

MINUTES OF COUNCIL REGULAR MEETING – AUGUST 22, 2017

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, AUGUST 22, 2017, AT 6:30 P.M. IN THE COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER AND CONDUCTED BY MAYOR BIGELOW.

THE FOLLOWING MEMBERS WERE PRESENT:

Ron Bigelow, Mayor
Lars Nordfelt, Councilmember At-Large
Don Christensen, Councilmember At-Large
Tom Huynh, Councilmember District 1
Steve Buhler, Councilmember District 2
Steve Vincent, Councilmember District 4

ABSENT:

Karen Lang, Councilmember District 3

STAFF PRESENT:

Wayne Pyle, City Manager
Nichole Camac, City Recorder

Paul Isaac, Assistant City Manager/ HR Director
Nicole Cottle, Assistant City Manager/General Counsel/ CED Director
Eric Bunderson, City Attorney
Jim Welch, Finance Director
Lee Russo, Police Chief
John Evans, Fire Chief
Russell Willardson, Public Works Director
Layne Morris, CPD Director
Nancy Day, Parks and Recreation Director
Sam Johnson, Strategic Communications Director
Jake Arslanian, Public Works Department

OPENING CEREMONY

Steve Vincent conducted the Opening Ceremony. He requested that members of the Sistema Utah String Performers from the American Preparatory Academy play the National Anthem. He then requested that members of the audience, City Staff, and the Council rise and recite the Pledge of Allegiance.

APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 15, 2017

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The Council considered the Minutes of the Regular Meeting held August 15, 2017. There were no changes, corrections or deletions.

Councilmember Vincent moved to approve the Minutes of the Regular Meeting held August 15, 2017. Councilmember Huynh seconded the motion.

A voice vote was taken and all members voted in favor of the motion.

AWARDS, CEREMONIES AND PROCLAMATIONS

A. PROCLAMATION DECLARING AUGUST 26, 2017 AS LIGHTS ON AFTER SCHOOL DAY IN WEST VALLEY CITY IN SUPPORT OF AMERICAN PREPARATORY ACADEMY'S AFTERSCHOOL PROGRAMS

Mayor Bigelow read the proclamation declaring August 26, 2017 as Lights on After School Day in West Valley City in support of American Preparatory Academy's Afterschool Programs.

COMMENT PERIOD

A. PUBLIC COMMENTS

Kelly Bertoch expressed concern regarding spot zoning. He indicated that a property was recently rezoned without the knowledge of him or his neighbors, even though the City claims to have sent out notice. Mr. Bertoch stated the he is unhappy with Councilmember Lang as his representative and is frustrated with how she is doing her job. He stated that there are weeds everywhere in the community, particularly near the Mountain View Corridor, and the City does not enforce this. Mr. Bertoch stated that he is also concerned about the number of cars allowed to be parked on streets and feels that ordinance enforcement should be enforcing this more often. He added that he feels a traffic light needs to be added to 3500 South and 6000 West. Mr. Bertoch stated that he is also concerned about street lighting and would like to see them repaired more often. Mr. Bertoch stated that he wants the City to look at the community and include them in their choices. He encouraged the City Manager, Wayne Pyle, to hold members of the City Council responsible.

Leroy Gibson stated that he has a concern with animals in the Copper Hills Trailer Park. He stated that the Director of Animal Services has ignored his phone calls and his concerns. Mr. Gibson stated that he feels like he is being treated like a second class citizen. Mr. Gibson stated that if a little kid gets bit or injured by a dog in his mobile home park, West Valley City should have a responsibility or a role in maintaining that situation.

Su Veneestra thanked the City for their support of after school programs at American Preparatory Academy. She stated that a lot of funding and grants are

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going to be cut in the near future so the support of the City is vital for the children in the community. Ms. Veneestra stated that over 200 kids have already signed up for the upcoming school year. Ms. Veneestra, students, and faculty presented the Council with a banner thanking them for their support.

B. CITY MANAGER COMMENTS

Wayne Pyle stated that the elected body of the City Council formulates policy and the City Manager is tasked with implementing that policy. He indicated that he reports to the Council, not vice versa, and stated that this is a common misconception that he feels is important to clarify. Mr. Pyle stated that this form of government was chosen by voters when the City was incorporated and has served the community well.

Mr. Pyle also stated that the issue with the mobile home park and animal services is that the City does not have jurisdiction since the park is private property and is owned by a management company. He indicated that the City's abilities are very limited.

C. CITY COUNCIL COMMENTS

Councilmember Vincent stated that another jurisdiction issue is the weeds near the Mountain View Corridor. He indicated that this is a State highway and UDOT is responsible for its maintenance. Councilmember Vincent state that the City tries to get this issue resolved but it often goes unheard. He encouraged residents to call and express their concern as well.

ACCEPT PUBLIC INPUT REGARDING APPLICATION GP-1-2017, FILED BY WEST VALLEY CITY, REQUESTING A GENERAL PLAN CHANGE TO ADOPT THE HUNTER TOWN CENTER PLAN WHICH ADDRESSES LAND USE FOR PROPERTIES IN THE VICINITY OF 3500 SOUTH AND 5600 WEST

Mayor Bigelow informed a public hearing had been advertised for the Regular Council Meeting scheduled August 22, 2017, in order for the City Council to hear and consider public comments regarding application GP-1-2017, filed by West Valley City, requesting a General Plan change to adopt the Hunter Town Center Plan which addresses land use for properties in the vicinity of 3500 South and 5600 West.

Written documentation previously provided to the City Council included Information as follows:

The City first adopted a small area plan for this area in 2010. The planning effort for the original HTC Small Area Plan began in the later part of 2008. Since that time much has changed. The deep recession has ended. Significant new commercial and residential growth has occurred to the north along 5600 West. UDOT has

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developed more detailed plans for and has commenced property acquisition and construction on the Mountain View Corridor. Some of the existing buildings in the northwest quadrant of 3500 South 5600 West have been remodeled and include new tenants. Kmart has closed.

Given these changes, the City initiated an update to the HTC Plan by retaining Lewis Young Robertson and Burningham to conduct a market study and Civil Solutions Group (CSG) to prepare the plan update. The market study conducted by Lewis Young addresses the demand for new retail, office, hospitality and residential. The Hunter Town Center Plan prepared by CSG together with City staff incorporates the findings from the market study and provides future land use recommendations as well as suggestions for improvements.

In staff's view, the most significant changes proposed to the previous plan are a reduction in the amount of multi-family residential, an expansion of the potential commercial use on the southwest, and a change to office and educational uses in the north part of the northwest quadrant.

This item was continued during the Council meeting on May 23rd. Since that time, staff has discussed this item with the Council twice in study meetings. During these meetings, Council directed staff to remove from the HTC Plan the five residential lots along the eastern boundary.

Steve Pastorik presented a summary of the three applications. He described how the General Plan functions, the goal of the area, and the way the proposed Hunter Town Center will function. Mr. Pastorik also provided a map for the benefit of the public and described the boundaries of the Hunter Town Center.

Councilmember Buhler asked what it would mean to have property in the new Hunter Town Center Zone. Steve replied that if properties were rezoned as proposed in the third application scheduled tonight, new regulations, setbacks, etc. would be implemented. Councilmember Buhler clarified that this does not impact current businesses and only effects future businesses, new development, or future redevelopment. Steve replied yes.

Mayor Bigelow asked what would happen if a use did not exist for a year and a building became vacant. Steve replied that the business would become non-conforming and new standards would apply. Mayor Bigelow asked how this one year time frame is determined. Steve replied it is based on business licensing. The Mayor asked why the one year time frame was selected. Wayne replied that it is State law.

Mayor Bigelow opened the Public Hearing.

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Kelly Bertoch stated that someone applied for a car lot in this area in December of last year. He stated that discussions were had about the amount of congestion in the area and encouraged the Council to consider this as they talk about this proposal. Mr. Bertoch stated that residents don't want the City over running things and would hope that something decent is put here.

Kevin Anderson, representing Kmart, stated that this proposal primarily effects the intersection of 3500 South and 5600 West. He stated that the northwest quadrant, where Kmart is located, has been used as retail property for over 30 years. Mr. Anderson indicated that he feels it should continue to have the opportunity to operate that way due to the prime intersection, the proximity to the Mountain View Corridor, and the history of the area itself. He stated that the proposed HTC zone will restrict various uses on the property that make a great deal of sense for the area. Mr. Anderson stated that the proposal causes significant damage to property owners, a significant impact in monetary loss for the property, and a significant loss to the City in relation to property and sales tax. Mr. Anderson stated that several potential buyers of the property have withdrawn due to the proposed Hunter Town Center rezoning and moratorium. He stated that he doesn't have a concern with the General Plan proposal but feels the zone change is premature and unnecessary. Mr. Anderson stated that he feels it is ill advised to make zoning decisions based on future events that could happen in the area, such as the impact of the Mountain View Corridor, until the results can be determined. Mr. Anderson provided a statement (attached). He stated that a local college was granted incentives to come to the property but backed out of the agreement due to the restrictions proposed by the City and the Hunter Town Center.

Steve Vincent excused at 7:45 PM

Councilmember Huynh asked why the City is interested in changing the zoning now and not at a future time when the effects of the Mountain View Corridor can be assessed. Councilmember Vincent stated that there is vacant property in the area and if the Council wants to see changes, now is a good time to make that plan. Steve agreed and stated that if the Council is satisfied with the direction the area is heading, there is nothing critical about these applications at this time.

Mayor Bigelow asked if the proposed college received incentives from the City. Steve replied they were not City incentives and likely came from the property owner. Mayor Bigelow stated that the City Council cannot make land use decisions based on financial reasons. Wayne agreed and added that Kmart and Sears have been a great benefit to the City but the property has remained vacant for quite some time now. He indicated that City staff only proposes what they feel is in the best interest of the City which is why this application has come forward.

Councilmember Huynh asked how long it will be until the Mountain View Corridor reaches

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3500 South. Steve replied it is slated to begin in 2019 and complete in 2021.

Sally Stevens stated she has lived in the area for 44 years. She indicated she will be 150 feet from the elevated Mountain View Corridor that has taken out multiple homes in her neighborhood. Ms. Stevens stated that she, and her neighbors, feel that the zone change should be held off until repercussions of the new highway can be determined. Ms. Stevens stated that she feels like her portion of West Valley City is uncared for and is slowly disappearing. She indicated that she would also encourage the City to ensure all the earthquake standards are met for buildings in the new zone. Ms. Stevens indicated that she doesn't feel like she was informed of this proposed change. She discussed concerns about homeless people and road widths in the area.

Alex Winder stated that this is just the Hunter Town Center General Plan. He indicated that Steve and Nicole have worked hard on this plan and he appreciates their forward thinking. He indicated that he will have more input on the zone change part of the request.

Mayor Bigelow closed the Public Hearing.

ACTION: ORDINANCE NO. 17-18, ADOPT THE HUNTER TOWN CENTER PLAN

The City Council previously held a public hearing regarding proposed ordinance 17-18 that would adopt the Hunter Town Center Plan.

Councilmember Buhler stated that the Council has been aware of the Hunter Town Center proposal and have been working on it for a considerable amount of time. He added that staff has been working on it even more frequently and for a much longer time. He indicated that this has been a long process, as it should be, and hasn't come about easily or at the idea of one person.

Councilmember Nordfelt thanked the audience for their involvement. He stated that this is an important intersection in the City and wise planning can be a great benefit to residents. Councilmember Nordfelt stated that he has studied the proposal, feels like staff has developed a good plan, and feel it needs to be implemented before property is sold and new plans made.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Nordfelt moved to approve ordinance 17-18.

Councilmember Christensen seconded the motion.

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A roll call vote was taken:

Mr. Vincent	Excused
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

ACCEPT PUBLIC INPUT REGARDING APPLICATION ZT-2-2017, FILED BY WEST VALLEY CITY, REQUESTING A ZONE TEXT CHANGE TO CREATE THE HUNTER TOWN CENTER (HTC) ZONE AND TO MAKE OTHER TECHNICAL CHANGES TO TITLE 7

Mayor Bigelow informed a public hearing had been advertised for the Regular Council Meeting scheduled August 22, 2017, in order for the City Council to hear and consider public comments regarding application ZT-2-2017, filed by West Valley City, requesting a Zone Text Change to create the Hunter Town Center (HTC) Zone and to make other technical changes to Title 7.

Written documentation previously provided to the City Council included Information as follows:

In March of this year, the Planning Commission recommended approval of the Hunter Town Center Plan. This Plan addressed land use for properties within the vicinity of 3500 South and 5600 West. The HTC zone is proposed to help implement the Hunter Town Center Plan.

In October of last year, the City Council passed a temporary land use regulation or moratorium on land use applications for a period of six months for the area covered by the Hunter Town Center Plan. A copy of the ordinance enacting the temporary land use regulation is included with this issue paper. The reasons for the moratorium are outlined in the recitals of the ordinance. One of the primary purposes of the moratorium was to ensure that this area is zoned in a manner consistent with the updated Hunter Town Center Plan.

The proposed HTC zone is unique from other zones in that it includes three sub-districts or areas within the zone with specific regulations that differ from one another. Within the HTC zone there are standards that apply to all

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properties within the zone and there are standards that are unique to the sub-district.

Specific topics addressed in the HTC zone include permitted, conditional, and prohibited uses; building street frontage; architectural requirements; open space requirements; building and parking setbacks and placement; building height; standards for streets, drives, and right-of-ways; street trees; lighting; parking; and signs. For comparison, the HTC zone is generally more restrictive in terms of allowed uses than the C-2 (general commercial) zone.

Staff received the attached email from the owner of the mostly vacant property in the southeast quadrant. In summary, the owner desires more use flexibility for things like fast food restaurants with a drive-thru, greater height next to adjoining residential, and no density cap.

Following the comprehensive update to Title 7 (Zoning Ordinance) that was adopted in March of this year, staff has noticed some corrections that were needed. The proposed corrections are to the agricultural and residential standards tables, generally applicable requirements in the agricultural and residential zones and specific requirements in the LI zone.

Mayor Bigelow opened the Public Hearing. There being no one to speak either in favor or in opposition, Mayor Bigelow closed the Public Hearing.

ACTION: ORDINANCE NO. 17-29, ENACT PART 7-6-500P AND AMEND SECTIONS 7-6-202, 7-6-203, 7-6-204, 7-6-301, 7-6-310, AND 7-10-204 OF THE WEST VALLEY CITY MUNICIPAL CODE TO CREATE THE HUNTER TOWN CENTER ZONE AND SUBDISTRICTS AND TO AMEND CERTAIN DESIGN STANDARDS AND TO MAKE RELATED AND TECHNICAL CHANGES TO THE WEST VALLEY CITY MUNICIPAL CODE

The City Council previously held a public hearing regarding proposed ordinance 17-29 that would enact part 7-6-500P and amend sections 7-6-202, 7-6-203, 7-6-204, 7-6-301, 7-6-310, and 7-10-204 of the West Valley City Municipal Code to create the Hunter Town Center Zone and subdistricts and to amend certain design standards and to make related and technical changes to the West Valley City Municipal Code.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Buhler moved to approve ordinance 17-29.

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Councilmember Nordfelt seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	No
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	No

Majority. Fails. Application Denied.

ACCEPT PUBLIC INPUT REGARDING APPLICATION Z-6-2017, FILED BY WEST VALLEY CITY, REQUESTING A ZONE CHANGE FROM THE A (AGRICULTURE, MINIMUM LOT SIZE ½ ACRE), C-1 (NEIGHBORHOOD COMMERCIAL), AND C-2 (GENERAL COMMERCIAL) ZONES TO THE HTC (HUNTER TOWN CENTER) ZONE FOR PROPERTY LOCATED IN THE VICINITY OF 3500 SOUTH AND 5600 WEST

Mayor Bigelow informed a public hearing had been advertised for the Regular Council Meeting scheduled August 22, 2017, in order for the City Council to hear and consider public comments regarding application Z-6-2017, filed by West Valley City, requesting a zone change from the A (Agriculture, minimum lot size ½ acre), C-1 (Neighborhood Commercial), and C-2 (General Commercial) Zones to the HTC (Hunter Town Center) Zone for property located in the vicinity of 3500 South and 5600 West.

Written documentation previously provided to the City Council included Information as follows:

City staff has submitted a zone change application described above for approximately 51.7 acres of properties in the vicinity of 3500 South and 5600 West.

In October of last year, the City Council passed a temporary land use regulation or moratorium on land use applications for a period of six months for the subject property. A copy of the ordinance enacting the temporary land use regulation is included with this report. In summary, the moratorium was passed to allow time to update the Hunter Town Center Plan and to ensure that the area is zoned in a manner consistent with the updated Plan. The Planning Commission recently recommended approval of the updated Hunter Town Center Plan to the City Council.

Zoning is the primary tool for implementing the City's General Plan. If zoning and the General Plan are not aligned, the City's goals will not be realized. The guiding

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plan concepts and place making principles from the Hunter Town Center were used by City staff and our consultant to inform the proposed Hunter Town Center zone.

Any existing, licensed businesses that are operating as approved by the City and are not allowed in the HTC zone will, if this zone change is approved, become nonconforming uses. For reference, a list of current businesses within the subject area is included. Those businesses highlighted in yellow would become nonconforming under the HTC zone. Nonconforming uses of land may be continued at the discretion of the property owner. If a nonconforming use is discontinued for a period of one year or more it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the HTC zone.

Mayor Bigelow opened the Public Hearing.

Alex Winder stated that he bought his property with the understanding that it was zoned 'C-2'. He indicated that after closing on it, he found that the area was under a moratorium and he has been unable to develop it ever since. He indicated that he would like to see what his options are and feels that he deserves his property rights.

Kevin Anderson, representing Kmart, stated that he would like to reference the comments he made earlier (in the Public Hearing for GP-1-2017) as well as the position paper submitted earlier as well (attached). Mr. Anderson stated that if the City hopes to see redevelopment in this area, he feels these opportunities will come more quickly when broader options are permitted. He indicated that the market tells him that this property and intersection is prime for retail as opposed to secondary uses. Mr. Anderson stated that the market should dictate what goes where.

Joann Pogue stated that 7 businesses opted out of purchasing Kmart which is detrimental to the City in regards to sales tax revenue. She suggested a mixed use development of some type.

Pauline Thatcher stated she lives in Hunter Park Circle which abuts this area. She indicated that the property near her home is already commercial and she has always opposed this use. Ms. Thatcher stated that she would request that buildings more than 1 story not be allowed so that she doesn't have large commercial uses looking into her backyard.

Mayor Bigelow closed the Public Hearing.

ACTION: ORDINANCE NO. 17-30, AMEND THE ZONING MAP TO SHOW A CHANGE OF ZONE FOR PROPERTY LOCATED IN THE VICINITY OF 3500 SOUTH AND 5600 WEST FROM A (AGRICULTURE, MINIMUM LOT SIZE 1/2

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ACRE), C-1 (NEIGHBORHOOD COMMERCIAL), AND C-2 (GENERAL COMMERCIAL) TO HTC (HUNTER TOWN CENTER)

The City Council previously held a public hearing regarding proposed ordinance 17-30 that would amend the zoning map to show a change of zone for property located in the vicinity of 3500 South and 5600 West from A (Agriculture, Minimum Lot Size 1/2 acre), C-1 (Neighborhood Commercial), and C-2 (General Commercial) to HTC (Hunter Town Center).

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Buhler moved to deny ordinance 17-30.

Councilmember Christensen seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous. Application Denied.

RESOLUTION NO. 17-135: APPROVE AN AGREEMENT WITH TIVITRI, INC. TO CONDUCT AN IT READINESS AND CAPABILITY BENCHMARK ASSESSMENT FOR THE INFORMATION TECHNOLOGY DIVISION OF THE ADMINISTRATION DEPARTMENT

Mayor Bigelow presented proposed Resolution 17-135 that would approve an agreement with Tivitri, Inc. to conduct an IT Readiness and Capability Benchmark Assessment for the Information Technology Division of the Administration Department.

Written documentation previously provided to the City Council included information as follows:

This resolution authorizes West Valley City to enter into a service agreement with Tivitri Inc, an IT consulting firm, to prepare a 3-5 year strategic plan for IT which is aligned with City Council, City Administration and departmental and divisional key initiatives.

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The City Manager has asked the West Valley City IT Division to identify current and future action plans and align those plans with the City's strategic plan, vision and mission of all City Departments. The plan would not only promote internal performance on the part of IT but also ensure organizational confidence in IT's readiness and capabilities to work effectively with the departments in meeting City objectives.

The recent retirement of the IT Director provided us with an opportunity to look for a strategic partner to help create a rolling 3-5 year actionable Strategic Map that will aid West Valley City's IT's vision. This "strategic map" will allow us to create a foundational platform by which we can better utilize information and communications technologies to affect real change and make meaningful progress towards keeping pace with the needs and demands of our community and our workforce.

All City departments are engaged in efforts to utilize information and communication technologies to not only improve their own work but more importantly applying these technologies to meet a broader vision of; dramatically reducing the cost of governing, increasing the effectiveness and output of their employees, enabling all of us to make better and faster decisions, increase economic development and improve the quality of life for our citizens. Most important the broader focus is on identifying additional sustainable revenue streams and cost cutting measures by using software applications, data and business analytics, "smart city" applications and other information gathered in our day to day work which assists us in working smarter and more efficient.

The responsibility to accomplish this goal is not IT's alone. Communications and collaboration between our IT division and the other departments is critical in understanding the reality of where we are today and where we need to be in the future. This partnership with Tivitri and the subsequent assessment is a major step in the right direction in accomplishing that goal.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Buhler moved to approve resolution 17-135.

Councilmember Huynh seconded the motion.

A roll call vote was taken:

Mr. Buhler

Yes

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Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

CONSIDER APPLICATION S-8-2017, FILED BY NATE JONES, REQUESTING FINAL PLAT APPROVAL FOR THE HOLLOW CREEK SUBDIVISION LOCATED AT 3315 SOUTH 6400 WEST

Mayor Bigelow presented proposed application S-8-2017, filed by Nate Jones, requesting final plat approval for the Hollow Creek Subdivision located at 3315 South 6400 West.

Written documentation previously provided to the City Council included information as follows:

Nate Jones, is requesting final approval for the Hollow Creek Subdivision. A similar version of this subdivision was reviewed and approved by the City Council in 2007. However, due to market conditions at that time, the subdivision plat was never recorded. The subject property is located at 3315 South 6400 West. It is bordered on the north, east and south by existing residential development.

The subdivision will consist of 3 lots on 1.2 acres. An existing single-family dwelling is currently located within the subdivision boundary. However, this dwelling will be removed to provide access to the subdivision. As all new lots will be considered flag lots, they will need to meet the minimum requirement of 12,000 square feet. This standard was added to the City's design and development review section subsequent to the original application. As a result of this requirement, the subdivision will contain 1 less lot than the original submittal.

Access to the subdivision will be gained from 6400 West via a private lane. A turnaround has been provided between lots 1 and 2 for emergency vehicles. This turnaround will need to be paved at the same time as the private lane. The private lane will be maintained in common by all owners. Improvements to the private lane will be determined by the City Engineering Division. Depending upon grades, the private lane may need curb and gutter. There will also be a small landscape area on the south side of the street. This will provide a buffer between the Hollow Creek Subdivision and the Teasel Downs No. 2 Subdivision. The landscaped area will also provide a small space separating vehicles from the fence.

Street improvements along 6400 West will be coordinated with the City Engineering Division, as well as potential ground water impacts. During the

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original approval, a soils report was submitted. The report indicated that ground water was not encountered to a depth of 11 feet. Because it has been 10 years since the original report was submitted, staff will require that a new soils report be provided to address ground water concerns before the plat is recorded.

The new lane providing access into the subdivision will create double frontage lots for those existing residences to the south. In order to mitigate the problems that may arise from this situation, the original subdivision approval required a 6-foot vinyl fence along that boundary. Staff believes that the same requirement should be used for this project as well.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Buhler moved to approve application S-8-2017.

Councilmember Huynh seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

CONSIDER APPLICATION S-10-2017, FILED BY BILL KING, REQUESTING FINAL PLAT APPROVAL FOR THE GRANITE MOUNTAIN STORAGE SUBDIVISION LOCATED AT 4550 SOUTH 3820 WEST

Mayor Bigelow presented proposed application S-10-2017, filed by Bill King, requesting Final Plat Approval for the Granite Mountain Storage Subdivision located at 4550 South 3820 West.

Written documentation previously provided to the City Council included information as follows:

Bill King, representing Granite Mountain Storage Facilities is requesting final approval for the Granite Mountain Storage Subdivision. The subdivision is located in the C-2 Zone and is located between the Home Depot and Bangerter Highway. Surrounding land uses are commercial to the west, apartments and a church to the

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south and rental units to the north. A conditional use application for the storage unit project was reviewed and approved by the Planning Commission in April 2017.

The subdivision will consist of 1 lot on 2.8 acres. An existing stub street (3820 West) is located immediately to the north of the subject property and will be the single point of access for the subdivision. The plat will allow for the stub street to terminate in a cul-de-sac which complies with City ordinance. The developer will coordinate improvements for the cul-de-sac with the City Engineering Division.

The plat also contains a sewer easement in favor of Granger Hunter Improvement District. The applicant will need to ensure that the location of the easement will work in conjunction with new buildings that will be constructed as part of the storage unit project.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Buhler stated he will be happy to see something go to this location.

Councilmember Christensen moved to approve application S-10-2017.

Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

CONSIDER APPLICATION S-11-2017, FILED BY CARLOS HERNANDEZ, REQUESTING FINAL PLAT APPROVAL FOR THE ARTISAN PLACE PUD LOCATED AT 2163 SOUTH CONSTITUTION BLVD

Mayor Bigelow presented proposed application S-11-2017, Filed by Carlos Hernandez, requesting Final Plat Approval for the Artisan Place PUD Located at 2163 South Constitution Blvd.

Written documentation previously provided to the City Council included information as follows:

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Mr. Carlos Hernandez, is requesting final approval for the Artisan Place Planned Unit Development. The subdivision is located in the M Zone and is situated on the east side of Constitution Boulevard at the north end of this street just before the road turns west.

Access to the subdivision will be gained from 2700 West (Constitution Boulevard). Earlier this year, the City Council vacated a portion of 2700 West located immediately to the west of the proposed subdivision. The vacation was initiated at the request of the City Engineering Division as the right-of-way would never be used in its current configuration. The street at this location transitions at the northern end by veering off toward the northwest, essentially becoming the south frontage road along Highway 201. The vacated property is now in the ownership of the applicant and will be landscaped as part of this project.

The subdivision will consist of 11 lots on 2.7 acres. Lot 1 is currently used by the applicant for his business operation which is Artisan Marble and Granite. This business will anchor the planned unit development. The applicant would like to utilize the remaining portion of his property by constructing two additional buildings for light industrial uses.

The remaining portions of the property will be common areas. Due to this project being a planned unit development, there will need to be an association set up to manage these areas. At the present time, the association will consist solely of Mr. Hernandez. However, at a future point in time, and when a majority of units are occupied, a more formal association would need to be set up to manage and maintain the property.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Huynh moved to approve application S-11-2017.

Councilmember Christensen seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

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Unanimous.

CONSENT AGENDA

A. RESOLUTION NO. 17-136: AUTHORIZE THE CITY TO ACCEPT A PUBLIC SIDEWALK AND UTILITY EASEMENT FROM RIDDLE HOLDINGS 2, LLC FOR PROPERTY LOCATED AT 1931 WEST 3500 SOUTH

Mayor Bigelow presented proposed Resolution 17-136 that would authorize the City to accept a Public Sidewalk and Utility Easement from Riddle Holdings 2, LLC for property located at 1931 West 3500 South.

Written documentation previously provided to the City Council included information as follows:

Acceptance of a Public Sidewalk and Utility Easement from Riddle Holdings 2, LLC, a Utah limited liability company for property located at 1931 West 3500 South. This easement is to accommodate installation of public utilities, together with a 10 foot sidewalk and a 15 foot park strip on the south side of 3500 South.

Riddle Holdings 2, LLC property is the site of the proposed Advance Auto Parts store. As a condition of approval, installation of a 10 foot sidewalk and a 15 foot park strip on the south side of 3500 South. The existing 3500 South right-of-way line is 16.9 feet north of south edge required 10 foot sidewalk, which requires the additional 16.9 feet to be located in the Public Sidewalk and Utility Easement.

B. RESO. 17-137: AUTHORIZE THE CITY TO ACCEPT A WARRANTY DEED AND A PUBLIC UTILITY EASEMENT ACROSS PORTIONS OF PROPERTY LOCATED AT 5052 WEST 2400 SOUTH (14-24-201-014) FROM TUFFLI COMPANY, INC.

Mayor Bigelow discussed proposed Resolution 17-137 that would authorize the City to accept a Warranty Deed and a Public Utility Easement across portions of property located at 5052 West 2400 South (14-24-201-014) from Tuffli Company, Inc.

Written documentation previously provided to the City Council included Information as follows:

Acceptance of a Warranty Deed and a Public Utility Easement from Tuffli Company, Inc. from and across portions of property located at 5052 West 2400 South (portions of parcel 14-24-201-014).

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Tuffli Company, Inc., a California corporation has signed a Warranty Deed and a Public Utility Easement. Tuffli Company, Inc. is the owner of the property for the new H&E Equipment building to be located at 5052 West 2400 South. As a condition of approval for issuance of a building permit, conveyance of additional right-of-way on 2400 South was required. Also a Public Utility Easement was required along the 2400 South frontage of the proposed site.

C. RESO. 17-138: AUTHORIZE THE CITY TO ACCEPT A PUBLIC SIDEWALK, LIGHTING, AND UTILITY EASEMENT FROM THE LEONARD K.M. FONG REVOCABLE LIVING TRUST U/A/D NOVEMBER 9, 1989 AND THE LEONARD K.M. FONG CHARITABLE REMAINDER ANNUITY TRUST U/A/D OCTOBER 1, 2009 FOR PROPERTY LOCATED AT 2880 SOUTH 5600 WEST

Mayor Bigelow discussed proposed Resolution 17-138 that would authorize the City to accept a Public Sidewalk, Lighting, and Utility Easement from the Leonard K.M. Fong Revocable Living Trust U/A/D November 9, 1989 and the Leonard K.M. Fong Charitable Remainder Annuity Trust U/A/D October 1, 2009 for Property Located at 2880 South 5600 West.

Written documentation previously provided to the City Council included Information as follows:

Acceptance of a Public Sidewalk, Lighting and Utility Easement from the Leonard K.M. Fong Revocable Living Trust u/a/d November 9, 1989 and the Leonard K.M. Fong Charitable Remainder Annuity Trust u/a/d October 1, 2009 for property located at 2880 South 5600 West. This easement is to accommodate construction of a six foot sidewalk and a 15 foot park strip, along with future sidewalk lighting and utilities on the west side of 5600 West.

The Leonard K.M. Fong Revocable Living Trust u/a/d November 9, 1989 and the Leonard K.M. Fong Charitable Remainder Annuity Trust u/a/d October 1, 2009 property is one of the properties affected and benefited by the 5600 West Sidewalk Gaps Project. This project will include the construction of approximately 375 linear feet of six foot sidewalk across the frontage of three different parcels which do not currently have sidewalk. When completed, this will provide a continuous sidewalk for pedestrian access from Parkway Boulevard (2700 South) to Glen Eagles Drive (2900 South).

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Nordfelt moved to approve resolution's 17-136, 17-137, and 17-138.

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Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Christensen	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

MOTION TO ADJOURN

Upon motion by Councilmember Huynh voted in favor to adjourn.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL THE REGULAR MEETING OF TUESDAY, AUGUST 22, 2017, WAS ADJOURNED AT 8:33 P.M. BY MAYOR BIGELOW.

I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Regular Meeting of the West Valley City Council held Tuesday, August 22, 2017.

Nichole Camac
City Recorder

Sears/K-Mart

West Valley City Council Hearing, 8-22-17 on the Proposed HTC General Plan and Zoning Changes
Position Statement, Proffer of Evidence, and Argument by Kevin E. Anderson for and on Behalf of K-mart

I. INTRODUCTION

- a. This is a very well-run city, and its residents are lucky to have the fine City government they enjoy. The City government, including the Mayor, City Council, City Manager and planning staff, and others are generally very professional, helpful and considerate. The City has an excellent reputation, and is generally regarded as a credit to good, equitable and responsive City Government. However, the proposed HTC-CO zoning on the Northwest Quadrant of the 3500 South and 5600 West Intersection is premature.

II. ISSUES PRESENTED

- a. The proposed HTC-CO zoning for the Northwest Corner of the 3500 So. 5600 W. intersection (the "Northwest Quadrant") is surprising because it is premature, not supported by market forces or critical facts, and is inconsistent with proper zoning principles.
 - i. Despite the City's excellent staff, the unfair, inequitable, damaging impacts of the proposed re-zoning have been overlooked.
 - ii. Perhaps property owners have not been as helpful as possible in presenting the improper, inequitable impacts caused by the proposed zoning change, and identifying the flaws in the proposed zoning HTC-CO zoning.
 - iii. But there are significant facts and evidence that demonstrate the proposed rezoning of the Northwest Corner of the subject intersection is improper, premature and unfair, and causes enormous damage to K-Mart and the other property owners in that Northwest Quadrant.
- b. History:
 - i. This Northwest Quadrant is currently zoned C-2, as is much of the developed area along 3500 South and 5600 West.
 - ii. This is a prime commercial corner. It is one of the most important commercial corners and one of the most significant intersections in West Valley City.
 - iii. K-Mart and other businesses located in the Northwest Quadrant of the proposed HTC zoning, have contributed to the City and its citizens both by providing retail sales and services, but by paying significant sales and property taxes benefitting the City for approximately 30 years.
 - iv. With the anticipated changes to 3500 South and the construction of the Mountain View Corridor/ West Valley Highway, (the "West Valley Highway"), this area will become an even more important commercial corner with even more traffic and potential retail opportunities.
- c. Problem:
 - i. The proposed HTC-CO zoning ignores that history, and the promising retail future associated with the completion of the West Valley Highway.
 1. The zoning should enhance or, at least, maintain the retail and commercial opportunities this major commercial corner warrants,

- particularly with the approach of the West Valley Highway exit and entrance on 3500 South, adjacent to the subject property.
- ii. The K-Mart Property and most of the Northwest Quadrant of this intersection were and are currently zoned C-2, which is perfectly appropriate and consistent with the facts, both historic and future, concerning the nature and location of this intersection, and its growing traffic and importance.
 1. But under the HTC-CO many of the retail uses are stripped away or are restricted and narrowed, subject to very onerous costs and restrictions.
 2. In contrast, next door to the K-Mart property, just steps away, the C-2 zoning is kept in place, and in many places along 3500 South and 5600 West.
 - iii. But in the Northwest Corner of one of the busiest commercial intersections in the City, the HTC-CO zoning would prevent full, robust retail use and development appropriate to such an important commercial corner.
 1. Instead the proposed zoning singles out this prime retail corner for disparate treatment. It directs major retail traffic and development away that prime retail corner, and sends it down the road to the other C-2 zoned areas.
 - iv. In a very real way the proposed HTC-CO zone interferes with natural market forces and free competition. Instead, the city is picking winners and losers, and singling out this property for adverse treatment.
 1. The City, by these selective zoning changes, is promoting the C-2 zoned areas that do not have the benefit of the major commercial corner, directing the retail traffic to them,
 2. At the same time the HTC zone would prevent the subject property from competing on a level footing, because it is stripped of the C-2 zone that it has historically enjoyed.
 - v. Market forces do not warrant or even support the proposed zoning change. At the very least, the proposed zoning change is premature, and any rezoning should await completion of the West Valley Highway, so its impacts can be properly evaluated, and the desirability of the property for educational and office purposes can better be evaluated.
 1. The City's proposed zoning is founded on a notion that the Northwest Quadrant should be developed into a college or educational center.
 2. However, the broker for the prior contract purchaser who later terminated its purchase contract, contacted the target college anticipated by the zoning ordinance, about locating a satellite campus or class building in the subject Northwest Quadrant.
 3. A million dollars in concessions were offered to the college to encourage the move.
 4. But the college indicated it had no interest in locating to the subject property.

III. DAMAGES

- a. The damages from this proposed zoning decision are not just hypothetical or theoretical. Instead they are very real, documented and evidenced beyond reasonable dispute.
 - i. When the K-Mart was listed for sale early this year, it immediately received a flood of purchase offers, consistent with the property value based on the major commercial corner and C-2 zoning that it enjoyed - and on which it had been assessed and paid taxes for 30 years.
 - ii. An offer was accepted, subject to a due diligence. But that agreement was just cancelled a few weeks ago by the potential buyer based on the zoning issues discussed.
 - iii. None of the other prior offerors was interested in moving forward either, based on the zoning issues discussed above.
- b. Another potential purchaser expressed interest just this past week.
 - i. The broker on that deal had been in touch with K-Mart and was actively negotiating. However, he contacted me yesterday morning (8-21-17) because he was alerted to the potential zoning change and expressed concern.
 - ii. This morning, after reviewing the proposed zoning ordinance, the broker called me back to advise that his client was terminating its interest because of the impacts the HTC zoning restrictions cause the subject property
- c. The damage this proposed rezoning has and will cause K-Mart, and other property owners in the affected quadrant, are millions of dollars.
- d. Forcing that type of a multimillion dollar loss by an unnecessary, premature, ill-advised zoning change in the Northwest Quadrant of the 3500 South and 5600 West Intersection is unjust, inequitable and improper - even illegal, arbitrary, capricious. Moreover, it is confiscatory and constitutes a regulatory taking of property without just compensation.
 - i. That is particularly true under the circumstances of this case, and the facts that K-Mart has been assessed and taxed for 30 years as a C-2 zoned retail property, but is singled out from other C-2 property owners for disparate, adverse treatment just when it is ready to sell, destroying property values.
 - ii. The K-Mart property has been artificially stripped of its value, ***not by natural competitive market forces***. The market forces demonstrate that this commercial corner not only remains a prime retail property, but will become an even more important retail property with the development of the WV Highway.
 - iii. ***Instead, the property is stripped of its value by unnecessary, ill-advised and premature regulatory interference.***

IV. SOLUTION

- a. **Errors in the proposed zoning approach.** The proposed HTC-CO zoning encourages redevelopment of the Northwest Quadrant of the 3500 South 5600 West Intersection into educational and office development.
 - i. However, the City improperly seeks to ***direct*** that redevelopment through the HTC-CO zoning proposed, which singles out K-Mart and others for disparate

treatment, and has already caused millions of dollars in damages, as evidenced by *lost sales and plunging values* caused by the proposed HTC zoning.

- ii. But even if that effort were appropriate, redevelopment is not encouraged by *limiting and restricting development flexibility and opportunities*.
 - iii. The opposite is true. Redevelopment is properly *encouraged, facilitated and hastened* by providing greater flexibility, consistent with existing market forces and the nature and location of the property, consistent with the facts on the ground. No market there at this time for educational or office development.
 1. In this case, the superb retail commercial corner where the K-Mart property is located, will become even more important with the construction of the West Valley Highway.
 2. The 3500 South entrance and exit to the WV Highway will encourage redevelop of the Northwest Quadrant if redevelopment is not restricted, and hand-cuffed by counter intuitive zoning regulation that is inconsistent with the facts and competitive market forces.
 - iv. The proposed zoning is based on a desire to have the property develop as an educational campus for a community college.
 1. But as discussed above, that is not well founded, or at least is premature.
 2. The prior contract purchaser for the subject property approached the target college, offering over a million dollars in incentives to encourage location of a satellite program on the property.
 3. The college indicated it had no interest in moving there.
- b. **Proper Solution.** The proper solution is to maintain the C-2 zoning in the Northwest Quadrant of the 3500 South 5600 West Intersection for the near term.
- i. That C-2 zoning should be maintained at least until the West Valley Highway, and its 3500 South exit and entrance, are completed and in operation. Only then will the impacts of that project be fully understood.
 - ii. Until that impact is completed and fully understood, it is premature to determine how the Northwest Quadrant should be rezoned, if at all. Any rezoning is *premature and ill-advised* prior to that time.
 - iii. Moreover, the effort to restrict retail uses mandated by market forces, and compel the property to become an educational or office oriented site is not supported by the facts at this time. Instead, the facts and market forces undercut that effort. The market does not support an educational center in the Northwest Quadrant now, even when encouraged by enormous incentives.

V. CONCLUSION

The HTC-CO zoning should not be enacted on the Northwest Quadrant at this time. Instead, that decision should be delayed until completion of the West Valley Highway and further meetings with potential educational entities to re-measure potential interest. After the impacts of that West Valley Highway project are understood, the stake holders, including the City, its Planners, the property owners and others should consider what if any changes to the zoning would be appropriate. Until then, the C-2 zoning should remain.