

CITY OF SOUTH JORDAN
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
JUNE 25, 2019

Present: Commissioner Sean Morrissey, Commissioner Julie Holbrook, Commissioner Michele Hollist, City Planner Greg Schindler, Deputy City Engineer Jeremy Nielson, Staff Attorney Todd Sheeran, Planner Drew McDonald, Deputy Recorder Cindy Valdez.

Absent: Commissioner John Ellis, Commissioner Earl Jolley, Commissioner Michael Haynes

Others: David Pearson, Scott Murdock, David Lyman, Scott Withers, Melissa Shelton, Raine Kelly, Ryan Warner, Sydney Shelton

6:30 P.M.

REGULAR MEETING

I. GENERAL BUSINESS

A. Welcome and Roll Call

Acting-Chair Julie Holbrook welcomed everyone present. She noted that three of the Commissioners are present, and Commissioner John Ellis, Commissioner Earl Jolley, and Commissioner Michael Haynes are excused from tonight's meeting. Commissioner Holbrook will be the Acting-Chair, because Chairman Jolley, and Vice-Chair Ellis are absent.

B. Motion to Approve Agenda

Commissioner Hollist motioned to approve the Agenda for June 25, 2019 Planning Commission Agenda. Commissioner Morrissey seconded the motion. Vote was unanimous in favor. Commissioner Ellis, Commissioner Jolley and Commissioner Haynes were absent from the vote.

C. Approval of the Minutes from the Meeting held on June 11, 2019

Commissioner Morrissey motioned approve the June 11, 2019 Meeting Minutes were approved with changes. Commissioner Hollist seconded the motion. Vote was unanimous in favor. Commissioner Ellis, Commissioner Ellis and Commissioner Haynes were absent from the vote.

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. Staff Business

City Planner Greg Schindler said a date for the joint City Council and Planning Commission Meeting has been scheduled for the City Council Work Session on Tuesday October 1, 2019 at 4:30 p.m. That date could change if one comes up sooner, but that is the date scheduled at this time. The topic for the meeting will be the General Plan. We can have the consultants for the General Plan come to one of your meetings and give you an overview of the General Plan if you would like them to.

Acting-Chair Julie Holbrook said I think that we would be in favor of having them come and give us a presentation.

City Planner Schindler said I will let Steven Schaefermeyer know so he can schedule a presentation on the General Plan for one of your upcoming meetings.

City Planner Schindler said, they are getting ready to put out the draft chapters of the General Plan so they can get public comment, but before that happens we would like to make them available to the Planning Commission to view. I will just need you to let me know what format you would like them to be sent to you in, we can send them in a word document, drop box, or whatever works best, so send me an email and let you know how you would like them sent to you.

Staff Attorney Todd Sheeran said, as you know Rocky Mountain Power applied to upgrade one of their power lines. It came before the Planning Commission and they asked you to approve the conditional use permit. We had one condition with that conditional use permit that the residents appealed. The basis of the appeal was that the Planning Commission should have been required to put on more conditions, based on some of the arguments they made. We had the hearing with the administrative judge, and our hearing officer Craig Hall. We received the decision letter from Craig Hall, and he ruled with the City upholding your decision with the condition that you imposed. If you have any questions, I would be more than happy to answer them.

Acting-Chair Holbrook said that was a very sensitive topic and we all felt the passion from the citizens, I think we tried to be as compassionate and as legal as possible.

B. Comments from Planning Commission Members

None

III. CITIZEN COMMENT

Acting-Chair Julie Holbrook opened the Citizen Comment Period to comments. There was none. She closed the Comment Period.

IV. SUMMARY ACTION

None

V. ACTION

None

VI. PUBLIC HEARINGS AND POTENTIAL **ADMINISTRATIVE ACTION ITEMS

**Administrative Action = Less Discretion, Substantial Evidence (Objective Standard)

**A.1 Issue: CHIPOTLE RESTAURANT WITH DRIVE-THROUGH
SITE PLAN
Location: 3788 West 11400 South
File No: PLSPR201900433
Applicant: Dave Pierson**

City Planner Greg Schindler reviewed background information on this item from the staff report.

Acting-Chair Holbrook opened the Public Hearing to comments. There was none. She closed the Public Hearing.

David Pearson, SLC – said I am with Galloway an engineering firm here in Salt Lake City, and I am here tonight to represent Chipotle. I am not sure if Planner Schindler pointed out in his review that this will be a long-term lease, and we finally have some activity on this piece of ground, so thanks to the City Staff, as well as the Commissioner's. I am here to answer any questions that you may have for me.

Commissioner Hollist said it looks like there are some parking stalls to the north of where your entrance is, and the drive thru is also there, do you ever anticipate the drive thru backing up, and if so, do you have the que clearly marked so they know where to go.

Mr. Pearson said yes that could be an issue. If you would like, we could add a condition before the building permit is issued stating that we can bring the traffic further into the site and not have the cars stack in there. I think there is some room to put some gentle suggestions in place. I don't think there is any room for mechanical controls, unless you think there is something.

Scott Murdock (Chipotle) – said our average transaction times at the window would be 10 to 15 seconds. We have an app that is evolving and ever improving. This is a primary focus regarding enhancement. We also did a national study that we just recently received results on, and during peak volume at our busiest site, we had a que of five cars.

Acting-Chair Holbrook said I assume these are paid for orders, and they are just there to pick them up. They will not be paying at the window.

Mr. Murdock said that is correct. The orders will be placed through a phone or a tablet based app, or you can also place it through a website. There is also another built in feature. If you can see where the lane bulges out, that is for the customers that did not anticipate having to pre-order and have not ordered yet. We will have someone that will come out take their order, process it as quickly as possible, and get them on their way.

Acting-Chair Holbrook said are you working with UDOT on the landscaping out front, or are you just moving ahead with it?

Mr. Pearson said the landscaping out front is the old roadbed and it is not very conducive to landscaping. We have to scrape about eight inches of the roadbed and put eight inches of topsoil in there, and the put in the trees that you saw on the drawing. That is the maximum landscaping we would want to have out there due to the utilities under the ground.

Acting-chair Holbrook said I wasn't sure who was responsible for the landscaping, if it would be a joint effort, or if it would be you doing it.

City Planner Schindler said it is rarely ever UDOT.

Acting-Chair Holbrook closed the Public Hearing.

A.2 Potential Action Item – (See VI.A.1)

Commissioner Hollist motioned approve File No. PLSPR201900433 for the construction of a restaurant with a drive through located at 3788 West 11400 south as presented to the Planning Commission.

Commissioner Morrissey seconded the motion. Roll Call Vote was unanimous 3-0 in favor, Commissioner Ellis, Commissioner Jolley and Commissioner Haynes were absent from the vote.

**B.1 Issue: ACCESSORY BUILDING
CONDITIONAL USE PERMIT
Location: 2752 West 9760 South
File No: PLCUP201900338
Applicant: David Lyman**

Planner Andrew McDonald reviewed background information on this item from the staff report.

Acting-Chair Julie Holbrook opened the Public Hearing to comments.

David Lyman, (Applicant) – said I am the applicant and the owner of the property. There are a few things that Mr. McDonald read tonight that took me by surprise, unless I didn't see an email that was sent. I didn't know anything about the roof, shingles, or the exterior. My understanding at hand was the windows, and the size of the building. I am 65 years old and I own an RV, and I have a pickup truck to pull it. Both of them cost more than my first house, and I have to park them outside, so I want to build this garage to park them inside and out of the weather. When I started this project some years ago, the City at that time based the footprint on the size of the lot, which to me makes more sense. I sent an email to everyone on the Planning Commission that was listed on your website explaining these issues. I think that if you can only build a garage that is 60 percent of the main structure, it penalizes us that have tall skinny houses. If you have rambler, it has a bigger footprint, but yet they might have a smaller lot, and it meets the criteria. I just don't understand how that is fair. If you look at the site plat of what I have proposed, that building is not going to be visible from the street, you won't ever see it, except from the back yard. Mr. McDonald suggested that I do something a little smaller, but if I can't fit my RV and my truck in it, I am not going to build it. I have a garage right now that I can fit my truck in if I don't have my bumper hitch on, and I have 1 inch to spare. When I bought my home I wasn't the original owner, but at that time, the City required a chain-link fence and I don't think there is much privacy with a chain-link fence. I don't understand how you can look into a neighbor's backyard from your house, but you can't from a garage. That just does not make sense to me. Every one of my immediate neighbors have two story houses and there is nowhere I can be, and my neighbor's cannot see where I am at. If I was to build this structure, I will have a little bit of privacy, and so would they. I think that this ordinance should be scrapped, because I just don't think it is fair. Mr. McDonald did quote the ordinance, but he never once gave a defense of the ordinance, and why it makes sense. The other thing is the windows and the privacy. I don't know where that came from, but for the life of me I can't make sense out of that. I never have heard from the Fire Chief, but if you have windows that are not moveable in an attic, you have a death trap. There is a stairway that goes up there, and that is the only way out. I can't believe that the City would mandate something that would cause something to be that way. Is it going to make it any less private to my neighbor's? I don't think so. It sounds good that you are going to make some privacy, but there is no practicality to it. I am not a person that likes to get involved in the Commissioner's business, but this one affects me. If you are in agreement with the building department, at least give me some good reasons and we can agree to disagree.

Scott Withers, South Jordan – said I am Mr. Lyman's neighbor directly to the west, and I would be the one that would be most affected by this garage. It is my recommendation that he be allowed to build it. There is not one thing that goes on in his backyard that I cannot see from my second story balcony. I probably have 15 windows that I can walk by casually and see his sunflower growing, or if his lawn mower is still out of his shed. I know everything that is going on in his backyard. He doesn't care, and I don't care. He has a very nice truck and he should be able to build a garage to put it inside for protection, and he has an RV that should be inside as well. I know there is an issue with the windows, and my dad was a Captain of the Fire Department

for 40 years retired, and he said to have a building that tall without windows is an absolute safety issue, especially if they fixed and not able to open. It was his suggestion to have that ordinance reviewed by City staff.

Melissa Shelton, South Jordan – said my home is located to the north and to the east of this proposed building. I and other neighbors just feel that this building is just too large. It is going to create a huge visual impact, particularly out of a view that we are used to. I don't know if you have done a site line analysis or not, but something this large does take up a huge amount of space. The way the houses are positioned on the cul-de-sac, they sit closer to the fence than most of the houses are. Imparticular the house directly behind him, that garage is only going to be about 50ft. from their house. Their windows will now look upon a great big structure. We do have privacy concerns, our neighborhood was built with large houses, and large windows, but the way they offset that was to put it on large tracks of land. The other concern that I have is with the windows being so close to the yard the light will trespass in our windows. I feel that is violating the light trespass. I think the garage is a great idea if he want to build one, I think it should be within the existing City Code.

Raine Kelly, South Jordan – said I live right behind Mr. Lyman. My main concern is privacy, and the size of the structure. I agree that it should be built to the existing code. My question is if the purpose of the structure is to store the RV and the truck, why does he need a second story with so many windows and a balcony. It sound to me like there is another purpose for the structure besides just storing his vehicles. I believe this structure would be more impactful to my property because it is directly behind me, and we are adjacent to each other.

Ryan Warner, South Jordan – said I live across the street from Mr. Lyman. I am not directly impacted by this structure, because it will not be visible from the street. I am in favor of this structure for a couple of reasons. I do think that the 60 percent of the footprint ordinance is ridiculous. I have a rambler so I could build this building on my lot across the street, which would tower over 9800 S. Mr. McDonald said there were not any other large structures in this neighborhood, but there is one on the map that is a large structure with two stories. Currently these vehicles are out in the driveway or the side of the house, and I know that they like these vehicles behind a fence, so this will aid that.

Sydney Shelton, South Jordan – said the only thing I would like to point out is the other garage on the map is facing the street on 9800 S., not somebody's backyard.

Vice-Chair Holbrook closed the Public Hearing.

Commissioner Hollist said would you just confirm that the balcony is facing your house, so I am oriented correctly.

Mr. Lyman said that is correct.

Commissioner Hollist said could you explain why you want a second story in this garage.

Mr. Lyman said I have never built a home that you can have enough storage, and the cheapest way to build storage is with an attic, so I had the trusses designed as attic trusses to put stuff in.

Commissioner Hollis said you don't think that you would be able to accommodate your RV with the 886ft. maximum that you are allowed?

Mr. Lyman said no I cannot, I could probably sandwich it in there, but I would not be able to open the doors, or work on anything. If I can't have what I consider minimum room, I am not going to build it.

Acting-Chair Holbrook said I have heard you say that this garage needs to fit your RV and truck, but how willing are you to consider something smaller, possibly a different design, and materials for the roof.

Mr. Lyman said I didn't know before tonight that there was an issue with the roof. I don't have an issue removing the window on the north, and I am willing to put one window on the west for balanced light, and the window on the east are not in question, so I guess they will be fine.

Acting-Chair Holbrook said because there are only three commissioner's here tonight we will need to have a unanimous vote one-way or the other, because there is only 3 of the 5 commissioner's here tonight.

City Planner said you would need a unanimous vote to approve it, otherwise, it would be denied.

Acting-Chair Holbrook said it has been pointed out that size is a problem. The applicant said he was not aware of the roofing materials, so that is an issue. It doesn't seem to be consistent with the neighborhoods. In our discussions, I don't think the windows are an issue right now, but in the future they could be.

City Planner Schindler said not all of the windows need to be fixed, and the sliding door doesn't need to be fixed either. When it comes to the size, it is because of the footprint of the building, and it is exacerbated because it is a 2-story building, but if it were a single story, it would still be too big because of the code. It was pointed out that there aren't that many accessory buildings in this neighborhood. There is one accessory building that was pointed out down the street, but in the rest of the neighborhood, but the rest are all small sheds. In the staff report where it says, "approximately two thirds of the properties in the surrounding areas would not be allowed to build an accessory building of the size proposed." He went to footprint of every home in phase 1, and phase 3, of those subdivisions and determined what the average footprint was, and what the average 60 percent would be, and most of those homes would not be able to put an accessory building of this size on their property. There were a few homes that could build a building this large, but they were very large ramblers that made that average go up.

Commissioner Morrissey said on the windows, what is the footage in the ordinance, 20 or 25ft. I have heard both numbers.

City Planner Schindler said anything within 20ft of an accessory structure.

Commissioner Morrissey said how large is the attic space that is included in the square footage?

City Planner Schindler said it is the footprint versus the footprint.

Commissioner Morrissey said I would like to make a couple of comments, on what the issues are for me. I believe that we have ordinances to follow and enforce as the Planning Commission but obviously, we have some leeway with a conditional use permit. We have two issues before us, one is the size of the building, and the other is the windows. I am not too impacted by the roof and the materials that will be used on that, so it wouldn't affect my decision too much. I think the main issue is the size of the building compared to the footprint of the home. It has been pointed out that the other issue is the windows and the right to privacy. I think our job right now is to figure out if there is a condition we can put on those two issues, to eliminate, and allow this conditional use to go forward. That is my question to you two other Commissioners. The main concern of the applicant, is he wants to be able to park his RV and truck in the garage, and be able to have some additional space to work on those two things in that area. The issue for me is more the height of the

building, than the width of the building. There is also a concern with the windows. I don't know if they applicant is willing to lower the height of the building to eliminate the second story, but still allow him to park his RV and truck in the building for its intended purpose. In my opinion, this could mitigate the issues before us.

Acting-Chair Holbrook said I just did a quick square footage of a 45 x 12 ft. building/or floor space and that is only 540sqft, and that should fit the RV, and then if you add another 500 for the truck, that is only about 1,000sqft, and we are looking at 1287sq.ft. I like Commissioner Morrissey's idea of a one-story garage and eliminate the storage, and that would eliminate the window issue. I also think that it is appropriate to have the proper materials on the roofing so it fits in with the neighborhood.

Commissioner Hollist said I agree, I think it should coordinate with the home. How do you feel about letting him exceed the 60 percent if he eliminated the storage and went with a one-story building?

Acting-Chair Holbrook said I am not in favor of that.

City Planner Schindler said I think the reason they made it 60 percent of the footprint, is because the accessory building is supposed to be subordinate to the main structure. When the accessory building is 100 percent of the main structure, then it is no longer subordinate, it would be the same size.

Acting-Chair Holbrook said an accessory building could also be used as another home and that is not allowed, but how would we know, code enforcement doesn't go around looking for that. I have a concern that because nothing like this has been built there, except for that one building that was built before the City put this ordinance in place. I think you would be setting a precedent that could be detrimental to the entire neighborhood. I think we have to be cognizant of the neighbors, the neighborhood, and the zoning. Whether we agree or disagree with our codes, the codes were put in place for consistency, we have been using them for years, and I personally feel that we need to adhere to them as much as possible. I think this building is just too much.

Commissioner Hollist said I jotted down his square footage as well, and if he were to drop the width, the shorter side by 10ft. he would be in his limits. That would be a 22ft. width and a 40ft. long would he be able to make that work for this truck, and RV.

Commissioner Morrissey said I think we should have him come back to the podium and ask him what he is agreeable to do.

Commissioner Hollist said I will rephrase what I previously said. At this time, you're footprint is 32ft.x 40ft. and I am assuming you would need the 40ft to get your RV and to have space at the front and back, but would you be willing to make it skinnier?

Mr. Lyman said I have one garage door in there that you can build around it, and never take it out, but I have an RV with pop-outs, a truck with 8ft. mirrors, and you need to maneuver them in there to some degree. I would always be worried that I would be taking out a wall, or your garage door, that is the reason I need the width.

Commissioner Hollist said I guess I am asking if you would be amendable to building a structure that would fit your RV, and I think you said you have another garage that could accommodate your truck.

Mr. Lyman said I have an appreciation for that, and I have two holes in my living room from when I have forgotten about the trailer hitch being on the bumper, and it has gone through the wall. At some point, you

have say this is wrong. I appreciate that the average square foot is 400sq.ft.but not everyone drives a truck, so I am trying to accommodate that. I wanted to have some storage, and the height is not the problem. If that was the problem I would give up the attic for the storage space, but that is not the issue, it is the width of the building.

Acting-Chair Holbrook said so are you not willing to make any changes.

Mr. Lyman said it is not that I am not willing to make changes, but I think it is detrimental. I am not going to get any younger, and my driving skills are not going to improve. I am willing to compromise, but I just don't

B.2 Potential Action Item – (See VI.B.1)

Commissioner Hollist motioned to deny the Condition Use Permit (File No. PLCUP201900338) based on the findings and conclusions listed below.

The conditional use permit has characteristics that detrimentally affect the zone, therefore are not compatible uses in this zone, specifically:

- 1. The size exceeds the 60 percent allowable footprint**
- 2. The materials at this point are not consistent with the surrounding neighborhood**

Commissioner Morrissey seconded the motion. Roll Call Vote was 3-0 unanimous in favor of denial, Commissioner Ellis, Commissioner Jolley, and Commissioner Haynes were absent from the vote.

VII. PUBLIC HEARINGS AND POTENTIAL **LEGISLATIVE ACTION ITEMS

****Legislative Action = More Discretion, Reasonably Debatable (Subjective Standard)**

None

VIII. OTHER BUSINESS

None

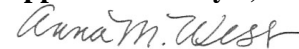
ADJOURNMENT

Commissioner Hollist motioned to adjourn the June 25, 2019 Planning Commission meeting. Commissioner Morrissey seconded the motion. Vote was unanimous in favor.

The June 25, 2019 Planning Commission Meeting adjourned at 8:00 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez.

This is a true and correct copy of the June 25, 2019 Planning Commission minutes, which were approved on July 9, 2019.


South Jordan City Recorder