

**RIVERTON CITY PLANNING COMMISSION
MEETING MINUTES
SEPTEMBER 22 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
Gary Cannon
Jon Gilchrist
Evan Matheson
Darren Park
Troy Rushton
Keith Breinholt

Staff:

Tim Prestwich, City Planner
Lisa Halverson, City Planner
Ryan Carter, City Attorney
Matt Cassel, City Engineer

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 Troy Rushton.

2. PUBLIC HEARING ITEMS

A. AMENDED SITE PLAN- “WALMART NEIGHBORHOOD MARKET,” AN AMENDED SITE PLAN, FOR EXTERIOR PAINT AT THE STORE LOCATED AT 1202 WEST 12600 SOUTH. APPLICANT – JENNIFER PAQUIN.

Chair Cluff opened the public hearing.

City Planner, Lisa Halverson, presented the Staff report and stated that the above item involves a request for an Amended Site Plan for Walmart Neighborhood Market located at 1202 West 12600 South. The applicant has proposed exterior updates to include paint, signage, and relocation of the grocery pick-up area. A property rendering was displayed. She reported that the signage changes will be administratively reviewed at a later date. The bright green canopy will be changed to brown with signage converted to Walmart blue. Exterior earth tones will remain unchanged with signage decreasing slightly. Minutes from the previous meeting were shared.

Chair Cluff asked if the previous Walmart application included blue paint above the doorways. Commissioner Rushton believed that was correct along with changes to blue accent canopies.

Commissioner Gilchrist believed the difference between this proposal and the Walmart Supercenter was zoning and concern with color. Chair Cluff stated that the previous Walmart request was located specifically in a downtown area with corresponding red brick.

Commissioner Park was of the understanding this is zoned Gateway Commercial and does not have the same type of restrictions as the Historic Downtown District. In reviewing the documents, he did not see much of a color restriction within the Code.

City Planner, Tim Prestwich, pointed out that these are accent colors and the applicant intends to keep the brick and stone. The stucco areas will be painted.

Jennifer Paquin was present representing Walmart via Zoom and had no additional comments.

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

Commissioner Matheson moved that the Planning Commission APPROVE Application PLZ-22-8024 Walmart Amended Site Plan located at 1202 West 12600 South with the following conditions:

- 1. The site, structures, and use shall remain in compliance with any and all applicable Riverton City standards and ordinances, and applicable Building and Fire Codes.**
- 2. Building colors and finishes to match those shown on the plans.**
- 3. Dumpster walls, pillars, docking bay screen walls, and other on-site structures, not including the boundary fences shall also be painted to match the building.**
- 4. The natural and/or cultured stone and veneer shall not be painted.**
- 5. Signage to match signage shown on the plans.**
- 6. Staff may approve additional sign permits on the primary façade that meet the sign ordinance.**

Commissioner Park seconded the motion. The motion passed with the unanimous consent of the Commission.

- B. HOME OCCUPATION – “THE SMOKING TOAD LLC,” A FURNITURE REPAIR BUSINESS TO BE LOCATED AT 13840 S. LITTLE WATER PEAK DRIVE. APPLICANT – MATTHEW KELSCH.**

Chair Cluff opened the public hearing.

Ms. Halverson presented the Staff Report and stated that the above matter involves a request for a Home Occupation “The Smoking Toad, LLC”, a furniture repair business to be located at 13840 South Little Water Peak Drive. A property rendering was displayed. The applicant rents the home and has received permission from the owner to utilize 50% of the garage. He will not have patrons visiting the site as he intends to pick up the furniture and

return it once completed. He has agreed to abide by restricted hours for the use of power tools. The neighbors were notified of the request and no comments or concerns were received by staff. Ms. Halverson reported that this is a Conditional Use Permit as the applicant will be utilizing an Accessory Dwelling Unit ("ADU"). If approved, he may use 50% of the floor space. Staff recommended approval with conditions listed in the Staff report.

The applicant, Matthew Kelsch, stated that he intends to run a furniture repair business and will operate from the garage. He is renting the home from family who has approved the use. Most power tools will be finishing tools with minimum noise.

Commissioner Park asked Mr. Kelsch if he will be using an air compressor and about his intentions for dust collection. Mr. Kelsch confirmed that an air compressor will be used with dust collected by a shop vac.

Commissioner Breinholt noted that the use of operational power tools is allowed between the hours of 8:00 a.m. and 6:00 p.m.

Commissioner Matheson asked if the furniture repair will include upholstering and be primarily wood furniture. Mr. Kelsch confirmed that he will be upholstering and the majority will be made out of wood. He explained that the name "The Smoking Toad" came from his affinity for vintage.

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

Commissioner Park referenced conditions in the Staff Report regarding permission from the Building Department. He asked if the use of a spray booth would be cause for concern. City Planner, Tim Prestwich, stated that an inspection will be conducted. The Fire Marshall will be involved if warranted.

Commissioner Rushton moved that the Planning Commission APPROVE Application PLZ-22-2038, "The Smoking Toad" located at 13840 South Little Water Peak Drive with the following conditions:

- 1. The site, structures, and use shall remain in compliance with any and all applicable Riverton City standards and ordinances, specifically the City Home Occupation Ordinance (18.190) and applicable Building and Fire Codes.**
- 2. Applicant must obtain and maintain a Riverton City Business License.**
- 3. Applicant must obtain and maintain applicable State and other outside agency approvals.**
- 4. Home Occupation must operate within the Fixed Standards and applicable Qualifications and Conditions as outlined in the Home Occupation Ordinance and with this approval.**

5. **The Home Occupation may use 50% of the detached garage and must get a Final Inspection from the building department.**
6. **The business may have one full-time equivalent employee according to the rules of 18.190.060 (4).**
7. **Any work vehicles must be parked off-street and not display advertising.**
8. **Hours of power tool operation must be kept between 8:00 a.m. and 7:00 p.m., Monday through Saturday.**

Commissioner Breinholt seconded the motion. The motion passed with the unanimous consent of the Commission.

C. HOME OCCUPATION – “R & R GROOMING,” A DOG GROOMING BUSINESS TO BE LOCATED AT 12453 SOUTH HURON ROAD. APPLICANT – RACHELLE RAMOS.

Chair Cluff opened the public hearing.

Ms. Halverson presented the Staff Report and stated that the above matter involves a request for a Home Occupation “R & R Grooming,” a dog grooming business to be located at 12453 South Huron Road. The business will utilize 50% of the attached garage space with proposed business hours between 7:00 a.m. and 7:00 p.m. with one patron at a time. A property rendering was displayed. The applicant’s car will be parked in the driveway during business hours and the garage includes an outside entrance. It was anticipated that the applicant will have three customers per day with six trips, which is well within the allowances. Staff recommended approval with conditions listed in the Staff report.

In response to a question raised by Commissioner Rushton, Ms. Halverson confirmed that no dog kenneling businesses are allowed in any residential areas in the City.

Commissioner Park asked if having one dog at a time stipulation was discussed between Staff and the applicant prior to placing the matter on the agenda. Ms. Halverson noted that Staff and the applicant emailed back and forth extensively.

The applicant, Rachelle Ramos, reported that it will be beneficial to her consumers if she were allowed to have two dogs at a time from the same home to minimize the number of trips. She was in favor of the conditions specifying one customer at a time rather than one dog at a time.

Commissioner Cannon wondered how the applicant intends to warm the garage during the winter months. Ms. Ramos stated that a portable heating unit will be sufficient to keep the garage and dogs warm. She confirmed she has two small dogs of her own.

Commissioner Gilchrist expressed concern with the hot summer months and the dogs potentially having to wait to be picked up. Ms. Ramos stated that she intends to keep in

close contact with her clients who will be required to pick up their dogs within an allotted time period when making their appointment. The dogs will not be waiting for extended periods of time. She confirmed that she has small children and the timeframe will only allow for her to groom three dogs per day.

Commissioner Cannon asked if there will be animals other than dogs being groomed. Ms. Ramos confirmed that it will be dogs only.

Chair Cluff asked for the procedure should a neighbor file a complaint regarding barking. City Attorney, Ryan Carter, stated that the adjacent property owner will keep a log or recorded evidence at which time the offender would be prosecuted. In this instance, the applicant would be required to come before the Planning Commission and potentially have the Conditional Use Permit revoked. In his experience, when managing a low number of dogs, there typically is not a barking issue. Similar activities within the City were discussed.

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

Commissioner Park recommended changing Condition 7 to state that there will be no more than three dogs per day, which would make drop-offs and pickups more manageable. Commissioner Rushton thought it would be appropriate to note the number of trips per day, which would allow for more flexibility. Ms. Halverson confirmed that the Code allows for eight trips per day.

Commissioner Gilchrist moved that the Planning Commission APPROVE Application PLZ-22-2039 “R & R Grooming” located at 12453 South Huron Road with the following conditions:

- 1. The site, structures, and use shall remain in compliance with any and all applicable Riverton City standards and ordinances, specifically the City Home Occupation Ordinance (18.190) and applicable Building and Fire Codes.**
- 2. Applicant must obtain and maintain a Riverton City Business License.**
- 3. Applicant must obtain and maintain applicable State and other outside agency approvals.**
- 4. Home Occupation must operate within the Fixed Standards and applicable Qualifications and Conditions as outlined in the Home Occupation Ordinance and with this approval.**
- 5. The Home Occupation may use 50% of the detached garage and must get a Final Inspection from the building department.**
- 6. The business may have one full-time equivalent employee.**
- 7. Business shall have no more than 3 dogs at a time (18.190.070).**

8. **The Home Occupation shall not disrupt the peace and quiet of the neighborhood by allowing excessive dog barking (18.190.060.14). Dogs must be kept inside unless accompanied by the applicant in the side fenced area.**

Commissioner Rushton seconded the motion. The motion passed with the unanimous consent of the Commission.

- D. FINAL SITE PLAN – “SCOOTERS COFFEE”, A COMMERCIAL SITE PLAN FOR A NEW BUILDING AT 3479 WEST 12600 SOUTH. APPLICANT – CATHERINE VOUTAZ.**

Chair Cluff opened the public hearing.

Mr. Prestwich presented the Staff Report and stated that the above matter involves a request for Final Site Plan for “Scooters Coffee” located at 12600 South and 3479 West. A property rendering was displayed. This application began with a CG zoning request and returned with a Conditional Use Application for food with a drive-thru. Notices were sent to all property owners within 300 feet. No comments were received by staff. Mr. Prestwich stated that there is an eight-foot masonry fence proposed along the south and east property lines. The building is 664 square feet in size with seven parking stalls, bike racks, and walking routes from the public right-of-way.

With regard to access, Mr. Prestwich stated that there are two ordering stations to allow for stacking with a complete exit route that does not merge back with the ordering route. The property is right in/right-out with proposed shared access with America First Credit Union. The shared access will be largely influenced by the Utah Department of Transportation (“UDOT”). Landscaping includes mixing plantings and utilization of low-water use concepts. Staff recommended moving the trees along the front to the rear for better visibility of signage and both intersections.

Mr. Prestwich next reviewed the exterior details. The applicant implemented the three elements required in the CG Zone which include brick, stacked stone, columns at corners, and canopies over the windows. Yellow neon lighting framing the building was proposed, which requires architectural element approval.

Commissioner Park asked if the eight-foot masonry fence along the east side of the property was necessary. He also questioned the applicant’s preference for tree placement. Mr. Prestwich responded that there is a 17-foot access road adjacent to the property that is in a different zone. Technically, there is no flexibility from one zone to another. It was confirmed that the private drive is in a residential zone where the Ordinance requires eight-foot masonry.

Mr. Carter reported that the fencing issue can be identified as an incompatible use, however, an argument can be made that roadways provide a buffer. He suggested that the applicant pursue a variance when preparing the site if desired.

Commissioner Gilchrist stated that it does not appear that the right-in/right-out separation island will adequately direct access. He suggested that the street striping left-hand turn pocket be updated. The southwest corner curb is flat and does not provide ample drainage, which may lead to standing water.

Commissioner Rushton agreed that the access is adequate and asked at which point UDOT will conduct an analysis of the parcel to the west to review the scope of operations. Staff confirmed that at the time of build out and when traffic increases, a Traffic Study will be conducted to determine how America First Credit Union operates. Trips generated may cause more problems that will require mitigation.

Commissioner Cannon applauded the applicant for their efforts and the design taking a .50-acre lot and designing a 600-square-foot building. He appreciated that the property is overimproved and believed it will be one of the most beautiful coffee shops in Riverton City.

The applicant, Catherine Voutaz, identified herself as the owner of Little Scooters Coffee Shop. She was present with her son, Colton, and her brother, Bruce. This will be their second location. She agreed with Commissioner Park regarding the fencing concerns and stated that they understand the value of the property and the future development of America First Credit Union. She was aware of 12600 South traffic and agreed to the right-hand turn in and out. They designed the property to accommodate a full stack of cars. The Landscaping Plan was revised to include moving trees from the front to the back of the property. She confirmed that the business is a mid-west franchise with an excellent brand and incredible people. The proposed hours of operation will be from 5:00 a.m. to 9:00 p.m.

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

Commissioner Gilchrist reported that he reviewed the Ordinance, which states that only a six-foot masonry fence and seven feet of landscaping are required. Mr. Prestwich reported that the correction from six feet to eight feet was made in the following paragraph. Mr. Carter noted that the City will not oppose a variance application if it passes through the Board of Adjustment. He believed that the sentiment of the Planning Commission was to lean in favor of a more lenient fencing standard under the circumstances.

Chair Cluff moved that the Planning Commission APPROVE Application PLZ-22-8009, Scooters Coffee Shop Final Site Plan with the following conditions:

- 1. Site Plan improvements and the buildings shall be consistent with the plans presented to the Planning Commission except where otherwise noted.**
- 2. The applicant shall correct or resolve the remaining staff redlines on the civil plans.**

3. **Storm drainage systems and accommodations shall comply with the Riverton City Standards and ordinances, and with the recommendations of the Riverton City Engineering Division.**
4. **The Applicant must create and agree to follow a Long-Term Storm Water Management Plan according to Riverton City Standards and ordinances.**
5. **A Land Disturbance Permit must be issued by the City prior to any construction grading on the site.**
6. **The site and structures shall comply with any and all applicable Riverton City Standards and ordinances, including the International Building and Fire Codes.**
7. **The applicant must obtain final approval from utility providers.**
8. **Rooftop mechanical shall be screened by parapet walls or rooftop screens.**
9. **Wall-mounted service panels shall be painted to match the building.**
10. **Eight-foot masonry fence must be installed along the south and east property lines prior to occupancy of the building. The fence on the east side must terminate or be reduced in height to no more than three feet tall for 20 feet south of the sidewalk.**

The Commission discussed the difference between core foam masonry and solid masonry fences. Mr. Carter stated that there was a time when masonry walls between incompatible uses were heavily discussed for the sake of protecting residential communities. After adoption, there was feedback from development communities detailing the linear cost and inviting the City Council to look at foam core technologies and comparable products.

Commissioner Matheson seconded the motion. The motion passed with the unanimous consent of the Commission.

- E. **AMENDED SITE PLAN – “HOME DEPOT PAVEMENT EXPANSION,” PARKING LOT EXPANSION FOR THE STORE LOCATED AT 3852 WEST 13400 SOUTH. APPLICANT – JORDAN SHEETS.**

Chair Cluff opened the public hearing.

Mr. Prestwich presented the Staff Report and stated that the above matter involves a request for an amended Site Plan for Home Depot Pavement Expansion located at 3852 West 13400 South. He confirmed that the public notice was sent to UDOT for review and concerns were shared with the applicant. The property site plan was displayed. Landscaping includes grass with accents of black and white rock throughout the perimeter. There will be 32 trees

provided for a total of 51 trees. Staff recommended approval with conditions listed in the Staff report.

Commissioner Park wondered if the existing utilities will create issues with the canal. He also expressed concern with runoff from the proposed area and the elevation change.

Home Depot Consultant, Jordan Sheets, referenced the existing parking lot and stated that the natural grade of the slope runs to the east. The Grading Plan will be consistent with the natural slope with a retention pond on the east side. Anything running down from the drive will catch in the valley gutter and flow to the east to an existing catch basin.

Commissioner Gilchrist referenced the proposed Americans with Disabilities Act ("ADA") parking stalls and asked if they should be located closer to the existing stalls. Mr. Sheets stated that they would be willing to add more ADA stalls near the front of the store if needed. The intent was to help those with disabilities get closer to the tool rental and other areas.

Commissioner Park asked if the new area is where employees will be encouraged to park. Mr. Sheets confirmed that the employees, rental trucks, and trailers will all utilize the new space.

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

Chair Cluff moved that the Planning Commission APPROVE Application PLZ-22-8020 Home Depot Amended Site Plan with the following conditions:

- 1. Site Plan improvements and the buildings shall be consistent with the plans presented to the Planning Commission except where otherwise noted.**
- 2. The applicant shall correct or resolve the remaining staff redlines on the civil plans.**
- 3. Storm drainage systems and accommodations shall comply with the Riverton City Standards and ordinances, and with the recommendations of the Riverton City Engineering Division.**
- 4. The Applicant must create and agree to follow a Long-Term Storm Water Management Plan according to Riverton City standards and ordinances.**
- 5. A Land Disturbance Permit must be issued by the City prior to any construction grading on the site.**
- 6. The site and structures shall comply with any and all applicable Riverton City Standards and ordinances, including the International Building and Fire Codes.**
- 7. The applicant must obtain final approval from utility providers.**

Commissioner Park seconded the motion. The motion passed with the unanimous consent of the Commission. Commissioner Breinholt was not present for the vote.

3. DECISION ITEMS

A. AMENDED SITE PLAN -“DISCOUNT TIRE,” AN AMENDED SITE PLAN FOR AN EXTERIOR PAINT CHANGE LOCATED AT 1643 WEST 12600 SOUTH. APPLICANT – TYSON TEAL.

Mr. Prestwich reported that the above item is a request for an Amended Site Plan for Discount Tire located at 1643 West 12600 South. The applicant intends to make slight modifications to the exterior of the building, which requires a Site Plan approval. A property rendering was displayed. Changes will be made to the stucco while maintaining the red brick. The stucco will be painted white with a band of black to follow the branding and highlight signage with grey paint around the bottom. Staff will review the signage at the time of sign application and recommended approval.

Commissioner Park asked if the proposed changes are consistent with the Historic Downtown requirements. Mr. Prestwich confirmed that it is in compliance.

Discount Tire Facility Manager for the Utah and Idaho Region, Tyson Teal, stated that their intent is to paint the stucco white and black, bay doors and man doors grey, with wainscoting along the bottom of the columns also being painted grey. The bollards will be covered in a grey plastic type of cover that requires minimal maintenance.

Commissioner Rushton moved that the Planning Commission approve PLZ-22-8030 “Discount Tire Repaint” amending the exterior of the existing Discount Tire commercial building located at 1643 West 12600 South with the following conditions:

- 1. The alterations shall be limited to those shown on the approved drawing.**
- 2. Brick areas shall not be painted or otherwise altered.**

Commissioner Cannon seconded the motion. The motion passed with the unanimous consent of the Commission. Commissioner Breinholt did not participate in the vote.

4. DISCUSSION ITEMS

A. PLANNING COMMISSION TRAINING.

Mr. Carter led the Planning Commission training that focused on Conditional Uses. He stated that the question to consider is the relevancy of the evidence when they are contemplating a Conditional Use. How the evidence stacks up in favor of or against an application was a priority. He described a previous request for two 65-foot silos by Kilgore Construction. The question was what kind of impact is created by the silos where 100-foot silos have previously been granted and 40-foot silos are allowed. He noted that the

administration indicated that the initial take is that the Conditional Use will not degrade the public health, safety, or welfare as only the height can be considered and not the operations. The creation of a visual blight or resale value of a home was contemplated. He explained that the professional report submitted by Kilgore Construction stated that it would have an inconsequential impact on nearby properties based on the presence of the three 100-foot silos and being located one-half mile from surrounding neighborhoods. It was concluded that there is no way to tie the 65-foot silos to the degradation of home values in the surrounding communities. The basis for the appeal was described.

Mr. Carter stated that Riverton City has issues with bringing properties into compliance with Code as there is a complaint-driven system in place without adequate staffing. He supported an application being presented to come into compliance and he believed that the philosophy of working with the property owner was a good approach. An argument was presented stating there is a relationship between the silos and the general nuisance of the batch plant indicating that if there were more silos or capacity, the greater the nuisance created for the surrounding environments. He believed it was a decent argument conceptually but would require evidence showing how the batch plant works and the role of the silos. Kilgore's argument was that the silos do not change the pace of the plant or the material produced. They will have a permit limiting truck routes to 150 round trips per day. Mr. Carter believed the silos create a more varied product line, which may be more appealing to consumers. Their argument was that if the 65-foot silos are removed, they will put up more 40-foot silos, which will result in more active trucks and increased plant traffic created by a larger number of smaller silos. He believed the additional height was in actuality a mitigating factor.

Commissioner Park expressed concern with having a 40-foot limitation if the additional height is a mitigating factor and creates a better operating plant with less dust and traffic. He questioned whether the 40-foot limit should be removed for that land use or whether the use is not compatible with the 40-foot limitation set forth in the Ordinance. Mr. Carter reiterated that the batch plant is one-half mile from residents but being any closer, height issues are a much more prominent concern. He referred to the argument that states that there is a relationship between the silos and the general nuisance of the batch plant.

Commissioner Cannon asked if this could resemble the South Valley Sewer application to rezone the property to include a two-story structure on the north end next to the river. The request was to not only spot zone for the structure but the entire property to give them the ability to build multiple two-story buildings. Mr. Carter stated that there is much more discretion when setting the zoning for the property and the City acts in its legislative capacity where regulatory power is at its height. He believed this was mitigated through a Settlement Agreement involving the City, neighbors, and the Sewer District. He was not present for the main litigation.

Commissioner Rushton stated that Staff brought the discussion item to the Commission which considered the taller silos. Mr. Carter explained there was a solution that did not include the silos but increased the cost of business, which would involve passing the cost on to the community. There was no evidence submitted to support the idea that the increased heights in the silos would degrade the surrounding property values. He stated

that the lesson is to focus on the issue to the extent that surrounding collateral issues as a basis of denial will be very difficult to sustain if appealed.

Mr. Carter next reviewed the Staker vs. Springdale Conditional Use Permit denial. Staker was looking in a neighborhood that was also zoned for Neighborhood Commercial type uses. Springdale was careful to say that they were going to allow for limited types of commercial uses so long as they do not disrupt the old town feel of the area subject to this use. There was a Conditional Use listed in this particular zone that enabled commercial parking lots to be constructed. Staker submitted a Concept Plan that originally proposed a parking lot with 83 spaces and the removal of the house on the property. The plan placed screening vegetation next to the neighboring property lines. Changes were described.

The Springdale Ordinance standard was written with a broad perspective and provided ample argument for both sides. Mr. Carter explained that in the body of the opinion, there is a point where the City Council determined where there is a commercial parking lot, there is also some type of transit hub. The Council made the point that the use would impose a burden on resources and provided little analytical evidence to indicate support. He explained that the property was adjacent to residential uses and would impact the surrounding properties with an increase in traffic, noise, and general activity on the property. The Planning Commission determined that the lot cannot be screened adequately from surrounding properties and substantially mitigated. The court stated that neighbors testified on the topic and identified potential problems that would come with the application. It became obvious that there was no compatibility between the use and the location. He confirmed that one of the main differences between the two cases was proximity. The difference between substantial evidence and an arbitrary and capricious decision was described.

Mr. Carter believed that one of the most toxic items to introduce into evidence of a hearing for a Conditional Use Permit is a neighborhood petition. He offered direction when being presented with a petition. He stressed the importance of understanding that this is not an election and direction should provide adequate evidence to be included on the record. Procedural issues were discussed. When a petition is submitted, the Planning Commission should clarify that it is their intent to review evidence as to why they should or not support the application. He believed it was challenging to find the right evidence to support direction. As long as the Planning Commission is mindful, Staff will be available to provide assistance.

5. MINUTES

A. MINUTES.

6. ADJOURNMENT

The meeting adjourned at approximately 9:15 p.m.