

**MINUTES OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD
OCTOBER 4, 2022, IN THE THOMAS M. REES JUSTICE CENTER COMMUNITY ROOM**

PRESENT: Trish Hatch, Kent Shelton, Matt Quinney, Trish Hatch, Ammon Allen, George Winn, and McKenna Marchant. Jay Thomas was excused.

STAFF: Scott Langford, Larry Gardner, Ray McCandless, Tayler Jensen, Mark Forsythe, Duncan Murray, Greg Davenport, Nathan Nelson, Chris Pengra, Paul Brockbank, Julie Davis, Mayor Burton

The pre-meeting was called to order by Trish Hatch. The agenda was reviewed. Duncan Murray presented information regarding a proposed text amendment due to changes in State Code 10-9a-507 regarding conditional use permits. This section makes it clear that any potential detrimental effects should be identified, and mitigating conditions imposed. He reviewed the proposed text amendment to 13-7E-8 that replaces Findings of Fact with Criteria of Fact to coincide with State Code.

The meeting was called to order at 6:00 p.m.

1. Approve Minutes from September 20, 2022

MOTION: Matt Quinney moved to approve the Minutes from September 20, 2022. The motion was seconded by George Winn and passed 6-0 in favor. Jay Thomas was absent.

2. Jones Landing Building 1; 6835 West 9800 South; Preliminary Site Plan with review of street-facing bay doors and Preliminary Subdivision Plat (2 lots on 62 acres); M-1 Zone; Gardner Company/Ben Seastrand (applicant) [#27360, 27362; parcel 26-10-100-006]

The applicant was not in attendance.

Tayler Jensen gave an overview of the request to construct a 460,000 square foot warehouse. A second warehouse will be built in the future. The elevations were previously reviewed by the Design Review Committee, which forwarded a recommendation for approval.

Based on the analysis and findings contained in the staff report, staff recommended that the Planning Commission approve the Preliminary Subdivision Plat and Site Plan for Jones Landing Phase 1 on approximately 62 acres and containing two (2) lots located at 6835 West 9800 South, with the conditions and requirements of approval listed below:

1. The right and authority to receive a Certificate of Occupancy shall be contingent upon the completion of the City's Zone 6 Culinary Water Tank (and connecting culinary water lines and related infrastructure)
2. No building permits for the construction of combustible materials may be approved, nor may combustible materials be stocked, stored, or installed on-site until adequate on-site fire protection facilities are constructed and functional.

Matt Quinney asked legal staff if the Planning Commission can make an assignment to the Zoning Administrator that as long as the Design Review Committee approves of the bay door screening then it does not have to go to the Planning Commission.

Scott Langford said the best course of action would be for the Planning Commission to make a motion directing staff to draft a code amendment with that change.

Trish Hatch opened the public hearing.

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

McKenna Marchant felt that the applicant should always be in attendance no matter how straight forward the application is.

Tayler Jensen said the applicant's absence may be due to late notification by staff.

MOTION: Matt Quinney moved to approve the Preliminary Major Subdivision and Preliminary Site Plan for Jones Landing Phase 1 located at 6835 West 9800 South subject to the requirements of approval listed in the staff report. The motion was seconded by Kent Shelton and passed 6-0 in favor. Jay Thomas was absent.

MOTION: McKenna Marchant moved to direct staff to conduct research on the issue [of street facing bay door review] for the best course of action moving forward. The motion was seconded by Matt Quinney and passed 6-0 in favor. Jay Thomas was absent.

3. Promontory at the Highlands Rezone; 5701 West 7800 South; Rezone 2.04 acres from HFR (High Density Multi-Family Residential – WSPA) Zone to SC-2 (Community Shopping Center) Zone; Peterson Development/Ryan Peterson (applicant) [#28387; parcel 20-36-226-014]

Paul Stringham, Peterson Development, said the purpose of the rezoning is to slightly expand the commercial area for Home Depot and the commercial pads and to allow for access and parking.

Tayler Jensen said the rezoning will accommodate development of Home Depot by extending the commercial zoning boundary to the property line.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to approve the Zoning Map Amendment for the Promontory at Highlands (Home Depot) Rezone located at 5700 West 7800 South.

Trish Hatch opened the public hearing.

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

MOTION: Ammon Allen moved to forward a positive recommendation to the City Council to approve the Zoning Map Amendment from HFR (High Density Multi-Family

Residential) to SC-2 (Community Shopping Center) for Promontory at Highlands (Home Depot) Rezone, located at approximately 5700 West 7800 South. The motion was seconded by McKenna Marchant and passed 6-0 in favor. Jay Thomas was absent.

4. West Jordan 2022 Drinking Water Master Plan Update; Recommendation to the City Council regarding an update to the Drinking Water Master Plan; City of West Jordan Public Utilities Department (applicant)

Greg Davenport, Public Utilities Director, gave an overview of the update to the Drinking Water Master Plan, which is part of the General Plan. The master plan examines current and future demands on the city, which allows them to address deficiencies and to prepare a capital plan for financing purposes. The plan was last updated in 2015. Comments from the public and the Planning Commission are being accepted. Data for current water demand and future demand forecasting of undeveloped areas was compiled. Water supply and sources are then called out for current and projected numbers. It could be necessary to find other water sources into the future.

Mr. Davenport addressed a question from Commissioner Marchant regarding reused water to lessen the pull on culinary water. Reuse water is gray water that is turned into a quality that can be used as drinking water. West Jordan does not have a permit from the State of Utah for reuse. West Jordan will probably use it at some point in the future, but the State is still formulating procedure and regulations. He stated that South Jordan uses canal water in a secondary water system for their residents. West Jordan does not have a secondary water system. South Jordan is also looking at taking water from the South Valley Sewer District reclamation plant and giving it back as culinary water after it has been cleaned and put through other filtering processes. By 2026 that may be something the Utilities Department will bring forward as part of this plan.

Greg Davenport reviewed the State of Utah water storage requirements for times of peak supply, for fire storage, and for emergency storage. He explained how the West Jordan tanks are constructed with floors, walls, and roofs all being separate, which allows for movement in case of an earthquake. The most vulnerable part of the system is the pipes leading to the tank. The report suggests that West Jordan needs 66 million gallons of water storage.

Staff recommended that the Planning Commission forward a positive recommendation to the City Council for this application.

There was additional discussion regarding what it would take to have a secondary water system. That option was reviewed at one time and determined that the cost would be similar to what it is for culinary water, so the City Council found that it was not in the best interest to pursue. There was a time when developers were asked to install secondary pipes, but they were never charged. Uncharged pipes begin to degrade, so when those pipes were tested to see if they could be used, they all leaked. The other issue is how the secondary water would get into the system if we had one. There is only a limited amount of water rights from the canals and most of those have been bought up. There is no additional water going into the Jordan River or into the canals. Most of the new development in West Jordan is very high in elevation so it would be very expensive to pipe the water from canals that are low in elevation. The city does use canal water in some of our parks, which are the biggest water users.

McKenna Marchant suggested that the city could look at water-saving turf options like white clover that is also beneficial to the soil.

A general discussion was held that covered topics such as other potential water sources, what impact conservation habits play in the future demand for water, and how reduced water use can also affect revenue for capital projects. The cost of water may change as EPA standards for lead and copper are implemented, which requires a lot of rehab.

Kent Shelton asked if there are dangers of sinking with overuse of ground water like what is occurring in California.

Greg Davenport explained that West Jordan's biggest danger for ground water use is a plume that was contaminated with lead and arsenic in South Jordan. West Jordan could use more than the 3,000 acre-feet of groundwater per year that is currently used, but that could draw the plume into West Jordan. The amount we use is not enough to make the ground fall.

There was a brief discussion regarding water and facilities costs compared to the revenue taken in. Much of the new capital facilities are paid for by developers in way of construction, impact fees, and agreements. Because of revenue shortfalls due to conservation, some communities have implemented a higher base fee and tier after. The city still needs to maintain, expand, and repair the current system no matter how much water is used.

Trish Hatch opened the public hearing.

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

Ammon Allen said he loved the executive summary and has confidence in what is in the plan, but he did not finish the whole document. He would like to have the item postponed for two weeks before making a recommendation to the City Council.

Trish Hatch would also like to have a chance to finish reviewing the document.

McKenna Marchant said knowing the background of Commissioner Allen, she agreed with the recommendation to postpone the item.

MOTION: Ammon Allen moved to table the recommendation for the West Jordan 2022 Drinking Water Master Plan Update until October 18, 2022. The motion was seconded by Trish Hatch and passed 6-0 in favor. Jay Thomas was absent.

5. Comprehensive General Plan – Discuss and provide input regarding the 2022 West Jordan Comprehensive General Plan Update; City-wide applicability; City of West Jordan (applicant)

Scott Langford acknowledged General Plan Committee members George Sadowski and Mike Wilson who were in attendance.

Transportation

The Transportation Master Plan is one of the master plans that the city uses to implement the goals of the General Plan and provides the long-range policy framework for the city's transportation system. Transportation includes vehicle, pedestrian, and public transportation. The goals and policies for this chapter are high level and rely on the 60-page transportation master plan for detailed analysis and future development. The public interest survey from the community listed the importance of east/west traffic flow, which will probably be identified in the next update of the transportation master plan. This chapter talks about the importance of bike lanes and pedestrian access, safe and efficient movement, a balanced multimodal transportation system, residential traffic calming, and street aesthetics.

McKenna Marchant felt that Policy 1 should have more incorporation with Policy 2, because other than the lack of multi-modal transportation systems, the other biggest concern is that it does not feel safe to walk or bike. They need to prioritize safety while providing for multi-model options. She suggested that they coordinate with Bike Utah and other organizations for standards like buffering that affect how pedestrians and bicyclists feel, which reflects how well used the transportation facilities are. Also, using the zoning map to plan for traffic calming in districts such as the Downtown area where you want people to slow down and visit. She referred to Policy 4 Goal 5 that says to 'encourage businesses to provide facilities for storing bicycles.' She would like to make bicycle storage a parking requirement when a new business comes into a location that doesn't already have it. On Policy 4 Goal 8 she would like to add 'buffering' specifically to be more bicycle friendly. She really liked Policy 6.

Urban Design

The purpose of this chapter is to balance aesthetics and functionality in the built environment and to enhance that area of quality of life. The chapter is divided into Urban Form (the city as a whole) and Neighborhood Character (for specific areas and how they relate to the Urban Form). The Streets element speaks of street design and implementation. Classifications were changed to reflect those within the transportation chapter. The Public Art section was updated with examples. The Transit Oriented Development section was enhanced with topics of walkability design and implementation, enhanced lighting, and pedestrian amenities such as benches, bike parking, and shaded areas that will encourage people to get out and walk. The Crime Prevention Through Environmental Design (CPTED) section focuses on finding ways to use architectural and site design to making areas safer, prevent crime, and increase surveillance. The community survey showed that 80% of participants ranked safety and security as very important. New goals were added to evaluate ordinances to ensure the promotion of good design, improving redevelopment areas such as the City Center, balance in landscaping design with aesthetics and waterwise principles, and encouraging structured and/or underground parking instead of surface parking.

McKenna Marchant referred to page 125 that says the city 'should encourage public art' and said that it will never happen with that wording. She suggested that there may be a way to reward a developer if they add an art installation either with their development or at a different location approved by staff.

She asked if anywhere in the plan does it define West Jordan's image and identity as referred to in Policy 2.

Mark Forsythe said there is nothing specific because it tends to change with different administrations. He said the Urban Design section is a big component of that image with enhancing gateways.

Scott Langford said the city is working on updating streetscape wall and landscaping standards on major corridors, which goes a long way in creating an image.

McKenna Marchant said it would be excellent to identify what the identity of West Jordan is, either in this plan or at the next update. For example, since the Jordan Valley Water Conservancy District is in West Jordan we are moving in the direction of a standard for sustainability, or with Gardner Village in the city we could focus more on historical elements as our identity. If we are going to include West Jordan's identity in one of the policies then it should be highlighted, if not, that word could be removed and just leave it as 'image'.

Kent Shelton said, in principle, he did not agree with the suggestion that developers be required to provide art, even though he loves art.

Ammon Allen liked the idea of removing the term 'encourage' wherever possible and instead state that the 'City will lead by example by ...'. He liked the idea of a city image and felt that the City Center area of Redwood Road would be a great spot for that. Maybe art could be included in density buyup credits, so the developer sees it as a benefit. He would like the art to be tied to West Jordan as much as possible.

McKenna Marchant liked that idea and felt that any art piece would have to be approved by staff or the Planning Commission. She stated that these are suggested ideas that staff can accept or not.

Matt Quinney felt that the West Jordan identity would have to be established before saying that art has to meet that standard.

George Winn said if we don't have a common understanding of what our identity and image are, then we might end up with unwanted art.

Chris Pengra said many cities will establish public art districts and programmed of land uses are generally community retail where a lot of people gather. Art is usually administered by an arts committee. Funding can come through an endowment or investing in spots for public art. He felt that art should be purposeful and not turned over to the developers.

Economic Development

The vision statement was written by members of the subcommittee and then aligned with the administration's goals. The other portions are broken down into building blocks of the community. Labor Force states that we want a place for residents to work without migrating out of the community. West Jordan has a low retention rate of workers with only 10% of people with a job who live in West Jordan work in West Jordan. West Jordan's unemployment rate is even lower than surrounding communities. Population Economics is determined by the types of jobs the people have. The largest number of employees in West Jordan are in the retail sector, which depresses the average wage paid by

firms in West Jordan. Additional retail will continue to grow, but there will also be major employers and job centers coming in, which will increase the wage trends. This chapter includes comparisons relating to other communities. Tax trends were reviewed.

McKenna Marchant said she liked the idea of Policy 2 in attracting business, but she wouldn't want the city to bend over backwards to the point where West Jordan is losing any benefit of what the business would bring to the city. For example, waiving design or parking standards which would be contrary to our goals of Urban Design.

Chris Pengra said the Economic Development department cannot waive requirements of the code. However, they can be facilitators in the process of asking for a variance, etc. They mostly assist by being attentive to the needs of the business by helping them connect with the right city departments or with other resources.

Growth Management

Deals with growth experienced in the last ten years and how to manage it. Information was added relating to the shift in remote work during the pandemic. Growth Patterns is a new section that outlines by land use the trends for growth over the last ten years. Growth Potential is a new section with a map that identifies 5,300 acres of vacant land. The Annexation Policy Plan is mandated by the State of Utah to be in the general plan. This map includes possible future annexation areas. Also added was the Growth Management Vision that talks about how to balance existing neighborhoods with the demand for new development. Growth Management Strategies were updated to include some new zoning overlays such as Infill Development, Interchange Overlay, and the Residential Overlay. Redevelopment agencies were added as a tool, and the capital facilities plan is referenced for future planning. Some new goals pertain to adequate public infrastructure and adaptive reuse of vacant commercial buildings.

There was a discussion regarding the City Center property and possibilities for development. The city has joined with Midvale and UTA to hire a consultant using \$350,000 received from the state in developing station area plans. They hope to have a design workshop and a master plan with goals and implementation strategies within 12 to 18 months. The Jordan School District has historically been a willing participant. It helps that there are other stakeholders as part of the plan. The station area plan must be passed by the City Council and the problems that other plans dealt with can hopefully be worked through. The biggest hurdle is the financial one. Economic Development staff has been talking with other stakeholders such as UTA, Wasatch Front Regional Council, and state legislators to generate interest that will help to get over that hurdle.

George Winn expressed an interest in seeing more growth in the health care industry, such as promoting specialty health care.

Chris Pengra said the concentration on health care has been to bring in other uses around the existing hospital. He said they have been engaged with Jordan Valley Medical Center in the past and they will reengage with the new ownership.

McKenna Marchant pointed out that Policy 5 Goal 2 uses the word 'encourage'. She referred to the annexation map on page 67 and asked if there is a reason why West Jordan is not supporting self-determination like South Jordan is and if we want the extra land.

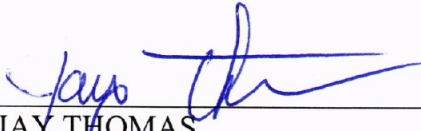
Duncan Murray said the annexation policy plan needs to be updated soon and might be based upon the areas that realistically can be served with water. Once you have the water then it makes sense to follow through and annex. The referenced map is just a summary of the plans for surrounding cities and may not accurately reflect what West Jordan is looking for currently. There will be a greater discussion when that plan is updated.

McKenna Marchant thanked the General Plan Committee members in attendance.

Trish Hatch echoed her thanks and said she is proud of West Jordan and its capability to hire people who know how to keep the city going.

MOTION: Matt Quinney moved to adjourn.

The meeting adjourned at 7:51 p.m.



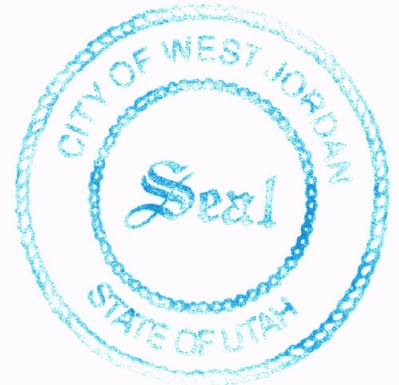
JAY THOMAS
Chair

ATTEST:



JULIE DAVIS
Executive Assistant
Community Development Department

Approved this 18 day of October, 2022



Effective 5/5/2021

10-9a-507 Conditional uses.

(1)

(a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2)

(a)

(i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Amended by Chapter 385, 2021 General Session

2. Conditional Use Permits

Nature of the decision

In most zoning ordinances, some "permitted" uses are allowed in each zone with no more review than that required by the building code, health code, or other specific regulations. Staff can review and approve permits for permitted uses without any further input from citizen planners.

Other uses are designated as "conditional" uses, which in state statute are defined as being subject to special case-by-case scrutiny.¹⁹ The conditional use may be allowed, allowed with conditions, or in narrow circumstances, denied.

Conditional uses must be approved if reasonable conditions are proposed, or can be imposed, to mitigate the potential negatives involved. Conditions must relate to applicable standards in the ordinance adopted by the local city or county to regulate conditional uses. A conditional use may not be denied unless it is shown with documented findings of fact and conclusions of law that "*the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards.*"²⁰

Who makes the decision?

Usually, the local ordinance provides that the planning commission or the council or county commission considers conditional use permits. State statute does not impose that duty on any particular body, so local ordinances rule. Conditional use permit applications could be handled by staff, a hearing officer, or other land use authority.²¹

What notice is required?

The local ordinance may provide for hearings, but state statute does not. If the decision is made by a public body, however, an agenda and public meeting would be required.²²

What public input is required?

None is required by state law. If the decision is made by a hearing officer or staff, no public notice or participation in the decision might occur. Local ordinance could allow for notice to the public or neighbors, could provide for an optional protest procedure that would trigger a public process, or otherwise deal with such issues with or without public or neighborhood participation.

Of course, the applicant must be notified of any meeting or hearing where the application is considered.²³

What are the issues?

Such a review is usually about what conditions to apply to the property, not whether the use will be approved or denied. What reasonable conditions should be imposed on the proposed use so that the negative aspects of the use make it more acceptable in the proposed location and under the proposed method of operation?

The presumption is that the use should be allowed since the ordinance would not provide for a use if the use were not deemed desirable in the first place. The decision as to whether the use is appropriate in the zoned area has already been made by the municipal council or county legislative body. When an application is filed for the permit, the time has passed to determine whether the proposed conditional use is appropriate in that zone.²⁴

If the use can be conditioned in a manner that mitigates the negative aspects of the use, then it must be so conditioned and approved. The conditions need only mitigate those negative aspects. There is no duty of the applicant to eliminate them.²⁵ If no conditions can be imposed to mitigate the negative aspects, then the conditional use may be denied, but only based on a record including findings of fact based on substantial evidence supporting the denial.²⁶

The major issue is the conditions, so the central issue is: what conditions would be appropriate and what conditions might not? For a more thorough discussion, see "Burdens on Development" in Chapter 8. It may be helpful to consider a specific case to illustrate these points.

13-7E-8: ~~FINDINGS~~ CRITERIA FOR APPROVAL:

Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall find that the use meets the following criteria:

~~A. The proposed use is consistent with the intent of the goals and policies of the general plan and the purpose of the zone district in which the site is located;~~

~~B. The proposed use will not be materially detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the proposed use or have an adverse effect on the property, adjacent properties, the surrounding neighborhood, or the city as a whole as a result of the type of use or hours of operation;~~

~~C. The proposed site is adequate in size and shape to accommodate the proposed use and that all requirements for the zone district, including, but not limited to, setbacks, parking, on-site circulation, screening, buffering and landscaping are being met;~~

~~D. The proposed site has adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the subject use and on-site circulation is adequate to permit driveways, parking and loading requirements in a manner which is safe and efficient;~~

~~E. The proposed use will ensure compatibility with surrounding uses and will use building materials that are in harmony with the area; and~~

~~F. Adequate conditions or stipulations have been incorporated into the approval of the conditional use permit to ensure that any anticipated detrimental effects can be mitigated.~~

~~G. Where applicable, the proposed use will have appropriate connections to the city water and sewer utility systems, and its water meter and pipe design shall be reviewed by the city engineer with due regard to the public health, safety and welfare.~~

A. The reasonably anticipated detrimental effects of the proposed use have been identified, together with some of the reasons why each of the identified reasonably anticipated detrimental effects is anticipated to be detrimental;

B. Reasonable conditions have been identified, which, if imposed, would reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed use;

C. An analysis of the identified reasonable conditions has been conducted to select the most appropriate conditions to mitigate each of the reasonably anticipated detrimental effects of the proposed use;

D. Each of the selected conditions of the conditional use permit shall be consistent with the city code, including but not limited to this article, and with all federal and state law, including but not limited to Utah Code Ann. section 10-9a-507 or successor provisions;

E. Each of the selected conditions of the conditional use permit shall be stated on the record and shall reasonably relate to mitigating the reasonably anticipated detrimental effects of the proposed use; and

F. If stated on the record, requirements of the city code, Salt Lake County Health Department rules and regulations, state statutes and policies, and other applicable governmental policies, rules, and regulations shall not be listed as "conditions"; but rather, they shall be listed as "existing law", without the need to identify how the "existing law" is related to mitigating any reasonably anticipated detrimental effects.

(2009 Code; amd. Ord. 10-24, 8-25-2010)