

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD ON APRIL 20, 2021 IN THE WEST JORDAN COUNCIL CHAMBERS

PRESENT: Trish Hatch, Jay Thomas, Corbin England, Ammon Allen, Pamela Bloom, and Matt Quinney. Kent Shelton was excused.

STAFF: Larry Gardner, Ray McCandless, Mark Forsythe, Duncan Murray, Julie Davis, Paul Brockbank

OTHERS: Mayor Burton, Darren Hudgins, number ending in 5950, Tim Stockton, number ending in 7407, Shaun Young, Jeff Bardin, Carmen Echeverry

The briefing meeting was called to order by Trish Hatch. The agenda was reviewed and clarifying questions were answered. The Commission requested training in a future meeting regarding meeting procedures.

The regular meeting was called to order at 6:01 p.m.

1. Consent Items
Approve Minutes from April 6, 2021

MOTION: Matt Quinney moved to approve the minutes from April 6, 2021. The motion was seconded by Ammon Allen and passed 6-0 in favor. Kent Shelton was absent.

2. Pizza Hut; 5526 West 7800 South; Preliminary Site Plan and Conditional Use Permit for Restaurant, Fast Food; SC-2 Zone; SoCal Pizza Holdings, LLC/Tim Stockton (applicant) [#23545, 23546; parcel 20-25-351-018]

Tim Stockton was having difficulty connecting electronically.

Shaun Young, 2010 North Redwood Road, engineer on the project, said this location will also have a dine-in option. The building has been modernized with the use of glass and horizontal relief. Colors include red that is prototypical for Pizza Hut, and the remaining colors blend well with surrounding development.

Ray McCandless gave an overview of the item that is located in the Highlands Landing commercial subdivision. There is a proposed drive-through on the west side of the building with parking mostly on the east side. Landscaping is at 25%, and 15% is the minimum. The Design Review Committee gave a positive recommendation for the application as presented.

Staff recommended that the Planning Commission approve the Preliminary Site Plan and Conditional Use Permit for a Restaurant, Fast Food (General) for Pizza Hut, located at 5526 West 7800 South in a SC-2 Zone subject to the approval conditions listed below:

Preliminary Site Plan:

1. The proposed development shall meet all applicable 2009 City Code requirements.
2. All changes to the site shall be consistent with the Site Plan application.
3. An approved preliminary site plan shall remain valid for one year following the date of the approval.
4. An approved final site plan shall remain valid for 2 years following the date of the approval.

Conditional Use Permit:

1. Planning Commission approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.
2. Any appeals to the decision of the Planning Commission may be made to the Board of Adjustment within thirty (30) days pursuant to City Code, Section 15-5-3.

Corbin England noted that the sign on the elevations indicated beer would be available. He asked if they will be asking for a liquor license.

Ray McCandless wasn't sure, but he said that would be part of the business license application.

Trish Hatch opened the public hearing.

Further public comment was closed at this point for this item.

Ammon Allen said he was happy that there is a sit-down option for the business. He really liked the design of the building and felt that it would serve the community well.

MOTION: Jay Thomas moved to approve the Preliminary Site Plan for Pizza Hut; 5526 West 7800 South; SoCal Pizza Holdings, LLC/Tim Stockton (applicant) subject to the conditions of approval 1 through 4 as listed in the staff report. The motion was seconded by Matt Quinney and passed 6-0 in favor. Kent Shelton was absent.

MOTION: Jay Thomas moved to approve the Conditional Use Permit for Restaurant, Fast Food (general) for Pizza Hut; 5526 West 7800 South; SoCal Pizza Holdings, LLC/Tim Stockton (applicant) subject to the conditions of approval 1 and 2 as listed in the staff report. The motion was seconded by Matt Quinney and passed 6-0 in favor. Kent Shelton was absent.

3. **Golden Imperio; 7046 South Redwood Road #C; Conditional Use Permit for a Reception/Event Center; Golden Imperio, LLC/Carmen Echeverry (applicant) [#23817; parcel 21-27-127-027]**

The applicant was having difficulty connecting electronically.

Mark Forsythe gave an overview of the application for a reception/event center. This business would like to move from the current location at 7800 South 1500 West to the Redwood Village shopping center. The SC-2 zone is intended for a variety of commercial uses, including the proposed use. He reviewed the surrounding uses. This space is about 170 feet from the nearest residential home. Lights

in the east parking lot are adequate for nighttime use. The north parking lot has one light pole. Based on the size of the space, 119 parking spaces are required. The parking lot directly in front of the business has about 191 parking spaces and there is a total of 546 spaces for the entire shopping center. He said that reception centers in general can have impacts to the neighbors, which is why all events will have to be contained inside of the building. Noise standards are regulated by Salt Lake County Health department and must be met during all events. The applicant has explained that they will hire security guards and employees to manage the noise, alcohol, and parking lot. There is a condition that will limit business hours between 7:00 a.m. to 10 p.m. at the advice of the Police Chief. The applicant is asking to stay open until 1:00 a.m.

Staff recommended that the Planning Commission approve the Conditional Use Permit for Golden Imperio, located at 7046 South Redwood Road #C in an SC-2 zone, provided that all conditions of approval listed below can be fully adhered to at all times.

1. The business shall continuously meet all applicable City, County and State codes and ordinances.
2. The business activities shall be consistent with the submitted application, letter of intent and site plan.
3. The business shall not operate between the hours of 10:00 PM and 7:00 AM.
4. Management of the reception center, the lessee or other designated party shall be on site at all times during business hours in order to monitor alcohol consumption, noise, crowd control, parking lot safety and security, and other health and safety issues. Such personnel shall be clearly identified by uniform or similar identification.
5. The reception center owner shall provide adequate hired security guards for all events. All outside areas on the west, north and east sides of the shopping center building shall be closely monitored by these security guards at all times. Security guards shall be clearly identified by uniform or similar identification.
6. All reception center activities shall be contained entirely indoors and are not allowed outside.
7. Patrons shall not be allowed to enter or exit through the doors on the west side of the building.
8. Patrons shall not be permitted to loiter within the parking lot that is directly north of the shopping center building. This parking lot shall be monitored at all times by an employed security guard.
9. All music and loud speakers shall be fully contained inside the reception center.
10. The reception center owner shall monitor all alcohol consumption at each event, where served, and make certain that it is done in a manner that will prevent over-consumption, prevent underage drinking and will not allow alcohol consumption in the parking lot area.
11. The reception center shall continuously meet all Health Department regulations for the catering of food at all events where food is served.
12. The applicant shall continuously adhere to the Salt Lake Valley Health Department health regulation #21 "Community Noise Pollution Control."
13. Obtain a Building Permit from the West Jordan Building & Safety Department prior to initiating any construction work, interior or exterior.
14. Approvals do not include Public Safety, Fire, Building and Safety, or Engineering approval.
15. A permit shall be obtained for any new exterior signage.
16. The business shall adhere to all sign requirements, as set forth in Section 13-17 and Title 12 of the West Jordan Municipal Code.
17. The Conditional Use Permit is subject to review and/or revocation as per the 2009 West Jordan City Code Section 13-7E-10.

Matt Quinney asked what the radius is around the site to where we will be concerned with the noise. If conditions of approval prohibit loitering or using the rear parking lot then there shouldn't be much noise next to the residential. He thought that unless it is required otherwise by the County, we should give them at least one more hour for operations. These parties are big events and it isn't fair that just because they are moving to a new location that they can't keep the same operating hours. If the business is able to abide by the conditions for noise and not loitering then there isn't a reason to cut the hours, unless there is a specific buffer area established by Salt Lake County.

Larry Gardner said that hours of operation and noise are two different issues. The Commission can adjust the hours of operation.

Duncan Murray said they are balancing the property rights of the business owner and the residents in the area.

Matt Quinney said that sounds like a noise ordinance issue. He asked to know what right the adjacent property owner has over the business owner that the business has to close at 10:00. It seems they are leaning more heavily on the rights of the residents than the business owner, so it seems like an unfair condition.

Pamela Bloom said it had already been established that there is plenty of buffer area between the business and the residents. In her opinion, by cutting the hours it is imposing a morality, which isn't fair to the business.

Larry Gardner said that state law allows for conditions to mitigate detrimental impacts created by the use. The detrimental impacts don't have to be eliminated, but they should be mitigated. If they don't feel the 10:00 p.m. closing is needed to mitigate the impacts, then that needs to be stated.

Carmen Echeverry, applicant and owner of Golden Imperio, said that most of their events are for weddings with large families who usually come in the same vehicle, so parking is sufficient.

Trish Hatch asked what the maximum capacity of the reception center is and what hours of operation are needed. She explained that the Commission is trying to mitigate the detrimental impacts to the residents on the west side.

Carmen Echeverry said capacity is 250. They are usually open until 1:00 a.m., but they could do until midnight. They hire police officers in order to prevent accidents or damage to other properties. They will stop the party and music at 12:00, but it takes time to remove the equipment from the building, so they leave by 1:00 a.m. They usually have events on three Saturdays per month.

Trish Hatch opened the public hearing.

Further public comment was closed at this point for this item.

Pamela Bloom said the bars in the area close at midnight and are within similar distances from residential. She didn't think that this business needed to be held to anything different. Commissioner Quinney agreed.

Trish Hatch disagreed, because a bar has only 20-40 people and the reception center can have as many as 250. She thought that 11:00 p.m. is adequate, especially when it takes an hour for the people to leave.

Pamela Bloom said a bar is open every night; this is only 2-3 times per week. Large crowds can also gather at bars to watch ball games.

Trish Hatch asked for Commissioner England's perspective since he is in law enforcement.

Corbin England said it depends on how the business is managed. He knows of some that have many violent encounters after hours, but for every one of those type there are many others that are well managed with no problems. He was more inclined to agree with an 11:00 close time if it takes an hour for people to leave. However, no matter the closing time, there is always a mechanism for neighbors to take if there is a problem with the noise ordinance. The Police Chief's recommendation is trying to avoid the problems and not having to respond to problems.

Matt Quinney said that Good Spirits in this same complex is open until 2 a.m., so whatever is decided they won't be treated exactly the same. Commissioner Hatch made a good point on the differences in group size and that it takes an hour to wind down, so he felt good with 11:00 p.m.

Trish Hatch asked the applicant if 11:00 p.m. as a close time would work and for more information about how the business is managed to have appropriate security and monitoring of alcohol.

Carmen Echeverry said she always hires police officers for every event and not just security guards; not every party has alcohol. A typical party starts at 5:30 with a dinner, then they have a program. An 11:00 ending would impact her clients a lot because they are paying a lot of money for what would be just a few hours. She said if the party stops at 12:00 then it will take about 30 minutes for everybody to leave. She also noted that they installed acoustic panels in the building to mitigate noise impacts to the neighbors.

Ammon Allen asked if the general concern between 11:00 and midnight was a noise issue or that there will be a lot of people leaving the building.

Trish Hatch said her concern is with over-consumption of alcohol and the number of people.

Pamela Bloom didn't see how that is different than a Jazz game at a bar that has lots of people.

Corbin England said he didn't think that the bar next door would get more than 20-40 people at a time, but this business would have hundreds. He didn't think it is imposing a morality, he is trying to weigh the business owner's right to do business with the residents' right to get a good nights' sleep and not worrying about the activities going one next to them. He also noted that the condition of approval does not allow for an extra hour to let people leave. He was in favor of having operations stop at 11:00 p.m., which means the music stops and people go home.

Jay Thomas had some of the same concerns as Commissioner England. With his experience in public safety, tempers can flare when a lot of people are drinking and that is when things get out of hand.

With an earlier closing time there is usually less consumption of alcohol. He was also concerned if there is adequate parking for that large of group.

Matt Quinney wasn't concerned about the parking. He asked if there is a way to change the hours of operation if a later closing time is not working out for whatever reason.

Larry Gardner said there is a process in the ordinance to be able to change a condition.

Matt Quinney said if they expect that the hours are until midnight, then that is when it closes. Cleaning up is a different situation that can happen after hours of operation. He thought that midnight is appropriate, and if they find violations then they can review it and change the hours. We should let them have the opportunity to prove themselves instead of deciding what is best for them. He felt that there is enough of a buffer between this and the residents.

Pamela Bloom agreed. They can even establish last call at 11:00, but she felt that there are enough conditions of approval to mitigate some of the issues they are talking about. There is no need to limit the hours if they adhere to the rest of the conditions.

Ammon Allen appreciated Commissioner Quinney's comments. He said that they should consider how a reception center works a little differently than a normal business. In his experience, it is the same people who are bringing things that are doing a lot of the cleanup. He wanted there to be a general understanding that by saying midnight is the ending time, there may be people such as the host who will stay behind to clean up.

Matt Quinney agreed that hours of operation are when they are open to the public.

Corbin England said his sticking point is that 'past history is a predictor of the future'. Reading through the background information in the staff report, this applicant is a co-owner of the exact same business in West Jordan where there have been numerous incidents. This business will attract people who aren't even taking part in the activities within the building. He thought that 11:00 p.m. is a reasonable closing time. A conditional use permit has a process that will also allow them to extend the closing time if, after a period of time, they have operated in good faith without any incidents.

Matt Quinney didn't disagree with the thoughts on past experience, but the information indicated that the applicant was not involved with any of the prior incidents. She is separating from the other business and bringing it to this new location. If there are no indications that this applicant has had any past issues, then it is an unnecessary consideration for this application.

MOTION: Matt Quinney moved, based on the information and findings set forth in the staff report and upon the evidence and explanations received today, to approve the Conditional Use Permit for Golden Imperio located at 7046 South Redwood Road #C with the conditions of approval in the staff report, amending:

3. The business shall not operate between the hours of 12:00 AM and 7:00 AM.

The motion was seconded by Pamela Bloom. The motion failed in a tied vote 3-3 with Trish Hatch, Corbin England, and Jay Thomas casting the negative votes.

Matt Quinney felt that in the case of raising a child, you would give them the more restrictive condition and see if they earn more, but with a business he thought that we should let them operate in a way that is best for them as long as they adhere to the law. If the ordinances are violated, then they can become more punitive. It is the same process to change the hours, if needed.

Trish Hatch thought it would be harder to take away the hours once they are approved. She felt like they should earn the midnight closing time, based on previous experience.

There was a brief discussion regarding how violations of the conditions would be handled through a review and/or revocation of the conditional use permit. The Commission can ask for a review at any time. An automatic review after a certain period of time could also be requested with hours incrementally increased/decreased.

Matt Quinney proposed allowing a midnight closing with a review after nine months.

Trish Hatch preferred six months.

Pamela Bloom noted that police officers are already in attendance because that is who she hires for her events.

Ammon Allen said he respects the opinions and thoughts and directions of all of the commissioners. He agreed that there are safety issues that need to be addressed, but he is loath to put restrictions on a business based on what 'could be'. The midnight timeframe is just barely winning out in his mind because that is what the typical hours for this business are. If the Commission continues to have a split vote, one of the options in the by-laws is to wait until there are seven commissioners present.

Jay Thomas said one of the purposes of the Commission is to make sure they are creating a safe environment for the community. One of the first objectives of any city is to protect the citizens. He would rather prevent an incident than to try to fix it after it has occurred.

Corbin England said had they not been given the previous body of work by the same applicant and the exact same business they wouldn't be having this discussion. By imposing these conditions, the Chief of Police is trying to prevent people from being harmed. They are trying to balance public safety, applicant's rights, and residents' rights.

Ammon Allen said he is on board with safety. He is asked if the issue in this case is with regards to the proximity to residential, because there is another facility in the city that is running with later hours that has had a history of issues. He asked if anything had been done on that.

Larry Gardner said they were given a warning letter before proceeding with revocation. The business was brought into compliance with the conditions that were imposed at the time of approval. If evidence is shown that they have violated the conditions, then the next step is to bring it to the Commission for revocation. The conditions of approval for Golden Imperio have been beefed up because of the experiences with reception center businesses in general. Staff has been educated on impacts to the community since approval was given at the previous location.

Corbin England said this applicant hires police. He wondered which would fiscally impact the applicant less, having to hire more police officers or having more restrictive hours.

Larry Gardner recommended that the Commission postpone the item for two weeks to give staff more time to answer some of the questions.

Corbin England would like to have more detail on what the security plan and manpower entails.

Larry Gardner asked if the applicant were to come back with a more robust security plan is the planning commission leaning toward allowing operations until midnight.

Corbin England said he would be more inclined if there was more security plan detail.

Matt Quinney said he hates to kick things down the road, but there isn't going to be a decision tonight.

MOTION: Matt Quinney moved to postpone deliberation for Golden Imperio; 7046 South Redwood Road Suite #C; Golden Imperio, LLC/Carmen Echeverry (applicant) until the May 4, 2021 meeting, giving staff more time in conjunction with the applicant to identify a more robust security plan to be brought back to the Planning Commission. The motion was seconded by Corbin England and passed 6-0 in favor. Kent Shelton was absent.

4. By-laws; Review and possible amendments to the West Jordan Planning Commission By-laws, including provisions for electronic meetings/voting

Duncan Murray said the Planning Commission has by-laws and rules in place. One rule that isn't fully developed is one that allows for participation in electronic meetings. Over the last year or more there was special legislation that allowed for electronic participation in meetings. Now state law requires a regular rule as a public body that makes it clear that electronic participation in meetings is allowed. There was also a recommendation in the pre-meeting to change 'and' to 'or' so that a planning commission member would just need to contact either the chair or the secretary in advance of the meeting.

Corbin England said the wording in Section B1 should be changed to reflect the new form of government.

Duncan Murray said that he will review that section a little more to make sure that all of the necessary changes are made.

Ammon Allen asked if the plan is to always have the meetings held electronically and in person.

Mayor Burton said the City Council will be doing an electronic option at all of their meetings, so he recommended that the Planning Commission do the same to allow either virtual or in-person attendance.

Trish Hatch said she needs to have the ability to see who is on the meeting electronically. She asked if there is anything in the by-laws that would help applicants who have a language barrier to understand the deliberations.

Duncan Murray said there are usually provisions available for special accommodations if the needs are made in advance. Staff could consider if there are possible language barriers.

Trish Hatch strongly recommended that the applicant attend in person if there is a language barrier.

MOTION: Jay Thomas moved to adopt the by-laws with the changes set forth and to allow paragraph B1 to be reviewed and brought back reflecting language for the new form of government.

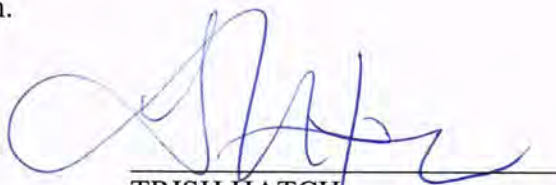
Ammon Allen said that knowing the item will be coming back, they could vote on the amendments after changes to the other section are presented in two weeks.

Jay Thomas withdrew the motion.

MOTION: Ammon Allen moved to continue the West Jordan Planning Commission By-laws to the May 4, 2021 meeting to allow staff an opportunity to address the items discussed today. The motion was seconded by Jay Thomas and passed 6-0 in favor. Kent Shelton was absent.

MOTION: Corbin England moved to adjourn.

The meeting adjourned at 7:20 p.m.



TRISH HATCH
Chair

ATTEST:


JULIE DAVIS
Executive Assistant
Community Development Department

Approved this 4 day of May, 2021

