

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD FEBRUARY 17, 2015 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Dan Lawes, Sophie Rice, David Pack, Zach Jacob, Bill Heiner, and Joshua Suchoski. Matt Quinney was excused.

STAFF: Greg Mikolash, Ray McCandless, Larry Gardner, Nannette Larsen, Nathan Nelson, Paul Brockbank, Tom Burdett, Robert Thorup, and Carol Herman.

OTHERS: Emily Backus, Susan Gould, Melissa Miller, Tessie Ostler, Warren Kirk, Reginald Dyson, Ulbby Dyson

The briefing meeting was called to order by Dan Lawes. The agenda was reviewed. Larry Gardner explained that the preliminary park plan for Item #3 shows the location and the plan will be finalized later. Item #4 was discussed regarding parking, traffic, and pedestrian safety.

The regular meeting was called to order at 6:01 p.m.

1. Consent Calendar
Approve Minutes from February 3, 2015

MOTION: David Pack moved to approve the Consent Calendar, the minutes from February 3, 2015 making a change on page 3 replacing ‘the next year’ to ‘2015’. The motion was seconded by Zach Jacob and passed 6-0 in favor. Matt Quinney was absent.

2. Text Amendment – Amend the West Jordan Municipal Code Section 13-7C-6 “Amendments to the Land Use Map” removing Finding B from General Plan Amendment Findings in the Zoning Ordinance; City Wide applicability; City of West Jordan (applicant) [#TA20150001]

Ray McCandless explained that the findings listed in the municipal code for future land use amendments include Finding B that discusses appropriate optional sites for the use. Staff felt that this finding supports the view that the land use map should only be revised if there aren’t enough optional sites for the proposed use of the property. That is important, but staff also felt that it doesn’t take into account all factors and scenarios. In order to make a positive recommendation to the city council for a land use map amendment all findings must be met. The other criteria is written to make sure that a change in the future land use map is consistent with other uses, doesn’t cause harm to adjoining properties, and has appropriate infrastructure, etc. Therefore, staff felt that they could remove finding B and still be covered.

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 Section 13-7C-6.

At the request of Commissioner Jacob, Ray McCandless briefed those in attendance as to the purpose and history of the general plan and future land use map. The plan is a guide and every land use

decision that the city council and planning commission make are reviewed against it to make sure it meets the goals and policies. The future land use map is an educated guess as to what the best future land use for a particular property is. That will vary across the city, but they will look at impacts to adjoining properties and at the use itself. It is reviewed by the general plan committee, the planning commission, and is adopted by the city council.

Tom Burdett said some land uses reflect the current makeup of the property, but in some areas there is vacant land or infill opportunities based on percentages of land use that is the best mix for matching jobs and population and retail to those specific land use designations. As a guide, the city council doesn't have to follow it in all circumstances, but they use it as an evaluation to all of the land use decisions they make.

Zach Jacob referred to the staff report on page 2 that says this finding may not reflect current city policy of allowing more freedom to develop property. He asked if that current city policy is written as part of the general plan.

Robert Thorup said it is an observation of what the city council has been willing to do. He said it comes down to two philosophies. A city council can adhere very tightly to the land use map where this finding makes sense. However, our city councils and planning commissions have historically said to developers that they will give more latitude. If a developer can acquire property and make a reasonable case as to why the particular use can take place there even though the city 'guessed' that it would have another use, then there has been freedom given to the developer to make that case through those criteria. The policy isn't written down, but it is from years and years of operational observation that they are providing some latitude to developers.

Dan Lawes opened the public hearing.

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

Zach Jacob was bothered by the characterization that the city put the land use map into place; whereas the general plan committee had more than a significant role. Since that is a citizen's committee, the residents of the city are determining the land use, and the wishes of the residents of the city should be paramount over the wishes of a developer or the whims of making a change. He didn't think the finding needed to be stricken, but perhaps modified.

Joshua Suchoski thought that latitude for developers can be a good thing. Developers who have experience can see the potential of future uses and what will work in a certain location. A developer will want to have a viable investment for their property, so they won't be reckless. He thought the finding should be removed.

Dan Lawes agreed. The general plan is a static document, but a number of things change over time. For example a few years ago the agricultural use along 5600 West made sense, but if the plan hadn't changed then 5600 West wouldn't have recently been extended. The general plan is a guiding document for what we once saw for the property, but it has to change as the community's dynamic changes.

Bill Heiner asked if removing Finding B would provide more latitude.

Dan Lawes said it doesn't lock us in, but allows us to consider other proposals.

Zach Jacob said that Finding B hasn't hindered the city in the past; when it is pertinent then it is valuable to have it. There are circumstances when it does need to be applied.

Sophie Rice thought that the other findings cover the intent.

Joshua Suchoski felt that Finding B in this instance is the job of the planning commission. They make sure that all of the other findings are being met, and Finding B is somewhat redundant.

David Pack agreed with staff that at the surface this appears to be a beneficial policy because it discourages frequent or meaningless amendments to the adopted general plan. He agreed that it is a static document, but there may be situations where the amendment is in the best interest of the city even though there are optional locations for the proposed use. He agreed that the remaining findings will ensure compliance with the general plan to a certain extent. He asked if they could consider modifying Finding B with the term 'most beneficial site' as opposed to 'appropriate optional sites' for example. As commissioners they were asked to uphold and follow the general plan, so he wants to make sure they are safeguarding it.

Sophie Rice said specifically Finding D covers the concern, because it has to be an overall improvement. No matter how good the general plan is, there are times when it can be improved.

Dan Lawes pointed out Finding F where it has to be consistent with other adopted plans.

Bill Heiner said they have still been able to find a way to move forward with Finding B in place.

Dan Lawes said it could be argued that we were overlooking the intent of Finding B.

Sophie Rice said she did overlook Finding B at times, because she felt that if she didn't then nothing would get accomplished. She felt that it comes down to central planning versus property rights. Looking at Finding B you can say there is a better place for that, but that isn't always an option for the developer because they don't own the alternate site.

Zach Jacob felt it is the voice of the people versus property rights.

Joshua Suchoski said the plan changes and modifies as the city grows. When this plan was made a lot of current West Jordan residents didn't live here at that time. It has to be fluid in the sense that as time goes on and as the areas develop out perhaps what the city's general plan was at that time is not what the citizens and residents of the city want in that area now. His opinion was that all of the other findings in the code make it so they as a commission already have to look into all of the issues, so Finding B is redundant and doesn't allow them the latitude.

MOTION: Dan Lawes moved based upon 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 proposed text amendment to Title 13 as addressed in the report. The motion was seconded by Sophie Rice.

Bill Heiner asked if there are any unintended consequences in removing the finding. When it was put in the code no one knew what the consequences would be.

David Pack asked if we could project what the worst case scenario would be if it is removed.

Bill Heiner said he couldn't think of any, so that led him to be in favor of the amendment.

Dan Lawes said he couldn't see any either since they had failed to use it as it was intended up to this point.

VOTE: The motion passed 5-1 in favor with Zach Jacob casting the negative vote. Matt Quinney was absent.

3. Siena Vista Phase 4; 7000 South 5715 West; Preliminary Subdivision Plat (21 lots on 7.2 acres); R-1-6C&D(ZC) Zone; Peterson Development Co./Victor Barnes (applicant) [#SDMA20140016; parcel 20-26-200-016]

Warren Kirk, representing Peterson Development, 225 South 200 East, said they agree with everything in the staff report, but wanted to clarify the fencing along the power corridor as listed on page 6. He felt that when a corridor is blocked in it creates problems for policing by the residents. That area is planned as future open space so they are recommending a vinyl ranch style fence. They agreed with the idea of a consistent theme along 7000 South with the masonry pillars and vinyl in between.

Regarding overall percentage of open space for the project, Larry Gardner estimated that it is between 4 and 5 percent, including the detention area.

Joshua Suchoski was concerned with the ranch style fence being so close to 7000 South with regards to safety for children.

Warren Kirk said he just wanted clarification, but he thought that the residents might want access to the future open space.

Larry Gardner clarified that the property is a utility corridor owned by Rocky Mountain Power, and he didn't know of any plans by the city to install a trail.

Warren Kirk said that some people may want to install a gate to access the property. He said that they have been working closely with some of the residents regarding the park and he would be interested in their feedback on the fencing.

Larry Gardner said the ordinance allows the planning commission to require a fence for safety reasons, and staff felt that a solid vinyl fence is appropriate along the corridor. If the property owner modifies their fence in the future to install gates we can't stop that, but the city should not build the gates and should require the fence between the residential use and the utility corridor use. Mr. Gardner gave the property's zoning history and requirement for open space, which was modified from 10% open space

to a 1.2-acre park dedicated to the city. The subdivision will have 21 lots and 1.2 acres of park. He described the park plan as preliminary. A landscape plan will have to be submitted and the Parks and Engineering departments will have to approve the park plan, so it will likely be modified as the project moves forward. Staff felt that a masonry wall is most appropriate for the park as it will be in the rear yard of some of the residential lots and the park will be dedicated to the city.

Based on the findings set forth in the staff report, staff recommended that the Planning Commission approve the Preliminary Plat for Siena Vista Phase 4 located at approximately 7000 South 5715 West subject to the following conditions:

1. All lots must comply with the applicable requirements of Title 13, Zoning Regulations and Title 14, Subdivision Regulations including, but not limited to lot area, width and frontage requirements.
2. All applicable city departmental requirements must be met prior to recordation of the final plat.
3. Update the Final Siena Vista phase 4 Subdivision Plat to address all existing and future planning, engineering, fire and all other City redline corrections pertaining to the Siena Vista Phase 4 Subdivision Plat.
4. Before the final plat is stamped for construction purposes by the West Jordan Engineering Department, all redline comments shall be completely addressed.
5. All homes constructed within the Siena Vista Phase 4 subdivision shall comply with the requirements of the zoning ordinance.
6. An approved, unrecorded final subdivision plat shall remain valid for two (2) years. One 6-month extension may be granted by the zoning administrator if, upon written request by the owner/developer, the zoning administrator finds that the extension will not adversely affect the public health, safety or welfare of the city.
7. A street fence matching the existing street fence of previous Siena Vista phases shall be installed adjacent to 7000 South.
8. A vinyl fence or similar fence shall be installed between the Rocky Mountain Power Corridor and the rear lot lines of abutting lots of the Siena Vista Phase 4.
9. A maximum of 50% of the homes in the R-1-6 development will be of "C" home size. At least 50% of the homes in the R-1-6 development will be of the "D" home size.
10. The 1.2 acre park shown on the plat will be dedicated to the City.
11. The park plan shown in the staff report is for preliminary approval only. A final park plan will need to be submitted and approved by the City Engineering and Parks departments.

Robert Thorup suggested that the condition be amended to indicate that the fence be solid.

Dan Lawes asked if they need to make a condition for the park fencing tonight as well.

Larry Gardner spoke to Nathan Nelson who agreed that RhinoRock or masonry would be sufficient for the park fencing, and that could be added as a condition of approval. He reviewed the locations of the park and residential fencing. He acknowledged that there is a change in elevation in that area.

Dan Lawes opened the public hearing.

Susan Gould, West Jordan resident, said the park will be pretty far from 7000 South so that shouldn't be an issue. She did have an issue with the ranch style vinyl fencing. This fencing was originally

installed at a park at 5600 West and 7000 South, but it was broken and replaced many times and is now completely removed. She thought that the masonry fencing would hold up well. She appreciated all that Peterson Development had been doing to work with them to get the park installed.

Emily Backus, West Jordan resident, also felt that a masonry wall around the park would be nice and that the fencing along the back should be solid vinyl. That will also help with the tumbleweeds that blow in the area.

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

Warren Kirk said they are okay with whatever they have on the rear of the lots. He would like to see consistency. He said it will be difficult to step a masonry wall and there is a substantial cost difference between the two. He indicated that RhinoRock can be destroyed fairly easily and didn't think it should be used on collector streets. He showed the park plan and said they tried to separate the grass area so it won't be touching any of the fencing, so he didn't know if people would be in contact with it.

David Pack said he preferred RhinoRock to vinyl. He lives on New Bingham Highway and the vinyl fencing along Sunset Park has holes all over it. It might be more aesthetically pleasing to have RhinoRock and to have consistency. He referred to the park plan and would like a condition that staff or the Parks department reviews the configuration.

Larry Gardner said that in speaking with the City Engineer, they would like the masonry wall to be a precast concrete wall and not RhinoRock so it will be more durable.

Zach Jacob recommended solid vinyl fencing. He lives near the Maples Park that has vinyl fencing that has held up quite well and is easier and less expensive than masonry to replace if it becomes damaged.

MOTION: Joshua Suchoski moved based on the findings set forth in the staff report and upon the evidence and explanations received today to approve the Preliminary Subdivision Plat for Siena Vista Phase 4; 7000 South 5715 West; Peterson Development Company (applicant) with the conditions 1 through 11 as listed in the staff report, amending:

8. A solid vinyl or pre-cast concrete fence of full height shall be installed between the Rocky Mountain Power Corridor and the rear lot lines of abutting lots of the Siena Vista Phase 4.
11. The park plan shown in the staff report is for preliminary approval only. A final park plan will need to be submitted and approved by the City Engineering and Parks departments and reviewed by the Planning Commission.

The motion was seconded by Zach Jacob.

AMENDED

MOTION: Dan Lawes moved to amend Condition 8 to be a solid vinyl fence throughout. The amendment was accepted by Joshua Suchoski and Zach Jacob.

Larry Gardner asked about the fencing around the park. He said that the city cannot accept a vinyl fence around the park due to maintenance issues.

Nathan Nelson stated that in similar areas where the city has taken over maintenance the very least that is accepted in recent years has been RhinoRock fence that has a solid middle, so that would be fine, but solid concrete precast would be better.

Joshua Suchoski preferred precast over RhinoRock.

AMENDED

MOTION: Zach Jacob moved to amend the original motion to add:

12. The three sides of the park that are not adjacent to the street will have a precast masonry fence.

Joshua Suchoski accepted the amendment.

VOTE: The amended motion passed 6-0 in favor. Matt Quinney was absent.

4. Forever Cheer and Dance; 6792 Airport Road; Conditional Use Permit for Personal Instruction Service; M-1 (ZC) Zone; Forever Cheer and Dance, LLC/Reginald Dyson (applicant) [#CUP20150001; parcel 21-19-326-021]

Reginald Dyson and Ulbby Dyson, applicants, stated that there is a huge demand for athletic businesses that require academic strength or application. He said they have a lot to offer to the community and to their athletes. They currently have sixteen athletes, and they want to update their venue to this area that is well known. He stated that only one business in the area is open after 4 or 5:00 p.m. and it is another studio, but they do not share their parking area.

Bill Heiner asked how many the facility will hold.

Ulby Dyson said it will hold no more than about 45 athletes. They will also create a signed traffic pattern for drop off to help with traffic control. Reginald Dyson said that this business is pretty much a drop-off business.

David Pack asked how many parents stay and watch lessons or have to come in to make payment.

Reginald Dyson said they are a competitive program with cheer and dance and 90-95% is closed from inside viewing. Parent meetings are rarely held at the gym, but are held at larger market venues or an eating place.

Ulby Dyson said payment is made online or with a check that is usually sent in with their children. When they have activities with their athletes they are usually done in a clubhouse or somewhere with kitchen facilities.

Nannette Larsen found that the application meets the standards in the zoning ordinance and the criteria for approval of the conditional use permit.

Based on the positive findings set forth in the staff report, staff recommended that the Planning Commission approve the Conditional Use Permit to allow for personal instruction services located at 6792 South Airport Road in an M-1 zoning district, with the conditions of approval as listed below.

Conditions of Approval:

1. All changes to the site shall be consistent with the submitted Conditional Use application, letter of intent, and site plan.
2. The proposed use shall meet all applicable Zoning, Building, Engineering, and Fire Department's requirements.
3. The Conditional Use Permit shall be subject to review/revocation as per section 13.7E.10.

David Pack said that properties like this with multiple buildings in a row have dangerous traffic patterns with narrow streets and parking that is impossible to back out of with vehicles waiting to pick up. He experienced a similar thing on Prosperity Road in an industrial area. Although it can work, he recommended that for future planning of multiple businesses like this that they have more parking stalls or wider roadways.

Dan Lawes opened the public hearing.

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

MOTION: Zach Jacob moved based on the positive findings set forth in the staff report and the information this evening to approve the Conditional Use Permit for Personal Instruction Service for Forever Cheer and Dance; 6792 South Airport Road; Forever Cheer and Dance, LLC (applicant) with the conditions 1 through 3 as listed in the staff report. The motion was seconded by Bill Heiner and passed 6-0 in favor. Matt Quinney was absent.

MOTION: Zach Jacob moved to adjourn.

The meeting adjourned at 7:07 p.m.

DAN LAWES
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department

Approved this _____ day of _____, 2015