

**MINUTES OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD
JANUARY 17, 2023, IN THE THOMAS M. REES JUSTICE CENTER COMMUNITY ROOM**

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

STAFF: Scott Langford, Duncan Murray, Mark Forsythe, Greg Davenport, Julie Davis

The pre-meeting was called to order by Jay Thomas, with a quorum present. The agenda was reviewed.

The meeting was called to order by Jay Thomas at 6:00 p.m., with a quorum present.

1. Oath of Office for Reappointed Commissioners

City Recorder Tangee Sloan administered the Oath of Office to reappointed Commissioners Trish Hatch, Ammon Allen, and Kent Shelton.

2. Election of Chair and Vice Chair for 2023

MOTION: Matt Quinney moved to nominate Ammon Allen to serve as Chair and Jay Thomas to serve as Vice Chair. The motion was seconded by Trish Hatch and passed 6-0 in favor. McKenna Marchant was absent.

3. Appointment of Two Commissioners to the Design Review Committee for 2023

MOTION: Trish Hatch moved to nominate Kent Shelton and McKenna Marchant as Design Review Committee representatives for 2023. The motion was seconded by Jay Thomas and passed 6-0 in favor. McKenna Marchant was absent.

4. Appointment of One Commissioner to serve on the CDBG/HOME Committee for 2023

MOTION: Jay Thomas nominated George Winn as the CDBG representative. The motion was seconded by Matt Quinney and passed 6-0 in favor. McKenna Marchant was absent.

5. Approve Minutes from December 20, 2022

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

6. CRS America & Oquirrh Tire & Service; 5970 West Dannon Way; Revocation of Conditional Use Permits; M-1 Zone; The City of West Jordan (applicant) [#29189; parcel 26-02-400-019]

Community Development Director Scott Langford left the meeting at 6:07 p.m.

Mark Forsythe gave the background history of the item. In 1995 the only part of the property that was developed was the building, drive aisles, and parking in front, which has remained unchanged. Some gravel was installed on the site at some point and some metal fencing was in approximately 2016. In 2016 the first Administrative Conditional Use Permit was approved for CRS America for motor vehicle sales. One of the conditions of approval at that time was that all vehicles were to be parked on a paved asphalt or concrete surface. In 2017 Oquirrh Tire and Service received a Conditional Use Permit for motor vehicle repair in the Drinking Water Source Protection Overlay, with a similar condition of approval. The main trigger for this review process was when staff received a business license application for Oquirrh Mountain Moving. It is customary for staff to review the conditions of the property to make sure all conditions are being met. On September 21, 2022 an inspection was made, and photos showed a number of vehicles that were parked on unpaved surfaces. Notices were sent to the property owner shortly after that by email, certified mail, and letters over the next few months. Mr. Forsythe did not receive a response from the business owner until today around noon. In order for a Conditional Use Permit to be revoked there are five findings for the Planning Commission to consider prior to making a recommendation to the Community Development Director for final decision. Also, the condition for parking on a paved surface reinforces City Code that says any parking area needs to be paved with asphalt or concrete.

Two criteria specifically triggered the revocation review. Criteria A) The conditional use is a nuisance or is detrimental to public health, safety, or welfare. Mr. Forsythe showed the drinking water source protection overlay map. The southeast corner of the property crosses Zone 2, which is in the 250-day time of travel. The code states that if the property crosses any boundary of one of those zones, then the stricter zone applies. In this zone, it would take 250 days' time for any chemical that infiltrate the ground to travel to a water well, which is located across the street. The water department is very concerned about this situation because there is no vehicle that is completely perfect as to not leak fluids. Anything that is not an impervious surface has a risk for contamination. If that were to happen it could trigger a superfund status and EPA could become involved. Criteria E) The conditions of the permit have not been complied with. From what has been observed on the site, vehicles are parked on a gravel surface, which is not paved and is in violation of the conditions. Staff found that Criteria B, C, and D were not necessarily in violation. Business licenses have been renewed every year.

Ammon Allen asked if there would have been a site plan provided when the conditional use permit for car repair was first approved that showed how it would comply with code.

Mark Forsythe said there was a simple aerial site plan provided. As he reviewed some of the minutes and history, it was the understanding at staff's level was that most of the vehicles would be parked inside or around the warehouse.

Ryan Fuller, subject business owner, said he would like this decision to be tabled. He was only informed on Friday after businesses hours and Monday was a holiday. Today was his first opportunity to have a

conversation with Mark Forsythe. He is not prepared to discuss the legal ramification without his legal counsel. He disputed many of the findings presented or there are misrepresentations to the Commission that he would like to clarify. He said that every car that CRS America owns is parked inside of the building, and there are no 'for sale' signs on any cars outside of the building, which was another condition of approval. There are many other things that are incorrectly categorized or that were stipulated in the notes and minutes that are incorrect or that were not part of the initial discussions.

Matt Quinney said everything regarding the car dealership may be inside, but he asked about the other vehicles that are parked outside, which are not in compliance.

Ryan Fuller said they have a U-Haul franchise that Salt Lake County deemed essential during the time of Covid-19. They also have a mechanical repair shop. The photos were not indicative of what it looks like every day. Most vehicles are indoors. They also have an impound yard within a fenced area that allows them to keep vehicles, and sometimes they are wrecked. However, they are on asphalt, and it is only on a temporary basis until they are picked up.

Matt Quinney said the impetus for this entire conversation was the U-Haul franchise. The photos show that those vehicles are parked on the property prior to the business license being approved, and they are not on asphalt. Also, the conditional use permit did not give exceptions for cars parked on a temporary basis. He sees this issue as black and white; it is either compliant with the conditions or not.

Ryan Fuller said he needs legal counsel to help him respond to the statements made. He said the water well information is not true. He said there is only 16 feet of the site that is in Zone 2.

Matt Quinney said Mr. Forsythe explained that the ordinance says if any portion of the parcel is in the zone, then it applies to the entire parcel.

Ryan Fuller said the property is zoned M-1, and he didn't know why the city would drill a well many years after the building was put in place and then say he can't operate in the same manner. He disputes the claims that are written in the report. He asked for some time to get his information together. He has every intention to comply with city ordinances, but this is the first notice he had received over years in operation that he was doing something wrong. He did have a business license to operate the U-Haul business, but he had an employee at his office that did the mail, which is part of the problem, who did not renew the business licenses.

Matt Quinney asked about the history of the well.

Greg Davenport said he would have to research the exact date, but that well has been in use for many years before the site was constructed, probably prior to 1980's. To his knowledge it was prior to 2016 and even 1995.

George Winn said the Planning Commission has an obligation to see that city ordinances are enforced, but they also have an obligation to give business owners and property owners the chance to succeed, which can be competing interests. He would be in favor of allowing Mr. Fuller additional time to respond to the city's claims.

Duncan Murray said the competing interests are better described as following the code on one hand and due process on the other hand. Where Mr. Fuller said there was not adequate opportunity to respond, if the Commission decides to continue the hearing, they should do so with a date certain not too far in the future.

Kent Shelton agreed with Commissioner Winn, but his concern was with the groundwater, so he did not want to delay longer than necessary.

Ammon Allen opened the public hearing.

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

Jay Thomas stated his concern with the well water, especially with the recent amount of rain received. He agreed with the need for due process but wanted them to be careful about the timeline.

Trish Hatch said in reading through the information, it appeared to her that the applicant had been out of compliance for several years. The conditional use permit for each phase of the expansion and growth has always stated clearly that all vehicles shall be parked on a paved, asphalt or concrete surface, which has been consistent. She was not inclined to give any additional time. The city has made more than reasonable attempts to make contact and to resolve the issue prior to this meeting. She felt sorry for the business owner for the employee that caused problems, but she felt that the city needs to move forward.

Ammon Allen agreed with all comments provided. Water is a precious resource, but he did not know that another 4 weeks would cause any harm when the property has been out of compliance for three years. However, it is specifically stated in two different permits that everything shall be parked on asphalt. He felt it is hard to make a requirement of the business owner in conjunction with postponement that would meet all of the concerns stated today. They are not going to shut down the business for four weeks if the item is tabled. But if it is tabled, he would like to see an update from staff where they go out once every week or two and report as to if the existing conditions of approval are being met. He didn't know if there was enough space on site for all vehicles to be parked on asphalt. He said in order to improve the site appropriately it would include curbs, storm drains, collection systems, and disposing of waste properly.

George Winn said he drove passed the site a couple of days ago and there were a lot of vehicles parked on gravel and dirt, so he felt the photos from staff were an accurate depiction of typical activities. He asked if the city is in danger of the water becoming contaminated any time soon.

Greg Davenport said he is glad they haven't had an issue yet, but if it does happen there is nothing that they can do about it. The remediation would be to drill another well, pump out the contaminated materials, process the material, and place it back into the environment, which is a very expensive process, even millions of dollars. He cannot say if there will be a problem in the next four weeks. He said the well is tested every week or so and they turn in the results to the State. As soon as he gets a test that does not comply, that information gets turned in and the well is shut down. When they find the cause there will be fines and most likely lawsuits. There has not been a problem over the last three years.

Matt Quinney said he is sympathetic to know as a manager/owner you are sometimes subject to mistakes made by employees. It seems Mr. Fuller is willing to comply, but this needs to move as quickly as possible. He suggested that any motion to continue the item be to February 21st. He asked if they could put conditions on the motion to table that all vehicles that are currently parked inappropriately be immediately

moved to an appropriate location either on or off site and that they remain compliant to the current conditional use permits fully for the next five weeks or be at risk of revocation. He does not want to make this a hardship or to put someone out of business, especially when there is the interest to comply. But they do need to consider the interests of the city as a whole.

Duncan Murray suggested that they ask the businesses owner if he can meet those requirements.

Kent Shelton wondered if it would be possible for the business owner to comply at all within the next four or five weeks considering all of the items that Commissioner Allen mentioned.

Matt Quinney was just concerned with the immediate removal of cars that are not on paved surfaces, and the other issues can be addressed at the next meeting.

Ammon Allen asked Mr. Fuller to address the questions of timeframe for immediate compliance with vehicle parking and entire site compliance.

Ryan Fuller said he can move everything possible on to the current asphalt. He clarified that they have been operating since 2016 and the property was a manufacturing plant before that. He was told that the well was installed in 2012. The well is tested every week and there has never been a problem. He had a geologist test the soil that shows 12 inches of hard gravel mixed with a little bit of sandy loam, and under that is hardpack clay that does not allow transmittal of oil or anything else. They initially graveled the entire area and were told they were fine at that time. He said that his conditional use permit meeting lasted only two minutes, and he had no idea what he was agreeing upon. The only requirement at that time was not store used tires anywhere but on asphalt. All of this information tonight is new to him, but he is willing to work to get the vehicles on asphalt. He does not want leaky vehicles on his site either. There might be a vehicle getting repairs that could be dripping, but nothing on a large scale. All oil is put into a burner, and they use it during the winter. They have never had a spill, nor do they anticipate one. If there were one, he would call the city first. As Mr. Davenport testified, the well has been clean for at least three years. If his operation would have contaminated the well it would have done so years ago. He said a dozen employees would be out of work tomorrow if they were closed down. Regarding moving of the vehicles, the U-Haul vehicles need to be there because he is the only large U-Haul center on the west side of the valley, and he is considered essential. He said that all trailers are already on asphalt.

Ammon Allen asked how long it would take him to bring the entire site into compliance with paving and installing the infrastructure.

Ryan Fuller said years ago he was quoted \$350,000 to install asphalt. His company is currently involved in a lawsuit with the State of Utah that has taken all of his money. Otherwise, he had fully planned to put in asphalt. His soils person told him that there would be more oil seepage from the asphalt than there would be from the cars. He said the vehicles can be moved to a large extent either onto the asphalt or indoors.

Ammon Allen pointed out that the condition of the initial permit was for all vehicles to be on asphalt.

Ryan Fuller said that was not part of the two-minute conversation before the planning commission at the conditional use permit hearing.

Trish Hatch appreciated that Mr. Fuller was in attendance and she could see his sincerity, but he is a business owner and agreed to a document that he did not know what it said. She was on the planning commission in 2016 and he could have taken as much time as needed at the meeting and was not held to two minutes. She appreciated that is his memory, but speaking from other conditional use permit meetings, the applicant is given plenty of time to make a presentation. It is unfortunate that he did not recognize what he agreed to when he agreed to it. She strongly felt that as a business owner it was his responsibility and ample notice was given. She felt strongly that if he was not in compliance after these many years then there is a problem.

George Winn thought that if they don't allow more time for due process there could be a lawsuit, and he would rather not have that happen.

Matt Quinney was in favor of moving the item to February 21st subject to all vehicles being moved off unpaved surfaces. He would like at that time a recap in writing of the minutes of the meetings for the conditional use permit approvals and a report on the history of the well. He would like at least one random site visit between now and the meeting to see if there is compliance. The Commission can then have a conversation as a business item for a decision. He felt that Mr. Fuller needs an opportunity to state his case to his fullest capacity.

MOTION: Matt Quinney moved to continue the decision to February 21, 2023, subject to full compliance by the business owner according to the staff reports at time of approval. If not in compliance at that time, then the planning commission will make a decision based upon the facts at that time. The motion was seconded by Jay Thomas and passed 5-1 in favor with Trish Hatch opposed. McKenna Marchant was absent.

Ammon Allen asked what the process is after a recommendation is made to the Community Development Director.

Duncan Murray explained that Scott Langford was not in the meeting during this item so there would not be a conflict of interest. After he receives a recommendation from the Planning Commission, the Community Development Director will have the opportunity to talk further with the business owner as he sees fit before making a final decision. Any action from the Community Development Director can be appealed internally to the Board of Adjustment and from there it could be appealed to the District Court.

7. West Jordan Comprehensive General Plan and Future Land Use Map; Recommendation to the City Council for the adoption of the updated West Jordan Comprehensive General Plan and Future Land Use Map; City-wide applicability; City of West Jordan (applicant)

MOTION: Matt Quinney moved to move the item to February 7, 2023. The motion was seconded by Trish Hatch and passed 6-0 in favor. McKenna Marchant was absent.

8. Review of Balanced Housing Report for 2022

Scott Langford returned to the meeting at 6:57 p.m.

Mark Forsythe explained that the Balanced Housing Ordinance caps any new multifamily housing until the ratio of 77% single family to 23% multifamily is met. Each year the ratio is calculated based on building permits. The current ratio is 73% single family and 27% multifamily, which is the same as the previous year. In 2022 there were only 138 single-family permits and 26 multifamily permits. In order to get to the break-even point there will have to be 6,431 more single-family homes and no additional multifamily units.

There was a discussion on how the ratio was decided based on the goals in the general plan at that time and if it could be revisited. Exceptions to the rules have been added throughout the years. The ordinance allows the city council and planning commission opportunity to place multifamily in correct places. If there are any new exceptions added, it would have to follow the code amendment process.

Jay Thomas thought that the ordinance helps to manage the ratio.

Ammon Allen asked why we need the ordinance when the approval of multifamily is already managed through zoning and land use maps.

Scott Langford said most communities with traditional Euclidian zoning manage it through the general plan. Our City Council at the time it was adopted felt that this additional tool was a way to manage the growth and it gave a clear indication to the development community of what they wanted to see in the city.

Ammon Allen asked if there is even enough land outside of the excepted areas to get to the desired ratio.

Mark Forsythe said it is difficult to know because they are dealing with the current and proposed changes to the future land use map.

Duncan Murray said a lot of the discussion interplays with the availability of infrastructure. Various utilities master plans have been updated and coordination needs to be done between zoning and utilities to make sure development does not outpace the infrastructure for the given ERC's on each property. So multiple types of planning methods are important.

Matt Quinney asked what the point of the ratio is when we are not in compliance and likely never will be based on the amount of undeveloped land.

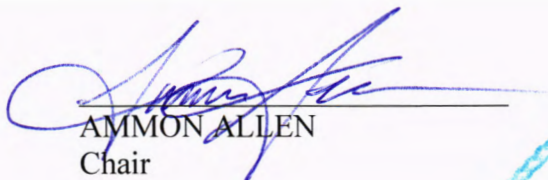
Scott Langford said there may be areas from a planning standpoint that could be adjusted, and from his experience the goal could be accomplished using other planning tools. However, the city council sees it as a benefit, and it will have served its purpose if it helps to push multifamily development to locations where it makes sense.

Matt Quinney wondered if it is this ordinance that is pushing multifamily to the appropriate locations or if it is because other zoning districts have been created to accommodate multifamily, such as the IOZ. He didn't know how many other cities have this kind of ordinance, and he would like to push the Council to consider whether or not it is still necessary. He felt like it was necessary when the ordinance was adopted, but the grandfathered projects are mostly built and now the City can be freer to make decisions that make sense and not based on an ordinance that was created 12 years ago.

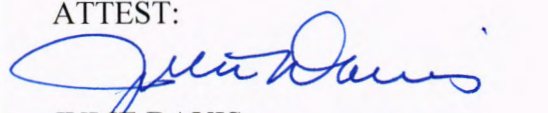
The process of making a recommendation to the City Council was discussed. There are no workshop meetings scheduled for this year, but that would be a good place to start a discussion. The Planning Commission is allowed to make a policy recommendation to the City Council on an agenda item. If there are any alternatives that staff could suggest to accomplish this same goal, then the commission would be interested in hearing about them. There are proposed code changes in progress that will solve some of the issues regarding infrastructure concerns, such as any amendment to the future land use map will require a specific plan associated with the change.

MOTION: Matt Quinney moved to adjourn.

The meeting adjourned at 7:18 p.m.


AMMON ALLEN
Chair

ATTEST:


JULIE DAVIS
Executive Assistant
Community Development Department



Approved this 7th day of February, 2023