

**RIVERTON CITY PLANNING COMMISSION
MEETING MINUTES
DECEMBER 14, 2023**

The Riverton City Planning Commission convened at approximately 6:30 p.m. in the Riverton City Hall, 12830 South Redwood Road, Riverton Utah.

Planning Commission Members:

Jon Gilchrist, Chair
Shelly Cluff
Evan Matheson
Monique Mortensen
Darren Park
Troy Rushton

Staff:

Tim Prestwich, City Planner
Ryan Carter, City Attorney
Lisa Halversen, City Planner

1. CALL TO ORDER/ROLL CALL

Chair Jon Gilchrist called the meeting to order at approximately 6:30 p.m.

2. PUBLIC HEARINGS

A. PETERSON SHORT-TERM RENTAL, PLZ-23-2038, A CONDITIONAL USE APPLICATION FOR A SHORT-TERM RENTAL LOCATED AT 3386 WEST SUNNY ACRES DRIVE. APPLICANT - AMY PETERSON.

City Planner, Lisa Halversen, presented the Staff Report and stated that the application is for a Conditional Use for a Short-Term Rental. She noted that most Business License applications are reviewed by the Business License Department. Applications that come before the Planning Commission include an exception requiring their discretion. The subject property is located in the southwest quadrant of the City and is zoned RR-22, which is single-family residential with one-half acre lots. The subject property is .5 acres in size and the existing home is a two-story with 3,400 square feet above grade and 2,100 square feet in the basement. The home has a three-car attached garage and a fenced backyard. A property rendering showed the triangular lot, which is narrow in the front and gets deeper and wider as it goes back. The application was submitted as a result of complaints received from the neighbors about a business operating without a license. The applicant has been operating a short-term rental from the home for just over one year and desires to come into compliance with the City Code by applying for the permit. Staff received numerous public comments from neighbors and more feedback than has been received about any other short-term rental property or home occupation.

Ms. Halversen reported that the applicant lives in the basement of the home full-time and rents the top two floors as a single unit for short-term rentals. There is a locked door to separate the areas and there are separate entrances. The rental is allotted two parking spaces in the garage and the applicant uses the other space. No on-street parking is allowed. Ms. Peterson has reviewed the rules and regulations set forth in the Code for short-

term rentals and believes that she can meet all of the requirements. The short-term rental requirements are as follows:

1. The applicant must own the home and live on-site.
2. Rentals are limited to 150 nights per year.
3. There can be only one Rental Agreement at any given time.
4. The Owner must provide a contact number to the neighbors within 300 feet.
5. A Rental Agreement must be for a minimum of two nights and cannot exceed 29 days.
6. There shall be no more than eight renters at any one time.
7. Off-street parking must be provided and used.
8. A Renter Information Packet must be posted with contact information.
9. The property address must be clearly visible at the front of the home.
10. The backyard must be fenced.
11. A Conditional Use Permit and Riverton City Business License must be obtained.
12. The Riverton City Noise Ordinance must be complied with.
13. The property is to be maintained according to Riverton City Ordinance.

Ms. Halversen stated that the comments received from the neighbors who are opposed to the request were provided to the Commission. The majority of their concerns pertain to on-street parking, events that create traffic, and inadequate supervision by the homeowner. Ms. Peterson has been made aware of the concerns and expressed a willingness to follow the rules. She agreed to expressly state in her Rental Agreement that on-street parking and events will not be allowed.

The application reveals the difficulties the neighbors, the Planning Commission, and City Staff have when a Home Occupation operates without a permit and the owner then attempts to obtain a Permit to come into compliance. Ms. Halversen stated that in similar cases, the applicants have already demonstrated how their business conflicts with the neighborhood because they did not follow the Home Occupation rules. Riverton City is set up so that once a home occupation has legal standing and approval to operate and the applicant is not in compliance, the Home Occupation may be revoked. She stated that in such a case an applicant would not be allowed to reapply for one year.

Ms. Halversen reported that the Planning Commission is the land use authority and will be charged with weighing the concerns of the neighbors with the applicant's ability to adhere to the conditions of approval. A condition was added to specify that no more than eight non-permanent residents would be allowed at the home at any one time. Staff believed the Code for Short-Term Rentals and the recommended conditions are adequate to bring the subject property into compliance.

Chair Gilchrist asked how long the applicant has been operating as an Airbnb and the number of Code Enforcement complaints. Ms. Halversen confirmed that the applicant has been operating for 18 months and Officer Juarez was only made aware of traffic and parking complaints.

Commissioner Park raised a question about a comment addressing a neighbor being approached by the Police Department. City Planner, Tim Prestwich explained that the Development Services Director discussed the issue with the Police Department and could not confirm that interaction.

Commissioner Cluff reported that one of the requirements prohibits on-street parking as part of the short-term rental. If that were to occur, she asked how it would be recorded against the Conditional Use Permit approval. Ms. Halversen stated that per Code, the applicant will be required to respond within one hour of any contact. City Attorney, Ryan Carter, stated that on-street parking violations can be directed to the Police Department which will then file a report. As long as the violation is recorded and tied to a business with hours of operation, that would be enough for the Planning Commission to consider whether to take action against the business.

Commissioner Rushton referenced a prior home application that included a pool rental and asked if there had been any issues since then. Mr. Carter stated that in every instance that a short-term rental business comes forward with a legitimate application, there have not been any further complaints after being granted. He believed that if the conduct that was displayed on the property to the present time sufficiently caused concern, there was a high likelihood that the behavior would continue after being granted a Conditional Use Permit and Business License. The most reasonable added condition would be a requirement to provide a security deposit in the same amount as the Conditional Use application and mailings. This would cover the City's expenses to proceed to revoke the Conditional Use if it were necessary to hold another hearing. The funds would be held by the City on deposit for a specified length of time. If the applicant demonstrates that they are in compliance and a legitimate business, the funds will be refunded. He commented that there has not been any evidence in other cases to show a compelling need to take action.

Chair Gilchrist's understanding was that the Ordinance was adopted to impose restrictions on how a homeowner can use their property as a short-term rental while being enforced by the City.

Commissioner Matheson stated that the City has provided training with regard to residents expressing opposition to an issue. If City Code is adhered to, it is not within the purview of the Planning Commission to deny the request. Mr. Carter reported that when an application

is considered, a determination is made as to whether it meets Code. It is not uncommon for a person bound to a Code Enforcement violation to be given an Order to come into compliance along with a Cease-and-Desist Order.

Commissioner Cluff asked if hypothetically, the applicant would violate the Conditional Use Permit had one been issued one year ago with the conduct reported. Mr. Carter believed it was fair to say that the situation would have drawn more attention. The City would have been able to demonstrate, based on the number of complaints, whether the applicant was responsible.

The applicant, Amy Peterson, was apologetic and stated that she was willing to comply with the conditions described. She recently held a missionary reunion on her property with on-street parking and several small weddings. She was unaware of her neighbors' concerns and had she known, she would not have agreed to the events. Her son lives with her in the basement and attends the University of Utah. She works three shifts per week as a Nurse and is always available by telephone. She was agreeable to the imposed conditions that included a maximum of eight renters at any one time, no social gatherings, and no on-street parking. She emphasized that she wants her neighbors to feel comfortable and safe.

Commissioner Park thanked Ms. Peterson for her attendance. He asked if she understood the expenses she would incur as part of the application and if she was unaware of the City's requirements to bring her business into compliance. He referenced complaints addressing the basic awareness of what is taking place within the rental, although she lives downstairs. Activities have taken place that would appear odd to anyone, especially when operating out of her home, which he felt would have been overly obvious. Ms. Peterson stated that she was not aware that a Business License was required and was more than willing to comply with the rules. She referenced an issue with the selling of trailers. She stated that it was unfortunate and most was taking place at night. Her neighbors have large garages with boats and trailers and several have businesses where trailers are kept at their homes. When she saw the trailers, she thought they belonged to her neighbors who were preparing for a camping trip. She confronted the renters who were told never to return and she reported them to Airbnb. Most renters are families with children who are visiting families who live locally. She meets nearly all of the renters who she stated are very nice people.

Commissioner Cluff stated that one comment mentioned the smell of marijuana at the home. Ms. Peterson stated that there was one renter one year ago who was using medical marijuana. She stated that there has been no usage since then. Ms. Peterson stated that her living in the basement deters those who want to rent the home for parties.

Commissioner Matheson asked Ms. Peterson about being available during her nursing shifts to respond to issues within the required one-hour time limit. She reported that she works night shifts at Salt Lake Behavioral Health and is allowed to keep her phone with her. Her son is also home during those times and is available to respond. Staff suggested having Ms. Peterson's son listed as a secondary contact.

Chair Gilchrist opened the public hearing.

Dave Davis reported that he has lived across from the subject property since 2017. He works 14 days per month and is home frequently. The trailer incident included five or six trailers lined up along the street with power cords running from the applicant's property. He stated that Ms. Peterson works in Montana 6 to 12 months per year and is not always home. They have a good neighbor relationship and often help take care of the home and property when Ms. Peterson is working away. He has reached out to Ms. Peterson multiple times by text asking if she was aware of doors being left open for extended periods of time or people being on her roof. He felt that issues were not being reported because neighbors did not want to report on neighbors. Weddings and other large events have taken place on the property with the street being lined with cars. Mr. Davis stated that he was the neighbor who was approached by the Riverton Police Department asking him about drugs being sold from the home. His concern was with winter snow and cars block the road and walkways from being cleared. He was aware of more than 10 neighbors with similar frustrations.

Justin Bates gave his address as 3367 Sunny Acres Drive, across from the subject property. He agreed with the comment that neighbors do not want to report neighbors but there has been enough activity that it has become warranted. He confirmed the trailer issue and witnessed them being parked along the curb and plugged in with power and water. His greater concern was with the background check being run on those renting the property. His wife was walking their dog recently and smelled marijuana coming from the subject property. The following day they witnessed the same person on the roof of the home. He emphasized that the character of people coming into the neighborhood is not desirable. His home is currently worth \$2.5 million and he expressed strong opposition to the City granting Ms. Peterson's Conditional Use Permit request.

Cliff Lee reported that he has lived at 13266 South 3400 West for over 23 years. His property is within 300 feet of the subject property. His concerns were with the use setting a precedent that may change the current zoning restrictions and the character of the neighborhood. He was concerned about the type of people short-term rentals attract. He was worried that on-street parking would impede the ability of residents to access their homes and for snow removal to be performed. He felt that to grant the zoning allowance was to ignore the expectations of other residents.

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

Commissioner Rushton asked if a condition could be added to specify that no more than eight renters and/or guests may occupy the home at any one time. Mr. Carter confirmed that the clarifying language could be added. The City would require the applicant to provide records showing dates the property was in use and compare it to the Transient Room Tax for consistency.

Commissioner Rushton felt that online platforms bear partial responsibility and questioned the sites that ask if the owner has complied with local City ordinances and regulations. He noted that Riverton City has very restrictive short-term rental regulations. Mr. Carter reported that when writing the ordinance, he took an amalgam from every other city in Salt Lake County. The idea that anyone who may be a successful renter applicant must first clear a security or background check is not something the government has considered or

shown a willingness to implement. He remarked that implementing such a requirement of a VRBO regulation may be stricken as it is a constitutional restraint against freedom of travel. He reiterated that the City is doing all it can while remaining compliant.

Commissioner Cluff stated that reports of renters on the roof or doors being left open are not technically Code violations and therefore not enforceable. Mr. Carter explained that Police Officers who are responding to complaints may only approach the property under suspicion of activities that may be giving rise to the behavior. The selling of trailers would qualify as an ongoing activity without a Business License and categorized as a separate Code violation. He supported the addition of language stating the rental must remain in compliance at all times with the Business Licensing Code in all respects.

Commissioner Park had reviewed the residents' concerns as submitted by Staff. Based on the Short-Term Rental Code summarized within the restrictions, he believed the addition of one or two additional conditions would be beneficial in mitigating future concerns. The "three strikes" language would motivate Ms. Peterson to abide by the conditions and ensure that renters are compliant. He suggested that additional restrictions be placed on renters in an effort to be a good neighbor.

Commissioner Matheson stated that there was a rental in his neighborhood that created a much greater disruption than the issue at hand. He expressed opposition to short-term rentals. If an application meets all requirements, he felt it was not in the Planning Commission's purview to decline the request. He emphasized that restrictions placed on large events or gatherings only pertain to Airbnb guests and Ms. Peterson as a homeowner, would be entitled to hold weddings or parties just as any other neighbor would.

Chair Gilchrist stated that several similar short-term rental applications have come before the Planning Commission. As the applicants come into compliance and abide by the Ordinance, he was not aware of any additional complaints.

Commissioner Rushton moved that the Planning Commission APPROVE PLZ-23-2038 Peterson Short-Term Rental to be located at 3386 West Sunny Acres Drive with the following conditions:

- 1. The site, structures, and use shall remain in compliance with any and all applicable Riverton City standards and ordinances, specifically the City Home Occupation Ordinance (18.190) and applicable Building and Fire Codes.**
- 2. Short-term rental must be operated within the rules and regulations for Short-term Rentals as described in Riverton City Code 18.190.051.**
- 3. Applicant must obtain and maintain a Riverton City Business License.**
- 4. Applicant shall surrender the applicant's Conditional Use permit for short-term rental use of the subject property in the event applicant undertakes any other business activity on the subject property, or the**

applicant shall reapply for a Conditional Use permit for a short-term manner which takes into account the other business activity.

- 5. The applicant shall disclose all Applicant's advertising materials, whether provided to listing agencies or otherwise made available to potential customers and shall semi-annually update City Staff of any changes to said advertising materials.**
- 6. There may be no more than 8 guests (non-permanent residents related to the rental property) at any given time.**

Commissioner Cluff expressed gratitude to the public for their attendance and input. The Planning Commission is somewhat restricted in its determinations with the Code as adopted by the City Council. She encouraged residents to review the Short-Term Rental Code to become better apprised of what actions are considered violations. She reported that Code Enforcement lies with citizen complaints and any questions or concerns should be brought before the City Council.

Commissioner Matheson seconded the motion. The motion passed with the unanimous consent of the Commission.

B. SUBDIVISION CODE AMENDMENTS, PLZ-05-5010, PROPOSED AMENDMENTS TO RIVERTON CITY CODE, TITLE 17 - SUBDIVISIONS, WITH CHANGES TO PUBLIC IMPROVEMENT STANDARDS AND TO THE APPLICATION, REVIEW, AND APPROVALS PROCESSES TO CODIFY CURRENT PRACTICES, IMPROVE EFFICIENCY AND BE IN COMPLIANCE WITH THE REQUIREMENTS OF UTAH SB 174 AND UTAH HB 406. APPLICANT RIVERTON CITY.

Mr. Prestwich presented the Staff Report and stated that the above item pertains to the proposed amendments to Riverton City Code, Title 17 Subdivisions. The 2023 Legislative Session approved Utah Senate Bill 174 and Utah House Bill 406 altering State Code for Subdivision review and approval. With the State Legislature's recent interest in rising housing costs, they intend to take a more hands-on approach in dictating the review and standards process. The proposed amendments to Title 17 will bring Riverton City into compliance with the State Code and codify many of the practices that have already been implemented by the City. The most noticeable change will include the introduction of a two-step review where a Concept Plan, Public Hearing, and Final Plans are approved in a streamlined process. Staff required additional time due to the intensity of the proposed amendment changes.

Mr. Prestwich reported that Residential Subdivisions are approved under several different applications. When a subdivision application is accepted as complete, the Planning Director shall determine the subdivision type from one of the following:

- (a) Minor Subdivision. Any subdivision that has three or fewer lots.**

- (b) Commercial Subdivision. Any subdivision that is not for the purpose of single-family residential lots.
- (c) Single Stage Subdivision. Any subdivision of 20 or fewer lots that is being developed as a single phase and does not meet the requirements of a minor subdivision.
- (d) Amended Plat. Any plat having been previously recorded and applied to change the boundaries of one or more lots, change a street or right-of-way, or add property and lots. If property is added to the amended plat, the verbiage "Amending and Extending" shall be added.

Mr. Prestwich noted that the above applications will be presented to the Planning Commission and approved in a Final Meeting. All Multi-Stage Subdivision Concept Plans will require Staff review followed by a public hearing. The applicant would then return with a full set of plans for Staff review. Next, Staff would forward the full set of plans to the Planning Commission for approval in a public meeting. Suburban Land Reserve ("SLR") Zones would continue operating under the Master Development Agreement ("MDA"). Each step is approved by Staff and moved forward for Planning Commission approval.

Mr. Prestwich next reviewed the following updated Title 17 State Code requirements.

- 1. Title 17 will implement a new position or group called an Administrative Land Use Authority ("ALUA"). The ALUA, by the State's definition, could be the Planning Commission or City Staff and cannot be the City Council.
- 2. Transition from the term Concept Plan to Preliminary Plat.
- 3. Define a "*Complete Application*." The State has limited the number of exchanges to four.

Mr. Carter reported that the City will require discernment and discipline in its determination of what constitutes a completed application. The Utah Legislative Audit Committee recently produced a report that makes a case for a Statewide Development Plan model. Riverton City has given out more density development rights than what is being seen in the resulting homes being built. He believed that landowners were looking for a "sweet spot" in their pricing and a development product that would be more expensive. A slightly lower density would be required to achieve the desired focus and ability to catch up with housing prices. He explained that the Utah League of Cities and Towns ("ULCT") has responded with data that demonstrates the increased distribution of development permit rights. Although cities are doing what they can to address the issues, they are not taking the added step to address the conflict of interest taking place at the State Legislature. He felt this was a false narrative and conclusions reached in the report do not address items that are artificially driving up home prices in Utah or market economics beyond the City's control.

Mr. Prestwich reported that the Planning Commission will review Preliminary Plans but will not be the deciding body for Final Plans. Changes will take on one standard process with

one public meeting. SLRs will remain unchanged. The new process will eliminate the Single-Application Subdivisions and add an additional two to three months for review. He noted that it was still unclear how the changes would impact overall review times. There is an entirely new appeal process under the State Code and it will be at the City's discretion as to who will be responsible for the two appeal bodies. The Board of Adjustment will not hear an appeal, which will become the responsibility of three select engineers. Staff recommended the Planning Commission continue the Public Hearing to the January 11, 2024 Meeting.

Commissioner Rushton asked if the MDA could be used on smaller projects. Mr. Prestwich stated that a Development Agreement is always an option for the City but is limited by the Legislative decision.

Commissioner Park questioned the timeline for completion and the role of the Planning Commission in the process as it moves forward. Mr. Carter stated that there is an incentive to move on with the process. It was noted that the timeline changes may seem unreasonable but there is not much the City can do about it.

Commissioner Gilchrist moved that the Planning Commission CONTINUE the Public Hearing of the Amendment to Title 17 to the next Planning Commission Meeting. Commissioner Cluff seconded the motion. The motion passed with the unanimous consent of the Commission.

C. HOME OCCUPATION CODE AMENDMENTS, PLZ-23-5011, PROPOSED AMENDMENTS TO RIVERTON CITY CODE TITLE 18.190 - HOME OCCUPATIONS TO CLARIFY THE CRITERIA AND PROCESS FOR THE COMMISSION TO REVIEW REQUESTS FOR NON-RESIDENT EMPLOYEES TO WORK AT A HOME OCCUPATION AND ESTABLISH A MAXIMUM NUMBER OF NON-RESIDENT EMPLOYEES ALLOWED TO WORK AT A RESIDENCE. APPLICANT - RIVERTON CITY

Mr. Prestwich presented the Staff Report and stated that the proposed amendment to Riverton City Code Title 18.190 is in response to recent Home Occupation applications. The Riverton City Code for Home Occupations allows for non-resident employees to work from the home where a Home Occupation exists. The Code implies that all employee parking must be screened but does not expressly state a maximum number of employees or employee vehicles. Originally, the ordinance only allowed one non-resident employee to work from the home. Later, the City amended the ordinance to allow additional non-resident employees as approved by the Planning Commission under certain conditions. Recent applications have requested more employees and more intense uses at the home. The increase raised questions regarding criteria and the evaluation process by the Planning Commission. Mr. Prestwich explained that the proposed amendment will clarify the process and criteria for evaluating Home Occupations with non-resident employees and establish a maximum number of employees and vehicle trips. Amendments to the proposal will move the criteria to the Conditional Use Section of the Code. He reminded the Planning Commission that adjustments are allowed based on the property and sets the maximum number of allowed vehicles to four.

Chair Gilchrist was of the opinion that one employee vehicle parked in a driveway is reasonable. Mr. Prestwich explained that the language must read that any employee greater than one must be parked off-street and screened.

Commissioner Matheson wondered what type of screened fencing is required. Mr. Prestwich clarified that fencing must not be transparent.

Commissioner Cluff stated that four employees seemed excessive as part of a Home Occupation. Examples throughout the City were reviewed.

Commissioner Rushton was opposed to the term “screened” and felt that requiring screened parking would prohibit smaller properties from presenting a Business Plan and defeat the opportunity. He believed there was a double standard as the previous Short-Term Rental application allowed for renters to park in the driveway with no expectation of screening. He supported flexibility with those providing services such as daycare, music classes, or catering. Chair Gilchrist stated that having a number of cars in a driveway does not seem to be an unusual use, even if related to a business. He requested clarification in defining the term “screened” behind a solid fence.

Mr. Prestwich agreed to return with the suggested changes. Placing a screening requirement on vehicles over a specific weight and alternative options were discussed. He understood that it was the consensus of the Commission that the idea of having cars, pickup trucks, vans, and SUVs unscreened in the driveway was acceptable. It was suggested that other equipment that does not fall into the allowed category should be required to be, at a minimum, behind the front plane of the home. Defining the term “screened” to create consistency was recommended.

Commissioner Cluff moved that the Planning Commission CONTINUE the Public Hearing for Amendments to 18.190 Home Occupations to the next Planning Commission Meeting. Commissioner Rushton seconded the motion. The motion passed with the unanimous consent of the Commission.

3. DECISION ITEMS

A. None.

4. DISCUSSION ITEMS

A. None.

5. MINUTES

A. 11/09/23 Planning Commission Meeting Minutes.

Commissioner Cluff moved that the Planning Commission APPROVE the Planning Commission Meeting Minutes of November 9, 2023, with the changes noted.

Commissioner Rushton seconded the motion. The motion passed with the unanimous consent of the Commission.

6. ADJOURNMENT

The meeting adjourned at approximately 8:50 p.m.