

PLANNING COMMISSION MEETING
Tuesday, September 26, 2023 – 6:00 p.m.
Community Recreation Center
10640 N. Clubhouse Drive, Cedar Hills, Utah

Present: John Dredge, Presiding
Commissioner Bari Cruze (arrived at 6:03 p.m.)
Commissioner Tyler Dahl
Commissioner Steve Thomas

Absent/Excused: Commissioner Jared Anderson
Commissioner Jeff Dodge
Commissioner Donald Dolenc
Commissioner Lori Anne Spear

Staff: Chandler Goodwin, City Manager
Jenny Peay, Planning Associate
Coleen Mulvey, City Recorder

PLANNING COMMISSION MEETING

1. Call to Order.

Chair John Dredge called the meeting to order at 6:01 p.m.

2. Public Comment.

There were no public comments.

Chair Dredge recognized the voting members of the Planning Commission.

SCHEDULED ITEMS AND PUBLIC HEARINGS

3. Approval of the Minutes from the August 22, 2023, Planning Commission Meeting.

MOTION: Commissioner Thomas moved to APPROVE the Meeting Minutes from the August 22, 2023, Planning Commission Meeting. The motion was seconded by Commissioner Dahl. Vote on Motion: Commissioner Dahl-Yes, Commissioner Thomas-Yes, Chair Dredge-Yes. The motion passed unanimously.

4. Review/Recommendation and Public Hearing on Final Plan Approval for a Retail Site Located at 10066 North 4700 West in the PD-1 Planned Development/SC-1 Commercial Zone.

City Manager, Chandler Goodwin, reported that the project has been reviewed by the Planning

Commission previously and not a lot has changed since then. He shared the Site Plan and reminded the Commissioners that there have been discussions about the right-in-right-out. There were questions at that time about how it would interact with the drive-thru and Cedar Hills Drive.

The same Traffic Engineer who designed the roundabout looked at the proposal and was supportive of the right-in-right-out as well as the proximity to the future roundabout. The Traffic Engineer did not have an issue with what was proposed. The City Council had outstanding concerns and created a Condition of Approval to state that any Development Agreement would include a one-year look-back period. If in the first year, it is determined that the right-in-right-out creates hazards on the site, it would be possible to remove it. Mr. Goodwin reiterated that the Traffic Engineer felt that the right-in-right-out would function well. The Condition of Approval would ensure that adjustments could be made to the site if that was ultimately not the case.

Commissioner Thomas referenced Café Rio and expressed concerns about access. Mr. Goodwin explained that for this particular site, there will be a bollard, a shaped curb, or something similar implemented to ensure that traffic moves through the site appropriately. If after one year, it is determined that the site is not functioning well, the right-in-right-out will be removed. There was discussion about the future roundabout.

Mr. Goodwin reported that due to the right-in-right-out, it was likely that two mature trees would need to be removed to address clear vision requirements. As a result, it was suggested that the trees be replanted, or new trees planted elsewhere in the City. The landscaping would account for approximately 25% of the site. There were also 34 parking stalls proposed, which was adequate, and all of the utilities were already stubbed in. The storm drainage goes into the existing storm drain retention basin to the south. An access will need to be widened slightly as well. It currently shows 23.42 feet and would need to be widened to 26 feet for public safety. There was discussion about the Development Agreement. Mr. Goodwin stated that there could be an addendum to the existing Development Agreement as it was subject to a Development Agreement for the entire Cedar Canyon Subdivision.

Chair Dredge opened the public hearing.

Nathan Anderson gave his address as 10047 Dahlia Lane in the Cedar Canyon Subdivision. He listened to the previous meeting recording and noted that there was a lot of conversation about the right-in-right-out, which was appropriate, but the intersection at Daisy Lane and 4700 West also needs to be considered. With the addition of commercial and retail traffic in the area, he anticipated that the intersection would become busier than it is currently. That was an issue because there were no good sight lines out of the neighborhood. He wondered if mitigation plans would be discussed for that intersection. It sounded like the future roundabout could take three years or more to implement. There is a lot of activity there currently, which includes pedestrian traffic. He questioned what would be done to address the existing uses prior to the construction of the proposed roundabout.

There were no further comments. The public hearing was closed.

Mr. Goodwin addressed the comments shared during the public hearing. He discussed the access from Dahlia Lane onto 4700 West. A Fencing Plan was approved as part of the Cedar Canyon development and a fence that goes around the perimeter of the subdivision. When it went in, it should have complied with the City's sight triangle laws. Anything within that triangle cannot be taller than three feet. Mr. Goodwin explained that if vehicles are following the speed limit, there should be appropriate visibility. However, not everyone follows the speed limit. He had seen people speed on 4700 West before, so the concerns expressed by Mr. Anderson were valid. If traffic becomes an issue on 4700 West, there was always the option to put in a four-way stop. In which case, the City would need to prove that there was a need.

With regard to the public comment regarding the roundabout, it would be approximately three years out. Mr. Goodwin reported that an application would be submitted to the Mountainland Association of Governments ("MAG") for a Traffic Improvement Planning Grant. If awarded, the grant would cover 94% of the project costs. The City would need to come up with the other 6%. The projects were approved three to four years in advance of actual construction. That application process was currently underway. A Traffic Study was conducted by Hales Engineering that pertained to the flow of traffic within the commercial subdivision. Based on that, there are times when the traffic at 4700 West and Cedar Hills Drive is problematic. For example, when school is out, there is a lot of east and westbound traffic trying to move through, which blocks the 4700 West intersection. The roundabout was intended to address that. Mr. Goodwin reported that the Traffic Study looked at more than just the roundabout area. He reviewed details about what was anticipated as part of the roundabout proposal. There had been discussions with the Public Works Department about striping the 4700 West intersection. A plan is needed for pedestrian crossings and striping until the roundabout can be added.

Chair Dredge asked if there was a problem with speeding on 4700 West. Mr. Goodwin explained that speeding is an issue on all City roads. He did not know that speeding on 4700 West was outside the norm. Mr. Goodwin reported that there is a traffic trailer that measures speeds. It is necessary to look at the speed 85% of the cars drive. Speeding occurs on most roads in the City, but it is not consistent behavior. The traffic trailer measures average speeds and determines whether something needs to be done. Mr. Goodwin noted that the traffic trailer could be placed on 4700 West to obtain data about that specific area. That being said, he had not received complaints about 4700 West, likely because residential homes do not front 4700 West. Normally, there are complaints when there is speeding past the front door of a residential home. He noted that the right-in-right-out is the main discussion point.

Commissioner Thomas believed the Council and developer had addressed the right-in-right-out concern with the condition in the Development Agreement. There was discussion about appropriate language for a motion as well as potential Conditions of Approval for the Final Plan. Mr. Goodwin shared information about the 4700 West entrance and the current measurements. He identified the easements on the site. One easement goes through the south end of the property, which is stormwater and sewer. There is another easement on the east side of the property. The building was shifted to the north to accommodate the existing easements. The building placement was also pulled away from nearby residences to mitigate the impacts.

MOTION: Commissioner Dahl moved to recommend APPROVAL to the City Council for the Final Plan for the Cedar Hills Retail Building, Located at Approximately 10066 North 4700 West in the PD-1 Planned Development/SC-1 Commercial Zone, subject to the following conditions:

- 1. Final engineering review of the Site Plan.**
- 2. Final building and zoning review and compliance with the City Ordinances.**
- 3. Final determination and/or payment for project water rights.**
- 4. Relocation of trees at the Cedar Hills Drive entrance.**
- 5. The access to the 4700 West entrance to be expanded to 26 feet.**

The motion was seconded by Commissioner Thomas. Vote on Motion: Commissioner Cruze-Yes, Commissioner Dahl-Yes, Commissioner Thomas-Yes, Chair Dredge-Yes. The motion passed unanimously.

5. Review/Recommendation and Public Hearing on Preliminary Plan Approval for Lehi Bakery Lot 3 Plat B Rhinehart Subdivision Located in the SC-1 Commercial Zone.

Mr. Goodwin requested that the above item be tabled. He explained that information about the project would be shared for the benefit of the Planning Commission as well as the residents in attendance. The City received a preliminary proposal for Lehi Bakery to be located at 10018 North 4700 West on Lot 3 of the Rhinehart Subdivision. The proposal would include a drive-thru with access from 4700 West and 10040 North. Most of the project concerns are related to landscaping and signage requirements. Those issues had been discussed previously. Mr. Goodwin noted that the Fire Marshal reviewed the layout and determined that there was access.

The current proposal still shows only 13% landscaping. The project design needs to address that issue and reach the minimum 15% required for the lot size. Mr. Goodwin believed that could be achieved by looking further at the parking. The current proposal showed that the site is overparked as 30 parking stalls were shown. He noted that 30 parking stalls for a bakery is excessive. The drive-thru allows for the stacking of six to seven vehicles. It is difficult to create a sufficient drive-thru because the preference for drive-thru services continues to increase and there are frequently long lines. Drive-thrus are fairly standard in design but there is demand to consider.

Mr. Goodwin explained that the reason the suggestion was made to table the item was that no building renderings had been provided. A significant component of the Commercial Code was that the elevations of the building must comply with the underlying zone requirements. Without those renderings, he was not comfortable moving forward with preliminary approval.

Chair Dredge wondered if concerns about the drive-thru had been shared with the developer. Mr. Goodwin confirmed that there had been conversations with the development group. Chair

Dredge wanted to know about the required parking based on the square footage. Mr. Goodwin reported that there needs to be one parking space for every three seats and a minimum of one additional space for each employee at the highest shift. He reiterated that the current site appears to be overparked. Chair Dredge believed some of the additional parking spaces could be transitioned to create a larger drive-thru. Mr. Goodwin stated that it is important to consider egress. What is needed on the site will depend on the drive-thru demand. He wanted to hear from the development group to determine what is seen at other locations.

A representative from Lehi Bakery was present and noted that there could be 10 employees at 3:00 a.m. At that time, the drive-thru would not be open. Mr. Goodwin pointed out that it would be unnecessary to provide parking for 10 employees when there will not be that many employees there during operating hours. He offered to reach out to the engineer to discuss potentially shifting the building to have a double drive-thru. That shift would make it feasible to add more stacking. He did not believe it was possible to shift the entrances to the site. He reminded those present that a fire apparatus needs to be able to pull within 150 feet of the building. It looked like there was room, but the Fire Department would need to determine that.

Chair Dredge opened the public hearing. There were no comments. The public hearing was closed.

MOTION: Commissioner Thomas moved to TABLE Preliminary Plan Approval for Lehi Bakery, Lot 3, Plat B Rhinehart Subdivision Located in the SC-1 Commercial Zone. The motion was seconded by Commissioner Dahl. Vote on Motion: Commissioner Cruze-Yes, Commissioner Dahl-Yes, Commissioner Thomas-Yes, Chair Dredge-Yes. The motion passed unanimously.

6. Land Use Training.

Mr. Goodwin reported that in the 2021 General Session, the State Legislature passed a requirement that Planning Commissions must complete four hours of annual training. It was suggested that there be an annual review of general powers and duties under the Municipal Land Use Development Management Act (“LUDMA”). At this meeting, there will be a review of the powers and duties of the Planning Commission.

Mr. Goodwin shared the City of Cedar Hills Planning Commission Bylaws. He reported that every City is required to have a Planning Commission. Even though Cedar Hills is nearly built out and the number of applications for development that come in will start to dwindle, there are still land use issues that need to be addressed. As the State changed the requirements for cities, zoning, and land use, the City will need to respond to those changes. For example, when rules for Accessory Dwelling Units (“ADUs”) were changed, the City Code had to be amended.

The powers and duties of the Planning Commission can be found in Utah State Code Section 10-9a-301. The basic principles were outlined in that section of the Code, which included the following:

- Equality of Members: As the Commission conducts its affairs in accordance with these rules, each member has the same rights, privileges, and duties as any other member.
- Freedom of Discussion: Members have the right to be heard and to hear what others have to say about a motion before voting.
- One Main Motion: Only one main motion may be considered at any given time.
- Member Right to Know: Members have a right at all times to know the immediately pending motion and have it restated prior to any vote.
- Meeting Properly Called: The Commission may take official action only in meetings properly called and with a quorum of members present.
- Actions Must Be Lawful: Actions taken by the Commission must be in accord with the City of Cedar Hills, State, and Federal Law.

Mr. Goodwin discussed the need for a quorum and shared a sample scenario where only three Commissioners were present. If there was a 2-to-1 vote, the item would not pass because there was not a majority of Commissioners present. Mr. Goodwin reported that there are also requirements related to attendance. The language states that: "Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the Chair, shall be construed by the Chair as grounds for resignation from the Commission by absence. The Chair would then recommend removal of the Commissioner to the City Council." As for terms, the regular voting members have terms. There is a rotation so not all terms expire at the same time. The first item of business that is conducted each year is a vote for the Chair position. As Chair, it is possible to delegate duties to the Vice Chair or an appointee if the Vice Chair is not present.

Something that is not done often is a personal inspection. The language states, "The Chair may designate members of the Commission to make personal inspections when necessary for proper consideration of agenda items. The Chair may appoint standing or ad hoc committees as may be found necessary to successfully and efficiently carry out the function of the committee." Mr. Goodwin explained that an example would be asking someone to do a site visit to determine the conditions. That Commissioner could then report back with details.

Mr. Goodwin shared information about conflicts of interest. He noted that conflict of interest law in Utah is interesting and has improved over the years. It used to be possible to have a conflict of interest, but that conflict needed to be declared. He was not sure that was necessarily the case anymore. There is a Utah Ethics Act in State Code Title 67-16. He shared a copy of the Utah Ethics Act with the Commission and explained that it contains information about conflicts. It specifically references financial interests. The threshold is set at \$1,000. After that, it would be considered a conflict of interest. It is the responsibility of each individual Commissioner to declare a conflict of interest. Failure to do so could result in removal. As for gifts, it is not acceptable for Commissioners to accept gifts valued at more than \$50.

Commissioner Cruze wondered if the conflict of interest language only pertains to commercial development. Mr. Goodwin denied this. It could also be a residential development. For example, if a Commissioner owns attractive land and a developer proposes a development that sought exemptions from the Code or special considerations, that could be a conflict of interest. Though

Commissioners are often impacted by land use issues, the conflict comes when there is a financial interest. He offered to send out a copy of the language to Commissioners for review.

Mr. Goodwin reported that Open and Public Meetings Training is conducted at the beginning of the year. All meetings and deliberations need to be done in the open and in public. There is to be no dialogue over email, apart from someone stating that they would be unable to attend a Planning Commission Meeting. If there are questions or concerns, it is appropriate for Commissioners or members of the public to reach out to a member of City Staff for additional information or clarification. However, there cannot be a quorum present. If there are three members of the Commission on a text or email thread talking about a future decision, that would be considered a quorum and in violation of the Open and Public Meetings Act.

Chair Dredge noted that in the past, there were instances where a member was not in attendance and asked that a statement be read aloud on their behalf. Mr. Goodwin confirmed that this is appropriate. Reading a letter on behalf of someone else is not a violation. It is appropriate for Commissioners to speak to one another in an outside setting about an item, as long as no quorum is present. Mr. Goodwin discussed tie votes and explained that when there was a tie vote, the matter was not approved. The hearing procedures were as follows:

- The Commission Chair shall introduce the item;
- The applicant outlines the nature of the request and presents supporting evidence;
- The Commission Chair, or acting Commission Chair shall open the public hearing. The Commission Chair without objection by members of the Commission, may impose time limits for comment to facilitate the business of the Commission;
- The Commission Chair or acting Commission Chair shall close the public hearing;
- The Commission Chair or acting Commission Chair may allow the applicant or petitioner to address issues raised by the public comment;
- The Commission Chair or acting Commission Chair shall allow members of the Commission to discuss the matter and ask questions of the applicant or petitioner; and
- The Commission Chair may call for a motion and vote by the Commission on the application or petition. If a substantial amount of public comment was received, the Chair may table the motion to allow Commissioners to review the public comment.

Commissioner Cruze wondered if there were instances where a Commissioner would not act as part of the Commission during a meeting and instead act as a Petitioner. Mr. Goodwin was not certain but felt it might be appropriate to completely step out of the seat. There have been examples where a City Council Member or Commissioner completely left the room during those types of matters. Commissioner Cruze asked who would speak on behalf of the Commissioner in that scenario. Mr. Goodwin noted that Staff could represent the item as could hired counsel.

Mr. Goodwin informed the Commission that there would be additional training moving forward.

ADJOURNMENT

7. Adjourn.

MOTION: Commissioner Thomas moved to ADJOURN the Cedar Hills Planning Commission Meeting. The motion was seconded by Commissioner Cruze. Vote on Motion: Commissioner Cruze-Yes, Commissioner Dahl-Yes, Commissioner Thomas-Yes, Chair Dredge-Yes. The motion passed unanimously.

The meeting adjourned at 6:57 p.m.

Approved:
October 24, 2023

/s/ Colleen A. Mulvey, MMC
City Recorder