

SOUTH JORDAN CITY  
CITY COUNCIL WORK MEETING

December 3, 2013

**Present:** Mayor Scott Osborne, Council Member Mark Seethaler, Council Member Chuck Newton, Council Member Brian Butters, Council Member Steve Barnes, Council Member Larry Short, CM John Geilmann, ACM Gary Whatcott, City Attorney Rob Wall, Community Development Director George Shaw, COS Paul Cunningham, Mayor Elect Dave Alvord, Council Elect Chris Rogers, Council Elect Don Shelton, City Council Secretary MaryAnn Dean

4:00 P.M.  
EXECUTIVE CONFERENCE ROOM

**WORK SESSION**

Mayor Osborne noted that the Council Members currently present are Council Member Newton, Council Member Barnes, and Council Member Butters.

Mayor Osborne offered the invocation.

I. TRAINING

A. Code of Ethics

City Attorney Wall gave the City Council training about receiving gifts. He noted a recent offer made to the City Council from Elements Massage, as part of their grand opening. He said gifts have to be valued less than \$50, cannot be cash, and cannot influence their decision making. He reviewed the code of ethics and indicated that the Planning Commission, City Council Members, Board Members etc. can receive no special advantages for services or public gain that are not available to the public. He said the City Code of Ethics is far more restrictive than the state code. He feels the first sentence of the City Code of Ethics is too restrictive. At some point, they may want to revisit that issue. He recommended they not accept the offer made from Elements Massage because it is not offered to the public in general.

Council Member Seethaler arrived at this time.

Council Member Barnes said he would like to revisit the part of the policy so they can have communication with people that affect their district.

Mayor Osborne asked that staff work on the issue and bring it forward at a future date.

II. MAYOR AND COUNCIL ITEMS FOR REVIEW AND DISCUSSION

A. None.

### III. STAFF PRESENTATIONS AND DISCUSSION

Mayor Osborne noted that item III. C. has been removed from this agenda.

#### A. Continued Discussion: Village Mixed Use Zone (*Community Development Director Shaw*)

Community Development Director George Shaw reviewed the South Jordan VMU/VMR Land Use/Zone Options (Attachment A). He said 10 units per acre would eliminate apartments.

Council Member Newton asked about the impact on properties that are expecting mixed use on their property.

Mayor Osborne said land use is used to plan transportation in the state. These types of centers are viable for mass transit.

Community Development Director Shaw said they are preparing to update the moderate income housing plan. That won't be done before the moratorium is over. He said the city is doing a good job providing housing diversity, but not housing affordability. He reviewed a memo titled State & Federal Impacts on Local Housing Policy (Attachment B). He said whatever they do, they need to keep the state and federal housing requirements in mind. He said they were told that the last moderate income housing study was inadequate because it was more of a report than an action plan.

The City Council discussed moderate income as being within 80 percent of the median range of the County. Community Development Director Shaw reiterated that the city has increased the diversity of housing options, but the price is well above the median range. Council Member Newton noted that the city has \$10 million in housing money, and he referred to several projects that have been approved that would apply. Planner Schindler said they are only considered moderate housing at a certain price point.

Community Development Director Shaw said they are making progress. Until they get a new study and plan in place, they don't know exactly where they are at.

Council Member Seethaler said they don't have an understanding of what their score means, as outlined in the memo. They do not know the goals or the penalties if they don't achieve compliance to those goals. The voters and residents made it clear that they are concerned about changing South Jordan to higher density housing. If the penalty is that they don't get federal money for federal projects, that might be okay. He understands that HUD will begin to be aggressive at applying the law to ensure lower income housing can be integrated with higher income housing. Community Development Director Shaw concurred. He is most concerned by the statement that South Jordan is at high risk of a fair housing complaint.

Council Member Seethaler asked at some point, can the federal government tell them that they have to do a housing development at a certain price point? City Attorney Wall said he does not believe that the penalties are financial; they are injunctive relief. They could be required to implement certain zones and be ordered for a certain development to proceed. Council Member Newton said they can't control the cost of the buildings.

Mayor Osborne said they should start reviewing the options that have been laid out in (Attachment A) and add in any that the Council desires and direct staff over the next couple of months.

Council Member Newton asked if they could kill the VMU zone? City Attorney Wall said they can change the Ordinance.

Council Member Short arrived at this time.

Community Development Director Shaw said they can cut the zoning off, but the problem is that they have both a zoning map and a future land use map. There is an expectation that the property owners have some type of right. City Attorney Wall said if it is a designation on a land use map, there is no vested right. There is a due process, with a public hearing. They should see which parcels would be impacted by a change in the VMU/VMR zone. He said one option is to control the zoning. They can restrict the zone, do an overlay zone, or a development agreement. Mayor Osborne expressed concern about the developer having a certain expectation for the zone and then it is restricted after money and time have been expended. Community Development Director Shaw said staff can manage that expectation up front, if they understand the parameters. He believes they can tweak the zone and make it work.

CM Geilmann said they need to start with what they want the city to look like and consider the topography of the land. Then they back it up with the land use maps and zoning.

Council Member Seethaler asked if there are circumstances where a development agreement was approved and then modified by the planning staff or Planning Commission subsequently? Community Development Director Shaw said no; if a developer wants to do something different, it has to go back to the City Council. Community Development Director Shaw expressed concern with doing a development agreement with every project because it creates a mountain of requirements.

Council Member Seethaler said there is the perception by the residents that development agreements cannot be relied upon. Community Development Director Shaw said that is in part because residents don't always understand the process. If an item is discussed in a meeting, people sometimes perceive it as a requirement or a promise of a development.

Council Member Seethaler asked if council directives, such as a certain number of units, is helpful or a hindrance to staff? Community Development Director Shaw said it can be an administrative nightmare and they hope they are catching all the requirements. He said they do

not have that many properties left to apply the VMU zone. All of these applications came in because of the moratorium.

Council Member Seethaler asked if there is a better way to address issues and concerns? Mayor Osborne said if there are not many of these properties left, they should handle it through a resolution or a development agreement. It should be specific on what they will and won't do. If there are any modifications, it has to come back to the city council.

Community Development Director Shaw pointed out that with other zones, if they meet the zoning requirements, it is done. Staff has no control over the development.

Council Member Short said when they open it up between staff and the developer up front, residents sometimes feel that there are secret meetings being held, and the decision is made before it comes to the City Council.

Council Member Short said development agreements have historically made the process easier. Community Development Director Shaw said with the VMU, it can require a development agreement, but they have to have a master development plan. The master development plan can be modified, and they can do bubble mapping.

Council Member Barnes said the VMU zone has been tainted in the city. Mayor Osborne said they may need to put a new name on the zone. He said future development will get more difficult to get through. Council Member Barnes said they need to tweak the zone, as well as changing the name. Mayor Osborne concurred.

Council Elect Rogers said as a short term solution, they should require a development agreement on all projects, and direct staff to discourage VMU applications with a density higher than 8 units per acre. As a long term solution, they need to change the name of the zone. He likes the overlay idea. He suggested they establish densities on the land use map (like Flex 5, 7, etc. or VMU 5, 7, etc.) and then proceed and have it approved through the land use provisions. He said he likes development agreements for these parcels. They can be a burden to staff, but it has been said that there are not many parcels left with this designation.

Council Elect Shelton agreed that the VMU name has been tainted. He concurred with Mr. Rogers suggestions. He said the residents don't want high density. The penalties from the state or federal government might be worth the life the residents want.

Mayor Elect Alvord said west of Bangerter Highway, people are excited and happy with smart growth and high density is not as pressing of an issue. High density is much more of an issue for residents east of Bangerter. He feels the Daybreak development is a significant offering regarding smart growth. Daybreak is only 10 percent done. He said Glenmoor is an exception in that they are against high density. Council Member Barnes said his area is against it. Mr. Shelton said Sunstone is also against it.

Mayor Osborne said they are not sure exactly how Daybreak will be developed. They have no power to change that development agreement.

B. Continued Discussion: Ordinance 2013-16 Pawnbroker & Similar Businesses

COS Cunningham said pawn brokers are only allowed in certain areas (C-F and I-F zones). They are also allowed in Daybreak. He said they have to allow the use somewhere in the city. He recommended that they eliminate the requirement for the 1000 ft. rule, and use the same rule that is applied for alcohol sales which would be 300 ft. from a public location such as a school, park, etc. Mayor Osborne asked if trails would be included as a park? COS Cunningham said no; not unless it fits the definition of the park.

City Attorney Wall said they would need to consider the practical reality if trails are considered as park property. COS Cunningham said trails run through the C-F and I-F zones; it could be problematic. They can't narrow it to the point that the use is excluded. They need to provide a place that the use could physically happen.

Council Member Newton said Jody Hoffman told him that they could say no to pawn brokers because it is not a free speech issue. City Attorney Wall and Assistant City Attorney Loose disagreed. Mr. Loose said the state law says that they have to allow pawn brokers. COS Cunningham said the 1000 ft. requirement was problematic, the 300 ft. requirement was less problematic.

Council Elect Rogers discussed the background of the person or dealer applying for a license. He suggested they change it so that the person could not apply if they had been convicted of any felony. COS Cunningham said they did not want to be too exclusive, and that is why they only listed the specific felony convictions.

C. Storm Water Management Program (*Public Works Director Rasmussen*)

This item was removed from the agenda.

**Council Member Barnes made a motion to go into closed meeting to discuss potential litigation. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.**

IV. CLOSED SESSION

**Council Member Short made a motion to adjourn the closed meeting. Council Member Butters seconded the motion. The vote was unanimous in favor.**

ADJOURNMENT

**Council Member Butters made a motion to adjourn the work meeting. Council Member Barnes seconded the motion. The vote was unanimous in favor.**

**This is a true and correct copy of the December 3, 2013 Work Session meeting minutes, which were approved on December 17, 2013.**

  
**South Jordan City Recorder**

# South Jordan VMU/VMR Land Use/Zone Options

(For Internal City Use Only)

	Location	Min. Size	Density	Buffering	Land Use	Implementation
Existing	FLUM (Future Land Use Map) and Zone Map 'as is'	Four acres for rezone	Based upon height and bulk maximums and Master Development Plan. 'Density by Design.'	Land Use Buffering (comparable lot size, landscape, setbacks, bldg. height, etc. and lot transition)	Commercial and/or Office (VMU only). Mix of housing types (based upon market, project size/scale). Encourage owner-occupied.	
Gradation of Options	<ul style="list-style-type: none"> <li>No VMU/VMR (FLUM or Zone) designations between Bangerter and Redwood Road corridors.</li> <li>No VMU/VMR (FLUM or Zone) between Mtn. View and I-15 corridors</li> <li>No VMU/VMR (FLUM or Zone) designations.</li> </ul>	<ul style="list-style-type: none"> <li>5 Acres</li> </ul>	<ul style="list-style-type: none"> <li>12-15 u/a</li> </ul>	<ul style="list-style-type: none"> <li>Same Lot Size</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit Apartments</li> </ul>	<ul style="list-style-type: none"> <li>Informal Council Direction to Staff</li> </ul>
		<ul style="list-style-type: none"> <li>10 Acres</li> </ul>	<ul style="list-style-type: none"> <li>10-12 u/a</li> </ul>	<ul style="list-style-type: none"> <li>Additional Buffering</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit Townhomes</li> </ul>	<ul style="list-style-type: none"> <li>Council Direction to Staff by Resolution</li> </ul>
		<ul style="list-style-type: none"> <li>15 Acres</li> </ul>	<ul style="list-style-type: none"> <li>8 u/a</li> </ul>	<ul style="list-style-type: none"> <li>Additional Lot Transition</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit Small Lot Single Family</li> </ul>	<ul style="list-style-type: none"> <li>Amend specific General Plan Goals/Policies</li> </ul>
		<ul style="list-style-type: none"> <li>20 Acres</li> </ul>	<ul style="list-style-type: none"> <li>6 u/a</li> </ul>			<ul style="list-style-type: none"> <li>Amend VMU and VMR Zones</li> </ul>
Considerations	Possible disposition of existing FLUM and Zone designations.	Master planned area vs. rezoning area. Potential problem w/ land assembly.	Only other density option is RM-8. Less dev. control w/ RM Zone. Senior projects have higher density. Use maximum % residential?		Legality of specific housing prohibitions. Congruence with Regional Planning goals ( <i>Envision Utah/ Wasatch Choices 2040</i> ). Implementation of Moderate Income Housing Plan.	

**Memo: State & Federal Impacts on Local Housing Policy**  
**To: George Shaw**  
**From: Jake Warner**

**Date: 12/3/2013**

Both the state of Utah and the federal government have regulations, codes, and legislations regarding housing which affect local planning consideration. While overlap exists, the State focus is based in affordable housing and the federal government is based in housing choice. Two main phases commonly used summarize the impact on local housing policy: **“provide a fair share of affordable housing” & “affirmatively further fair housing choice”**.

The **State Code** requires municipalities to have a Moderate Income Housing Plan. Moderate income housing is defined as *“housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.”* (10-9a-103) The following is the general requirement for a Moderate Income Housing Plan:

*“In drafting the moderate income housing element, the planning commission: (i) shall consider the Legislature’s determination that cities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing: (A) to meet the needs of people desiring to live there; and (B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life ...”*  
(Utah Code 10-9a-403)

In 2012 the State release a report which included scoring of each municipal housing plan based on criteria developed by the State. On a scale of 0 to 9, South Jordan City’s plan scored 4.8. The City’s plan is generally considered too vague in the analysis of affordable housing, largely depending on all the apartments to be built in Daybreak to be considered affordable in order reach an overall affordability share of housing at 10%. (The City will be completing a new housing study in 2014.)

The Utah Code also requires a biennial review of each municipality’s housing plan. The City is required to report on:

*“(a) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;*  
*(b) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;*  
*(c) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and*  
*(d) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.”* (10-9a-408)

**Federal housing requirements** are based in the Fair Housing Act, and subsequent related acts, intended to prohibit discrimination against protected classes (race, color, religion, sex, national origin, disability and familial status). Federal housing requirements are largely administered by HUD. The principle policy is that cities are to “affirmatively further fair housing.” HUD is currently in the process of clarifying procedures for compliance with this policy, however a previously published HUD document defines this policy as it relates to municipalities:

- 1. Conduct an analysis to identify impediments to fair housing choice within the jurisdiction*
  - 2. Take appropriate actions to overcome the effects of any impediments identified through the analysis*
  - 3. Maintain records reflecting the analysis and actions taken in this regard.*
- HUD interprets those broad objectives to mean:*

- *Analyze and eliminate housing discrimination in the jurisdiction*
- *Promote fair housing choice for all persons*
- *Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability and national origin*
- *Promote housing that is structurally accessible to, and usable by, all persons, particularly persons with disabilities*
- *Foster compliance with the nondiscrimination provisions of the Fair Housing Act.”*  
(HUD, Fair Housing Planning Guide, Volume 1, March 1996)

A 2012 analysis by the local HUD Fair Housing representative determined that the majority of local municipalities, including South Jordan, had a high risk of a potential fair housing complaint due to a lack of compliance with Fair Housing policies. The analysis was based on documents available at the time, actions have since been taken towards remedying issues addressed.

HUD now prefers that the **Analysis of Impediments** be conducted on a regional scale. A regional study was recently released for the Wasatch Front in conjunction with the tools developed with Wasatch Choices 2040. The study included both regional impediments to fair housing and City-specific impediments to fair housing. (The RFP for the new housing study also requested a section addressing the impediments identified in the regional analysis.) Those impediments are as follows:

#### Regional Impediments

##### *Public Policy and Impediments*

- *Lack of regional collaboration*
- *Lack of testing for housing discrimination*
- *Vague housing plans*
- *Limited cases of innovative public-private partnerships*
- *Lacking aggressive use of RDA housing set-asides*
- *Absence of incentives for affordable housing*

##### *Zoning Ordinances: Siting of Affordable Housing*

- *Segregation due to concentrations of affordable housing: nimbyism, zoning and land prices*
- *Concentration of tax credit projects*
- *Concentration of HUD voucher holds*
- *Concentration of rental units for large families and disabled*
- *Limited supply of vouchers*
- *Housing price diversity*

##### *Fair Housing Infrastructure*

- *Uneven outreach and fragmented fair housing complaint process*
- *Landlords unaware of Fair Housing Act implications*
- *Lending practices*

#### South Jordan City Impediments

- ***Housing Plan fails to address affordable rental housing*** – *The 2010 Moderate Income Housing Plan focuses on housing type, not affordability. Not estimates or projections of affordable housing needs.*
- ***Large single family lots*** – *South Jordan has the largest median lot size (0.28 acres) of all Cities in the region and three quarter of all lots are larger than .17 acres; reflecting a low level of housing diversity.*
- ***Absence of rent-assisted family rental units*** – *About 15% of the housing inventory is rental housing, and that is largely comprise of high-end market rate units.*

(Salt Lake County: Fair Housing Equity Assessment and Regional Analysis of Impediments, June 2013)