

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
September 24, 2024**

Present: Chair Michele Hollist, Commissioner Laurel Bevans, Commissioner Steven Catmull, Commissioner Nathan Gedge, Commissioner Sam Bishop, City Manager Dustin Lewis, City Attorney Ryan Loose, City Planner Greg Schindler, City Recorder Anna Crookston, Deputy City Engineer Jeremy Nielson, Planner Miguel Aguilera, IS Systems Administrator Ken Roberts, IS Specialist Michael Erickson, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun

Others: Cheryl Diener, Jay & Dayle Sant, Dan Milar, Scott McKay, Elizabeth Oscheffsky, John Bess, Jim Kilstadt, Rob Fackrell, Marilyn Bashaw, Ivan Klonovich, Dale Zant

Absent: Commissioner Ray Wimmer

**6:30 P.M.
REGULAR MEETING**

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

Chair Michele Hollist welcomed everyone to the Electronic Planning Commission Meeting. She excused Commissioners Wimmer who was joining the meeting later.

B. MOTION TO APPROVE AGENDA

Commissioner Bevans motioned to approve tonight's agenda as published. Chair Hollist seconded the motion; vote was 5-0, unanimous in favor. Commissioner Wimmer was absent from the vote.

C. APPROVAL OF THE MINUTES

C.1. August 27, 2024 - Planning Commission Meeting Minutes

C.2. August 27, 2024 – Planning Commission Training Meeting Minutes

Commissioner Gedge motioned to approve the August 27, 2024 Planning Commission Meeting and Training Meeting Minutes as published. Chair Hollist seconded the motion; vote was 5-0, unanimous in favor. Commissioner Wimmer was absent from the vote.

D. STAFF BUSINESS - *None*

E. COMMENTS FROM PLANNING COMMISSION MEMBERS

Commissioner Nathan Gedge shared he will be absent the second meeting in October.

F. SUMMARY ACTION – *None*

G. ACTION - *None*

H. LEGISLATIVE PUBLIC HEARINGS

H.1. WHEADON ACRES LOTS 14 & 15A FLAG LOT OVERLAY REZONE

Address: 10537 S 3010 W and 10555 S 3010 W

File No.: PLZBA202400056

Applicant: Gordon Milar Construction LLC

Commissioner Laurel Bevans shared she is actively involved in both items tonight, being financially compensated for both. As a result, she recused herself from both items tonight.

Planner Miguel Aguilera reviewed background information from the Staff Report and his prepared presentation (Attachment A).

Chair Hollist asked some basic questions about the requirements for the R-1.8 Zone, which staff responded to. She then asked how this change would affect the density for the entire subdivision and the ability of others to subdivide in the future.

Planner Aguilera responded that Wheadon Acres currently has 53 lots currently with a gross acreage of 34.27 acres, making the density about 1.54 units per acre. With this potential addition, the density would be still be under the limit of 1.8 units per acre. He also discussed the fencing requirements and the adjustments made, asking for regular fencing in lieu of animal rights for these lots. Staff discussed the fact that future owners will be made aware of this on their title documents and the development agreement for the lots that would be available to them. They could file to change the development agreement in the future to get those animal rights, but that would probably require masonry walls to be erected at that time.

Commissioner Nathan Gedge asked if the lot size calculations being presented tonight include the new flag lot roads.

Planner Aguilera responded the “flag pole” is included in the property boundaries. The flag pole in green belongs to lot 103, flag pole in purple belongs to the other lot.

Commissioner Gedge asked about any potential water issues, and if there are, would those be affected if this property is rezoned to four lots from the current two.

City Planner Greg Schindler responded that any water right issues, regardless of a rezone tonight, would be a private issue between property owners.

Commissioners and staff briefly discussed ADUs and their potential in the future with this rezone. Planner Schindler noted that zoning code would allow for all four lots to have a detached or internal ADU, also commenting that ADUs do not contribute to the density in the subdivision.

Commissioner Steven Catmull noted that it was mentioned the zone overrides Title 16 requirements, asking if that was applicable to all requirements.

Planner Aguilera responded the requirements unable to be met by these lots under Title 16 was that they are not twice the size of the average lot in the subdivision; due to that, they are not eligible to be subdivided into flag lots under Title 16. This is the reason the flag lot overlay zone was created, to allow a mechanism, in limited cases, to apply. The applicants still have to meet the density and lot size requirements.

Commissioner Catmull noted in 2018 a section under Lots and Parcels was passed, in regards to flag lots, noting that it was not the intention of the title to subdivide along the street. He asked if the city had any conversations around that, noting that there was a comment received prior to the meeting talking about this being along 3010 West; would staff characterize this as subdividing a flag lot along an established street, and could others in the same locations do the same.

Planner Aguilera responded this does have a connection to 3010 W, which is a public right-of-way, so he was unsure how to respond to the question since flag lots do need to have a connection which this creates.

Commissioner Gedge asked if 3010 W was one of the roads prohibited in the past, but can now be connected to with frontage for a flag lot.

Commissioner Catmull read from the code (16.04.160.D Lots and Parcels) “It is not the intent of this chapter to allow the proliferation of multiple flag lots along a given street within a subdivision; or change the zoning or character of a subdivision.” There is no definitive answer, but there appears to be four or so properties along 3010 W that could become flag lots, which might qualify. He then asked staff if, in their opinions, this could be considered a proliferation of flag lots if there were four in the future along that road.

Chair Hollist discussed the property that prompted that change in the past, they were very deep properties which could all potentially be divided into three lots. It was discussed at that time why they don’t just prepare for that in the beginning and run an official street through the back property. If this is allowed, and they are meeting the requirements, the commission is limited in what they can do unless there is a mitigating circumstance.

City Attorney Ryan Loose responded there are two answers. One, it is intent language, which is not really enforceable. However, he believes they are looking at the wrong things, as this flag lot is coming in under Title 17, not 16. The Title 17 rezone is applying, not the Title 16 development

code. He then explained why this application is able to use Title 17 requirements and bypass some of the Title 16 requirements to legally do so. The commission is being asked tonight to decide whether or not to recommend the Title 17 requirements be applied to the property. The second part of this, which would have to be approved conditionally and prematurely, to decide whether or not to apply it if it meets the requirements. Essentially, the commissioners need to decide whether they feel the zone that allows flag lots should be applied to this area or not.

Chair Hollist invited the applicant forward, he had nothing to add to the report given. Chair Hollist then opened the public hearing for comments, noting there was a handwritten note received prior to the meeting but it was anonymous with no identifying markers, and as such could not be considered for this item tonight (Attachment B).

John Bess (Residents) – I am the water master for the area, so I do have questions on the water. There is a return ditch down the back of what is being called a flag lot, that needs to remain. There are eight water shares on those lots, and I would like to know where those shares are going, who owns them, what lots they are assigned to. I find that when someone new, who has never been around irrigation water moves in to our little subdivision, there is always these huge issues. The new owners of the property will argue with me that they don't have to maintain that little return ditch or water because they don't have water, and that's not true; they have to. It always becomes sticky and I try not to cause problems over there, I try to be friends with everybody, but it becomes a real issue. We do need to make a stipulation where that water goes, who owns them, what lots they are assigned to, and that return ditch needs to remain there. The other question I have is that Mr. Milar, when he told everybody was he was going to do with the lot, is not exactly what is happening here, so I'd like to know what the four houses are. Is this for rental properties, four houses that will be sold and individually owned, etc. Are the front homes being torn down.

Ivan Klonovich (Resident) – I'm a resident of South Jordan for about 83 years, and my question is I don't really care about the four lots, 3010 West is what I'm concerned about. Curb, gutter and sidewalk, we don't want it. The breakaway fence stays up, that's exactly what I am interested in. If somebody wants to subdivide their lot, so be it, but the majority of us want that road no curb and gutter, no sidewalk.

Elizabeth Oscheffsky (Resident) – I live not far from these homes, been here about 20 years. A couple questions I have are with the water, as John talked about. I am a water user, and we had someone come in who has a rental property just south of me and they do not maintain the ditch and they claim they do not have to. However, under the state title 72 they are legally bound to. I used to work for the Department of Transportation with the right-of-way division, if you are familiar with water, water rights, and water easement, then you would understand what Title 72 is, most people who move in have no understanding of what that means. It is like curb and gutter, you are expected to take care of your park strip. I grew up by Liberty Park most of my youth, if you have a park strip you maintain it, and that's no different out here. That is a bit of a concern for me. The other concern I have is in changing that property to four different homes and people start doing that, there is a lot of children in our neighborhood and it creates an increase of cars, with people already driving down there pretty fast. We have small children in our neighborhood, they are not always watched. We have had some come close to being hit and it is a bit of a

concern. We love having the breakaway fence, and I love that 3010 W does not have curb and gutter as most of us have ditches in the front of our property which is a problem when you try to install curb and gutter; how will I get water to my property, what do you maintain, etc. I would like to hear those two items get addressed. I would prefer not to have each subdivision, which is beyond our control, divided and subdivided because that means it is going to increase and get really messy with people coming in and out.

Dale Zant (Resident) – My husband and I live across the street from the property to the west and just slightly north. It really caught my attention when it was brought up that these might be able to be subdivided into eight properties now. What we understood was that this would be the four regular and flag lots, and that they were planning to build maybe one house in the back, not a great huge change in population. That is very scary to think that many people would be there, again with all the extra traffic that's not a real wide street, parking is a problem, or would be anyway. There are several of us neighbors who are quite opposed to even having the subdivision done because we weren't aware there was a change made in 2020 that subdivisions could be made, I am not sure why that wasn't brought up to the individuals who live there. That was always our understanding when we signed our contract to live there 38 years ago, that there could be no subdividing of our acre or half acre lots; we have an acre lot. I am just really concerned and hope you will consider all our feelings as well as what is best for the city, income, and all those sorts of things. There is lots of room to the west where people can move, we like to keep our little quiet street just as it is, because that's why we moved there to have a quiet place to raise our children and now our grandchildren, have our horse and other animals that we have had one kind or another of at some time. We would like to keep it the same as it is.

Chair Hollist closed the public hearing. She clarified that this is not a subdivision for eight properties.

Planner Schindler added that this does not automatically create an ADU on each property, but each lot will have the opportunity to have an ADU on their property if desired as they meet the minimum size and are in a zone where that is allowed. This proposal is creating two more lots, and an ADU does not create additional lots, just potentially adds an additional unit inside or outside the home. The ADUs are limited in size, are required to provide onsite parking, and have many other rules that must be met.

Chair Hollist asked staff to address the water questions and what is and isn't the city's responsibility.

Deputy City Engineer Jeremy Nielson noted that since this is private property, not city utility, the city does not manage it. When the city is made aware of it, they ensure the applicant is also aware, and when plans are submitted staff ensures there is a ditch there. That leads to the city requiring letters from the ditchmaster where needed to ensure communication is there, but ultimately those issues are part of a private system and the responsibility of the property owners.

Chair Hollist asked about the money being set aside in the development agreement for the curb and gutter improvements, is that something that will be done right away.

Engineer Nielson responded there is no timing on those improvements.

Commissioner Gedge asked if the two lots against the street were to develop now, would they be required to install things like the curb and gutter to today's standards, or could that be deferred for enforcement until the rest of the neighborhood decides to upgrade.

Engineer Nielson believes that could be deferred, and is up to the City Engineer's discretion. He also noted that 3010 W has about one car every two to three minutes during the peak times, which is a level of service A from city standards. With two additional homes it would probably still be in level of service A, and definitely still a quiet street.

Chair Hollist invited the applicant up, if willing, to share the plans for these lots to help ease neighbors' concerns.

Daniel Milar (Applicant) Sent an email prior to the meeting (Attachment C). He bought these two properties under different LLC's, but he owns both, at end of last year. His family lives just on the other side of crash gate in Bison Ridge, they really love the rural feel, his wife has always wanted it, and this was an opportunity for them to potentially build a home for themselves with kids in mind in the future. His wife's parents are here as well and they were looking for a way to create a setup where they can have options for places for kids and others to stay; that is their intent. He is also a builder, develops his own work and does his own building, but this is very much a personal project for him with very personal intent. If he was wearing a developer hat he would absolutely put in the fences and retain the animal rights because that would make the large lots more valuable. However, that is against what they want for the property, they want it to feel rural and open, to have those fences in-between contradicts the whole feel of the street. For the neighbors' information he pushed very hard to have the crash gate remain, he wants no curb, gutter or sidewalk; the whole feel is what they love about it and why they bought it in the first place. Their intent is to keep options for family purchasing in the future, and things like that, rather than trying to rely on an ADU and giving them something of ownership. They very much value the rural feel, want to take care of ditches, be good neighbors and maintain the look and feel of the neighborhood.

Commissioner Gedge noted this is the same zone, the R-1.8, since they are adding the flag lot overlay. From a zoning perspective it is not impacting any more, just allows the two additional units with the flag lots. There may be other novel ways to get additional lots in the future, but he is not overly concerned with the actual rezone change due to the addition of the flag lot overlay. The bigger concerns he has will be addressed in the next item, which he doesn't believe should be on the agenda tonight before knowing whether City Council is going to approve this application, especially with some of the concerns raised by the neighboring residents. He does wonder if it would be appropriate to table the next item because of those concerns, but he is in favor of forwarding a positive recommendation on this rezone with the addition of a flag lot overlay.

Commissioner Catmull noted that with the earlier comments, this is really about whether it is appropriate and compatible with the Title 17 Zone requirements. That doesn't guarantee a flag

lot will happen, but leaves that option open. He is in favor of forwarding a positive recommendation for the rezone.

Chair Hollist asked about height, but staff indicated that height limits of new developments are not subject to limitation by current neighboring homes, which are mostly ramblers according to public in attendance; they are only required to follow the residential code which allows for up to 35 feet. She noted that she is always hesitant to change the characteristic of a rare neighborhood like this, but the applicant looks like they have been conscientious with the placement of the homes, and with doing two together with a single driveway, and she is inclined to support this one with a positive recommendation.

Commissioner Sam Bishop noted his family background is rural and when picturing this neighborhood and what they have planned, he believes it is compatible with everything surrounding it.

Commissioner Catmull asked staff whether the standard of review on the subdivision amendment (the next item) is inclusive of the flag lot Title 16 requirements.

Attorney Loose would have to look into that more, and he was inclined to recommend the same things as Commissioner Gedge, that the subdivision amendment be tabled and reviewed in the future since the zone has not been approved by City Council.

Commissioner Gedge motioned the Planning Commission forward a positive recommendation to the City Council regarding approval of Resolution R2024-42, Approving the Wheadon Acres Subdivision Amendment Flag Lot Overlay Development Agreement, and Ordinance 2024-08-Z, Approving the Zone Change from Single-Family Residential R-1.8 to Single-Family Residential R-1.8 With the Flag Lot Overlay Zone for Lots 14 and 15A of the Wheadon Acres Subdivision.

Commissioner Gedge asked to ensure City Council sees the commission's concerns regarding height, setbacks, etc., before they discuss this in their meeting.

Chair Hollist seconded the motion.

Roll Call Vote

Yes – Commissioner Gedge

Yes – Chair Hollist

Yes – Commissioner Bishop

No – Commissioner Catmull

Recused – Commissioner Bevans

Absent – Commissioner Wimmer

Motion passes 3-1, with the no vote being Commissioner Catmull; Commissioner Bevans was recused for this item and did not vote, and Commissioner Wimmer was absent from the vote.

Commissioner Catmull explained that he has concerns with the rest of the zone and it's development, the circulation of the streets, and the potential for a proliferation of flag lots in the area to fill out that subdivision to its capacity.

I. ADMINISTRATIVE PUBLIC HEARINGS

I.1. WHEADON ACRES LOTS 14 & 15A SUBDIVISION AMENDMENT

Address: 10537 S 3010 W and 10555 S 3010 W

File No.: PLPLA202400055

Applicant: Gordon Milar Construction LLC

Commissioner Gedge recommended tabling this item for Council's approval, allowing for a more appropriate discussion in the future.

Commissioners and staff discussed potential outcomes of this item, including tabling it for another date.

Commissioner Gedge motioned to table Item I.1., Wheadon Acres Lots 14 & 15A Subdivision Amendment, to a future date after City Council's decision on Legislative Item H.1., Flat Lot Overlay Zone. Chair Hollist seconded the motion; vote was 4-0, unanimous in favor. Commissioner Bevans was recused from the vote, Commissioner Wimmer was absent from the vote.

J. OTHER BUSINESS

Bevans attended a North Logan Planning Commission meeting last week and with recent discussions about how South Jordan's Planning Commission meetings run, she was able to get some information from them on how they run their meetings and she brought that back for this commission to see (Attachment D).

Chair Hollist asked to add an item to the next agenda, discussion rules for 2025 Planning Commission meetings.

Commissioner Gedge noted that City Council asked the Planning Commission to review the discussion on short-term rentals from the last combined meeting and send their feedback to their elected representative.

Commissioner Bevans noted a discrepancy in a presentation from the combined meeting regarding short-term rentals, ADUs and how the city regulates them.

City Attorney Ryan Loose noted he would make those changes and ensure there were no other discrepancies.

ADJOURNMENT

Commissioner Gedge motioned to adjourn the September 24, 2024 Planning Commission Meeting. Chair Hollist seconded the motion. Vote was 5-0, unanimous in favor; Commissioner Wimmer were absent from the vote.

The September 24, 2024 Planning Commission Meeting adjourned at 6:54 p.m.

UNAPPROVED