

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
October 13, 2020**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Catmull, Commissioner Trevor Darby, Commissioner Michael Peirce, Commissioner Sean Morrissey, Staff Attorney Greg Simonson, Assistant City Engineer Jeremy Nielsen, City Planner Greg Schindler, Deputy Recorder Cindy Valdez

Others: Michael Tyler, Suzanne Williams, Mark Garza, Anna Florin

6:30 P.M.
REGULAR MEETING

I. Welcome and Roll Call – *Commission Chair Michele Hollist*

Chair Hollist welcomed everyone to the Electronic Meeting and noted that all of the Commissioners have joined the meeting tonight. Commissioner Peirce will be joining the meeting later, because Commissioner Catmull needs to step out for 30 minutes.

II. Motion to Approve Agenda

Commissioner Gedge made a motion to approve the October 13, 2020 Planning Commission Agenda. Commissioner Hollist seconded the motion. Vote was 5-0 unanimous in favor.

III. Approval of the Minutes

Commissioner Gedge made a motion to approve the September 22, 2020 Planning Commission Meeting Minutes as published. Commissioner Hollist seconded the motion. Vote was 5-0 unanimous in favor.

IV. STAFF BUSINESS - *None*

V. COMMENTS FROM PLANNING COMMISSION MEMBERS

Chair Hollist said I will entertain a motion to continue to have electronic zoom meetings for the next 30 days.

Commissioner Gedge motioned to continue to hold the Planning Commission Meeting virtually for the next 30 days. Commissioner Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.

Chair Hollist read the Notice of Meeting without an Anchor Location due to Substantial Risk to Health and Safety.

I, Michelle Hollist, Chair of the South Jordan City Planning Commission, hereby determine that conducting the Planning Commission meeting at an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. The President of the United States, The Governor of Utah, the Salt Lake County Health Department, Salt Lake County Mayor, the South Jordan City Mayor and City Council, and the World Health Organization have all recognized a global pandemic exists related to the new strain of the coronavirus, SARS- CoV-2 and outbreaks of the coronavirus disease COVID-19 that has now spread globally including in the State of UTAH. Due to the State of emergency caused by the global pandemic, the current situation in Utah and specifically in Salt Lake County, and the manner in which the COVID-19 virus spreads in groups, I find that conducting a meeting at an anchor location under the current state of public health emergency constitutes a substantial risk to the health and safety of those who may be present at the anchor location. According to information from State Epidemiology, the State is currently in an acceleration phase, which has the potential to threaten the State's healthcare system. This determination not to meet in an anchor location shall be valid for thirty days.

VI. SUMMARY ACTION – *None*

VII. ACTION – *None*

VIII. ADMINISTRATIVE PUBLIC HEARINGS –

**A. DAYBREAK SOUTH STATION PLAT 3 CONDOMINIUMS PHASE 1,
PRELIMINARY SUBDIVISION**

Location: 5208 W. Black Twig Drive
File No: PLPP202000219
Applicant: Daybreak Communities

City Planner Greg Schindler review background information from the staff report.

Chair Hollist said do you review parking as new buildings go into a development to insure that is not being double counted, or could they retro actively go back and request the parking waiver for this particular building, since it qualifies being close to a transit location.

Planner Schindler said they probably could, but the current plans you are looking at now are part of the Master Development site plan review that is submitted with each of the phases, and they are showing the parking they would need, so they shouldn't need to come back. I don't know what they are going to do with the projects that are further west, but this parking will be closer to the transit station, so they may be the one that qualifies to be there. We do review all of the plans for parking and they all seem to have plenty of parking.

Chair Hollist opened the Public Hearing to comments.

Mark Garza, Sandy Utah – said we are the purchaser of the property from Daybreak, this not our application, but it is our project and the product we put together with the site plan. We don't intend to ask for more, or less parking, that is what the market is telling us they looking for, so we are happy with what we have shown you. Between myself and Patrick Todd we are here to answer any questions that you may have for us.

Chair Hollist closed the Public Hearing.

Commissioner Darby motioned to Approve Project Nol. PLPP202000219 subject to the following:

- 1. That all South Jordan City requirements are met prior to recording the plat.**

Commissioner Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.

B. SPRINGHILL SUBDIVISION LOT 2 AMENDED, SUBDIVISION AMENDMENT

Location: 10317 S. Springcrest Ln.
File No: PLPLA202000150
Applicant: Michael Tyler

Planner Damir Drozdek reviewed background information on this item from the staff report.

Commissioner Gedge said I would like to disclose that I live four houses down from this property and they are a family friend. I wanted to make sure that was on the record so there is no conflict.

Commissioner Gedge said my only question is regarding the requirement for the fence. If there are no current farm animals, would the fence still be required? I am also concerned that we might be creating a fence on the property line, and if the other lots are developed it would be an out wire fence on one side. What are the options for fencing? I would not want to have a masonry wall on the property when it is not going to be on the other side, or on the other lots.

Chair Hollist said what are the rules on the frontage? I assume it would still be part of the original subdivision, so will this lot now become a member of the HOA?

Planner Schindler said it does not, unless they want to. It is not required that they become part of the HOA. The subdivision that they are amending is the Springhill subdivision and they don't have an HOA, they just happen to be accessing from the other street.

Chair Hollist said how does it working with them accessing the private road if your not a member of the HOA, and does that meet the frontage requirement that the City requires for a new home?

City Attorney Loose said the frontage requirements generally have nothing to do with whether it is private or public. We have a number of private neighborhoods to the north, but they just have

to meet the frontage requirements to meet their zoning. In this case, there is a long history. There were (2) owners in the beginning, the one to the north constructed that subdivision with an HOA, and they agreed to own the private road. The lots that are being amended had an agreement that they would pay a certain amount for their part of the road, and that amount was fronted by the City, and they paid back the City at the time of development. The road stays private, so they don't have to be part of the HOA. The City does not enforce private roads and who gets to access it, it should be done through the private agreements.

Michael Tyler. Applicant – said I would like to clarify something that Planner Damir Drozdek said in his review. It will be the lower lot that we are going to subdivide, it is actually the larger of the two lots. I know this has been an ongoing issue with the private road, and there are (3) lots to the north that have been sub-divided and have been approved. Has the City considered just taking over the road all the way down into the subdivision? I know that the HOA has issues with the maintenance on the road, as well drainage issues that they have had to repair at their expense. I think if the City were to take over the road and all of the expenses it would solve a lot of problems.

Assistant City Engineer Jeremy Nielson said the City actually received an application a few months ago to consider taking that road over. The City evaluated it and ultimately decided not to take over that road. I don't remember the details of why they chose to not do that, but I know that is what they decided.

Commissioner Michael Peirce joined the meeting.

Commissioner Catmull has left the meeting, and may re-join later.

Commissioner Gedge said does that Planning Commission have any authority to wave the fence requirement, or is it part of the City Code and cannot be waved?

Planner Drozdek said it cannot be waved because it is already part of the City Code. It doesn't matter if they currently have animals, it is zoned for animals and their property is large enough that they can have animals at any time, so that is why they are requiring the masonry wall.

Commissioner Gedge said if this is approved tonight, does the fence need to be built immediately, what is the process? Do they bond for it, or can they put the fence in once the property has been purchased.

Planner Drozdek said they would need to put it in, or bond for it, it cannot be delayed by City Code. The improvements need to be done prior to the subdivision plat, or bonding for those improvements prior to recording.

Commissioner Gedge said is there a time frame from approving this to recording it?

Planner Drozdek said he has one year to get this recorded.

Chair Hollist opened the Public Hearing to comments.

Michael Tyler, Applicant – said I have been a resident of South Jordan City since 1991 and I appreciate all of you Commissioner’s and the work that you do for the City.

Mr. Florin, South Jordan – said we want to keep the option open to have animals on our lot, that’s why we originally purchased our lot. I am just concerned about how this will affect my property with the City Ordinances. Mike has been a good neighbor and we haven’t had any problems. I really just want to live within the City Ordinances, and make sure everything is proper and ok.

Anna Florin, South Jordan – said since the wall is going to be somewhat permanent, can we get the property line re-surveyed. We have a chain-link fence there now and since it can only be 30ft away from the road down by Jordan Creek, can we keep 30ft of fence at the bottom so that we won’t need to put another 6ft fence up for the animals if we decide to get animals. If it is going to be a 6ft tall fence, is that measured from the lowest point, or from the highest point. There is a hill there, so it going to have to jog down like a brick fence would so will the fence have footings so it won’t fall down the hill. I don’t know what kind of equipment they will bring in to put the fence in, but will it trample on my bushes and plants along the edge, it would be nice if they didn’t disturb them.

Susan Williams, South Jordan (Attachment A) –said I have been made the President of the River Walk Estates Home Association, so I am introducing myself. The board has some concern with the use of Jordan Creek Drive, and the maintenance with the ongoing parcels along Jordan Creek Drive. I delivered a letter yesterday via email to some of the Council Members and City staff stating that we have an objection to Mr. Tyler’s property providing there is some resolution agreement dialog with respect to the street. I know there is a history, but our board does not know the history. There have been several boards since this has been developed, so it would be nice to get some history on Jordan Creek Drive, and how these agreements all came about. There is a possibility that we could be stuck with a situation that could become detrimental down the road. I was in the conversation in March on a zoom meeting that Jeremy Nielson, and Brad Klavano and another person, but I didn’t get his name in respect to Riverwalk taking over Jordan Creek Drive. The discussion was left that the City at that time was denying our application, but there was room for negotiations. I know this isn’t about Jordan Creek Drive, so I will reserve that for another date, but I wanted to put on the record the concerns at Riverwalk in respect to the street.

Chair Hollist closed the Public Hearing.

Chair Hollist said we will first address Mr. Florin’s concerns about the animal rights on his lot, so that in the future if he would like to have animals he would be able to have them.

City Planner Schindler said his zoning will not change, so nothing will change regarding his animal rights. If he chooses to have animals in the future he would be able to have them.

Chair Hollist said Mrs. Florin had several questions, but I am going to go to the question where she indicated that the wall only goes down as far as 30ft. from the Jordan Creek Drive. Can you tell us where that wall will be required to be?

Planner Drozdek said that would be their front yard and the City Code prohibits fencing higher than 4ft. This is their back yard, so I can see their concern but I don't know if the Commissioner's feel that the wall should go down to the road, because it is their back yard to the south. The property to the north that is being developed will be their front yard, not their back yard.

Chair Hollist said how would you reconcile those two ordinances? If they have animals they would want them to access the entire property.

Planner Drozdek said they have an existing chain-link fence which can remain. If the wall stops 30ft before meeting the road, the existing fence will remain there.

City Planner Schindler said I don't think there is any other option, because we don't allow anything taller than a 4ft fence in the front yard, if it was a side yard they could have a 6ft fence, but not on the front yard. In this case it is a backyard and front yard, so there isn't anything in our code that would allow any other discretion, but they are allowed to keep the existing fence because it is existing, we don't allow any new ones.

Chair Hollist said there was a question about having the property line re-surveyed. What does she need to do to have that done?

City Planner Schindler said Mr. Tyler is having this property surveyed, so I think that property will be surveyed with this application.

Planner Drozdek said she can get her own surveyor if she wants to have her property surveyed, they just have to be licensed, but that is an option, if she wants to do it she can.

Chair Hollist said she asked if the fence was measured from the top, or the bottom, and is it the entire length.

Planner Drozdek said the wall is going to step down. The fence comes in 6ft panels and when it is put together and it will step down, it will not be 6ft across evenly.

Chair Hollist said will the wall have footings?

Planner Drozdek said it will have footings.

Chair Hollist said who is responsible for maintaining the wall?

City Planner Schindler said it will not be the Florin's responsibility. It will be the other owner's responsibility, Mr. Tyler's or whoever he sells that lot to. Masonry walls have to be approved by

the City Engineer according to our code, or whoever reviews it, so they will make sure it has the proper footings before it is installed.

Chair Hollist said there was a question about the equipment that will be installing the wall, and if it will affect there bushes. I assume the wall will be installed from the other side, so it shouldn't be on the side of her bushes, is that correct?

Planner Schindler said that is correct, but the equipment shouldn't damage any of the bushes on her property.

Chair Hollist said Ms. Williams had a questions about rezoning, but this is not a rezone. The property has the density, so they wouldn't be rezoning this, is that correct?

Planner Schindler said that is correct. This is a subdivision application, it doesn't have anything to do with the zoning, because they meet the density requirements.

Chair Hollist said Ms. Williams asked for a history of this road, is that available?

City Attorney Loose said in order to develop where that piece of property was, there was an intervening set of property owners, and there was consideration of the golf course that the City owned. A deal was worked out with the City and the original developer of Riverwalk and the other property owner, which I think was Gary McDougal. In that deal there would be an HOA and they would own the road, and each of the other property owners signed an agreement to pay \$35,000 either up front, or at the time of development, which I think the majority paid at the time of development. The City fronted the money and once they received their permits they were required to pay the \$35,000 to the City.

Chair Hollist said so they City has already paid the buy in for the road on this property, is that correct?

City Attorney said yes that is correct, and it will need to be reimbursed to the City. I think that is what Mr. Tyler is doing.

Mr. Tyler said that is correct.

Assistant City Engineer Nielson said it is already in an agreement that he will pay prior to recording the plat.

Chair Hollist said does that \$35,000 constitute the amount for the road to be put in, or is there anything in the agreement for maintenance?

City Attorney Loose said the agreement is just for the road, there is nothing in the agreement about maintenance.

Commissioner Gedge said I know there are two developed homes already, and a third one is being built, so have those developments caused any precedence that we need to follow as we are reviewing this item?

City Planner Schindler said there is not anything that I am aware of, I am sure they have all paid their \$35,000, so there is nothing else than what Mr. Tyler is proposing.

City Attorney Loose said I should clarify that I don't know if any of that \$35,000 was amortized for maintenance, because it seems like it is an upfront cost. The developer may have withheld some money and put it in a fund for the HOA to start off with, but I don't know that for sure.

Commissioner Gedge motioned to approve the subdivision Plat amendment application, File No. PLPLA202000150, creating an additional lot on property located on 10317 S. Springcrest Ln. Commissioner Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor; Commission Catmull was absent from the vote.

IX. LEGISLATIVE PUBLIC HEARINGS –

A. TEXT AMENDMENT – AMENDING CHAPTER 17.18.030.030 AND TITLE 5 OF THE SOUTH JORDAN CITY MUNICIPAL CODE REGULATING MODEL HOMES

Location:

File No: Ordinance No. 2020-13

Applicant: South Jordan City

Planning Intern Meadow Wedekind reviewed background information from the staff report.

Chair Hollist said I did not entirely follow why Chapter 5-39 is not under review. Was it previously under the code and now we are putting a reference to it.

Planning Intern Meadow Wedekind said the reason is because Chapter 5 regulates Business Licensing, and Business Licensing is not part of the City Land Use Code. It does not need to be reviewed and approved by the Planning Commission, because Chapter 17 is part of the Land Use Code, and that is what is subject to your review and recommendation.

Commissioner Catmull has rejoined the meeting.

Commissioner Gedge said do we have any idea of what the true number is of complaints, and would this apply retroactively to those already performing that use? Do we need to have some sort of language that makes this use applicable to all current potential violators?

Chair Hollist said I would also like to know how this applies to Daybreak. Is Daybreak one very large subdivision, or will each of their small plats be subject to this.

City Planner Schindler said it is applied in Daybreak wherever they have model homes. They apply for model homes in certain areas, but as far as I know they haven't violated any of the future rules that are being approved.

Commissioner Darby said Planning Intern Wedekind brought up three different items, and I thought the first one solved the problem with the 120 day limit. My concern is with the second one, because of how it is written, I think it is going to be very difficult to police the builder if they are selling a house in a different neighborhood from a model home, and if they are caught, how do we manage their behavior?

City Attorney Loose said it will be done with difficulty, but it will be done through the Business Licensing department. They need to apply for a business license, so we would be able to track them that way, and then we would go through the Code Enforcement process.

Commissioner Catmull said I have a question about how we use the terms in section 5.39, so in (1st) bullet point when we are talking about the location we are talking about it being located on a platted lot, or site within a development. In the (2nd) bullet point we say located outside of the development site. I just think it could be a lot more consistent with those two in the description, unless there is something technical that I don't quite understand about why it would need to be expressed differently.

City Planner Schindler said you asked me before the meeting if we had any definitions of a development site, and I could not find anything that defines what a development site is.

Commissioner Catmull said I found two references in the City Code, but I could not find anything in a global, or national resource defining what it is, but that is my feedback. I know we are not voting, or putting an approval on there, it is feedback for fine tuning this ordinance and making it clearer.

City Attorney Loose said I think that is great feedback. I will ask Planning Intern Meadow Wedekind to note it, and it is something we can discuss with Assistant Attorney Greg Simonson.

Planning Intern Wedekind said we will go in and review that language and make sure that it is inconsistent and tighten it up.

Chair Hollist opened the Public Hearing to comments. There was none. She closed the Public Hearing.

Commissioner Catmull motioned that the Planning Commission recommend to the City Council that it approve Ordinance No 2020-13 amending Chapter 17.18.030.030 of the South Jordan City Municipal Code regulating Model Homes. Commissioner Hollist seconded the motion. Roll Call was 5-0 unanimous in favor.

Commissioner Michael Peirce would also like to pass on a positive recommendation to the City Council.

X. OTHER BUSINESS – None

ADJOURNMENT

Commissioner Darby motioned to adjourn the October 13, 2020 Planning Commission meeting. Commissioner Hollist seconded the motion. Vote was unanimous in favor.

The October 13, 2020 Planning Commission Meeting adjourned at 7:55 p.m.

This is a true and correct copy of the October 13, 2020 Planning Commission minutes, which were approved on October 27, 2020.

Cindy Valdez

South Jordan Deputy Recorder

Meeting minutes were prepared by Deputy Recorder Cindy Valdez



October 12, 2020

VIA EMAIL

Mayor Dawn R. Ramsey
South Jordan City Council Members
South Jordan Planning Commission
South Jordan City Attorney
1600 W. Towne Center Drive
South Jordan, UT 84095

**Re: Jordan Creek Drive / The Village at Riverwalk Estates
Proposed Subdivision Plat Amendment / Michael Tyler
Public Hearing: October 13, 2020 at 6:30 p.m.**

Dear Mayor and South Jordan City Officials:

The Board of the Riverwalk Estates Homeowner's Association (the "HOA") has received notification that Mr. Tyler has filed a subdivision plat amendment application to create an additional parcel on his property (which new divided parcel will be known as 10287 Jordan Creek Drive). This amendment will rezone his property which will result in an additional parcel to be sold and developed within the *private* community of Riverwalk Estates and will abut to and need to be accessed by Jordan Creek Drive, a *private* road owned and maintained by the HOA.

The HOA has no objection to the rezoning of Mr. Tyler's property, provided an acceptable resolution can be reached between the HOA and the City regarding access to Jordan Creek Drive, payment for that access, and ongoing ownership and maintenance obligations.

During the past two years, the City has obliged owners of parcels that abut Jordan Creek Drive to rezone their properties and sell the same for residential development. Thus far, this has resulted in two homes built on Jordan Creek Drive that were not required by the City to be a part of the PUD, nor contribute to the HOA, but which allowed those parties to access their property from Jordan Creek Drive. It is anticipated that a total of seven (7) homes will eventually be developed along Jordan Creek Drive that will not be required to be a part of the PUD. The HOA has serious questions about how the City can authorize access to a private road that it does not own. If the City believes it owns Jordan Creek Drive then please provide the HOA with documentation of that fact (and please also immediately take over ongoing maintenance responsibilities for this road).

The HOA recently learned that the City entered into Agreements with Owners of these rezoned parcels that abut Jordan Creek Drive, whereby the Owner(s) have deposited or will deposit with the City \$35,000, which funds are to be paid for the installation of the street and infrastructure. The HOA has received no portion of these "deposits" even though it owns the road and is the entity that is maintaining it (again, if the City believes it owns the road and has maintenance responsibilities, please let us know as the HOA would gladly turn those duties over to the City).

Given the City's actions, the HOA, in addition to being forced by the City to dedicate its private property for a public purpose, is now being required to allow private access to Jordan Creek Drive to builders, contractors and workers (along with heavy duty construction vehicles), for the building and development of lots, and the construction of residences, without contribution to the maintenance of Jordan Creek Drive. These newly created lots are not members of the HOA, and provide nothing to the HOA's ongoing maintenance obligations.

A substantial portion of the Riverwalk HOA member assessment goes towards maintaining Jordan Creek Drive, which requires the expense of asphalt coatings, snow removal, as well as the necessary cleaning and maintenance of two storm drains due to secondary waste water from an adjoining subdivision that is not part of the HOA, which expense Riverwalk Estates receives no benefit from.

The HOA hereby requests the following alternative approaches to dealing with Mr. Tyler's rezone request and any future rezone request that would require access to Jordan Creek Drive:

1. The HOA will immediately deed ownership of the portion of Jordan Creek Drive abutting these properties to the City (from Baxter Drive down to the cobblestone roundabout). The City can then collect whatever fees it deems appropriate from these property owners, and will of course have ongoing ownership and maintenance obligations for that portion of the road;

2. Alternatively, if the City desires to keep Jordan Creek Drive a private road owned by the HOA, the City must turnover any fees it has already collected and any fees it will collect in the future from these properties related to the road. Further, these properties must be included in the HOA and have ongoing maintenance obligations, just like the rest of the HOA's members. In this regard, we note that the Agreement the City entered into with the developer of Riverwalk Estates provides that all impact fees and other funds received by

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the City related to the road will be turned over to the Developer to reimburse the Developer for installation of the street and related infrastructure.

The HOA is willing to work with the City to allow these lots to be developed with access to Jordan Creek Drive as contemplated. The HOA is not willing, however, to allow the City to take its private property for public use without fair and reasonable consideration. It is simply unfair to force the cost of the City's development decisions regarding these parcels on the existing membership of the HOA. In the event an acceptable resolution of this issue cannot be reached, the HOA must reserve all of its rights concerning this particular rezone/subdivision and all prior rezone/subdivisions which have allowed access to the HOA's private road.

We look forward to hearing from the City.

Respectfully,

Riverwalk Estates HOA Board
By: Suzanne Williams, HOA President
Telephone: 801.254.9994

cc: Michael R. Johnson (Ray Quinney & Nebeker, P.C.)