

**CITY OF SOUTH JORDAN  
ELECTRONIC  
PLANNING COMMISSION MEETING  
COUNCIL CHAMBERS  
March 23, 2021**

Present: Commissioner Michele Hollist, Commissioner Nathan Gedge, Commissioner Trevor Darby, Commissioner Sean Morrissey, Commissioner Steven Catmull, Staff Attorney Greg Simonson, Assistant City Engineer Jeremy Nielsen, City Planner Greg Schindler, Jon Day, Matt Jarman, Steven Schaefermeyer, Damir Drozdek, David Mann, Assistant Melanie Edwards, Transcriptionist Diana Baun.

Absent: None

Others: Gary Langston, Taylor Carpenter, Candace Ashby, Jamie, Farrell Bouck, Mason Bouck, Brian Scott, Amanda Vandewater, Jeffrey Ayers, Tai, Boyd Brown, Marie.

6:30 P.M.

**REGULAR MEETING**

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

Chair Hollist welcomed everyone to the Electronic Planning Commission Meeting and noted that all of the Commissioners are present.

II. Motion to Approve Agenda

**Chair Hollist motioned to approve the March 23, 2021 Planning Commission Agenda and amending the following:**

- 1. At the end, under item “Other Business,” I would like to add a discussion about the City Council work session in two weeks.**

**Commissioner Gedge seconded the motion. Vote was 5-0 unanimous in favor.**

III. Approval of the Minutes

**Chair Hollist motioned to approve the March 9, 2021. Planning Commission Meeting Minutes as printed. Commissioner Gedge seconded the motion. Vote was 5-0 unanimous in favor.**

IV. **STAFF BUSINESS** - *None*

V. **COMMENTS FROM PLANNING COMMISSION MEMBERS**

Chair Hollist discussed holding meetings virtually. At this time City Council continues to hold their meetings in a virtual format and she proposes to continue to do so as well, and to extend being able to hold meetings in this format for another 30 days.

**Commissioner Gedge motioned to continue holding meetings electronically for the next 30 days. Chair Hollist seconded the motion. Vote was 5-0 unanimous in favor.**

Chair Hollist read the following statement regarding electronic meetings:

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 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, 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 in the current state of public health emergency constitutes a substantial risk to the safety of those who may be present at the anchor location. This determination not to meet in an anchor location shall be valid for 30 days.

**VI. SUMMARY ACTION – *None***

**VII. ACTION – *None***

**VIII. ADMINISTRATIVE PUBLIC HEARINGS –**

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

Location: 5243 W. Reventon Drive  
File No: PLPP202100036  
Applicant: Daybreak Communities

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

Gary Langston with Daybreak Communities in South Jordan had nothing to add to the report.

Chair Hollist said that since these are condominiums, she is assuming that means this is a product that will be sold.

Mr. Langston confirmed that yes that is correct.

Chair Hollist opened this to public comment, there were no comments so public comment was closed.

Commissioner Catmull left the meeting, however returned during the motion for this public hearing. He indicated he was able to hear enough of the presentation that he felt comfortable voting as he had no concerns. He requested to hear Commissioner Darby's motion again before voting.

**Commissioner Darby motioned to approved Project No. PLPP202100036 subject to the following:**

**1. That all South Jordan City requirements are met prior to recording the plat. Chair Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.**

**B. DAYBREAK VILLAGE 12A PLAT 3, PRELIMINARY SUBDIVISION**

Location: Generally 11170 South 7045 West  
File No: PLPP202000381  
Applicant: Daybreak Communities

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

Mr. Langston added that a common question he gets from the commission is parking stalls in each unit, each of these townhome units will have a two car garage, along with the single family homes that surround them. They are continuing to move further west, they are pushing close to the western boundary and he believes in the next few years we will see the connection of South Jordan Parkway to U-111.

Commissioner Gedge asked when Mr. Langston foresees construction to begin, and how will that coincide with the future building of the South Jordan Parkway extension.

Mr. Langston said with this project they are soliciting a contractor right now. With this particular set of construction drawings they are going to build the southern half of South Jordan Parkway so the eastbound lanes will be two-way for a short time, that's how they've phased other sections of South Jordan Parkway in, such as in Village 8. Then, when they build the development to the north they will build the other side of South Jordan Parkway. The plan is to complete this plat, construction wise, by the end of the year and he believes they are on track for that. They could actually see home building beginning in early 2022 in this plat.

Chair Hollist said she wasn't seeing on the map how you would access Private Lane #1 and asked for an explanation.

Mr. Langford said it is accessed off the lane that is built with Village 12A Plat 2, it is called Sasabe Lane, it was built with the previous plat.

Chair Hollist asked if that was also Cataran Trail Lane.

Mr. Langston clarified were you referring to Private Lane #1, located next to lots 276-283?  
Chair Hollist said that was correct.

Mr. Langston noted she was correct, the lane has two names at that location because of the angle of it, both Cataran Trail and Sasabe Lane were the streets for access.

Chair Hollist opened this to public comment. There were no comments. She closed the public Hearing.

Chair Hollist asked Assistant City Engineer Jeremy Nielsen if all these private lanes are reviewed by staff to ensure they are accessible to emergency vehicles, and if he saw any issues with this.

Mr. Neilsen said there were no concerns from Engineering, and they have coordinated with the Fire Marshall as well on this.

**Commissioner Gedge motioned to approve Project No PLPP202000381 subject to the following:**

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

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

**C. WEST RIVER ESTATES, PLAT B AMENDING PARCEL A  
SUBDIVISION AMENDMENT**

Location: 1004 W. Lazy Water Cv.  
File No: PLPLA202000373  
Applicant: Candace Ashby

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

Chair Hollist asked if the city owns the retaining pond area.

Mr. Drozdek said the detention pond is privately owned and maintained. Just the underground lines are owned and maintained by the city leading up to the pond.

Chair Hollist asked to confirm that the lot size is based on both where the home can be built as well as that retaining area.

Planner Drozdek confirmed that it is over an acre in size. She asked if this property already owns the access to get back to the property, or is an adjacent homeowner was deeding a portion of their property over. They bought the access and made a deal some time ago to purchase it, but for us to approve a building permit this application has to be approved first.

Chair Hollist noted the staff report indicated this was possible because of our flag lot ordinances and Planner Drozdek confirmed that is correct.

Commissioner Gedge asked if since this is R-1.8 and these are still over a half acre once subdivided, will there be animal rights associated with both subsequent lots.

Planner Drozdek said the minimum size in R-1.8 is one-third acre, but for farm animals the minimum size is a half- acre, and this property is going to be over an acre so they could have farm animals.

Commissioner Gedge said ‘since we are subdividing into two different lots there could be double the farm animals. I will let the applicant speak to whether or not that is their intent.

Chair Hollist noted since there are not two different zones abutting in this case, I assume that there won’t be special fencing requirements, even if there are animals.

**Candace Ashby (applicant)** said there will not be farm animals and it will not be subdivided.

Chair Hollist opened this to public comment. There were none. She closed the Public Hearing.

Chair Hollist noted she assumes the only way this could be subdivided again into a second property is if some accommodations were made for dealing with the water that is currently handled on the second portion of the property.

Planner Drozdek said they would have to figure out a way to detain the water before being discharged into the river. There are many ways to do that, but they would have to figure that out.

**Commissioner Darby made a motion for the Planning Commission to approve the subdivision plat amendment, Application File PLPLA202000373, creating an additional building lot on property located at 1004 W. Lazy Water Cv. with the provision:**

- 1. A turnaround be provided that meets or exceeds the city fire department requirements.**

**Chair Hollist seconded the motion.**

Commissioner Gedge asked Mr. Neilsen if he foresees any engineering issues with fire or emergency access to the property.

Mr. Neilsen noted that he did not, and that this was the only condition they needed.

Commissioner Gedge confirmed that when they do submit the building permit, Engineering will be sure to review this, correct?

Mr. Neilsen noted it is on his radar and the Fire Marshall is looking at it and working with the applicant. If there is a way to not require that turnaround they won’t, but right now it is looking like that will be needed.

Commissioner Catmull asked if they find out in the analysis that a turnaround is not needed, what does that mean in regards to their approval of the application with that condition.

Mr. Nielsen said the way he reads the condition, they have to make sure that access meets city fire department requirements whether the turnaround is required or not.

Commissioner Catmull said the fact that the condition says a turnaround will be provided, I would prefer a way to make that more general.

Commissioner Gedge suggested adding wording similar to “if determined by city staff.”

Commissioner Darby said if the city fire department requirement is that there is no need for a turnaround, not building one meets or exceeds that requirement.

Commissioner Catmull pointed out that it says “a turnaround will be provided that meets or exceeds.” He suggested maybe changing to “emergency access will be provided that meets or exceeds city fire department requirements.”

Chair Hollist asked Mr. Neilsen if he would be comfortable with that rewording.

Mr. Neilsen indicated he was fine with that.

**Commissioner Darby asked to withdraw his initial motion, Chair Hollist seconded that. Vote is 5-0 unanimous in favor.**

**Commissioner Darby made a motion for the Planning Commission to approve the subdivision plat amendment, Application File No PLPLA202000373, creating an additional building lot on property located at 1004 W. Lazy Water Cv. with the following provision:**

- 1. An emergency access be provided that meets or exceeds the city fire department requirements.**

**Chair Hollist seconded the motion. Roll Call Vote is 5-0 unanimous in favor.**

**D. HEALTH BEAUTY AND FITNESS SERVICES CONTITIONAL USE PERMIT**

Location: 10709 S. Redwood Road  
File No: PLCUP2020100058  
Applicant: Brandon Weaver/Mint Construction

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

Chair Hollist asked about the dashed line on slide 48, she is wondering if this is an indication of where their parking spots end.

Planner Drozdek said yes, that is the property line.

Chair Hollist said do the 60 parking spots that are assigned to that building fall in that line.

Planner Drozdek said yes, they do.

Chair Hollist said do they anticipate using the drive through feature on the building.

Planner Drozdek said that was the idea when the building was approved, that they are going to have some kind of restaurant user in the building but he doesn't know if that is still the plan.

Chair Hollist said do these three tenants fill up the entire space in the building?

Planner Drozdek said they do not.

Chair Hollist said what percentage of the building is still left vacant at this point?

Planner Drozdek I am not sure but I am willing to look it up, but the applicant probably knows the answer.

Chair Hollist said if they are filling the entire building the parking seems adequate to her, but if it is only a portion of the building and there will be additional tenants they may need to discuss further.

Commissioner Gedge had a concern regarding the term health, beauty and fitness services, and wondering what types of future businesses that aren't being proposed today but would fall under the lifetime conditional use permit. Specifically, massage parlors or other types of uses that we may not want to see in this area especially with the proximity to the library and walking corridor.

Planner Drozdek said massage could be one of those however, I don't believe they could deny the use for that type of business because there would have to be some sort of detrimental effect before they denied it, and they would have to have some type of mitigation. If mitigation could be found, then they could deny it, but I don't think that just because they don't like a massage type businesses that they can just deny them a conditional use permit.

City Planner Greg Schindler said that they have had many massage users right in front of City Hall and it has never been determined to be detrimental. They have been closer to the library than some of these will be. He said Planner Drozdek is correct, they are listed under the health, beauty and fitness section.

Commissioner Gedge said I know they are considering spa services, cosmetology, hair and barber services with this particular application. But just thinking long term, if another tenant was to come in and partake of that conditional use permit, we are not setting ourselves up for an issue down the road with the future owner are we.

Chair Hollist said I don't recall what the exterior of the building looks like, but I am wondering if Commissioner Gedge was referring to possibly making sure the windows were frosted or covered.

Commissioner Gedge said I just wanted to make sure that if someone was offended by what was going on inside they had some way to protect them. I don't see that with what is proposed, but I am referring to 10-20 years down the road if someone else was to take ownership and wanted to put that in there.

Planner Drozdek said there are other laws that take care of that, such as exposure laws.

**Boyd Brown (applicant representative)** said we have about 60% of the building preleased, he noted that it was his oversight in terms of the conditional use. They are going to use the drive through as they have a lease signed for a food user on the south end of the building. They don't have their building permit turned in it but he doesn't believe they will need a conditional use for them since they already got approved for the drive through. There is still some office space on the second floor that will be available and he notes that they are over parked for this zone for all the uses and that would take into consideration the restaurant, these three retail type users and the office that is planned for the upstairs.

Chair Hollist said does Mr. Brown have a parking agreement with the other properties in that area, and asked if they were the same developer.

Mr. Brown said I own it and I am developing all of it, I have an agreement with myself that is being formalized and plan to stay in ownership of at least two of the three buildings long term. There will be cross access easements and so forth that will be needed for the access.

Chair Hollist said will we see this again for a conditional use permit for food.

Planner Drozdek said no, the conditional use permit was approved for a drive through window and food would be a permitted use.

Commissioner Gedge said is there a maximum number of conditional use permits that could be granted for one property. I am thinking in terms of the future, if another business were to come in, could they have a third conditional use for this property or would one of the current permits have to be rescinded.

Planner Schindler said there is no maximum, and the conditional use permits run with the land. If they change tenants and a different tenant has a different use that is not covered by health, beauty and fitness we would have to review it again based on that use and determine whether or not that new use would have any detrimental effects that can't be mitigated.

Commissioner Catmull asked to clarify whether the conditional use permit goes with the property, or in this case does it go with the entire building? Does it go with the suite or subdivided space inside of a building?

Planner Drozdek said it goes with the property.

Chair Hollist said this is a 9,200 sq. foot building and asked to confirm if they were to convert it all into restaurant, would they be under parked by 32 stalls?

Planner Schindler said that is true, but to convert it that way they would have to get the approval through staff and we would be checking to see if they had enough parking before they got their business license.



Chair Hollist asked to clarify that if they have the permit for one portion, they couldn't transfer it to the entire property?

Planner Schindler said they would still have to get a business license to convert it to a restaurant or anything else, but before they give them the business license, they make sure they still are able to have enough parking to accommodate the business. The conditional use permit doesn't guarantee they will have enough parking, it guarantees they can have that use. However, if they can't meet all the requirements then they will not be able to have the use. There is also the detrimental effect that use would be causing and the use permit could be taken away.

Chair Hollist said would they need to specifically state that they will always meet the parking requirements to maintain their conditional use permit?

Planner Schindler said that is part of the code, to get a business license they have to have enough parking or we will not approve the application.

Planner Drozdek added restaurants are a permitted use in this zone, not a conditional use. Keep in mind, anytime we have any kind of general commercial retail type business or building being approved if they don't have enough parking they won't meet the city code and won't be approved.

Chair Hollist opened this to public comment.

**Amanda Vandewater (South Jordan)** said as the applicant I have a medical spa and everything would be HIPAA compliant, so windows would be covered and there wouldn't be any issues there.

**Taylor Carpenter (Architect)** said I am the architect for the project and happy to answer any questions you may have.

Chair Hollist closed Public Hearing.

Commissioner Gedge said my concerns were resolved by what Ms. Vandewater stated.

Commissioner Catmull said in regards to the property line parking issue, do we need that parking agreement in place? The applicant discussed doing an agreement with himself for this issue, but I am wondering if that agreement needs to be in place given that one of those buildings may be sold in the future.

Planner Drozdek said it wasn't needed, it does help, but there is no reason to have it. It would be beneficial in terms of office hours being different than retail or other hours and parking could be shared in that case, but there is no reason to have it in place since they are meeting the city parking requirements.

Commissioner Catmull noted that HIPAA is more around the data, not really the physical characteristics of a building. That is not a concern for me, I believe the privacy would be a

general interest for her business, but just from my perspective HIPAA is independent of a physical structure.

Ms. Vandewater confirmed that HIPAA is different. They would have everything private and the only street or window view would be into the lobby, not into any of the treatment rooms.

Ms. Carpenter added the only other rooms in the space that have windows aside from the break room and lobby, which aren't a concern, are a consultation room and medical rooms but there will be blinds on those windows.

Commissioner Gedge said that this isn't HIPAA related but it appears they have patient privacy taken care of.

**Commissioner Gedge motioned to approve application PLCUP202100058 granting a conditional use permit for “health, beauty, and fitness services” uses to operate in multi-tenant commercial building located at 10709 S. Redwood Rd. Chair Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.**

**E. SALT LAKE COUNTY RECREATION CENTER PRELIMINARY  
SUBDIVISION**

Location: 10866 S. Redwood Road  
File No: PLPP202100062  
Applicant: South Jordan City

Planner David Mann reviewed background information on this item from the staff report.

Commissioner Catmull asked what the location to the west on the property line at 10800 South was.

Planner Mann said do you mean up against Redwood Road? I would think someone more familiar with the history of the City might be able to answer that, but they are all owned by the City in addition to where the Senior Center. These will be part of the rezone to turn it into open space park zone, and I believe that is where there is a monument in the park.

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

Chair Hollist said to clarify, the community center and memorial park are not included in this rezoning, is that correct?

Planner Mann said they were not included in the preliminary subdivision but they will be included as part of the rezone since they are also in residential or agricultural zones. We will see that in the future.

**Commissioner Darby motioned to approve File No. PLPP202100062 to create a 2-lot subdivision, located at 10866 S Redwood Road, as presented to the Planning Commission,**

**with the provision that the property is rezoned to the Park Open Space (OS-P) Zone. Chair Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.**

**IX. LEGISLATIVE PUBLIC HEARINGS –**

**A. TEXT AMENDMENT- AMENDING CHAPTER 17.40.020 OF THE SOUTH JORDAN CITY MUNICIPAL CODE REGULATING THE ACCESSORY BUILDING SIDE YARD SETBACK**

Ordinance No. 2021-03-Z

File No: PLZTA202100056

Applicant: Farrell Bouck

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

Commissioner Catmull said have we seen similar requests like this across the City regarding setbacks within the last year? What kinds of inquiries have we received that might impact this positively or negatively?

Planner Schindler said I haven't had anybody request a text amendment to change the setbacks. There have been submissions for an application for a structure that doesn't meet the setbacks, and in the review they let them know that the setbacks have to be met. The applicant usually changes their site plan and moves the building accordingly, or they have to reduce the size and do so to make it fit.

Chair Hollist said the staff report indicated that staff has recommended a different placement that would meet the setbacks, can you comment on that.

Planner Schindler said it currently shows 12.5 feet between the building and the house, and if the building was moved closer to the house by 5 feet, it still would have the required distance between the structures and would still meet the 10 foot setback.

Chair Hollist said that would meet both the side yard setback requirement as well as setback required, based on height, but the setback changes as it gets taller above a certain point.

Planner Schindler said when it is rear yard, and side yard, the rear yard it is increased by a foot for every foot over 16 feet, so in this case it is strictly a 10 foot setback.

Chair Hollist said is the setback on a rear yard different than a side yard?

Planner Schindler said that is correct and noted that the setback for an accessory structure in a rear yard behind the house is 3 feet plus one foot for each foot over 16 feet high, but in this case none of this building is in a rear yard, it is all side yard.

Commissioner Gedge said to confirm there is no other way for the applicant to obtain this variance other than through a text amendment.

Planner Schindler responded that he could apply for a variance to the Hearing Officer, however the first thing they would point out is that he can move the building towards the house and meet the setback, so it is a hardship that he is creating, not one that exists because of the property.

Commissioner Gedge said do any other municipalities in our area have similar language in their City Code that we are considering this evening.

Planner Schindler noted their setbacks may be less than ours to start with, but they don't have any of the language about how it can only be waived with the approval of neighbors and so forth. I am not sure what the side yard setback is in other cities, but I think that it is much less in West Jordan, but I don't know for sure. I know that for an accessory structure in West Jordan it is only 1 foot (like a shed) but, I don't know what it is for a taller building.

**Farrell Bouck, (Applicant) – (Attachment A)** said I have some new language that I wanted to share. I tried to upload on Thursday but the commission didn't get it in time. He proceeded to read the new language on the attachment.

Chair Hollist stopped the applicant and addressed the Commission, stating that she knows they need to publicly notice this meeting so she presumes the only amendment they could possibly vote on is the one that was in their packet and published within the timeframe.

Planner Schindler said that is correct. If the Commission wishes to consider his changes here, they can table their decision and re-advertise it to another meeting.

Chair Hollist reaffirmed they cannot vote on the amendment with the new language, they can only vote on the amendment that was submitted and publicly noticed.

Mr. Bouck said he wanted to add something more to that.

Chair Hollist allowed him to proceed.

Mr. Bouck said if the building is put where I need it, I will have plenty of access and there is still plenty of room for emergency vehicles to get between my house and the building. I was told that I could put it anywhere on the side yard. I will show you a few options, but they look aesthetically wrong, it doesn't look right. I think it looks more presentable to the neighborhood where I would like it. If the Commission were to take the old text and vote on it, the cul-de-sacs really isn't defined well in code. I am asking to consider the verbiage I brought tonight, as I don't know what is involved in presenting another one, but I would hate to do it again because it is expensive.

Chair Hollist reiterated that if this is the amendment that he wants considered they can table this and re-notice it, and then see him again in 2 weeks and that will not require another application fee.

Planner Schindler said there would be no additional fee. His neighbors do not get a notice and the newspaper announcement is the main requirement. It does not state the entire language, it just talks about what section is being proposed for amendment.

Mr. Bouck said all of my neighbors agree with me and I have letters from them to show this. I want the commissioners to understand what part of his yard is backyard, and what is considered the side yard.

Commissioner Gedge said I am wondering if we should discuss whether we should or should not table this for the next meeting. If we were to make their recommendation on the previous language, would the City Council have the ability to make tweaks to what was presented to them at their level, rather than having to table this and re-notice this item. Could we just move forward and then when the applicant presents to the City Council, would they be able to consider this proposed newer language at that point?

Planner Schindler I am not sure if this has been noticed for the City Council yet.

Mr. Bouck said I was told by Brad Sanderson that this would happen, that they would talk it over and play with the language a little bit. I am open to suggestions, but time is his enemy right now because I have a building coming and spring is here, so I would like to get the permit. I don't know how long it will be until the next meeting, but everyone wants to get their work done.

Chair Hollist said should we proceed and get all of our questions answered, or should we have a Public Hearing and make a motion on the text we have in our packets?

Commissioner Gedge said it is my preference to proceed as described.

Mr. Simonsen said what would happen if you made a motion tonight and it's not good.

Chair Hollist said we do not have the authority to have the final word on this, we just make a recommendation on legislative issues to the City Council. The applicant would still go see City Council in two weeks and they will read what has been discussed tonight and they will see what the vote is, but they are by no means bound to that.

Mr. Bouck said why can't you consider the language that I presented tonight?

Mr. Simonsen said the reason they can't consider the new language tonight is because he may have told all his neighbors and they may all be informed, but they have to comply with the law, and the law is that they have to inform people about what is going on before the Planning Commission and that includes the language of the text amendment. A text amendment is a very serious matter, it will affect every single person potentially in the entire city, so there must be proper notice that there is going to be a change in the text. The second thing he wanted to bring up for the commission is that there are two elements to this. One is a policy choice that they have to make, whether changing from 10 feet to 5 feet is a good policy and he has no comment on that, that is their domain. The second part is the language that they are going to be putting in the code; if they were going to change or recommend to change from 10 feet to 5 feet, is the

language sufficiently clear so that it can govern our city. He drafted the ordinance to approve this, but it was with great concern that he signed the document saying approve to form because in his mind the language that is proposed here is very confusing and he thinks they might have to approve every single application in the future if this language were adopted. If the commission and City Council ultimately were inclined to make a policy decision to change from 10 feet to 5 feet, then those in the Legal Department would love to have the opportunity to work with the applicant to try and get language that he is happy to propose, but that would also be sufficiently clear going forward in governing the city.

Chair Hollist said Mr. Simonsen is your concern with the original amendment in the packet and the stipulation that as long as a neighbor signs and gives written approval, or is it both amendments in general that you would like to see re-drafted with a legal expert weighing in.

Mr. Simonsen said it is both.

Chair Hollist asked Mr. Bouck if that response answered his question as to why tonight they have to consider his original amendment.

Mr. Bouck said I understand, I don't know the law, I just hope that this is able to continue. I understands the language might not be perfect, but as long as they can work together to make it right I am all for that.

Planner Schindler said if the council approved the suggestion to change from 10 feet to 5 feet, I would be concerned that we don't describe property lines as a right-of-way, because a right of way is public-street, and those kinds of things don't mix well with the way the code is written. The Legal and Planning Staff would have to work with this and try to make it so it is understandable and has the same language, words, and definitions that are already in the code. There are other things in here that would need to be changed as well. I agree with Mr. Simonsen, that the main thing is the policy, because if as a commission you feel it is okay to have a 5 foot setback for buildings in side yard, accessory structures have no reason to be that close to the property line. I think the city should change the policy.

Mr. Bouck said when a normal lot is arranged for someone backyard it is considered a backyard, I get a different setback, and can only place my building 3 feet from the fence, how is that fair to me? He showed pictures of different types of lots and showed how different parts were considered back versus side yard, and pointed out that all of them get the backyard offset, where he is stuck with side yard. I feel that is not really fair as far as a cul-de-sac goes since his neighbor on that same spot is considered backyard, but my yard is considered side yard. Why should the neighbor's be different than mine. I am making the argument for cul-de-sacs and why I am trying to make this code change, my side yard is 77% of my backyard, a lot of side yard, most cul-de-sacs do not have this much side yard.

Chair Hollist asked if there was a reason he couldn't locate this building in his backyard, the portion that is backyard. I understands his reluctance to not move it closer to his home, but would that be a possibility that he could live with?

Mr. Bouck said honestly I don't want to, it is aesthetically wrong. I would like to be able to at least get a vehicle back there and walk through. I tried to position this many different ways and it just doesn't work. Even if I move it closer to the house it doesn't seem right to have all that room by a waste of property when it is so close to my house.

Chair Hollist asked if he would be able to rotate it 90 degrees so that the shorter side is in the side yard.

Mr. Simonsen said his backyard runs across parallel to the back of his house, so his lot is mostly side yard on that side as he has pointed out.

Chair Hollist asked the applicant to give them more info about the building, what it is, what it is made out of, what it looks like.

Mr. Bouck said it is a metal building and several neighbors have put metal buildings up. It is going to be a hobby garage for me. As shown in the lot pictures, my garage is on the side and he has to enter in this way. It seemed to me like this house wasn't designed properly because I have to go to the side to get into my garage and if I make the building anywhere near there it is going to cause problems. This current placement is perfect because it still gives me access to my garage entrance.

Commissioner Catmull said how wide is the building?

Mr. Bouck responded it is a 30x50 foot building.

Commissioner Catmull said it pre-fabricated?

Mr. Bouck said yes, it is.

Chair Hollist asked Mr. Schindler if this falls under the 60% footprint of the house rule because this is in an R-1.8 zone, or if that only kicked in at R-2.5.

Planner Schindler said in the R-1.8 it can't exceed the footprint of the house.

Chair Hollist asked if he knew what the footprint of the house is, as she is looking at the drawings and it looks close, but if they include the garage it would be alright.

Planner Schindler itit does include the garage, but I don't know exactly what the exact footprint is.

**Mason Bouck (Riverton – applicant's son)** said the footprint is 1,890 sq. feet.

Chair Hollist asked to confirm that in an R-1.8 the accessory building can go up to the footprint of the home.

Planner Schindler said I will continue to check on that.

Chair Hollist asked the commission if they'd like to proceed with having the Public Hearing and voting on the text amendment that they've been given so this can continue through the process.

Mason Bouck said I am Mr. Bouck's son and I have been helping my dad with this.

Chair Hollist said they would have a Public Hearing in a few minutes and you will be able to address them at that time.

Commissioner Gedge said his preference was to do the public hearing, not delay the process and let it go on to the City Council level. That way the ball keeps rolling and they don't have to delay the applicant anymore, at least they can get to the next step and then if they want to make changes to what is proposed they can do that as our elected officials.

Commissioner Catmull would be inclined to table it if the applicant wants them to reconsider the text that was presented tonight. Otherwise, he would agree with Commissioner Gedge's comments. He has concerns with the text change as well is to be able to have the time to do the analysis for impact and the legal review, and make sure that is done in accordance with the laws, procedures and processes that are outlined.

Commissioner Darby is inclined to agree with Commissioner Catmull's comments. He believes that if they are going to move forward, they should move forward with the verbiage that they have or table it if they want to change the verbiage.

Commissioner Morrissey didn't have anything else to add, he is in agreement with the comments given before.

Chair Hollist said it would be fair to say that the majority would support proceeding in the manner with which the applicant is most comfortable, and the commission agreed. She told Mr. Bouck that they will hear this out in its entirety this evening and then vote on the original text amendment that was submitted to them, then allowing him to make changes during the next few weeks before City Council sees it. The council will get their meeting minutes and see what was discussed and what they voted on and understand that there are potential changes to that. That will probably weigh into how they view their recommendation. However, if he is more comfortable, they are happy to table it so they can then bring it forward at their next meeting which is in 3 weeks and evaluate and debate the text amendment as he showed everyone this evening.

Mr. Bouck said based on what he's heard tonight he would rather table it and see if they can't work something out with the language. I want to be happy and he wants to make the commission happy as well.

Commissioner Gedge said they would hear it again in 3 weeks and then it would go to City Council after that, I just wanted to make sure Mr. Bouck was aware of the timeline.

Chair Hollist said it would be in 5 weeks because the next Planning Commission would be in 3 weeks and they wouldn't see it until April 24. If voted on tonight, they would get the



recommendation but asked him to remember that the commission is not the final deciding board, City Council only sees their recommendation and they can do with that what they will. They are meeting again April 6<sup>th</sup>.

Mr. Bouck said if they voted no on this tonight, would it still go to City Council and would I be able to change my verbiage at the time if goes to the other body?

Chair Hollist recommended he work with staff so that whatever is submitted to City Council in 2 weeks is the verbiage he wants considered.

Planner Schindler asked Mr. Simonsen to help him with this, but he was going to say that what the commission makes the recommendation on is usually what the City Council is going to see. He doesn't know what the City Council's policy is on making changes on the fly during their meeting, and it may be possible that we can submit both versions. However, they have to know what the council originally approved or denied. The commission has to give them a recommendation of one of the two options, approval or denial.

Commissioner Gedge asked Mr. Schindler if they could deny what is in their packet, but command or direct staff to also work with the applicant to provide additional language prior to the presentation to City Council? He was wondering if that would be allowed under a motion.

Planner Schindler said I believed so, if you were to recommend denial of the original proposal and then have staff work with him to incorporate his new language and present that to the City Council that probably would be fine. I am not aware if there is a date set yet for this to be presented to City Council.

Chair Hollist I thought it would be presented at the next City Council meeting, but noted that they couldn't guarantee when it would be put before them.

Planner Schindler said he would continue to look and see if it was on the schedule in the near future.

Commissioner Gedge suggested they open the public hearing tonight and then if they table it, when they reconsider it with the new information, they can just reopen the public hearing because it will be re-noticed at the next meeting that's available.

Mr. Simonsen suggested that if the commission is not inclined to change it from 10 feet to 5 feet, no matter how perfect the verbiage is, then we are just wasting the applicant and everyone else's time by not just making a negative recommendation and going forward.

Commissioner Catmull asked if we know how many street types fall under cul-de-sac. Chair Hollist said she spoke with Brad Sanderson today to understand better this issue and he indicated that cul-de-sacs are not extremely unique (there are lots of them) but she opened that to staff in case they had other information on cul-de-sacs and street types.

Planner Schindler agreed there are many cul-se-sacs, the city is full of them, and they are labeled as a street type such as as circles, coves; they are all labeled differently, but a knuckle on a curved road is not considered a cul-de-sac. That is considered a knuckle and it is on a bend in the street. In this case, it is a cul-de-sec being labeled like circle or cove.

Chair Hollist opened this to public comment.

Mr. Bouck said I have been helping my dad with the project for some time and the one thing I wanted to advocate on his behalf was to be able to recognize there is an issue. As Mr. Simonsen said, we really need to decide if there is a language that could work that could fit the situation. It is a bit unique as he has a lot of side yard and some of that we tried to make the language help to narrow the approval gap to make it a little bit less open for everyone, like having a side yard that is more than  $\frac{3}{4}$  of your backyard. He has a large side yard and his property is situated in such a way that it is unique. What I would like to do, and my dad is the same, is to have some resolution as to whether this can work out, or it can't. If they can find the language, they are willing to work at it and find the language. If it is such a unique condition that maybe just this property could be allowed to do that they would like that too, but in the end he wants his shop to be able to retire and do the things he wants to do. My dad has worked hard all his life, I knows because he took care of me and gave me a great life. I am advocating for him to have this and he recognizes this is a big deal, a change of code. He asked his dad if there was any other way to get this done and the answer he got was that there really wasn't, as there isn't a variance or special permission or circumstance, nothing other than just revising the language so they've done it and tried. If the language isn't quite there they are open to modifying that. I know Farrell is a good citizen, he wants to abide by the laws of the city, and unfortunately it was a bit premature when purchasing this building. They had the site plan all laid out and were working with the city to see where they could set the stuff and they think there was some miscommunication on what property lines meant what and he thinks there was some confusion. Now obviously he has purchased this building and entered into a contract to buy this building, otherwise his suggestion was to make it smaller but he is in a situation where he can't do that right now. They know that's not a reason to amend a law, but he wants them to understand the situation and most importantly they'd like to leave here understanding whether or not there is a path to resolution. If not, then they move on. He doesn't believe going to City Council with a denial from the commission is the best thing for this. He doesn't know if they need to table it and take a bit more time to get things done, that is one thing, but to go to City Council with the risk of having a denial from the fine folks here is maybe a mistake.

GIS Coordinator City of South Jordan Matt Jarman said it has been some time since they did a count of the number of cul-de-sacs in the city, probably a year or two, but it would not be an exaggeration to say there are hundreds, well over 200 cul-de-sacs within South Jordan City.

Chair Hollist closed public comment.

Commissioner Gedge noted his concerns are making an ordinance change citywide for a single property. As Mr. Jarman just indicated there are 200+ cul-de-sacs in the city and that is a large number of homes that could potentially impact. Also, with both proposed changes, he doesn't like having the current owners basically voting and agreeing to it. What would that do to

subsequent property owners adjacent to that property that move in. His feeling is to move forward, not to table it, and also to move staff to continue to work with the applicant to see if there is another avenue, either through a variance or other language, but he doesn't like making a city ordinance change for a singular property that could impact hundreds, if not thousands of homes in the city.

Chair Hollist asked if anyone can comment on the emergency access clearances that are needed to get into properties?

Planner Schindler said technically, for a single-family residence, they wouldn't drive any vehicles into the side yard. For fire they would run a hose and walk it back. As long as they can get their truck to the front of the building that's all they ever do. He was able to find that this is scheduled for City Council on April 20<sup>th</sup> at their meeting.

Chair Hollist said the commission would have the opportunity to see this again before it went to City Council.

Commissioner Morrissey said I am still open to the idea of the applicant choosing whether to move forward or not. At the same time, I am not very open to changing the language that has been proposed in both the agenda and the documents before us, as well as what was proposed by the applicant tonight. It would be a negative vote for me right now based on what he has seen and heard, and I think Commissioner Gedge stated it perfectly and I second those thoughts.

Commissioner Darby said I feel the same way. I have anything to add to what has been said.

Commissioner Catmull said I have respect and empathy for the situation the applicant is in, and it's not a great position to be in. I there was a way to help but I am concerned like the other commissioners about making a change to the text like this to accommodate this specific need. I don't know if there is another way, it sounds like there isn't. The only thing that might persuade me to change from a negative recommendation now would be some sort of review around what other cities have done and how that may or may not help improve the language. For example, if there is an adjacent city with some characteristics and goals that South Jordan has in a similar zone that said the structure has to be 10 or 15 feet away from the main dwelling unit I would be open to reconsidering and seeing what others have wrestled with from other cities. Other than that I am very nervous about changing the text for one specific purpose. I would rather have something that works across a lot of owners and property, rather than one, so they keep their code relatively clean and easy to understand for developers and people who move in and out of the city.

Chair Hollist said I agree with a lot of what has been said by other commissioners. Our body tends to like to find solutions that can be evenly applied across the board. I recognize that these ordinances have history. They often ask the staff to give them the reason for ordinances to understand them better and there usually is a reason for them. In this case, I think it is so the community can expect what standards will be applied and expect that those will be consistent and remain consistent. I have concerns but understands why a side yard has different rules than a backyard line, but even on a backyard line I think his building would have to be at least 6 feet

away from that line. That said, City Council is a very different body than the commission, they are elected, they are often more responsive. In the time I have been on the Commission, they have overruled the commission on a flag lot amendment so, I don't know that even if this body doesn't side with the applicant that his case is lost. I would go to City Council with cleaned up language and make the case to them. I think they are more comfortable making exceptions than the commission is because they are a different body. The commission is appointed, they feel their jurisdiction is to enforce the city codes. I want to give Mr. Bouck a chance to share what he would like to do moving forward. It sounds like overall the commission is not in favor of a change even if the wording was changed, however they are open to tabling this and revisiting it in 3 weeks which would still be before the applicant is on the City Council's agenda. They are also happy to vote this evening and then have the applicant work with staff on what he would like to present to City Council.

Mr. Bouck said I don't entirely understand and I want to clarify that the next body I meet is going to be different from the Commission, and even if it is denied tonight I will still be able to work with the language. I want to be friends and don't want to cause enemies, but I am in the position here and would like to find some kind of conclusion.

Chair Hollist said I understand, but we are appointed and not elected and we don't have the same authority or power to make those decisions.

Mr. Bouck said I wonder if the best thing to do is vote on it tonight, or if there is any other way like a conditional use permit.

Planner Schindler said that the only other option he would have, as there is no conditional use allowed, is to either ask for a variance to the code or to propose a change to the code. A variance would include going before the hearing officer and there are five criteria that have to be present for that to be granted and the staff doesn't believe that is the best route since he doesn't have a specific hardship that is specific to the shape of his property and size. He noted that the applicant may think he has that, but the hearing officer will also look at it and say it's too big, if you build it smaller you can meet the setbacks, or if you moved it closer to the house you could meet the setbacks. There are ways the hardship can be mitigated as the homeowner, so he would probably deny you that variance. The other option is changing the code that would allow you to do it by code and the Planning Commission is appointed, the City Council are elected officials and they have the final say on this. The commission that you are before tonight has been tasked to provide a recommendation to the City Council on what they should do and the City Council isn't bound by their recommendation, they can follow it or make their own opinion and either approve or deny this. What the commission is asking the applicant to do tonight is decide whether you want them to table their decision and recommendation tonight and have it come back and discuss the new language at the next meeting, or just make their recommendation whether positive or negative, and let the City Council decide. In the meantime, you can work with staff, Brad Sanderson, and change the language a bit to accommodate the second proposal and also make it clearer that it matches the current code's language and the way it's written. They are asking the applicant to choose what he'd like to do, they are open to either option.

Chair Hollist said the choice to table the decision will not affect this when he gets on City Council's agenda.

Planner Schindler said it would not, it would still come back to the Planning Commission on April 13<sup>th</sup> and then go to City Council on April 20<sup>th</sup>.

Commissioner Gedge asked Planner Schindler if a variance was denied, is there an appeals process that would go to the City Council?

Planner Schindler said if it is denied they can appeal to 3<sup>rd</sup> District Court.

Mr. Bouck said I think we should move forward. I think everyone's mind is made up here. As long as I am able to continue to work with Mr. Sanderson and continue to work with the staff on language that might work better.

Commissioner Catmull asked Planner Schindler if there was a different text amendment that only set the distance between the accessory dwelling and the main unit, if there was some sort of limit that prevented him from moving the building closer to the home, would that change the outcome of the variance hearing?

Planner Schindler said the distance is set by the building code, not the zoning code. He can move it closer to his main structure if he wanted to. He said he is not the one that makes the decision for the variance, but it wouldn't change his recommendation that the applicant has the opportunity to reduce the size of the building or place it in a different location. He knows it's not convenient to do that. He noticed that the applicant's next-door neighbor built an accessory building on the other side and put in a whole separate driveway to get back to it. There are other ways to do it, and then it would be in his backyard, but then the hearing officer may see it differently. By having some constraint that he couldn't move it closer would eliminate one of the things they are looking at, but it wouldn't eliminate all of them.

Commissioner Catmull said that just having one code issue preventing this wouldn't be strong enough for a variance based on this.

Mr. Simonsen added that Planner Schindler is right and if the applicant wants to go get his own counsel, he would understand that because they represent the city, but he has done 50 to 100 variance hearings at least during the course of his career and he thinks the applicant would have a 2% chance of getting it because you have to get all 5 criteria. If you just miss one you don't get your variance. He predicts that the hearing officer currently will say you could have ordered a smaller building or you could fit it in there, but it might not look exactly how you want it and you haven't met the criteria. He also believes that the application fee is around \$800 for a variance, so that's a lot. He does compliment the applicant in trying to do a text amendment, it's not an easy thing to do and he understands the position he is in. In terms of the variance, he does not think that is a viable avenue for him.

Chair Hollist said we have a great staff and I have no doubt they will do their best to find a solution for him, they really do want to represent their community and citizens.

**Commissioner Gedge motioned that the Planning Commission recommend to the City Council to reject Ordinance No. 2021-03-Z. Also directing staff to work with applicant for additional language to be presented to City Council prior to the City Council meeting. Commissioner Hollist seconded the motion. Roll Call Vote was 5-0 unanimous in favor.**

## **X. OTHER BUSINESS**

Chair Hollist said Commissioner Gedge contacted me about wanting to discuss with the council how to deal with getting accurate information about zoning in Daybreak and some of the issues they have had with Daybreak residents being unhappy with the kind of density and buildings that are going in near their homes. I have added a list to discuss with the Mayor the metrics that they need to meet as a city to resume meetings in person and if they will be able to continue to have some sort of a format that allows people to join virtually.

Jon Day said they have that ability now, they should have the software loaded Thursday and that is how they are going to do it with the City Council.

Chair Hollist said that pleased her greatly and she thinks this will enable more to participate moving forward, a very nice feature to have for the meetings.

Mr. Day said the discussion the council is going to have is if they are going to allow presenters to not be present, and that is something that the commission will need to consider on their side as well.

Commissioner Darby asked for the day and time of the City Council work meeting, if it will be via Zoom or in person.

Chair Hollist said it will be April 6<sup>th</sup> at 4:30pm via Zoom.

Planner Schindler confirmed that is correct and that it is during their regular study session for their meeting that night.

Commissioner Gedge said in preparation is there are any items that we need to be prepared to research on our own.

Chair Hollist said I attended City Council last week and told the Mayor that I would touch base with her at the end of the week, so if I learn of anything else I will let everyone know.

\*There was a pause in the recording and a short bit of audio was lost – during this time it was noted that Mr. Schindler told the commission that there wasn't anything specific he was aware of that City Council needed.\*

## **ADJOURNMENT**

**Commissioner Gedge motioned to adjourn the March 23, 2021. Planning Commission meeting. Chair Hollist seconded the motion.**

The March 23, 2021 Planning Commission Meeting adjourned at 8:58 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez

**This is a true and correct copy of the March 23, 2021 Planning Commission minutes, which were approved on April 13, 2021.**

**Cindy Valdez**

**South Jordan Deputy Recorder.**