

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
September 28, 2021**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Trevor Darby, Commissioner Steven Catmull, Commissioner Sean Morrissey, Assistant City Attorney Greg Simonsen, Assistant City Engineer Jeremy Nielsen, City Planner Greg Schindler, City Planner Damir Drozdek, Planning Intern Meadow Wedekind, IT Director Jon Day, GIS Coordinator Matt Jarman, Deputy City Recorder Cindy Valdez, Transcriptionist Diana Baun

Others: Alex Howland, Stephen Smith, Irwin, Michael Mecham, Glade Mumford, Claudia Mumford, Annette Brown, Kirby Kirkman

6:30 P.M.
REGULAR MEETING

I. WELCOME AND ROLL CALL – *Commission Chair Michele Hollist*

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

II. MOTION TO APPROVE AGENDA

Commissioner Gedge motioned to amend the September 28, 2021 Planning Commission Agenda by moving Administrative Item 8A and Legislative Item 9A, the Starbucks Drive-thru and Peterson Development items, to a future date; also to add to Item 5 additional citizen comments for anyone who came this evening to speak to items removed from this evening's agenda. Commissioner Morrissey seconded the motion, vote was unanimous in favor.

III. APPROVAL OF THE MINUTES

Commissioner Catmull motioned to approve the September 14, 2021 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion, vote was unanimous in favor.

IV. STAFF BUSINESS – *None*

V. COMMENTS FROM PLANNING COMMISSION MEMBERS

Chair Hollist opened up public comment for items removed from the agenda. There were no comments from the public, comments were closed.

VI. SUMMARY ACTION – *None*

VII. ACTION – *None*

VIII. ADMINISTRATIVE PUBLIC HEARINGS – *None*

IX. LEGISLATIVE PUBLIC HEARINGS –

**A. TEXT AMENDMENT OF CITY CODE § 17.54.170.A.3.
(AMENDING ARCHITECTURAL STANDARDS FOR
COMMERCIAL BUILDINGS UNDER 5,000 SQ. FT.)**

File No: PLZTA202100211
Ordinance No.: 2021-19
Applicant: Kirby Kirkman, HKG Architecture

Planner Damir Drozdek reviewed background information from the Staff Report.

Chair Michele Hollist asked if the Redwood Road Zone was the only zone in the city that has a mixed use (MU) zone designation right now.

Planner Drozdek said this MU is specifically tied to Redwood Road, there are other mixed use zones in the city but they are not tied to Redwood Road. This change would only apply to the Redwood Road zone MU zone.

Chair Hollist asked if there are any other locations along Redwood Road that this could apply to in the future, where there is at least one building over 5,000 square feet.

Planner Drozdek said that currently, no, however there are some vacant properties along Redwood that could be developed; he does not know what the current zoning is on those properties, they could ask for a zone change in the future. After review, there were no detriments found with the current proposal.

Commissioner Steve Catmull asked if the buildings have to be adjoining or near-adjoining.

Planner Drozdek said yes, they would have to be next to each other; when they say “part of the same development” they mean part of the same application.

City Planner Greg Schindler said the development is considered one application, you can’t have two applications for a development.

Planner Drozdek said that if they had an application come in that was adjacent to an existing development, they can't say they want to make themselves part of the existing development because they are adjacent to it.

Commissioner Catmull asked if this second building in this application had been 20 feet further to the left, would we still have allowed it.

Planner Drozdek said it would still be the same development.

Commissioner Sean Morrissey asked if the changes to the text amendment are now making it subjective, and does the Architectural Review Committee (ARC) now make the decision as to whether or not it's similar.

Planner Drozdek said that for any project in this zone there are no clear, set standards so they have to go to ARC; the majority of these commercial projects are going to be over 5,000 square feet and not be subject to this.

Commissioner Morrissey asked if there are clear, set standards for projects over 5,000 square feet.

Planner Drozdek said that no, for some reason this is much more strict than anything over 5,000 square feet. The plans are still sent to the Architectural Review Committee even if they're over 5,000 square feet.

Chair Hollist asked what authority the Architectural Review Committee has on a building over 5,000 square feet.

Planner Schindler said they actually have no authority, they are a recommending body only.

Chair Hollist asked to clarify that they make a recommendation to the Planning Commission, which is also a recommending body.

Planner Drozdek said the Planning Commission is the final say.

Planner Schindler said that yes, they are the final say, however the administrative body does not have the authority to have an opinion on what colors they prefer or things like that. The code does say what kinds of materials are required, that's the Planning Commission's job to make sure whatever is required in the code is being met.

Chair Hollist asked if that's just the durable materials, or if it's just generic.

Planner Schindler said that durable materials are listed in the code.

Commissioner Morrissey asked for clarification on what durable materials means.

Planner Schindler said it's pretty much materials that aren't going to weather and need to be replaced.

Planner Drozdek said this is now standard in the construction industry.

Commissioner Morrissey asked if there was a requirement in terms of what types of durable materials must be used.

Planner Schindler said that we no longer have a percentage requirement. The way the code is written, if you are over 5,000 square feet the requirements are very generic; however if you are under 5,000 square feet there are requirements for the roof pitch, how much stucco you can have, etc. Buildings over 5,000 feet don't have to abide by the stricter standards.

Chair Hollist asked how the Architectural Review Committee convinces a developer not to use shipping containers, for example, in construction.

Commissioner Morrissey asked what the point of the ordinance is if there is no committee that can stop them from building in a way we don't agree with.

Planner Drozdek said the majority of people who come to the city and want to do a project want to work with the city and staff. When they propose a building they ask the city how it should be designed and a general direction for how it should look. Most of the time the staff directs them to look at the buildings around them and to try to match what's around. When it is taken to ARC, they still want to work with the committee as well; if the ARC was getting out of line and making ridiculous demands it would be brought to the Planning Commission's attention. Most of the time, the builders and developers will make the requested changes and come back to show those to the ARC. If the ARC was to say they weren't in favor of a project, then the negative recommendation would move to the Planning Commission and no one wants to have a negative recommendation.

Chair Hollist asked if once it comes to them, as long as the applicant can prove they are using durable materials, they wouldn't have any authority to say otherwise.

Planner Drozdek said yes, unless they don't agree on the materials being durable.

Commissioner Morrissey still wonders what the point of the code is if no one can enforce it.

Chair Hollist said it is to have coordinating buildings.

Commissioner Morrissey said he understands why they are changing the text, to allow them to match, but why even have the ordinance at all if there is no governing body that can stop it. Even if we say we don't like something and suggest something else, the applicant can just do what they want.

Planner Drozdek said we do have general requirements such as height, but in terms of the type of roof or finish materials they tried that once and it was removed in 2002 to be replaced by the Architectural Review Committee.

Planner Schindler said they established the ARC to provide some level of guidance to work with applicants and help them match what the city wanted. There is one member of the City Council and one member of the Planning Commission on the ARC, along with architects and designers; we rely on everyone there to give staff guidance and recommendations to the Planning Commission. In 2002 they were finding that people didn't want to develop in South Jordan commercially because of the strict standards, but they still wanted to have a way to have nice looking buildings and this is what they came up with and it has worked so far.

Commissioner Catmull clarified that this is being proposed because there is a building that was changed from two story to one story, and now it falls under the smaller building rules which are stricter and would make the adjacent building not match the larger one, even though they are together. This allows smaller buildings to be matching and consistent with the larger ones around them.

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

Chair Hollist said this was brought to the Architectural Review Committee and they were in favor of it and like the idea of coordinating buildings when we have larger ones not being held to the same design standards; they forwarded a positive recommendation.

Commissioner Darby motioned to recommend approval of text amendment 17.54.170.A.3, amending design standards for commercial buildings under 5,000 feet. Chair Hollist seconded the motion; Roll Call vote was 5-0, unanimous in favor.

B. MUMFORD REZONE - REZONE FROM A-5 (AGRICULTURAL, MINIMUM 5 ACRE LOT) TO R-1.8(SINGLE-FAMILY RESIDENTIAL, 1.8 LOTS PER ACRE) ZONE

Location: 972 West Shields Ln.
File No: PLZBA202100220
Applicant: Tina Franco, Howland Partners

Planner Damir Drozdek reviewed background information from the Staff Report.

Chair Michele Hollist asked the size of this piece of land.

Planner Drozdek said the piece they are trying to rezone is about 0.6 acres.

Chair Hollist asked Assistant City Engineer Jeremy Nielsen if he had any concerns about the grade of the attached entryways or the entrance for this subdivision.

Engineer Nielsen said they have reviewed everything and it meets the requirements for access to Shields Lane. They will look at the detailed design to see if visibility is an issue, but the preliminary paperwork meets the city's requirements.

Chair Hollist asked at the point where the private road meets Shields Lane, is it as wide as a regular city road would be.

Engineer Nielsen said that it will be 26 feet wide instead of 28 feet wide, but the Daybreak roads are 26 feet so it meets the city's requirements. The percent slope also meets the city's requirements even though it is a private road, it doesn't exceed a 10% grade.

Chair Holist asked if the grade going into the parking lot across the road meets the city standards.

Engineer Nielsen said it may not, it is very steep.

Commissioner Nathan Gedge asked Engineer Nielsen if he had any concerns with the traffic light at 1000 W, especially because it gets really busy during morning and evening commute times.

Engineer Nielsen said traffic from the subdivision should be minimal and shouldn't cause any delay on Shield's Lane, it would be more of a delay for those living in the subdivision.

Commissioner Gedge said he's assuming with the hammer at the end that snow, trash collection and fire can be adequately covered.

Engineer Nielsen said that snow removal will be done privately since it is a private lane, garbage removal will also have to be determined because it's a private lane and he's assuming the residents won't want to push their cans up the slope to Shield's Lane.

Commissioner Gedge said that since this will abut the Jordan River Trail, he wants to make sure when this gets to the next phase there is proper fencing and security to prevent people from hopping the trail to go into these private residences.

Commissioner Steve Catmull asked if there are standards for lining the two sides of the road up. He doesn't anticipate a lot of traffic from this neighborhood.

Engineer Nielsen said this certainly isn't ideal and isn't the way they would have done it if given the option. If this was a collector street this would not happen, but with such a low volume, private access, and a fairly low volume trailhead across the street it is the best that could be done.

Chair Hollist asked if the land east of it is part of the Jordan River Parkway, or who owns it. Could they potentially be seeing more development just east of this new subdivision.

Assistant City Attorney Greg Simonsen said he thinks most people are familiar with the property and its proximity to the Jordan River Parkway, he envies the people that will end up living there. The law prefers that people settle their differences and he suspects the Mumfords would rather

come in from the north, there is a lot of engineering things that would make that the easier option. The history as he understands it is complicated and he doesn't have an opinion one way or the other, but this is a compromise that is probably more expensive and is following that maxim in the law to try and settle differences rather than go to court. He thinks all the questions that have been asked are appropriate, but also wants to make sure the commission is aware that we have applicants here that are trying to develop a very beautiful piece of property and trying to find the best alternative they can within the confines of the law, even though it's going to cost them more money.

Chair Hollist opened the hearing to public comment.

Gary Howland (Applicant) said he appreciates what Attorney Simonsen said, they would rather not be here this evening and he will not go into details as it will only muddy the water, other than to say the Mumfords are the reason that Lazy Water Cove is there. He was the developer of that, he was asked to come in and fix it for the owners that were developing that. The subdivision had been stopped because it exceeded the 600 feet that was required by the city, so the houses beyond 600 feet had to be sprinkled. In order to make that development happen they needed access through the Mumford's property to be able to take the sewer, power, and all the other things otherwise that development would have never happened. The Mumfords were very cooperative the entire process, even though they were bringing power and sewer lines through their property, so long as they put the property back in the pristine condition it was when they started. One of the promises that he made to the Mumfords personally was to assure them if they wanted to develop their property in the future, that would not be taken away from them by agreeing to allow the subdivision that was done. He is here as the developer keeping his word to the Mumfords because the homeowners that are just directly to the north of them violated certain easements which precluded the road from coming in there and would have been hundreds of thousands of dollars cheaper than what the Mumfords are spending now. They hope that this gets approved on the rezone and they have been working as closely as they can with the staff, Engineering, anybody they can. They have had to buy additional property from the woman on the hill with the octagon house because they needed to move the road in such a position where they can get the grade correct. At this point, they have done everything they possibly can to make this a great subdivision. Certainly it would be better if it was a public subdivision with public streets. The homeowners that do end up living here will end up having a tremendous HOA. The homes that will be built here will be such that those who choose to move in here will be able to afford to maintain and keep this beautiful place, also to make sure that everyone's concerns about the grade of the road and everything else is addressed. He is happy to address any concerns anyone has and knows Mr. Mumford also has something to say.

Glade Mumford (Applicant) said he has a few things he'd like to say that will help everyone understand the history of what's going on here. He has tried to make it brief and not too specific, and he realizes a lot of this pertains to the city years ago, and has nothing to do with everyone here now other than everyone now has the same responsibilities as they did; he asked staff and the commission to not to take this as a personal assault on them. Forty-two years ago they moved from Sandy City to South Jordan, Sandy would not give them a building permit on the land they owned as it didn't fit into their master plan; today there are apartments there. They purchased a lot on a quiet dead end of Shields Lane. Two and a half years later, working after work and on

Saturdays, they finished their home and started on the unattached garage. South Jordan stopped construction saying they needed a permit, even though they had already purchased one for the house and garage from Salt Lake County, who did all the inspections. This was the start of frustrations they have had with the city and some of the things that have gone on there. They have had theft, vandalism, trespass, pot growers, vagrants, deer, quail, raccoons, skunks, all the things that come with home ownership. The city dug up their water meter twice, not realizing they had irrigation. The city has put large dumpsters in front of their property for South Jordan cleanup week and they had garbage all over their property that they had to clean up. Shields Lane was extended to Sandy, a sewer line was put through the middle of their lower property. The Jordan River Trail switched from the east to the west side of the river. In 2013 their property was going to be permanently landlocked by West River Estates and Lazy Water Cove subdivisions. In city council meetings they spoke out against these developments because they would land lock their property. The city was finally on their side, he asked for an easement on their property for a road to develop their property in the future. In that same meeting they were awarded an easement and the city specified what the road should be, a 43 foot easement, 35 foot pavement, curb, gutter and sidewalks with utility strips; it would become a city street. The developer was required to cement a sign in the easement to inform any new property owners that the easement was for a road for the future development of the Mumford Property. All was well until they were asked to allow an eight inch water line to go from Shields Lane to Lazy Water Cove to provide a closed water loop, then everything was going well again. In 2017 two homes were allowed to ignore the city code requiring a 10 foot setback, they built on the easement lines putting walls, fences and trees on the easement and blocking the use of the recorded easement. When they informed them of their intention to develop their land, using their easement, they did not cooperate; they have used lawyers and court injunctions to stop them from ever using the easement for its intended purpose, to develop their land. They did offer to buy two acres for much less than one quarter its value to abandon the easement; however, they would still have to have the easement intact to provide access to the remaining one and one-half acres. They tried mediation, the city was willing to adjust the requirements of the road making it a private road and they offered that it would be a 20 foot road, plus they would give the home on the east side a 20 foot parking strip along the south line of their property; an offer to buy the home was also made. During the official mediation meeting they offered nothing. One of the homeowners acknowledges seeing the sign, the other repeatedly said he had never seen the sign but pictures of his home being framed clearly show the sign in the easement. These are the things that bring us here, to try and get a different access to their property for development, trying to avoid a lawsuit which would require them to modify the two homes to meet the code requirements. For over a year now, with much work and money, with much frustration, with the cooperation of city officials being willing to talk and discuss these things with them, and with the goodness and integrity of Gary Howland and his staff this plan has been developed for the commission's consideration and hopefully approval.

Chair Hollist closed the public comment portion of the hearing.

Chair Hollist asked about the history and how an easement like this is overlooked with a site plan.

Planner Drozdek said the access easement was about 40 feet wide, setbacks are measured from property lines and our side property line setback is 10 feet; that gives you 20 feet between homes, that obviously isn't enough for the easement. These builders decided to put these homes right on the edge of the easement on both sides, so now these two existing homes are sitting on the edge of this access easement and if it were ever to be constructed the home would be sitting right on the edge of the roadway or driveway. It wasn't a mistake in setbacks, those homes were pushed outside of the setbacks right to the edge of the easement; the city has no power or authority to make them move even further away from the easement. The easement was a certain amount of feet from the property line and as long as they are outside of that setback line they can put the house right on the easement edge if they choose to do so.

Chair Hollist asked why the road wasn't just built as a dead end all the way to the end at the same time the rest of the road was built.

Planner Drozdek said he doesn't remember what the reason was. It was recorded on the plat as an access easement but he doesn't know why it wasn't built at the same time.

City Planner Greg Schindler said he doesn't know why it wasn't constructed because all that was recorded on the plat was an easement, it wasn't a requirement that the driveway had to be constructed by the developer at that time.

Chair Hollist said there are so many places in the city where an intention to develop further is in place and you go up to a fence where it's marked "future road," we see it all the time.

Planner Schindler said that is when there is an actual road that ends. If this cul-de-sac had actually gone all the way down to a public street then they would have the road, but there was a sign put up at the end of the easement. He doesn't believe it was a requirement of the developer of those properties to pave that easement, that was probably being left for the Mumfords to do when they developed the property. It's unfortunate the two homeowners there put their homes right up next to the easement so they would have issues with traffic going right past their house within a foot or two. The easement was put there for the benefit of the Mumfords, so if they weren't going to develop yet then having a paved access to it wasn't required.

Planner Drozdek said he thinks he remembers that it had to go to city council for that project to the north to happen because they exceeded the city requirements for cul-de-sac length, they needed an exception to the rule and he thinks they may have presented this plan with a cul-de-sac for the subdivision to the north. He believes the city council granted the exception, with the exception that they provide some type of access to the Mumfords in case of future development. He thinks the access might have been a compromise in case they develop the property in the future, but the city wasn't going to pave it.

Commissioner Catmull asked if in the Staff Reports they have any applicable easement information, does it show any easements on the site plans that are included in the Staff Report.

Planner Schindler said that in general the Staff Report documents should show any easements on the property, but they wouldn't be marked for a rezone; this is something that would be seen on the subdivision plat.

Planner Drozdek said the subdivision plat is going to show any easement, they are not going to sign or record the plat unless all the easements are shown. Site plans, or possibly utility plans, would also show any improvements such as roads, curb, gutter and sidewalks. All those documents are always included in the packets for a subdivision or site plan.

Mr. Howland said this started when the development of the land to the north was at a standstill, and it goes back to what Planner Drozdek talked about where the city council had denied the completion of the subdivision pending a resolution relative to passing an ordinance that would exceed the 600 feet.

Planner Drozdek said that from the nearest intersection the longest a road could go to a dead end is 600 feet.

Mr. Howland said that when his company got involved he had to acquire the people's property, the Jones', so they could get the road back there. He did approach the Mumfords to acquire their property to complete the entire development at that time. They were pleasant and wonderful to deal with, however they indicated at that particular time they were not ready to develop their property. At some future time when they would like to develop their property, they didn't want to give up the right to that development. As they met with staff, and through city council, it was through that whole process that it was determined anyone 600 feet past the roadway had to sprinkle their houses; this was another \$10,000 - \$15,000 per home. One of these homeowners, as part of this whole thing, refused to sprinkle his home. Mr. Howland didn't know what ability the city has to enforce rules that are set up for homeowners. One of the homeowners that violated this easement refused to sprinkle his home and did not do it. When he approached the Mumfords to acquire their property they were kind, nice, said he hadn't been pushy, but that they just weren't ready to sell. They did not want to give up their future right and he needed them to sign off and agree that they could bring the road back that far, and that at a later date when they wanted to develop the ground they would have access through that road. Putting up the sign was a condition set forth by the planning commission, they have drone footage of the sign being there while the homes were being built, and then it was taken down. They met with the city and they told them to go put the sign back up, so they put the sign back up and it was taken back down; that's when all of this started to get ugly. The Mumfords are just now at the point that this is their retirement, this is what they have now as Mr. Mumford is no longer working. He is not making any money developing this property. A lot of people don't believe that, they just think Gary Howland is in here trying to develop a piece of property, and that's not the case. His company is developing this property, however the only thing they are being reimbursed for is the actual costs of the construction to develop it including the road, curb, sewer and gutter. He doesn't own the ground, they aren't taking possession of the ground. As the lots sell the Mumfords will be selling the lots to the people interested in buying the lots. They are just now ready to develop the ground because it is their only real source of retirement income that they are looking for. Mr. Mumford wants to make sure that if something were to happen to him, his wife would be taken care of. Why did they do it as a cul-de-sac? Because they asked Glade and Claudia Mumford when they

saw themselves developing this and they said not for some time. At the time, they were planning on serving an LDS mission and some other things like that, so that's why the cul-de-sac was put in. This is why the sign was put in, the easement was put there, and that's how it was done.

Chair Hollist said she still wasn't understanding his role; as the developer, couldn't he have foreseen that these homes were too close to the easement to have a viable road.

Mr. Howland said he was gone, he didn't buy any of the lots, he only sold them. All of the lots that he owned in the circle were sold to Taylor Built Homes; they sold them to someone else and he thinks one of the owners at the end of the cul-de-sac bought from Taylor Built, but the other may have bought from someone else who purchased it and then resold it.

Chair Hollist asked if, as a developer, he felt comfortable with the experience and knowledge that he had to sell this as a cul-de-sac, that there would really be enough room to go through in the future.

Mr. Howland said people see and read the plats, one of the two owners is an attorney.

Chair Hollist said she is asking him as the expert, he is a developer and he has seen tons of developments, did he really think there would be sufficient room.

Mr. Howland said there is absolutely sufficient room. All they needed to do was on the one home, flip the garage to the other side and push the home back 10-15 feet at the most, same with the other one push it back 10-15 feet; there would have been more than adequate room for that road to go through. They brought the homes as far forward as they could bring them, they put the garage on the wrong side of where the easement was, and had they not done that and switched the garage from where it was in the first place and pushed their home back 10 feet there is no way there would have been any issue or problem whatsoever getting a road through the end of that cul-de-sac down to develop this ground.

Chair Hollist asked why he made a personal promise to the Mumfords during this development if he wasn't going to stay around and ensure it was carried out. This is where she is concerned, she is not the development expert, he is. She's wondering why he didn't stay with the project long enough to ensure that it had the right protections to guarantee that.

Mr. Howland said he did, the easement was recorded on the plat. This has been verified by Planner Drozdek that it was on the plat.

Chair Hollist said that she is being told that the plat hasn't been violated, that they are allowed to go as close as they did.

Mr. Howland said that what Planner Drozdek is telling him tonight is news to him, that they are allowed to build right up to the property line. He has done Spratling Woods, he's doing another one also.

Chair Hollist said Spratling Elms is an interesting one as well, they are having some issues there with a double frontage lot.

Mr. Howland said Spratling Woods is over on 2200 W, the one that has the dead end and second easement. His project is the one that goes in just past that with a cul-de-sac.

Chair Hollist asked if it was the one with a double frontage off the back of that circle and then a frontage off of 2200 W.

Mr. Howland asked if she was referring to the easement in the back. He confirmed there is an easement in the back, he asked if there is a problem with that.

Chair Hollist said they have seen other developments where they have been told you can't have a double frontage, so she's confused by the way easements are being handled in these applications. That one is unrelated so she asked to move on and not discuss it any further. She is just concerned because they want to avoid a confusion like this happening again, but she would argue that he is the development expert and she would hope that he, out of anyone in this scenario, would have been able to guarantee a sufficient easement.

Mr. Howland said they did, the easement was recorded and it was on the plat. The homeowners, when it was laid out, should have laid their homes out correctly so as to make sure the home did not violate that access that the Mumfords were given to their property; they did not.

Planner Schindler said the easement is still there, and it's still the original 40 feet wide, however the problem is that one of the homeowners, the one to the east, has put their driveway over the easement. He thinks it has come down to a legal battle and it has nothing to do with the city, the commission, or anyone else now. If the Mumfords and Mr. Howland were to go in and pave that easement, because that's what it's there for, there is a legal battle going on between them and these homeowners. He thinks they feel this is the better option, to do what they're doing tonight rather than fighting with those two homeowners regarding that easement. It's really unfortunate that they met the letter of the law with where they put their homes. Neither of them are in the easement, but it's unfortunate because if they did pave it they'd have a roadway within a foot or two of the side of one house, and the one to the east would have the road right over their driveway and would be unable to park a car there.

Chair Hollist said this isn't the issue tonight, it's in the best interest of all parties to find a resolution.

Attorney Simonsen said he can't emphasize that enough. He honestly doesn't know, and none of us know, who's right and who's wrong. The one thing he can testify to, having done 30 years of high stakes property litigation, is that it is expensive and you have to at some point stop and ask if your money is better spent continuing to pay these monthly bills that you're getting from the attorneys, or swallowing your pride and finding another alternative, even if it's more expensive. He hasn't spoken with any of the parties specifically about this case, but he knows about it peripherally and he does know a lot about how litigation goes. He suspects when they walk out of the meeting tonight they're going to look at him and say "that's exactly right," but we'll see.

It's unfortunate, he thinks with every litigation you can look back and say "if only we had done this," had you done things just a little different you wouldn't be where you are today. Attorneys are like an auto mechanic, you can pay them up front a little bit or pay them a lot later. He doesn't know what happened here and he's not trying to place blame on anybody, but something went awry and here we are.

Commissioner Catmull asked if one of the structures was in the easement, would that still be resolved by a lawsuit, or would that be handled differently.

Attorney Simonsen said it would still be a lawsuit, maybe the cause of action would change and it would possibly be trespassing because it's on the easement.

Commissioner Darby motioned to recommend Rezone Ordinance No. 2021-09-Z. Commissioner Morrissey seconded the motion; Roll call vote was 5-0, unanimous in favor.

**C. TEXT AMENDMENT – AMENDING SOUTH JORDAN CITY
MUNICIPAL CODE SECTIONS 17.08.010, 17.18.030.030, 17.30.020,
AND 17.40.020 REGULATING RESIDENTIAL ARCHITECTURAL
STANDARDS AND SECOND KITCHENS**

Ordinance No: 2021-20
Applicant: South Jordan City

Planning Intern Meadow Wedekind reviewed background information from the Staff Report.

Commissioner Steve Catmull said Meadow did a great job on this.

Commissioner Nathan Gedge said he saw this was approved by the legislature on May 28, which he assumes was a special session; he asked if this was due to the current housing crisis, or is there another reason why this was pushed through at that time.

Assistant City Attorney Greg Simonsen said that per the City Attorney, Ryan Loose, this came through the bill that you can't regulate the type of rooms. Apparently in this committee meeting someone brought up they had a friend who was a gourmet chef, and he wanted five kitchens. He asked why can't he build five kitchens in his home; the cities shouldn't be regulating that. What we're seeing more and more of is developers who work with different cities and they run into what they consider a "problem city," where they say the city is stopping them from building a home with five kitchens, tin foil siding, or whatever it is. They have found it effective to go to the legislature, who then comes down and tells the cities they can't regulate the siding or kitchens or any number of other things. We have no choice but to comply with state law, and that's what we're trying to do here.

Commissioner Gedge said it looks like we're mandated to implement this. He asked if it's written that there is a certain date that cities must implement these standards, or can we stretch it out and do this at a later date.

Attorney Simonsen said that Meadow has done an amazing job on this and he wanted to make sure everyone knew that she has done the majority of the work on this.

Intern Wedekind said in the bill, she is not aware of any language related to when it should take effect, she just knows the bill went into effect on May 28 of this year, when the governor signed it, so she'd assume that everybody is just out of compliance at this point and needs to come into compliance as soon as possible.

Chair Hollist said that a builder who knows what the new state law is could call the city out if they didn't come into compliance with their code.

Commissioner Gedge said reducing the minimum main floor size to 1,000 square feet is small, he's wondering if there's even any type of appetite for having that size of home in South Jordan.

Planner Schindler said in South Jordan the bigger the home they can build, the more money they make. He thinks in reference to the housing crisis, the change to the 1,000 minimum was for that, to help with affordable housing; they'd have to turn around and require developers to build so many of those and builders don't want to do that, they want to make as much money as possible.

Commissioner Gedge said he now knows which Town Halls he'll be attending with our local elected officials.

Planner Drozdek said he's had calls about mobile and manufactured homes in the city. He said we don't prohibit them, but since we had all those architectural standards it makes it financially unfeasible to do one here. With these standards being gone now it makes it easier to have a manufactured or mobile home.

Commissioner Gedge said that he assumes because you're spending so much for the lot, that's probably going to dictate what you build there.

Planner Drozdek said there are some meets and bounds properties in the city that are not as expensive as a subdivision lot.

Commissioner Catmull said he knows we have a maximum lot coverage, but asked if we have a minimum lot coverage. If there is a spot where we are out of compliance with the new code, it will be found by an application.

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

Chair Hollist said the Staff Report echoed how she feels, that the state should allow the cities to have a little more localized control to decide how they want their city to look and feel, that a one size fits all is not always the best.

Commissioner Gedge thanked Meadow for her hard work on this.

Commissioner Gedge motioned to recommend approval of Ordinance 2021-20, amending City Municipal Codes 17.08.010, 17.18.030.030, 17.30.020, and 17.40.020 regarding residential architectural standards and second kitchens. Chair Hollist seconded the motion; Roll Call vote was 5-0, unanimous in favor.

X. OTHER BUSINESS –

Chair Michele Hollist will not be available to attend the last meeting in October, she will reach out to Commissioner Peirce and asked Commissioner Nathan Gedge to conduct that meeting.

Commissioner Gedge said they will make sure the notice for the item removed from today's agenda is noticed in time.

City Planner Greg Schindler said that both items will be re-noticed for obvious reasons.

Assistant City Attorney Greg Simonsen offered his own explanation of what he thinks happened with the noticing. He looked at the noticing statutes for land use regulations and you have to have 10 days notice when you are having a public hearing; however he didn't ever really notice that if you have a public meeting, rather than a public hearing, you can just do what's called a Courtesy Notice, and it only requires 24 hours to do that. We all knew that when this came back up it would be opened back up for a public hearing, so they specifically said in the motion that they would continue it for another public hearing. It is his understanding that somebody in the Planning Department had it in their head that we'd had the public hearing and this would just be a public meeting, therefore they had the shorter courtesy notice go out. After that, they received an email from a citizen who complained loudly and everyone went back to look at the wording of the minutes, which specifically said a hearing. That's when they said they'd better pull it and give the longer notice.

Commissioner Gedge said the original meeting was in May, with the public hearing that was properly noticed. They heard the public comment and they closed that public hearing but continued that item which was still a part of that public hearing to a future date. Do they need to have a motion to re-open public comment the next time it's heard.

Planner Schindler said once they've closed the public hearing the comments portion is closed. However, if the commission hadn't of motioned that they were going to re-open the public hearing at the future date there would not have been a public hearing. That said, they could have allowed people to speak, but because they specifically stated they were tabling it and there would be another public hearing, that's what should have triggered the notice of 10 days. The planner had forgotten that was the motion since it had been three months, so he just did the courtesy notice.

Commissioner Gedge asked if they will be presented with an all new Staff Report with the applicant coming back. That would be a good time to allow the applicant to share their side and allow a public hearing. He's just wondering if they need to reopen the public hearing from May, or do they just open the public hearing for that day.

Attorney Simonsen said that based on the motion that was made, after reviewing the minutes, the motion was specifically that they would bring it back for hearing. They could give the public meeting notice with the short time and then change their minds when they get there, but they already indicated in the motion that they were going to do a public hearing.

Commissioner Gedge asked how anybody else would have been aware, other than them making the motion this evening, that they were pulling the items from the agenda. He expected way more people to be there for those items before they were removed.

Planner Schindler said he thinks it's because the gentleman is part of a larger and organized group, and he let them all know so they didn't come. If they weren't that organized they would have seen a few people here.

Chair Hollist said that if it was something she was interested in, every time it's tabled and every time the applicant made changes, she would hope that she would be given an opportunity to rebut.

Attorney Simonsen mentioned Commissioner Peirce and that they may want to check his training and the timeline since one of the requirements for new members is for them to have the general training before they sit, even though he's not new.

Planner Schindler said he had training last year, it was at a study session where they had dinner brought in, and he attended that right after the election of 2020. He also pointed out that with the easement issue earlier, it wasn't the developer's fault, it was the builder's; the builders didn't violate the code, but they certainly violated the spirit of it in regards to what that easement was meant for.

Commissioner Gedge asked if when the plans are submitted, do they ever look at the easements and how close they are to the property lines.

Planner Schindler said it is the planning staff that would look at that, and like Planner Drozdek said, he was probably the one that reviewed it since he was over that subdivision at that time. He looked at it and probably noted that setbacks are measured from the property line, so they meet all the setbacks. They don't allow anything to be built in an easement without easement clearance, but they weren't building them in the easement so they had no reason to get an easement clearance. There was nothing the city could have done to stop what happened.

ADJOURNMENT

Commissioner Gedge motioned to adjourn the September 28, 2021 Planning Commission meeting. Chair Hollist seconded the motion, vote was unanimous in favor.

The September 28, 2021 Planning Commission Meeting adjourned at 8:11 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez

This is a true and correct copy of the September 28, 2021 Planning Commission minutes, which were approved on October 12, 2021.

**Cindy Valdez
Deputy Recorder.**