logs. The noise is all consuming. She felt that she is a patient neighbor and wants to support people in making a living, but there are industrial parts of the valley that are more suited to this use. Another large concern is with the rodents that come from the canal, and the wood piles make it worse. He offered to provide an exterminator for that problem, but she didn't feel that the use was appropriate. She asked if Doug's Tree Service is also dumping at this location.

John McDonald, West Jordan resident, said he also lived adjacent to the property. He didn't have rodents in his yard until the wood came to the vacant area and now he has mice and rats. Because he works nights and sleeps during the day the restriction of the chain saw to day hours won't serve his purpose. There is a fire danger with the weeds around the canal and the wood that is piled up next to the wall as well as in the yard. He didn't think Cole Lane could be improved to 20-foot wide without condemning other property. He said there was a verbal agreement between the Cole family and those in the subdivision that they would restrict development to only storage units or businesses compatible to the residential area, and that is how it ran while Pratt was in charge.

Craig Searle, West Jordan resident, said the Dale Park cul-de-sac was originally being kept as a park area by Dale Pratt, but when he got approval for the subdivision he allowed residential to encroach on his M-1 property. The north property was originally Dale Pratt's home. They were also under the impression that the storage sheds would be the only use that the site would expand to. He said the current storage sheds are a very passive business, but the proposal is for a very hands-on, active business. He also stated that a hydraulic log splitter still has an engine and there would be very little difference between that and a chain saw. He said that even something that is temporary can be there for many years.

Jacquelyn Hillam, West Jordan resident, said she and her husband Howard own the property abutting Mr. Cole's property. She stated that the noise generated by the business comes directly into their house, and she didn't think he had been considerate of his neighbors by working until 9 pm. They are also concerned with the fire danger. She said that Mr. Cole's garage had previously caught fire and burned to the ground, so they know how quickly a fire can start. The fire department was not able to get there to put it out, and the road and fire hydrant situation has not changed since that time. They are totally against the conditional use permit.

Sharee Neal, West Jordan resident, said she works at home as an airline reservation agent during the day, and she cannot have noise from a chain saw in the background while assisting customers or she may lose her job.

Her husband sleeps during the day and works in the evening, and she felt there is a better area for this type of business. She understood that the applicant needs to support his family; but so does she.

Eric Romero, West Jordan resident, said it was a long struggle working with code enforcement on this problem. He stated that Mr. DeLuca is a hard worker and he supports his work, but he does not support the use on this property. He felt that by allowing the residential area, the property is committed to a certain use. He said it would be very discouraging if this were approved, because it is a great street and neighborhood. He would seriously consider moving if it is approved, because the chain saws would bother him that much. He felt that the fire hazard is real and if this were approved the amount of wood would have to be limited. He requested that the application not be approved, but that it remain as a compatible storage area like it has been in the past.

Hal Jensen, partner/fellow worker with Mr. DeLuca for the past 10 years, wanted to attest to his work ethic. He said they reduced the height of the wood from the fence and will maintain the mandatory 10-foot clear space from walls. They anticipate doing the road improvements that will be \$16,000, and they want to follow the regulations. When Mr. DeLuca found out he needed a license he applied for one. They will enforce a dustless speed on the truck activity. The property is zoned M-1, so they have the right to operate the business. The chain saw use will be reduced, and the log splitter isn't as loud as a chain saw. He said with the noise from Redwood Road it isn't a quiet, pristine neighborhood that everyone wishes it was. They won't have outdoor lighting, they have offered to cut the footprint of the piles to 75' x 100' and they will meet the height stipulations. Fire extinguishers will be placed every 75', and there will be no refueling of chain saws within 50 feet of the piles. The goal is to be within all of the regulations. They would like to be able to stack and load wood during an expanded period of time.

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

Philip DeLuca said he could have an exterminator at the property as soon as possible. He didn't feel that there was a fire hazard as long as the wood is ten feet from the wall and no higher than the fence within twenty feet of the wall. He didn't think that included the wall that borders the storage unit, which can be ten feet from the wall and 25 feet high.

Justin Stoker asked if there was anything that could be done for sound mitigation with those who have inverted working hours.

Mr. DeLuca said if he changes the hours of operation for one person there will be another person who isn't happy. He felt that 9 am to 5 pm is fair. The chain saw won't be running all day; probably 1 or 2 hours per day and then it would be more with the log splitting. He might take 3 days to a week off with no cutting, but then he may have to cut for a week to get back on top of it. He isn't at the yard all day, because he is out cutting trees.

Justin Stoker said it seems that they are spending a lot of money for road improvements and other items and he asked if there was a reason this property is important to the business as opposed to one that wouldn't need the improvements or limit the hours of operation.

Philip DeLuca said if it isn't approved he will have to do that. However, his dad rents the property so he doesn't have to pay rent. It is also centrally located and works the best for them.

John Winn asked if Mr. DeLuca realizes that the M-1 zone usually allows for this type of use, but this area is limited to and conditioned upon how it affects its neighbors.

Philip DeLuca said yes.

Kathy Hilton asked for clarification on the comment that the wood could be piled 25 feet high near the storage units.

Philip DeLuca said since the other property is in the M-1 zone the rule of 20 feet from the fence no higher than the fence doesn't apply.

Scott Langford read from the code 13-14-3(b)(4) "Materials within 20 feet of the fence may not be stored higher than the fence."

Dan Lawes asked if the property owners approved of this type of use.

Scott Langford said the property owners are required to submit an affidavit and are aware of the current application. Staff hadn't dealt with the property owner directly.

MOTION: Nathan Gedge moved based on the presentation and testimony received tonight and specifically citing that criteria #2, #5, and #6 and that the development agreement with West Jordan may be violated to deny the Conditional Use Permit for Philip the Tree Guy; 1595 West Cole Lane; Philip DeLuca (applicant). The motion was seconded by Dan Lawes.

David McKinney pointed out that this sort of business is a great service to the community, but it is not appropriate for this location. Specifically criteria #2 is the problem. Issues with vermin and fire have been mentioned, but in his opinion the noise issue is the biggest. He thought that a neighbor using a chain saw is an annoyance, but it happens rarely. However, to have that for one to two hours a day, even in the middle of the day, is a nuisance to a residential neighborhood. The Commission can propose and impose mitigation measures on the applicant when a conditional use permit is considered, but it doesn't seem to him that any of the suggested mitigation measures like setbacks, walls, open space, hours of operation, etc. would mitigate the noise in this case. Section 13-7E-6(b) says if the detrimental effects cannot be substantially mitigated, the conditional use permit shall be denied. The only appropriate mitigation in this case would be to enclose any use of the equipment; however, the development agreement prevents any building construction except for storage units. For these reasons he felt the Commission is left with no alternative than to deny the application.

VOTE: The motion passed 7-0 in favor of denial.

Justin Stoker commented to the applicant that there are more appropriate places in the city that won't be limited by setbacks, height restrictions, roadway improvements, etc., which would be better for him in the long run.

MOTION: Justin Stoker moved to have a recess at 7:46 p.m.

The meeting reconvened at 7:55 p.m.

5. Text Amendment – Amend the West Jordan Municipal Code Section 13-5F-3 Regarding setbacks in the Manufacturing zoning district; City-Wide; CHA, Inc./Tim Dwyer (applicant) [#TA20110007]

Greg Mikolash said that during a recent site plan review staff was made aware of some restrictive requirements in the M-2 zoning district, which were not really necessary to meet the intent or purpose of the zoning code. He read from the current code regarding the minimum setback requirements in the manufacturing zoning districts, which tend to be confusing and redundant. The M-1 zoning district also has no requirement when adjoining another lot in the same zone or any other manufacturing zone, which is what they want to add to the M-2 zone as well. They also want to keep the height limits as they are today with no limit. They are suggesting that the

M-2 zone have the same basic requirements as the M-1 district as far as setbacks are concerned. They also suggest that the restriction regarding a setback from a wall adjacent to highways and freeways be eliminated. They recommended that the redundant language be removed as well as the additional two-foot setback requirement for buildings over 30 feet in height. A flat 60' setback would be used when adjoining a residential zoning district. Also, to be consistent, the minimum front yard setback next to a single-family or two-family zone should be changed to 60 feet.

Based on the findings set forth in the staff report, staff recommended that the Planning Commission forward a positive recommendation to the City Council for a text amendment to Code Section 13-5F-3, amending the setback requirements within the manufacturing zoning district.

David McKinney noticed that front yard setbacks next to the multi-family residential zone would still be a 10-foot minimum, which is a big jump to 60 feet.

Justin Stoker said one reason might be that one- and two-family residential zones have a lot of application to the State Code and how they do business, and then there are multi-family zones. He asked how the removal of the additional footage over 30 feet tall would impact the City, because we would probably want a 100-foot tall building farther than 60 feet away from a residential property.

Greg Mikolash said that is true, but you would also want residential well away from manufacturing zones. There are going to be some facilities that will be very tall. The request for the text amendment is for an 84-foot tall automated storage facility. There are a lot of M-1 properties that wouldn't accommodate this size of structure, so it probably won't be a problem especially when you consider the front yard setback of 30 feet on the residential plus the right-of-way and then the 60 feet.

Dan Laws referred to page 4 of the staff report under criteria 2 and asked how this impacts those areas that are not part of the large majority or the certain exceptions.

Greg Mikolash said if we assume most of the properties in the manufacturing subdivisions are trying to make the minimum lot size of 100 feet by 100 feet it wouldn't be able to accommodate a 70-foot tall building.

Kathy Hilton asked how this fits with the International Building Code.

Greg Mikolash thought that it was because of the change to the IBC in 1997 that brought about the original change.

Tom Burdett said certainly the zoning code is more restrictive than the IBC.

Tim Dwyer, Dannon representative, 6165 West Dannon Way and Tim Hartig, Peach State Integrated Technologies, were available for questions.

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

MOTION: Dan Lawes moved to forward a positive recommendation to the City Council for a Text Amendment to Section 13-5F-3 amending the setback requirements within the manufacturing zoning districts as discussed tonight. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

6. Salt Lake County Electrical Facilities Plan; Consideration and Recommendations to City Council regarding Entering into a Memorandum of Understanding with Rocky Mountain Power to formalize a mutual commitment to observe the principals of the Plan; Rocky Mountain Power (applicant)

Greg Mikolash stated that representatives from Rocky Mountain Power will explain what it took to develop the County-wide handbook to facilitate power planning.

Staff suggested that the Planning Commission forward a positive recommendation to the City Council to formally adopt the memorandum of understanding via resolution. Separate from the formalization of the MOU, staff also suggested that the Planning Commission forward a recommendation to the City Council to make reference of the Plan and incorporate language into the City's Comprehensive General Plan (update) outlining the Plan's purpose and intent.

Greg Noyes and Alene Benetly were in attendance. Ms. Benetly acknowledged Tom Burdett and Greg Mikolash for working on the plan.

Ms. Benetly stated that this is a new approach that RMP would like to take with all communities in planning the electrical network of tomorrow. She explained that a substation or power line is like any kind of infrastructure such as a water main, and when usage exceeds the limits a new one has to be installed. In the past their engineers would look for a site when the demand increased, which would at times come as a surprise to the community. The city looks at the impacts for infrastructure, but unless it is a big development the city doesn't consider electrical capacity. Their goal is to integrate the local governments' long term land use plans with electrical network requirements. Their planning horizon is 2040. Representatives from every jurisdiction as well as other agencies were involved. An independent facilitator, Ted Knowlton, was brought in. The plan has three components: 1) Map to show the approximate locations by 2040; 2) Siting criteria to guide evaluation of alternative sites when new facilities are required; and, 3) Local planning handbook of implementation tools.

She explained how the future need was determined by using the land use maps according to industrial, commercial, and residential needs based on today's usage. RMP has 92 substations today, and there are a projected 25 new substations needed by 2040. They have a legal obligation to provide the capacity, but they need to work with the local planning authority in avoiding inherently cost prohibitive locations and design elements. She explained the scorecard system for siting criteria. This is the best approach they could think of to build a shared responsibility for infrastructure planning. The city approves development, but usage by current customers has risen 26% over 20 years. They will bring the group together at least every 5 years to review the plan. If the city permits something that has a big impact on electrical capacity requirements, then the group may have to reconvene sooner. It is important to work collaboratively on a regional-wide basis. They bring this plan to the commission in hopes they will consider in whatever way is appropriate for West Jordan to incorporate the plan in some manner into its long term planning processes.

David McKinney asked if the City Council will hear the presentation.

Tom Burdett said yes, but staff felt it was important to bring it to the Planning Commission along with the General Plan for a recommendation.

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

Tom Burdett said growth includes both population and jobs. Planning for electrical service for population is fairly predictable, but non-residential planning includes a broad range of service demands for power. Power is

becoming just as essential to businesses as other types of infrastructure. This could be addressed in the capital improvement programs and have references made in the introduction that there is electrical facility planning. They should consider incorporating this in some context into the General Plan. This is setting a new level of standard county-wide to anticipate long-range service demands for electrical facilities. The siting criterion was developed by a broad group of representatives throughout the Valley where there was give and take in order to balance the issues. It is important to plan on this level to identify services for future neighborhoods. But the true benefit of the plan will come in economic development. A variety of companies use a huge range of power and it is difficult to tell companies that we can't meet their power requirements for their business.

Kathy Hilton said it was good to get a better understanding of how the plan was developed. But she had concerns with item #7 on the MOU that seems to be an easy way out for Rocky Mountain Power to follow the plan or not. She thought the plan was great and was glad to have it.

Tom Burdett said #7 was more that RMP didn't want to dictate what was going to happen to any particular jurisdiction in terms of siting facilities. It does leave a safety valve for not following it to that extent. This is the best information available today, but communities change and everyone recognized that. That is probably why #2 and #7 were included.

Kathy Hilton asked if they should invite Rocky Mountain Power to the meetings when major land use changes are being made.

Tom Burdett said Rocky Mountain Power wants to be part of that team as our land use plan develops.

Ray McCandless said that Rocky Mountain Power attended one of the General Plan Committee meetings and the also participated in the open houses. He suggested that the General Plan Committee consider where the reference to this plan fits best.

MOTION: David McKinney moved to forward a positive recommendation to the City Council to formally adopt the Memorandum of Understanding associated with the Rocky Mountain Power – Salt Lake County Electrical Plan via resolution. The motion was seconded by Kathy Hilton.

Nathan Gedge explained that he wasn't against the motion, but he would abstain because he didn't feel it was his role as a planning commissioner to forward a recommendation to the city council for a non-quasi-legislative or non-quasi-judicial action.

VOTE: The motion passed 6-0 in favor with Nathan Gedge abstaining.

MOTION: David McKinney moved to forward a recommendation to the City Council to make reference to the Rocky Mountain Power – Salt Lake County Electrical Plan in the City's Comprehensive General Plan outlining the plan's purpose and intent and recommend that the City Council convene the General Plan Committee to determine the appropriate place within the plan for that reference. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

7. Comprehensive General Plan Update (2011) – Update Chapter 9 Urban Design; Chapter 12 Sustainability; Chapter 3 Land Use of the West Jordan Comprehensive General Plan; City-Wide; City of West Jordan (applicant) [#TA20110006]

Ray McCandless reviewed the major changes in the elements.

Urban Design

Changes to the text included clarifications, and the term ‘City Center’ replaces ‘Town Center’ throughout the plan as recommended by the General Plan Committee. The Committee added to Goal 1, Policy 2 that pedestrian systems between new and existing developments should be provided when possible. In Goal 2 a sentence was added by the Committee regarding architecture and screening. On page 11 they added an Implementation Measure to encourage grid-style road systems. On page 14 the Committee added an implementation measure on Goal 5, Policy 2. Most of the chapter was left as it is with a few minor changes.

Ellen Smith, West Jordan resident and representative from the General Plan Committee, said most of the changes were minor. They mostly wanted a city with connectivity where people can easily walk places and where it is easy to find businesses, neighborhoods, etc.

Sustainability

Ray McCandless explained that this was a new chapter in the general plan and was more difficult to write because everyone’s concept of the term is different. The World Commission on Environmental Development defines sustainable development as “Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” Utah State Law also supports that and requires cities to adopt a general plan. Sustainability is a balance between the environment, the economy, and the society. The purpose of the entire general plan is to provide the tools or the guidance to create a sustainable community and all of the elements have some reference to it. Sections on energy conservation and community gardens were added.

Justin Stoker said one item that always comes up in his discussions regarding sustainability is that a number of people fail to recognize there are two sides of the issue. People install energy efficient devices but don’t consider whether or not the product is durable and if it will last more than a couple of years. We tend to adopt devices or policies that appear to have a low impact on development, but at the same time they are not durable. He liked the language in the element, but suggested that they add to **Goal 2, Policy 2, Implementation Measure #4, “Encourage the use of durable materials in construction, maintenance, and operation to reduce impacts on landfills and prevent neighborhood blight.”**

David McKinney thought the concept of durability was good. He referred to Page 1, third paragraph on the first line and stated that “social equity” seems like a politically loaded term where the goal of planning is to ensure equality between people, which is a separate issue. The thing good planning promotes in a city from the sustainability standpoint is socialization between people with walkable communities where the city is designed in a way that promotes social capital. It is the idea that communities are better off when people are involved with each other more, and communities can be designed to promote that. **He recommended a term different from “social equity”, and then to add something in the goals and policies perhaps under Policy 2 where they talk about the gardens, something regarding ‘neighborhood features that promote social interaction’.**

Dan Lawes suggested that also under Policy 2 in the implementation measures they add, **“Encourage partnerships with non-profit organizations”**, who can assist with community gardens.

Land Use

Kathy Hilton noticed the frequent use of the word 'shall' in this chapter. The term is legal and doesn't allow for a choice, so she wondered if the ordinances were going to change to match this language.

Ray McCandless said the commission could recommend that 'shall' be changed. The general plan is a guiding document.

Justin Stoker suggested the word 'should'. We all have the intent to follow the general plan, but they don't want to bind or limit the city by using 'shall' so often that it won't allow flexibility when an exception arises.

Ray McCandless said the introduction was expanded to describe the purpose of the land use element and the land use map. The charts and graphs were updated, and the Committee wanted to add a column showing the target percentages for the different types of facilities. We have the percentages for future build-out at the end of the document, but we don't have target percentages with the tables. Staff felt the target percentage goes with the same argument as the multi-family to single-family ratio. The question is whether or not that is arbitrary. The text talks of eliminating the General Commercial zoning district and expanding the SC-2 and C-M zones to incorporate the C-G land uses. They had discussions about modifying the Business Research Park (BR-P) district to make a more attractive option for developers. The chapter speaks of adopting a city-wide mixed-use category. It also talks about updating the text for an airport zone that would be specific to airport related uses. The Committee would like to reevaluate the off-street parking requirements to make sure they are not providing too much parking. The Committee also discussed undergrounding utilities. He directed them to page 6, #5 and #6, which staff felt needed modifying since they conflict.

Justin Stoker said they would want to add the language 'or redevelopment' into #5 in order to be consistent with #6.

Greg Mikolash said that the term 'infill' will typically mean the same as redevelopment.

David McKinney felt that with the experience of this commission, #6 becomes impossible to implement.

Justin Stoker said there is little or no structure from which they can make a decision. It all comes down to a number of subjective measures such as if there are other overhead lines, or if gas lines are in the way, etc. He felt that the city needs to add more structure for the decisions.

David McKinney said having the objective to have underground utilities should be part of the general plan, wherever possible. However, the plan to do it is a challenge. He thought that Item #5 should state 'Underground utilities wherever possible' as the first statement, followed by the other language. Then #6 becomes superfluous.

Justin Stoker said they could change #6 to state that 'New development or redevelopment should underground all utilities where feasible or where possible'.

David McKinney and Kathy Hilton felt that #5 took care of that.

Greg Mikolash said when they are reevaluating those standards, like they are right now, that is the goal. He felt that #5 as it stands today takes care of what they are saying.

Ray McCandless said one of the things they talked about was adding the densities and giving more of a description. In the chart they broke out the density calculations based on the current densities that are allowed in

the zoning district, which is different in the WSPA than the rest of the city. The General Plan Committee wanted to see a more simplified version of the chart.

Justin Stoker pointed out on pages 11 and 12 there are gaps between the density ranges.

Clarification was made that the chart shown in black is just for reference of how the numbers are listed currently. The chart in red is suggested by the General Plan Committee and the chart in blue is what staff presented to the Committee.

Justin Stoker felt that the medium range of 4-5 on the red chart is very narrow.

Nathan Gedge preferred to leave the staff recommendation with the pictures and charts. It gives future planning commissions or development a better picture.

David McKinney agreed.

Dan Lawes wanted to know why the Committee proposed the other table.

Ellen Smith said one of their big concerns was that the land use section was set out to be as if there were two cities. The Committee liked the pictures and descriptions in the chart, but they wanted the densities combined into one showing the minimum density and zoning. She didn't think that the red chart was totally correct with what was in her notes.

Dan Lawes said it was a guiding principle at the handoff meeting to stop splitting the city, which made sense.

Greg Mikolash said this boils down to a name. The WSPA is just a special planning area. When it was first initiated in 2005 they didn't know what to do with the remaining 6,000 acres of the city. They hired a professional to come up with a special planned area and it happened to be entitled 'west side planning area', which was ill-fated. They can keep this a special planning area but call it something else if they want to. The tables staff proposed are meant to separate traditionally planned areas from the vacant areas of the city. They could combine them, but it would eliminate the specially planning area that they spent so much time on.

Justin Stoker noted that there are different densities within the special planning area.

Greg Mikolash said the tables are just indicating how they are planning today. 'Low-density' on the future land use map means two different things when they talk traditional zoning and the WSPA.

Kathy Hilton asked why infill can't have the same things as the WSPA.

Greg Mikolash said they could do that, but they aren't to that point. You would have to change the entire land use chart so that the entire city falls under the WSPA-type of zoning.

Justin Stoker asked if they need to rename the WSPA to something more generic.

Greg Mikolash said West Jordan is still one city. They just need to state that the west side area is going to be planned a little bit differently because they are dealing with performance zoning. We didn't have performance zoning in the past.

Tom Burdett said they could integrate the tables into one to serve the whole city.

Justin Stoker asked how that can be done with the two densities ranges.

Tom Burdett said it is integrating into the current table some of the performance zoning districts. The WSPA could be changed to 'performance growth area', which would allow for that area to be used for infill as well.

Kathy Hilton felt it would take time to make that change.

Greg Mikolash said they can go forward with what they want today and then morph into performance zoning for the whole city if that is what they want.

Justin Stoker asked if they want to modify the traditional densities to match the performance growth zoning densities.

Tom Burdett said as the zoning in the performance growth area was implemented it didn't provide that much more density than what would take place in the existing areas; it brought in performance standards as a way to go from the low to the high within the range. They seldom see in the existing part of town anyone proposing lower than the maximum.

Greg Mikolash said they could propose another table, but they haven't had any direction to take the entire city to performance zoning. The proposed table is just trying to break out what is traditional and what is not and show the differences in the densities. The tables are not indicating future proposals.

Ellen Smith understood where staff is coming from, but the land use committee felt strongly about not splitting West Jordan. She felt there was a way to redo the tables to reflect the whole city.

Greg Mikolash said they could remove 'traditional' and 'WSPA' at the top of the column and include the HFR, PC, PRD, which eliminates the west and east side division.

Ellen Smith said if performance zoning goes across the whole city then the committee's concern is that they don't start the density at the max of each district and work up from there, but that the basic standards would be a little lower than the max.

Tom Burdett said we see the value of using performance zoning in infill situations, but we are really trying to avoid using traditional zoning in the performance growth area. Keeping that in mind he felt they could integrate the tables.

Ellen Smith commented on the discussion on undergrounding utilities. Implementation Measure #6 was the goal that all utilities in new development should be undergrounded whether it is infill, redevelopment or new development. However, they also know that the current code does not work, so they have two goals. First they need to fix the current code and second they want to maintain the goal of undergrounding utilities. As a General Plan Committee they felt that both goals were important enough to be mentioned separately.

Jesse Valenzuela suggested that they have a special meeting to target this element.

Ray McCandless said a lot of the other changes deal with the individual land uses; there are individual goals and policies for each land use.

Kathy Hilton referred to page 17 Goal 4, Policy 1, and asked if there would be a minimum and maximum lot size for Implementation Measure #1. Her concern is that there will be more of the smaller lots than larger lots, and she felt this statement leaves it too wide open.

Justin Stoker thought that the chapter contradicts the single-family to multi-family ratio idea of wanting targets on specific densities.

Kathy Hilton said there also seems to be a contradiction between Implementation Measures 1 and 4 on Policy 2 in Goal 4.

Ray McCandless said the overall goal is to encourage a mix of uses and to provide a variety of opportunities. The question is to how to say that.

Justin Stoker asked for action on the first two chapters and to continue the land use chapter.

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

MOTION: David McKinney moved based on the findings set forth in the staff report, the evidence and explanations received this evening to forward a positive recommendation to the City Council to approve the proposed changes to Chapter 9 Urban Design element of the Comprehensive General Plan 2011 including additional comments provided this evening. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

MOTION: David McKinney moved based on the findings set forth in the staff report and upon the evidence and explanations received in this meeting to forward a positive recommendation to the City Council to approve the new Chapter 12 Sustainability element of the Comprehensive General Plan 2011 with additional comments and modifications as presented this evening. The motion was seconded by Nathan Gedge and passed 7-0 in favor.

MOTION: Nathan Gedge moved to continue Chapter 3 Land Use element changes to the General Plan to the October 4, 2011 meeting. The motion was seconded by David McKinney and passed 7-0 in favor.

The Commission wanted a workshop on September 27, 2011 for the land use element.

MOTION: Nathan Gedge moved to adjourn.

The meeting adjourned at 9:57 p.m.

Justin Stoker
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2011