

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
June 14, 2022**

Present: Chair Michele Hollist, Commissioner Steven Catmull, Commissioner Laurel Bevens, Commissioner Trevor Darby, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, Planner Ian Harris, Deputy City Recorder Cindy Valdez, Deputy City Engineer Jeremy Nielson, Senior IS Tech Phill Brown, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun

Absent: Commissioner Nathan Gedge

Others: Sara Hiatt, Connie Strang, Gordon Wood, Val Killian, Steve Tingey, Jennifer Smith, Chris Bevens, Sheila Harris, Duane Rasmussen, Gerald Brackett

6:30 P.M.
REGULAR MEETING

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

Commission Chair Michele Hollist welcomed everyone to the Electronic Planning Commission Meeting. She excused Commissioner Nathan Gedge, who was absent from the meeting.

B. MOTION TO APPROVE AGENDA

Commissioner Darby motioned to approve the June 14, 2022 agenda as printed. Chair Hollist seconded the motion; vote was unanimous in favor. Commissioner Gedge was absent from the vote.

C. APPROVAL OF THE MINUTES

Commissioner Bevens motioned to approve the May 24, 2022 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor. Commissioner Gedge was absent from the vote.

D. STAFF BUSINESS

Planner Ian Harris noted that the Staff Report for the first item on the agenda was not included in the packet, he handed out a copy to each of the commissioners as printed from the May 24, 2022 meeting packet.

City Planner Greg Schindler noted that he left a copy of the updated text amendment for all the commissioners as well (Attachment B).

E. COMMENTS FROM PLANNING COMMISSION MEMBERS

Chair Michele Hollist reminded everyone that she will miss the first meeting in July.

Commissioner Laurel Bevans will be gone from the next meeting.

F. SUMMARY ACTION – *None*

G. ACTION

G.1. DIXON ACCESSORY STRUCTURE

Location: 10111 S Chattel Cir.

File No.: PLCUP202200067

Applicant: Val Killian

Planner Ian Harris reviewed background information from the Staff Report. He noted that there is a section in the residential zone code, Section 17.40, that also gives the ability to have the curb cut where they are planning.

City Planner Greg Schindler said that section also states that generally, with double frontage lots, you are not allowed to access the rear of a double frontage lot unless approved by the city engineer. The city engineer has given his approval for this plan and the encroachment permit.

Commissioner Steve Catmull noted that the driveway intersects with the sidewalk and the precast fence that is being proposed on the right edge of the diagram in Attachment C. He asked if there are any concerns about pedestrian safety there with cars coming out, and would like to see that addressed.

Chair Michele Hollist asked if there is a visibility requirement, as we don't allow certain heights or types of fencing on corners and in front yards for this reason.

Planner Harris said there would be a requirement, but as shown he doesn't believe the applicant would be able to construct the wall that high because there is a clear vision requirement on driveways and roads. However, the conditional use permit is not addressing that part of the

project. Fencing permits are no longer required, it is the owner's responsibility to build their fence according to city standards.

Planner Schindler said the clear vision setback for a driveway onto public right of way is 10 feet on each side.

Chair Hollist asked if this needed to be specified tonight, to ensure it happens.

Planner Schindler said this isn't a condition the commission can put on this conditional use permit, as it's not a detrimental effect since it's already part of the code.

Chair Hollist asked who enforces that code.

Planner Schindler said it would be Planning or Engineering that enforces that code. They will also submit a site plan to review for a building permit, and staff would hopefully tell them they can't put the fence in that location.

Planner Harris said his understanding is that their building permit for the accessory building or any renovation work is not necessarily pertaining to the fence, because building a fence no longer requires a permit.

Planner Schindler said that was correct, but they will also have to show a site plan and he imagines they will use the same one from before. Staff can also let them know, through their approval with the conditional use permit, that the fence can't be built the way it is proposed.

Val Killian (Applicant) represents the Dixon's, and said they would be more than happy to provide a 45 degree, 10 foot offset on that entrance; they will show that on their site plan.

Commissioner Catmull said this is a definite improvement to what is on the south of this, as that entrance just goes right up to the road.

Chair Hollist said her only qualm is the offset not being what our ordinance states. However, it helps that the adjacent neighbor came and spoke their approval for the project.

Deputy City Attorney Greg Simonsen said that with respect to the last item, where the city engineer has determined that he has the ability and authority to grant an encroachment permit, Attorney Simonsen agrees he has the authority; however, there is nothing on the record here tonight that says the engineer has specifically done that.

Deputy City Engineer Jeremy Nielson said that he can confirm the city engineer has reviewed this, and that he approves of this access as outlined in the code.

Attorney Simonsen also noted that line of sights and fences, obstructing views, is persistently enforced in the city. He is usually involved in these issues, including when people are forced to take down their fences and that is not an uncommon occurrence. A variance is commonly asked for on that rule, and since he has been with the city those have always been denied by the independent hearing officers.

Chair Hollist asked if Engineer Nielson had confirmed that had been approved.

Engineer Nielson said yes, the city engineer approved the encroachment permit.

Commissioner Catmull said he was concerned about the distance, it is around 91 feet to the nearest entrance; the minimum is 100 feet between entrances, so it is pretty close to the minimum amount.

Commissioner Darby motioned to approve File No. PLCUP202200067, for a conditional use permit. Chair Hollist seconded the motion. Roll Call Vote was 4-0, unanimous in favor; Commissioner Gedge was absent from the vote.

H. ADMINISTRATIVE PUBLIC HEARINGS

H.1. DAYBREAK VILLAGE NORTH STATION MULTI-FAMILY #1 AMENDED SUBDIVISION AMENDMENT

Location: Lots 115 through 135 and Lots 144 & 145

File No.: PLPLA202200091

Applicant: LHM Real Estate

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

Chair Michele Hollist asked if there was a representative from LHM Real Estate present, there was not. She asked about the step lots and for an explanation.

Planner Schindler said where they are stepping in and out is usually towards the backs of the units, where they get narrower, but they also have to have a setback because there is a window and those have to have a certain amount of setback to the next building. They are all a similar size, they just alternate directions where the indents are.

Chair Hollist asked if they are facing different roads.

Planner Schindler said no, they will mostly face onto Cardinal Park Road, the other will be facing on the other road. If they are in a row, they all face the same street.

Chair Hollist asked if these homes qualify for fewer garage spaces because of their location in relation to mass transit.

Planner Schindler said yes, these are very close.

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

Commissioner Catmull motioned to approve File No. PLPLA202200091, Amended Subdivision Amendment. Chair Hollist seconded the motion. Roll Call vote was 4-0, unanimous in favor. Commissioner Gedge was absent from the vote.

**H.2. SPENGA FITNESS CENTER SITE PLAN/CONDITIONAL USE
PERMIT APPLICATION**

Location: 3576 W SoJo Drive

File No.: PLSPR202200048

Applicant: Braxton Thompson

Planner Ian Harris reviewed background information from the Staff Report.

Chair Michele Hollist said they have seen other site plans in this area, and asked for a brief history of this mixed use zone with regards to the homes that went in across the street.

City Planner Greg Schindler said that where those homes are located was originally intended to be a retirement community; this area was always intended to be the retail section.

Commissioner Laurel Bevans asked if the façade and elevations of this project match the surrounding commercial.

Planner Harris said it is somewhat similar, and was brought up in the Architectural Review Committee (ARC) Meeting. It is not exactly the same, but the materials are quite similar with a faux wood for the top section, masonry for the bottom along with many windows. There is a lot of visibility along the north elevation with many windows, the south elevation that faces the residents contains some windows that are higher up to ensure privacy for both the residents on the other side of the street, as well as those inside the fitness center. Even though not required, the ARC requested the applicant provide some kind of inset or relief to break up the façade; the applicant added that to their plans, even though it wasn't required. There will also be landscaping in the park strip that should break up the façade from the residents across the street.

Gordon Wood (Applicant) noted that Braxton was at a birthday party and was unable to make it tonight. He asked about the rear façade, where they were asked to do either an inset or something to break up the back of that. They had planned on putting landscaping there, and wanted to ask if it mattered whether it's an inset or a pop-out; does it really matter which way they go with that, as they would like to have options if possible.

Commissioner Catmull was at the ARC meeting, said he doesn't believe it matters either way. The intention was to break up that long stretch on the back side and make it visually appealing.

Mr. Wood said they talked about doing an inset, and saw some photos of another building over

by the new commercial stuff in Herriman at the Mountain Ridge Village, where there is a four inch pop-out that extrudes from that building that actually looked really nice around the windows. They thought that might have the same visual appeal, same break-up of the façade, but it would be easier to frame and he thinks it would still give that appeal.

Commissioner Catmull noted that sounds similar to someone putting faux columns on the outside of a building.

Chair Hollist said it sounds like it still meets the intent of what the ARC had. She opened the hearing for public comment. There were no comments and the public hearing was closed.

Commissioner Bevans motioned to approve File No. PLSR202200048, Site Plan and Conditional Use Permit Application. Chair Hollist seconded the motion. Roll Call vote was 4-0, unanimous in favor; Commissioner Gedge was absent from the vote.

H.3. CASTELLO ESTATES PRELIMINARY SUBDIVISION APPLICATION

Location: 1379 W Shields Lane

File No.: PLPP202200079

Applicant: Hayley Pratt, Castlewood Development

Planner Ian Harris reviewed background information from the Staff Report.

Duane Rasmussen (Applicant) is representing Castlewood Development. He loves this smoothly run Planning Commission and he is happy to answer any questions they might have. Regarding the remnant parcel going to the west, they are still working with staff on that. The adjoining potential heirs to that property would like it, but they don't want it now because they don't want to disrupt their father's life. They may plat it as Plat A and figure out how to deal with it with the staff.

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

Commissioner Darby motioned to approve File No. PLPP202200079, Preliminary Subdivision Application. Chair Hollist seconded the motion; Roll Call vote was 4-0, unanimous in favor. Commissioner Gedge was absent from the vote.

H.4. RIVER RUN ESTATES PHASE 3 PRELIMINARY SUBDIVISION APPLICATION

Location: 1113 W River Pass Cove

File No.: PLPP202200102

Applicant: Connie Strang, Urban Legend LLC

Planner Ian Harris reviewed background information from the Staff Report.

Chair Michele Hollist asked if this was essentially a flag lot.

Planner Harris said the parcel at the rear has an easement.

City Planner Greg Schindler said this is an existing parcel that's already there, it is not changing and it's not a lot in the new subdivision; it is remaining a parcel and not being created as a lot. Parcel A in the back comes down to the south, runs along behind the lot labeled as 1113 West and then connects to the vacant lot to the east. This subdivision is taking the 1113 West and 1114 West lots on the north side and creating one new lot to the east of 1113 West. They are also combining the 1113 lot with an extra piece of property, the five foot strip that runs behind it, adding it to that lot. There is also a remainder of that Parcel A that will remain separate and it could be subdivided in the future. There is a road that stubs from the north towards the south, and it stubs just right, into some currently vacant property. It is anticipated that in the future, that property will probably develop and the applicant and owner of this Parcel A is anticipating when the road comes down she will be able to access this parcel from that road. He said that the easement to River Pass Cove remains there because it is an easement that is being granted from the two properties already existing there. He referred to the map included in the Staff Report from the city GIS system that shows if the road continues down, it will come down right down the side in the future; this has been anticipated for years, it just depends on when the property owner decides to develop. The easement exists as it is to provide access only to that parcel, it is not being created as a lot because it is a parcel and he doesn't believe they could build a house on it because it is not an official lot. Leaving it as a parcel, which it already is, they would still not be allowed to build a home on it right now either.

Commissioner Laurel Bevans referred to the GIS map and pointed to the space between the two existing homes, it is labeled as 114 twice. She asked if that was the easement, or just another small parcel of property that is being moved into the lot.

Planner Harris was unsure if it is a fragment that currently exists, or if it is an error on the map. The subdivision plat shows it would be removed if it does exist. Nothing is changing on the lot to the north. If anything, he believes, based on the subdivision plat, that the lot to the south would incorporate that fragment if it does exist.

Commissioner Steve Catmull had questions about the frontage, and asked to refer to the subdivision plat. He asked if that is saying that lot 8 has a frontage of 74 feet.

Planner Harris said when he measured the plat and calibrated those measurements, it was just over 90 feet. He is not sure what the 74 foot measurement is stating, but his measurements show around 90 feet.

Connie Strang (Applicant) said that the small piece is going with 1114 West, on the north side. The piece on the south side will go with the 1113 West. The easement will remain for the parcel in the back.

Chair Hollist opened the hearing for public comment.

Steve Tingey (Resident) said that because of the subdivision they are kind of buried back in

there. Their property is to the south side of this. They moved out here to have large animals; they have had them, they have them, and they want to continue to have them. He is wondering about the requirements for a fence, plus there is an irrigation ditch that runs along the west side of that property and he would like to know the status of that. He noted that he is hard of hearing and hasn't been able to hear much of what has been said, and he apologized if he was repeating anything.

Jennifer Smith (Resident) thinks, as it has been explained, most of the neighbors are okay with this. Their concern is that the parcel will somehow try to be accessed through their circle, and they don't want any more traffic. As long as it remains a parcel and doesn't get built on until the other road comes through, they are okay with it, but they don't want that to happen in the future.

Sara Hiatt (Resident) said her backyard abuts Parcel A, and she ultimately has no objection to the separation and development of the lot out front. However, she knows that there are a lot of drainage issues on Parcel A that have flooded her house for years; they have been fighting it, trying to get that Parcel A taken care of and graded correctly so it doesn't drain into her land. They have had some issues with that, and she knows it was mentioned that there is a drainage ditch that goes to that front parcel as well. Her concerns are just that if there is anything that can be done at this point, while this is being divided, to help address some of the water drainage issues, she would like to have that done. From her understanding and what they have witnessed on her property, which she has pictures of, they have secondary water on that back parcel, but it's not graded evenly and the water all pools to the north end of the property which abuts her backyard and creates standing water that is 10 feet from her house. During this work, she would request that any drainage issues that can be addressed, while this is taking place, be addressed while this is being separated.

Chair Hollist closed the hearing. She asked staff about the masonry wall, if it will be required along the property that still has animal rights.

Planner Harris said he is not sure if they need to install the masonry wall now, or when the property is developed.

Planner Schindler said it would need to be installed now, with the subdivision. The masonry wall will likely not be required along that parcel, because it's not really a subdivision lot. However, the lots on the address of 1113 and the new one to the east of that will definitely require the masonry wall.

Chair Hollist said the Staff Report mentioned that it is required to install a masonry wall along the west side of Parcel A.

Planner Harris said he may have misstated that, as that parcel is still located in the R-2.5 zone and borders on agricultural.

Planner Schindler said that would occur with development, and that is when subdividing; these have not been subdivided yet and it is a remainder parcel. It's state isn't going to change until it becomes a lot and is subdivided.

Deputy City Attorney Greg Simonsen said he will look this up in the code and see if there is anything there.

Chair Hollist noted that this would ease concerns, that everyone with property rights maintains those right and once a house is there, there will be a fencing requirements. They just need to clarify whether it is required now on Parcel A.

Mr. Tingey yelled out from the audience, asking what kind of fencing is required.

Planner Schindler noted that incompatible zones are when neighboring properties are large enough, and zoned correctly, to have large animals. When neighboring properties that can't have large animals are developed, they have to put a masonry wall between the properties. Based on the zoning map, the properties to the south of this subdivision are already zoned R-2.5 and they have the same zoning. They may have animals, but those animals were grandfathered in, those properties were rezoned so he doesn't know if they technically meet the requirement. Right now, the large animals on the properties are legal nonconforming. With this, he is not sure if there is a fence required at all on that south side since the zoning is the same. None of the properties have animal rights shown on the map.

Mr. Tingey yelled out from the audience again, saying they have lived here 52 years and had animals every year for those 52 years.

Planner Schindler explained to Mr. Tingey that he can't shout out from the audience, he has to come up to the microphone to talk, but only if the commission allows him to. If he can't hear he needs to stay in a seat up at the front. Mr. Tingey approached the podium and tried to repeat his concerns.

Chair Hollist noted Mr. Tingey was out of order, and that the commission needed a moment before he could talk. She asked the other commissioners about whether or not they felt they needed to open up public comment again for clarification on this particular issue.

Commissioner Bevans said yes, since they are zoned the same but were saying they have animal rights.

Commissioner Bevans motioned to open the hearing up for public comment again. Commissioner Darby seconded the motion; vote was unanimous in favor. Commissioner Gedge was absent from the vote.

Chair Hollist re-opened the hearing for public comment.

Mr. Tingey said what he did hear was that they were out of compliance for having large animals. They have been here for 52 years, they have had them every year since then and asked what's going on.

Planner Schindler said he could explain, that he is not out of compliance. The current zoning of

his property would not allow him to have horses. For some reason, his property was rezoned to R-2.5 a number of years ago. That R-2.5 zone does not allow animals, but if you had them already you can keep them. Future development of property adjacent to him is not required to put up a fence between those large animals and the development, because their zoning is the same; just because he has the animals doesn't mean he gets a fence from the developer. He can keep his animals, but he is responsible for keeping his animals on his property, they are not responsible for keeping his animals off their property. Most property owners would want the privacy anyways, and would build something.

Mr. Tingey said that makes no sense to him. If they are developing around where animals are, they should allow for that. If Connie was here, or if she can hear, he asked what she would say.

Attorney Simonsen introduced himself to Mr. Tingey and invited him closer so he could try and explain what's going on. He said nobody is trying to take away his animal rights here today, that is not in front of this commission, and is not something he should worry about at all.

Mr. Tingey said he wants his animals protected from the development, and the developer, to him, should be responsible.

Attorney Simonsen said that Planner Schindler has already addressed that, that he has to take care of his animals, he has to build a fence on his own property to protect his own animals. If his neighbor does something to his animals, then that is between him and his neighbor. He will not be able to make the developer build a masonry fence along that property. He does have the right to keep his animals, he has the right to protect his own animals, and he has the right to redress someone who does something unlawful or illegal to his animals.

Mr. Tingey asked Tasha in the audience what her mom's plans are, and she responded that she doesn't know. He then added, regarding the drainage issue, the two properties to the west are large properties that irrigate out of the canal and there is a lot of standing water that comes down there.

Ms. Strange said regarding the fence, she already has a masonry fence on the front lot. The back parcel will not be changed until it's developed. As for the drainage for the other person, she would be glad to flatten that out better. It will not solve the problem, as they put their house too deep and the water comes in from underground from the fields being watered from behind as well. She thought the sewer going back there would have solved their problem, but it didn't.

Ms. Hiatt said she doesn't want to fight on here, but ultimately, they only flood when Parcel A is irrigated and gets standing water against their fence; Ms. Strange is correct, it does come in from underground but it builds a pool next to her fence that goes down into the ground and then comes back up. They have recorded video of that being irrigated and the direct correlation of their now sub-pumps they have put in going off. They would love if Ms. Strange would grade that for her, that's what they have been asking for and she knows she has communicated a lot through Ms. Strange's brother. They will try to work this out on the side, but ultimately, if there are other irrigation things that are being dealt with at this time, that is when she would like to maybe see if there is a bigger picture and everything could be done together while this is being done so no

future neighbors have drainage issues as well. She does know some people down river, who have had drainage water issues as well and they are not here to speak to that, she doesn't want to speak on their behalf. She knows there are drainage issues, and if there is a time to address that she would love to address it all at once.

Ms. Smith said she is probably speaking for the neighbors, but there is a concrete fence on the open lot. This lot that used to have the easement behind it that connected the two lots is not a six foot concrete fence. Between the new lot and the parcel lot, that is probably the lot that Mr. Tingey is concerned about. For clarification purposes, if there does need to be a masonry wall it should probably be clarified whether the current residents of that lot, the Broadbents, need to pay for that fence, or Connie, or possibly Mr. Tingey. For a point of clarification, the concrete wall ends and does not continue all the way back to the parcel.

Gerald Brackett (Resident) lives next door to the home with the water problem. The situation is this, in addition to the irrigation water which is on that field, there is an underground stream that goes through that property and catches part of those two parcels. It was his understanding that part of the commitment of the developer of that cul-de-sac to the north was that they were supposed to put in a field drain to catch that. He believes that is the source of your problem. There is a drainage system on the north side of that that catches it for the development to the north. So, that part of their journey will have to be engineered into the development of this lot, otherwise they will have the same problem; it is not the irrigation per-se that is causing the problem, it exacerbated it.

Ms. Strange said the lot Mr. Brackett spoke of is the parcel in the back that is not being developed at this time, and when the road goes through it will have to be dealt with that time.

Chair Hollist closed public comment. She asked Planner Harris if, after this item is finished, he could step out in the lobby and answer any additional questions from neighbors on this issue. She asked if staff had any more info about when the masonry walls will have to be built.

Attorney Simonsen said that at the time of development, the masonry walls will have to go in.

Chair Hollist asked to confirm that the masonry walls will be around Parcel A when it finally becomes a lot and is developed.

Attorney Simonsen said his understanding is that they will need to go around the spot where the zone changes.

Chair Hollist then mentioned the irrigation ditch, asking staff to confirm that everyone will still have their water rights honored and allowed continued access.

Deputy City Engineer Jeremy Nielson said that nothing is showing on the plans right now. This is just a subdivision, so there is no site plan to go off of. There are no grading modifications in the plan right now.

Attorney Simonsen added that there are general legal principles, with respect to that issue.

Whether there is a site plan or not, there are 2 issues here. One with irrigation water, and then the storm water drainage. We don't know, in this case, exactly where one begins and exactly what the problem is. With respect to storm drainage, each property owner is required to retain their storm water on their own property, unless they have another arrangement like an easement or something to a drainage pond, etc. If that is a problem, then that becomes a private issue between property owners, and if it can't be resolved voluntarily that's what the courts are for. With respect to irrigation water, there should be an easement related to that specific ditch, and that cannot be interfered with without legal ramifications or a contract. Those holding the property or water rights with respect to that ditch are legally responsible for maintaining that ditch and ensuring water doesn't escape and flood other properties. He can't comment with respect to any underground river/stream, but if something was supposed to be done in the past that's a potential private action item.

Chair Hollist asked if there was a concern over where water is coming from, would the city have a role in evaluating that, or would that be entirely a private matter.

Attorney Simonsen said that in this case, the matter has existed for quite some time, and he doesn't know if the offer heard tonight to grade the property will address the problem or not. In his opinion, this is not a city issue, nor is this a conditional use application where conditions regarding the water situation could be required for development. It is a concern of all citizens in the city, if water is damaging a neighboring property, but it's not something the city has an obligation or right to be mediating.

Engineer Nielson said he met with the city engineer today about the property. The engineering department is aware of this issue, and the city engineer has visited the site and their perception is that this is a private matter.

Chair Hollist brought up the concern of through traffic. Should the property labeled as Parcel A eventually have access to the road that would come through when the properties behind it are developed, she asked staff if it would still retain that easement access out to the circle.

Engineer Nielson said he believes the intent is to retain that access, and potentially with future access consider possibly joining that into Chosen Way. That's not what's being done here, but that is a thought, as retaining and extending that access easement to Chosen Way has been a discussion.

Planner Schindler doesn't know if that access easement is wide enough to meet our right of way requirements to be made public. However, Chosen Way definitely is large enough.

Planner Harris noted that it is 20 feet wide.

Planner Schindler said that Chosen Way would be the preferable way to access the lots on that Parcel A.

Chair Hollist asked if staff envisions a scenario where Chosen Way is directly connected to River Pass Cove.

Engineer Nielson said no, it would be more of an alley access at the most.

Commissioner Bevans asked if at a future time they do connect to the other street, could that easement be vacated.

Planner Harris said he believes that would require a subdivision amendment.

Planner Schindler said that is a private easement. If in the future they have access, Chosen Way comes further south and Parcel A is subdivided, the lots would face Chosen Way and that easement could go away. Since it's a private easement that is up to the owners, it is not a public easement. As a private easement it can be vacated by the owner at any time.

Chair Hollist moved to the concern over the fill drain that was not put in. She asked staff if a site plan or agreement is believed to not have been followed, what action would they recommend for a citizen to take with the city.

Engineer Nielson said that if the site plan wasn't followed, that could come to city staff to look at. If it is a recent build, there are bonds in place for protection, to ensure it was done. However, if it's older he's not sure what they could do, it would have to be looked at.

Attorney Simonsen said it is enforceable after the fact, they could go to court and get an order for it to be done. The best thing is if there was a bond, usually for required improvements on a property; he is approving bonds as performed for the legal department nearly every day. The city does require bonds for infrastructure improvements on private developments, however someone would have to go look it up and see what was required. Once they get that information, they would need to explore the alternatives.

Planner Schindler was able to find the code regarding fencing issues that came up. A minimum six 6 foot tall masonry fence with a cap shall be installed between the development and any adjacent parcels zoned for, and meeting the minimum lot size for, large animals; or, between any adjacent property that allowed large animals under a legal nonconforming use. The neighbor's legally nonconforming use of his property with horses will require that fence to be installed with development. Parcel A is not being developed at this time, so it probably will not have a fence built right away, but the other lots being created should have that fence. A bond will be required with subdivision approval before the plat can be recorded.

Planner Harris apologized, as it wasn't clear that the property had animal rights because of the zone, and he thanked Greg for finding those clear directions.

Chair Hollist said that the Staff Report indicated it was required along the west side of Parcel A, and she asked if they needed to make any notice in their motion citing that, to make sure they have covered their bases.

Planner Schindler said yes, they should note in their motion that all city codes must be met with the subdivision approval.

Commissioner Bevans motioned to approve File No. PLPP202200102, Preliminary Subdivision Application, as presented to the planning commission with the requirement that all city codes must be met. Chair Hollist seconded the motion; Roll Call vote was 4-0, unanimous in favor. Commissioners Gedge was absent from the vote.

I. LEGISLATIVE PUBLIC HEARINGS

I.1. Text Amendment – Amending City Code Sections 17.16.010 concerning Planning Commission Organization.

Ordinance No.: 2022-12

Applicant: South Jordan City

City Planner Greg Schindler reviewed background information from the Staff Report. He referenced changes requested in Attachment A regarding the mayor's appointee and description. He discussed that they are trying to keep the code consistent so some of the suggested changes couldn't be made at this time, and that the city council would like to have this at their next meeting and appoint the next commissioner in July. He asked for approval of the updated copy given to the planning commission members tonight (Attachment B).

Chair Michele Hollist noted that she likes that this amendment allows a Planning Commission member to continue their term, especially should the boundaries change around them. She wonders if it's appropriate to indicate that if they've moved outside of the city, that may not be an option. However, she thinks that later in the code it still gives that City Council member the option to make the decision as to whether or not they want to let that commissioner finish their term. She asked staff if she is interpreting it correctly, that should a commissioner move out of the city, the person who appointed them still has the ability to choose to keep them or appoint somebody else.

Planner Schindler said that in the past, if a commissioner moves outside the city, they are automatically off the commission. He doesn't know where it might be in the code, but it has happened before and that person who moved resigned from the commission. There is a requirement that they have to live in the city limits.

Chair Hollist noted she doesn't think that is in this particular document.

Planner Schindler, after looking through Attachment B, agreed that it just says "if the planning commission member moves outside its council district," which could also mean outside the city.

Commissioner Trevor Darby noted that the part that was scratched out, about the third line down, said "and shall maintain residency in the city during the alternate member's term." He wonders if that's the part that needed to stay in, to maintain residence in the city. However, that was only mentioning the alternate member.

Chair Hollist said she believes the potential is built in, because they have given a City Council member the authority, that should a move occur they can reappoint someone else. The city council always holds the authority at any time by a vote of majority to remove any commissioner. There are two methods available, should someone care enough to enforce those rules.

Planner Schindler agreed, however said it might be good to bring this up with Planning Director Steven Schaefermeyer.

Chair Hollist asked when this was being seen by City Council.

Planner Schindler said it is scheduled for next week's meeting.

Chair Hollist said that means they don't have time to table this for that discussion.

Planner Schindler said she is right that the city council can remove any commissioner at any time for any reason, so if they felt strongly enough that someone had to live in the city they could choose to remove them. It might also depend on how close they are to the end of their term. It would seem strange that they couldn't or wouldn't do that, since a member of the city council moving out of the city would no longer be able to sit on the council.

Commissioner Laurel Bevans noticed that three members is a quorum, and three votes are needed to pass, even though there are now six members. She asked if there is a reason they left those at three instead of moving them up to four since there are now more voting members

Chair Hollist said it still requires a majority vote. It means that three members can still do the work, but if six of them are here it would take four votes to pass.

Deputy City Attorney Greg Simonsen said it states that to pass, it has to be a majority of the people present.

Chair Hollist appreciated that they left the three members as a voting minimum for their benefit.

Commissioner Steve Catmull has read this multiple times because, as mentioned in an email he sent, it feels like everything is all over the place. He appreciates staff giving him a chance to look at the governing body again, because his intent in that was to give some reference that included the city council and the mayor. He can see where it says "the governing body," which may be referred to as the city council, includes the mayor. He is good with how it is worded, it is still a little unclear and he hopes that gets cleaned up in the future.

Planner Schindler said it is important to note that the governing body may not always include the mayor, as the mayor does not vote when things are brought to the city council unless she is there to break a tie. She can appoint a commissioner, but the city council has to approve that appointment, not her. That's one of the reasons why she is considered part of the governing body, but very seldom does she get a chance to vote.

Commissioner Catmull noted that the mayor is also not defined a district.

Planner Schindler said yes, she is voted mayor at large.

Commissioner Catmull noted that every place "council district" is mentioned in the current draft, maybe they should add the clarification that they must be a resident of the city for the mayor's nomination. He asked if that would have to be included everywhere they mentioned council district, or would it be better to just define, for the purposes of this section of Chapter 17, that the mayor's district is at large and they must be a resident of the same.

Planner Schindler said they did add “or a resident of the city” for the mayor’s nomination. He mentioned it might want to be worded as to what happens if a commissioner moves out of a district they were appointed to, or if the mayor’s appointment moves outside the city.

Commissioner Catmull said that was his problem, he was trying to find all the places where that needed to be specific versus where it would be assumed in the code by a “reasonable mind.”

Planner Schindler said it might be easier just to add something that says if any member of the commission moves outside the city, they can no longer be representing any portion of the city. That way, if a commissioner moved out of their district, but are still in the city, their city council member has the option to keep them on. He said the commission can make that a recommendation in their motion, to provide some kind of clarity about what happens when the mayor’s appointment moves.

Attorney Simonsen said they may want to just recommend in their motion that a sentence be added saying “all members of the planning commission shall be residents of the city.”

Commissioner Catmull had another question after reviewing the draft, but he is okay given that the term “city council” can include the mayor. He was looking at a part of the draft that mentions “by a majority vote of the city council,” and then it says “a City Council member that nominated a Planning Commission member.” The way that is expressed, and the way they’d have to interpret that, would be that the mayor is the expanded definition of City Council, which would include the mayor. He is struggling because at some level, when they have the clarification in the parentheses above, they are separating the city council from the mayor, but then in other parts of this section they are taking an expanded view of that term “city council.”

Planner Schindler noted there could possibly be clearer language there, “a City Council member who nominated a Planning Commission member, which planning commission member subsequently moves,” doesn’t note that the commissioner could be removed for any reason. Maybe, they need to change it to “a City Council member or the mayor...”

Commissioner Catmull said he would be open to making the recommendation to be clearer about the mayor and City Council terms in the same paragraph. His last question was, what if the city council member changes before the planning commissioner’s term ends; what would happen to that Planning Commission member.

Planner Schindler said all Planning Commission members are appointed and have the same term as the city council member does. If, say, a City Council member moves and resigns, and there is a special election held to replace that City Council member, the new city council member could at that time replace whichever Planning Commission member is for their district; they could also choose to leave the current commissioner in place. Also, the council member being elected in that fashion is only filing out whatever was left of the previous council member’s term, they do not get a full term. He doesn’t think that’s clarified in the code, but he would assume that’s what would happen and wonders if that needs to be clarified.

Attorney Simonsen said it’s pretty clear, if someone has a term, the planning commissioner has the same term no matter what. If a council member leaves halfway through the term, and someone else comes in to take over the remainder of the term, then the planning commissioner’s term doesn’t change at all; the commissioner’s term has remained the same. The language says “members of the planning commission shall be appointed for the same term, or remainder of a term, as the term of the mayor or member of the city council who nominated him or her.” If the

city council person changes, it is his understanding that they get a replacement council member for the remainder of that term, and then the planning commissioner's term remains the same.

Commissioner Catmull noted he doesn't want to add anything, he just wanted to understand what happens if a City Council member leaves, does the planning commissioner's term end as well. The term has been defined as the elected term, which is every four years.

Planner Schindler noted that it does say that any City Council member can replace a commissioner for any reason, at any time. So, if the new City Council member is elected, they could ask the city council to vote for a new appointee. However, he feels that if that happened and a council member had to leave during their term, the new incoming member probably wouldn't want to stir up the pot to bring in someone of their own.

Commissioner Bevans asked about addressing Commissioner Nathan Gedge's previously emailed comments (Attachment A).

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

Chair Hollist understands why the mayor and City Council would want to move this way, how it might be more appealing to that at-large member being able to vote at every meeting they attend. She very much appreciated leaving the three member quorum, allowing them to operate with lower numbers, since there have been a few times it has been a struggle to get that additional person. She also noted that she and Commissioner Bevans saw the new map and wondered what would happen since they are now both residents of District 2. It is up to District 5's City Council member, which is Council Member Jason McGuire, and the mayor with regards to how they would like to proceed. The way she reads it, Commissioner Bevans will be able to carry out the rest of her term. However, in discussions, they think it might be more appropriate for Commissioner Bevans to become the at-large nominee if the mayor were favorable to that suggestion. That way, Council Member McGuire could have someone who actually lives in District 5 complete that term since there are still 3.5 years left. She will discuss this with Council Member McGuire, but wanted staff input as well. In a motion, she would suggest adding a residency requirement that is a little bit clearer. If somebody moves, they can still finish out their term if the move is within the City of South Jordan and they remain a South Jordan Resident. It also might be worth adding clarity to the reference of mayor versus City Council.

Commissioner Catmull motioned to recommend approval of Ordinance No. 2022-12, amending Sections 17.16.010 of the South Jordan City Municipal Code. They recommend adding clarification at the beginning of the section to identify that a member of the planning commission must be a resident of the city, and they encourage the council to clearly use the terms "city council" and "mayor" throughout each paragraph of this ordinance. Chair Hollist seconded the motion. Roll Call vote was 4-0, unanimous in favor. Commissioner Gedge was absent from the vote.

J. OTHER BUSINESS

City Planner Greg Schindler said that the next meeting has two items on the next agenda, one is Daybreak and controversial. He is sending out 103 notices for an infill project in the Garden Park Area. It is a project with three condominium buildings, each with 21 units, ranging in height from 60-80 feet and all four story; the buildings with pitched roofs will be the tallest, and the one

with a flatter roof will be the shorter building. The applicant, Weekly Homes, has had a meeting with the residents; Planner Schindler doesn't know how that went, but it was made a requirement by staff to meet with the residents prior to coming to the planning commission. None of the residents reached out to staff after the meeting, but he imagines when the notices go out on Thursday he will hear more.

Chair Michele Hollist asked if those notices will include the language developed by Deputy City Attorney Greg Simonsen explaining master planning.

Planner Schindler said he doesn't believe so.

Chair Hollist said that might be worth putting in that communication if it's not already printed. She asked if it would be appropriate to possibly add that wording to the agenda, or read it at the beginning of the meeting.

Deputy City Attorney Greg Simonsen thinks it would be appropriate for the commission to choose and decide how they'd like to use that wording.

Chair Hollist asked the rest of the commission what they think would be best received, educational, and explain the extent of the authority they have and how very little it is as it relates to a planned community.

Commissioner Trevor Darby feels that once people are here, and they are frustrated, it's hard to walk them back. They will want to say their peace, but it does help them understand at that point that even though they are going to say their peace there isn't typically anything the commission can do because it's a master planned community.

Planner Schindler did ask the applicant to, at their meeting, inform the residents that the number of units can't be an issue because they are under the allowed amount, and they also are under the allowed units per acre for the town center area. Regarding the height, he asked them to inform the residents that there is no height limitation.

Chair Hollist said these are very tall. She has seen three story townhouses that come in under 35 feet.

Planner Schindler said these are four levels. The bottom level is interior parking, then three levels above. It's the pitch of the roof that is making them so tall.

Chair Hollist asked if there is anything currently this tall in Daybreak.

Planner Schindler said the apartment complexes just a little further north are four and five stories. The five story buildings are probably about the same height as what's being proposed because they do not have the pitched roof. There are some three story apartments with the pitched roof that are a little taller than the three story flat roof buildings. They have alleviated a concern about parking, because most of the parking will be inside the building with stalls, but there is also exterior parking as well. At some point, we will probably hear from the residents because they will be sharing a lane, their garages and access to the parking garages are on the same lane.

Attorney Simonsen said he is a little frustrated and concerned that the approvals have become so automatic with respect to Daybreak, and they have to be as they are being handled the correct

way. One night, we will have about 20 people here from Daybreak who will be unhappy with an application, and it's frustrating that no one is being sent from LHM Real Estate. There needs to be that communication between the developer and their citizens, and sometimes that needs to happen in this meeting. He wonders if there is a way to encourage the applicant to be here. Before the change in ownership to the LHM Group, we used to at least get the applicant here. However, now we aren't getting anyone here at all. So far, that has been okay, but one of these nights it will be very different. He knows staff sometimes meets with the developer, and maybe this needs to be brought up to them at that time. He thinks great efforts should be made to have the applicant here for all these Daybreak matters, even if they consider them routine.

Chair Hollist asked if it was appropriate for her to email the representative over this, and request they attend.

Planner Schindler said the items coming up on the next agenda are not from LHM, as they are not the applicant; it is David Weekly Homes, who has purchased the property.

Chair Hollist asked if she sent an email to Planner Schindler, would he forward it to the applicant.

Planner Schindler said he would do that. He actually doesn't know the individual's name that is the contact as he deals with Perigee Consultants. With LHM, he deals with John Warnick as the representative.

Commissioner Darby asked if there is a scenario where the applicant needs to be here, and they are not, if it would catch their attention tabling the item.

Planner Schindler said it has happened before, and that's an excellent incentive, as the commission had questions that couldn't be answered which necessitated the tabling.

Chair Hollist said the only catch with that might be that citizens feel they have to come to a second meeting. She said that she might mention in her email that, based on previous experience, there will be questions the applicant can only adequately answer and they run the risk of the commission having to table their item if they don't have all the information needed.

Planner Schindler said he has only been dealing with the architect, but he is hired by the owner, and the applicant needs to be here to answer the questions. He also feels it would be good to have the architect here as well, as there will probably be questions they can answer and explain.

Chair Hollist said she will leave it to Planner Schindler and Attorney Simonsen's discretion, but if it's appropriate to work a short version of what was written up about planned developments in that notice, she would like to see that included. She will also probably read the longer version in person, during the meeting.

Commissioner Laurel Bevans asked if a specific order has to be followed when creating the agenda, or can staff arrange the agenda so something potentially controversial can be put towards the end to avoid keeping others here.

Planner Schindler said he can put it in any order, usually he puts Daybreak first to get them out of here. There have been times when there is a large crowd, and it is nicer to get them out first because if they are staying through the whole meeting sometimes they start commenting on other items. If the commission would prefer, they can put it at the end for the next meeting.

Commissioner Bevans is willing to come on to Zoom if needed for that meeting.

Commissioner Catmull said it's hard to tell as the last time they had an infill, the previous item was the Salt Lake County Equestrian Park which went for about 30-60 minutes in detailed discussion. He remembers someone commenting that was in attendance for Daybreak that they understand there isn't a lot they can do, but they appreciated the effort and being able to see how the commission works through issues; that process can sometimes bring the temperature down a little bit.

Planner Schindler said the agenda is finalized on Wednesday before the meeting, the documents are prepared on Thursday, and posted on Fridays. Notice goes out 10 days before, and staff usually mails it 12 days in advance to help get it there by Saturday. Usually, if it is sent out Thursday, if there are big concerns, planners will start getting calls on the Monday of the next week.

Commissioner Bevans asked if they can vote during the meeting to move agenda items around.

Planner Schindler said they can do that when they are approving the agenda at the beginning of the meeting.

ADJOURNMENT

Chair Hollist motioned to adjourn the June 14, 2022 Planning Commission meeting. Commissioner Darby seconded the motion; vote was unanimous in favor. Commissioner Gedge was absent from the vote.

The June 14, 2022 Planning Commission Meeting adjourned at 8:39 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez