

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
September 12, 2023**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Trevor Darby, Commissioner Steven Catmull, Commissioner Laurel Bevans, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, Deputy City Recorder Cindy Valdez, Deputy City Engineer Jeremy Nielson, GIS Coordinator Matt Jarman, IS Tech Phill Brown, Meeting Transcriptionist Diana Baun, Planner Andrew McDonald

Others: Jamie Mansouri, Troy, Todd Braithwaite, Rod Anderson, Marilyn Anderson, Jeff Almond, Kenyon Clark, Neil Smith, Travis Hiatt, Bart Hoenes, Betsy Hoenes, Lori Howa, Brent Howa, Lucynthia Rockwood, Jared Osmond, Devan Hatch, Josh Hatch, Mili Pioquinto, Kal Robbins, Tyler Robbins

Absent:

**6:30 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 Gedge motioned to approve tonight's agenda as published. Chair Hollist seconded the motion; vote was unanimous in favor.

C. APPROVAL OF THE MINUTES

C.1. August 22, 2023 Planning Commission Meeting Minutes

Commissioner Darby motioned to approve the August 22, 2023 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion. Vote was unanimous in favor.

D. STAFF BUSINESS

City Planner Greg Schindler shared that Commissioner Aaron Starks has resigned from the Planning Commission via email to the Mayor.

Chair Michele Hollist asked about training and staff shared that it is still on the schedule and will probably be at the end of the meeting.

E. COMMENTS FROM PLANNING COMMISSION MEMBERS - *None*

F. SUMMARY ACTION - *None*

G. ACTION - *None*

H. ADMINISTRATIVE PUBLIC HEARINGS

H.1. MINERS COVE NORTH PRELIMINARY SUBDIVISION PLAT

Address: 10435 S. 2200 W.

File No.: PLPP202300048

Applicant: Jeffrey Almond

Planner Andrew McDonald reviewed background information from the Staff Report and noted there was an email received as public comment from a resident (Attachment A).

Chair Michele Hollist asked to clarify the parking ratios.

Planner McDonald responded that, based on the current floor space of the existing building, there are only five excess parking spots. With the dance academy, they could also calculate the parking based on the seats in the lobby.

Chair Hollist asked about permitted uses in the zone.

Planner McDonald responded that the Commercial-Neighborhood Zone would permit a daycare, another dental or medical clinic, an office, personal services, professional services, general retail and instructional training. It would also allow, with a conditional use, a gas station, a bank or credit union, lodging, telecommunication utilities, animal services, light services and repair, churches, public safety, community services and restaurants.

Chair Hollist invited the applicant up to speak.

Jeffrey Almond (Applicant) said that regarding the parking issue, he has been issuing parking permits to the high school over the last five years with at least 30 parking spots being rented out each year; they have never had an issue with parking, even with those spots being used.

Chair Hollist asked if he knew what might be going into the new building.

Mr. Almond responded that the dance studio is inquiring about more space, and he also has been contacted by a daycare/minor school which subleases from the dance studio one day a week from 9:00 am to about 3:20 pm.

Chair Hollist asked if they would be able to accommodate a drive through drop-off and pick-up situation with the current layout.

Mr. Almond responded no, that's something he would have to look through with the planning department in the future. There were some issues in the beginning, but he has talked to the school and they appear to have resolved that. They manage it very well in the morning with someone standing at the 2200 W entrance, allowing only a small amount of cars in at a time to pick up or drop off a child and leave before allowing more cars. This prevents a long line blocking his patients, and it has never been an issue.

Chair Hollist noted that when driving by the dance classes appear to spend time out on the grass and asked for more information on that.

Mr. Almond responded it's not part of their class, he believes they go out there when they take a break; they have never held a class out there, it just gets a little crowded inside.

Chair Hollist asked if he knew the number of chairs in the dance studio's lobby.

Mr. Almond responded they have a number of benches, maybe enough for 15-20 people; there is also seating in each of the four studios.

Commissioner Nathan Gedge asked if the applicant would be agreeable to eliminating or rescinding the leases of parking spots to the high school students down the road.

Mr. Almond responded yes, saying that they have 33 leases this year, but he keeps track and there are usually only about 18-22 spots used per day.

Commissioner Laurel Bevans asked about a possible timeline for putting in the new building.

Mr. Almond responded there is not a timeline, the dance studio would like to have it done by next August or September if they commit to the space.

Chair Hollist opened the public hearing for comments.

Todd Braithwaite (Resident) – I am one of the houses behind this property, and this is probably just my ignorance, but is part of this property being sold off or just creation of a new building with the existing owner owning the entire property plus buildings? The current businesses seem to work very well with the community. The dance studio did have an activity out on the grass the other day that he saw and he thought it would be a shame when that's gone.

Marilyn Anderson (Resident) – our backyard backs up to Mr. Almond's property and I have to say he has been a great neighbor for several years. He has landscaped and it is beautiful. We do have some concerns about the smallness of the parking lot; I think he is being very optimistic about that as what we have seen from our backyard when the preschool is on, even when the dance studio is on, the cars are backed up down 2200 W and into our neighborhood. I have seen more than five cars in that parking lot dropping kids off, so I guess we have a concern about that. We absolutely have a concern about what will be in there. It is our neighborhood, he doesn't reside there, he works there, so we hear tattoo parlor and gas station and that concerns us as neighbors. For us, it would depend on what is there, but I will say he has been a great neighbor and we have enjoyed having it behind us, but I do think there is some issues with the parking that we aren't being realistic about.

Bart Hoenes (Resident) – When this was presented originally, they did mention that the plan was to put up another building there and it sounds like the building is being planned so that it will be the same sort of aesthetics and structure as the original one, which I think is very nice. I also did not know whether this was a sale of property to someone else or not because of how it was worded as being subdivided; I would also like that cleared up. I want the council to know I would be very opposed to a tattoo parlor, a gas station, a restaurant in this area; I don't think that's very appropriate for there. Do you know what the ordinances are on lighting that, the amount of light put out by commercial structures in a neighborhood area? It is quite bright all night, so I hope the new building doesn't add additional brightness to that, and I would prefer to see what is there toned down a bit. The use of the current property is just fine and Mr. Almond has been a good neighbor.

Chair Hollist closed the public hearing. She asked staff to address the concerns shared by the residents.

Planner McDonald shared that regarding lot ownership, staff is unsure if the applicant is setting himself up in the future to potentially sell off and recuperate some costs since this is creating two lots which would allow the owner to sell one of those lots in the future. Parking is based upon a ratio assigned to the use, so it would depend on who wants to come in with the tenant improvement permits and what would need to be done there. Based upon the description of the dance studios seating, the city would be able to reduce their parking requirement to one spot per four seats, opening up more spaces for all units on the property. The recording of the plat would establish shared access between the two existing points, which wouldn't change. There is no shared parking agreement in place, they still need to meet the requirements for all uses on the site.

Chair Hollist asked how many parking spots this new subdivision will have associated with it.

Planner McDonald responded there are currently 64 spots, with roughly 10 for the dentist's office and based on the floor ratio 49 for the dance studio; however, that could be reduced if staff got an exact number of seats on the inside. In terms of the new building, those numbers would depend on the use and that will be looked at in the future. Right now, the city hasn't been receiving complaints on activity at the location to cause concerns; if that changes, staff would

circle back to the issue and possibly dig deeper into the daycare operations and plans they have to handle those situations as if they were going through the CUP process.

Chair Hollist asked, without a shared parking agreement, how do they determine which property owns which spots.

Planner McDonald responded that staff only looks at the ratio in relation to the use.

City Planner Schindler noted that it appears on the subdivision line that goes across the property there will be about 14 parking spaces on the new lot to the north, the rest will remain on the south lot. Without an agreement, technically the owner of the south lot could prohibit the owner of the new lot use of those parking spaces. He is unsure if that line includes the current handicapped spaces.

Chair Hollist noted that it appears with the changes, the current building will no longer meet their parking requirements since they currently only have five extra spaces.

Planner Schindler responded that if that is the case, then the current building will have to maintain the specific number of spaces required and subdivision could probably not occur without a shared parking agreement.

Assistant City Attorney Greg Simonsen explained the laws defining a subdivision. He also noted that if the same person owns both lots in this subdivision, they can allow parking across the property lines at any time because they own both.

Commissioner Trevor Darby asked if the owner were to develop this and in the future sell one of the lots, would they need to sign a shared parking agreement or each have their own assigned parking spots based on the subdivision.

Attorney Simonsen responded that either option would be correct.

Commissioner Steve Catmull asked if the discussion of potential uses is a normal part of a subdivision review at this stage. If they are here to basically divide this lot into two, creating two separate tax lots, can they encompass the previous operating business requirements into the subdivision.

Planner McDonald responded that the application satisfies the requirements of a subdivision. What Commissioner Catmull described sounds more like what they would discuss when they reached development. Most of what Planning, Building and Engineering look at have already been taken into account with the first site plan. With a smaller building anticipated on the second lot, depending on that application, they would start to look at how the site looks in relation to what is needed. The final subdivision site plan would come back to the planning commission and city oversight on the building permit for the new building.

The commission discussed the issues with parking and that it's the biggest complaint received from residents, asking staff if they were aware that a business was queuing onto 2200 W and around the corner into the neighborhood.

Deputy City Engineer Jeremy Nielson responded he has not received any related complaints.

Chair Hollist asked staff to explain the steps for residents to go about complaints with traffic. Engineer Nielson responded that with traffic concerns, residents are always welcome to reach out to Engineering, him specifically, and he can look into it. The traffic committee ultimately reviews traffic issues and would respond to any concerns.

Commissioner Gedge asked if staff had any concerns for high school drop-off and pick-up times and access to the city streets in that area.

Engineer Nielson responded no.

Commissioner Catmull asked if the commercial site plan can encompass more than one subdivision.

Planner McDonald responded it would be for how they intend to develop Lot 2, but staff would be able to ask the applicant how they intent to incorporate into the existing lot to get a bigger picture.

Commissioner Catmull asked if Lot 1 was currently undeveloped but already subdivided, and this came before them, could the site plan for Lot 2 include the details for Lot 1. This was originally planned to be subdivided, but the site plan for the Lot 1 area had certain things addressed for the entire property and he wonders if they have to go back and compare to that original site plan when the site plan comes in eventually for Lot 2.

Planner McDonald responded that usually it's one site plan per lot or pad, sometimes there is a larger discussion with the applicant depending on the intended uses. If this was still residential property this would be done differently, like a circumstance where someone owns two adjoining lots and wants to build homes next to each other.

Chair Hollist asked for information on lighting ordinances, and a confirmation that Lot 1 had their lighting approved and measured to meet the city requirements.

Planner McDonald went over the code requirements, and all of that was approved back in 2017; no additional lighting is expected. The only changes anticipated with the site plan are an additional fire hydrant at this time to service the two buildings.

Commissioner Gedge noted that the current lot has what was originally approved on the landscape plan and green space. However, with subdividing this and getting rid of the grass field he asked if that eliminates the required city ordinance for the existing building in regards to open space.

Planner McDonald responded that they should both still meet requirements as none of the street trees in park strips or landscape in the planter beds on site are changing, nor are they changing in the area the building would go. The site was developed as if the building was going to be there with no additional changes needed.

Commissioner Gedge asked if the current grass field is a flood retention basin.

Engineer Nielson responded no.

Chair Hollist asked if there was any sort of maximum coverage limit in this zone, like there is in residential zones.

Planner Schindler responded that there is no maximum coverage limit on commercial zones. There are certain setbacks and parking space requirements that have to be met, but otherwise there are no limits.

The commission and staff discussed parking requirements and possible future issues with approving this subdivision without a current shared parking agreement.

Commissioner Gedge motioned to approve File No. PLPP202300048, Preliminary Subdivision Plat, based on this evening's discussion, staff report and testimony from the public with the following conditions: That all South Jordan City Requirements pertaining to site plan, parking regulations and standards are met.

Commissioner Darby noted that this is a subdivision application, not a site plan.

Commissioner Gedge amended his motion to replace "site plan" with "subdivision," and amend the conditions to read only that all South Jordan City requirements are satisfied. Chair Hollist seconded the motion.

Roll Call Vote

Yes - Commissioner Gedge

Yes - Chair Hollist

Yes - Commissioner Catmull

Yes - Commissioner Darby

Yes - Commissioner Bevans

Motion passes 5-0, unanimous in favor.

Attorney Simonsen addressed the residents, noting their concerns voiced about what type of business might locate here. That was not an issue for tonight, as that is a zoning issue regarding what is permitted in each zone. This is a Commercial-Neighborhood Zone, and the public can go online under Title 17 in the city code to see the lists of permitted uses for each zone.

Planner McDonald added that specifically Title 17.18.020 outlines what is permitted by right and by CUP in each zone. Additionally, Title 17.18.060 covers the definitions of those uses.

Chair Hollist highly recommended a parking and traffic plan be included in the site plan application in the future.

H.2. KINGS LANDING PRELIMINARY SUBDIVISION PLAT

Address: 10828 S. 1055 W.

File No.: PLPP202300080

Applicant: Devan Hatch

Planner Andrew McDonald reviewed background information from the Staff Report.

Commissioner Nathan Gedge asked why they were pushing to get this on the agenda tonight.

Planner McDonald responded that this was a joint decision by the city engineer and the director of the planning department, to present the application with a list of the specific requirements that still need to be met.

Commissioner Gedge expressed his concerns with having this public hearing while still having issues that need to be resolved.

Chair Michele Hollist and Commissioner Bevans shared the same concerns. Chair Hollist asked a few specific questions about the grading and Planner McDonald was able to respond.

Commissioner Laurel Bevans asked about the type of retention basin on another subdivision of the applicant's property.

Deputy City Engineer Jeremy Nielson responded it is an open pond.

Commissioner Bevans asked about the other subdivision again, and where that will come off of 1055 W when it's developed.

Planner McDonald responded that the basin would require an easement with the owner, which would detail who is responsible for what infrastructure. Tonight the staff report is addressing the parcels on 10827 South only. The property lines have been adjusted and the top part of 10827 South has a 20 foot wide access, with the lot opening up in the back, which makes the bottom lot a bit wider to help with the development of the other properties. There will only be one home on each of those two lots.

Commissioner Bevans asked for the anticipated duration of construction for the road being closed and a temporary access provided.

Planner McDonald believes it will be two to three weeks.

Chair Hollist asked about the reasons for the changes to the road.

Engineer Nielson responded the closure is necessary for the sewer line.

Planner McDonald responded that 1055 W needs to be raised in order to make the six lots and grade of the road comply with the fire department's 10% or less requirement.

The commission and staff discussed the specific details from the staff report as to why the road requires the grade change.

Devan Hatch (Applicant) shared this project is here early because it has been a very complicated piece to develop. They have run out of time, and money is becoming an issue because it has gone on so long. He agrees with staff's comments that the items left to deal with between him and staff are minor, and can be taken care of easily. He talked about his agreement to upgrade the road for Roseman University, as it is currently very unsafe and this will benefit many more people.

Chair Hollist asked the applicant if he had a chance to review the requirements listed in the staff report that still need to be addressed, and if he agrees to take care of those.

Mr. Hatch responded that he has reviewed them, and they plan on taking care of those.

Commissioner Bevans asked the applicant if he plans on the two lots to the east eventually joining into the same retention pond.

Mr. Hatch responded the water is to be retained on the lot, but what does drain to the street will go to the same pond.

Commissioner Gedge asked the applicant if he agrees that the planned closure of the road is for two to three weeks, and if there is any way to expedite that completion.

Mr. Hatch responded that they want to get it done as quickly as possible as well, and as long as weather cooperates, they plan on completing it in the estimated three weeks. He also confirmed that with the temporary road there will always be access for the residents and emergency services to access the area.

Commissioner Steve Catmull asked about liability on the temporary road.

Mr. Hatch responded that any accidents involving construction equipment would fall under the construction insurance.

Chair Hollist motioned for a five minute recess. Commissioner Catmull seconded the motion; vote was unanimous in favor.

Commissioner Bevans asked about the depth of retention pond.

Engineer Nielson responded that it looks to be about four feet, and these usually have a 3:1 slope.

Chair Hollist opened the public hearing for comments.

Neil Smith (Resident) – I have property that borders 1055 further to the south of where the property under consideration is located. I had expected to come and just listen tonight because I didn't expect there would be anything that potentially impacts my property. I noticed that when one of the plats was up there was, in addition to the property under consideration tonight, what looked like a 40 foot turnaround. Does that have anything to do with what's under consideration tonight? I was under the impression that there would be changes up to the knuckle, but further to the south it was my understanding that it was a private road and there wouldn't be any changes. Tonight we learned it's Roseman University that owns the road, is that correct? My other concern was when Mr. Hatch mentioned the widening and smoothing of the road to the south. I assumed that was south of the knuckle, and widening I would think could be a problem; is there a possibility of having to condemn property on the sides of that road? If that's an issue, that could involve me.

Kenyon Clark (Resident) – The back of my property is 1055 West. My property is going to be the lowest point where the road goes. So you are going to build it up, and instead of the water going across and into Beckstead ditch, it is going to run down to my property. It just doesn't make sense. Where I went to school, they taught me that water runs downhill and I'm just afraid that it's really going to be an issue. I do come here tonight excited to hear the plan is going forward, and we get some houses and nice places built next to us rather than where everything is being dumped at this time. We have had people dumping things there, and I was excited, but then I get here with a lack of information. We were not sent any information about these changes at all. I didn't have a chance to study anything out until I got here, and then everything seemed to turn negative as far as my property. My property is the one that is probably going to be impacted more than anyone else's property. I am really concerned about the building up of the road and having that road be an issue because I have an entrance at the bottom of my property where I drive into once or twice a day sometimes with my garden and other things down there. I have a very steep property and I can't carry things down, I have to take things down in a truck a lot of the time.

Kal Robbins (Resident) – I was at my property irrigating last night and the only concerns I have are for my next door neighbor Dennis Palmer, he is the property to the north. The two concerns I have are that his home really does sit very low. There will be sewer brought in, but I'm almost positive his sewer will be below the sewer line being brought in; unless someone can verify that it's much, much deeper than I think it is. I know he talked about it dropping from his front porch about six feet, then you go another 8-10 feet below that; he is going to be down about 16 feet below and the sewer line would have to be that low for him to connect to it. Otherwise, if he is required to pump he will be required to pump his sewer out to the sewer line. He is not here because he taking care of his wife right now, and I think it's a reasonable thing to mention and

cover in that regard. I assume the reason the sewer line is going north is because the cul-de-sac just completed on 1055 W raised the road about four inches with new asphalt, making the entrance into our pasture rather steep, which was fun to encounter. I have decided I have to be careful I don't go too far or I will be falling off that roadway where it has been expanded out going to the north. There is an issue with water that we had with the wonderful storm the first of August that came down and washed out all the gravel and stuff we had in our entrance to go into our gateway. I really thought there was a box there, that if designed right should have met the elevation already there on 1055. I worry when we get into things like this, have we covered all the issues, and I just had a new experience so I want you to be aware of those types of issues.

Travis Hiatt (Resident) – I am on the west side of Lots 1 and 2. When will we know final grade of that private drive up to Lots 1 and 2. I also think it was mentioned that the wall on the west side was nine feet tall that curves around the private drive. I was wondering, in regards to the headlights and light pollution coming into the windows, if we could verify that they are saying it's supposed to be below 10% but will it be 9.9%, will it be 8%; when will we know what that final grade will be. Regarding raising the road 2.5 feet to meet the 10% or less grade, have we checked into the viability of dropping the final grade of lots 1 and 2 down instead of raising the road up. I don't know if it's a cost issue, it seems like dropping final grade may upset water retention and water runoff less than messing with the road and raising the grade of the road. I was curious about a maximum height requirement for the two houses going on Lots 1 and 2. At one time when these plot maps were brought up, on the very west end of Lots 1 and 2 it almost looked like there was a real thin open space that looked to denote where the ditch used to be; now the water doesn't run anymore. It seemed like that delineated the property and was almost a different use or notating that there was running water there; it is almost as if that has disappeared. On the knuckle separating private from public, I know that as the snow plows come around they are going to make that loop, that's the whole purpose of it for emergency equipment and snow removal to make that loop so they don't have to do the backing on the private drive. I was curious as to how much more liability it was going to put on the customers to the south, as now they will have an extra pile of snow to remove as it meets whatever pile the snow truck is going to make as it makes that loop. Now those residents south of that knuckle will have whatever snow there, plus a nice little pile. We all know how that works when the snow plow comes and pushes all the snow on your driveway and this is going to be exacerbated by that.

Jared Osmond (Sandy Resident) – I am hoping to buy a lot from Mr. Hatch and build a house; we feel very confident about this. My concern with 1055 is that the road is terrible right now. We have been working for a year and half with staff, trying to figure out the best solutions and it has gone back and forth. We don't want anybody to end up with a puddle at the bottom to the south, so right now the way that road goes from the knuckle, it goes down and then comes back up. I am a contractor, I do this for a living and I do commercial subdivisions so I am very familiar with this. Raising the road 2.5 feet will create a very smooth transition, 2.5 feet is not that hard to feather out, and as we come back up obviously we are not going to let it drain into this man's lot. We will make sure we fit city standards and city codes. I am excited to buy a lot at the top of the hill and build my house where I plan to stay forever and be a great neighbor. My house will be a single story home, we are going to be very conscious of lighting and being good neighbors. We realize change is hard and we realize tearing all those trees out caused a lot of commotion, but we have every desire to be good neighbors and we want to live here. We are also very concerned

about any transitions coming off this road. We are happy to address transitions. A brand new road brings brand new asphalt, sewer that doesn't exist right now that can connect everybody to it. This is something Mr. Hatch has really planned through and looked at. We obviously think it is of benefit to the neighborhood. I know the city council has talked about the future of 1055 and I know that's controversial as well, but we think what we are doing with the subdivision is going to be beautiful. As stated by other neighbors, this is kind of a trash dumping area that we would love to get started cleaning up and creating something really beautiful. The way we are meeting grade requirements makes a lot of sense, the staff obviously feels comfortable enough to recommend it to come before you today. We will solve the problems with fire hydrants and other issues; we are happy to move this along. I would love to build a house, I am currently in a temporary housing situation trying to get a house built here for a year and a half. I know Mr. Hatch is diligent on this, he is excited to make this happen and I am grateful he is doing this because I want to be here. I also know, as a builder and contractor that does commercial work, how these transitions are made. We are happy to address any questions, and Mr. Hatch actually owns the excavation company that will do the work, so it's not hard for us to bring in whatever is needed and we will make sure the drainage concerns are not an issue.

Chair Hollist closed the public hearing.

Chair Hollist asked if the 40 foot turnaround is part of the temporary road while the sewer is put in.

Planner McDonald was unsure, as that is Roseman's property. Temporary access would either be off 1055 where the sewer line heads west and then north via a bypass, or further south of the turnaround. The 40 foot turnaround doesn't have anything to do with accessing the subdivision or the six properties south of the construction area.

Engineer Nielson believes the option being pursued is to put the temporary road on Lot 5 and divert the road to the west temporarily while the sewer is constructed.

Chair Hollist asked if the portion being discussed tonight for raising is the only portion that will be raised, or will it continue at some point on to the portion owned by Roseman.

Engineer Nielson responded the knuckle will be elevated to 2.5 feet, and south of that they will have to slope down 2.5 feet. Just as mentioned, that will be feathered in for a smooth transition.

Chair Hollist asked if this will require condemnation of any other property, and if this will only affect Roseman's property.

Engineer Nielson responded that is correct. It will also affect the property to the east which is currently also owned by Mr. Hatch.

Chair Hollist asked if staff feels the grading addresses any concerns about water inadvertently being diverted to other properties.

Engineer Neilson believes this plan adequately addresses that concern.

Commissioner Trevor Darby asked if there will be any adjustments to the end of the property and under 1055 W, or will it continue to exist as it does now.

Engineer Nielson noted that is correct, and added there is in fact a ditch noted on the plan on the south property line.

Chair Hollist asked staff about the final grade of the private drive.

Engineer Nielson responded that at the peak the retaining wall looks to be about 10 feet, possibly nine feet, based on what he can see on the plan.

Chair Hollist asked staff to address concerns raised about lighting.

Engineer Nielson responded the retaining wall was not created to control the light pollution, he believes the Rhino Rock fence along the west side that is about six feet high will take care of that.

Planner McDonald confirmed that the six foot Rhino Rock wall, in addition to a finished grade of 4393 feet on the west boundary line, should control any lighting issues. Staff didn't require an analysis for headlights specifically, but with the changes in elevation and the current wall plans meeting city requirements, staff didn't have any additional concerns.

Chair Hollist asked staff about the suggestion to drop the elevation on the lots versus raising the road.

Engineer Nielson responded that during the civil engineering process, they were trying to balance the cuts and fills, and this is the design that was optimized.

Chair Hollist asked about the concerns regarding things being shown on the west boundary in previous plans, but not showing currently.

Planner McDonald responded there was never a site plan that showed a ditch. He believes the comment was referring to the parcel itself, and currently this subdivision is four separate parcels of four different sizes and dimensions. On the west boundary there is a very narrow, elongated rectangular parcel; there is no ditch or drainage there. The property to the north did have an egress and ingress easement, but they have since recorded what was needed to abandon it, so it no longer exists. In conversations with the applicant, they are on the end of a private irrigation line and they are essentially abandoning the rights to that, abandoning it in place instead of going through everyone's properties and removing the line. There was an irrigation box there that was damaged, which has historically caused flood water to run over the property, and that is being removed with this project.

Chair Hollist asked how emergency vehicles are currently accessing these properties, as the road is very narrow.

Engineer Nielson agreed that it is very narrow currently, but he is sure there is enough room for emergency access.

Chair Hollist noted in regards to concerns about water flows being affected by the road changes, staff has indicated their review and satisfaction with the grading and current plans. She asked how these properties are getting sewer access currently.

Engineer Nielson responded there is a current sewer line on the west side of the cul-de-sac that can service Lots 1 and 2, and then sewer is being brought in for the remainder of the lots.

Chair Hollist asked how these changes will affect the neighbor to the north, where there was concerns about changes in his service.

Engineer Nielson wasn't sure about that situation specifically. South Valley Sewer District is handling the design of that sewer main, and unfortunately even the current GIS maps don't show how Mr. Palmer currently has sewer access.

Commissioner Gedge asked if a current resident is going to be materially impacted by the new sewer design, would it be that resident's responsibility to pay for needed changes, or would the applicant or sewer district be responsible for providing those services.

Engineer Nielson doesn't believe this will impact the current resident's service in any way, as it is a new pipe in the road. If he elects to tie into that new pipe then he could work with the sewer district to make that connection. He is not aware of South Valley Sewer cutting anyone off or making any modifications to existing sewer services.

Planner McDonald noted that the building department shared there is a state law requirement for those within 300 feet to tie into the system. This means that 10911 South 1055 West would meet that requirement. Since that is also a requirement outlined by South Valley in their conditional approvals for the septic on the property, the resident will have to comply. All properties with septic in this area were given conditional approval from South Valley to have their septic system, in addition to other things on the property. However, once a sewer line is available they have to connect as that agreement supersedes everything else and their conditional approval goes away once the line is put into place. He is unclear of the timeline for that to be done, it would have to be discussed with the district given their approval, rules and enforcement.

Commissioner Gedge asked if, since that is between South Valley District and the property owners, that is not something under the purview of the city; he assumes that would be between the property owners and the utility.

Planner McDonald added that the same approval could apply to everyone south of the area currently on septic, it just depends on the paperwork at the time.

Commissioner Gedge asked staff if this could be a liability for the city with an approval tonight, or if this is strictly a civil issue.

Attorney Simonsen responded that this does not open up the city to any liability in regards to the sewer system for neighboring properties.

Chair Hollist asked staff for details about snow removal in the area, including the private lane.

Engineer Nielson responded that Public Works has been plowing at least the public portion of 1055 W. Based on the plan, the snow is to be stored at the top of the cul-de-sac, not at the knuckle, and he doesn't see a city worker piling all the snow in front of an access. If that did happen, residents could contact the city and file a complaint.

Commissioner Darby asked the applicant if they will just be capping off the irrigation being abandoned in place and leaving it where it is. He also asked if there are any concerns for the patch failing in the future and flooding out the homeowner.

Mr. Hatch responded currently the box has a hole in the side of it, and the past owners were using it to flood the area; however, it can no longer be controlled with the hole in it. The plan is to patch up the box so it will work as intended, and then cover the area up. He is the homeowner that would be flooded if anything failed, so he will be making sure it is patched up correctly.

Commissioner Catmull asked for the latest date the applicant could start construction and complete the desired portion this year.

Mr. Hatch responded the only restrictions they have are asphalt and temperatures.

Commissioner Catmull asked how that impacts the cost of construction that was mentioned at the beginning.

Mr. Hatch responded that construction in winter is more costly, so the further this goes into the season the higher his development costs will be. He also noted that the turnaround is on Roseman's property, and it's just an access for the manhole that will be installed there for the Sewer District. It is also their future parking lot, so it will be eventually removed and converted.

Chair Hollist asked for the maximum building height in the zone.

Planner McDonald responded the limit is overall 35 feet to the highest peak in this residential zone.

Commissioner Bevans asked if, with the intention is to store snow at the top of the cul-de-sac, there is any concern with snow melt overwhelming the retention pond in the spring.

Engineer Nielson responded it is always a concern, but it meets the city's engineering requirements for storms which is a 24 hour, 100 year storm. If it exceeds that volume then it will run over the pond and likely go into the Beckstead Ditch.

Chair Hollist asked if the city is culpable if they approve an extreme retention wall and it fails in the future, or is that on the manufacturer of the wall.

Engineer Nielson responded that, engineering wise, a nine foot retaining wall isn't considered extreme.

Attorney Simonsen added that these kinds of things are always complicated, and we saw this happen recently in Draper. Someone in the city at some point looked at engineering plans submitted, and they probably met city standards, but somehow the wall still failed. Those things do happen, but as far as liability, everybody gets named in the lawsuit in those kinds of circumstances. There is something called the Governmental Immunity Act, and when it comes down to a government acting within their scope, usually that is going to bar those claims against the city. Not always, as there are specific exceptions outlined in the law, but that is generally the result.

Commissioner Gedge noted that they have seen the rezone, and then this area several times with various proposals and he thinks they have done a very good job trying to address this, especially with it being a very unique property. He does still have concerns about the requirements still open and listed, and the commission potentially setting precedent for future applications of properties that wish to be pushed along quickly and approving something with recommendation that have yet to be approved by the appropriate departments with the city. He is overall in favor of this application, but he will be voting no tonight because he doesn't want to set that precedent for future applications trying to fast track their projects.

Commissioner Catmull has some concerns about the timing. There is a challenge from the applicant's perspective regarding their investment and confidence with everything being approved. Given the constraints, he feels good about the project but he is concerned about the number of outstanding items on the list and the precedent set, especially around speeding things up to lower the development costs. He is still deciding on his vote, as he is right on the edge.

Commissioner Darby was in agreement with Commissioner Gedge's statements, but based on the fact that city staff, who he trusts a great deal, brought this to the commission, he would probably approve this. However, if more came forward he would probably say no. He is okay with this particular project going forward as long as they are willing to meet the recommendations. He would like to have a conversation in the future to understand internally why this came forward with so many extra requirements not yet met.

Commissioner Bevans noted that, based on it being a requirement that the applicant meet all the recommendations listed, she is okay with this based on her background with construction and understanding the cost of concrete changing with weather and the inability to pour asphalt after a certain point. She does share the concerns of this coming to them with unmet concerns, but

knowing they will be met prior to recording and that development can't begin until that recording, she is okay with allowing this to pass.

Commissioner Catmull would feel more comfortable if, in the motion, these are not referred to as "recommendations," as they don't feel like recommendations.

The commission discussed their thoughts on that verbiage.

Commissioner Bevans noted that staff indicated some of the language had changed from what was originally shared with the planning commission, and asked for clarification on that.

Planner McDonald responded that was correct, the current recommendation from staff is different from what is listed in the staff report. He shared that with additional information that became available, and the circumstances of this application being a little different than what is normally presented, the recommendation was specified to include language on A, B, and C before construction commences to make it clear and concise.

- Clarifying what needs to be done with the storm water maintenance agreement and the storm water easement paperwork.
- Clarifying that the subdivision is required to have a retaining wall permit. Which, at the time of submission, was still pending review but is now ready for issuance tonight. It was clarified by the building department that construction on the retaining wall is not to commence without an issued grading permit and the final submittal of the civil plan is approved by the city engineer to lock everything down before construction can begin.
- Clarification on the fire hydrant was still pending with Engineering and Public Works in relation to their water calculations, the water plan, and the storm drain; this was a huge thing for the storm drain system not existing and what is being proposed.
- Clarifying continuous access on their temporary detour, full construction, and who needs to finalize and approve that, including the encroachment permit through the Engineering Department, is required before construction is allowed to commence.

The commission discussed options for making the motion and the verbiage.

Commissioner Catmull motioned to approve File No. PLPP202300080, Preliminary Subdivision Plat, subject to the list of updated requirements that were presented in the tonight by City Staff. Chair Hollist seconded the motion.

Roll Call Vote

Yes – Commissioner Catmull

Yes – Chair Hollist

No – Commissioner Gedge

Yes – Commissioner Darby

Yes – Commissioner Bevans

Motion Passes 4-1, with Commissioner Gedge voting in the negative.

I. LEGISLATIVE PUBLIC HEARINGS - *None*

J. OTHER BUSINESS

Discussion amongst staff and commissioners regarding potential training topics and suggestions for the training during the next meeting.

ADJOURNMENT

Commissioner Gedge motioned to adjourn the September 12, 2023 Planning Commission Meeting. Chair Hollist seconded the motion; vote was unanimous in favor.

The September 12, 2023 Planning Commission Meeting adjourned at 9:09 p.m.