

**RIVERTON CITY PLANNING COMMISSION
MEETING MINUTES
JULY 14, 2022**

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:

Shelly Cluff, Chair
Keith Breinholt
Gary Cannon
John Gilchrist
Evan Matheson
Darren Park
Troy Rushton

Staff:

Tim Prestwich, City Planner
Ryan Carter, City Attorney

1. CALL TO ORDER/ROLL CALL

Chair Shelly Cluff called the meeting to order at approximately 6:30 p.m. The Pledge of Allegiance was led by Commissioner Evan Matheson.

2. PUBLIC HEARINGS

A. HOME OCCUPATION - "WINKEL SHORT-TERM RENTAL," A SHORT-TERM RENTAL TO BE BASED OUT OF A HOME AT 13752 SOUTH 4170 WEST. APPLICANT – STEPHANIE WINKEL (CONTINUED FROM JUNE 9 PC HEARING).

City Planner, Tim Prestwich presented the Staff Report and stated that the item was continued at the June 9, 2022, Meeting. The applicant, Stephanie Winkel, had a conflict and was not present at the meeting. Mr. Prestwich explained that he would share information about the Home Occupation application and asked that the Commission continue the item to a date when the applicant can be present.

The subject property is located at 13752 South 4170 West in the Deer Mountain Estates Phase 7 Subdivision. The neighborhood is zoned RR-22 and is a single-family zone with minimum of one-half acre lot sizes. The subject property is 0.52 acres in size. The existing home was built in 1998. Mr. Prestwich reminded the Commission that the item was continued at the June 9, 2022, Planning Commission Meeting after concerns were raised by neighbors about the concurrent pool rental business taking place at the address. Staff had since checked the Swimply app and the pool rental was no longer listed. The ad had been removed.

Short-term rentals were considered Home Occupations under Riverton City Code. Several rules need to be followed, which were included in the Staff Report. The application and evaluation criteria were also included in the report. Mr. Prestwich explained that many of the criteria pertained to licensing after ownership and primary residency was proven.

City Attorney, Ryan Carter added additional conditions to the motion language to address specific concerns. He recommended that those conditions be included. Mr. Carter also recommended that there be statements from the applicant on the record to outline how she intends to conduct business moving forward. It was important to understand how the applicant will market the short-term rental. Mr. Carter explained that there were concerns about how the conditions would be enforced and how the City would monitor the use. As a result, it made sense to have access to the way the property is listed. For instance, via Airbnb or VRBO. He wanted to put the onus on the applicant to disclose where the short-term rental would be advertised so there could be accountability.

There were still concerns about whether it was possible to enforce the number of days that the rental could be used. Staff would need to have further discussions about that. Mr. Carter noted that it would be possible to see when there is availability on reservation websites, which might be a way to access the data. He felt that the added Conditions of Approval were a starting point and would make it possible to implement enforcement mechanisms.

Mr. Carter reminded the Commission that vehicles at the rental need to be on the property and not in the street. Additionally, there were limitations on the number of people who could be there at any given time. These regulations would reduce the level of disruption to the rest of the neighborhood. Staff was concerned that there may be dual uses on the property, where there was a rental use for the home as well as a swimming pool rental. He noted that Staff would monitor this and look for evidence of dual uses moving forward. Since the applicant was not present to answer questions, Staff recommended that the item be continued to a future Planning Commission Meeting.

Commissioner Breinholt noted that there were numbering issues in the materials shown. Mr. Carter clarified that the typo would be corrected. Commissioner Breinholt pointed out that at the last Planning Commission Meeting where the matter was discussed, there was a room full of neighbors. He wondered if the item had been noticed. Mr. Carter reported that it was on the Planning Commission Meeting agenda. The City was required to send a notice to homes within 300 feet of the subject property when the public hearing was first opened. On every subsequent hearing, the normal noticing requirements were followed. The noticing requirements complied with Utah Law. He believed that most of the neighbors who wanted to speak shared their thoughts at the last Planning Commission Meeting.

Commissioner Breinholt liked that there was a condition that would require the applicant to share where the property was being listed or marketed. He knew that on websites like Airbnb, there are visitor limits, but those limits could be exceeded if a certain fee is paid. Mr. Carter noted that data like that could be pulled from the listings and reviews of the property. It would be possible to monitor how the business was being run. Commissioner Breinholt asked if eight visitors was the limit. This was confirmed. He asked that this be clarified and included in the Conditions of Approval and materials.

Commissioner Park had questions about the enforcement mechanisms. He wondered if they should be recommended to the City Council as possible additions to the City Code. Mr. Carter noted that these types of requests are still fairly new. There was a desire to

improve the conditions each time. The suggested Conditions of Approval were the result of specific complaints and concerns from neighbors. This particular application is unique since there were concerns about dual uses on the property. However, the two added conditions may become standard moving forward.

Commissioner Park was concerned that the applicant may argue that they were being singled out as there were new Conditions of Approval. Mr. Carter explained that this was a unique situation. Each decision was required to be made based on evidence and not on the record of past applications. As long as there was a reasonable relationship between the evidence on the record and the conditions imposed, that was appropriate.

Commissioner Gilchrist noted that at the last Planning Commission Meeting, several neighbors were upset about the pool rental. The applicant stated at that time that in addition to the pool rental, she has fairly regular large family gatherings at her home. It sounded like those gatherings included 20 to 30 people. There was no restriction about having that many visitors at the home. Mr. Carter explained that there had been instances where the City received complaints about residents who had regular family gatherings that were large in number. The City informed those residents that this was a legal activity, but it could become a nuisance if there was late-night noise or parking issues. The challenge was how to tell the difference between a family activity and something else. Commissioner Gilchrist asked that Condition of Approvals #4 and #5 be shared with the applicant ahead of the next Planning Commission Meeting. She needed to understand the expectations of the City beforehand.

Commissioner Cannon asked how many neighbors were present at the last Planning Commission Meeting related to the item. Mr. Carter explained that at least a dozen neighbors attended that meeting. They were not notified in the same way for this meeting because the law does not require it. He reiterated that a personalized notification was sent out for the first meeting and then there needed to be compliance with general noticing standards for all subsequent meetings on the subject. A mailed notice is not required to be sent out every time there was a continuation of an item.

Commissioner Cannon asked for additional details about the application. Mr. Carter clarified that the applicant wanted to operate a VRBO-related business on the property to the extent that she lawfully could. The neighbors previously expressed concerns that the applicant was allowing short-term rentals before obtaining a Conditional Use Permit. In addition, the applicant was allowing her property to be used as a place for people to congregate and use the pool. Those uses had created a nuisance in the neighborhood. It was important to consider the impacts that a VRBO-related use would bring to the area.

Mr. Carter noted that there was a limit on the number of days the property could be used for a VRBO. It was 150 days per year. However, if there are 150 days where the property is used as a VRBO rental and all the remaining days of the year are used for swimming pool parties, the intention of the Ordinance would not be met and the outside uses on the property would be excessive. Staff informed the applicant that both businesses cannot take place at the same time. The applicant had withdrawn their use of the property for swimming pool parties. Mr. Carter explained that due to the dual uses and issues within the neighborhood, the application was slightly more difficult to review and process.

Chair Cluff opened the public hearing. There were no public comments. Chair Cluff closed the public hearing.

Commissioner Rushton moved that the Planning Commission CONTINUE Application PLZ-22-2011, “Winkel Short-Term Rental,” located at 13752 South 4170 West, to the August 11, 2022, Planning Commission Meeting. Commissioner Matheson seconded the motion. The motion passed with the unanimous consent of the Commission.

3. DECISION ITEMS

A. AMENDED SITE PLAN - “RIVERTON BUSINESS PARK PH 1 & 2” DESIRES APPROVAL FOR A CHANGE IN THE EXTERIOR APPEARANCE. APPLICANT – STEVE MARX.

Mr. Prestwich presented the Staff Report and reported that the Riverton Business Park is sometimes referred to as Riverton Flex. It is a Business Park with two large buildings just west of Bangerter on the south side of 12600 South. He overviewed a map of the area and explained that the item was an amended Site Plan for Riverton Business Park, with commercial buildings located at 12705 South 4150 West. The Planning Commission approved the original Site Plan at its December 10, 2020, meeting. The building was nearing completion but there was an amendment request related to the exterior design. Mr. Prestwich shared an illustration and stated that a black painted stripe was initially proposed above the window. The applicant was now asking whether that could be either gray or black. He wanted to have a choice based on what looked better.

Chair Cluff moved that the Planning Commission APPROVE Application PLZ-22-8022, Riverton Business Park Amended Site Plan, located at 12705 South 4150 West, to allow a black or gray band. Commissioner Cannon seconded the motion. The motion passed with the unanimous consent of the Commission.

4. DISCUSSION ITEMS

A. “RIVERTON BUSINESS PARK PHASE 3,” A DISCUSSION ABOUT A POTENTIAL DEVELOPMENT PROJECT FOR THE PROPERTY LOCATED AT 3751 WEST 12600 SOUTH.

Mr. Prestwich explained that this was a discussion item and no vote was needed. The intention was to hear feedback from the Commission about a potential development project for Riverton Business Park Phase 3. He reported that Riverton Business Park is sometimes referred to as Riverton Flex. It was a two-phase project with flex space in two large, tilt-up buildings. The two commercial buildings are located at 12705 South 4150 West. The Planning Commission approved the original Site Plan at its December 10, 2020, meeting. Mr. Prestwich informed the Commission that Phase 1 was nearing completion and Phase 2 would be completed in the fall.

Mr. Prestwich shared example images with the Commission to better illustrate the architecture and loading dock areas in the first two phases. Fences and increased landscaping had been requested by the Commission to block the view of the loading docks in the back of Old Liberty Way. The developer was considering adding a third phase to the project, where two flex buildings would be constructed to the east, between 4000 West and Bangerter Highway, just south of 12600 South. The fronts of the buildings would face Bangerter Highway and the loading docks would face 4000 West. He noted that there was a proposal to add fencing and additional landscaping there as well.

When the concept was first brought to Staff, a few concerns were expressed related to the loading docks. The concern was that the main loading docks would face 4000 West, which was a minor collector on the Master Transportation Plan. According to Riverton City Code 18.100.070 Development Standards 4(a), "Loading docks/areas shall be oriented away from residential or other incompatible uses and major roadways and located internally to a site wherever possible." The applicant building would face a road on either side. Mr. Prestwich wondered if the Commission had a preference and asked if the loading docks should face Bangerter Highway and be screened or should the loading docks face 4000 West and have a fence and landscaping.

The remainder of the Riverton City Code 18.100.070 Development Standards were read:

- 4(b) - Site and/or building plans where loading docks/areas are not oriented away from incompatible uses, including major roadways, must demonstrate that such an orientation is not technically feasible, as opposed to other considerations such as cost or density;
- 4(c) - Loading docks/areas should be oriented to minimize visual, audible, and other impacts on surrounding uses and properties;
- 4(d) - The City may require mitigation of loading docks/areas using distance, landscaping, physical screening, or other methods as determined during Site Plan approval.

Staff was asking for guidance about the location and orientation of the loading docks as well as what screening may be required. Mr. Prestwich believed the development would create economic opportunities in the City and would be a great addition to Riverton.

Commissioner Park noted that the Staff Report referred to two smaller flex buildings. Mr. Prestwich clarified that there would be one smaller building and one larger building. Commissioner Park was inclined to go with the original proposal that was submitted by the developer, where the front of the buildings face Bangerter Highway. He explained that Bangerter Highway is a major corridor moving through the valley. It would not make sense to have loading docks facing the highway since so many vehicles pass that area each day. It was important for the City to present a good image. He would prefer the front of the buildings face the highway so it looks more appealing to both residents and non-residents. It would be more aesthetically pleasing to face the buildings east. The Commission could think of ways to address the loading docks on the west side.

Commissioner Rushton asked what the Bangerter sound walls would look like in the future. Mr. Prestwich explained that Staff was not sure. That was something that had been discussed with the applicant. If the Utah Department of Transportation (“UDOT”) put in 10 to 12-foot sound walls, it was important to consider whether anyone would be able to see the fronts of the buildings. If only the tops of the buildings will be visible, signage and treatment at the top of the buildings could create the desired aesthetic without the front of the buildings facing the highway. However, he was not sure if sound walls would be installed by UDOT. It was an unknown factor at the current time. Commissioner Rushton echoed some of the comments shared by Commissioner Park. He felt it was beneficial to have the entrance face the highway because it could draw people into Riverton and could also encourage residents to visit the Riverton Business Park.

Commissioner Matheson stated that his comments related to the sound wall. If the loading docks were recessed and sound walls were present, the area would be shielded from view. If that were the case, he would prefer the loading docks to face Bangerter. Since the Commission did not know what would happen with the sound walls, it was difficult to make a decision based on that possibility. Commissioner Matheson wondered if a visual blocking wall was a possibility. He did not believe people driving down the highway would spend much time looking at the commercial offerings. As a result, he would prefer that the entrance face away from Bangerter Highway and towards 4000 West.

Mr. Prestwich noted that there were several options to consider. The applicant stated that he could make it work either way but was looking for direction from the Commission. Chair Cluff asked if the wording in 18.100.070 4(a), about loading docks being oriented away from major roadways, was related to safety or aesthetics. Mr. Prestwich explained that it did not specify the reason. It also did not include information about what was considered a major roadway. In other parts of the City Code, a major roadway was defined and specific roadways were listed. This section did not include definitions. He believed that based on the context of the text, this was more related to aesthetics.

Commissioner Gilchrist believed that 4(c) was also important to consider. If the loading docks were pointed toward Bangerter, there would not be a real impact on Bangerter, because it would function the exact same way. Alternatively, there would be an impact on the building across the street if the loading docks faced the other way. If a customer drove up to the building, they would want to find the front entrance rather than the loading docks.

As far as the UDOT sound walls, since the interchange was built before the development, no noise walls would be installed. Commissioner Gilchrist explained that there would be no new noise impact on the property. Unless there was a future Bangerter improvement that moved traffic closer to the buildings, the property would not be eligible for UDOT sound walls. He felt it would be more inviting and consistent to have the storefronts face each other within the Riverton Business Park development. There could still be appropriate screening for the side that faced Bangerter so it looked aesthetically pleasing.

Commissioner Cannon appreciated that the applicant was open to feedback and suggestions from the Planning Commission. He believed it would be better for people to see storefronts rather than loading docks from Bangerter Highway. As for deliveries, he was

not certain it made the most sense to have the docks face Bangerter. Commissioner Matheson wanted to see the loading docks face Bangerter from a safety standpoint. Mr. Prestwich stated that the Ordinance could allow the Commission to require a fence along Bangerter if that scenario was selected. If the Commission was unable to reach a consensus about the building direction, he believed it would be best for the applicant to move forward with the direction he preferred, with the understanding that the loading docks would need to be shielded or treated in some way.

Commissioner Breinholt noted that the 12600 overpass was raised. As a result, it would be difficult trying to block the view from that overpass. In terms of aesthetics, he would prefer that the entrance be seen from the highway but acknowledged that there would be a lot of traffic in the 4000 West area as well. Since there would be less traffic on 4000 West, his preference was to have the storefronts facing Bangerter. Commissioner Breinholt explained that it would be easier to provide blocking and landscaping walls on 4000 West than it would be to try to block the raised overpass view of the property.

Chair Cluff agreed with Commissioners Gilchrist and Matheson. She preferred that the storefronts face 4000 West. It made sense to have a customer-centric view so visitors knew where to go within the Riverton Business Park. Most of the views along Bangerter were not aesthetically pleasing, so it would not bother her if the loading docks faced that way. She noted that signage could be used on the Bangerter side.

The developer, Steve Marx, explained that there was a desire to create a high-quality development. He wanted to consider aesthetics and how the designs will impact Riverton City. Mr. Marx appreciated the input received so far. It was interesting that there were differing opinions from the Commissioners. He believed that the design could work either facing Bangerter or 4000 West. The consumer experience would look better coming down 4000 West if there was the same product on both sides. The tradeoff was that it would not look as aesthetically pleasing from Bangerter. If the development faced out towards Bangerter, it would showcase the project as a whole and create interest for people driving by. Mr. Marx noted that the designs were still preliminary. All of the Commissioner feedback would be taken into account. There were some engineering studies taking place to determine high and low points. He reported that additional information would be received about sewer flows and stormwater flows in the near future.

Mr. Marx identified the wings on the north and south sides of the illustration displayed. They would help block the view of the loading docks. The wings were shown as 112 feet. When there was landscaping added, it became a solid screening tool. He did not believe it would feel strange for a customer to drive through the designed area as long as the screening and landscaping was in place. Mr. Marx clarified that the north building, Building C, did not have loading docks. There were only grade-level doors. However, landscaping on the back of Building C was added to soften the look and feel.

Mr. Marx believed either orientation could be designed to look aesthetically pleasing. There were tradeoffs for both options. If the development faces Bangerter Highway, this would likely showcase the project better. Alternatively, if the development faces 4000 West, it

would look better for people who were internal to the site. It was important for everyone involved to consider all of the options.

Commissioner Park wanted to better understand the types of tenants who would move into the project. Mr. Marx explained that it was difficult to say because the spaces are flexible and could fit many different types of tenants. Building C was a different category of tenant because there would likely be more retail flex tenants than office flex or warehouse flex tenants. In Building D, it was more likely that there would be three or four larger tenants with some type of distribution capacity such as shipping or ecommerce.

Commissioner Rushton had changed his position on the orientation of the buildings and felt it would make sense for the buildings to face each other. This would allow pedestrians to walk from store to store. He had a question related to the north side. Commissioner Rushton wondered if there was a way to align the road that came in to the south so it was straight towards Bangerter. He also wanted to know if there would be food establishments within the project. Mr. Prestwich explained that the use itself was allowed but was not certain if the building would be set up for that. He did not know if bars or taverns were included in the PCC Zone but offered to check.

Commissioner Gilchrist wondered if Mr. Marx had spoken to potential tenants about their preferences for the building orientation. He knew that visibility was important to a lot of businesses, so he wanted to better understand what business owners wanted. Mr. Marx believed that visibility was important to all tenants. As long as signage can be placed on the back or the front, the visibility concerns would be met. He added that tenants have different uses. For instance, some would have low amounts of customers visiting the store and may be completely indifferent to the road that the building faced. Other tenants may have more customers that visited the site. In that instance, he was not certain what the preference would be. It seemed that there was a split among the Commissioners as well.

Chair Cluff believed that the City's interests and those of the developer were well aligned. Whatever Mr. Marx decided would likely align with the needs of the City. She felt comfortable exploring any building orientation that Mr. Marx determined was appropriate. Commissioner Park noted that the buildings would not be used for a retail shopping complex. There were loading docks and there would be warehouse space with small retail shops up front. He liked the original orientation that had been presented. Commissioner Breinholt asked if light manufacturing was permitted in the zone. This was confirmed. Mr. Prestwich reported that the PCC Zone had several permitted uses. He shared a list of the different uses that could take place in the zone. It was clarified that bars and taverns were not permitted, but restaurants were. The table of uses was further reviewed.

Mr. Prestwich explained that the Commission did not need to vote on the options. It was simply a discussion item so the applicant could understand what the Commissioners wanted to see. He noted that there were arguments and tradeoffs for both building orientations. It seemed that the Commission was asking Mr. Marx to determine the best option and then return to the Planning Commission for further discussion. Staff would work with the applicant to ensure that whatever was brought back in the future met the Ordinance requirements.

5. MINUTES

A. MINUTES APPROVAL – JUNE 23, 2022.

Commissioner Matheson moved that the Planning Commission **APPROVE** the Minutes from the June 23, 2022, Planning Commission Meeting as currently constituted. Commissioner Gilchrist seconded the motion. The motion passed with the unanimous consent of the Commission.

6. ADJOURNMENT

The meeting adjourned at approximately 7:37 p.m.