

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
May 24, 2022**

Present: Chair Michele Hollist, Commissioner Nathan Gedge, Commissioner Steven Catmull, Commissioner Trevor Darby, Commissioner Laurel Bevans, City Attorney Ryan Loose, City Planner Greg Schindler, Deputy City Recorder Cindy Valdez, Planner Ian Harris, Planner David Mann, Deputy City Engineer Jeremy Nielson, Senior IS Tech Phill Brown, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun

Others: Roger, Jerry and Marlene Pulsipher, Susan's iPad, Val Killian, Savannah Rodriguez

6:31 P.M.
REGULAR MEETING

A. WELCOME AND ROLL CALL – *Chair Michele Hollist*

Commission Chair Michele Hollist welcomed everyone to the Electronic Planning Commission Meeting.

B. MOTION TO APPROVE AGENDA

Commissioner Gedge motioned to approve tonight's agenda as printed and published. Chair Hollist seconded the motion; vote was unanimous in favor.

C. APPROVAL OF THE MINUTES

Commissioner Catmull motioned to approve the May 10, 2022 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor.

D. STAFF BUSINESS – *None*

E. COMMENTS FROM PLANNING COMMISSION MEMBPNERS – *None*

Chair Michele Hollist noted that Commissioner Nathan Gedge will be gone in two weeks, she will be gone the first meeting in July, and Commissioner Laurel Bevans will be gone June 28. She then asked staff if they had any updates on a new alternate commissioner.

City Attorney Ryan Loose said the council asked staff to look at moving to a six member commission, where the alternate would have more opportunities to participate; a majority vote of

those present, or a minimum of three votes would pass items. They are currently drafting that to bring to this commission for review, after which any revisions will be taken to the council. Tentatively it is on the council's agenda for June 21, which means this commission would see it at the next meeting or the one after.

F. SUMMARY ACTION – *None*

G. ACTION – *None*

H. ADMINISTRATIVE PUBLIC HEARINGS

H.1. DAYBREAK VILLAGE 9 PLAT 4 PRELIMINARY SUBDIVISION

Location: Generally 11375 South 6750 West

File No.: PLPP202200018

Applicant: LHM Real Estate

City Planner Greg Schindler reviewed background information from the Staff Report.

Chair Michele Hollist asked if each of these units had their own parking.

Planner Schindler said that yes, they each have their own parking. There are some townhome units, which will all have parking spaces and garages.

Commissioner Steve Catmull asked about Docksider Drive, specifically the lots at the bottom; some of the lots look very narrow, will those be actual residences or something else.

Planner Schindler said those are park lots in-between the residences.

Commissioner Laurel Bevans asked if they knew how many of each type of unit was going in, townhomes versus single-family homes.

Planner Schindler said they do, however he doesn't have those exact numbers without counting each unit. The single family lots will have a drainage easements between each lot, and the ones without that easement are attached housing. All of the lots along South Jordan Parkway are townhome lots, and Lots 311-314 are considered twin homes lots.

Chair Hollist asked if there was anyone in attendance from Larry H. Miller, there was no one present. She opened the hearing for public comment; there were no comments and the hearing was closed.

Commissioner Darby motioned to approve File No. PLPP202200018, preliminary subdivision, subject to all city requirements being met before recording the plat. Chair Hollist seconded the motion; Roll Call Vote was 5-0, unanimous in favor.

H.2. 1011 S CHATTEL CIRCLE ACCESSORY BUILDING CONDITIONAL USE

Location: 10111 S Chattel Circle

File No.: PLCUP202200067

Applicant: Harvey Val Killian

Planner Ian Harris reviewed background information from the Staff Report. He referenced an email that was sent by their neighbors, in support of this structure (Attachment A).

Chair Michele Hollist asked if other options for the windows had been discussed, possibly making them frosted or opaque.

Planner Harris said other options were discussed with the building department, however because it's a window to a bedroom it needs to be able to be opened. It could be opaque, but the fact that you could open the window would still necessitate the need for a CUP. They had discussed moving it higher, so someone standing in the bedroom couldn't see out of it, but again it needs to be easy to access in case of emergency.

Chair Hollist asked if there was a reason the building couldn't be moved 10 feet further on to the property to meet that offset.

Planner Harris said that would be a question for the applicant, as it seemed they would rather go this way and request the CUP rather than rearranging the plans.

Commissioner Nathan Gedge asked regarding the utility easement, if it would be appropriate to approve as a condition that all city engineering approvals and formal utility company approvals are obtained and approved.

City Attorney Ryan Loose said that if they have the easements already that wouldn't be a condition, that is a requirement to get clearance from the utility companies for the easement. Regarding a condition, they would have to find that the utilities are a detrimental effect that is reasonably anticipated, and find a way to mitigate it. He doesn't think it's as necessary, as if they build on an easement that they aren't supposed to, the easement holder can just knock it over. We shouldn't be granting building permits on these, unless they get that clearance and he thinks that is in the code.

City Planner Greg Schindler said part of their review is to make sure nothing is being built over an easement.

Commissioner Steve Catmull asked if the ADU was accessed coming off of 3200 W.

Planner Harris said no, there is an existing driveway covered by trees in the pictures, and that's where access to the carport will be. The proposed garage on the east side, he doesn't believe has any internal access to the ADU, so the carport is intended as the main parking. He thinks that as part of the accessory structure wishes to get connection from 3200 W to that garage, they would

probably need an encroachment permit from the engineering department to do that. However, he believes the garage will be more intended as a work space, rather than parking for the ADU.

Commissioner Catmull noted that anytime you connect to a collector street you have to go through Engineering to get permission. Regarding having a double access, he was unable to find anything in the code about whether or not it was allowed.

Planner Harris said that some of the lots to the south do have access to 3200 W, and this particular lot does have a curb cut off of 3200W; the applicant is proposing a cut in a different location.

Deputy City Engineer Jeremy Nielson said they found the same thing, they already have an access to the rear of their lot, they are just moving it to the south a few feet. He said that they already have an access to their lot, so the city is viewing it as an existing access and relocating the existing cut.

Commissioner Catmull noted that if they were new construction, and didn't have access along the connector, wouldn't their accesses have to be a certain length apart.

Engineer Nielson said that unless there is something in the code that prohibits them from having a rear access, he doesn't see any reason they would deny it just for a driveway when there would be very few trips.

Commissioner Laurel Bevans asked if the gate coming off of 3200 W was the only way to access the garage off the back of the ADU.

Planner Harris replied that it is the only access for that particular garage.

Chair Hollist feels like they have seen issues where the HOA was insistent that the property not access the private road from the back, and at that time they were instructed that the city's code doesn't not allow access to two public roads off the same property.

Planner Schindler said there are occasions when a lot is located off a collector street where they don't allow access to the rear of the property, but that's usually because it's required to have a masonry wall built. This subdivision has been up much longer than our codes have that would have required anything like that. They already have an access, and it is required that the City Engineer approve the new curb cut, but he doesn't think that is prohibited anywhere in our code. If you have multiple accesses on a property, there does need to be a 100 foot separation on a collector street; it should probably be required that they eliminate the other curb cut if they are putting another in, unless there is an 100 foot separation between old and new as noted in our code Title 16.26.

Chair Hollist opened the meeting to public comment.

Val Killian (Applicant) noted that the applicants are in Arizona with family. He asked to address the utility easement, and noted that when the survey was performed by a licensed

engineer he did not show any kind of utility access running through the property in the middle. The surveyor gave them a 10 foot utility easement that surrounded the perimeter of the property only; that information took him by surprise, and he'd like to see where exactly that is located as he hasn't seen anything that would prohibit them from doing what is planned. They have started remodeling the main structure and they definitely haven't run into anything that would indicate there is anything going through the middle, unless it is running north and south, rather than east and west.

Chair Hollist noted that Mr. Killian is actually listed as the applicant on the form, and during public comment they don't typically respond to comments until it has been closed.

Chair Hollist motioned to recognize Mr. Killian as the applicant and stop the time so he can give his presentation. Commissioner Darby seconded the motion, vote was unanimous in favor.

Planner Harris looked at the subdivision plat for Chattel Estates. He noted that it's a very old plat, and there's a PUE that runs north to south, directly bisecting the property.

Mr. Killian said when it was surveyed, there was a sewer lateral that ran almost the whole length of the existing house, underneath the house, then underneath the fence on the north to an adjoining property. If that's the easement being referenced, it has already been built over and they are not building anywhere close to that.

Planner Harris didn't have the plat with him, but confirmed that the easement shows roughly in the middle of the plat.

Mr. Killian said that when the sewer line was scoped, they marked it right on the cement floor of the house, and it went right down through the middle of the existing residence.

Commissioner Gedge asked the applicant, if it was discovered that there is an easement, would they be opposed to getting any applicable permissions from City Engineering and utility companies.

Mr. Killian said of course not, that would be to their advantage, it just took them by surprise. Regarding the encroachment, they are definitely more than 100 feet, even after moving their existing access to where they'd like to have it. From that access to the adjoining neighbor on the south they are also over 100 feet, probably closer to 150 feet. Regarding gaining access from one public street to another street, unless you wanted to drive through the house you couldn't get from 3200 W to Chattel Circle. They only developed that so the owner of the property would have access to his car garage/man cave/RV parking.

Commissioner Trevor Darby noted that he believes the 100 feet is specific to closing off the old cut, because you can't have two cuts within 100 feet with the same owner.

Mr. Killian said that's his intent, and to their advantage to do that. He believes the encroachment application they made last week to Engineering includes the closing of the existing cut and

creating a new one. He then read the email submitted by Benjamin and Melanie Decker (Attachment A).

Chair Hollist asked why the offset couldn't be accommodated.

Mr. Killian had obtained from Planning the description of how to accommodate the height of an existing accessory building. In his design, he was more concerned about the height of the building, because his clients had issues that required the cabana and weight room is a two story building. The requirements indicate that they can build within three feet of the property line, if they are not higher than 16 feet tall; for every foot he can move back from that three feet, he can gain another three feet of height. He went as far back as he could to still get the building that required the double garage, and still meet and clear the existing structure so he could be 20 feet away and meet code, and also stay within the boundary line. He just forgot, or didn't read carefully enough, that little hidden line in the second paragraph that says if you're closer than 20 feet you have to apply for a CUP. They had the plans all done, went to Planning, and then got landslided and that's the main reason. The Dixons were disappointed, as was he, and they decided that they would try to do it this way. If they can't get it, he's afraid he has to try to redesign a very narrow building.

Chair Hollist asked if the entire development can just be shifted 10 feet further into the property.

Mr. Killian said no, if it shifts any further it obstructs some view and it becomes unsightly, and they lose some of the other common area that's inside. They meet the height requirement, sit comfortably inside of it and it works really well with the property, the neighbors are in agreement and they are the only ones even close to where they need to be. There is plenty of open land inside and they don't understand why there might be reason they couldn't do this.

Chair Hollist re-opened the public comment portion of the hearing. There were no comments and the hearing was closed.

Commissioner Bevans noted that they have seen a lot of flag lot applications. She knows the neighbor has no issue with waiving this requirement for the offset at this time; however, there could be a future where that lot gets subdivided and that window might be close to a primary structure building.

Planner Schindler noted that in the code it does say that double frontage lots may only be accessed from neighborhood streets, not from arterial streets. That means their existing access is nonconforming, and they can't alter the nonconforming access by moving it to another location.

Attorney Loose said this is potentially nonconforming, assuming it was put in legally at the time and the rules have been changed since. If it was put in illegally, then it's an illegal access, but we don't know the answer to that at this time.

Planner Schindler said it's probably a legal nonconforming access because it was put in so long ago, and there are so many other ones on 3200 W that have access from their rear.

Chair Hollist said she assumes if what Planner Schindler just said was true, they may continue to use that legal nonconforming access, they just can't change it.

Planner Schindler suggested tabling this decision so there can be more discussion at the staff level with the legal department.

Attorney Loose noted that the relevant code section is 16.26.02E, under Access & Parking, and it says that essentially if you have accesses they both have to come off of neighborhood streets, not a collector. If this is legal nonconforming, and it was legal at the time it was done and the code has been changed since, they cannot modify, expand or alter the access in any way. They can continue to use the legal right they have, but they can't change it, which could obviously affect many things in this application.

Chair Hollist asked for the definition of a collector street.

Engineer Nielson said it has to be over 55 feet of right of way, and 3200 W is considered a minor collector street.

Chair Hollist said it sounds like they are being advised to table this so staff can do some additional research.

Commissioner Gedge agreed, especially with his concerns around the utilities and some his questions; he would like to see some kind of visual where that easement lies as they typically see that in the presentations. He asked if the next meeting would be enough time, or how long they should table it for.

Planner Schindler said it's up to the commission. In this case, staff will have to go through this and they can have it back at the next meeting if it's desired.

Commissioner Gedge asked if there are pressing deadlines that need to be met that tabling this would add an additional burden to.

Mr. Killian said they are already under construction with the primary residence, and they are ready to move dirt tomorrow. Part of the problem is that they have their plans in Building for the permit for the detached garage, but that's being held up because they need the CUP, which drives the ADU which gives them permission to build. He is more than happy to research the utility easement and vacate it if needed, they would just really like to move forward as quickly as possible.

Chair Hollist proposed they indicate in the motion to see this again next time if possible, but not restrict staff to that if something were to come up.

Planner Schindler said the next meeting is in three 3 weeks, and he doesn't think staff will have any issues.

Attorney Loose said that legally, the applicant has the right to pull a rip cord, and we do things as

expeditiously as possible, so it's in the city's best interest to bring it back as soon as possible. The biggest issue for him isn't the vacation of the easement, it's if they cannot use the relocated access, they will have to redesign that whole back side of the application.

Mr. Killian said that redesigning the driveway access to the existing garage is 30 minutes worth of work, but to him, the bigger issue for his client is that they want to know the legal ramifications with respect to definition of what's nonconforming and legal; what do they have the right to do based on something that has yet to be determined.

Chair Hollist asked if that was something the applicant could work through with staff outside of this meeting.

Attorney Loose said yes, and their attorney can give them all the definitions. We will give them the requirements of the code, and if they need clarification they can work through their attorney and staff to do that. If there is an issue we have to work out between staffs, then they will.

Commissioner Gedge motioned to table File No. PLCUP202200067, accessory building conditional use permit, to a date uncertain while directing staff to investigate the city code regarding access to collector roads, the defining of 3200 West in this location as to the status of the road, and also working with the applicant and representative to mitigate other issues brought up in this evening's meeting. Chair Hollist seconded the motion; Roll Call vote was 5-0, unanimous in favor.

H.3. ACCESSORY LIVING UNIT - GUESTHOUSE

Location: 10911 W 1055 W

File No.: PLALU202200084

Applicant: Savannah Rodriguez

Planner David Mann reviewed background information from the Staff Report. He provided pictures of the elevations and interior of the home (Attachment B) as it is currently existing in a neighboring city; it will be moved and installed at the location above. Staff did look at the elevation of this property, and the neighboring property, and found that the property does drop as it goes east. This proposed structure would actually sit 12-14 feet below the elevation of the neighboring home.

Chair Hollist asked about the picture (Attachment B).

Planner Mann said those are pictures of the actual structure, the exterior and interior, that is existing today.

Chair Hollist asked if staff felt that this meets our code to be consistent with the neighborhood with compatible materials.

Planner Mann said he thinks so, it's the same style, same gable on the roof, and the applicant has stated that they do have plans in the future to potentially match the exterior of this guest house with the same material that's on the main home.

Commissioner Laurel Bevans asked what the square footage of the prior unit was, and the size difference.

Planner Mann said the other one was just under 1500 square feet.

Commissioner Nathan Gedge asked staff to clarify that since this is an ADU, the applicant must primarily reside in their home. He wants to make sure we don't have a situation where the primary residence is an Air B&B, and there are renters in the back of the unit.

Planner Mann said that with the original application they did sign an affidavit that's required by code, to state they will live on the property and that the purpose of this guest house is for their mother/mother-in-law to live there while they care for her.

Commissioner Gedge asked to confirm that the original building was approved by city staff only previously because of its smaller size; when did that occur, and how long does that approval last.

Planner Mann said it was about one or two years ago when they made changes to the accessory dwelling unit chapter of the code, and one of those changes was making staff the approving body for guest houses unless they had the need to be larger.

Commissioner Steve Catmull asked staff if there can be more than one ADU on a property.

Planner Mann said that no, there cannot be more than one.

Chair Hollist noted that includes the primary residence, so this home can no longer can be divided into a rental portion and main home portion.

Planner Mann confirmed that she was correct.

Chair Hollist invited the applicant up to speak if desired.

Savanah Rodriguez (Applicant) said they initially had two separate lots, so when her mother-in-law's husband fell ill with that they thought was dementia, they were trying to figure out a way to care for her. The requirement with two separate lots was the minimum square footage of 2500m and that was just way too big. When they merged the lots together there was a cap at 1500 square feet. She thinks the hard thing for them was when the first property fell through, there are so little options; but, in that 1500 to 2500 square foot range there were many more options.

Chair Hollist opened the hearing for public comment. There were no comments and the hearing was closed.

Commissioner Gedge asked to reference the picture that was submitted before the meeting of the property, and that has been included as Attachment B.

Commissioner Catmull brought up the existing horseshoe driveway and the current requirements for that. It appears that is considered potentially nonconforming at this point, but that was discussed earlier and he is satisfied with the information he received from staff.

Commissioner Gedge motioned to approve File No. PLALU202200084, accessory living unit permit, as presented to the Planning Commission and City Recorder in Attachment B. Chair Hollist seconded the motion; Roll Call vote was 5-0, unanimous in favor.

I. LEGISLATIVE PUBLIC HEARINGS - *None*

J. OTHER BUSINESS

Chair Michele Hollist noted that the meeting in three weeks as of now is looking fairly light.

City Planner Greg Schindler said they did add one more item tonight, by tabling it, but so far it looks like just the two items; notices don't have to go out until next Thursday so things could change by then.

Commissioner Nathan Gedge noted that they discussed their schedules at the beginning of the meeting, and that July might only be one meeting. As a result of that discussion, he suggested holding off on any training until the August meetings so they can hopefully get everyone there and maybe even have the new commissioner there as well.

Chair Hollist said that is a good idea, they will wait to see how things go and then decide.

ADJOURNMENT

Chair Hollist motioned to adjourn the May 24, 2022 Planning Commission meeting. Commissioner Bevans seconded the motion; vote was unanimous in favor.

The May 24, 2022 Planning Commission Meeting adjourned at 7:34 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez