MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD NOVEMBER 15, 2011 IN THE WEST JORDAN COUNCIL CHAMBERS

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

STAFF: Tom Burdett, Greg Mikolash, Robert Thorup, Julie Davis, and Ray McCandless.

OTHERS: Carol Pool

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The briefing meeting was called to order by Justin Stoker.

The agenda was reviewed. Staff provided updates on the General Plan adoption schedule and recent City Council actions. Paul Brockbank gave an update on a discussion from the previous meeting regarding building separation. Jesse Valenzuela is going to request that the Mayor involve the commissioners in the selection process for new commissioners in order to keep continuity on the commission and suggested that the other commissioners do the same.

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

1. Consent Calendar
Approve Minutes from November 1, 2011

MOTION: Nathan Gedge moved to approve Consent Calendar Item #1 the minutes from the November 1, 2011 meeting. The motion was seconded by John Winn and passed 5-0 in favor. Kathy Hilton and David McKinney were absent.

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2. Approve Planning Commission Calendar for 2012

MOTION: Nathan Gedge moved to approve the 2012 Planning Commission Calendar as presented, changing the available date in July to the 3rd instead of the 31st, if needed. The motion was seconded by John Winn and passed 5-0 in favor. Kathy Hilton and David McKinney were absent.

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3. Text Amendment – Amend the West Jordan Municipal Code making miscellaneous amendments and corrections to Title 13 relating to Special Residential Facilities; City-wide applicability; City of West Jordan (applicant) [#TA20110003]

Ray McCandless explained that the current ordinance classifies human services facilities such as group homes as residential facilities for disabled persons and are only allowed in residential districts. The number of occupants is limited by the city's definition of a family (5 unrelated persons). The ordinance doesn't differentiate between the different types of uses, and there is no spacing or size regulation. The proposed Special Residential Facilities classification would include both small and large adult daycare, group homes, residential substance abuse treatment homes, and transitional homes. He showed the proposed use tables that have been distributed throughout the residential, office, public facilities, planned residential and mixed use zones. By making these either administrative conditional use or conditional use it gives residents an opportunity to comment. Definitions for each type of facility and general requirements are provided for items such as licensing, spacing of one-half mile from a similar facility for even distribution, and a minimum distance of 500 feet from a church or school for substance abuse facilities. The definition of family was updated to allow two other hired persons (nannies, gardeners). These revisions may expand the possibilities for these types of facilities, but overall the code is beneficial and will give residents a forum to express concerns and it will distribute the facilities more evenly.

Staff recommended that the Planning Commission accept the findings contained in the staff report and forward a positive recommendation to the City Council for the proposed text amendment to Title 13 relating to Special Residential Facilities.

Nathan Gedge wanted to verify that regardless of the classification or type of conditional use permit that noticing will be sent.

Ray McCandless said that is correct.

Dan Lawes asked if State Law or ADA govern the minimum size of the facilities.

Robert Thorup said they are operating under the Fair Housing Act that calls upon local governments to give leeway and to not be in a position to prohibit or impinge upon the rights of people with disabilities to have a fair opportunity for housing. Studies show that a residential atmosphere seems to be better in the treatment of these individuals rather than an institutional atmosphere. Historically there has been a collision of those who want to establish these as businesses in residential neighborhoods and the cities that usually have only their code that defines the number of people as a family. He told of a case in Draper that proposed to use a very large home for 12-15 people, but the code stated they could only have 6 unrelated people per home based on their definition of a family. The court said Draper was in violation of the Fair Housing Act. He felt that the beauty of the draft ordinance is the definition of a family, which includes 'the term family shall not be applied to a special residential facility'. This eliminates significant risk to the city, and it helps the city to comply with the Federal and State fair housing acts.

Dan Lawes asked if there is an inspection prior to licensing to make sure it is an adequate facility.

Robert Thorup said they are subject to State licensing and inspection, and the city will require that as part of our approvals.

Ray McCandless explained that the administrative conditional use permit also requires a public hearing where the public can provide comments.

Justin Stoker said there is great potential for the definition of family to be abused where any number of people who are related can live in the same home. A group of three married couples and their children would be more intense than even a group home or multifamily residential. He asked if there was a mechanism to prevent this abuse or is it just by receiving complaints.

Robert Thorup said as they explored this ordinance they looked at whether or not they can get away from the definition of family by having a building definition based on health and safety such as how many square feet per person needs to be provided. Court decisions were saying that you can't let an unlimited number of related people live together unless you are willing to allow an unlimited number of non-related people live together. Staff couldn't find any reliable data that would said limited square footage is a problem. There are families with eight children who can live together in perfect harmony, but the size of the family usually dictates the size of the home based on comfort. So, they determined that nuisance and health and safety laws exist through the police and health departments to deal with those situations.

Jesse Valenzuela said the fire code dictates an assisted living environment that is beyond the scope of having a large family; an annual inspection is required and there are other codes in place for these facilities that wouldn't be discriminatory to a large family.

Justin Stoker felt that the 300-foot notification is sometimes inadequate, especially when it is across a major street. He asked if it could be changed to 500 feet.

Tom Burdett said they can set a higher standard if they wish. They could also increase the number in the processing title if they don't think they are reaching the right audience. In past cases staff will ask for a bigger notification area. He wasn't sure if they should automatically raise the threshold, but they could add language that in some circumstances additional noticing may be required.

Carol Pool, West Jordan resident, stated that she lives next door to a group home. She asked if they are also considering the number of employees and required off-street parking, because it is a major problem in her neighborhood.

Greg Mikolash said this is the reason for requiring a conditional use permit, so they can mitigate issues such as parking. They expect full disclosure at the time of application, if not during the public hearing process.

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

Justin Stoker would be in favor of increasing the notice in 'E' to 500 feet to avoid any claims of being arbitrary or capricious with the notification if the distance isn't consistent.

Jesse Valenzuela suggested adding language that says 'but not limited to'.

Nathan Gedge recommended 'at a minimum of 500 feet'.

Dan Lawes asked why they don't leave it at 300 feet as stated in the code and add 'at a minimum'.

Justin Stoker said 300 feet is consistent with the notification of other applications, but they had found that 300 feet is often not adequate, such as with the Cadyn Meadows project.

MOTION: **Nathan Gedge moved based upon the testimony tonight and the discussion to forward a positive recommendation to the City Council for the proposed text amendments to Title 13 as contained in the report, modifying 13-6I-1E to read, "Prior to building or opening any Special Residential Facility, the owner or developer shall notify the owners of every property at a minimum of 500 feet of the proposed location …". The motion was seconded by Dan Lawes and passed 5-0 in favor. Kathy Hilton and David McKinney were absent.**

MOTION: **Nathan Gedge moved to adjourn.**

The meeting adjourned at 6:31 p.m.

Justin Stoker
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2011