

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD MAY 20, 2014 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Dan Lawes, Sophie Rice, David Pack, Bill Heiner, and Ellen Smith. Zach Jacob was excused. Lesa Bridge was absent.

STAFF: Greg Mikolash, Ray McCandless, Nannette Larsen, Robert Thorup, and Julie Davis

OTHERS: Pat H. Miller, Bruce Sailor, Harold Overby, Sheila Overby, Linda Crandall, Laura Dipo, Rex Dipo, Julie Severinsen, Laird Severinsen, Susan Pasi, Kelley Anne Severinsen, Jeanette Drake, Ron Drake, Alexis Brasier, Nancy Dowding, Douglas Dowding, Kristene Hatch, Gene Drake, Kyle Rees, and Stuart Knight.

The briefing meeting was called to order by Dan Lawes. The agenda was reviewed and clarifying questions were answered.

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

1. Consent Calendar

A. Approve Minutes from May 6, 2014

B. Hawaiian Shaved Ice; 7872 South Old Bingham Highway; Temporary Use Permit; P-C Zone; Alexis Brasier (applicant) [#TUP20140015]

Based on the findings outlined in the report, staff recommended that the Planning Commission grant Temporary Use Permit approval for Hawaiian Shaved Ice located at 7872 South Old Bingham Highway in a P-C zoning district with the conditions of approval as listed.

Conditions of Approval:

1. Provide for a minimum 6-foot wide pedestrian standing/access area around all four sides of the snow shack. These areas must not encroach on any vehicle drive aisle.
2. Dates of operation shall be from May 2014 to September 2014, or shall not exceed 150 consecutive days.
3. A \$300 site restoration bond shall be placed with the City. The bond will be released after the use has ceased operation and the site has been cleaned and restored to previous conditions.
4. Maintain the temporary shack and surrounding area in good order, and keep the parking lot free of trash and debris during the extent of the temporary use.
5. The stand and all associated equipment/materials shall be removed from the site within five days of permit expiration.
6. Obtain and maintain a valid West Jordan City Business License.
7. Obtain approval from the Salt Lake County Health Department.
8. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.

MOTION: David Pack moved to approve the Consent Calendar Items #1A and #1B. The motion was seconded by Bill Heiner and passed 5-0 in favor. Zach Jacob and Lesa Bridge were absent.

2. CrossFit Extraordinaire; 1389 West 9000 South; Conditional Use Permit for Personal Instruction Service; P-C Zone; CrossFit Extraordinaires (applicant) [#CUP20140004; parcel 27-03-426-087]

Kyle Rees, applicant, stated that this location is easily accessible to the public. Their business doesn't have many machines, but instead they teach people proper movements for safe workouts.

Greg Mikolash said they anticipate five to six clients at a time with two employees, which would only require seven or eight parking spaces, and the site has plenty available. The use is a good fit for the area.

Based on the positive findings set forth in the staff report, staff recommended that the Planning Commission approve the Conditional Use Permit for CrossFit Extraordinaire to allow a personal instruction business located at 1389 West 9000 South in a P-C zone with the following conditions of approval:

1. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.
2. Obtain and maintain a valid Business License.
3. The Conditional Use Permit is subject to review and/or revocation as per City Code Section 13-7E-10.
4. Permanent or temporary signage shall abide by the conditions stipulated in Section 12 and 13-17 of the City Code, and shall be approved by the Planning and Building and Safety departments through all applicable permit processes.

Dan Lawes opened the public hearing.

Further public comment for this portion of the public hearing was closed.

David Pack said CrossFit facilities sometimes train outside of the gym, and he asked if there were any concerns with that.

Greg Mikolash said they have no concerns.

Kyle Rees said one of the reasons they chose the location was for the vacant area behind the building that they can use, if needed. Typically the only equipment they would take outside would be a wooden box, but they usually just run outside.

MOTION: Ellen Smith moved based on the positive findings in the staff report and the discussion they had today to approve the Conditional Use Permit for a personal instruction business for CrossFit Extraordinaire; 1389 West 9000 South; CrossFit Extraordinaire/Kyle Rees (applicant) with the conditions of approval as set forth in the packet. The motion was seconded by David Pack and passed 5-0 in favor. Zach Jacob and Lesa Bridge were absent.

3. Baker Subdivision; 4235 West Farm Road; Preliminary and Final Subdivision Plat (2 lots on 1.85 acres); M-1 Zone; Baker Investment Properties, LLC/Gary Baker (applicant) [#SDMA20140005; parcels 21-31-452-001, 005]

Stuart Knight, Knight Real Estate Advisors, said he is part of the group doing the subdivision. He was available to answer questions.

Nannette Larsen said the property lines will be amended to create Lot 1 and Lot 2. Because the north property line extends into the public right-of-way, road dedication to the city is required. No other physical changes are being made to the site.

Based on the positive findings of fact in the staff report, staff recommended that the Planning Commission grant Preliminary/Final Major Subdivision approval of Baker Subdivision located at 4235 and 4277 West Farm Road in an M-1 zoning district, with the conditions of approval as listed below:

1. The proposed development shall meet all applicable Subdivision and Zoning Ordinance requirements.
2. The final subdivision plat must meet all requirements of the Engineering and Fire Departments.
3. Approval of a Final Subdivision Plat shall remain valid for two (2) years. One 6-month extension may be granted by the zoning administrator. (14.3.8.B)

Dan Lawes opened the public hearing.

Further public comment for this portion of the public hearing was closed.

MOTION: Ellen Smith moved based on the positive findings of fact in the staff report to approve the Preliminary and Final Subdivision Plat for Baker Subdivision; 4235 West Farm Road; Baker Investment Properties, LLC/Gary Baker (applicant) with the conditions of approval as set forth in the planning commission packet. The motion was seconded by Sophie Rice and passed 5-0 in favor. Zach Jacob and Lesa Bridge were absent.

4. West Jordan Future Land Use Map Amendments – Amend the West Jordan Future Land Use Map for approximately 12.1 acres of land located at approximately 1850 West Drake Lane from High Density Residential to Medium Density Residential and approximately 9.13 acres of land located at approximately 9053 South 1150 West from Very High Density Residential to Low Density Residential or other designation; City of West Jordan (applicant) [#GPA20140003, parcels 21-27-177-010, 011, 012, 014, 015, 016, 017, 018, 019, 020; #GPA20140004, parcels 27-02-326-002, 003, 004, 008, 009, 010, 011, 012, 028, 031, 032]

Drake Lane

Ray McCandless said the city-initiated petitions were discussed in March of this year and postponed in order to give the property owners a chance to give more input. The request is to change the future land

use from a high density residential designation to medium density residential to reflect the current R-1-8 zoning. At the neighborhood meeting, the opinions were split down the middle with the property owners asking that it be left as high density and the surrounding property owners wanting it changed to medium density residential land use to reflect the current zoning. He noted that the city council recently denied a rezoning for the Amara Court townhomes at a nearby property.

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 Future Land Use Map amendment for approximately 12.1-acres of land located at approximately 1850 W. Drake Lane from High Density Residential to Medium Density Residential.

Dan Lawes opened the public hearing for Drake Lane.

Bruce Sailor, West Jordan resident and speaking for the surrounding property owners, said as an appraiser he felt that their property values would be negatively affected. He was also concerned with the property compatibility with apartments, increased traffic, and access through the existing subdivisions. There are little children who play in the area, police say that high density housing increases crime, and it is usually marketed to a transient-type of person who doesn't have an incentive to keep the property improved, and there will be an increase in the school population.

Linda Crandall thanked the commission for meeting with the property owners at the workshop. Their family farm has been there for over 100 years. She asked the commissioners what they would like to leave for their posterity and how they would fight for it if this had been their property for over 100 years. She asked them to keep the zoning as it is.

Greg Mikolash clarified this is a land use issue and not a zoning change.

Douglas Dowding, West Jordan resident, asked for an explanation of what the current high density land use would allow versus medium density.

Jeanette Drake, West Jordan resident, said her home is part of the acreage in question, although she isn't a legal owner in the Drake Family Partnership. When she married into the family more than 40 years ago there were no subdivisions or apartments adjoining the property. They weren't really thrilled when the vacant properties were developed, but they didn't oppose them or promote their own self-interest, because they figured that property owners have a right to do what they wanted. This is her same perspective. They were surprised with the recommendation in March and appreciated the extra time to study it and to meet with the city planners. She has a better understanding of what is happening, but she still doesn't understand why it is happening other than political maneuvering. She didn't think it is necessary when there are no offers on the property, no plans for development, and the property isn't listed for sale. She said this process hasn't been pleasant for them. There have been calls, rumors, speculations, and it has taken time to study it out. She suggested that the planning commission refuse to hear recommendations that aren't going to make immediate changes in land use. Probably nothing will happen for several years and maybe even for many years. By that time there will be a new city council and planning commission, the population of Salt Lake County will greatly increase, and more housing will be needed. All traffic doesn't have to be through the Richland and Camelot subdivisions. There is convenient mass transit on Redwood Road and TRAX is within

walking distance. She felt that this process has been unpleasant for the citizens and is a waste of time for the planning.

Ellen Smith left the meeting at 6:25 p.m.

Gene Drake, West Jordan resident, gave a history of his family's ownership of the subject land since 1880. Ten acres were developed into the Richland Estates subdivision. He has lived and farmed there since he was a young boy. He asked the commission to leave it the way it is and see what happens in the future.

Ron Drake, West Jordan resident, said this proposal has disturbed their family, their security and peace. It has been upsetting to them and to their neighbors. If the proposal is granted then it will devalue their property in half overnight. The commission would be saying the same thing if it were their property. He presented a newspaper article that states within the next 30 years there will be another 1.4 million people in this valley. He didn't feel that they needed to make this change now. The city just passed Ordinance 14-17 calling for a moratorium on multi-family dwellings until the city can re-evaluate the development regulations. If the city council can decide there shouldn't be any changes in the next six months why can't they keep their property the same for the next six months and see what happens. The general plan can change at any time, so he didn't see the purpose in making the change tonight. The staff recommendations stated that the proposed land use is compatible with the existing uses in the vicinity, but there are apartments on one side and housing with 7,405 square foot lots on the other side. The family suggests they leave it alone and see what happens down the road.

Susan Pasi, West Jordan resident, spoke about quality of life. They love having the Drakes as a neighbor because it presents a beautiful quality of life. Her subdivision is a wholesome and stable place where they all know one another. Children are being raised there and they watch out for each other. If the item is tabled, those who are aging might not be as proactive in the future as they are able to be now, so they are being proactive now to keep a wholesome neighborhood in West Jordan.

Kelley Anne Severinsen, West Jordan resident, said the farm is not an issue. The issue is whether or not it turns into apartments. The change might devalue the Drake property, but if it is apartments it will devalue the property of everyone in the neighborhood. She said this property will be connected to the subdivisions, but the existing apartments don't connect. They will bring more traffic to an area that has a lot of children, it will bring crime, it will devalue property, and they don't want to be a through street to get from Redwood Road to 2200 West.

Further public comment for this portion of the public hearing was closed.

Ray McCandless stated that high density residential has a density of 5.1 to 10.0 units per acre while medium density is 3.1 to 5.0 units per acre. The existing apartments to the north are very high density residential at 20 units per acre.

The land use of the surrounding properties was reviewed. It was pointed out that regardless of what action they take today, a developer could ask for a change in the future.

David Pack said both parties are citing negative impacts and values. There is a differentiation between zoning and land use. He felt the paramount issue in our country is the right of a landowner to do what

they want with their property. The surrounding owners don't want high density apartments so they want the change, but the landowners don't want the change. If he had to choose between them he would go with the rights of the landowner to use their land without government interference, to a certain extent.

Sophie Rice said while she agreed with that statement, she didn't think apartments would work in that location.

Dan Lawes said they aren't committing anyone to a specific development tonight, so someone could apply for another use in the future.

Bill Heiner said property rights are most important. He didn't think land values of the surrounding properties would change if the land use remains as it is, because nothing is being developed yet. But if it is reduced to medium density then it would probably reduce the current landowners' value.

David Pack said the public perception is that it will open the door to what future development will be.

Dan Lawes said the goal of the general plan is to guide development without firm structure.

Bill Heiner said if a developer wants to purchase the property for a high-density development they still have to go through this same process. At that point they would be locked in to a particular zone, but right now they are only dealing with the future land use.

Sophie Rice said the whole reason this came up was due to public outcry that there is too much high density and the past city council wanted to address the issue.

Bill Heiner said the market will drive that as the population increases.

Dan Lawes said that also factors into their workshop and the city council motion for a moratorium.

David Pack said it is hard to hypothesize what will happen in the future. Things will fluctuate and people and times will change and it will still be an issue down the road. Because it is one way or the other he personally felt that the landowner trumps the other consideration.

Bill Heiner reiterated the public comment of 'if it's not broke don't fix it'. If things stay the way they are, it will be market-driven by the population, which is going to increase. If there is an opportunity to create higher density in the future, then the land use is in place. He thought that a change would affect the landowners at this point.

It was pointed out that with only four commissioners as a quorum they only need a majority for a vote to pass.

MOTION: Dan Lawes moved to forward a positive recommendation to the city council for the proposed future land use map amendment for approximately 12.5 acres of land located at approximately 1850 West Drake Lane from high density residential to medium density residential. The motion was seconded by Sophie Rice and failed 2-2.

[Discussion on this item and a motion for positive recommendation occurs following the hearing for 1150 West]

1150 West

Ray McCandless gave an overview of this city-initiated request. A workshop was held with the property owners as well. The current designation is very high density residential. Staff's original recommendation was for community commercial, the second option is for a split land use with community commercial and professional office. Another option could be for community commercial on the north and low density residential on the south. At the property owner meeting it seemed that the majority of the property owners liked their agricultural use and single-family homes so their preference was to change the entire piece to low density residential. Staff felt that any of the options will work, but there is nothing to stop a developer from assembling properties in the future and proposing a change through a formal rezoning and land use amendment process. There was a call from one property owner who preferred that it be left as it is because of the property value issue.

Dan Lawes opened the public hearing.

Further public comment for this portion of the public hearing was closed.

David Pack said if there were property owners in attendance to say they wanted it to stay the same, he would want to be consistent. Seeing that there was no opposition he was in favor of the proposal for low density residential.

Sophie Rice agreed and remembered some of the comment from the last hearing where residents across 9000 South didn't want commercial in that area.

Dan Lawes said this could also change in the future if an application is brought before them and is proven to be good for the area.

Bill Heiner asked about splitting the land use for the north one-third to be community commercial since there is commercial all along 9000 South. They aren't changing the zoning.

Ray McCandless said one problem with doing that is they don't know how deep the commercial should be since there isn't an active application. It might make more sense to put the entire area in one designation until an application determines a different boundary.

MOTION: Bill Heiner moved based on the findings set forth in the staff report and upon the evidence and explanations received today to forward a positive recommendation to the City Council for the Future Land Use Map Amendment for approximately 9.13 acres of land located at 9053 South 1150 West from High Density Residential to Low Density Residential. The motion was seconded by Sophie Rice.

AMENDED

MOTION: David Pack moved to amend the motion for clarification from Very High Density Residential to Low Density Residential. The amendment was accepted by

Commissioners Heiner and Rice and the amended motion passed 4-0 in favor. Zach Jacob, Lesa Bridge, and Ellen Smith were absent.

Robert Thorup said they were given almost the identical information on this matter as they were in the prior matter with staff indicating that they had received a phone call from the property owner indicating they would like to leave it the way it is. These are both matters that have criteria set by the code, so they are quasi-judicial matters. The question is if the criteria have been met on this, then the criteria would have to have been met on the earlier one. If the criteria were not met on the earlier one then he would say they wouldn't have been met on this one. To protect the city and make decisions uniform they might want to consider changing one or the other decision. It didn't make any sense other than public clamor, and public clamor cannot be a factor in quasi-adjudicative matters.

David Pack thought that the issue was quasi-legislative with subjective reasoning as opposed to objective criteria.

MOTION: David Pack moved to reconsider the previous motion in light of legal evidence.

Commissioner Pack explained that since he cast a negative vote on the Drake property it is the same in this circumstance and would be negative. If both decisions have objective criteria Mr. Thorup is saying that they need to have the same deliberative decision.

The motion died for lack of a second.

Drake Lane

Dan Lawes said if all of the criteria were met on the 9000 South property, unless they can find something that isn't being met in the criteria on the Drake property then they are at the point that staff has made the case for their recommendation.

Dan Lawes said they will stand adjourned for five minutes to read through the information presented.

The meeting reconvened at 7:09 p.m.

Dan Lawes said the underlying zone on the Drake property is currently R-1-8 and isn't presently zoned for any other purpose. For high density to be developed there today an application would have to be submitted with findings of fact that show it is appropriate. The proposal is to have the guiding document of the future land use map match the current zoning.

David Pack stated that a case can be made with any contract. Staff makes a case that there are better options and more logical sites for multi-family and they also indicated that it doesn't prevent future developers from requesting a more intensive residential or commercial land use designation in the future. You compare that with Mrs. Drake's testimony from the last meeting that there isn't a need to change the land use when the current agricultural use is going to continue and it is a waste of time for city employees, volunteers, and taxpayer resources to make a change on paper when the process will just be repeated once the property is developed. She asked them to wait to see if a change is necessary. He was under the assumption that this was a quasi-legislative issue, which changes his perspective.

Bill Heiner said he also appreciated the clarification as it made a difference in his mind.

MOTION: Dan Lawes moved to forward a positive recommendation to the City Council for the Future Land Use Map Amendment for approximately 12.1 acres of land located at approximately 1850 West Drake Lane from High Density Residential to Medium Density Residential. The motion was seconded by Sophie Rice.

David Pack explained that he couldn't find any fault in the staff report, objectively, despite his subjective feelings.

VOTE: The motion passed 4-0 in favor. Zach Jacob, Lesa Bridge, and Ellen Smith were absent.

Greg Mikolash gave an update on recent city council actions and how applications may be affected by the moratorium.

MOTION: David Pack moved to adjourn.

The meeting adjourned at 7:15 p.m.

DAN LAWES
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2014