

**WEST VALLEY CITY
PLANNING COMMISSION
MINUTES**

February 22, 2012

The meeting was called to order at 4:01 p.m. by Chairman Brent Fuller at 3600 Constitution Boulevard, West Valley City, Utah

WEST VALLEY CITY PLANNING COMMISSION MEMBERS

Harold Woodruff, Brent Fuller, Jack Matheson, Phil Conder, Joe Garcia,
Barbara Thomas, and Imaan Bilic

ABSENT

Terri Mills

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Pastorik, Steve Lehman, Ron Weibel, Jody Knapp, and Nichole Camac

AUDIENCE

Approximately nine (9) people were in the audience

ZONE TEXT CHANGE APPLICATION

ZT-1-2012

West Valley City

Repealing Chapter 7-26 Transfer of Development Rights Overlay Zone

City staff has initiated an application to repeal Chapter 7-26, which is the Transfer of Development Rights (TDR) Overlay Zone. As a reminder, the TDR ordinance allows development rights to be transferred from a sending area, which is an area you're trying to preserve, to a receiving area or an area where development is appropriate. This ordinance was first adopted in 2000 and was amended in 2001 and 2007. Staff is recommending that the ordinance be repealed for three reasons:

1. the purposes of the ordinance have been accomplished to a certain degree,
2. given the recession that we are still recovering from, the economics of the system are, in staff's opinion, no longer viable and
3. remaining property owners within the sending area plan on developing their land instead preserving their land as open space through transferring development rights.

Purposes of the Ordinance

The following is a list of the purposes outlined in the ordinance:

- To promote development in areas that more appropriately accommodate growth by providing the opportunity to increase density in those areas.
- To encourage the preservation of public open space, wetland habitats, and upland habitats located in West Valley City which are designated in the West Valley City General Plan as important to preserve.
- To establish a well maintained park and trail system.
- To discourage development of environmentally sensitive lands with high water tables and/or wetland conditions by allowing the transfer of density from such property.
- To prevent flooding by preserving land for storm water detention.

Since the adoption of the ordinance, six developments have utilized the TDR ordinance to increase density. Nearly 48 acres of property have been acquired by the City through a combination of development rights transfers, State grant funds and storm water utility funds. The 48 acres that have been acquired are sufficient to meet the City's needs for storm water detention in the area.

Economics

Between 2000 and 2008, residential development was moving along at a fairly rapid pace of around 600 dwelling units a year. Over the last three years, residential development has averaged 135 dwelling units a year. In order for the TDR ordinance to work effectively, there needs to be a strong market for residential development.

One of the options in the TDR ordinance allows a developer to appraise a receiving site property before and after a rezoning and make a payment in-lieu of development rights that is equal to half of the value difference of the before and after value. Prior to the recession, the applications that took advantage of this option saw an increase in the value of the property after a rezoning for higher density. Due to the recession, the value of receiving site properties has dropped to below before rezoning values.

Property Ownership

There are approximately 160 acres within the TDR sending site overlay zone. The City owns 48 acres of the 160. About 108 acres are privately owned and the owners have not expressed interest in utilizing the TDR ordinance to preserve their property as open space. Instead, it is staff's understanding that they plan on developing their property. Since participation of sending site property owners is voluntary, if the sending owners choose not to participate, the ordinance is no longer effective. The remaining 4 acres is owned by Magna Water and Kennecott.

Staff Alternatives

1. Approval of the application to repeal Chapter 7-26.
2. Continuance for reasons determined during the public hearing.
3. Denial the ordinance should remain unchanged.
4. Denial the ordinance should be modified.

Applicant:

West Valley City

Discussion: Steve Pastorik presented the application. Phil Conder asked if the TDR Ordinance was put into place at this location due to the wetland area. Steve replied yes and added that in the mid 90's the City conducted a wetland delineation study on properties near this location. However, site specific wetland studies have since been conducted and have found that areas once believed to be wetlands are no longer wetlands. Commissioner Conder asked if 'wetland' is a specific Federal term. Steve replied that there is The Army Corps of Engineers that regulates wetlands and the land must meet certain criteria to qualify. Commissioner Conder asked if the water in the area will make the land difficult to develop. Steve replied that basements would likely be a challenge but construction at grade would be possible.

Barbara Thomas stated that her husband's family owns part of the land in this area but she has no financial or personal interest in the property. Commissioner Thomas asked if the TDR overlay zone would impact development on the properties being discussed. Steve replied that participation is voluntary for property owners highlighted on the map. He stated that anyone west of 4800 west requesting higher density must participate in the ordinance. Harold Woodruff asked if this item were approved whether people would still need to go through a GPZ or zone change application if they requested a higher density development. Steve replied yes. He added that applicants will need to go through that process regardless- the TDR ordinance is just an extra thing for them to do. Brent Fuller asked if the City has enough property for storm-water detention in the area. Steve replied yes.

Barbara Thomas stated that these are the two of the largest pieces of property left in the City. She stated that the City may someday expand further west and there may be more open space to incorporate but for now this is all that remains. She stated that she feels uncomfortable removing this ordinance now when nothing is certain. Brent Fuller agreed and added that a lot can change in the next 12 years and some of those changes may make the TDR ordinance relevant again. Jack Matheson stated that he disagrees and indicated that he has never liked the idea of a developer having to pay

more for higher density. He added that if a TDR ordinance is needed again in the future, it will likely differ from the existing one now. Harold Woodruff stated that he liked the ordinance and he feels that it won't take 12 years for the economy to make the change that will make this ordinance relevant once more.

Commissioner Thomas clarified that if a property owner (outside the areas indicated on the map) wanted to develop a piece of property at a density higher than the current zone allows, they would have to get an appraisal, rezone the property, get another appraisal, and pay the City half. Steve replied yes and stated that the intent of this was to allow the City the ability to purchase more property in the mapped area for open space. He stated that since the property owners within the sending area are not willing to sell, it would be difficult to determine what the City would do with the money. He stated that the City could potentially condemn property but this would be up to the City Council. Commissioner Woodruff stated that is the what could happen with the economy the way it is now but not if things improve.

Barbara Thomas stated that things are changing and it may be a good idea to plan for the future. She indicated that the TDR Ordinance still provides an option and there are no negatives for property owners. Commissioner Woodruff stated that this is one of the only options left for open space and it is still developable if the property owners decide they want to build. He added that this open space means more than a pocket park somewhere else.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

Motion: Commissioner Thomas moved for denial.

Commissioner Woodruff seconded the motion.

Roll call vote:

Commissioner Bilic	No
Commissioner Conder	No
Commissioner Garcia	No
Commissioner Matheson	No
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Split-ZT-1-2012 –Motion Fails

Discussion: Phil Conder asked if things improve in the next 20 years whether a new TDR ordinance could be passed. Steve replied that it could be done but it is a long, difficult process. Barbara Thomas asked if it is difficult to modify an existing ordinance. Steve replied that modifying is a simpler process. Phil Conder asked why the City wants to remove the TDR ordinance now. Steve replied that there are many factors, one of which includes the economy. He stated that this is just one more hoop developers must go through to gain approval. He added that the City also wouldn't know what to do with the funds it receives since the remaining sending site owners

are not interested in selling. Steve indicated that there are also some potential development applications that will likely come up soon that could benefit from having this ordinance removed. Commissioner Conder asked if it is possible that the current owners may sell their property and the new owners might be willing to participate in the TDR. Steve replied that this is possible but the current owners have expressed no interest in selling their land. He stated that the TDR ordinance could discourage development because it is another cost on top of many. With such market negatives such as foreclosures, tougher financing for developers, and stricter lending agreements, TDR is one more thing that could deter potential builders.

Chairman Fuller called for a second motion.

Motion: Commissioner Matheson moved for approval.

Commissioner Garcia seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	No
Commissioner Garcia	Yes
Commissioner Matheson	Yes
Commissioner Thomas	No
Commissioner Woodruff	No
Chairman Fuller	No

Split–ZT-1-2012 –Motion Fails

Chairman Fuller called for a third motion.

Motion: Commissioner Woodruff moved for continuance.

Commissioner Conder seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Matheson	Yes
Commissioner Thomas	No
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Majority –ZT-1-2012 – Continued

GENERAL PLAN/ ZONE CHANGE APPLICATION

GPZ-1-2012

West Valley City

Between 6800 West and 6000 West and between 2400 South and Parkway Blvd

**General Plan change to reduce the preservation area along the Riter Canal
Zone change to remove the TDR-S Overlay Zone
160 Acres**

West Valley City Planning staff has submitted a General Plan/zone change application for approximately 160 acres located between 6800 West and 6000 West and between 2400 South and Parkway Blvd. The property is currently zoned a combination of A (agriculture, minimum lot size of ½ acre) and A-1 (agriculture, minimum lot size of 1 acre) and includes the TDR-S Overlay Zone. The General Plan designation for this area is rural residential (1 to 2 units/acre) and light manufacturing. The General Plan also includes an open space preservation overlay for this area. The proposed General Plan change would reduce the open space preservation overlay from approximately 160 acres to 48 acres and the proposed zone change would remove the TDR-S Overlay Zone.

Staff is proposing to remove the TDR-S Overlay Zone as part of the repeal of the Transfer of Development Rights (TDR) Overlay Zone Ordinance. The reasons behind the repeal of the TDR ordinance are outlined in the staff report for ZT-1-2012.

The reasons for the reduction of the open space preservation area in the General Plan are outlined below:

- The 48 acres that would remain within the open space preservation area have been acquired by the City.
- The City's Redevelopment Agency is working on the formation of an economic development area (EDA) for a large area in the northwest portion of the City which, if adopted, would impact some of the properties that are currently designated as open space preservation. The purpose of an EDA is to incentivize the creation of jobs by facilitating commercial and industrial development.
- The owners of about 108 acres of the area designated as open space preservation intend to develop their property and do not wish to participate in the TDR ordinance.
- Part of the purpose behind the open space preservation area was to preserve land for storm water detention needs. The 48 acres of property that have been acquired by the City are sufficient to meet the storm water detention needs of the area.
- Another purpose behind the open space preservation area was to preserve what were determined to be wetlands at the time. During the mid to late 90's, the City commissioned a general wetlands study to identify wetlands within the northwest portion of the City. Since that study was completed, there have been several site specific studies done that have shown that either the wetlands delineated in the City study were no longer deemed wetlands or that the area of the wetlands was less than what was shown in the City study.

Staff Alternatives:

1. Approval of a General Plan/zone change.
2. Continuance, for reasons determined during the public hearing.
3. Denial, the General Plan and zoning map should remain unchanged.

Applicant:

West Valley City

Discussion: The Planning Commission agreed to continue this item since ZT-1-2012 (the previous item on the agenda) is directly related and was continued.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

Motion: Commissioner Woodruff moved for continuance.

Commissioner Garcia seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Matheson	No
Commissioner Thomas	No
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Majority–GPZ-1-2012 –Continued

SUBDIVISION APPLICATION

S-2-2012

**VRE Gates Subdivision
7200 West Gates Avenue
M Zone
2 Lots**

BACKGROUND

Jason Cooper of ASWN Architects and representing the property owner is requesting preliminary and final subdivision approval for the VRE Gates Subdivision. The proposed subdivision will also amend lots 4-7 of the East Magna Plat A Subdivision. This is a commercial subdivision consisting of 1.49 acres in the Manufacturing zone having an address of 7200 West Gates Avenue.

ISSUES:

The subdivision is being proposed to consolidate and reconfigure the existing 4 lots into 2 lots for commercial and/or manufacturing development. Lot 1 is approximately .90 acres in size and will be the location for the proposed 7-11 store. Lot 2 is approximately .60 acres in size and is expected to develop with either a commercial or manufacturing use in the future.

Access will be gained from 7200 West and Gates Avenue. Full dedication and improvements exist along 7200 West. Full dedication also exists along Gates Avenue, but formal improvements are lacking. The developer will be required to install curb, gutter and sidewalk as part of the conditional use application.

Because this application is a commercial subdivision, and as the Planning Commission will subsequently review 7-11's conditional use application, staff and agency comments will be addressed as part of that process. The subdivision plat will contain easements and other information applicable to the division of property.

STAFF ALTERNATIVES:

1. Approve the VRE Gates Subdivision and the amendment to lots 4-7 of the East Magna Plat A Subdivision subject to a resolution of staff and agency comments.
2. Continue the application to address concerns raised during the Planning Commission hearing.

Applicant:

David Killpack
5151 S 900 E #200

Discussion: Steve Lehman presented the application. The applicant had nothing further to add. The Planning Commission had no further questions or concerns.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

Motion: Commissioner Conder moved for approval.

Commissioner Bilic seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Matheson	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Unanimous-S-2-2012 –Approved

CONDITIONAL USE APPLICATIONS

C-5-2012

7-Eleven

2471 South 7200 West

M Zone 1.5 Acres

ASWN+ Architects is requesting conditional use approval on behalf of 7-Eleven for a gas station/convenience store at 2471 S. 7200 W. This property is zoned manufacturing (M) and is approximately 1.5 acres. The West Valley City General Plan designation for this property

is light manufacturing.

This use is a conditional use due to the proximity of the proposed development to a residential use. The Manufacturing Zone ordinance requires a conditional use for any development that shares a common boundary with existing or proposed residential uses. The lot directly to the south of this development is zoned agriculture, which is large lot residential, and has a house on it.

- The south property line will have to have a six (6) foot high concrete or masonry wall on the entire length up to within twenty (20) feet of the property line on 7200 West.
- Any mechanical equipment on the ground and/or on the roof of the building must be completely screened from view. The equipment on the ground, as well as any dumpster(s) shall be screened with a concrete or masonry wall and have a gate that acts as a solid visual barrier.
- All signage must comply with the West Valley City sign ordinance. This includes monument signs, wall signs and any signage on the fueling island canopy.
- All landscaping shall be installed using the requirements of the appropriate ordinance. The landscaped frontage on 7200 W. and Gates Ave. shall be bermed.

Staff Alternatives:

Approval, subject to the resolution of any issues raised at the public hearing and the following conditions:

1. A CMU fence shall be installed on the south property line.
2. All mechanical equipment shall be screened.
3. The landscaping along 7200 W. and along Gates Ave. shall be bermed.
4. All signage shall comply with with the West Valley City sign ordinance.

Continuance, to allow for the resolution of any issues raised at the public hearing that need more time to be addressed.

Applicant:

David Killpack
5151 S 900 E #200

Discussion: Ron Weibel presented the application. Ron stated that lighting cannot negatively impact any land use neighboring the property. He indicated that the lighting plan provided does meet all requirements but added that this doesn't always solve the problem. He stated that if a concern arises this is something the developer must rectify. Dave Killpack, representing the applicant, stated that he understands all requirements listed by staff and doesn't foresee any problems. Jack Matheson asked if a study was conducted. Mr. Killpack replied that he isn't sure but would suspect the company that hired him likely did one.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

Motion: Commissioner Thomas moved for approval subject to the 4 staff conditions and

adding a condition number 5 that states: No lighting shall negatively impact the neighboring properties. Subject to review upon valid complaint.

Commissioner Conder seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Matheson	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Unanimous–C-5-2012 –Approved

C-6-2012

El Rocoto Restaurant (John Rivera)
3904 West 3500 South
Restaurant liquor license
C-2 Zone (1.72 Acres)

Introduction:

The applicant, John Rivera, is requesting a conditional use for a restaurant liquor license at 3904 West 3500 South. The property is zoned general commercial (C-2). A restaurant with a liquor license is listed as a conditional use in the C-2 Zone. The General Plan designation is General Commercial. The area to the north and east is zoned RM and the area to the west and south is zoned C-2.

Staff Issues/Concerns:

This business has been operating at this location since April 2010 with a Restaurant with Beer license. The applicant, Mr. Rivera, would like to expand their services to include serving wine, therefore requiring a restaurant with a liquor license under the West Valley City Code. They will be applying for a Limited Restaurant license through the Department of Alcohol and Beverage Control which permits the sale of heavy beer and wine.

This location has not been approved as a “reception center” and any music or entertainment that is provided at this location must stop at 10:00 p.m. per 7-6-1012 of the West Valley City Municipal Code:

**ADDITIONAL REGULATION OF RESTAURANTS, DANCE HALLS,
CONCERT HALLS, RECEPTION CENTERS AND CLUB LICENSEES.**

(1) It is unlawful for the keeper, manager or person in charge of any restaurant, dance hall, concert hall reception center or club licensee to permit any singing, dancing,

Indoor or Outdoor Public Recreation, playing of musical instruments or any other form of amusement or entertainment to be carried on the premises when the closest point of the building is within 500 feet of any residential property line after ten o'clock P.M. (10:00) P.M. and before six o'clock (6:00) A.M. This restriction should be extended to two o'clock (2:00) a.m. on January 1 of every year for New Year's Day.

The building or signage will not be altered in any way and there is adequate parking for this use as the demand does not change with this application. The landscaping on site is in need of some maintenance and that issue will be resolved through Code Enforcement with the property owner. An adjacent property owner did contact staff and was concerned about the lack of lighting along the back (north side) of the building. Wall lights are installed here so Staff would recommend that those lights be utilized and maintained in proper working condition. The lighting shall also not negatively impact the adjacent neighbors per the lighting standards in section 7-9-114 of the West Valley City Municipal Code.

Staff Alternatives:

Approval of the conditional use for La Rocoto, a restaurant with a liquor license, subject to the resolution of any concerns raised at the public hearing as well as the following conditions:

1. Must meet the requirements of all affected departments and agencies, including but not limited to, the Department of Alcohol and Beverage Control.
2. This approval is for a restaurant with liquor license only. This location has not been approved as a reception center and must adhere to the requirements set forth in 7-6-1012 of the West Valley City Municipal Code.
3. Lighting shall be maintained in proper working condition along the back (north) side of the building in accordance with section 7-9-114 of the West Valley City Municipal Code.

Applicant:
Macario Diaz
6916 S 5785 W

Representing Applicant:
John Rivera
3714 Donatello Ct.

Discussion: Jody Knapp presented the application. She clarified that the business owner would like to sell wine and heavy beer which doesn't change the application, simply the text used in the staff report. Jody added that any entertainment provided must end by 10 pm due to the proximity to residential. John Rivera, representing the applicant, stated that he is present to translate and support the applicant Macario Diaz. Mr. Rivera stated that he is a patron of El Rocoto Restaurant and he enjoys the family atmosphere. He stated that the applicant wishes to add Peruvian wine and beer to create a more authentic Peruvian dining experience. Joe Garcia asked if the building is owned or leased. Mr. Diaz replied that he leases the portion where the restaurant is. Mr. Rivera stated that the light that was out on the rear of the building has been replaced. Brent Fuller questioned whether the Planning Commission can

require that the applicant, who is simply leasing the building, fix the lighting. Claire Gillmor replied that there is nothing legally wrong with the condition provided in the staff report. Mr. Rivera stated that the applicant deals with the property owner frequently and can pass concerns onto him.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

Motion: Commissioner Thomas moved for approval subject to the 3 conditions listed by staff.

Commissioner Woodruff seconded the motion.

Roll call vote:

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Matheson	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

Unanimous–C-6-2012 –Approved

PLANNING COMISSION BUSINESS

Approval of minutes from January 4, 2012 (Study Session) **Continued**
Approval of minutes from February 8, 2012 (Regular Meeting) **Approved**

There being no further business, the meeting adjourned at 4:55 p.m.

Respectfully submitted,

Nichole Camac, Administrative Assistant