

**WEST VALLEY CITY  
PLANNING COMMISSION  
MINUTES**

**October 10, 2012**

The meeting was called to order at 4:04 p.m. by Chairman Phil Conder at 3600 Constitution Boulevard, West Valley City, Utah

**WEST VALLEY CITY PLANNING COMMISSION MEMBERS**

Harold Woodruff, Jack Matheson, Terri Mills, Phil Conder, Barbara Thomas, and Imaan Bilic

**ABSENT**

Brent Fuller and Joe Garcia

**WEST VALLEY CITY PLANNING DIVISION STAFF**

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

**AUDIENCE**

Approximately 18 (eighteen) people were in the audience

## **ZONE TEXT CHANGE APPLICATIONS**

### **ZT-6-2012**

#### **West Valley City**

#### **Adding Chapter 32 regarding retail tobacco specialty businesses**

During the State Legislature's 2012 general session, house bill 95 was enacted. This bill requires retail tobacco specialty businesses to obtain a license from the appropriate municipality. A retail tobacco specialty business is defined as:

“a commercial establishment in which: the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment; food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and the establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

Under the same bill, municipalities cannot issue a license to a retail tobacco specialty business if it is located within:

- 1,000 feet of a community location;
- 600 feet of another retail tobacco specialty business; or
- 600 feet from property used or zoned for:
  - agriculture use; or
  - residential use.

A community location is defined as a public or private kindergarten, elementary, middle, junior high, or high school; a licensed child-care facility or preschool; a trade or technical school; a church; a public library; a public playground; a public park; a youth center or other space used primarily for youth oriented activities; a public recreational facility; or a public arcade.

The proposed ordinance adds the requirements from house bill 95 to the City's zoning ordinance.

#### **Staff Alternatives**

1. Approval of the application to comply with State Code.
2. Continuance for reasons determined during the public hearing.

#### **Applicant:**

West Valley City

**Discussion:** Steve Pastorik presented the application. Barbara Thomas asked if retail tobacco specialty stores are the only types of businesses within the City that must be separated from one another by a specific distance. Steve replied that sexually oriented businesses and check cashing facilities have specific requirements as well. He added that this text change is already in effect since this is a State code and the City is updating the ordinance to comply with the new standards. Jack Matheson asked how distance requirements are measured. Steve replied that distance is measured from the nearest entrance of the building to the boundary of the residential, agricultural, community use, or other tobacco retail specialty business. Terri Mills stated that she

feels there should be uniformity with the distances between various uses and suggested increasing the 600 foot requirement from residential, agricultural, and other smoke shops to 1,000 feet. Jack Matheson stated that he feels 1,000 feet is very restrictive. Harold Woodruff indicated that it may be difficult for the City to justify changing this number upon complaint. Commissioner Thomas stated that the 600 foot separation requirement will extend into most residential areas so she doesn't feel this is too much of a concern.

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

**Motion:** Commissioner Thomas moved for approval.

Commissioner Matheson seconded the motion.

**Roll call vote:**

Commissioner Bilic	Yes
Commissioner Matheson	Yes
Commissioner Mills	No
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	Yes

**Majority -ZT-6-2012- Approved**

**SUBDIVISION APPLICATIONS**

**S-1-2008**

**Rushton Heights Subdivision**

**3878 South 5200 West**

**R-1-8 Zone**

**6 Lots**

**2.2 Acres**

**BACKGROUND**

Mr. Kyle Christensen, is requesting preliminary and final plat approval for the Rushton Heights Subdivision. This subdivision was initially approved by the Planning Commission in February 2008. Due to market conditions, the subdivision was placed on hold. Mr. Christensen has subsequently purchased the property and is proposing a modification to the original approval. The property is presently zoned R-1-8 and is bordered by residential housing on the north and west. Property to the south is vacant and zoned agriculture.

**STAFF/AGENCY CONCERNS:**

**Fire Department:**

- Fire hydrants to be installed in accordance with the Uniform Fire Code.
- Turnaround required.

Granger Hunter Improvement District:

- Project will need to run availability for water, sewer and fire protection.
- Subject to design and review inspections.

Utility Agencies:

- Subject to all standard easement locations.

Building Inspections:

- Follow recommendations outlined in the soils report.

Public Works:

- Authorization required of ditch/water users for any abandonment, relocation, piping or any other modifications to existing ditches or irrigation structures. Special attention should be given to accommodate the tail water from the large field to the south.
- Dedication of 5260 West to a 50-foot half width.
- Dedication and improvements will be required along 5260 West.
- Revisions to the plat required.
- Will need to coordinate subdivision name with County Auditor's Office.
- Follow recommendations outlined in the soils report dated January 8, 2008.

**ISSUES:**

- The original Rushton Heights Subdivision was reviewed and approved by the Planning Commission in February 2008. As stated previously, the subdivision was approved but placed on hold until the housing market returned. Mr. Christensen has optioned the property and would now like to move forward with the subdivision. The subdivision will consist of 6 lots on 2.2 acres. The original subdivision consisted of 8 lots on 2.45 acres and included a flag lot which has been removed as part of the new subdivision design.
- Due to the configuration of the property, two variances were granted from the Board of Adjustment regarding the frontage of lots 4 and 5. These lots have been designed with a frontage of approximately 73 feet. These widths are due in part to a 24-foot access road along the north side of what will be lot 4. Although the frontage is less than the required 80 feet, the lots do meet the minimum lot area of the R-1-8 zone.

- Access to the subdivision will be gained from 5260 West which was stubbed from the Amber Subdivision to the north. The developer will extend 5260 West to the south in order to provide access as vacant land develops to the south. The developer will be required to install all improvements where needed and as approved by the Public Works Department to the southern end of 5260 West.
- Due to the length of 5260 West, a turnaround will be needed for the Fire Department. In past developments, the Fire Department has allowed a turnaround to be located within residential driveways. Although that has worked in past developments, there is a better alternative in this case. A 24-foot access drive will be installed to serve the existing dwelling on lot 6. The access drive will also serve as a natural turnaround meeting the Fire Department requirements.
- When the Amber Subdivision was approved, a 50-foot right-of-way was constructed. The cross section consists of 25 feet of asphalt and a 5-foot parkstrip and 5-foot sidewalk. The City's current right-of-way width is now 54 feet. The City Engineer will need to determine whether the new road should be built to the current standard, or whether the existing right-of-way width will suffice. In either case, the developer has sufficient room to increase the width of the road should he be required.
- The subdivision is located to the north of agriculturally zoned property. The developer will be required to install a 6-foot chain link fence along the entire south property line. In addition, a note will need to be placed on the plat indicating the agricultural zone and its potential impacts to residential living.
- Staff is unsure if the subject property has been irrigated. If it has, the developer will need to coordinate this issue with the Public Works Department and will need to resolve any concerns expressed by those using the irrigation water such as easements, piping and any existing structures. Staff did meet with the property owners to the south being Fred and Glen Brock. They raised a concern regarding tail water from their property. Staff has noted this concern and informed the City Engineering Division to evaluate this matter.
- A soils report has been prepared for the subdivision. Ground water was encountered at a depth of 21 feet. Therefore, no specific basement elevations will be noted. However, all other recommendations outlined in the report as it relates to compaction and construction of roads and housing will need to be followed.
- The subdividing of this property will abandon an existing 25-foot access easement. The access easement runs parallel to, and encroaches upon the Amber Subdivision by 12.5 feet. The access easement has been used for many years to provide access to two single family dwellings at the west end of the proposed subdivision. This access easement extends the length of the entire property from 5200 West. The removal of this easement will now provide owners of the Amber Subdivision the opportunity to fence their entire lot including the 12.5 feet that has previously been used for this easement.

**STAFF ALTERNATIVES:**

- A. Approve the Rushton Heights Subdivision subject to the following conditions:
1. That compliance be made with Granger Hunter Improvement District regarding water line extensions, sewer connections and fire protection.
  2. That the subdivision name be approved by Salt Lake County.
  3. That the developer follow all recommendations of the soils report.
  4. That all matters pertaining to any existing irrigation system be addressed with the Public Works Department and water users as outlined in the analysis. More specifically, that tail water from the south be addressed.
  5. That the developer resolve all staff and agency concerns.
  6. That a 6-foot chain link fence be installed along the south property line. The fence will need to be installed adjacent to agriculturally zoned property. A notation will also need to be placed on the plat identifying this area as agriculture which may be subject to various sounds and odors that accompany an agricultural lifestyle.
  7. That all street improvements be in accordance with plan and profiles approved by the Public Works Department.
  8. That the stem portion of lot 6 be used as a fire access easement. Said easement shall be noted on the final plat.
- B. Continuance to allow the developer an opportunity to address issues raised during the public hearing.

**Applicant:**

Kyle Christensen  
5421 Alpine Drive  
Murray, UT

**Discussion:** Steve Lehman presented the application. Jack Matheson asked if the existing 50 foot half width would be required to continue into the new street. Steve replied that City standards are now 54 feet and indicated that this is what the Engineering Department will require. Kyle Christensen, the applicant, stated that Public Works has recommended that a storm drain be constructed on the neighboring property and all other draining and piping issues will be worked out with Engineering. He indicated that Public Works overlooked the need for a storm drain for the area which will now be rectified. Commissioner Matheson asked if water flows above ground to 5200 West in the neighborhood to the north. Mr. Christensen replied yes. Terri Mills stated that she is glad to see one less flag lot but added that she has concerns with drainage and hopes everything will be adequately resolved.

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

**Motion:** Commissioner Woodruff moved for approval subject to the 8 conditions listed by staff.

Commissioner Thomas seconded the motion.

**Roll call vote:**

Commissioner Bilic	Yes
Commissioner Matheson	Yes
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	Yes

**Unanimous -S-1-2008- Approved**

**S-15-2012**

**Moulton Farms Subdivision**

**4460 South 3600 West**

**R-1-8 Zone**

**3 Lots – 2 Parcels**

**2.20 Acres**

**BACKGROUND**

Mr. Cory Angell, is requesting preliminary and final plat approval for the Moulton Farms Subdivision. Portions of the subject property were recently rezoned from the A zone to the R-1-8 zone. The larger parcels within the subdivision plat did retain their agricultural designation.

**STAFF/AGENCY CONCERNS:**

Granger Hunter Improvement District:

- Subject to design and review inspections for any new water lines.

Utility Agencies:

- Subject to all standard easements on the plat.

Public Works:

- Authorization required of ditch/water users for any abandonment, relocation, piping or any other modifications to existing ditches or irrigation structures.
- Developer will be responsible to replace or repair existing improvements that may be damaged or may become damaged as a result of construction along 3600 West.

- Revisions to the plat required.
- Will need to coordinate subdivision name with County Auditor's Office.

Building Inspections:

- Continue with inspections regarding home remodels.

**ISSUES:**

- The subject property is known as Parcel Number 21-05-327-016. While not part of a formal subdivision, the property consists of two 1 acre parcels. At the present time, an existing duplex and single family dwelling occupy the south parcel and a single duplex occupies the north parcel. Mr. Angell would like to divide the existing parcels to create three individual lots and two parcels that will eventually be considered for future development.
- During the rezoning of this property, Mr. Angell put forth is development plan which is to create a subdivision so that each dwelling unit will stand on its own. This will provide individual ownership opportunities. He intends to modify the interiors of these buildings to conform with building codes and the exteriors to better align with the City's desire for attractive housing.
- In anticipation of the proposed subdivision, Mr. Angell submitted a Board of Adjustment application for a frontage variance. The south parcel, which contains both a duplex and single family dwelling did not have sufficient frontage for both lots to meet the 80-foot requirement. The Board did grant the variance approving lot 1 with 67.3 feet of frontage. All proposed lots meet the area requirements of the R-1-8 zone.
- Access to the subdivision will be gained from 3600 West. A few years back, the City did a street improvement project along this road. Curb, gutter, sidewalk and right of way acquisition was completed at that time. The City Engineering Division is recommending that any damage to existing improvements, or damage that may result from the remodeling of these buildings be replaced in accordance with City standards.
- Staff is unsure what irrigation structures if any exist on the property. As the applicant owns all property within the subdivision, he will need to ensure that historical irrigation flows continue. Measures will need to be incorporated to ensure that irrigation water does not impact lots 1-3.
- Parcels A & B will remain undeveloped for the present time. Mr. Angell has yet to decide whether to incorporate these parcels in an overall subdivision that would include property to the north, or to develop these pieces as individual agricultural lots. These decisions will be made in the future. Staff will recommend that these parcels be combined to create one large parcel until future development occurs. The



primary reason for this is that City ordinances prohibit a property from being landlocked. The proposed design land locks parcel A and would be in violation of City ordinances. Since Mr. Angell owns both pieces, this should not be a problem.

**STAFF ALTERNATIVES:**

- A. Approve the Moulton Farms Subdivision subject to the following conditions:
1. That compliance be made with Granger Hunter Improvement District as it relates to the modification of the existing dwellings.
  2. That the subdivision name be approved by Salt Lake County.
  3. That damage to existing improvements, or those that may occur as a result from new construction be replaced in accordance with the City Engineering Division.
  4. That all matters pertaining to any existing irrigation system be addressed with the Public Works Department and water users as outlined in the analysis.
  5. That the developer resolve all staff and agency concerns.
- B. Continuance to allow the developer an opportunity to address issues raised during the public hearing.

**Applicant:**

Cory Angell  
16 Altawood Drive  
Sandy, UT 84092

**Discussion:** Steve Lehman presented the application. Phil Conder asked if parcel A and B will be combined into one parcel. Steve replied yes and indicated that it will be labeled Parcel A on the final plat. Cory Angell stated that he would rather have properties that are individually owned. He indicated that the duplex to the South will be converted to a single family home and the property to the north may eventually be sold as townhome units. Jack Matheson stated that the applicant's proposal is a good improvement to these properties.

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

**Motion:** Commissioner Matheson moved for approval subject to the 5 conditions listed by staff.

Commissioner Thomas seconded the motion.

**Roll call vote:**

Commissioner Bilic                      Yes

Commissioner Matheson	Yes
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	Yes

**Unanimous -S-15-2012- Approved**

## **CONDITIONAL USE APPLICATIONS**

### **Commission Bilic was excused**

#### **C-37-2012**

**Suburban Propane  
7198 West 3500 South  
C-2 Zone .76 Acres**

Suburban Propane is requesting conditional use approval to place a commercial propane tank at an existing gas station/convenience store at 7198 West 3500 South. This property is zoned general commercial (C-2.) The area to the east and south is commercial zoning, to the north is single family residential (R-1-6) and to the west is the City boundary with another gas station across the street in Magna. The West Valley City General Plan designates this area as general commercial.

The proposal is to put the tank in the southwest corner of the property, behind the landscaping on the corner of 3500 South and 7200 West. This area would be clear of the traffic circulation for the gas pumps and the convenience store. The tank would be protected from traffic by bollards.

Signage on a cylindrical tank does not translate easily from the sign ordinance. Staff has looked at this issue and determined that the maximum signage allowed for this location should be 15% of an area measured by multiplying the diameter of the tank by the height of the tank. The tank proposed for this location is 14'2" tall and 48" in diameter. That would allow approximately 8.5 sq. ft. of signage. There shall be no advertising on the tank other than indicating that it is propane and any necessary safety placards.

Before a permit can be issued the tank location and installation details must be approved by the State Fire Marshal and the West Valley City Fire Marshal. These approvals involve review of location and construction details as well as review to insure that the tank and associated equipment meets all necessary safety regulations.

There have been some concerns expressed by the residents in the neighborhood to the north. I have attached a letter signed by these residents outlining their concerns.

#### **Staff Alternatives:**

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

1. All requirements of the Utah State Fire Marshal must be met and all necessary approvals and inspections must be obtained.
  2. Signage shall be limited to indicating there is propane available and to any necessary safety placards. A maximum of 15% of an area measured by multiplying the diameter of the tank by the height of the tank shall be allowed.
  3. Parking and traffic circulation shall not be impeded by the installation of the tank and necessary equipment.
- Continuance, to allow for the resolution of any issues raised at the public hearing.

**Applicant:**

Cory Rallison  
3245 W 2100 S  
West Valley City, UT 84121

**Discussion:** Ron Weibel presented the application. Phil Conder stated that there is no specific wording for propane tanks in the ordinance and asked how staff addresses this. Ron replied that this is classified under fuel storage which is a conditional use and must comply with setback and other standards that a structure would. Chairman Conder asked if a propane tank could theoretically be as large as a building. Ron replied that the Fire Department would have regulations to limit something like that but added that there is nothing in the planning ordinance to restrict it. Barbara Thomas asked what the maximum height could be with setbacks. Ron replied that tanks could be 20 feet at the minimum setback. Harold Woodruff asked who submitted this item. Ron replied that Suburban Propane did but was given signed permission from the property owner. Jack Matheson stated that 15% of the tank would be approximately 9 feet for a sign. Terri Mills stated that this number seems excessive. Ron stated that the tank cannot be used for advertising and can only be used to label the propane tank for safety, etc. Terri Mills asked if a moratorium would be appropriate while an ordinance is constructed to properly address propane tanks. Steve Pastorik stated that this is something that could be considered but an action must be taken on these two items since they have been submitted.

Cory Rallison, the applicant, stated that there are a lot of propane tanks currently existing in West Valley. He stated that Suburban Propane's number one priority is safety. Mr. Rallison explained how the tanks are constructed and stated that they are engineered to be earthquake proof. He indicated that he is aware the State Fire Marshall has denied the application due to the distance from the sign but added that this can be easily corrected. Mr. Rallison stated that the sign can be moved, the lighting deactivated, or the sign can be equipped with explosion proof lighting. Mr. Rallison stated that the propane tanks are inspected once a year by State and City Fire Marshalls and every time the tank is filled it is thoroughly checked by trained employees. He added that tanks are designed to automatically shut off in the event of an explosion. Commissioner Thomas asked how the applicant intends to rectify the concern regarding the sign. Mr. Rallison replied that fireproof lighting has been found. Commissioner Thomas asked what this implies. Mr. Rallison replied that the

lights for the sign are in a controlled environment so they are not able to spark. Commissioner Mills stated that horizontal tanks are less visually intrusive and indicated that this gas station is located on two main streets that are also a gateway to the City. Mr. Rallison stated that there is not a lot of space at this location and vertical tanks take less space. Commissioner Mills asked if bollards are painted a certain color. Mr. Rallison replied no and indicated that they can be painted any color. Commissioner Thomas asked how someone would fill a vehicle tank. Mr. Rallison replied that there is a 20 foot hose attached to the propane tank.

Commissioner Matheson stated he feels this tank isn't intrusive for the site. Chairman Conder indicated that he still has a lot of questions and concerns that he would like resolved before making a final decision. Commissioner Woodruff stated that there are visual impacts but he is unsure of ways to mitigate this concern. Mr. Rallison stated that he could look into finding a smaller tank and indicated that this is a very good aspect to the community. He expressed concern that not many Cities regulate this and added that West Valley City already has several propane tanks. Ron replied that these are the first that have been processed as a conditional use and indicated that some may have been processed with just a building permit approval or could have been constructed prior to the City being incorporated. Commissioner Woodruff asked how large a sign could be if it was granted bonuses. Ron replied that it could be 8 feet but added that a propane tank cannot be looked at as a sign.

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

**Motion:** Commissioner Thomas moved for continuance.

Commissioner Woodruff seconded the motion.

**Roll call vote:**

Commissioner Bilic	N/A
Commissioner Matheson	Yes
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	Yes

**Unanimous -C-37-2012- Continued**

**C-38-2012**  
**Suburban Propane**  
**4607 South 5600 West**  
**M Zone .98 Acres**

Suburban Propane is requesting conditional use approval to place a commercial propane tank at an existing tire store at 4607 South 5600 West. This property is zoned manufacturing (M.) The area to the north, south and east zoned manufacturing, and to the west across 5600 West is a vacant lot zoned agricultural (A.) The West Valley City General Plan designates this area

as general commercial due to potential opportunities when the Mountain View Corridor is finished.

The proposal is to put the tank in the southwest corner of the front parking lot, behind the landscaping on the 5600 West frontage. This area would not impact traffic circulation for the parking lot or tire service bays. The tank would be protected from traffic by bollards.

Signage on a cylindrical tank does not translate easily from the sign ordinance. Staff has looked at this issue and determined that the maximum signage allowed for this location should be 15% of an area measured by multiplying the diameter of the tank by the height of the tank. The tank proposed for this location is 20' tall and 54" in diameter. That would allow approximately 13.5 sq. ft. of signage. There shall be no advertising on the tank other than indicating that it is propane and any necessary safety placards.

Before a permit can be issued the tank location and installation details must be approved by the State Fire Marshal and the West Valley City Fire Marshal. These approvals involve review of location and construction details as well as review to insure that the tank and associated equipment meets all necessary safety regulations.

**Staff Alternatives:**

- Approval, subject to the resolution of any issues raised at the public hearing and the following conditions:
  1. All requirements of the Utah State Fire Marshal must be met and all necessary approvals and inspections must be obtained.
  2. Signage shall be limited to indicating there is propane available and to any necessary safety placards. A maximum of 15% of an area measured by multiplying the diameter of the tank by the height of the tank shall be allowed.
  3. Traffic circulation shall not be impeded by the installation of the tank and necessary equipment.
- Continuance, to allow for the resolution of any issues raised at the public hearing.

**Commission Matheson asked to be excused from this item due to a personal conflict.**

**Applicant:**

Cory Rallison  
3245 W 2100 S  
West Valley City, UT 84121

**Discussion:** Ron Weibel presented the application. Mr. Rallison stated that his company conducts marketing studies to determine the places propane tanks would be most needed. He indicated that gas stations are the number one site followed by mechanic type businesses. He stated that it is important to have workers around who are familiar with this type of equipment. Mr. Rallison stated that this tank will be larger because it is estimated to accommodate a significant number of residents in the area. Harold Woodruff stated that this tank doesn't bother him as much. Terri Mills

indicated that a smaller tank would be better because it would almost be hidden at the proposed location.

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

**Motion:** Commissioner Mills moved for continuance.

Commissioner Thomas seconded the motion.

**Roll call vote:**

Commissioner Bilic	N/A
Commissioner Matheson	N/A
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	Yes

**Unanimous -C-38-2012- Continued**

**C-36-2012**

**Country Square (Mai Nguyen)**

**1980 West 3500 South**

**C-2 Zone (1.9 Acres)**

The applicant, Mai Nguyen, is requesting a conditional use amendment for an extension on the conditions of approval for a renovation project located at 1980 West 3500 South (C-25-2010). The zoning for this area is C-2, General Commercial. The West Valley City General Plan anticipates General Commercial uses for this area. The surrounding zones include C-2 to the south, east and west and R-1-6 to the north. The surrounding uses include a restaurant to the west, a convenience store, auto repair and residential to the east, and residential to the north.

Application C-25-2010, was approved on October 13, 2010. The motion for approval was subject to the following conditions:

1. The building and site shall be constructed per the approved plans, including trees to be planted in the 9' bermed area along 3500 South from the list provided in the Streetscape for Major Arterials section of the Code.
2. A 6' tall masonry wall shall be constructed adjacent to surrounding residential uses by June 1<sup>st</sup>, 2011. The existing fence on site shall be properly maintained so it stands completely erect and all gaps must be repaired within 30 days of this approval.
3. All building façade remodeling shall be completed by December 31<sup>st</sup>, 2011.
4. Landscaping and parking improvements shall be completed by December 31<sup>st</sup>, 2012.
5. Parking lot resurfacing shall be coordinated with the West Valley Public Works Department.
6. The sign on site may be relocated but the height and size shall not be altered. The

- redesign shall be reviewed by the Planning Commission in a Study Session prior to issuance of a building permit. A Building Permit shall be required for all signage.
7. A 6' tall masonry enclosure must be provided for dumpsters located on site.
  8. All requirements of affected departments and agencies must be met including UDOT and West Valley City Public Works, Fire and Building Inspection Departments.
  9. Any exterior lighting must be installed so that it does not negatively impact the adjacent residential property and in accordance with the guidelines in the Lighting section of the West Valley City Code (7-9-114).
  10. The Chinese Elm tree on site must be removed.
  11. A barrier must be constructed that prevents vehicles traveling through the northwest portion of the property.

The applicant, Ms. Nguyen, has been moving forward on the project but is asking for an extension to complete conditions number four (4) and seven (7). Ms. Nguyen has been exploring the possibility of purchasing the adjacent property to the west (Don Antonio's Restaurant) to further expand the development on her property. The proposal would be to tear down Don Antonios Restaurant, the Pho Green Papaya Restaurant and the vacant reception center building and then reconstruct a larger L-Shaped Building on the property. If an agreement cannot be reached for the purchase of the property Ms. Nguyen would still move forward on redeveloping her property and would remove the 2 buildings (Pho Green Papaya and the vacant reception center) and reconstruct a smaller L-shaped building.

Therefore, Ms. Nguyen would like more time to negotiate the purchase of the adjacent property and further develop this new plan so the project can be done cohesively. Ms. Nguyen feels that this can be accomplished by December 31, 2013 and is requesting a one-year extension.

Staff has not reviewed any sort of site plan for either proposal and is concerned about the timing and how the parking will work. Parking is already a major issue at this location and if there is an increase in the floor area of the uses on site it will be difficult to locate all of the required parking spaces for the mixture of uses.

Lastly, there are currently some maintenance issues with the site. The landscaping throughout the site is in poor condition, including just dirt areas along the El Palenque portion of the site, and there are very tall weeds along the southeast section of the building. Also, there is a lot of garbage and debris along the vacant reception building and the overall appearance of the building has deteriorated. Staff recommends that if an extension is granted that the existing site be maintained properly until the site is redeveloped in the future.

### **Staff Alternatives:**

**Denial**, the issues that existed prior to the redevelopment in October 2010, have not been fully resolved and the site has deteriorated rather than improved since that time. Therefore, it would not be appropriate to postpone site improvements any farther into the future. The applicant was given adequate time to complete the conditions of approval and granting an extension is not appropriate at this time.

**Continuance**, to allow for the resolutions of any issues raised at the public hearing or to give the applicant time to submit an amended redevelopment time line.

**Approval**, subject to the resolution of any concerns raised at the public hearing, as well as the following conditions:

1. The building and site shall be constructed per the approved plans, including trees to be planted in the 9' bermed area along 3500 South from the list provided in the Streetscape for Major Arterials section of the Code.
2. A 6' tall masonry wall shall be constructed adjacent to surrounding residential uses by June 1<sup>st</sup>, 2011. The existing fence on site shall be properly maintained so it stands completely erect and all gaps must be repaired within 30 days of this approval.
3. All building façade remodeling shall be completed by December 31<sup>st</sup>, 2011.
- 4. Landscaping and parking improvements shall be completed by December 31<sup>st</sup>, 2013.**
5. Parking lot resurfacing shall be coordinated with the West Valley Public Works Department.
6. The sign on site may be relocated but the height and size shall not be altered. The redesign shall be reviewed by the Planning Commission in a Study Session prior to issuance of a building permit. A Building Permit shall be required for all signage.
- 7. A 6' tall masonry enclosure must be provided for dumpsters located on site by December 31<sup>st</sup>, 2013.**
8. All requirements of affected departments and agencies must be met including UDOT and West Valley City Public Works, Fire and Building Inspection Departments.
9. Any exterior lighting must be installed so that it does not negatively impact the adjacent residential property and in accordance with the guidelines in the Lighting section of the West Valley City Code (7-9-114).
10. The Chinese Elm tree on site must be removed.
11. A barrier must be constructed that prevents vehicles traveling through the northwest portion of the property.
- 12. Signage for tenants that are no longer present at this location must be removed.**
- 13. The existing site must be maintained in good condition including repairing potholes in the parking lot, maintaining the condition of the vacant reception center building, removing unused signage and there must be live plant material in all of the landscaped areas.**

**Applicant:**

Mai Nguyen  
2398 Summit Circle

**Opposed:**

Jack Jones  
3440 S 1940 W

**Neutral:**

George Lopez

**Discussion:** Jody Knapp presented the application. Terri Mills asked if the old Rodeo 35 sign is lighted. Jody replied that she is unsure. Harold Woodruff asked what work has been done on the property. Jody stated that there has been a façade remodel on the east building and a masonry wall has been constructed around the site.

Mai Nguyen, the applicant, stated that the entire building to the east has been remodeled inside and out and the old insurance building was completely torn down and rebuilt. She indicated that the rooftops were also upgraded. Ms. Nguyen stated that it took her longer than expected on the wall construction because she was going to purchase property to the east for a secondary access but that fell through. Ms. Nguyen explained that she has been trying to negotiate with the property owner to the west to purchase his property but they have been unable to agree on a price. She



expressed concern with resurfacing her property and then having to tear it all out again if she is able to eventually purchase the property to the west. Phil Conder stated that this has been sitting here for a few years and it is difficult to make a decision based on something that may or may not happen. He stated that he feels it is irrelevant to bank on the neighboring property being purchased since Ms. Nguyen has already made this commitment with the City. Jack Matheson stated that he feels asphalt and landscaping should be done last and if Ms. Nguyen is still working on the buildings he can understand granting an extension. Harold Woodruff asked if denying this request would nullify the property. Jody replied no but added that there will be a \$100 fine per day that the site is not completed. She stated that no plans have been submitted for anything and it typically takes several months for these to be processed. Barbara Thomas asked if exterior lighting has been taken care of. Jody replied yes. Terri Mills asked what the last completed project was. Ms. Nguyen replied that the wall was the last improvement installed. Jody added that this was done in December of last year. Commissioner Mills asked if the Rodeo 35 sign is lighted. Ms. Nguyen replied no and added that this will be removed. Commissioner Mills asked why landscaping hasn't been maintained. Ms. Nguyen replied that she agrees it has been poorly maintained but will improve this too. Commissioner Thomas asked if there is a masonry enclosure around the dumpster. Ms. Nguyen stated she will get this done before the December deadline.

Jack Jones, a neighbor to the east, stated that the driveway is in terrible condition and causes significant flooding when it rains. He stated that the applicant was granted 3 extensions for the fencing by the RDA and he doesn't feel Ms. Nguyen should receive any more.

George Lopez, owner of Don Antonio's to the west, stated that there is no barrier between his property and Ms. Nguyen's and stated that this was supposed to be completed. He stated that El Pelenque has been minding their operation better and he doesn't have concerns with that business like he used to. Mr. Lopez stated that he encourages development and added that he may be moving locations but he hasn't come to an agreement with Ms. Nguyen yet. He stated that the rear portion of his property can be purchased now.

Mai Nguyen stated that she feels offended by Mr. Jones' comments and added that she feels he doesn't have the right to tell her how to do business. She indicated that the drain being used is called a French drain and doesn't drain to a main line but out to the street. She stated that her brother always pumps the water out when there is a rain storm. Phil Conder stated that everyone has the right to speak their opinion but the Planning Commission does have specific regulations that must be followed. Ms. Nguyen stated that she will do landscaping and dumpster enclosures before December of this year and will submit plans for the grading and drainage as well. Jody replied that landscaping plans will take some time and most likely cannot be approved before December.

The Planning Commission debated on several options for approval, continuance, and denial and discussed how each outcome would affect the development.

There being no further discussion regarding this application, Chairman Conder called

for a motion.

**Motion:** Commissioner Thomas moved for approval subject to the conditions listed by staff and noting that this item will be reviewed by the Planning Commission on the closest study session to May 15, 2013 and the closest study session to August 30, 2013.

Commissioner Woodruff seconded the motion.

**Roll call vote:**

Commissioner Bilic	N/A
Commissioner Matheson	Yes
Commissioner Mills	No
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Conder	No

**Split -C-36-2012- Motion Fails**

Chairman Conder called for a second motion.

**Motion:** Commissioner Mills moved for continuance until the December 14, 2012 Planning Commission Public Hearing.

Commissioner Matheson seconded the motion.

**Roll call vote:**

Commissioner Bilic	N/A
Commissioner Matheson	No
Commissioner Mills	No
Commissioner Thomas	No
Commissioner Woodruff	No
Chairman Conder	Yes

**Split -C-36-2012- Motion Fails**

Chairman Conder called for a third motion.

**Motion:** Commissioner Thomas moved for denial with the recommendation that that applicant return to the Planning Commission requesting a different extension date in the summer of 2013.

Commissioner Matheson seconded the motion.

**Roll call vote:**

Commissioner Bilic	N/A
Commissioner Matheson	Yes

Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	No
Chairman Conder	Yes

**Majority -C-36-2012- Denied**

**PLANNING COMISSION BUSINESS**

Approval of minutes from September 26, 2012 (Regular Meeting) **Approved**  
Approval of minutes from October 3, 2012 (Study Session) **Approved**

There being no further business, the meeting adjourned at 6:43 p.m.

Respectfully submitted,

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Nichole Camac, Administrative Assistant