**MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD SEPTEMBER 15, 2015 IN THE WEST JORDAN COUNCIL CHAMBERS**

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

**STAFF:** Scott Langford, Larry Gardner, Nathan Nelson, Robert Thorup, and Julie Davis.

**OTHERS:** David Barber, Ben Southworth, Randy Bowler, Glen & Julie Kinsey, Spencer Burt, Jeremy Fitzgerald, Billy Smith, Kelly DeLeeuw, Brandon Mathews, Matt & Emily Tippets, Dan Milich, Brian Rentmeister, Chris Fitzgerald, Chad Sheppick, Brian Densley

**********

The briefing meeting was called to order by Dan Lawes. The agenda was reviewed. The applicant for Item #3 requested that it be continued to a date uncertain. A typographical error was noted on page 6. Clarifying questions were answered.

**********

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

**1. Consent Calendar**
**Approve Minutes from September 1, 2015**

**MOTION: David Pack moved to approve the minutes from September 1, 2015 with the correction noted in the pre-meeting. The motion was seconded by Zach Jacob and passed 7-0 in favor.**

**********

**2. Bella Estates Land Use Map Amendment and Rezone; 7481 South 5490 West; Future Land Use Map Amendment for 5.01 acres from Very Low Density Residential designation to Low Density Residential designation and Rezone 5.01 acres from RR-1D (Rural Residential 1-acre lots) to R-1-12F (Single-family Residential 12,000 square foot lots) Zone; Bowler Properties, L.C./Randy Bowler (applicant) [#GPA20150004, ZC20150006; parcel 20-25-300-026]**

Randy Bowler, applicant, said that four of the five findings of fact were favorable to the request. There is a concern with Finding A, but he felt that the issue was more of a development nature rather than dealing with zoning and density. It refers to sizing of sewer, access, etc. He recognized that in the event the property is rezoned as requested they will have to address the development issues, standard utilities, roads, and access.

Larry Gardner gave an overview of the request. The property is on a private street. This and many of the lots are five acres in the rural residential zone. He showed the conceptual layout. The issue that led staff to a negative recommendation is connectivity; there is no agreement for connectivity to 7530 South. He felt that issue as well as the sewer issue could be worked out, but the application may be premature. He clarified that 5490 West is privately owned under the homeowners' association, and the city has a 16" waterline in an easement in the road.

Future Land Use Map Amendment
Based on the findings set forth in the staff report, staff recommended that the Planning Commission forward a negative recommendation to the City Council to amend the Future Land Use map from Very Low Density Residential to Low Density Residential for approximately 5.01 acres of property located at 7481 South 5490 West.

Zoning Map Amendment
Based on the findings set forth in the staff report, staff recommended that the Planning Commission forward a negative recommendation to the City Council to rezone approximately 5.01 acres of property generally located at 7481 South 5490 West from RR-1D (Rural Residential, 1 acre lot minimum) to R-1-12F (Single-family Residential 12,000 square foot lots "F" size homes) zone.

Dan Lawes opened the public hearing.

Jeremy Fitzgerald, West Jordan resident, said his concern was the road being punched into their neighborhood and the traffic it will create. There have been several accidents at the bend on 5360 West. If this was just a cul-de-sac it wouldn't create the through traffic, but if the road connects it will bring more traffic when 5490 develops.

Glen Kinsey, West Jordan resident, said there have been many accidents around this corner with people going too fast. If it is made a through road it may make it worse. Kids ride their bicycles down the hill and into the street. He was okay with the idea of a cul-de-sac. He also said the traffic could go into the subject property from 5490 West instead of connecting to his subdivision.

Billy Smith, West Jordan resident, said he would love to see it go through into the neighborhood. He doesn't want to leave the area, but he wants a bigger lot. He would entertain the idea of a cul-de-sac, because all of the other lots on that same side of the street are cul-de-sacs. A speed bump may help to slow the traffic.

Spencer Burt, West Jordan resident, said he has lived on 5360 West for 14 years. He commutes to Clearfield for work, but he loves the neighborhood and is looking to expand and grow. He would love to see the development with a cul-de-sac. He said that the traffic in the existing neighborhood currently has to choose right or left to get to 7800 South. If a through street connects this new property, these people will still have to come through the area. There is no reason for anyone on 5490 West to use the proposed new connection as a short cut. His preference would be for a cul-de-sac, but he didn't think a through street would necessarily bring more traffic.

Chris Fitzgerald, West Jordan resident, said her home faces the subject property. If the proposal is to compare this land to the other developments on 5490 West then the access should be on 5490 West if the city requires it. She was okay with a cul-de-sac only, because it would follow suit to the other phases in their neighborhood. But if they require two accesses then she was against it connecting and 5490 West should be the main access point so it doesn't add more traffic to the existing neighborhood. Also, Mr. Bowler told her that a cul-de-sac could be done with his lot layout, which she would support, as it would add only 16-22 cars. If a through road is installed the additional traffic would be undetermined. The residents use the open space area that would be disturbed should the street go through.

Brian Rentmeister, West Jordan resident, said he was in favor of the zoning change because it will match his neighborhood as it is currently. If they wait for the future to rezone, then the request might be less favorable higher density housing. He was in favor of a cul-de-sac that would match the two exiting cul-de-sacs to the south and facing the access to the east.

Brandon Mathews, West Jordan resident, said he was in favor of the rezone. He would like to stay in his neighborhood; it is close knit community and would give him a chance to grow a little more without leaving the city. He thought it made sense from a cul-de-sac perspective, because there is already a precedent set with the other cul-de-sacs.

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

Randy Bowler said he is heavily vested in the area. This proposed development came about when the property was available and several neighbors approached him to develop so they could stay in the area. He was fine with either a through street or a cul-de-sac layout. The question is with planning and what the city wants for connectivity to this piece and to the future area. In addition to the property they currently own they have aspirations in possibly being involved in future development in the area. So as he looks at the proposed property, he also has to look at what would be required to connect with the other pieces and what is prudent planning. The proposal for this site is 8 lots. He felt the zoning is compatible and would enhance the area.

Zach Jacob said the sticking point in the staff report is utilities and sewer connection, because there is no sewer currently available to this parcel. He asked what the best solution would be.

Randy Bowler said they met with staff with regards to the issue and asked them to relook at the existing sewer capacity to see if they could add 8 lots. Staff agreed to do that and to identify where the pinch points are to see if there needed to be upgrading and how extensive it would be. Regarding running the sewer to 5490 West to 7800 South, it is not viable for an 8-lot subdivision. At some point as additional property develops on 5490 West there will need to be a sewer main, but this subdivision would not support it at this point.

Dan Lawes said there are still questions being resolved and asked if he would be opposed to tabling the request until they are addressed.

Randy Bowler said it is possible, but he asked if there would be a problem going forward with the rezone knowing that if they don't solve the issues then the property could be rezoned but not developed at this point. A rezoning doesn't demand eminent development, although he would like to.

Dan Lawes said there was a comment in the pre-meeting that the concept plan should reflect the current proposal.

Robert Thorup said a concept plan should meet the existing requirements of the code and development regulations. So it should show connectivity and a certain commitment as to what will be done with the sewer.

Dan Lawes asked the applicant if they are pressed for time.

Randy Bowler said just their contractual timeline they have on the property, which is beginning to squeeze them a little bit. That is why he asked that the rezoning go forward while they are working out the other issues.

Zach Jacob asked if he had any thoughts or input on the timing of dedicating 5490 West to the city.

Randy Bowler said he could only speak for the property that he owns. If required and needed, they could dedicate the stretch on their side of the road as the parcel is developed, but he couldn't speak for the other property owners.

Larry Gardner said that would be required with a subdivision anyway.

Scott Langford said it is great to have the public in attendance to comment and start a dialogue. He explained that the request tonight is for a rezoning. There have been comments on connectivity and cul-de-sacs, etc., which are valid concerns. However, those details won't be ironed out at this time. If the property is rezoned, then there will be an application for a subdivision plat with another public hearing where those items would be discussed. Staff prefers to see interconnectivity; a more permeable road network leads to better efficiency. The existing neighborhood has a proliferation of cul-de-sacs, which is great if you live on one. But if you don't, then you have increased traffic past your front door. Also, with a lack of permeability they tend to clog the major roads such as 7800 South and 5600 West. So, staff will look at that closely if they proceed with this development. If they see parks and churches develop in the 5490 West area then people will want to access those facilities. Instead of forcing them back out onto 7800 South making high traffic volumes, it is better to have the connection through the neighborhoods for safety, convenience, and the benefit of the city.

Zach Jacob asked what the city's future plan was for 5490 West as far as capital projects, because someday it won't be a private road and it will need utilities.

Scott Langford said with a few exceptions, utilities and infrastructure such as sewer will be installed and paid for by developers. It is hard with a small lot subdivision that has significant off-site costs. Hopefully in the future they can get a critical mass together and it can be addressed.

Nathan Nelson said it is a private road and is not on the capital facilities plan or the transportation master plan. It is not a collector road, which is the level that they master plan for. There are no city plans to make any improvements or expend any money at this time, because they don't collect impact fees for that area. The intention currently is that it will be constructed by development.

Bill Heiner said regardless of making a recommendation to move it forward, the sewer issue exists. The applicant said it wouldn't pencil to run it to 7800 South. He asked what they thought of the other option to connect to the current sewer system and if there is any room to expand the capacity.

Nathan Nelson explained that a sewer system is designed to run at certain levels, but never to run with completely full pipes. Looking at the flows through direct metering and modeling they are at the capacity they planned for, although the capacity has a safety factor built in. Eight lots would be minimal on an 8" pipe, but the system is at the planned capacity. Staff said they committed to look at that option. The eight lots might eat into the safety factor a little and they might decide it is acceptable. They might already be in the safety factor far enough they don't want to jeopardize it further, so they

would look at each segment of pipe to determine where the pinch points are and the pipes could be upsized. He cautioned that the impact of 8 lots is probably minimal, but based on the concept plan there are stub streets to north and south, so now there are property owners who may want to continue with the development. Those eight lots turn into 16 or 24 lots. Right now they are at 8 lots, but how do they ensure that it doesn't become additional. He said the calculations could be done within a week or so. If they have to set flow meters in the pipes it will take a little longer.

Dan Lawes said he was in favor of postponement until the questions are all answered.

David Pack said it seems premature to go forward, and from an engineering, planning, and legal standpoint based on findings. The concept plan needs to meet the code. It is in the best interest of all to wait until they have more information and options. Otherwise it would be a negative recommendation due to lack of infrastructure.

**MOTION: Josh Suchoski moved to table Bella Estates Land Use Map Amendment and Rezone; 7481 South 5490 West; Bowler Properties, LC/Randy Bowler (applicant) to October 6, 2015 so they can have all of the information such as a site plan that shows what kind of sewer access will absolutely be necessary and the information from the city engineer. The motion was seconded by Dan Lawes.**

There was a discussion amongst the commission regarding the wisdom of waiting a short period of time until they had the information in order to protect the health, safety, and welfare of the residents in that area, or moving forward since the action is a recommendation and not final approval and a rezoning doesn't necessitate immediate development. It was said that the sewer was the biggest issue. The five-acre property to the south may also want to connect so the modeling of that piece should be included. But moving forward would give the applicant an opportunity to continue with work that needs to be completed. A positive recommendation would consider the applicant's time, and if it is eventually approved then the subdivision process will come to the commission where they will see the information on capacities. However, some felt that the applicant might incur unnecessary expenses if they proceed and then the information from engineering says the plan can't work.

**VOTE: The motion passed 5-2 in favor of tabling the item with Zach Jacob and Bill Heiner casting the negative votes.**

**********

**3. Text Amendment – Amend the West Jordan Municipal Code Section 13-5D-2 to Allow Assisted Living as a Conditional Use in the P-O (Professional Office) Zone; City-wide applicability; Foursquare Properties, Inc./Dan Milich (applicant) [#TA20150005]**

Dan Lawes stated that the applicant asked for the item to be postponed.

**MOTION: Kelvin Green moved to postpone the Text Amendment to Section 13-5D-2 to Allow Assisted Living as a Conditional Use in the P-O Zone; Foursquare Properties, Inc./Dan Milich (applicant) to a future date yet to be determined. The motion was seconded by Zach Jacob and passed 7-0 in favor.**

**********

**4. Text Amendment – Amend the West Jordan Municipal Code Section 13-5B-7 to Allow Swine (Pigs) in Rural Residential Zones subject to the limitations of the animal point system; City-wide applicability; City of West Jordan (applicant) [#TA20150007]**

Scott Langford said City Council directed staff to look at amending the rural residential zone to allow for swine. The current residential code allows for keeping of animals based on a point system. There is an exception for offspring of large or medium-sized animals. It also categorizes animals as small, medium, and large with points allocated. Over the years they the point system has been honed based on West Jordan's experiences and experiences of other cities. He showed a map of the rural residential zones in West Jordan, which will all be affected by the amendment. Research was conducted that compares size, manure output, and number of offspring for cows, horses, and swine. Number of offspring for swine is much higher than for cows or horses. The city code currently has in place code sections that allow mitigation or removal of nuisances related to keeping of any kind of animal. As they discuss the amendment the Commission should consider that there is a delicate balance between letting people use their property in a way they choose versus using the property in a way that will impact your neighbor. The animal point system has served the rural residential zone well over the years by letting citizens exercise a unique right that isn't typically within a suburban community. The proposal to add swine seems to fit with the established regulations, with a few exceptions. His research showed that the more animals you have on a property the more potential for impact with the neighbors. The proposed amendment adds a note limiting the number to two per lot and prohibits breeding and birthing of swine. The research showed that the minute you allow for breeding or birthing of swine on the property you had the potential for odor to increase and safety concerns grew. A sow with piglets is very protective and dangerous, and typically a pig kept for breeding is larger than one kept for a season to butcher.

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.

There was a discussion regarding birthing, breeding, and offspring. The code currently exempts offspring under a certain age from the number limit, so it was recommended that the exemption not apply to pigs.

The question was raised of why pigs would stink more than a horse or cow when they are smaller and produce less manure. There was a discussion regarding enforceability and if smell could be quantified as an odor nuisance even if the property owner were in compliance with the point system. The animal control officers may have established ways to determine that.

Dan Lawes opened the public hearing.

Chad Sheppick, West Jordan resident, was in favor of the change. He currently has animals on his property. Every animal has a distinct smell, and that issue should be considered under the nuisance code and not in the animal point section. A male goat that is getting ready to breed smells very pungent. He has relatives who have raised pigs for many years and pigs are cleaner than many other animals. From the cleanliness perspective they can be taken care of much easier than other farm animals. Pigs are social animals, so if you are raising one, you should really raise two. He proposed that they keep the limit to two pigs but that they are categorized as medium sized.

Matt Tippets, West Jordan resident, echoed Mr. Sheppick's comments. He has two cows and a number of chickens on this property. He was in favor of the amendment and would like the chance to raise a variety of meat animals, including swine. He also thought they should be in the medium category. His experience with swine has been limited, but visiting some locations has shown him that swine don't smell any worse than cows or horses.

Brian Densley, West Jordan resident, said he has one of the smaller lots on 5490 West, and he would like to raise animals to feed his family. He thought pigs should be in a smaller sized category than cows. He's lived next to animals most of his life and didn't have an issue with the smell of one type of animal versus another. The cleanliness and upkeep of the property could affect that. He didn't think that having one or two pigs would cause any issues.

Randy Bowler, West Jordan property owner, stated that he raises swine. We need to be careful not to place swine in the wrong category. Swine are not the filthy animal that they are often characterized to be, and if properly cared for they are a clean animal. He was in favor of the amendment.

Ben Southworth, West Jordan resident, said when the City amended the point system a number of years ago one of the questions was regarding smell. The nuisance ordinance can address those types of things. He has dogs and sheep that don't care where they eliminate, but pigs use one spot. This amendment is about 4H and dinner table projects, and that is why it is reasonable to limit the number to two and to prohibit birthing and breeding. He felt that they could change the language to place them as a medium sized animal, remove the words 'but not', and keep the notes. When they revamped the point system, cows and horses were given 17 instead of 20 in order to allow for some of the smaller animals. The same thinking applies here; if they are considered medium animals then it allows for other types as well.

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

Dan Lawes said the current code refers to swine in the medium sized section, and he asked what would be the pros and cons to leaving them in that category with the limitation of two swine.

Scott Langford said if they were medium sized it allows for a variety of animals on the property. If the commission is worried that two swine plus additional animals would be more impactful to the neighbor, then it would be a con. The research showed that the manure output for swine is much less than for horses and cows, and they are smaller. The current code categorizes them as medium sized.

David Pack remembered that he did some research a couple of years ago when there was an application for pigs. It was the consensus of the state officials he spoke to that pigs are cleaner than other farm animals, even though the public perception is otherwise. It is interesting how much lower the manure output is compared to the other large animals. A problem is that there are no objective criteria to determine the nuisance of smell. The smell could be greater on a property with two pigs if it is not maintained compared to a property with five that is well cared for. At this point he was in favor of classifying them as medium animals.

Dan Lawes said complaints of smell can come with any type of animal and the code enforcement department will have to make the determination.

Josh Suchoski said they could limit the collection of manure, but any animal can smell bad if they aren't maintained. The code enforcement officers are granted the leeway to determine what a nuisance is.

Robert Thorup said there is always prosecutorial discretion. But if there are examples in the city of good swine management, then code enforcement could compare the good example to the complainant property for a standard to look at to point out deviations.

Scott Langford said he can do some research prior to the city council meeting, but there are sensors that measure parts per million, and he didn't know if they employ them in West Jordan, but in the absence of that Mr. Thorup had presented a good solution.

Kelvin Green thought they should look at pigs as medium sized on the point scale with the limitations as discussed, and that will allow for a balance of animal types.

Zach Jacob referred to the language in the code that says, 'such as' and lists the animal types. He asked if that leaves open to interpretation other small, medium, and large animals that aren't specifically excluded.

Robert Thorup said he read it that same way.

**MOTION: Dan Lawes moved to forward a positive recommendation to the City Council for the proposed text amendment to Section 13-5B-7 to Allow Swine (pigs) in Rural Residential Zones; city-wide applicability; City of West Jordan (applicant) leaving everything as-is in the table but striking 'but not including standard sized pigs' and leaving it as 'such as sheep, goats, and pigs'. Adding Note 1 at the bottom with the addition of 'breeding, birthing, or weening of swine is expressly prohibited'. The motion was seconded by Zach Jacob.**

Josh Suchoski said weening is just the point where you are separating a baby from its mother. They should specifically say 'no offspring of swine'.

There was a discussion regarding that language. Technically all animals are offspring of an animal, even if they aren't on the same property.

**AMENDED: Dan Lawes moved to amend the motion to state in Note 1 '…there shall be no more than 2 swine per lot, including offspring. Breeding and/or birthing of swine is expressly prohibited'. The motion was accepted by Zach Jacob.**

Matt Quinney asked why swine are being capped when other animals aren't.

**MOTION: Kelvin Green moved to suspend the rules to hear testimony on this matter. The motion passed 7-0 in favor.**

Ben Southworth said staff was initially directed to classify them as large animals, but after he thought about, it should have been medium from the beginning. The reason they are capping the amount is because pigs have been given a bad rap, so it is safe to start with a limit of two. When the single-

family residential chicken ordinance was adopted the limit was five. Time has passed and there have been no problems, so they may want to raise that number. So with pigs they will start with two to see what kind of impact there is. They might find that two is enough, or they could raise it. They didn't do any extensive research on it.

There was a discussion regarding allowing for more pigs and some of the offspring. A pig's litter can have up to 23 piglets. Also, a mother pig with babies is very dangerous.

David Pack wanted to ask Mr. Bowler if he agreed with the statement that pigs are cleaner than other animals and/or if two pigs is a good starting number for the average person trying to maintain pigs.

Randy Bowler said the amendment was for all rural residential zones, and there are different lot sizes in rural residential zones. He felt that the limit should be based on the lot size as well. If a half-acre lot can handle two then a five-acre lot should be able to handle more than two. He thought that two on a half-acre lot is a good starting point, and then time will tell if that should change. He said that pigs are cleaner than perceived. When properly cared for they are cleaner than many of the other farm animals.

There was a discussion regarding the limit based on lot size.

Scott Langford said he did consider this as part of the report. This is just a starting point. Optimally you introduce a potential perceived or real nuisance with a base line and then make adjustments over time. There are a lot of rural residential areas, with many that are tucked in within the fabric of "regular" subdivisions that don't have animal rights. Some of the lots are larger than half-acre and could have more than two pigs if they go down that road, and if there were complaints that went back to the city council then the pendulum could quickly swing back the other way. However, the commission can make it part of the recommendation for the council if they so choose.

There was an additional discussion to consider a cap for the larger lots that is more than two but less than 20.

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

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

The meeting adjourned at 7:40 p.m.

DAN LAWES
Chair

ATTEST:

JULIE DAVIS
Executive Assistant
Development Department
Approved this _____ day of _____, 2015