

**CITY OF SOUTH JORDAN  
ELECTRONIC  
PLANNING COMMISSION MEETING  
COUNCIL CHAMBERS  
March 28, 2023**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Laurel Bevans, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, Deputy City Recorder Cindy Valdez, Senior IS Tech Phill Brown, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun

Others:

Absent: Commissioner Steven Catmull, Commissioner Trevor Darby, Commissioner Aaron Starks,

6:32 P.M.  
**REGULAR MEETING**

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

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

**B. MOTION TO APPROVE AGENDA**

**Commissioner Bevans motioned to approve tonight’s agenda as published. Chair Hollist seconded the motion; vote was unanimous in favor. Commissioners Darby, Catmull and Starks were absent from the vote.**

**C. APPROVAL OF THE MINUTES**

**C.1. February 28, 2023 Planning Commission Meeting Minutes**

Commissioner Nathan Gedge asked about the minutes from the joint meeting last week and was told they would be included as council minutes for approval during the next council meeting.

**Commissioner Gedge motioned to approve the February 28, 2023 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor. Commissioners Darby, Catmull and Starks were absent from the vote.**

**D. STAFF BUSINESS - *None***

**E. COMMENTS FROM PLANNING COMMISSION MEMBERS**

Commissioner Laurel Bevans gave a brief overview of the last Architectural Review Committee meeting and noted that the “barn” will coming back for approval as the planned reception center.

Commissioner Nathan Gedge asked about possibly educating the public when the site plan approval comes back to the planning commission, reminding everyone of the role of the planning commission.

Commissioner Bevans noted that Megan has been communicating with and working with the neighbors in the interim, and she has been doing a good job. She also gave a brief review of the March 21, 2023 City Council Meeting and there was some general discussion between commissioners and staff regarding some of the topics from that meeting.

**F. SUMMARY ACTION - *None***

**G. ACTION - *None***

**H. ADMINISTRATIVE PUBLIC HEARINGS**

**H.1. WIANDT LANDSCAPE MODIFICATION CONDITIONAL USE PERMIT**

Address: 11201 S Alisa Meadow Dr

File No.: PLCUP202200214

Applicant: Rebekah Wiandt

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

Chair Michele Hollist said that we typically have ordinances for a reason, to mitigate undesirable things, and asked staff for an explanation of why we have the specific requirements for the park strips of 50% landscaping, with 50% of that landscaping being live plant growth.

Planner Schindler noted that the live plant growth provides a cooling effect to the environment, as well as cleaning the air, specifically trees which also offer a shade effect. Artificial turf does get hot and radiates heat, especially during the hotter months. That type of turf has not been identified as an environmental problem or issue that staff could locate, but they still would like to see that live growth material and reminded everyone that they only require 50% coverage at maturity since they will grow. Live turf or regular grass is no longer allowed in the park strips since it uses so much water, and that is the reason for prohibiting it in park strips and encouraging residents to put in other types of plant materials in their front yard besides live turf.

Chair Hollist asked about water absorption in the artificial turf versus natural landscaping.

Planner Schindler said this appears to have the ability to drain up to 80 inches per hour, but he was unable to speak to what happens when that water reaches the underlying soil. It doesn't seem to be any worse than live turf in terms of dealing with water.

Chair Hollist said she knows they are not discussing the fence tonight, but she assumes that regardless of the fence variance decision if this conditional use permit is approved the four foot garden width would still have to be included as well, and could not be turf.

Planner Schindler noted that she is correct, if this is approved, it approves the site plan showing that there is four feet of planter there that would hopefully have the vegetation in it and not just rock. If it is just rock, it would have to be brought back to the planning commission and he doesn't believe staff would recommend approval of no plants at all in the front yard. If this is approved and that ground cover isn't put in, the conditional use permit would be revoked. The fence isn't being put up as a barrier between the grass and planter area, but more as a barrier between people walking through and standing in their front yard.

Chair Hollist asked if they were also approving the park strip, as it is currently not meeting city requirements for plants based on the Staff Report.

Planner Schindler is not sure of what is going on with that, but agreed that it is in violation of city code.

Assistant City Attorney Greg Simonsen noted that the purpose of the ordinance was questioned, and greater insight could be gained from previous meeting minutes; however, he thinks the purpose of the ordinance is to protect the home values and neighborhoods for everybody. It is always sad when you have a neighborhood that is beautiful, with that one home that has been let go. He doesn't think that's what is happening here, which is why staff recommended approval, but the wording is interesting. Code states that "not less than 50% of the required landscape area covered in acceptable live plant material," which is not shown on this plan, but then it says "unless otherwise approved with a conditional use permit." This offer no guidance as to when a situation is worthy of a conditional use permit, and leaving everyone to judge that based on the regular conditional use standards of whether there are detrimental effects seen; that makes questions such as Chair Hollist's regarding water absorption entirely appropriate. The applicants have, in his judgment, done a good job in submitting drawings that tell us quite a bit about what they are proposing, and the evidence in the drawings speaks to whether or not there is detrimental effect from having this change desired.

Commissioner Bevans asked to clarify if they were being asked to approve their park strip as-is, or if the park strip is separate from this current application.

Planner Schindler said they are basically approving the front yard area, and he thinks that is considered separate from the park strip in this case since it wasn't part of their application.

Commissioner Nathan Gedge asked if they were to create a motion and specify the piece of property that needs to be in compliance, noting that it does not include the park strip, would that be an inappropriate motion.

Attorney Simonsen asked for more details as to why the park strip is out of compliance.

Planner Schindler responded that it is not allowed to have any grass if it is being redone from a previous design, but it also can't be just rock. At maturity, live plants have to cover 50% of the park strip, along with having at least one tree for every 50 feet. He doesn't believe the plants in the plans are trees, they are more like bushes.

Attorney Simonsen addressed Commissioner Gedge's question, stating that the ordinance being reviewed says "the front and street side yards of single family lots shall be fully improved," and he noted that the drawings do show them being fully improved. The ordinance continues by saying "properly maintained with not less than 50% of the yard area landscaped, and not less than 50% of the required landscape area covered in acceptable live plant material." The question asked wasn't brought up in the Staff Report to his understanding, as he doesn't see reference to the park strip and the related violation being discussed in there.

Planner Schindler agreed and noted again that the park strip was not a part of this application for the conditional use permit. He is not completely sure, but it might already be a code enforcement case.

Attorney Simonsen noted that while he doesn't have the application in front of him, he does have the drawings that show the park strip. He might interpret that differently, that the park strip is part of the application, and before he rejected that he would probably want to go back and specifically look at the ordinance that was not addressed by staff in their report. In terms of the park strip, they are having to act as lawyers, but in respect to the ordinance that has been brought up and that they are all looking at, he interprets that as saying 50% is required to be live plant material, but it also says "unless otherwise approved with a conditional use permit." That is what is before the commission tonight, a conditional use permit, so to him that is within the application and within the commission's scope of ability and decision-making to decide whether this conditional use permit can cover that park strip.

Chair Hollist invited the applicant to speak.

**Rebekah Wiandt (Applicant)** - Addressed the park strip first, referring to her handout (Attachment A) and noting that she wasn't sure why staff didn't have the updated version, but there are trees along the north side. Those are Italian Cypress trees, and there is white marbled rock there. This is their fourth attempt at growing trees in the park strip. The reason for no other landscaping in there is because they are the school bus stop, every single day for high school and junior high, and have been for 25 years. That is also one of the reasons that they asked for the fence, as they are basically a garbage dump for Hi-C, Capri Sun, and everything else. They step on everything they've planted, of course they're walking across it to get to the bus and that is why they went with the very minimalist approach to the park strips in an effort to grow some

kind of tree, and not any additional plant life. She referred back to Attachment A, noting that in there is a detailed specification on the actual Astroturf. Also, included in that are the laboratory tests that should answer the questions about how the drainage should work. It talks about the warranty, and she has spoken to the people who actually sell the turf. It has a 16 year warranty, but it has lasted much longer in the testing areas that they have had, so they are looking at not having to obviously replace it immediately at the end of the 16 years. While looking at the cost, the Astroturf is actually more than 50% of the cost of the build. That includes the installation and all of the stuff that has to go underneath it for drainage, in addition to things applied in the Astroturf which consist of sand and silica sand in an effort to help the drainage. Attachment A shows the laboratory tests on the actual turf itself that have been done, and the accreditation that the Astroturf was given. She also included in Attachment A the final artist rendering done of the property and what it will look like once it is completed. You can see the flower beds in the front, those will consist of not just annual flowers, but also perennial flowers include irises, daylilies, various cone flowers, and things like that; there will be an abundance of color that comes in that four foot strip, along with annually planted flowers. As far as the park strip is concerned, they were under the impression that was part of the fence application, but she included the explanation that living on that corner for 25 years, they are kind of the dropping point for joggers to drop their water bottles and they always do that in the park strips on a regular basis. When there was grass there, it was constantly trampled and used a huge amount of water. She spoke to the water issue as far as saving with the Astroturf. Originally they put their faith in a less than stellar landscaping company who told them he had gotten everything approved and then proceeded to take off the top of their landscaping; this is why they're here today. At this point, there is no lawn as it was removed almost 18 months ago. In the process of trying to find a new contractor and figure out what they had to do, they took control and realized they needed all of these permits and started asking the original contractor about those. He said they didn't need those permits, and proceeded to peel their lawn off. They've been without a lawn since about January or February of 2020, which is when he took off the lawn, and it was when we didn't have a whole lot of rain and he did a lot of work but subsequently didn't show back up. They took hold of the reigns and had to go figure out exactly what was needed in terms of the fencing, and with the landscaping in general. They are a west-facing house that gets full on west facing sun. That was one of the reasons that they chose the Astroturf, because no matter what or how much water they put on the lawn there was always an enormous dead spot right in the middle. They had taken a trip to Saint George and saw a ton of different lawns that had this beautiful green grass, and saved all of that water at the same time. At the time we had not had a winter like this past winter in several years, and they felt that would be the most environmental friendly thing to do living in a desert environment and trying to find something that fit with their home and retail value of their property. They looked at several different artificial turfs and it came down to three, this was the final one they decided on. As far as the park strips are concerned, the biggest reason the park strips are not planted out is because every single morning, Monday through Friday, they get a junior high and a high school bus. Until the new elementary was built, they also had an elementary bus at the same spot with children all over her front lawn at all times. That was why they went with the park strips being the way that they are, because they just trample all over everything. It's not like they stand on the sidewalk, and that's not where the bus comes as the bus comes actually to the stop sign, so they walk across the park strips and through the park strips on a regular basis. Keeping them looking nice and trying to grow things inside of them was and has proved to be nearly impossible.

Chair Hollist asked if the applicant was concerned about the temperature impact this will have on her home.

Mrs. Wiandt responded no, because they are west facing house and even though there are full grown trees in front of them, they have been through probably 3 or 4 front doors; they can no longer have a steel door as their front door, and they have gone through a couple of solid wood doors because the amount of sun that hits the face of their house on that side basically grills whatever is there. The reason that the plant life that is still there has survived is because it's things like daylilies that are very drought tolerant and very heat tolerant. They have a couple of hyacinth bushes, which are tropical in nature, and they thrive along there along with a couple of rose bushes which also thrive. It gets battered, and they are on their second set of shutters; their third set will be set up there when the new landscaping comes. After looking at all the ratings on the shutters saying they can put up with heat from Arizona, they are still on their second set and they cannot withstand the heat that hits their house. She just doesn't see how it can get much warmer than what it already is, because it kills anything in the front. For several years they watered almost every single night for 30 minute intervals trying to let it soak in, and it just simply would not grow, dying off. It looks beautiful during the very beginning of spring and the very end of fall, but the rest of the time it's dead.

Commissioner Bevans asked if they had pets.

Mrs. Wiandt responded yes.

Commissioner Bevans noted that in Attachment A it is not recommended to use weed barrier, and she asked if the applicant has considered all of that, and how they're going to install this.

Mrs. Wiandt responded they are actually not the ones that are installing it. The company doesn't use weed barrier, and that's because they put a road base down, which is then compacted. They come back after that and lay down the Astroturf. They have Astroturf in the back for their pets, there is a weed barrier there and they do use that. Even though it says that it shouldn't be underneath, they have asked if there can be a weed barrier placed because they have an issue with bindweed no matter where they're at. In the back with the weed barrier and the Astroturf, they have had no bindweed issues. She knows we live in in the second driest state in the nation, and noted that when they put the Astroturf in the back, and they put down the drip system when the front yard was peeled off, being on secondary water they reduced their watering by almost 80% just with what went in the back and the flowerbeds. They felt that was fabulous under the circumstances, as they had no idea we would have this wet of a winter.

Chair Hollist opened the hearing for public comment. There were no comments and the hearing was closed. She then pointed to a letter in Attachment A that seems to indicate some information has been provided to staff that might have suggested a different recommendation, and asked if Planner Drozdek had that information when he made the recommendation on the staff report.

Attorney Simonsen noted that the three page letter to Attorney Craig Hall was noted in the report, and the fence is a subject of a separate proceeding. To have a front yard fence is banned

by the ordinance, and these applicants have asked for a variance from that. That will be the subject of a hearing coming up in April, and is not before the commission tonight on this conditional use application.

Chair Hollist asked if the variances are the same for a conditional use permit, if they fall under the same sections of code when you request a variance for landscaping versus a fence.

Planner Schindler noted that the landscaping they're requesting tonight is not a variance, it's an opportunity in the code that gives them the option to do this with a conditional use permit.

Commissioner Gedge noted that they have had a little bit of training on conditional uses, and that the permit runs with the property, even if the ownership changes. He asked to clarify that if they approve this, they are approving a conditional use for the specific artificial turf presented this evening. Meaning, if the current owner or future owner wants to replace that turf with a less quality material than what has been presented this evening, that would basically invalidate the conditional use permit, requiring application for a replacement.

Attorney Simonsen responded that if somebody ceases complying with the terms of the conditional use, that can be brought and challenged at any time.

Chair Hollist specifically asked if in the future the property was out of compliance, would they then be required to come back into compliance with a major overhaul of the property.

Commissioner Gedge just wanted to make sure that in approving this artificial turf this evening they are not enabling a future owner to just throw rock down, that whatever is being conditionally authorized this evening is the only thing allowed in the future on this property. It looks like what's being presented this evening is very high quality, and it looks like they have done their due diligence to make this a high quality product. He just wants to know what happens when the 16 year warranty expires and a possible new homeowner doesn't want to do the replacement.

Chair Hollist said that brings up an issue of concern for her. If they grant a conditional use permit, what metrics do they need to have in place to state when this out of compliance. As long as there is turf there, it will be in compliance, but what happens when it starts to wear out or fade.

Commissioner Gedge said this is the first they are probably approving in the city, and with water use being in the public eye, when other people drive by and want to apply for something similar, what kind of standard are they setting with this initial decision.

Commissioner Bevans said she thinks this is a good point for possibly city staff or City Council to start looking at putting in standards and limitations on artificial turf.

Chair Hollist referred back to the joint meeting held earlier this month, noting that this might be the planning commission who needs to start looking at what the standard should be and make a recommendation.

Chair Hollist shared that she drove through Riverton on Redwood Road where they've replaced a lot of park strip with this artificial turf on their publicly owned properties.

Commissioner Bevans noted that in another meeting there was a water expert that shared artificial turf saves on water now, but in the long run it heats up.

Chair Hollist asked staff for any information they might have on the urban heating issue, how that impacts nighttime temperatures, and doesn't allow areas to cool as much in the night just because of the heat that's retained.

Planner Schindler said there are a lot of things that cause that, and it was brought up years ago during a work session presentation on artificial turf, but it seemed to fall on deaf ears because they didn't really say whether or not they liked it and opted to continue the process of reviewing artificial turf as a conditional use permit. He agrees that there are articles that talk about the urban heat island and how it heats up. He found a lot of things that that are detrimental to the atmosphere, and that when it heats up it is also not good for the air quality. He has pointed that out with turf, along with idling at intersections, idling in parking lots, but he doesn't think there's any interest in suburban areas to pass ordinances prohibiting either turf or any of the other things that are detrimental to the environment. It's usually the larger cities for some reason, that don't have as much open yards and spaces, that are getting more concerned about that than we are out here where we have larger lots. The applicants are west facing as they said, and the requirement in the code is to add shade trees, that's why we don't believe that the Italian Cypresses are considered shade trees anymore. Technically, they may provide some shade when the west sun goes down, but they don't create a significant amount of shade.

Chair Hollist noted that Commissioner Bevans has indicated this is obviously an issue where they need to review what they want to include in the city ordinances in the future; when they'll allow it, how much, and potentially put it in the code.

Planner Schindler said that would be a good idea, and he suggested making that request of staff to start working on those kinds of things. If they are going to allow turf, they should probably find some standards and maybe limit how much, or if they have to have shade or something else to help combat the heat. This applicant's type of turf is very high quality, so staff isn't worried about that, but they may want to have standards, similar to other cities, in regards to what the turf is made of, what its warranty is, so it doesn't start to look like what was seen in Riverton.

Attorney Simonsen said the commission has been presented with evidence that the plan, as submitted, does not comply with the park strip ordinance; they do have the option of making that a condition.

Chair Hollist noted that the turf itself doesn't create any concerns, but she does have concerns about other parts of the landscaping that aren't in compliance. To make that exception, she thinks they probably need to address the noncompliant park strip.



Commissioner Gedge said the park strip has been identified as a detriment, in compliance with city ordinance. Possibly a mitigation option could be to add a condition, that the park strip will be brought to compliance. He also suggested making the turf proposal tonight the standard for future applications of a similar nature, until an actual standard is established. After discussion, the commission agreed they didn't have that authority, so he suggested noting in the motion the reasons for approval. Regarding the park strip, he would like to find a way to allow them to move forward with the conditional use permit on the landscaping, and allow them to bring the park strip into compliance without having to come back again.

Commissioner Bevans suggested adding that the applicant needs to coordinate with City Staff, as necessary, to receive approval for the park strip noncompliance, if it's deemed not covered by the fence variance application or this conditional use permit.

Chair Hollist would be okay with the conditional use permit approval for their yard including the requirement for their park strip to be in compliance.

Commissioner Bevans agreed that she was okay with that as well.

Chair Hollist asked staff if that combination would affect the fencing variance application.

Attorney Simonsen responded that they are two different issues, and should be addressed separately. He believes it appropriate for the commission to include a condition regarding the park strip being brought into compliance, without going into details about specific plants or other items that would be required.

Commissioner Gedge asked to invite the applicant forward to see if they are willing to accept the condition being discussed, since a detriment has been identified.

Commissioner Bevans suggested adding that the park strip be brought into compliance or that the applicant receives approval from an appropriate member of city staff.

Mrs. Wiandt noted that the Astroturf is more than 40% of the cost of the entire build. In regards to the park strips, they were told that would be addressed with the other and she was asked to write out a full explanation about the bus stop, the problems they've had including vandalism, and the other various steps they've taken in the past. This is the 5<sup>th</sup> set of trees they are attempting to grow in that park strip because of the school bus and the associated issues, and that is why she was under the impression that the park strips would be included in the fencing variance hearing.

Attorney Simonsen responded that the variance is just for the fencing.

Commissioner Gedge said that regardless of whether the park strips are included with the fencing variance or not, they would like the applicants to work with staff to make sure the park strip is compliant.

Mrs. Wiandt asked if, in order for the park strip to remain the rock and trees to avoid the issues for the past 25 years, they have to make another application for a variance.

Commissioner Gedge said no, they would not need another variance, but they may need another type of permit depending on whether the park strip is considered a part of the front yard landscaping or not.

Mrs. Wiandt responded that was not how it was explained to her, and that she is trying to figure out what she still needs to fight for.

Attorney Simonsen said that, after reading the application for the variance, his understanding is that it is only about the fence. He explained that he thinks what will happen tonight, but has not happened yet, is that the commission will approve the conditional use permit. As part of that approval, the commission is going to impose a condition that whatever is done with the park strip needs to comply with the ordinance as it stands currently. If that is not acceptable to the applicant, then now is the time to voice that.

Mrs. Wiandt noted that is why she was asking if they were going to be required to file for another permit to include the park strip. Their biggest issue right now is having 8-16 kids trampling across that twice a day; growing things in there, even when it was grass, was difficult. Those two front park strips are where all the kids hang out, and she is asking for that to be put into the consideration since they are not going to be changing the school bus stop. They have already spoken with the schools and did as much as they would with them, only to receive a flat “no” several years ago.

Planner Schindler explained that a conditional use permit cannot be obtained for the park strip, because in the code the front yard gives an option with the word “or,” but the park strips don’t have that verbiage and use the word “shall.” He believes their only option would be to ask for a variance to that section of the code, but it would be a separate variance application and it was not included in her variance application for the fence. The commission could make it a condition of the conditional use permit, but if the applicant doesn’t want to change it, it would still end up becoming a code violation whether it’s a condition or not and go through that process.

Commissioner Bevans said that with the confusion on this issue currently, she is inclined to possibly table this to allow the applicant a few weeks to coordinate with city staff and have them come back at the next Planning Commission meeting with some clarity on the issue for the applicant’s sake.

**Thomas Wiandt (Applicant)** asked the commission to please not drag this whole project out by linking the park strip to their front lawn. They have tried everything they can to keep those park strips alive. He noted that maybe that’s why someone tried to connect the park strips to the fence, but it was possibly done improperly, because it needed a variance; however, linking their front lawn to the park strip is just going to drag their front lawn out and prevent them from moving forward on that. That linking and making the conditional use permit dependent on whether or not they can keep the park strip alive is going to hang up the whole project. They have tried to keep the park strip alive, year after year. There are times when the children are on their front lawn,

they come on their porch when it rains and snows; they can't stop these children, which is why they put the rock down there. If it needs another variance, they'll apply for another one, but the linkage is just going to stop the project.

Commissioner Bevans noted that her goal with tabling this would be so they don't have to put in an unnecessary second application, giving them the time to work with the city staff to sort things properly. If they do need something from the commission, it can be brought back without going through the entire process again as a separate application.

Mrs. Wiandt said one of the things they feel has been so difficult throughout this whole thing is that up until the original complaint was made they didn't have anything in those park strips for years, because of this very issue. They feel like no one considers the fact that they have dozens of kids tracking across everything; they don't take that into consideration when they look at their yard, the trash or everything that is thrown into their yard. They have been there for more than 25 years, so it's incredibly frustrating to have a home that you have built from scratch, and taken care of it for that long, to not be able to ever have that pristine kind of look because you are the school bus stop. Up until the new elementary was built, it was double the amount of kids. It's very hard for them because they have never availed themselves of the public school system, all of their children have gone to private schools, and no matter how many times they talk to parents it has not mattered. She put this in her application on the variance that they have tried to be good neighbors and speak to the parents about the vandalism, the trash and everything else, but it has been completely over their heads. That is why a few years ago they asked about moving the bus stop, and were basically shut down. It's really hard to have what is considered to be a million dollar home, but have to go out every morning and pick up stuff. They have had trikes, scooters, everything left on their lawn, thrown in their bushes, leaned up against their trees. This last summer when there was a high school graduation party, every single one of those trees you see planted were uprooted by 100 or so different teenagers that went to one party up the street. It got so bad that the police had to come down and start doing traffic in that area, so this is where they feel that they are being ignored, that the city's rules and regulations are not protecting their property, but they are supposed to put in that extra amount because they are the bus stop. She doesn't see the city workers coming out there and picking up the trash, they don't have to come out there and shovel all the snow so that those kids can get up to the bus. This is her frustration and she knows that there are ordinances for a reason, and their neighborhood is exquisitely beautiful, and she loves it; it's one of the reasons they have never sold and moved, but being on that corner makes them a target of these unintended consequences of being part of the neighborhood. In an effort to try and be good neighbors, and trying to be patient with the children, especially now when they don't even have children in school and haven't for 15 years, makes it equally hard; she feels like the grumpy old lady on the corner telling the kids to pick up their trash. She would love for the commission to approve the permit as is, with the rock. It makes the pick up of the trash easier, it makes her being able to see things easier, and it keeps her from having to plant and re-plant, over and over, the vegetation that they have tried to grow in there. They are trying to work within the policies and procedures, and she noted that there are neighbors down the street from them who have full on green artificial turf lawns, and they are beautiful. She understands that they are the first ones applying for this, as those neighbors didn't go through this process, and they certainly did not have the problems that they have faced in communication with the city because there is nothing like this yet. She knows she is an early

adopter of these kinds of things, and she has tried to work with the environment. Her biggest concern was water, and that's the reason it's in their backyard and they're trying to put it in the front, because up until then they spent the last 5-6 years with a growing population and shrinking water supply. When they went to St. George they did a lot of investigation and talked to a lot of people about their lawns, how they weathered and what went into this; this has been a very long time in planning, it wasn't a decision made overnight. She would like the commission to take into consideration that they are a corner, and that they do see higher traffic than any other place simply because they are the school bus stop, and they were told nobody is going to change that.

Commissioner Gedge said that they, as an appointed body, have no authority to do anything with the park strip other than acknowledging it as a detriment because it is part of this application. The way they can mitigate that is to state that it be brought into compliance with city code, or whatever is put there will be done at the homeowner's expense to make it compliant with city code in the future. He thinks everything else presented as part of the conditional use permit is within their purview to review, with that one condition identified and he is in favor of approving the condition. Regarding tabling, hopefully between now and when they meet for the variance hearing they can work on the park strip issue. Their only other option would be to deny if the detriment cannot be mitigated, but he thinks they have found a pathway to get there. It may involve some more administrative work, but that's unfortunately not something the planning commission can handle. That pathway could involve either making the park strip comply with city code, but due to the wording of the ordinance there is no option for a conditional use permit. It could also possibly be a separate variance, similar to the fence. If external factors continue to damage it, he doesn't unfortunately know what other recourse there might be and there isn't anything the planning commission can do in that respect. He did note that they might suggest to City Council to reexamine the park strip ordinances to either allow for conditional uses or adjust the wording to give some flexibility for future cases like this.

Commissioner Bevans noted that her heart goes out to the applicant. They lived right across from the bus stop in their neighborhood when they had busses, and she has seen all of the things the applicant spoke of. She agrees that their hands are tied, but she is okay with approving the permit with the condition that the park strip either be brought into compliance or receive the variance necessary to do things the way they want. She does agree that the city needs to come up with some standards and limitations in the city ordinances for artificial turf, as well as addressing the park strips because this is obviously a larger issue than just this park strip.

Chair Hollist asked staff for the options in terms of a possible additional variance.

Attorney Simonsen noted that he wrote the city's response for the variance application, and he will be attending the hearing. The city hires an outside hearing officer to give the most objectivity in hearing the variance as possible, and he is sure that as part of this it sounds like the applicant will be saying they were told the park strip was part of what they were asking for in the variance. He has read the application and he doesn't read it that way, and Planner Damir Drozdek as well as Planning Director Steven Schaefermeyer both expressed that the variance only included the fence. He doesn't mind if they want to argue that there needs to be a variance on the park strip, and that will be up to the hearing officer to decide whether that is within the scope of the variance. In some ways, he hopes the hearing officer decides that it is within the

scope because he doesn't want to see them have to come apply for something else either. That will all be heard, and he believes everyone here is sympathetic, both in regards to the conditional use permit and the variance. If you read his response for the variance, he expressed that it doesn't sound fun to have the litter and everything else; however, that doesn't mean that they can just waive what the law says. Maybe there does need to be a change in the law, but that is for further down the road. Additionally, he is not sure whether stone is actually banned in the park strip if you still have plants as well, but that is not within his realm to discuss at this time.

Commissioner Gedge noted that if they make a condition in the motion, it should be as vague as possible, so that as long as it is in compliance with the city code it doesn't matter what materials are used. That also gives the applicants flexibility to work with staff or whoever else that might be to come up with a solution that meets the ordinance.

**Commissioner Gedge motioned, based on this evening's discussion and testimony shared, to approve File No. PLCUP202200214, allowing for installation of artificial turf as presented on the property listed above with the following condition(s):**

- **Based on a detriment identified during the discussion, the adjoining park strip will be brought up to city code, or receive the proper approval/variance from city staff on their park strip plan; whether in connection with their fencing variance application, or through other means.**

**Chair Hollist seconded the motion. Roll Call vote was 3-0, unanimous in favor; Commissioners Darby, Catmull and Starks were absent from the vote.**

Commissioner Gedge also asked city staff to start the process of working with the planning commission and city council to revisit the park strip ordinance to allow for unique circumstances, and create a citywide artificial landscape ordinance as well for future applications.

## **I. LEGISLATIVE PUBLIC HEARINGS – *None***

## **J. OTHER BUSINESS**

Chair Michele Hollist will email a reminder to the commission, requesting advance notice if they will be absent from a meeting.

Commissioner Gedge brought up the request to have staff revisit the park strip ordinance, allowing for unique circumstances, whether related to nature or human difficulties. He would like to see them create a pathway for residents to get exceptions in extraordinary circumstances, like the situation presented tonight. He also noted that this type of artificial turf application is going to become more and more common, especially with the annexation and future new properties. Many other cities have related ordinances on their books, and our city could possibly review those to find a starting point for making our own.

Chair Hollist appreciated the staff report's approach to showing comparable cities nearby, as she doesn't think St. George is comparable to South Jordan, as they do not have the same extreme weather cycling we do here.

Commissioner Gedge would like to see standards for the quality of the turf as well, as he doesn't want to see golf mats in front yards.

Commissioner Bevans would like to see some limitations on that as well, as there is definitely enough evidence to show that artificial turf is not the best choice for the environment with the proven heat issues.

Commissioner Gedge asked about regulating turf in back and side yards.

Planner Schindler said they cannot regulate what people put in their backyards, however if their side yards are visible, or not fenced in, then the code would apply. There have been several turf applications come through as conditional use permits over the years, but it has been a while. Staff used to have turf samples to show residents what the city wants to see if they are thinking about installing artificial turf.

Commissioner Gedge noted that during the meeting with the council, they had discussed possibly changing some of the conditional use permit rules in terms of what needs to come before the planning commission. If staff was able to have those types of samples and have those established standards, there might be a way to make that more of an administrative decision.

Planner Schindler said that one of the conditional use permits they would like to see stricken from the code is the requirement for a conditional use permit by restaurants in the Community Commercial zone. For years it was a permitted use, but somehow in 2015 it was changed to be conditional, and now there are people trying to open up restaurants without drive-thrus where there are large parking lots with no identifiable detriments. When there is a drive-thru proposed, they would still need to go through that process, because there are still detrimental effects that can be identified with the proposal of a drive-thru that would potentially need to be mitigated. He also noted there is at least one item for the next meeting, a restaurant in a commercial zone. He feels bad for the applicant, the owner of The Rice King, that was located at 9800 S and Bangerter Highway. He has to be vacated from the building by Friday of this week because of construction. He applied for a tenant improvement permit for the new location in the VASA shopping center off South Jordan Parkway, but they can't approve it because he needs a conditional use permit first. The application came in last week and the review response was received by the applicant late last week. He came in asking about the conditional use permit, as he was confused since he didn't need the conditional use permit for his last location. Staff explained that the code has changed since that location was opened. The applicant asked if Subway has that permit, and staff explained that Subway has been there longer than the code has been in effect. He came in today and brought his application, notices will be sent out on Thursday for the next meeting in 2 weeks. Staff is forgoing the standard three week review time, as this is a simple application.

Since the applicant was willing to get everything he needed together before the deadline, staff is doing their best to accommodate him as soon as possible.

Attorney Simonsen added that the previous applicant will be here for the variance hearing soon, and he doesn't think they will get the variance, but he could always be wrong. He noted that residents don't realize that it costs \$700 to apply for a variance in the city, but it costs nothing to pick up the phone and call your city council representative. He believes residents would have a better chance calling them and sharing their plan, asking them to look at and possibly change the language in the code, rather than incurring the costs related to these other appeals. He also suggested encouraging residents to speak with the planning commission and asking them to speak with the city council. The developers know this, they call the city council members all the time to complain about changes, and he thinks the city council would love to hear from average residents about their situations.

Planner Schindler said they don't generally suggest going to the city council members, but they do give applicants the opportunity to file an application to change the code, albeit at a higher cost. Staff also explains to applicants that if they do go to their city council representative, and they can get three of the council members to agree, those council members can direct staff to make a change at no charge to the resident.

Attorney Simonsen pointed out that the council is referred to as the legislative body, as any resident can approach them with ideas and suggestions for change. It breaks his heart to sit and write an opposing variance memorandum and know that they have practically no chance because the rules on a variance are very strict, and they have to fit the specific mold. He tells people that all the time, but they just see him as the "hired gun" for the city. However, the public will believe the commission members more readily.

## **ADJOURNMENT**

**Commissioner Bevens motioned to adjourn the March 28, 2023 Planning Commission Meeting. Commissioner Gedge seconded the motion; vote was unanimous in favor. Commissioners Darby, Catmull and Starks were absent from the vote.**

The March 28, 2023 Planning Commission Meeting adjourned at 8:09 p.m.