

MINUTES OF THE REGULAR MEETING OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD JUNE 1, 2021 IN THE WEST JORDAN COUNCIL CHAMBERS

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

STAFF: Scott Langford, Larry Gardner, Duncan Murray (remotely), Mark Forsythe, Julie Davis, Paul Brockbank (remotely)

OTHERS: Mayor Burton, Gary Tyler (remotely), Stefani Davis (remotely)

The briefing meeting was called to order by Trish Hatch. The agenda was reviewed and clarifying questions were answered. Duncan Murray provided training on conditional use permit law and procedures. Jay Thomas invited the Commissioners to take part in setting up/taking down the Field of Flags with the West Jordan Exchange Club on June 12 and June 19.

The regular meeting was called to order at 6:02 p.m.

1. Consent Items

Approve Minutes from May 18, 2021

MOTION: Ammon Allen moved to approve the minutes from May 18, 2021, as listed in the packet. The motion was seconded by Jay Thomas and passed 7-0 in favor.

2. Peerless Electric; 8491 & 8481 Old Bingham Highway; Preliminary Site Plan with street facing bay doors; M-1 Zone; Opes Investments, LLC (Peerless Electric/ DeeAnn Huffman (applicant) [#23388; parcel 21-32-452-034, 035]

Gary Tyler, Hughes General Contractors representing the owners, said the business is currently located north of the site. This new building will allow the business to expand. There is a portion of the building toward the back facing west that has an overhead door. This allows for trucks to pull straight through the building after being loaded. The door is behind a fence and is set back from the front of the building.

Mark Forsythe gave an overview of the request. The M-1 zone allows for office/warehouse as a permitted use. He explained that the TSOD designation on the property was established many years ago anticipating redevelopment. However, that has not taken place, so new industrial developments are just held to the typical M-1 standards. The rear yard will house fleet vehicles, and inventory and equipment will be stored inside of the building. Minimum landscaping requirements are met. There is a large landscape buffer in the northeast corner of the property adjacent to residential property. Building architecture fits in with the area. The Planning Commission needs to approve screening of the bay door facing Old Bingham Highway. As part of the comments from the Design Review Committee, the plan shows a 2-foot-high raised concrete bed that will have about ten upright pencil point junipers to provide additional screening. The trees grow to be about five feet tall. The condition of approval has some flexibility with the height since some types of landscaping are hard to come by at this time. The previous plan showed smaller fountain grasses.

Based on the findings set forth in the staff report, staff recommended that the Planning Commission grant approval for the Preliminary Site Plan for Peerless Electric located at 8491/8481 South Old Bingham Highway in the M-1 zone with the conditions of approval listed below.

1. Comply with all applicable requirements of the West Jordan Municipal Code.
2. All redline comments shall be addressed and resolved prior to final approvals.
3. The loading bay doors facing Old Bingham Highway shall be screened from the street with raised planter boxes and plants that reach a minimum height of 3 feet at maturity.
4. The Preliminary Site Plan is valid for one (1) year following the date of approval by the Planning Commission.
5. Comply with all requirements pertaining to the West Jordan Engineering Department, Fire Department, Building & Safety Department and all other relevant city departments.

Pamela Bloom was happy with the changes.

Trish Hatch opened the public hearing.

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

MOTION: Pamela Bloom moved, based on the findings set forth in the staff report, to approve the Preliminary Site Plan for Peerless Electric located at 8491/8481 South Old Bingham Highway in the M-1 zone with the conditions of approval 1 through 5 as listed in the staff report. The motion was seconded by Matt Quinney and passed 7-0 in favor.

3. **Davis Swim School; 6524 South Airport Road; Conditional Use Permit for Personal Instruction Service; M-1 Zone; Davis Swim School LLC/Stefani Davis (applicant) [#24240; parcel 21-19-100-029]**

Mark Forsythe provided an overview of the application that is located in a lease space within the South Valley Regional Business Park. There will be about 20 people on site since instruction is one-on-one. There should be no impacts to the surrounding properties/uses. Typically, this type of use would require a drop off/pick up area. There is a sidewalk running along the north side of the building, which is where the main entrance and parking are located. Parents are required to stay with the students, so there will be no need for a "drop off" area. Thirty-one spaces are required for this business. The overall site requires 363 parking spaces, and 392 spaces are provided. He showed the proposed interior layout that includes pools, changing rooms, restrooms, showers, and a reception area. A building permit is required for any remodeling/construction. The city Engineer determined that there is no upsizing in waterlines required.

Staff recommended that the Planning Commission approve the Conditional Use Permit for the Davis Swim School, located at 6524 South Airport Road in an M-1 zoning district, with the Requirements & Conditions of Approval listed.

Requirements of Approval

1. The business shall meet all applicable Zoning, Building & Safety, Engineering and Fire Departments' requirements.
2. Apply for, and obtain approval of, a Building Permit for the interior renovation of the lease space from the West Jordan Building & Safety Department.
3. Obtain and maintain a valid West Jordan Business License.
4. Approval of a Conditional Use shall become null and void upon twelve (12) months, unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period.
5. The Conditional Use Permit is subject to review and/or revocation, in accordance with Section 13-7E-10 of the West Jordan Municipal Code.

Conditions of Approval

N/A

Ammon Allen asked if a possible condition could prevent parking from becoming a problem in the future. There are five to six stalls in front of each unit, but this business will take up 30 stalls. He asked how the city monitors parking to make sure it is adequate as each space is occupied.

Mark Forsythe said that the developer did an overall parking study with the site plan approval, which based parking on the anticipated uses and square footage of the building. Most businesses should fall in line with the industrial use requirement. When a conditional use is proposed, staff takes a closer look at the available parking.

Ammon Allen asked if the parking spaces that are blocked by a sliding gate are counted in the overall parking spaces.

Mark Forsythe said they are included.

Stefani Davis, applicant, said the safety of her students is her top priority. All pools are aboveground. The first pool is the larger 43 x 21-foot pool shown on the site plan. As the business grows, they will add the 15-foot pools. She explained her anticipated parking need is 16 stalls: one for each of eight instructors and eight for students' families. She would like to reserve the spaces in front of the entrance as client only spaces. Instructors and staff would park toward the side of the property. Unit 24 is a cabinet storage company with no employees.

Trish Hatch opened the public hearing.

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

MOTION: Matt Quinney moved, based on the positive findings set forth in the staff report and upon the information and explanations received today, to approve the Conditional Use Permit for the Davis Swim School, located at 6524 South Airport Road in an M-1 zoning district, with the Requirements & Conditions of Approval listed in the staff report. The motion was seconded by Kent Shelton and passed 7-0 in favor.

Trish Hatch led a discussion regarding potential changes in the by-laws to address attendance. Electronic participation is allowed with a 2-hour notice to the Chair, which will make it easier for commissioners who have to travel. She proposed that electronic attendance for commissioners only be allowed for travel or extenuating circumstances.

Corbin England agreed and said that it is sometimes difficult to follow along with a conversation via Zoom due to equipment/technology issues. It is more professional if they can all be in person and lends more credence to the body.

Pamela Bloom agreed. She anticipates needing to travel a lot in the fall and will use that option.

Trish Hatch said when they Commissioners are all on Zoom then communication is easier, but when they are split it is more difficult to manage the meeting.

Corbin England suggested that electronic participation be used only for exigent circumstances.

They also discussed what the expectations are for public and applicant attendance. The public is allowed and encouraged to participate electronically. It is preferable that the applicant be in person except in exigent circumstances. Staff could also work with the applicants to determine items which may be more complicated, requiring in-person attendance.

Alan Anderson explained that the City Council anticipates all members to attend in person starting with the June 9th meeting. Applicants and the public can attend either by Zoom or in person; however, in person is preferred for those who are presenting information.

MOTION: Corbin England moved to adjourn.

The meeting adjourned at 6:38 p.m.


TRISH HATCH
Chair

ATTEST:


JULIE DAVIS
Executive Assistant
Community Development Department



Approved this 15 day of June, 2021

Conditional Use Permits (CUPs)

- **Law - Use limited discretion** for CUP applications appropriately (see Utah Code Section 10-9a-507):
 - Review data
 - Review reasonably anticipated detrimental effects
 - Propose reasonably related conditions to mitigate (not necessarily eliminate) the anticipated detrimental effects
 - The conditions should be stated on the record and shall reasonably relate to mitigating the anticipated detrimental effects
 - A land use authority (Planning Commission) decision regarding a CUP application is an administrative decision, not a legislative decision (limited discretion)
- Therefore, **Staff Reports** in the future shall always include:
 - Relevant data
 - Reasonably anticipated detrimental effects (if any)
 - Reasonably related proposed conditions to mitigate the anticipated detrimental effects
 - Proposed conditions organized to facilitate them being easily stated on the record, by the Planning Commission, either "as is" or with amendments
 - Requirements for a CUP application which are not conditions to mitigate anticipated detrimental effects, but are required by code or regulation, etc., shall be called "requirements of approval", instead of "conditions of approval"
 - It is possible that some Staff Reports for CUP applications may not identify any anticipated detrimental effects and thus no proposed "conditions of approval"
- **Hypothetical CUP Application** Scenario for widget manufacturing and sales:
 - The relevant data in the staff report indicates that other widget making facilities in the city, as well as in nearby cities, are very loud and have significant theft and security calls due to the extremely high value of widgets
 - The detrimental effects listed in the staff report are (1) security issues and (2) noise, especially due to the proximity to residential areas
 - The proposed conditions of approval listed in the staff report are (a) a sophisticated security system and (b) limited hours of operation (7:00 a.m. to 8:00 p.m.), which are the same conditions imposed on the other similarly situated facilities in the city
 - The applicant offers to stipulate to (a) the sophisticated security system, as well as (b) an "on premise" security guard from 10:00 p.m. to 7:00 a.m. and (c) sound-proof walls, but would like the hours of operation to be expanded to 7:00 a.m. to 10:00 p.m.
 - The Planning Commission receives substantial evidence that most of the other widget making facilities in nearby cities have a successful history with security guards and sound-proof walls with similar facilities, and that most facilities are allowed to operate until about 10:00 p.m.
 - What options does the Planning Commission have?
 - What option is the most supported by the record (based upon these facts)?