

**RIVERTON CITY PLANNING COMMISSION  
MEETING MINUTES**

**September 26, 2019**

**The Riverton City Planning Commission convened at 6:30 p.m. in the Riverton City Municipal Building, 12830 South 1700 West, Riverton, Utah.**

**Planning Commission Members:**

**Brian Russell, Presiding  
Gary Cannon  
James Endrizzi  
Dennis Hansen  
Kent Hartley  
Ed James  
Troy Rushton**

**Staff:**

**Tim Prestwich, City Planner  
Craig Bott, Deputy City Attorney  
Brian Moore, City Engineer**

**Chair Russell called the meeting to order. Commissioner Hansen led the Pledge of Allegiance.**

• **PUBLIC HEARINGS**

City Attorney, Craig Bott informed the Commission that in a public hearing, prior to announcing a decision, a statement should be made relative to the findings of fact and conclusions of law. It is a legal term that means that the Commission has to state the facts provided during the public hearing upon which they are basing their decision and indicate how the facts apply to the ordinance that supports their decision. Mr. Bott clarified that the individual making the motion should announce the findings of fact and conclusions of law. The motion should specify that approval is being granted or denied as a result of facts that came to the attention of the Commission. The facts listed can only be those mentioned during the public hearing. When the facts are applied to this specific provision of the Code, they should support the motion made.

Mr. Bott explained that if no facts are determined from the hearing, there is no basis upon which to render a decision. Staff was giving testimony but they have provided facts relative to the issue. If no one else speaks during the public hearing, the decision can be based on the facts presented by staff. Mr. Bott stated that frequently the facts presented are subjective in nature. Such facts should only be given such weight as are due. Public clamor can be taken into consideration but should only be given as much consideration as it is due.

Mr. Bott indicated that the Commission's decisions are to be made strictly based on the evidence presented during the hearing and not on individual viewpoints, perceptions, or beliefs.

Commissioner James asked if a motion is made whether all of the facts need to be stated in the staff report or amplified in the motion. Mr. Bott responded that when staff prepares their report, they should identify the facts presented. If there are additional questions, they

can be considered. Commissioner James stated that in the past, staff has provided a synopsis of the facts, which was very helpful in making a motion. He asked that that information be provided in the staff report. Mr. Bott explained that it is problematic because staff would have to prepare additional paperwork that could hold up the decision-making process. He suggested that the facts be written down as they were heard. The facts can then be cited and support the motion. Procedural issues were discussed.

**1. CONDITIONAL USE HOME OCCUPATION, STANLEY COON IS REQUESTING A CONDITIONAL USE PERMIT FOR A HOME-BASED BUSINESS FOR "STACKED BARBELL" FOR AN IN-HOME ONE-ON-ONE PERSONAL TRAINING TO BE LOCATED AT 12046 SOUTH 1840 WEST.**

City Planner, Tim Prestwich presented the staff report and stated that the request is a Conditional Use Permit for an in-home business offering one-on-one personal training. The property is located in an R-4 zone in a well-established area. Notices were sent out to property owners within 300 feet. An aerial image of the property was displayed. The driveway is three-cars wide with plenty of parking along the street. The applicant has requested for just one employee, himself, and up to seven clients per day with one client at a time. The location is proposed in an attached garage, using only half of the garage. The hours of operation will be from 6:00 a.m. to 8:00 p.m.

Mr. Prestwich reported that approval is required by the Planning Commission for anything that utilizes a garage. The Planning Commission can also determine how much of the garage should be used with a maximum of 50%. The hours of operation are from 7:00 a.m. to 7:00 p.m. unless an exception is granted by the Planning Commission and must be in harmony with the characteristics of the neighborhood. The Planning Commission should address whether one-on-one fitness training is prohibited under item eight of the Code that specifies that fitness or health spa facilities are prohibited.

Commissioner James asked for a refresher on the requirements of R-4 covered parking. Mr. Prestwich explained that it is the same as Single-Family Residential, which is two-car garages. Commissioner James stated that if they occupy up to 50% of the garage space it would violate the Code. Mr. Prestwich clarified that it would not because the City does not regulate how the space is being used. They simply ensure that it is built as a two-car garage.

Commissioner Rushton asked if this is the first request the City has received for a home-based fitness or health business. Mr. Prestwich had no recollection of any other such request. Commissioner Rushton asked what the process would be to remove the prohibited item from the Code. Mr. Prestwich explained that it takes six to eight weeks to process a zone text change and requires a \$750 fee be paid by the applicant.

Chair Russell opened the public hearing.

The applicant, Stanley Coon was present and available to answer any questions. In response to a question raised, Mr. Coon stated that there will be free weights used with padding over the concrete.

Commissioner Hansen asked if the style of training will be boot camp style with clients going outside of the garage. Mr. Coon responded that it will be strength-focused using free weights exclusively. Commissioner Hansen was concerned about music used during training sessions bothering the neighbors early in the morning. Mr. Coon indicated that he has spoken to his adjoining neighbors about the music and they did not express concern. He noted that his wife cannot hear the music inside their home.

Commissioner James asked if there is a specific reason the applicant was asking that the hours of operation be from 6:00 a.m. to 8:00 p.m. Mr. Coon explained that it is because most people want to work out early in the morning or late in the evening so that it does not interfere with their work schedules.

There were no further public comments. Chair Russell closed the public hearing.

Commissioner James had concerns with the term “fitness” because it is clearly a fitness facility. Chair Russell was not opposed to the application but questioned whether it would be possible for the request to come back once the text amendment is made. Commissioner Hansen commented that the Code specifies a facility and the application is seeking a home-based business, which differs from a facility. Commissioner Rushton thought the best option was to pursue a text amendment.

**Commissioner James moved to table the matter and allow the applicant to work with staff to pursue a text amendment that will clarify the term “fitness”.**

Chair Russell stated that item G-Approved Uses references aerobic exercise”. He felt that was in conflict with the word “fitness”. There was some question as to who should interpret the meaning. Mr. Bott stated that if there is ambiguity in the Code it would be construed in favor of the applicant. The Planning Commission is making a determination and establishing a precedent that this section of the Code is not in compliance with other sections and, therefore, in the future will not be applied.

**The motion died for lack of a second.**

**Commissioner Hansen moved to APPROVE Application #PLZ 19-2032 for Stacked Barbell to be located at 12046 South 1840 West with the understanding that it is not a fitness facility but a place to teach fitness. In addition, the hours of operation should not interfere with any residents or conditions of the home. Inasmuch as the Code section is in contradiction to with another section of the Code, this particular Code will not be enforced. Approval was subject to 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. The applicant must obtain and maintain a Riverton City business license.**

3. **The total floor area may not exceed 50% of the attached garage.**
4. **Maximum of eight customers/clients per day. No more than two customers/clients at a time.**
5. **The hours of operation shall be between 8:00 a.m. and 6:00 p.m.**

**Commissioner Cannon seconded the motion. Vote on motion: Chair Russell-Abstain, Commissioner Hansen-Aye, Commission James-Nay, Commission Rushton-Aye, Commissioner Cannon-Aye. The motion passed 3-to-1 with one abstention.**

2. **CONDITIONAL USE HOME OCCUPATION, JENI MALONE IS REQUESTING A CONDITIONAL USE PERMIT FOR A HOME-BASED BUSINESS FOR "A WISE OWL LEARNING" AN IN-HOME PRE-SCHOOL TO BE LOCATED AT 4709 SHAWNEE DRIVE.**

Mr. Prestwich presented the staff report and stated that the property is located in Western Springs near the Mountainview Corridor north of the SLR Project. The property is a corner lot and faces north. It is zoned SP-6, which allows for six units per acre. The applicant is looking to open a preschool with students coming and going at different times of the day depending on the parents' schedule. The other part of the business is an off-track school where students will spend time at the facility doing schoolwork when school is off-track. The applicant is asking for two or three non-residential employees. Four classrooms are located in the basement and there is an outside play area. 24 students per day were requested with an estimated 24 cars coming and going each day. A parking plan was submitted showing that students will arrive on the west side of the home where there is a large section of curbing that does not face any homes and does not block driveways or mailboxes. An aerial image of the home and the site plan were displayed. Mr. Prestwich verified that there is a 165-foot legal parking area that does not interfere with the corner. In addition to the outside play areas, there is a self-locking gate.

The rendering of the basement area floor plan was displayed. Mr. Prestwich pointed out that Section 18.190.070 of the ordinance allows for a home occupation to occupy up to 50% of a basement unless the Planning Commission grants an exception. Staff asked that the request be approved as shown on the plans. In addition, Section 18.190.060 specifies that only one non-resident employee shall be allowed unless an exception is granted that requires the following five criteria be met:

- No on-street parking is necessary.
- Drop off and pick up on the street.
- The home occupation floor space shall not exceed specifications in the ordinance.
- Employees only between 7:00 a.m. and 7:00 p.m.
- The increase in employees does not result in an increase in customers in excess of specifications set forth in the ordinance.

Mr. Prestwich explained that child group activities are a conditional use and the uses are appropriate as licensed home occupations only if they are determined to be compatible with

residential neighborhoods after review by the Planning Commission. The Planning Commission can determine the maximum number of students permitted based on the following criteria:

- A Traffic Plan has been reviewed and approved by the Planning Department.
- A maximum of 12 students per session and a maximum of 24 children per day shall be permitted.
- A maximum of three sessions per day.
- All sessions combined shall not generate more than 24 vehicle trips per day.
- The total number of students shall include licensees and the children of any employees if they are under six years of age.
- No child daycare group activity conditional use home occupation may be established within 300 feet as measured from property line to property line of another child daycare or group child activity conditional use home occupation.

Mr. Prestwich reported that the matter was noticed as a public hearing item and he received no phone calls. Staff recommended approval subject to the conditions set forth in the staff report. Because the home can still function as a home by exceeding the 50% floor area limit, staff recommended it be allowed. The proposal was not determined to meet the requirements to allow an additional non-resident employee.

Mr. Bott pointed out that from a legal perspective, one additional requirement would need to be added that all children would need to be immunized. Records to this effect would need to be maintained.

Chair Russell opened the public hearing.

The applicant, Jenny Malone clarified the number of students and stated that they will have two different sessions on Monday and Wednesday with a maximum of 12 children. There will also be a Tuesday/Thursday class with a maximum of 12 children. That was the reason for her request for 24 students. With regard to the maximum number of employees, Ms. Malone stated that she will always be present with one other teacher for the Monday and Wednesday class and she and another teacher for the Tuesday and Thursday class. Only one additional non-resident employee would be present per day.

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

Mr. Prestwich clarified that the intent of the condition was to allow for no more than one non-resident employee at any given time.

**Commissioner James moved that the Planning Commission approve Application #PLZ 19-2033, A Wise Owl Learning to be located at 4709 Shawnee Drive subject to 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. The applicant must obtain and maintain a Riverton City business license.**
- 3. The total floor area may exceed 50% of the basement as shown on the applicant's site plans.**
- 4. A maximum of 12 children at any time.**
- 5. A maximum of 18 children per day.**
- 6. Total Vehicle Trips (drop-offs and/or pick-ups) may not exceed 24 per day.**
- 7. The home occupation may utilize only one (1) non-resident employee per day.**

**Findings of Fact:**

- 1. The use is within the limits provided in the Conditional Use Description in the Ordinance.**

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

**3. ZONING ORDINANCE TEXT AMENDMENT, RIVERTON CITY IS PROPOSING CHANGES TO THE LAND USE CODE REGARDING SEASONAL USES.**

Mr. Prestwich reported that the above matter was continued from a previous meeting and staff was now proposing three changes to the Code to address concerns with seasonal commercial uses. They are currently located throughout the City in commercial areas but there was concern about them encroaching into residential areas. Staff also wanted to codify and include in the written ordinance what has been a long-standing tradition in the City with respect to how to regulate seasonal commercial uses. The following changes were proposed to three sections of the Code:

- 1. Add Seasonal Uses to Section 18.190.090.**
- 2. Create a new Temporary Commercial Uses Section in the General Regulations Chapter in the Land Use Ordinance and include criteria.**
- 3. What is to be required with Temporary Commercial Uses.**

Mr. Prestwich stated that the matter was properly noticed and no comments were received.

Commissioner Cannon asked about the challenges experienced and perceived it as being a self-policing ordinance. Mr. Prestwich explained that staff's primary concern is that an applicant forgets to come in and apply. If the City treats all new sites as conditional uses, they need six weeks to get property notice it and conduct a public hearing. The intent was to formalize a process that would allow staff to issue a permit quickly if the property submissions are provided.

In response to a question raised, Mr. Prestwich stated that prohibited uses are listed in Section 18.190.090 and include bed and breakfasts, motels, and any similar use involving boarding or room rental. The Short-Term Rental Ordinance modifies that language. The new language does not appear in the Code because it has not yet been ratified by the City Council. Once that occurs, that section will be modified. Commissioner James wanted to ensure that the clarification is made since as written, it is in conflict.

Commissioner Hansen asked if there should be consistency with regard to examples of allowable uses or eliminate them altogether and refer to them as temporary uses. He wanted to prevent it from being used as a loophole. Commissioner Hansen suggested they be consistent in terms of the examples used. With regard to the actual amendment, it specifies that it is not to exceed 60 days. Mr. Prestwich stated that it is a rough number because a fireworks stand might be up for seven days but 60 days might not be long enough for a snow shack. In that case, the applicant might simply wish to renew the license at no additional cost.

Commissioner Rushton commented on commercial zones and pointed out that Redwood Road is largely still zoned residential and there are empty spaces where temporary uses would not be allowed. It was noted that a property must be zoned commercial in order to allow a temporary use, which is restrictive. Mr. Prestwich stated that the areas identified are exceptional. In the area of the pumpkin patch on 3600 West, all of the fields are zoned Commercial although the home was zoned Residential. In that case, the property owner can continue with that use. Most of the ground owned by Farmer Luke is zoned Commercial Professional Office. Many of the operations that take place on his property are operated as home occupations. Commissioner Rushton remarked that if someone were to present a business plan for a temporary use in the area, the Commission should be willing to review it.

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

**Commissioner Hansen moved that the Planning Commission recommend approval of the proposed text amendment for Chapter 18.190 and Chapter 18.135, as described in Exhibit "A" based on the following Finding of Fact:**

1. It meets the ordinances and the application of the text.

**Commissioner James seconded the motion. Vote on motion: Chair Russell-Aye, Commissioner Hansen-Aye, Commissioner James-Aye, Commissioner Rushton-Nay, Commissioner Cannon-Aye. The motion passed 4-to-1.**

**4. ZONING ORDINANCE TEXT AMENDMENT, RIVERTON CITY IS PROPOSING CHANGES TO THE LAND USE CODE REGARDING MONUMENT SIGNS AND MASTER SIGN PLANS.**

Mr. Prestwich reported that in the Land Use Code, there is a sign ordinance that includes a table of sign standards. One of the standards, however, has presented minor issues. It specifies that one monument sign is allowed for sites with only one business. For a multi-tenant building, a sign would not be approved. The owner of a multi-tenant building who wishes to have a single monument sign would need to present it to the Planning Commission for a conditional use hearing and pay the required \$380 fee. The proposed amendment is intended to clarify the language to match the practice and would allow one sign for an eligible development. One additional sign may be obtained for eligible developments with frontage on two or more streets. The second monument sign must be located on the additional frontage. The desire of staff would be to grant approval to the owner of a multi-tenant building on a stand-alone site.

The second proposed amendment addresses lots with double frontage. Most lots that are double fronting front a public street on one side and a private interior street on the other. In those cases, the second sign would be on an interior street. No feedback was received from the public on the proposed amendments. Commissioner Hansen suggested that situations where there is double frontage be defined. Mr. Prestwich stated that residential sites should be given special consideration.

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

**Commissioner James moved that the Planning Commission recommend approval of the proposed text amendments to Chapter 18.150 for monument signs shown in Exhibit "A" subject to the following:**

**Conditions:**

- 1. On secondary side streets, a monument sign shall not be placed within 200 feet of any residential zone or use.**

**Finding of Fact:**

- 1. It is in conformance with the ordinances of the City.**

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



**5. GENERAL PLAN, RIVERTON CITY IS PROPOSING CHANGES TO THE LAND USE CODE REGARDING MONUMENT SIGNS AND MASTER SIGN PLANS.**

Mr. Prestwich reported that the City Council has invited the Planning Commission to participate in a Joint Work Session on October 1 to discuss the General Plan. A decision on the above matter would be postponed until after that date. A public hearing would, however, be conducted tonight as it was duly noticed.

Chair Russell opened the public hearing. There were no public comments. The public hearing was continued.

**Commissioner Hansen moved to continue this item and the public hearing to the October 10, 2019, Planning Commission Meeting. Commissioner Cannon seconded the motion. The motion passed with the unanimous consent of the Commission.**

• **DECISION ITEMS**

**1. AMENDED SITE PLAN, WALMART IS PROPOSING CHANGES TO THE EXTERIOR FINISH AND SIGNAGE AT THE EXISTING SUPER CENTER LOCATED AT 13502 SOUTH HAMILTON VIEW ROAD.**

Mr. Prestwich reported that staff has received requests from retailers and commercial users to alter their site plans. A new application was recently created for an Amended Site Plan. 2005 renderings of the Walmart store were displayed that feature a significant amount of brick, wall variations, colors, and textures. Mr. Prestwich noted that the renderings provided in the Commissioner's packets do not reflect what the applicant wishes to do. After some discussion and clarification, staff was provided with the correct drawings, which were displayed. The changes were described and included changing the color of the CMU block, the cornice, and the EIFS above each entryway.

The other significant change involved what was formerly an earth tone becoming the background for the Walmart sign. It was to be painted Medium Walmart Blue, however, there is a provision in the ordinance that prohibits neon colors. Mr. Prestwich asked the Commission to determine whether the proposed color is neon. Sign changes were also proposed to update the look. Staff was comfortable that what is proposed complies with the ordinance. Mr. Prestwich clarified that aside from the front façade, two secondary signs are allowed of up to 30 square feet in size split among any of the other sides. The applicants have chosen to place two on the west façade to advertise their auto center. After completing their review, staff was comfortable recommending approval subject to the conditions set forth in the staff report.

In response to a question raised, Mr. Prestwich stated that the north façade is considered the primary façade. The ordinance states that up to 15% of the façade can be covered in signage and split among multiple signs. Concern was expressed with the proposed blue color. The comment was made that the blue shade selected is their brand color.

Colby Vickers from BRR Architecture indicated that his firm is preparing the drawings for Walmart. They understand that the ordinance has changed with respect to signage so made reductions accordingly. Currently, there is a sign on the rear of the building that is the same size as the one on the front of the building. Other changes to the signage were described.

**Commissioner James moved that the Planning Commission approve Application #PLZ 19-8006 Walmart Amended Site Plan located at 13502 South Hamilton View Road subject to the following conditions:**

- 1. The site, structures, and use shall remain in compliance with any and all applicable Riverton City standards and ordinances, and applicable Building and Fire Codes.**
- 2. Building colors and finishes to match those shown on the plans.**
- 3. The natural and/or cultured stone veneer and brick walls shall not be painted.**
- 4. The signage shall match the signage shown on the plans.**
- 5. Staff may approve additional sign permits on the primary façade that met the signage ordinance.**

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

- 2. FINAL SITE PLAN, AMERICA UNITED FEDERAL CREDIT UNION IS REQUESTING APPROVAL OF A FINAL SITE PLAN IN RIVERTON MARKET LOCATED AT 1242 WEST 12600 SOUTH.**

Mr. Prestwich presented the staff report and stated that the request is for Final Site Plan approval in a Commercial Master Site Plan. The key tenant is the Walmart Neighborhood Market off of 12600 South and 1200 West. The request was reviewed about one year ago for the subdivision of the lot. Previously, the lot lines followed the road and included the parcel as one lot. The Planning Commission approved the subdivision. It was noted that the project is very well interconnected. The parking is in the front and the building is in the middle. 17 stalls were proposed and were determined to comply with the ordinance requirements. It was noted that the drive-thru will accommodate the stacking of at least five cars. A detention pond was also planned that was incorporated into the landscaping. The Landscaping Plan was presented.

Mr. Prestwich clarified that the drive-thru makes it a conditional use rather than the bank use. Trees were planted to help soften the sound from the speakers. The sloped roof was described. While not prohibited by ordinance, this type of use is not routinely seen. Other than a few remaining minor issues, staff was comfortable recommending approval subject to the conditions set forth in the staff report.

Chair Russell was concerned about the screening of all rooftop equipment. Chad Slichter was present on behalf of Slichter Architects in Boise and stated that two other similar facilities have already been built in Grantsville and West Valley City. The one proposed is slightly different given some of the ordinance requirements. He confirmed that the mechanical equipment will be screened.

Commissioner Rushton asked for confirmation that there will be no additional outlet on 12600 South. City Engineer, Brian Moore confirmed that was the case.

Commissioner Hansen referenced the Landscaping Plan and suggested that the trees along the interior road be more columnar in nature because the road is very narrow. Mr. Slichter expressed a willingness to modify the trees on the interior road accordingly.

Mr. Prestwich stated that staff looked at the potential impacts of the drive-thru. He noted that it is 250 feet from residential and there is an existing six or eight-foot masonry wall along the residential line. There will be a landscaped planting against the drive-thru and in the future, there will be other buildings. He was not aware of any other mitigations.

**Commissioner Hansen moved to approve Application #PLZ 18-8014, America United Federal Credit Union Final Site Plan, located at 11242 West 12600 South subject to the following conditions:**

- 1. Fix minor Riverton City staff redline comments on the plans.**
- 2. Storm drainage systems and accommodations comply with the Riverton City Standards and ordinances, and with the recommendations of the Riverton City Engineering Division.**
- 3. The applicant shall complete a Long-Term Storm Water Management Plan according to Riverton City standards and ordinances.**
- 4. A Land Disturbance Permit must be issued by the City prior to any construction grading on the site.**
- 5. The site and structures comply with any and all applicable Riverton City Standards and ordinances, including the International Building and Fire Codes.**
- 6. The applicant must obtain final approval from utility providers.**
- 7. The applicant shall provide staff with acknowledgment from the west adjoiner for proposed improvements on cross access area.**
- 8. Columnar trees shall be provided along the island on the interior roadway on the north side of the property.**

**Finding of Fact:**

1. The Commission finds that the findings are within the ordinances and should be approved.

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

- **MINUTES**

1. **MARCH 28, 2019**

Commissioner James moved to approve the minutes of March 28, 2019. Commissioner Hansen seconded the motion. The motion passed with the unanimous consent of the Commission.

2. **SEPTEMBER 12, 2019**

Commissioner James moved to approve the minutes of September 12, 2019. Commissioner Hansen seconded the motion. The motion passed with the unanimous consent of the Commission.

- **ADJOURNMENT**

The meeting adjourned at approximately 8:18 p.m.