

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
April 11, 2023**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Steven Catmull, Commissioner Trevor Darby, Commissioner Aaron Starks, Commissioner Laurel Bevans, Planner David Mann, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, City Recorder Anna Crookston, Senior IS Tech Phill Brown, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun, Planning Permit Technician Jake Linck

Others:

Absent:

6:32 P.M.

REGULAR MEETING

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

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

B. MOTION TO APPROVE AGENDA

Commissioner 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. March 28, 2023 Planning Commission Meeting Minutes

Commissioner Bevans motioned to approve the March 28, 2023 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor.

D. STAFF BUSINESS

City Planner Greg Schindler introduced the city's new Planning Permit Technician, Jake Linck, and noted that he will be presenting tonight.

E. COMMENTS FROM PLANNING COMMISSION MEMBERS

Commissioner Steve Catmull gave a brief review of last week's Study and City Council Meetings.

Commissioner Laurel Bevans thanked Chair Hollist for attending the last Architectural Review Committee Meeting in her place.

F. SUMMARY ACTION - None

G. ACTION - None

H. ADMINISTRATIVE PUBLIC HEARINGS

H.1. CONDITIONAL USE PERMIT FOR A RESTAURANT USE IN THE COMMERCIAL-COMMUNITY (C-C) ZONE

Address: 3649 W South Jordan Pkwy #106

File No.: PLCUP202300047

Applicant: Rice King Express, LLC

Planning Technician Jake Linck reviewed background information from the Staff Report.

Chair Hollist asked about seating at the previous location.

Commissioner Trevor Darby responded there were maybe 10-12 seats, it was a small area.

Commissioner Nathan Gedge asked about the legislative item being discussed later in this meeting, and that if adopted, would it make this type of permit for this zone unnecessary in the future.

Staff responded in the affirmative.

Chair Hollist opened the public hearing for comments. There were no comments and the hearing was closed. She asked staff if the Peterson Condos in this center ended up being approved by City Council, and if so, what the density ended up being.

Planner David Mann responded that yes, it was approved for 20 units. Regarding the density, it depends on how it is calculated, whether it includes the entire property area which encroaches into the existing parking lot, or if it's just the undeveloped property.

Chair Hollist asked if any residents were noticed for this item.

City Planner Greg Schindler responded there were a few residents to the south who were noticed, but it was mostly the adjoining businesses.

Commissioner Darby motioned to approve File No. PLCUP202300047, Conditional Use Permit application, without conditions. Chair Hollist seconded the motion. Roll Call Vote was 6-0, unanimous in favor.

I. LEGISLATIVE PUBLIC HEARINGS

I.1. CUP Utilities Text Amendment

Planner David Mann reviewed background information from the Staff Report.

Commissioner Nathan Gedge reviewed the uses that would require permits, asking if a restaurant would include any business selling a food product, or if it had additional requirements like seating on the premises.

Planner Mann responded that typically there would be seating involved, and as noted in the Staff Report it is separate from review of a drive-thru, even it's an accessory use to the business.

Chair Hollist opened the public hearing for comments. There were no comments and the hearing was closed. Chair Hollist noted that the Rocky Mountain Power item was addressed right before she joined the commission, so she didn't hear about or vote on the item. She knows they want to save time and save residents from aggravation when things are legally allowed but those residents think getting enough people against it can stop it. She discussed a communication tower located in the Jordan Ridge Park, from about 15 years ago. She said that was the first time she ever came to a City Council meeting here, and a giant tower was being proposed where the layers would be sublet out to different companies. She doesn't know if the public turnout was what changed the decision on that, but ultimately the neighborhood didn't end up having to give up the basketball court or make exceptions to the offset rules, and something significantly smaller was installed. It appeared that allowing the public to weigh-in did have an impact in that situation.

City Planner Greg Schindler noted that at that time, it could have possibly also been that the code was changed with a limit on the height of the towers. That will never change, and if a company wants a tower to reach that maximum height, they will get that maximum height because of more Federal Regulations limiting what cities can do. Even if the city limits the height, the applicant is allowed to increase that height 10% each time. That has not happened yet here, as they just add more antennas to the existing tower until they are forced to erect a new tower nearby. Again, a site plan still comes to the planning commission for review with a public hearing, but unlike a conditional use permit, they are not discussing conditions of approval. In regards to the tower discussed earlier, it would not be allowed under the current code, and if proposed the applicant would have to apply for a variance.

Assistant City Attorney Greg Simonsen added that this subject was taken to the US Congress, which resulted in The Spectrum Act, and was especially applicable to cell phone towers. The industry basically convinced congress that local entities were taking too much time and giving them too hard of a time, especially allowing the co-location of different arrays on the towers. Ultimately, as indicated on 17.04.240 A8, Communication Towers, that was taken right out of

even city councils' hands. Our City Council enacted an ordinance saying that will be decided by staff, because this is so specialized and heavily regulated. Those tower applications will have to be addressed and approved or denied by staff, as that has to be done within 90 days or it's automatically granted. He recently read the latest FCC ruling interpreting part of the statute, which was 45 pages long, single spaced and small print. In general, this goes back to the discussion at the joint meeting, that there are some areas that where a conditional use permit is required, but they are ultimately deceiving people by implying that there is a chance for the democratic process to stop the application.

Chair Hollist asked if Attorney Simonsen felt that the categories outlined in the amendment are appropriate and represent areas that are defined, to the extent they can be, in our ordinances and appropriate to cease holding public hearings on.

Attorney Simonsen responded that he believes the ones before the commission tonight are, but he also thinks the commission should expect, as well as participate in and encourage the process in choosing the ones they don't want to see anymore or ones that they really want to continue seeing.

Commissioner Steve Catmull said that utilities are highly regulated in terms of noise, well-known harmful effects, etc. In addition, we have excellent staff and a well-functioning City Council, and anything that pops up will be addressed through the code. He just doesn't know what detrimental effects they might find that wouldn't already be covered.

Chair Hollist asked if these restrictions would apply to where easements exist, or if at city staffer can enact eminent domain as they see fit.

Planner Mann shared a few things to be aware of. In that section, where there are specific things crossed off, it does say at the very top that the City Engineer may approve. The City Engineer is the professional that would be familiar with what is necessary, in conversation with the utility companies, to make sure that things are suitable, meet the Federal and State Guidelines, etc. There are also separate chapters dealing with wireless and wind facilities, with specific guidelines laid out for staff to review with those applications. Regarding easements, if it's something where the utility company did need to enlarge an easement, they would have to go through that same process to purchase the property according to the law, and to reimburse the residents based on those laws.

Chair Hollist mentioned a section that mentioned only percentage of an area could be a restaurant zone and asked for more details.

Planner Mann doesn't know why there was a specific percentage noted in the office zone, whether it was due to a concern about restaurants taking over office zones and limiting office construction, but in the C-C zone offices are a permitted use. Offices or restaurants can be built there without any conditional use, but in the office zone for some reason conditional uses are applied to restaurants. He believes there have been enough examples with limited concerns in regards to solely restaurant uses to warrant that additional review with a conditional use.

Commissioner Gedge motioned to forward a recommendation of approval to City Council for the proposed Text Amendment. Chair Hollist seconded the motion. Roll Call Vote was 6-0, unanimous in favor.

Chair Hollist asked if this will be presented in the next City Council Meeting.

Planner Mann said no, they are holding off on taking this to City Council as there are still ongoing discussions between the city and Rocky Mountain Power regarding that project. Once that is finalized completely they can move forward. If any changes need to be made to this amendment, that would be brought back before the planning commission again.

Commissioner Gedge asked how long their recommendation on this will last, as their term ends at the end of the year and he wonders if that would change or end the recommendation with new commissioners potentially joining.

Attorney Simonsen responded that he doesn't know the answer at this time.

Planner Schindler doesn't believe there is an expiration date on recommendations, but he noted there is a CUP for the new substation coming to the commission and he's not sure how that would affect that approval either.

Commissioner Gedge motioned to add an addendum to the motion for File No. PLZTA202300054, that the recommendation of approval from the Planning Commission only stays valid until December 31, 2023, when the current commission's term ends.

Attorney Simonsen noted that he isn't sure of the commission's ability or right to cause their recommendation to expire by a certain date.

Commissioner Gedge withdrew his motion, but noted that it will still be in the minutes for City Council to review.

Planner Mann said this gives staff an opportunity for additional research, and added that staff would probably feel uncomfortable if there were six months to a year between the recommendation and going to the City Council. They would probably look into it before proceeding with the presentation, and the council might also ask for it to be reviewed by the commission again if it has been a while.

J. OTHER BUSINESS

City Planner Greg Schindler said the next meeting currently has two items scheduled, with one of those items potentially being related to the Rise Development.

Commissioner Aaron Starks will be out of the country for the next meeting and unable to attend.

ADJOURNMENT

Chair Hollist motioned to adjourn the April 11, 2023 Planning Commission Meeting. Commissioner Gedge seconded the motion; vote was unanimous in favor.

The April 11, 2023 Planning Commission Meeting adjourned at 7:11 p.m.

UNAPPROVED