

**MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD JUNE 16, 2015 IN THE WEST JORDAN COUNCIL CHAMBERS**

**PRESENT:** Dan Lawes, Kelvin Green, Matt Quinney, David Pack, Zach Jacob, and Bill Heiner. Joshua Suchoski was excused.

**STAFF:** Ray McCandless, Nannette Larsen, Paul Brockbank, Julie Davis, and Robert Thorup.

**OTHERS:** Kent Mertin, Kim Mertin, Sam Davis, Darrel Packer, Greg Beecher, Ken K. Manzanares, Dan Milich

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The briefing meeting was called to order by Dan Lawes.

The agenda was reviewed. Robert Thorup explained that an omission in the code does not clarify that the RR-1 zone is comparable to the RR-40 zone. In 2000, the City changed the RR-1 zone to RR-40 and there was a note in that code that explained the intent. Staff proposed a condition on item #3 that the city council will change the code to make the clarification once again.

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

**1. Consent Calendar  
Approve Minutes from June 2, 2015**

**MOTION:** Zach Jacob moved to approve the minutes from June 2, 2015. The motion was seconded by Kelvin Green and passed 6-0. Josh Suchoski was absent.

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**2. Salt Lake County Health Department; 7971 South 1825 West; Conditional Use Permit for Building Height of 38 feet; P-F Zone; MHTN Architects, Inc./Greg Beecher (applicant) [#CUP20150007; parcel 21-34-126-018]**

Greg Beecher, applicant, explained that they recently received preliminary site plan approval for their building but they require a conditional use permit to exceed the permitted height. The building will be part of the campus and will allow them to have a nice public entry and to screen mechanical systems.

Nannette Larsen said a building height over 30 feet requires a conditional use permit. Staff included two conditions specific to the site plan.

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 a structure with a height greater than 30' located at 7971 South 1825 West in a P-F zoning district, with the conditions of approval as listed below.

1. All changes to the site shall be consistent with the submitted Conditional Use application, letter of intent, elevations, and site plan.
2. The proposed use shall meet all applicable Zoning, Building, Engineering, and Fire Department's requirements.
3. During Final Site Plan Review a way finding plan must be submitted by the applicant.

4. A 4' wrought iron fence along the east property line to separate the subject site from Fire Station 53 shall be installed.
5. Way finding signs along Redwood Road and 8020 South must also be installed.
6. The Conditional Use Permit shall be subject to review/revocation as per section 13.7E.10.

Fence location and property boundary were clarified.

Dan Lawes opened the public hearing.

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

**MOTION: Kelvin Green moved to approve the Conditional Use Permit for Salt Lake County Health Department; 7971 South 1825 West; MHTN Architects, Inc. (applicant) based on the positive findings set forth in the staff report with conditions 1 through 6 as listed in the staff report page 5. The motion was seconded by Matt Quinney.**

Zach Jacob said the fence and sign condition didn't seem to relate to the building height.

Nannette Larsen said the conditional use permit is for the entire site, so other conditions can be included that are relative to the site. If they hadn't applied for the conditional use permit those conditions could have been required with the site plan review.

**VOTE: The motion passed 6-0 in favor. Josh Suchoski was absent.**

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3. **Davis Accessory Living Quarters; 3226 Starlite Drive; Conditional Use Permit for Accessory Living Quarters; RR-1C Zone; Samuel Davis (applicant) [#CUP20150004; parcel 21-32-276-012]**

Samuel Davis, applicant, said the request is to make an accessory living quarters with an existing cinder block building that has been on the property for almost 30 years. They have met all of the requirements listed in the code. The purpose is to provide a stair-free home for his mother so she can be more mobile.

Dan Lawes explained that the RR-1 zone is no longer codified so there is a condition that the approval would be contingent upon City Council allowing the RR-1 zone to be reviewed as an RR-40 zone.

Samuel Davis said he was informed of that today and it is fine.

Kelvin Green asked Mr. Davis if they are using the existing door as the entrance.

Samuel Davis said no. There is a small addition that will turn the door to face east so it can't be seen from the road, as required. He still needs to indicate the paved parking spot.

Kelvin Green said according to the letter of intent the house is 2575 square feet but the County Assessor's report says it is only 1920 square feet. He asked how they got the extra square footage.

Mr. Davis said he was allowed to use the carport as part of the square footage in order to meet the 33% allowed.

Kelvin Green asked what material they would use on the outside of the cinder block.

Mr. Davis said they plan to use stucco.

Nannette Larsen said staff found during the review of the project that the application meets all of the requirements listed in the zoning ordinance with the addition of the thirteenth condition.

Based on the positive findings set forth in the staff report, staff recommended that the Planning Commission approve the Conditional Use Permit to allow Davis accessory living quarters located at 3226 West Starlite Drive in an RR-1C zoning district, with the conditions of approval as listed below.

1. All changes to the site shall be consistent with the submitted Conditional Use application, letter of intent, and site plan.
2. The subject accessory structure shall be architecturally compatible with the principle dwelling. At the time of building permit submittal a material and color board shall be provided to ensure compatibility.
3. The structure shall not be served by separate metered utility services or by separate mailboxes.
4. The entry into the living space may not be visible from the public right-of-way.
5. The accessory living quarter may not have a gross floor area greater than 33% of the gross floor area of the principle dwelling unit.
6. The unit may not be lease or rented separately from the principle dwelling unit, except to family members related by blood, marriage or adoption.
7. A single paved, off street parking space must be maintained to be used by occupants of the living quarters.
8. The deed restriction on the property must remain to ensure only family members related by blood, marriage or adoption are occupying the site.
9. The subject structure may not be used as a home occupation.
10. A building permit must be submitted for and approved prior to occupancy of the subject structure.
11. The proposed use shall meet all applicable Zoning, Building, Engineering, and Fire Department's requirements.
12. The Conditional Use Permit shall be subject to review/revocation as per section 13.7E.10.
13. Conditional Use approval is contingent upon City Council approval of a text amendment which allows the RR-1 Zoning District to be reviewed as the RR-40 Zoning District.

Dan Lawes asked if the parking area is typically counted as square footage of the home. The requirement says 33% of the gross floor area.

Ray McCandless said in this case it is the total square footage of the footprint.

David Pack asked if the requirements for an attached mother-in-law unit are different from one that is detached.

Ray McCandless said the requirements for the conditional use permit are specific to a detached, separate dwelling.

Kelvin Green asked if the requirements for brick and stone in Section 13-5B-6 apply to the accessory living quarters.

Nannette Larsen said the accessory living quarters code says it has to be architecturally compatible with the principle dwelling. That would be subject to interpretation during the building permit review and with the requirement for a materials board. But the planning commission could discuss that.

Kelvin Green said most of the homes in the neighborhood are brick. The house on the property has some stonework, so they could look at that.

Dan Lawes opened the public hearing.

Darrell Packard, West Jordan resident, related his concerns. This is a permanent apartment in a single-family rural residential area, he was told that it was for a mother-in-law and also for kids, he was concerned with who else is allowed to live in it after the mother-in-law, there has been a lot of crime in the area and he doesn't want to invite any more, he didn't want to change the zoning of the area, and he was concerned with property values and taxes.

Dan Lawes said the zoning issue is independent of the application.

Zach Jacob explained that it isn't a rezoning. The city renamed the RR-1 zone 13 years ago and the map wasn't updated.

Kent Mertin, West Jordan resident, lives in the area and said when he built his shop five or six years ago he wanted a bathroom in it, but he wasn't allowed to because of the possibility of making it into an apartment. This would allow a full family to live in a shop. There have been multiple crimes on the street. Sam has had people illegally living in a camp trailer that they tied into the plumbing and added a plastic septic tank. He didn't think this would stop at the mother-in-law and asked who will police it to make sure it is a family member. He said Mr. Davis has proven to him before that he can't be trusted because he builds without permits and will take advantage of the system. People are in and out of the home all the time and the police are always there.

Kim Mertin, West Jordan resident, said for the last year and a half she has witnessed a lot on the subject property. She said the claim that it will be a mother-in-law apartment is not true. There have been people in and out of the trailer and the accessory building. They build when it is dark so people can't see what is happening. She didn't like the type of people they are inviting to live in the building. Mrs. Mertin said she had to make accommodations to take care of her father-in-law within their house. She didn't think that the information being given was 100% accurate.

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

Samuel Davis agreed that he didn't get a permit for enclosing his hay barn, which is what started this process. He came to the city to get the permit and to see if they could have the accessory quarters. At that time Mr. Bailey said it was possible in the rural area as long as the requirements are met. He said

they did a deed restriction stating that only blood relatives could live there. They acknowledged that they did have someone living in the trailer who ended up staying for over a year but hasn't been there since March. At that time they didn't understand there was a code for a 2 week time limit. He said the accusations of illegal building were incorrect except for enclosing the hay barn storage because of damage caused by birds. He went to the city the next day and got a permit. He has had people at his house before who weren't the best, but he just likes to help people. At this point he wants to have the accessory dwelling for his mom and he knows it has to be a relative. He thought that property values will be better as they improve the structure. They have been trying to fix up the property as they can. The police and fire have been to his house because his mom has been in and out of the hospital for the last two years. Regarding crime, he said their home had theft just like everyone else on the block.

David Pack said this is a quasi-judicial issue that requires findings of fact for a decision. Although they can have discussion and it tugs at their heart for either argument that is quasi-legislative. If the applicant has met all of the criteria in the code there isn't a legislative reason to deny since it is a judicial action.

Zach Jacob agreed. The issues raised by the neighbors are legitimate, but they aren't specific to the application for a conditional use permit for accessory living quarters. If there are code enforcement issues or illegal activities happening, then the police or code enforcement need to be called. This application needs to be reviewed against a code that staff felt had been met, and it looked to him that it had been met with the possible exception of the square footage calculation.

Kelvin Green thanked everyone for their comments. He said they have to find whether or not the application meets the code. His decision will be based on the legal requirements of the code and findings of fact. Regarding criteria #2, based on the testimony of the neighbors the use would have adverse effects to the neighborhood. He had a serious issue with the square footage of the structure. The site plan shows the structure would be larger than 1100 square feet. The applicant said it would be 850 square feet compared to 2575 square feet for the main home, which exceeds 33% at 849.75. If they allow the carport to be counted and the principal structure is 2400 square feet that only allows for 792 square feet for the accessory structure. If they use the measurement from Salt Lake County then the accessory quarters can only be 633 square feet. In his opinion the 33% has to be based on the living space of the principal dwelling, not including the carport or other structures. He also thought that condition #8 should indicate that the deed restriction includes the other requirements in addition to the restriction for family members.

Dan Lawes asked if the required parking space needs to have a cover.

Nannette Larsen said it just has to be a paved space designated for the accessory living quarters. She stated that she reviewed the application using the applicant's square footage. Greg Mikolash, who was the zoning administrator at the time, made the determination that the garage would be included as part of the square footage for the principal dwelling. She was initially confused as well, but after speaking with the applicant, the dimensions of the accessory living quarters are different from looking at an aerial photo. If the measurements are taken from the floor plan then it meets the 33% requirement. The reason is that the accessory living quarters won't use the entire structure.

Kelvin Green said the site plan on the packet doesn't measure up. He didn't think they should use the carport, and he still couldn't get it to add up to 2500 square feet. The intent is that the living space of

the apartment shouldn't exceed 33% of the gross floor space of the principle building's living space. He said this is an existing building that wasn't permitted and if they approve this application they are condoning an unpermitted building and allowing a larger footprint with the justification that the rest of it is storage. He will vote against the application.

Zach Jacob asked if they could see a floor plan other than the hand drawn map in the packet.

Nannette Larsen brought the floor plan forward for Commissioner Jacob to view.

Zach Jacob said it is a 40 x 28 foot building with a storage room of 11 x 13 feet as well as a laundry room. Even if they don't count those areas it is still just less than 1000 square feet, which is too large.

Kelvin Green pointed out that Section 13-8-17 allows for denial if the reasonably anticipated detrimental effects of the proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve the compliance with applicable standards. He didn't think that the proposed conditional use can mitigate the already improper building on the property and given the code, making part of a non-conforming structure conforming and the other part not conforming will create a mess.

**MOTION: Kelvin Green moved to deny the Conditional Use Permit for Davis Accessory Living Quarters; 3226 Starlite Drive; Samuel Davis (applicant) based on the fact that the reasonably anticipated detrimental effects of the proposed conditional use cannot be mitigated by the proposal and that reasonable conditions to achieve the compliance with the applicable standards cannot be met. The motion was seconded by Dan Lawes.**

Zach Jacob said when he first reviewed the item he thought the code was too restrictive and that the size of a mother-in-law apartment shouldn't be regulated nor who lives in it. But this body doesn't get to make the code or determine if it is good or bad; they only get to decide if the code has been met, and in this case he didn't think it had been met.

Bill Heiner asked what the applicant could do to meet the code, such as tear down part of the building to meet the maximum square footage requirement.

Statements were made that he could do that or add on to the principal house to make it larger, but they couldn't add those things as conditions.

Bill Heiner said it seems that the applicant is asking for forgiveness instead of permission since the building was built illegally, so he agreed with Commissioner Green in that situation.

Dan Lawes said the use of the building is also changing from storage to a living structure.

Kelvin Green said the apartment building will still be used for storage and they are condoning a structure that is non-conforming.

Dan Lawes said the discussion regarding whether or not the building was constructed without permission is not relevant to the discussion tonight.

**VOTE: The motion passed 6-0 in favor of denial. Josh Suchoski was absent.**

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- 4. Jordan Landing Phase 7; 7556 South Campus View Drive; General Plan Land Use Amendment for approximately 8.8 acres from Very High Density Residential to Regional Commercial; SC-3 Zone; Foursquare Properties, Inc./Dan Milich (applicant) [#GPA20150002; parcels 21-29-352-005; 21-29-351-013]**

Dan Milich, Foursquare Properties, spoke about the future of the parcel and the desire to proceed with the build out of the vacant parcels in Jordan Landing. This parcel was at one time approved for 120 apartment units and a gas station, but they now want to build it in a commercial fashion and request that the general plan designation be consistent with the underlying SC-3 zoning. They have submitted a site development application to divide the land into six parcels and showing potential uses that are consistent with the underlying zoning.

Ray McCandless said the land use amendment will make the designation consistent with the surrounding zoning. Future site plan and subdivision requests will come back to the planning commission.

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 change to the Future Land Use Map for approximately 8.8 acres of land located at approximately 7556 South Campus View Drive from Very High Density Residential to Regional Commercial.

Dan Lawes opened the public hearing.

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

**MOTION: Zach Jacob moved to forward a positive recommendation to the City Council for Jordan Landing Phase 7; 7556 South Campus View Drive; Foursquare Properties, Inc. (applicant) to amend the General Plan Land Use Map for approximately 8.8 acres from Very High Density Residential to Regional Commercial. The motion was seconded by Bill Heiner and passed 6-0 in favor. Josh Suchoski was absent.**

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- 5. Center Park Drive Residential; 6822 South Center Park Drive; General Plan Land Use Amendment for approximately 15.10 acres from Professional Office to High Density Residential; P-O Zone; Foursquare Properties, Inc./Dan Milich (applicant) [#GPA20150001; parcels 21-19-400-007]**

Dan Lawes indicated that the applicant asked for the item to be continued.

Staff recommended that the Planning Commission continue the request for a change to the Future Land Use map to the July 7, 2015 meeting.

**MOTION: Zach Jacob moved to continue the Center Park Drive Residential Land Use Map Amendment; 6822 South Center Park Drive; Foursquare Properties, Inc. (applicant) to July 7, 2015. The motion was seconded by Matt Quinney and passed 6-0 in favor. Josh Suchoski was absent.**

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Staff will begin the process for a text amendment to clarify that RR-1 and RR-.5 zones are equivalent to RR-40 and RR-20 zones.

**MOTION: Kelvin Green moved to adjourn.**

The meeting adjourned at 6:56 p.m.

DAN LAWES  
Chair

ATTEST:

JULIE DAVIS  
Executive Assistant  
Development Department

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2015