

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**
3 **October 26, 2021 beginning at 6:00 p.m.** at the Lindon City Center, City Council
4 Chambers, 100 North State Street, Lindon, Utah.

6 **REGULAR SESSION – 6:00 P.M.**

8 Conducting: Sharon Call, Chairperson
9 Invocation: Scott Thompson, Commissioner
10 Pledge of Allegiance: Jared Schauers, Commissioner

12	<u>PRESENT</u>	<u>EXCUSED</u>
	Sharon Call, Chairperson	Renee Tribe, Commissioner
14	Rob Kallas, Commissioner	
	Mike Marchbanks, Commissioner	
16	Steven Johnson, Commissioner	
	Scott Thompson, Commissioner	
18	Jared Schauers, Commissioner	
	Mike Florence, Economic Development Director	
20	Mary Barnes, Associate Planner	
	Brian Haws, City Attorney	
22	Kathryn Moosman, City Recorder	

24 1. **CALL TO ORDER** – The meeting was called to order at 6:00 p.m.

26 2. **APPROVAL OF MINUTES** –The minutes of the regular meeting of the
28 Planning Commission meeting of October 12, 2021 were reviewed.

30 COMMISSIONER JOHNSON MOVED TO APPROVE THE MINUTES OF
32 THE REGULAR MEETING OF OCTOBER 12, 2021 AS PRESENTED.
COMMISSIONER KALLAS SECONDED THE MOTION. ALL PRESENT VOTED
IN FAVOR. THE MOTION CARRIED.

34 3. **PUBLIC COMMENT** – Chairperson Call called for comments from any
36 audience member who wishes to address any issue not listed as an agenda item.
There were no public comments.

38 **CURRENT BUSINESS** –

40 4. **Conditional Use Permit – South Haven Development – 531 N. State**
42 The applicant requests conditional use permit approval to develop a 58-unit
townhome development at 531 N. State Street (behind Linden Nursery) (Parcel
#’s 45:244:0003, 14:067:0140, 14:067:0057).

44 Mike Florence, Planning Director, led this agenda item by stating the planning
46 commission will be reviewing three separate applications as part of the approval for the
Tilia Court Townhome Development as follows: a. Conditional Use Permit – All
48 developments in the Planned Residential Overlay Zone are considered conditional uses.

2 b. Site Plan Approval – to review the site and building elevations to comply with the
Planned Residential Development Overlay Zone. c. Major Subdivision – preliminary
4 approval and recommendation to the City Council to subdivide the townhome
development into 58 individual lots.

6 Mr. Florence explained South Haven Development is proposing to develop the
rear portion of the Linden Nursery property into a 58-unit townhome development. He
8 noted the City Council approved the zone change to Planned Residential Development
Overlay for this property on November 16, 2020. The proposed density is 9.49 units per
10 acre. The proposed development will provide 214 parking stalls which include garages,
driveways, and visitor parking with 22 off-site visitor parking stalls.

12 Mr. Florence stated the development will be accessed from two locations along
State Street. The north access will be a public street access. For the south access, the
14 developer is proposing to use a portion of an existing easement between Linden Nursery
and Dastrup Auto. He noted where the easement ends, the developer will pick up the
16 remaining area as a private street that will be maintained by the Home Owners
Association.

18 Mr. Florence further explained the applicant has already installed a 7' pre-cast
concrete fence adjacent to the residential and commercial uses, and as a separation
20 between the Linden Nursery and the townhomes, the applicant is requesting to install a
wrought iron picket fence instead of masonry or pre-cast. Mr. Florence stated the
22 planning commission will need to give specific approval for the fence.

24 Mr. Florence went on to say the proposed development meets the landscaping
percentage requirement of providing 20% of the site in common open space. The
applicant is providing 30.52%. He also mentioned a couple of landscape items that are
26 important note to the site as follows:

- The project is proposed to have both private and common open spaces
- There will be a 30' setback that is landscaped between the existing single family
28 and the new townhomes. Trees are to be planted every 30' feet along the property
30 line.

32 Mr. Florence stated the applicants will be installing the Lindon Standard Street
lights as well as building lighting. He noted a photometric study was completed for the
34 development which does not show any light spillover onto adjacent properties. Mr.
Florence stated the applicant is also proposing to construct a monument entry sign similar
36 to what was installed at Walker Farms and proposing that each unit will have individual
containers

38 Mr. Florence indicated that both the public and private streets in the development
meet the PRD Overlay standard of 29 feet of asphalt with a two-foot curb and gutter on
40 each side. The applicant has designed the private street to public standards in hopes that
he and Dastrup Auto can come to an agreement on road dedication. The applicant is also
42 proposing sidewalks on one side of the street. Mr. Florence noted this design is fairly
typical of many townhome developments and those homes that don't have a sidewalk on
44 their side of the street have sidewalks connecting each building/driveway.

46 Mr. Florence made mention the developer has submitted HOA documents that
staff has reviewed and are working on final revisions. He added one item of note to the
commission is that the applicant is calling out that the HOA can allow up to 70% rental.
48 He commented that the City is disappointed in this percentage since the developer and his

2 associates testified many times at the passing of the PRD ordinance that they were trying
to provide housing for first time home buyers.

4 Mr. Florence explained the PRD Overlay requires that units be subdivided to
encourage individual homeownership. City staff has reviewed the subdivision and the
6 applicant is working on technical changes to the subdivision plat. The plat calls out
private and common open spaces and divides the development into 58 separate lots for
8 the townhome development.

10 Mr. Florence noted the City Engineer is working through any technical issues
related to the civil engineering plans and will conduct a final review if the planning
commission grants final site plan approval. Mr. Florence added City staff has reviewed
12 the development proposal and finds that there are a few technical issues that still need to
be resolved. He noted staff has made these conditions of approval if the planning
14 commission feels comfortable allowing staff to finalize these plans.

16 Mr. Florence went on to say one issue that has come up with Dastrup Auto is the
proximity of the road to the Dastrup Auto repair shop. The road looks to be about 9-10
feet from the building. He stated the owner of Dastrup Auto is concerned about vehicles
18 jumping the curb and either hitting the gas meter on the front side of the building or the
office in the northeast corner of the building. Staff recommends that the developer be
20 required to install some type of barrier or bollards to protect these areas as a condition of
approval.

22 Mr. Florence then presented and Aerial photo, Development plans, Building
renderings, Exterior building lighting, Subdivision plat, Pictures of the installed pre-cast
24 fence, Entrance sign concept, and Building layout followed by discussion.

26 The applicant, Jeff Southard addressed the commission at this time. He spoke on
the wrought iron fencing stating this type of fencing will look better and will make the
development not feel like a compound and would be better for safety issues. He also
28 spoke on the one change made on the west property line noting there will now be fully
fenced yards abutting up to the neighbors back yards.

30 Commissioner Kallas commented that fencing is part of the ordinance to protect
the residents who live in homes and questioned if future residents would choose a
32 wrought iron fence. Mr. Southard stated they will make sure it is fully disclosed and
confirmed he is asking for an exception to the code to have the wrought iron fence.

34 Mr. Southard stated he would be happy to explain the concept again. He noted
there are three important issues that have affected the timeline, the sewer, storm drainage,
36 and the easement with the neighbor in the back noting they have worked closely with the
city engineer. Also, the road between Dastrup Auto and the property he owns. He noted
38 he has brought his attorney to help work out the best solution with Mr. Dastrup's
attorney. He pointed out this private access is allowed and stamped by the city attorney.

40 Mr. Haws, City Attorney stated the safety issues were raised and they rely on the
engineers to mitigate any issues where the easement is involved. Mr. Southard stated he
42 made sure with his engineers that the private access and the road meets all requirements
and they have no concerns safety wise where the road is and where the curve is. He
44 pointed out he has gone above and beyond what is required with the national guidelines
and by the City Engineer in trying to be a good neighbor.

46 Chairperson Call brought up the fact that 70% of the units could end up as rentals
and that gives her some concern. She also referenced the minutes from July 2020 where
48 Mr. Southard encouraged that these units be first time home buyers, affordable housing

2 units and be owner occupied and not rentals. Mr. Southard stated they were asking for
things that weren't approved that would have made these units a lot more affordable and
4 it is not something they can do now as it is in the ordinance. Commissioner Kallas
commented the commission has the desire to see these not become rentals. Chairperson
6 Call added they had assumed this was going to be an opportunity for people to purchase
first time homes and that was the impression that was given.

8 Chairperson Call stated this is not a public hearing but stated she would allow for
any public comment at this time. There were several in attendance who addressed the
10 commission as follows:

12 **Angie Neuwirth:** Ms. Neuwirth stated her one major concern is that it appears this
parcel was broken off in the meets and bounds description instead of a doing subdivision
14 plat and vacating the previous Lindon Nursery Plat A. This is affecting 4 different
parcels and will create several non-conforming parcels that don't have frontage with the
16 triangle shape and the barn etc. She also questioned if this matches with the meets and
bounds recorded at the county. It appears the lot split seems illegal without doing all of
18 the other steps. She is concerned how the businesses will conform to city standards once
you create the separation with the legal road going through it. This needs to be reviewed
20 and considered at the same time or you will be creating a big mess in regards to existing
and future businesses. She also spoke on the fence on the north side between the red barn
22 and the townhomes. She thinks a solid wall may block dirt from blowing through into the
residential areas. Mr. Southard stated they are not proposing the block wall by the red
24 barn. Ms. Neuwirth also expressed that the parking and traffic issues are also a concern.

26 **Devin Dastrup:** Mr. Dastrup stated there has been a misrepresentation of a conversation
between himself and Mr. Southard. The conversation they had was that he presented to
28 him the road layout and he essentially presented an alternative plan to deed over the
corner pieces of their parcel for the road (he showed the diagram). He feels this has a lot
30 of manipulation attached to it that got him frustrated. He expressed that it is ridiculous
that he supported the development and this is what he got in return. He noted he has
32 retained all the emails. He feels Mr. Southard acted like he could do this without his
permission or approval and feels this violates their property rights. Mr. Dastrup also
34 spoke on liability. If something happens on his piece of property where this easement is
who is liable for that. Mr. Haws stated he is not in a position to say as there are a lot of
36 hypotheticals. Mr. Dastrup stated there is every reason to come together and make this
right; they would like a public road and more space between the shop. Mr. Dastrup added
38 the separation of properties is a good idea.

40 **George Chingas:** Mr. Chingas stated he is the attorney for Mr. Dastrup. Mr. Chingas
referenced a mailed letter to the planning department in regards to some concerns with
42 the location of the access road as it relates to the repair shop at Dastrup Auto. He then
referenced the safety concerns that are outlined in the letter provided. He explained there
44 is a legal dispute between the two parties regarding the easement that doesn't involve the
city and they are currently in negotiation with them. He also commented if the parties
46 cannot come to an agreement on use of the access easement on state street what will
happen. Mr. Haws stated the city is recognizing that this is a valid ingress egress
48 easement.

Commissioner Johnson asked if the city has a preference on public vs. private road in this situation for maintenance etc. Mr. Haws stated from a legal perspective there is not. Mr. Florence stated from a planning perspective a public road is better as the burden is not put on the HOA. There was also some discussion on setbacks at this time.

Sean Carson: Mr. Carson stated everybody keeps referring to the private road like it won't get used. It will get used if it is open and it will get traveled on a regular basis. He questioned if it is a public road what are the setbacks.

Paul Hatchett: Mr. Hatchett stated he is a technician at Dastrup Auto and drives a lot of vehicles on and off the lot. The timing of the lights is a big issue and this would bring a lot of additional traffic. He believes putting the outlet from the subdivision so close to the property would be a problem and would cause safety issues.

Neal Dastrup: Mr. Dastrup asked what is the traffic flow estimates. Mr. Florence stated the City Engineer didn't require a traffic study for this development. Mr. Dastrup asked what is there to keep additional units to piggyback to the back of that development. Chairperson Call stated as far as the development that would be controlled by ordinance. Mr. Dastrup also pointed out getting on and off the street can be extremely difficult as it is a heavily populated street.

Ed Platt: Mr. Platt commented moving the road north and splitting their property makes no sense to them. The more you move it north the more unusable ground you create which is completely unworkable for them. He pointed out that 15 ft. they could probably make work but they would be giving up 15 ft. of ground which is a considerable amount of square footage. The agreement they have with Mr. Southard states whatever they need to put in the road they will deed back to them whatever they don't need.

Mr. Southard stated he is willing to work things out before taking any more property from the Platts as that will not work. They would like this to be a public road and noted they meet all requirements for approvals and they will plan to meet the public road requirements. Their offer to Mr. Dastrup says they will run pressurized irrigation to his property if they are willing to dedicate. The triangular pieces they are willing to give to him too which will clean up property lines and everyone will benefit. They will meet the safety requirements and they have gone above and beyond what is required. They have worked closely with staff and the attorney to make sure they are legally compliant. He noted they closed on two existing parcels, and they will clean everything up and make sure everything is as it should be at the county. He emphasized they obviously do not want anyone's safety in question. All of the engineers are saying it is safe and they will not be willing to move the road 15 ft. as Mr. Platt wants to avoid any difficult discussions. The way this is planned and designed covers everything.

Chairperson Call pointed out the commission is just dealing with the Conditional Use Permit right now. Commissioner Johnson added the commission's job is to evaluate what the elected officials have enacted into law and the commission just implements it. As a planning commission member, we try to mitigate any conditions and he feels staff has done a great job with that.

Commission Marchbanks spoke on the triangular piece asking if they should add it as a condition. Mr. Florence stated the developer will work with staff on that issue and it would be on the site plan. Commissioner Thompson commented the applicant has indicated they are willing to do additional safety measures.

Commissioner Kallas stated he thinks the 7 ft wall along the southern line should be a concrete fence to protect Dastrup Auto. They would have to have a clear view for traffic leaving Dastrup Auto and it should follow the property line with bollards or something there to protect the workers. He added a block wall following the property line would mitigate some of the safety issues.

Commissioner Schauers commented a lot of time has been spent and he thinks the issue is between the property owners and not so much in their purview as the engineers have passed off on this. He added to be good neighbors the safety issues should be mitigated and that is a valid concern. Commissioner Marchbanks stated he agrees with the comments made by the other commissioners.

Chairperson Call commented the city engineer, staff and city attorney has indicated this is in compliance and therefore the commission can't really deny it. Her hope is to have things worked out between the property owners. Mr. Florence stated the fence condition can be added to the motion to mitigate safety concerns.

Following some additional discussion, the Commission was in agreement to approve this conditional use permit request with the conditions as listed in the motion.

Chairperson Call called for any further comments or discussion from the Commission. Hearing none she called for a motion.

COMMISSIONER MARCHBANKS MOVED TO APPROVE THE APPLICANT'S REQUEST FOR CONDITIONAL USE PERMIT APPROVAL TO DEVELOP A 58-UNIT RESIDENTIAL TOWNHOME DEVELOPMENT LOCATED AT APPROXIMATELY 531 N. STATE STREET WITH THE FOLLOWING CONDITIONS: 1. THE APPLICANT WILL WORK WITH THE OWNER OF DASTRUP AUTO TO INSTALL BARRIERS OR FENCING TO PROTECT THE GAS METER AND NORTHEAST CORNER OF THE DASTRUP AUTO REPAIR BUILDING; 2. THE DELIVERY VEHICLES FOR THE LINDEN NURSERY NOT USE THE RESIDENTIAL STREETS BEHIND THE NURSERY FOR DELIVERIES OR TRAFFIC CIRCULATION; 3. ALL ITEMS OF THE STAFF REPORT. COMMISSIONER THOMPSON SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER JOHNSON	AYE
COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE
THE MOTION CARRIED UNANIMOUSLY	

5. Site Plan Approval – South Haven Development – 531 N. State

The applicant requests site plan approval to develop a 58-unit townhome development at 531 N. State Street (Parcel #'s 45:244:0003, 14:067:0140, 14:067:0057).

2 Mr. Florence stated this agenda item is the site plan approval for the previous
discussion and presentation. At this time, he directed the commission to discuss the
4 fencing and whether or not to require the masonry wall or approve the request for the
wrought iron ornamental fence. There was then some general discussion regarding the
6 fencing and also the setbacks.

Following some additional discussion, the Commission was in agreement to
8 approve this site plan request with the conditions as listed in the motion including the
additional condition regarding the fencing with a minimum of a 6 ft. concrete decorative
10 fence with a clear vision allowance.

Chairperson Call called for any further comments or discussion from the
12 Commission. Hearing none she called for a motion.

14 COMMISSIONER JOHNSON MOVED TO APPROVE THE APPLICANT'S
REQUEST FOR SITE PLAN APPROVAL FOR THE PROPERTY LOCATED AT 531
16 N. STATE STREET WITH THE FOLLOWING CONDITIONS: 1. THE
DEVELOPMENT BE ALLOWED A MINIMUM SIX (6) FOOT OR HIGHER
18 DECORATIVE MASONRY FENCE BETWEEN THE LINDEN NURSERY AND THE
TOWNHOMES WITH AN ALLOWANCE FOR CLEAR VISION; 2. THE
20 APPLICANT WILL MEET THE ARCHITECTURAL DESIGN STANDARDS OF THE
PLANNED RESIDENTIAL DEVELOPMENT OVERLAY ZONE THAT STAFF WILL
22 ADMINISTER 3. THE DEVELOPMENT WILL PROVIDE BOTH PASSIVE AND
ACTIVE COMMON SPACES AS OUTLINED IN THE DEVELOPMENT PLAN; 4.
24 THE REAR YARD SETBACK FOR UNITS 119 THROUGH 140 BE REDUCED TO
10 FEET; 5. THE APPLICANT WILL CONTINUE TO WORK WITH THE CITY
26 ENGINEER TO MAKE ALL FINAL CORRECTIONS TO THE ENGINEERING
DOCUMENTS; 6. THE PLANS WILL MEET DEVELOPMENT SPECIFICATIONS
28 AS FOUND IN THE LINDON CITY DEVELOPMENT MANUAL; AND 7. THE
TRIANGULAR PIECE WILL BE INCLUDED IN THE DEVELOPMENT; 8. THE
30 MASONRY FENCE WILL FOLLOW THE SOUTH PROPERTY LINE UP TO THE
EAST EDGE OF THE BUILDING AND 9. ALL ITEMS OF THE STAFF REPORT.
32 COMMISSIONER SCHAUERS SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

34 CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
36 COMMISSIONER KALLAS	AYE
COMMISSIONER JOHNSON	AYE
38 COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE
40 THE MOTION CARRIED UNANIMOUSLY.	

42 **6. Major Subdivision Recommendation – South Haven Development – 531 N.**
State The applicant requests preliminary approval and a recommendation to the
44 city council for a 58-lot major subdivision at 531 N. State Street (Parcel #'s
45:244:0003, 14:067:0140, 14:067:0057).
46

2 Mr. Florence stated this item is the major subdivision approval for the previous
agenda items discussion and presentation. He noted this will be a recommendation by the
4 commission to the city council.

Following some additional discussion, the commission was in agreement to
6 approve this major subdivision request with the conditions as listed in the motion.

Chairperson Call called for any comments from the commission. Hearing none
8 she called for a motion.

10 COMMISSIONER MARCHBANKS MOVED TO RECOMMEND APPROVAL
TO THE CITY COUNCIL THE APPLICANT'S REQUEST FOR PRELIMINARY
12 MAJOR SUBDIVISION APPROVAL FOR THE PROPERTY LOCATED AT 531
NORTH STATE WITH THE FOLLOWING CONDITIONS: 1. THE APPLICANT
14 WILL CONTINUE TO WORK WITH THE CITY ENGINEER TO MAKE ALL FINAL
CORRECTIONS TO THE ENGINEERING DOCUMENTS AND PLAT; 2.
16 COMPLETE (OR POST AN ADEQUATE IMPROVEMENT COMPLETION
ASSURANCE), WARRANT AND POST REQUIRED ASSURANCE FOR ALL
18 REQUIRED PUBLIC INFRASTRUCTURE IMPROVEMENTS; 3. PRIOR TO PLAT
RECORDING, THE APPLICANT WILL UPDATE THE FINAL PLAT MYLAR TO
20 INCLUDE NOTARIZED SIGNATURES OF OWNERS' CONSENT TO
DEDICATION; AND OBTAIN SIGNATURES OF ALL ENTITIES INDICATED ON
22 THE SUBDIVISION PLAT ATTACHED HERETO; 4. IF THE APPLICANT AND
DASTRUP AUTO ARE NOT ABLE TO AGREE ON DEDICATING THE SOUTH
24 ENTRANCE AS A PUBLIC STREET THEN AN ADDITIONAL EASEMENT WILL
BE RECORDED PRIOR TO PLAT RECORDING THAT CREATES THE REQUIRED
26 ACCESS WIDTH; 5. THE PLANS AND PLAT WILL MEET AND BE
CONSTRUCTED AS PER SPECIFICATIONS AS FOUND IN THE LINDON CITY
28 DEVELOPMENT MANUAL; 6. THE LINDON NURSERY PLAT WILL BE
AMENDED TO BE CONSISTENT WITH THE SUBDIVISION PLAT AND 7. ALL
30 ITEMS OF THE STAFF REPORT. COMMISSIONER KALLAS SECONDED THE
MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

32 CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
34 COMMISSIONER KALLAS	AYE
COMMISSIONER JOHNSON	AYE
36 COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE

38 THE MOTION CARRIED UNANIMOUSLY.

40 7. **New Business: Reports by Commissioners** – Chairperson Call called for any
new business or reports from the Commissioners. There were no further
42 comments from the Commissioners at this time.

44 8. **Planning Director Report** – General City Updates. Mr. Florence spoke on
required online training noting it needs to be completed by December 31st
46

Chairperson Call called for any further comments or discussion from the
48 commission. Hearing none she called for a motion to adjourn.

2 **ADJOURN** —

4 COMMISSIONER KALLAS MADE A MOTION TO ADJOURN THE
MEETING AT 8:55 PM. COMMISSIONER JOHNSON SECONDED THE MOTION.
6 ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

8 Approved – November 9, 2021

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Sharon Call, Chairperson

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Michael Florence, Planning Director