

**CITY OF SOUTH JORDAN  
ELECTRONIC  
PLANNING COMMISSION MEETING  
COUNCIL CHAMBERS  
August 23, 2022**

Present: Chair Michele Hollist, Commissioner Nathan Gedge, Commissioner Steven Catmull, Commissioner Trevor Darby, Commissioner Laurel Bevans, Commissioner Aaron Starks, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, Deputy City Recorder Cindy Valdez, Planner David Mann, Planner Damir Drozdek, Deputy City Engineer Jeremy Nielson, GIS Coordinator Matt Jarman, IT Director Jon Day, Meeting Transcriptionist Diana Baun

Others: Williams 11606, Chris' Phone, Jonathan Nielsen, Kimberly Nielsen

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.

**B. MOTION TO APPROVE AGENDA**

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

**C. APPROVAL OF THE MINUTES**

**C.1.** August 9, 2022 Planning Commission Meeting Minutes

**Commissioner Bevans motioned to approve the August 9, 2022 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor.**

**D. STAFF BUSINESS**

City Planner Greg Schindler said that at the council study session last week, a proposal was brought to them to eliminate the historic designation of 1055 West. With that historic designation, the road could not be well-maintained. There have been developers coming in to develop small subdivisions and they are wondering why they have to put in full width subdivision streets that meet our right-of-way requirements with curb, gutter and sidewalk on

both sides, when those roads go into the city road that's barely 20 feet wide with no sidewalks, streetlights, etc. Developers are wondering why they are being held to a higher standard, so our City Engineer proposed removing that designation, or at least modifying it, so the road could be upgraded and safer overall. Several people use that road for a walking path, and walking down the center of the road is still dangerous, even in the absence of a lot of traffic. City Council asked for details on what makes the road historic, and the response was that back in 2015 when it was first designated as historic, the Historic Committee indicated it was possibly part of the original Pony Express Trail. That has since been found untrue, as the road was apparently close, but was never part of that trail. It was however, the first developed street in South Jordan, a road with properties on it long before the city was ever incorporated. Other than that, there is not that much historic value to it and the council decided to ask staff to prepare a resolution to take away that designation completely. As a result of that, the general plan will need to change where it shows that road's land use as historic. That will come before the planning commission as a general amendment, and he wanted to give them some background on why that will be coming. There is also development to the east, between the River Park development and 1055 W where there are some large pieces of property. One of those is in the process of getting development approvals, rezoning, etc. It is a 17 acre parcel and Planner David Mann will share information that shows the concept plan is 48 townhomes and that one of the connections to the development will have to be from 1055 West, as having only one access is contrary to the city code. Eventually it is planned to have a road going out north to South Jordan Parkway, but they don't know when those properties will develop and the street can be built. In the meantime, they will have the north roundabout in River Park, and there will be another way out, towards the cemetery and not in the middle of the historic part of the road.

Planner David Mann added that after the city council made their decision, staff reviewed the small area plan that was done for this area that was part of the general planning process. This showed the majority of the area on the maps in the staff report showed commercial and office development, with the remaining areas designated for agricultural preservation, as seen on the future land use map. With those conflicts between what was planned at that point, and how development patterns have proceeded since then, this is an opportunity for staff to work with the planning commission and city council to amend the general plan and these designations, allowing these types of developments that are coming forward to progress. He noted that Deputy City Engineer Jeremy Nielson can also answer questions on these plans for future improvements with this road.

Commissioner Nathan Gedge said he uses the intersection of 1055 W and South Jordan Parkway daily, and if this does proceed, he asked that the timing of that intersection signal be looked at with the increased traffic.

Deputy City Engineer Jeremy Nielsen said they can do that with UDOT. The last he looked at it, the loading was more heavy on the north side than the south side, so the south side can still take more traffic before it would really affect the timing too bad.

Planner Schindler said the proposed development to the east has gone to a study session with the city council. There haven't received any approvals yet, but the city council was speaking

favorably about the project. It looks to be just above eight units per acre, and he believes it was suggested they work to get that density down below eight units.

Commissioner Gedge asked if they had already seen the proposal for the most northern property with 12 units, and if it had already been approved.

Planner Schindler said the zoning has already been approved by the city council, but the subdivision hasn't come through yet.

#### **E. COMMENTS FROM PLANNING COMMISSION MEMBERS**

Chair Michele Hollist asked the commission and staff if September 27 would work for a training session.

Assistant City Attorney Greg Simonsen said he would be available for training. He has spoken with staff about having someone else do the training for some variety, but he is available if they need him to do it.

Chair Hollist asked to aim for September 27, and asked staff for their preferences on having the meeting before their regular meeting versus afterwards.

City Planner Greg Schindler said that before the meeting is fine, but if there is barely anything on the agenda they could do it during the meeting. If it will be a longer agenda, they might as well do it at 5:00 p.m.

Chair Hollist said she is still planning on being absent from the September 13, 2022 meeting. She asked the commissioners to submit any areas they feel they need training on, and she will compile a list for Mr. Simonsen or the city staff who normally interacts with them, and they can decide how to proceed. She noted that she and Commissioner Bevans will be gone for the September 13 meeting, as will Aaron Starks. The other three members are planning on being here and she asked them to let her and staff know if any of them are planning on not joining so they can make sure they have a quorum.

Commissioner Steve Catmull said the Architectural Review Committee has a meeting scheduled for tomorrow at 8:30 a.m., and he will not be able to make it. He asked if anyone would be willing to attend in his place. Those meetings are usually short, and there is only one item on the agenda for this meeting.

Chair Hollist said she would fill in for him tomorrow at that meeting as no one else showed interest.

#### **F. SUMMARY ACTION – None**

#### **G. ACTION – None**

## **H. ADMINISTRATIVE PUBLIC HEARINGS**

### **H.1. NIELSEN GUESTHOUSE CONDITIONAL USE PERMIT AND ACCESSORY DWELLING UNIT**

Address: 1948 W. Ingot Way

File No.: PLCUP202200159

Applicant: Lynn Nielsen

Planner Damir Drozdek reviewed background information from the Staff Report.

Chair Michele Hollist asked if subdividing this plot had ever been discussed with the applicant.

Planner Drozdek said that per the city code they could do that, but they need to check with their CC&Rs to see if that is prohibited. We don't enforce those rules, but the homeowners could be taken to court by their HOA if there was an issue.

Chair Hollist asked if the original structure had received any permissions in the past.

Planner Drozdek said no, there have been no permits issued. The city is only aware of it because they wanted to do some remodeling to make the building bigger and they came in asking for a permit. During that process, staff discovered there were no records of any other existing permits. It started out as a barn, and sometime in the past it was basically converted to a home.

Commissioner Nathan Gedge asked if there is a mechanism the city has to catch other properties in the city that might be operating as ADUs without permits, or that were converted from barns existing from our previous agriculture days. He then asked if these structures would only basically be caught by neighbor complaints or the permit process.

Planner Drozdek said they are mostly caught through neighbor complaints, but sometimes they are brought to the city's attention another way.

Commissioner Steve Catmull asked about the setbacks, as he didn't see them on his report but everything looks like it would have cleared any setbacks.

Planner Drozdek said the minimum setback is 10 feet, and this structure is far from that.

Chair Hollist mentioned some public comment emails that were received and reviewed before this meeting (Attachments A, B and C).

**Jonathan Nielsen (Applicant's Son)** is speaking for his father, who is the owner and hard of hearing. He lives in the ADU and this whole process has been enlightening. If you look back at their property tax records for what they call "the barn," the county has recognized that building and has been taxing it as a dwelling unit for some time. He doesn't know any of the story, as he was a teenager when this happened, and all he can think of is that his dad traveled quite frequently for work and some things were just forgotten or not dealt with. The reason they are

applying for this is because they want to be on the up and up with the city, and make this barn better looking on the outside and enable them to have a little more space to do what they need to do with their children and growing family. They intend to stay there for the duration of his parents' lives. His mother has had a heart attack and a stroke, and is diabetic, so she needs some care from time to time with the years; this is just an opportunity for them to be that resource for aging parents. They love the neighborhood, it's a wonderful place to live and raise kids. It's acres of grass and so their family enjoys it, they love their neighbors, and so it's a win-win. If this gets approved they will be able to upgrade and make it look more clean on the outside as well.

Chair Hollist opened the hearing for public comment.

**Peter Nielsen (Resident)** – I live with my wife two doors to the east of the Nielsen's; same last name, not related. We met them when we moved into the neighborhood about 20 years ago, so we have known them for a long time. When we moved in, the barn was there and as time has gone on it has started to age and show that age a little bit. Now they are upgrading and from our perspective, this was a good thing for them to make it look nicer and better. John has been living there for a while, and it is important that he stay there as he has a family with a few kids and so he needs to have a little bit more space. That is not going to negatively affect the neighborhood as far as we're concerned, it will be a plus for the neighborhood. We would like to see it go ahead, as he is trying hard to do everything he can to make the neighborhood nicer and meet the requirements, but given the legacy of the building it's a little difficult to change building heights and things like that 30 years later; he is doing what he can.

**David Jenkins (Resident)** – I am also an Engineer Principal with Ensign Engineering, and you guys have seen me before. I am also a former neighbor, and I know very much about this situation with the barn and know the family well, having lived in the neighborhood. John called me and asked me to help him, so I am his professional to make sure the plans that are done and the construction that is done is going to be to code. He is very concerned about the barn and how it was built. I assured him that what we would do is some inspections to verify the footing sizes, columns, etc., so we would meet the code. I am also very familiar with the fire code requirements, having to deal with that every day on projects that I work with at Ensign. I am going to work with the fire department to make sure we meet the fire code requirements as far as being within 150 feet of access. I just wanted to let you know that things will be done correctly and right, with approval from you.

**Lynn Nielsen (Applicant)** – I've been gone a lot, I build a lot of LDS chapels from Alaska to Hawaii to Florida, and everywhere in between, so I was gone a long time. A lot of things didn't happen the way we wanted them to happen. But we tried our best to do what we could and I spent many years away from home. My wife is needful for some attention and I am working part-time at the temple right now. I am enjoying that, but I found out that I can't retire either because my body deteriorates really fast, I had my knee replaced, and I've just got to keep going because I don't want to die either. I appreciate the fact that you folks are considering it, and we ask that you do approve it.

**Earl Britton (Resident)** – I live to the south. I have known the applicants for many years. We

moved in the 80s and I think they moved there in the 80s. We have known them for a lot of years, great neighbors. That barn has been there for a long time. It has changed, the property has improved since Jonathan is there. They have made considerable improvements to the south of where the barn is, and they have a nice garden and are a real asset to the neighborhood. We certainly support this, and we know it will be a nicer neighborhood because of a better barn.

**Maria Griffiths (Resident)** – I am behind the Nielsens and I am just here to tell you I moved here 13 years ago and I have known John for 13 years; what a great young man he is, and now his wife. I will tell you that they are an asset to the city, because just like Brother Britton said about the garden, I have been a beneficiary from that garden; not just me, but a lot of people around them as well. Maybe you don't know, but the children they have are adopted, and those children are very smart and are very well taken care of; probably smarter than my own kids. I just wanted to come and say that they are a great family, and I know we have to obey laws and do all these things, but I hope you can help them because they are a great asset to this city. What they do for the people around them, and not just for their own family, they help a lot of people and I would love to keep them here.

**Williams Family (Residents)** – we live about two houses up, and we are sorry we couldn't be there. We wanted to say that we are absolutely supportive, we think it's a great thing. We have lived in this neighborhood for five years, and it's the best neighborhood we have ever lived in, ever. We want to keep them, we want to keep them happy, and I don't think what they are asking is out of line or that it's going to affect any other neighbors or anything. I think we should move forward with it.

Chair Hollist closed the public comment portion of the meeting.

Commissioner Gedge clarified, in response to some emails received (Attachments B and C), that this is not an additional building being built, it is just making the existing unit conform to current regulations.

Chair Hollist asked if they were to finish the basement and install a kitchen in the main home, would they be able to have an additional dwelling.

Planner Drozdek responded that no, per code they are only allowed one ADU per property.

Chair Hollist asked if they could install a kitchen in their basement, regardless of the intended use.

Planner Drozdek said they can have a kitchen in the basement, as long as there is not a separate entrance to the basement.

Chair Hollist wanted to make it clear that there can be no additional ADUs associated with this property.

Commissioner Gedge noted that if they subdivided this property and created two separate lots, then each one could have an ADU.

Commissioner Catmull asked if the ADU counts towards density.

Planner Drozdek responded that it does not.

Chair Hollist asked if there were any parking requirements.

Planner Schindler said the state code still allows us to require one parking space and a minimum lot size for an ADUs, which is 6000 square feet in our city. It doesn't talk much about external ADUS, the state code is mostly concerned internal ADUs.

Commissioner Aaron Starks commended the family for being open with the city, and he thinks the intent is felt. Unfortunately, with the way things are in the state, it's hard to keep family close and they recognize the attempt to keep the son there and it's great to watch a community come together.

**Commissioner Gedge motioned to approve File No. PLCUP202200159, to allow an additional detached guesthouse with the following requirements:**

- **That all city required permits and inspections are scheduled, and passed, as required by the city building commission.**

**He also motioned to approve File No. PLALU202200118, to allow for occupancy of above referenced guesthouse with the following requirements:**

- **That one fire access road is constructed, as per the international fire code, and as approved by the city fire department.**
- **ADU parking is to be provided in a location where it will not impede emergency vehicle access to the guesthouse.**

Commissioner Catmull said this does seem like a win-win situation. When these applications come to the planning commission, they look for detrimental effects, things that can harm the area. They rely a lot on neighbors, their judgment of code, and things like that. With the clarification that Commissioner Gedge made about the emails received, and the unanimous feedback today around community support, and that this brings it into compliance and assures that it is safe for occupancy to current standards, he is in full support of it.

Commissioner Trevor Darby seconded what was just said by Commissioner Catmull.

Commissioner Laurel Bevans noted that in the emails referenced above (Attachments B & C), they also said it was already against CC&Rs to have an ADU. She asked to clarify with city staff that the issue has no bearing on their decision here, as that is a civil matter between the neighbors and has nothing to do with this commission.

Planner Schindler confirmed that, and said the city does not regulate CC&Rs.

Commissioner Bevans agreed with everything previously stated by Commissioners Catmull and Darby.

Chair Hollist said she struggles with situations like this, because the outcome isn't always happy and the neighbors aren't always supportive, so it's hard to make exceptions; she has a little bit of unease in regards to that. She asked staff if there is anything they can do as a commission, or direction on actions they might be able to ask the city council to take, to help with this process so we don't run into similar situations. We ask every time a barn goes in, that is over the allowed limits, if it is going to be used for business or living, to try and stop this from happening. She understands in this case, it is an older structure so probably wasn't subject to the same ordinances and rules 30 years ago that we have today.

Attorney Simonsen believes it should be the policy of the city to encourage bringing structures into compliance with the code, but he also doesn't want to ignore this and make sure the community understands that this is a very serious problem to have structures without permits. For example, if the building burns down today, a claim is made on insurance that probably exists, and in a little paragraph somewhere in the policy there will be something that says the insurance does not apply if this has not been approved by the local authorities. There are all sorts of liability issues and potential problems with these types of buildings. The best thing he heard today was that a call was made to Mr. Montalvo, the head of our building department, and this thing is going to be all brought into compliance, and that needs to be done right now. He is glad that we are happy about this, but he doesn't want anyone to forget how important it is to comply with these rules. We all know there are probably dozens and dozens of situations like this in the city, and we have to keep trying to get them corrected.

Commissioner Catmull asked if Attorney Simonsen is asking the commission to put a different time frame on this.

Chair Hollist said she doesn't even think this allows occupancy until the various requirements are met.

Attorney Simonsen said he doesn't remember if the timeframe is six months or a year, but when they pull the permit they will have at least six months. He doesn't know if they are planning on vacating the property while it's under construction, or continuing to live there; he doesn't know that affects what the commission's motion or decision should be.

Planner Schindler said they have six months after the permit is issued to do something and get it to the point where it needs the first inspections. Once they get to that point, they have six more months, but they usually don't allow occupancy until the final inspection is passed.

Planner Drozdek believes that when they applied for the permit, the barn was showing five to six bedrooms in the barn, which far exceeded the max for an ADU. They had to modify their plans to make it acceptable.

Chair Hollist said they are only being asked to consider exceptions to the height, and the square footage. The bedroom restriction stands, they can only have three bedrooms. She then asked what happens if this is violated in the future, what recourse does the city have.

Planner Drozdek said they would be in violation of their approval, and they could ask them to comply with city ordinances, and if they don't it can be brought back here.

Commissioner Catmull said that per the code, he believes there is consent to an annual inspection. That doesn't mean there will be, but there can be.

Commissioner Gedge said he was open to his motion being amended for stating specific time frames or occupancy details.

Attorney Simonsen said the motion mentions the city code, so he doesn't think they need to change anything.

Chair Hollist believes it's clear what's expected.



Commissioner Catmull wanted to make sure that even if passed, and there is noncompliance with occupancy, he wants a mechanism to deal with that. He doesn't feel that's our purview to try and alter and enforce this.

Planner Schindler said that after six months, if there is no action, the building official can terminate the permit.

**Commissioner Darby Seconded the motion. Roll call vote was 6-0, unanimous in favor.**

**I. LEGISLATIVE PUBLIC HEARINGS - *None***

**J. OTHER BUSINESS**

**ADJOURNMENT**

**Chair Hollist motioned to adjourn the August 23, 2022 Planning Commission meeting. Commissioner Bevans seconded the motion; vote was unanimous in favor.**

The August 23, 2022 Planning Commission Meeting adjourned at 7:23 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez