

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD OCTOBER 15, 2013 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Nathan Gedge, David Pack, Ellen Smith, Dan Lawes, John Winn, Lesa Bridge, and Zach Jacob.

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

OTHERS: John Clayton, Gary Beers, Kendall Draney

The briefing meeting was called to order by Nathan Gedge.

The agenda was reviewed. Dan Lawes felt that the minimum lot size table in the PRD section of the code didn't make sense and either needed to be stricken or modified to meet the density designation in other sections of the code, and a discussion followed. None of the Commissioners had a problem with having less than four acres in a PRD.

There was a discussion regarding possible changes in the by-laws and procedures to have the applicant speak first at the hearing. Concerns were expressed by staff that the applicant might not have the means or ability to provide a professional presentation, which might affect their overall project, as well as staff will just be repeating the presentation. Points were made relating to whether or not staff needed to present it again since all of the information had been provided to the commissioners in the packet. A lot of the time the public will come to the meeting to get more information about the project, so staff tries to provide as much information as possible in the report and the presentation. Tom suggested bifurcating staff's comments to include an initial introduction of the project, and then the applicant and public hearing would take place with the criteria then being addressed by staff. Reasons for changing the procedure when it seems to be working fine were noted that the applicant has the burden of proof for their project. Nathan Gedge said they can try the change and make adjustments as needed.

The regular meeting was called to order at 6:03 p.m.

1. Consent Calendar

Approve Minutes from October 1, 2013

MOTION: John Winn moved to approve the Consent Calendar, the minutes from October 1, 2013. The motion was seconded by Lesa Bridge and passed 7-0 in favor.

3. Text Amendment - Amend the West Jordan Municipal Code making revisions to Title 13, relating to Residential Facilities for the Elderly and Disabled, Planned Residential Developments and Adequate School Facilities; City-wide; City of West Jordan (applicant) [#TA20130007]

Ray McCandless stated there are three areas of the code that need attention.

- 1) Residential facilities for the disabled and elderly. The Special Residential Facilities Ordinance was put into place in 2012 that addresses group homes, adult daycares, transitional homes, and residential substance abuse treatment homes. At that time residential facilities for the disabled and elderly should have been removed from the code as independent uses because they are covered under the Special Residential Facilities.
- 2) Planned Residential Developments. The planned development ordinance requires the applicant to provide a concept development plan as part of a rezoning request, but there is nothing in the text that ties the concept development plan to the rezoning request. The proposal is to add a statement in Section 13-5C-2 that a rezoning request for a PRD or P-C designation may not be approved without

concurrently approving the concept development plan under this section. They also eliminated the requirement for draft CC&R's at the concept level. The other suggestion is to change the PRD(M) density table to be a minimum of 2 acres. The commission also had a discussion in the pre-meeting regarding other possible changes to that section.

- 3) Adequate School Facilities. State Law used to require the developer to provide a will serve letter from the school district stating that facilities are available. However, the law has changed and that requirement no longer applies, so the code amendment would strike out those references.

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 the proposed text amendments.

Zach Jacob understood the State Law that indicates the city cannot make the developer provide the will serve letter, but if they strike the entire section there will be no reference to schools at any time. He asked if the city could be required to provide that information and the planning commission and city council would determine whether or not to approve the development based on adequate school facilities.

Robert Thorup said it is his reading of the State Law that the purpose is to say that the city cannot require a school will serve letter as a condition of approval. We can still get information from the district, but we can't stop someone from getting approval based on whether or not there are school facilities.

Zach Jacob said when he read the State Law it was specific to developers, so it doesn't mean it can't be applied at all. Not necessarily as a condition of approval, but the planning commission or city council should still be able to consider it based on available public services.

Dan Lawes said that would just be another way of restricting development without saying they are restricting development.

Zach Jacob said they should be able to consider schools just as they would if there were not adequate fire protection; there are not adequate public facilities.

Nathan Gedge said they can't use that as one of the criteria for approval when there is a quasi-legislative action before them. They have the recommendation from the city attorney.

Dan Lawes said the State Code states that the school district has to service the students within their boundaries, which puts the onus on the school district.

Ellen Smith said then what happens is we approve the developments, the schools will be overcrowded, and then the citizens will look to the planning commission and ask why they didn't plan for schools. The State is taking the power away from the city. It also affects economic development, because if the schools aren't adequate people won't want to develop or move here.

Tom Burdett said this problem is specific to all of the high-growth west side communities. The term adequate public facility has a unique definition in the land use law business and it is specific to assurance that there is either existing capacity or capacity will be available or be made available at time of occupancy. West Jordan was probably a leader in making this a code requirement, but for the time being it is probably best to strike the section. He proposed that schools could be added to the findings for a rezoning in criteria #4 and still have some value to making a finding of whether or not the school district is planning new schools in the area. However, he is not speaking for the attorney's office. The State Law specifically says we need to do away with will serve letters as a condition of approval.

Nathan Gedge opened the public hearing.

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

David Pack had some of the same concerns as Commissioner Jacob, but it is a State Law. It is a frustrating situation because they want to get as much information as possible when considering a development. He asked what they can do to keep the dialogue open with the school district and how this change will affect how they can adequately do their job.

Dan Lawes said the dialogue can and should still exist.

Nathan Gedge said they can still make a request for information.

Robert Thorup said they can investigate and learn what they want, but if they ask the district if they can provide service the answer will be yes. But what do you do from there? Do you go to the school and count the number of children, and does that change the fact that the school district says they will provide the service? That is what the developers were saying to the legislature; the city can't build the schools so why is the city putting a burden on the development when it is another government who is responsible, and that government says they will provide it.

John Winn said they are all aware of how crowded the schools are, but to him it is a moot point because the school district will say that they will provide schools. It is good to have a close relationship with the district so they can tell us how they are accomplishing their goals.

Nathan Gedge said if they are contacted by citizens who want to have answers to why the schools are crowded they can be referred to the school district and the state senators and representatives who passed the law.

Ellen Smith felt that there should be a way for the planning commission, state legislature, school district, and the developers to take care of their responsibility and work together for a better solution. She didn't want to approve the text amendment, but the State Law requires it.

Dan Lawes referred to their discussion in the pre-meeting regarding the second text amendment and said the densities in the table don't match the densities in the other section of the code, and he would be in favor of excluding the table as part of their recommendation to city council, and they will rely on the densities in the other section of the code until it can be revisited.

Robert Thorup pointed out one of the reasons they were making some of the changes to the PRD is to clarify that the concept plan is part of the decision-making, which isn't true for other zoning districts. They are allowed to make judgments on the project based on the concept plan for a PRD zone.

Tom Burdett said they will have this same discussion with the city council at the Leak property rezone hearing next week.

MOTION: Dan Lawes moved to forward a positive recommendation to the City Council for the Text Amendments to the West Jordan 2009 City Code as proposed with one modification to strike the table from Section 13-5C-5B1 that describes individual lot minimum and maximum size. The motion was seconded by Lesa Bridge.

AMENDED

MOTION: Zach Jacob moved to amend the motion to strike all of 13-5C-5B1, because it just refers to the table and then renumber the items. The amendment was accepted by Dan Lawes and Lesa Bridge.

Zach Jacob said he felt he owed it to those in the city he represents to have had a discussion regarding the school issue, and he would have felt like he was passing the buck if he just accepted that his hands were tied without talking about it.

VOTE: The amended motion passed 7-0 in favor.

2. Wood Property Determination; 7900 South 2700 West; Request for Planning Commission Determination to Reduce Required Acreage for PRD Development; Clayton Homes/John Clayton (applicant) [#MISC20130014; parcel 21-33-128-010, 011, 012]

[The applicant was initially not in attendance, so the item was heard at 6:33 p.m. after Item #3 at which time the applicant was present.]

Greg Mikolash stated that the commission understood the situation and that they have the ability to make a determination that a PRD can be less than four acres in size, and the previous recommendation from the Planning Commission to remove the table will take care of the issue even further.

Based on the explanation in the staff report, Planning Staff is in support of a Planning Commission decision to allow for a PRD to be less than 4 acres in size as no impacts should be created and future findings of facts (on all processes) should be met.

Discussion on this matter was requested by the applicant in an effort to ascertain some assurances that a proposed PRD project on 3.08 acres is justified and acceptable for future Planning Commission subdivision, site plan, and development plan reviews and approvals.

John Clayton, applicant, 1623 East Woodcrest Drive, said they have looked at this property over the years and requested a zoning change about ten years ago that was denied. The property is not very large and is located between a commercial property to the north, a quasi-PUD development to the west, and a park to the south. It isn't the type of property that would be conducive to the current zoning. They felt that this property would be well suited for senior housing similar to the new senior apartments on 3200 West. He asked the planning commission for an affirmative determination to allow for a PRD to be on less than three acres.

Nathan Gedge clarified that this is not a public hearing. He said the previous action to recommend to the city council that they eliminate the minimum lot size in the PRD will address the applicant's request.

Dan Lawes felt that they solved the issue by removing the table and now he would just apply the other aspects of the PRD to any future development.

Nathan Gedge stated that the planning commission is in support of the request.

Tom Burdett distributed a copy of the planning commission by-laws and procedures and referred to Item D1 on page 5. He said if the commission desired to give direction for changes then staff will bring it back at the next meeting.

Nathan Gedge said they discussed switching B and C.

Ellen Smith said they can try it and if it doesn't work they can revert back. David Pack asked if they were also going to ensure that the applicant is present. Nathan Gedge said he had been doing that and wondered if it had to be formally changed.

Dan Lawes said they could reword item to include an item introduction by chair *and* staff, which will give staff a chance to do an initial introduction.

There was a discussion regarding possible issues with coordination of the presentation between the applicant and staff. Greg Mikolash asked if they are now going to have two power point presentations, there is a change to the staff checklist and it may be putting applicants who aren't public speakers at a disadvantage because now they might not be able to do justice to an otherwise great project.

The commission will consider this and they will discuss it further when it is placed on the agenda.

Nathan Gedge indicated that this is his last meeting so Dan Lawes will be the interim chair and they will operate as six-person commission through the end of the year. He was happy to still be on the Western Stampede committee.

Next regular planning commission meeting is on November 12 and a workshop with the city council will be on November 6.

MOTION: Zach Jacob moved to adjourn.

The meeting adjourned at 6:44 p.m.

DAN LAWES
Interim Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2013