

CITY OF SOUTH JORDAN  
PLANNING COMMISSION MEETING  
COUNCIL CHAMBERS

September 9, 2014

**Present:** Chairman Russ Naylor, Commissioner Jason Haymore, Commissioner Sean D. Morrissey, Commissioner Richard Feist, Commissioner Beverly Evans, City Planner Greg Schindler, Planner Brad Sanderson, Planner David Mann, Assistant City Engineer Shane Greenwood, Assistant City Attorney Ryan Loose, City Recorder Anna West

**Absent:** Commissioner T. Earl Jolley

**Others:** See Attendance Log (Attachment A)

6:30 P.M.

**REGULAR MEETING**

I. GENERAL BUSINESS

A. Welcome and Roll Call

Chairman Naylor welcomed everyone to the meeting. He noted that all Commissioners are present except Commissioner Jolley; he is excused this evening.

B. Motion to Approve the September 9, 2014 Planning Agenda

**Commissioner Evans made a motion to approve the September 9, 2014 Planning Commission Agenda. Commissioner Haymore seconded the motion. Vote was unanimous in favor. Commissioner Jolley was absent.**

C. Approval of the Minutes from the Meeting held on August 26, 2014

**Commissioner Feist made a motion to approve minutes from the August 26, 2014 Planning Commission meeting as printed. Vote was unanimous in favor. Commissioner Jolley was absent.**

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. Calendaring Items

None

B. Comments from Planning Commission Members

None

C. Staff Business

None

D. New Business

None

III. CITIZEN COMMENT

Chairman Naylor opened the Citizen Comment. No speakers. He closed the Citizen Comment.

IV. PUBLIC HEARINGS AND POTENTIAL \*\*ADMINISTRATIVE ACTION ITEMS

\*\*Administrative Action = Less Discretion, Substantial Evidence (Objective Standard)

**A.1. Issue DAYBREAK VILLAGE 4A PLAT 7  
PRELIMINARY PLAT**

**Address:** Approximately 5050 West Black Twig Drive and  
Approximately 4890 West Duckhorn Drive

**File No:** SUB-2014.46

**Applicant:** Kennecott Land

City Planner Greg Schindler reviewed the background information on this item from the staff report.

**Gary Langston**, 4700 Daybreak Parkway, SJC (Applicant), said he had nothing to add.

Chairman Naylor opened the Public Hearing to speakers.

**Al Belt**, 5032 Black Twig Dr., SJC; I have two questions for clarification. Are the 40 new homes being developed in the same way as the rest of Garden Park; are the garages facing the backs of the houses and is the original green space going to be diminished.

Chairman Naylor closed the Public Hearing.

Mr. Langston said to answer the first question the majority of these lots are not lane loaded, so the garages will be off the fronts of the lots. There are a couple that are lane loaded and you can see where those are at; those would generally have the garages off the back side of the home. With regards to the open space, I think they are referring to the open space that is along the north end of Garden Park and that is remaining and does not go away.

**A.2. Potential Action Item – (See IV.A.1)**

**Commissioner Morrissey made a motion to approve SUB-2014.46 Daybreak Village 4A Plat 7 Preliminary Plat with the condition that all South Jordan City Requirements are met prior to recording the plat. Commissioner Feist seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

**B.1. Issue: DAYBREAK VILLAGE 5 PLAT 4  
PRELIMINARY PLAT**  
**Address:** 10400 South 5500 West  
**File No:** SUB-2014.48  
**Applicant:** Kennecott Land

City Planner Greg Schindler reviewed the background information on this item from the staff report.

**Gary Langston**, 4700 Daybreak Parkway, SJC (Applicant), said he had nothing to add.

Commissioner Feist asked if there will be a walk path connection to access the trax line.

Mr. Langston said yes; we are going to make a connection back to the road that comes off of South Jordan Parkway as part of this construction.

Chairman Naylor opened the Public Hearing to speakers. No speakers. He closed the Public Hearing.

**B.2. Potential Action Item – (See IV.B.1)**

**Commissioner Evans made a motion to approve SUB-2014.48 Daybreak Village 5 Plat 4 Preliminary Plat with the condition that all South Jordan City requirements are met prior to recording the plat. Commissioner Haymore seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

**C.1. Issue: TWO TOP SUBDIVISION  
PRELIMINARY SUBDIVISION**  
**Address:** 11197 South Redwood Road  
**File No:** SUB-2014.41  
**Applicant:** Brian Adams / Jerry Salt

Planner Brad Sanderson reviewed the background information on this item from the staff report.

**Jerry Salt, Applicant**, said he had nothing to add. We are excited to get started.

Commissioner Haymore asked Mr. Salt if he had any objections to the five provisions listed by staff. He read the five provisions aloud for Mr. Salt.

Mr. Salt said he had no objections.

Chairman Naylor opened the Public Hearing.

**Bruce Larsen**, 1599 W. Village Grove Ln., said he is here as a member of the HOA Board for Heatherwood. He had the following questions:

1. We would like to know what is the average lot size?
2. What is the average home footprint and elevation type?
3. Will the row of old evergreens be saved? They are 35-45 feet tall and provide a barrier.
4. Question about code enforcement. We recently had a break in, have been tagged with graffiti and vandalism, storage trailers on streets and abandoned vehicles. We would like to make sure

that the existing Codes are enforced along the area during construction and don't want the issues to increase.

5. Asked about the center divider with lined trees all along Beckstead and we would like the center divider to remain. It provides landscape and a barrier.

Mr. Salt answered:

1. General size of the lots will be 4900 sq. ft.
2. All the homes are two stories and will be craftsman style homes with front load garages. All homes will have required landscaping package on the front of the homes.
3. The evergreens will have to go
4. Code Enforcement will be sent out by City
5. Center divider will not be put in.

City Planner Schindler said we will have Code Enforcement check into the area. Brad will make sure that happens. Planner Sanderson said they are aware of it and they do enforce the area but it seems like they just start to reappear again after a bit.

City Planner Schindler said in the past the City decided not to put in medians when Heatherwood was built; they cost too much to maintain.

Planner Sanderson said they will put in trees in the park strips along Beckstead Lane to buffer the fence.

Mr. Larsen said it was difficult to hear part of the discussion. I was looking for clarification on the trees which are on the immediate south end of it. I understand that they will go; is that really the best we can do?

Planner Sanderson said the sidewalk he is referring to is on the right hand side of the street and it goes really close to the adjacent building which is where the trees are.

Mr. Salt said they are about 15 feet off from that building and our sidewalk is going to go right next to the building. There really is no room for the trees with this design and layout.

Chairman Naylor closed the Public Hearing.

Commissioner Feist said it has been my experience that if you have something that needs to be maintained, it will always bring problems.

Commissioner Haymore said I always like to see trees kept when we can. In this case it is the developer's property and he can do what he chooses with them.

#### **C.2. Potential Action Item – (See IV.C.1)**

**Commissioner Haymore made a motion to approve SUB-2014.41Two Top Subdivision subject to the following provisions:**

- 1. That all existing structures located on the easterly portion of the property or first phase shall be removed prior to the recordation of the final plat; and**

2. That all of the necessary easements, as determined by City Staff, shall be recorded and/or relocated prior to the commencement of construction within the project; and
3. That the property shall comply with those terms listed within the approved Development Agreement; and
4. A 20' wide public access easement shall be recorded on that portion of the property located adjacent and parallel with the Redwood Road right-of-way; and
5. That all South Jordan City requirements are to be met.

Commissioner Evans seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.

**D.1. Issue: T-MOBILE – JORDAN RIDGE ELEMENTARY SCHOOL  
WIRELESS COMMUNICATION SITE  
CONDITIONAL USE PERMIT**  
**Address: 2636 West 9800 South**  
**File No: CUP-2014.12**  
**Applicant: Terry Cox**

Planner Brad Sanderson reviewed the background information on this item from the staff report. We do have one general requirement; we were informed by one of the utility companies that there is a possible conflict with one of the utilities and that they may need to work around it. In the short time they had to put this together they didn't have time to survey it. It is my understanding that the survey is underway and they should have information as early as tomorrow.

Commissioner Feist asked if there was already a communication tower there. Planner Sanderson said it is actually a flagpole. By flagpole does not meet the parameters of a tower by City Code.

Commissioner Feist asked if there is a utility barrier area. Planner Sanderson said yes; there is a 4' masonry wall that encloses the backup generators. The other is a generator for the flagpole that was recently approved as a conditional use just a few weeks back.

**Daren Johnson**, 243 Bunkerhill Rd., N. Salt Lake (Applicant); I am here for Terry Cox and T-Mobile. This is a simple monopole structure.

Chairman Naylor asked if he was involved in the survey about potential conflict with other utility companies. Mr. Johnson yes. I understand there is a gas line that runs close to the monopole. Brad was talking about the survey that will be done tomorrow. The principal wanted to have everyone present and that was the day they could get it done.

Chairman Naylor opened the Public Hearing.

**Kent Barker**, 9683 S. 2740 W., SJC; asked if the parents of the students will be notified of the cell tower proposal. There are a lot of objections to locating these things at school sites.

City Planner Greg Schindler said the City is not required to notify the parents; that would be the schools responsibility because they are the ones contracting with the applicant. There are many schools that have these because of the revenue they bring in. I understand that the money goes directly to the school and not the school district.

Commissioner Haymore asked Mr. Barker what are the common concerns of the parents. Mr. Barker said the concern is for radiation from the cell tower. Some areas of the country have actually banned them. Some people claim there are health hazards; I don't know myself.

Chairman Naylor closed the Public Hearing.

Chairman Naylor said I know we have to have these and I would rather see them clustered in one area than have them all over the city.

Commissioner Haymore said I would like to make sure that the survey pans out so we know this is going to work.

Planner Sanderson said it's the gas line that services the school and if the school is contracting with the applicant to have this facility here they will either move the site or move the utility in order to get it there because it is a generating revenue source.

Commissioner Feist said he would like to know that the digging does not take place while school is in session.

Chairman Naylor said I am sure that part of their field investigation is that they run a tracer wire with the gas line so that blue stakes or whoever could locate exactly where it is at.

Commissioner Morrissey asked if the City has something in place regarding this to help alleviate that risk.

Planner Sanderson said if there is an easement for it, Blue Stake is in charge and I don't foresee an issue.

Assistant City Attorney Ryan Loose reminded the Commissioners that they would need to identify a detrimental effect tied to the land use. Safety concerns, while legitimate, are best addressed with the property owner who has the responsibility to address that. The Conditional Use runs with the land just like the Conditional Use Permits.

Commissioner Beverly Evans said I feel comfortable with the fact that they have to have that coordinated, that they are doing the study and that if there is a conflict that adjustment is going to have to be made so that both utilities will be able to work compatibly.

#### **D.2. Potential Action Item – (See IV.D.1)**

**Commissioner Morrissey made a motion to approve CUP-2014.12 Application subject to the following provisions:**

- 1. The applicant is to provide a survey of all existing utilities within the existing right-of-way and adjoining public utility easements. Any conflict with SJC utilities shall be coordinated and approved by City Engineer; and**
- 2. That all Antennas are made stealth or otherwise screened per City Ordinance.**

**Commissioner Feist seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

Assistant City Attorney Ryan Loose said I want to take a moment to do a quick training on this. Generally, and school districts can choose what they want to do, but when it comes to land use approvals, if you were to discuss RF frequencies, radiation, and things like that from towers and then you were to put conditions on or deny an application, what has been coming from the FCC and the courts is that they would overturn it and direct you to re-discuss it and not talk about those issues because they are the sole purview of the FCC. I didn't see you going there so I didn't feel it was interrupting but just so you know as we get these applications, those are legitimate concerns, but the courts have said you do not get to consider them.

**E.1. Issue: KS CORNERS RETAIL BUILDING  
CONDITIONAL USE PERMIT / SITE PLAN APPLICATION  
Address: 3352 West South Jordan Parkway  
File No: SP-2014.26  
Applicant: Paul Stringham**

Planner David Mann reviewed the background information on this item from the staff report.

**Paul Stringham**, 2535 Valley View Ave., SLC, (Applicant), said this project was started eight years ago with the zoning of commercial at that time. I have been heavily involved in the planning stages of this over the last 2 years. The materials are an upgrade from anything we have ever done as far as our retail developments. All the stone on this is natural stone that comes out of Browns Canyon. This is a nice quality project.

Chairman Naylor opened the Public Hearing.

**Ron Beck**, 3356 W. Snow Moon Place, SJC, said I live in Harvest Crossing which is just north of this development. It's a gated community and we have one way in and one way out. I am concerned of where their driveway will impact right where we enter our gated community. There is already a backlog of people trying to get up to the gate, use their gate opener to get in, and there is already quite a bit of congestion right there where we get in. He said he is also concerned with all the additional traffic that is going to be on River Heights Drive.

**Stacy Ward**, 10346 S. Silver Moon Place, SJC; I live in the same subdivision as Mr. Beck. The general concern is not so much with the development but with the traffic. We have two entrances coming out of this development, both on a small two lane road right adjacent to our entrance. It looks nice but we need something done about the traffic flow in the whole general area.

Commissioner Feist asked if Desert Valley Road going west and wanting to make a left turn is the problem. Mr. Ward said yes. That is where you end up sitting at the light. Everyone is either coming from Costco or 104<sup>th</sup> or Wal-Mart. It is just poor traffic flow in the area.

Chairman Naylor said the entrances are located so they line up which is sound planning. They can go around Desert Valley Road and connect to 104<sup>th</sup> and then they would probably have to make a right.

Assist. City Engineer, Shane Greenwood said that is correct. If I am not mistaken I think there will be some access roads off River Heights Drive and an access off of Desert Valley for Jiffy Lube. There will be some more accesses other than these two that will come with future development.

Commissioner Feist said I know this was brought up a couple months ago about the traffic issues at River Heights Drive. Is that something that is being looked at for some possible fixes? City Planner Schindler someday it may require some other mechanism such as a light, a four way stop or something.

Mr. Greenwood said I have had some discussions with the City Engineer and I think we are considering putting a raised median in River Heights Drive so that it would be a right in right out only. It would be too dangerous to allow a full access left out left in. We have been talking about and looking at the intersection at River Heights and Desert Valley to see what we can do to help those issues.

Commissioner Evans said I travel this area quite often and it is becoming a challenge with the traffic flow and they do need solutions looked at there. It is also confusing. The City needs to be sensitive to the challenges we are creating there for those driving and living in the area.

Mr. Beck said it appears that their driveway is directly across from our entrance. I was wondering if that can't be relocated somewhere else on that plan so that they are not having people coming out as we are trying to come out or go in.

Chairman Naylor said if we relocate it off to the side one way or the other then we are potentially creating a situation where people making movements from the opposite side of the road don't realize they are about to meet a vehicle in the center of the roadway. The standard practice is that driveways on opposite sides of the street have to line up.

City Planner Schindler said I don't know for sure if the gate is placed in the right location. One option would be to move the gate further in so there is more room. I thought that we required a certain number of stacking spaces outside the gate for that reason because they shouldn't be stopping in the road in the first place waiting for the gate to open. Mr. Greenwood said when we look at them we do look at cuing areas but I am not sure if it was looked at for this development.

Chairman Naylor closed the Public Hearing.

Chairman Naylor said I am sensitive to their problem; however, what we are considering tonight has no relevance on this at this time.

Commissioner Haymore said we are really looking at the site plan application tonight. Each time we have an application in this area the same issues come up. The residents are frustrated with commercial traffic blocking them and I hope we can come up with some solutions to that. I personally don't see any other way to adjust this site plan to make that problem any better on this application tonight.

## **E.2. Potential Action Item – (See IV.E.1)**

**Commissioner Evans made a motion to approve SP-2014.26 Conditional Use Permit and Site Plan Application for construction of a retail building and drive-through on property located at 3352 West South Jordan Parkway, with the requirement that all City Department requirements are met. Commissioner Feist seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

### **F.1. Issue: SANTORINI VILLAGE (TOWNHOMES PHASES 1-A, 1-B, 1-C, 1-D) SUBDIVISION AMENDMENT**

**Address:** 9685 South Redwood Road  
**File No:** SUB-AMEND-2014.44  
**Applicant:** Bryan Flamm, DAI

Planner David Mann reviewed the background information on this item from the staff report.

**Bryan Flamm**, 1099 W. South Jordan Parkway (applicant), It is moving along there. We had our first 10 families move in last month. This is just a function of phasing and warranty.

Chairman Naylor opened the Public Hearing. No speakers. He closed the Public Hearing.

**F.2. Potential Action Item – (See IV.F.1)**

**Commissioner Haymore made a motion to approve file SUB-AMEND-2014.44 to amend Santorini Village Phase I-Amended (Townhomes), subject to meeting all City requirements. Commissioner Evans seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

**G.1. Issue:** OQUIRRH MOUNTAIN MARKETPLACE – SHOPS A  
SITE PLAN  
**Address:** 11521 South 4000 West  
**File No:** SP-2014.24  
**Applicant:** Joshua Binkley, SJ MARKETPLACE, LLC

City Planner Greg Schindler reviewed the background information on this item from the staff report.

**Ted Didas**, 8610 Sandy Pkwy, Sandy, (Applicant); this is consistent with the Master Plan approved for the project.

Chairman Naylor opened the Public Hearing. No speakers. He closed the Public Hearing.

**G.2. Potential Action Item – (See IV.G.1)**

**Commissioner Morrissey made a motion to approve file SP-2014.24 approving the site plan for Oquirrh Mountain Marketplace – shops ‘A’ located at 11521 South and 4000 West. Commissioner Haymore seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

**V. PUBLIC HEARINGS AND POTENTIAL \*LEGISLATIVE ACTION ITEMS**

\*Legislative Action = More Discretion, Reasonably Debatable (Subjective Standard)

**H.1. Issue:** REVISIONS TO THE REQUIREMENTS AND STANDARDS FOR  
COLLECTOR STREET FENCING (16.04.200)  
TEXT AMENDMENT  
**File No:** ZTA-2014.04  
**Applicant:** CITY OF SOUTH JORDAN

City Planner Greg Schindler reviewed the background information on this item from the staff report.

Chairman Naylor said we had a big presentation about the Rhino Rock, is that what this is about. City Planner Schindler said yes. I believe that applicant is here to speak on that. Our City Engineer, Brad Klavano, is the one that wrote this report.

City Planner Schindler said we would also like to amend the proposed ordinance that you send forward with your recommendation. We would like at least this part to go to the City Council. Back in 2009 another section of the code was changed that previously on collector-street fencing if you placed the fence back at least 20 feet you did not have to use collector street fencing; you could use any type of fencing. That is visible back on Beckstead Lane by the Crystal Cove Subdivision. Their wall is set back 20 feet and they have landscaping out in front of it. That code was taken out so now you have no choice but to put the wall directly adjacent to the sidewalk. We would like to put that portion back into the ordinance. We don't know why it was taken out back in 2009. It has never come up until recently.

Chairman Naylor said I can't think of an instance where this might occur but, it seems like to me that that would be an option we would really like. If we were talking about a significant development so that the fence is back 20 feet and it is going to run all the way down the streetscape, but what about a property owner that says I don't want to pay for a masonry fence, I don't really want a back yard anyway so I will just pull the fence back for my little piece of property 20 feet and then I can do my vinyl fence. Then we would have jogs up and down the streetscape.

City Planner Schindler said normally right now if it is a new development they do have to back or side on residential development. If it is pre-existing it is probably a front yard and they can't have fencing anyway.

City Planner Schindler said I have prepared the wording that we are proposing for that and I will pass you a copy of it just in case you choose to go along with staff's recommendation to add it and that could be part of the motion.

Chairman Naylor asked about an Engineering report that our City Engineer has reviewed that determined that we have a potential problem with this composite for precast fence.

City Planner Schindler said I don't think it is included in here but he has looked at it.

Chairman Naylor said I thought we had done some due diligence when we looked at and saw samples of this stuff back in 2013.

Commissioner Haymore said at that time there was an extensive amount of work that was going into updating the fencing requirements all around the City and there was a Citizen Committee put together to study it.

Chairman Naylor opened the Public Hearing.

**Brian Morrow**, 478 E. 3950 N., Provo, UT., I appreciate the opportunity to speak to the Commission and hopefully I can clear some things up. I know many of you were here back in April 2013 when this was before the Planning Commission body and then it went to the City Council on May 7, 2013. It was a text amendment that was initiated by us. We paid our \$1000 fee and gave us the opportunity to come before this body and the City Council and talk about our product. I will give you a little bit of history as to what I believe is driving this to bring this back. I don't think all of the information has been

presented to you. Our product was not a new product; it had been out into the marketplace for several years. We had a couple hundred thousand feet that was installed at that time. We fully disclosed what the product was, what the benefits were and answered questions from the Planning Commission. The minutes from May 7, 2013 were actually very detailed and I have brought a copy of them with me (attachment B). It was passed unanimously by the Planning Commission and went through the same exact thing with the City Council a month later. I actually just found out about this issue around noon yesterday. Coincidentally, a developer who had talked to us about it had heard from somebody from the City and said that this was an issue that was coming up. It was actually a project that they were interested in using our product on in South Jordan. It wasn't a collector street but we actually lost that project because of the information that was shared that was based upon somebody's perception. I have been scrambling all day to try to get this going. I met with Shane Greenwood and Brad Klavano this morning and talked to them about what was driving this.

Mr. Morrow said we have installed a lot of product (Rhino Rock) in South Jordan City. It is like a concrete M & M. It has a concrete shell that is heavily fiber reinforced with a composite core. The reason we developed this is it was our company back in the Mid 90's that developed the heavy concrete fencing here in Utah. After a few years we realized that it was a dangerous operation to install it and in fact there have been two deaths in Utah from people installing the heavy concrete fencing so we developed a light weight version that was not dangerous to install. It looks exactly the same. What is driving this is we did an installation on the Seville Estates just off of 2700 West, at that particular time we were testing a polymer in our product in those testing panels. Those testing panels were mistakenly taken and installed on the Seville Estates project. It was an employee mishap. I went to the job site as I usually do with a lot of our projects to inspect and make sure the installation is correct and I became aware that there was a problem. There was some cracking in the top of the panel and there was some deformation in the stone part of the panel. That was caused by the polymer causing some expansion in the material and it caused some aesthetic problem. I immediately started to change those panels out that were affected on the south side at our own expense. As we were changing that out, about 4 or 5 days after that, I got an email from Mr. Greenwood saying that we have had several emails from residents that noticed the exact same thing but they didn't know we were in the process of changing those panels and had the intention of changing their panels too, proactively. Those emails ended up getting sent to the City Council and to the Mayor and to City Engineering. Shane sent me an email saying, Brian what can we do about this. I immediately called him on the phone and said we know about the problem and we are on it and we are rectifying it as part of our warranty and we are changing it. I spent the next day going to every one of those residents and talking to them and explaining what the situation was and that we were changing the panels at no expense to the City and at no expense to the home owners. I asked one of the residents that had sent one of the emails if there was anything else I could help them with and he wanted to talk about putting our product around the rest of his agricultural property; so when staff says there are current problems, I am not aware of any current problems. We rectified the problem. It was a large expense to our company; we spent about \$20,000 in order to change it. I think this is a good thing for you to be able to hear because it demonstrates to the City of what kind of company that we are. I spent all day today driving every collector street in South Jordan and looked at our product that had been installed and I can see nothing that would give any indication to any of the City members or staff that there is a problem. The reason that we offer this product and don't do the heavy concrete fencing any more is it is a safety issue. I have talked with four of the City Council members in the last day to explain to them about this.

Commissioner Morrissey asked what types of procedures have been put in place to assure that install problem doesn't occur again. Mr. Morrow said we don't use that polymer any more.

Commissioner Morrissey said asked what is the strength of your product versus the solid wall? Mr. Marrow said I would have to ask in what context. Commissioner Morrissey said I drive the streets and I see you product and I have seen car wrecks on Bangerter hit walls like yours leaving holes in it but not going through it. I wanted to know from you if you had anything to tell us right now as far as this is just as strong and durable under those circumstances as a solid wall.

Mr. Marrow said I don't think it is going to be as impact resistant as a heavy concrete fence; it just doesn't have the mass. He showed pictures of a fence where a truck had hit a fence. It knocked two of the panels that weighed 3000 lbs. and launched them into a yard. The truck was towed out of the yard. We are currently working with the insurance company to replace the panels. Our estimate to replace it is about \$5,500. If it would have been one of our light weight products, the same thing would have happen but the cost to replace would have only been about \$1000. They get hit by cars all the time. We replace about 10 per year. One thing you need to remember if you pass this, if you change the ordinance back, it is going to put it back to just one single provider. The only people who do this type of masonry besides the block masons is Owell. They would know they would be the only ones and would raise their prices 25-30%. We have seen that happen in Herriman when they made an ordinance that it had to be a particular design and no one else carried that design. We are a local company. We developed the technology here in Utah and we think it is a safer alternative product. We do make the solid concrete walls but we do not install them. We do just replacement only. Our product can be damaged easier but it won't kill anyone in an install. If you pass this, we will pull out of South Jordan City. We won't do any more product in your City because this text amendment will cut out 90% of what we do in South Jordan City.

Commissioner Haymore asked Mr. Marrow if he knew of any instances of large animals damaging the fences. Mr. Marrow said none. I am not aware of anything. I was raised on a ranch in Nevada and I know how animals are. If animals can see through it they are going to try to push through it. If they can't see through they are not going to bother it. Our warranty covers that. It takes about 15 minutes to fix it.

Chairman Naylor asked Mr. Greenwood if it is his feeling that you feel the same way after the discussions and they have replaced the defective fence panels; do you think you and Brad feel like this is something that you are recommending that we do to change it back to solid fence?

Mr. Greenwood said they have been really good at taking care of the situation that we had at Seville Estates and we applaud that. They have met with the residents, satisfied them, gave a warranty for any breakage from large animals, so he did well there. It is my understanding that because of all the complaints from all of the residents to City Council and Mayor, that it was the Mayor that directed the City Engineer to go back and make the changes. In our conversations with Brian and with Brad, we are going to support solid wall for collector street fencing. It will hold up better.

Commissioner Feist asked what has changed between now and when the due diligence was done last year to say now we no longer want to allow it for collector streets.

Chairman Naylor asked if it is just the incident at Seville Estates?

Mr. Greenwood said that is the catalyst. My personal opinion is, all these years that residents have been accustomed to the solid heavy walls and then when development started bringing in more and more of the Rhino Rock, they were surprised that it wasn't the solid wall that they expected.

Chairman Naylor asked if there is any chance that the Mayor and Council might change their minds based upon how well they dealt with the problem? He said I hate to see us be in a position where, as he points out, if you put somebody's name down and say this is the only one I am going to accept and then there is no competition, then the sky is the limit on what they will start charging.

Chairman Naylor said I guess we could take action on this and move it along but my question is will they still feel the same way understanding that neighbors now are hopefully satisfied. Mr. Greenwood said I really don't know what direction the City Council is going to go.

Commissioner Morrissey asked City Planner Schindler if the staff recommendation is also to change the language to 'solid' as well. What are your findings based on? City Planner Schindler said the recommendation is based on the City Engineer, Brad Kalvano, preparing this report.

Commissioner Morrissey said I don't have any evidence in front of me on this. I don't have any of the emails that were discussed. It is frustrating trying to evaluate changing something and eliminating competition and potentially driving up prices based on the limited evidence before us.

Assistant City Attorney Loose said one thing is remember your role. Evidence is a great thing and we talk about it all the time because you are usually tied into it. In this case there doesn't need to be evidence. The standard to change ordinances is, is there a reason. It doesn't have to be a great reason, just that there is a reason. Your recommendation shouldn't be based on whether you think the City Council would like or not like something. I just want to make sure that you know you are not tied into those usual standards you have. You can evaluate it on the merits of what is brought in front of you.

Commissioner Haymore said I share some of Commissioner Morrissey's concerns. It is not that I am looking for evidence to meet some sort of legal standard I am just trying to form an opinion about how I feel about the change. I don't have any information telling me that this product is not strong enough for the application that we want to use it for. I would be more comfortable if we could view the Engineering Report that was referred to earlier to help me understand what the differences of the product were and how this change is going to potentially make things safer. I want to know why this is a bad product and I want to know what has happened and why. If what truly brought this up tonight were complaints of residents, if those same residents went back in to the Mayor's office and said never mind, we are withdrawing our complaint, everything is wonderful now – would we still want to consider this.

City Planner Schindler said I can't tell you that is what instigated this in the first place. It came through from the Mayor's Office to the City Manager and to the City Engineer who wrote the report.

Commissioner Evans said my concern is if we were to react every time we got a group of emails from a group of people that all of a sudden get together and then that proliferates, particularly within a neighborhood. I feel very uncomfortable making a change like this without knowing did those emails come specifically from this project that they agree was faulty; that it had a problem. I don't have enough information to know if this is a universal problem or if it is an isolated problem and based upon the emails then we are reacting emotionally because of constituency base or is it really a universal

concern that we need to look at. The word “a lot” of emails can vary anywhere from five to fifteen-hundred. From my experience, I just don’t feel comfortable because I don’t have enough information to make an informed decision.

Commissioner Feist said I agree with what is being said. If this is an isolated incident and if the incident has been corrected; but if they have a lot of other lineal feet throughout the City and there was no other complaints but it was on a single project, whether it was large or small, and if there was a lot of due diligence that went forth last year, and for one incident we are going to change how we’re going to do operations, we would be changing every week. There are mistakes that happen. If there is more behind this then let’s have the information brought forward with the emails, with the different locations and so forth, but where I stand I don’t see there is enough to make the change.

Commissioner Haymore said when we think about what type of fencing we should allow on these collector streets we really need to separate the company from the product. If it is a product we like and a poor company producing it we are hoping another company could come in and do it better. I think we should put some stock into this company that is coming out and doing it more than any other company but at the same time you’ve got to look at is this product a problem and should we allow it in our City. I don’t have enough information. I know I felt very comfortable with it when we voted on it last year. I don’t have a whole lot of evidence to change my opinion at this point.

Commissioner Evans said I would like to recommend that we divide the issue and that means then that we vote of this separately, then we vote on the solid wall.

All Commissioners unanimously voted to divide the motion into two motions.

## **H.2. Potential Action Item – (See V.H.1)**

All Commissioners were in favor of dividing the two motions.

### Motion #1:

**Commissioner Evans made a motion to recommend City Council adopt additional staff recommended changes to Section 16.04.200(C)(2) by removing: Residential side and rear yards adjoining or parallel to collector streets shall meet the following criteria: and be replaced with Residential side and rear yard fencing parallel to and within 20 feet of collector streets shall meet the following criteria: and adding 16.04.200(C)(2)(e) All areas between any allowed fence and the right-of-way shall be properly landscaped as approved by City Planning Staff and be continually maintained by the adjacent property owner. Commissioner Morrissey seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

### Motion #2:

**Commissioner Evans made a motion that based upon the limited evidence, limited information and on testimony presented, we are giving an unfavorable recommendation, and to not approve the revisions to the requirements and standards for collector street fencing, (16.04.200) text amendment File No. ZTA-2014.04. Commissioner Haymore seconded the motion. Roll Call Vote was 5-0 in favor. Commissioner Jolley was absent.**

**VI. OTHER BUSINESS – NOT PUBLIC HEARINGS**

None

**ADJOURNMENT**

**Commissioner Evans motioned to adjourn. All Commissioners were in favor.**

The September 9, 2014 Planning Commission meeting adjourned at 8:50 p.m.

Meeting Minutes were prepared by City Recorder Anna West.

**This is a true and correct copy of the September 9, 2014 Planning Commission meeting minutes, which were approved on September 23, 2014.**

*Anna M. West*

**South Jordan City Recorder**

SEPTEMBER 9, 2014

## PLANNING COMMISSION MEETING SIGN IN SHEET

PRINT NAMEADDRESS

KEN BOLDWYN

11121 S. HEATHER GROVE LN

Al &amp; Beth Bell

5032 Black Twig Dr.

Kent Barker

9683 S. 2740 W

Stacey Ward

10346 So Silver Moon Place SoJo, Utah

RON BEEL

3356 W. SNOWMOON PLACE

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655 E. 4500 SO. STE 100

Bryan Fanner

1099 W South Jordan Pkwy

GARY LANGSTON

4700 DAYBREAK PKWY

Bruce &amp; Callie Larson

1599 W. Village Grove Ln.

DAREN JOHNSON

243 Bunker Hill Rd.

Ted Didas

8610 Sandy Pkwy

WARREN KIRK

225 S. 200 E. SLL

Paul Stimpson

2535 Valley View, SLS-

MARK QUERI

11623 HARVEST MOON CT

she sat on the Planning Commission for 7 years; not once did they have a Planning Commission meeting with the behavior of last week. As chair, she would never have allowed one commissioner to flog another commissioner publicly. She said there is a certain decorum of behavior. They need to stop embarrassing the city. This cannot continue; they need to resolve the issue and move on.

**Luane Jensen**, 11186 S. 2700 W., said she was at the last City Council meeting. She said she has no dog in this fight. She has lived here 41 years and has attended many City Council meetings. She said the last meeting hurt her because South Jordan is a wonderful town that they are proud of. When they do these things, they need to do them as public hearings. She was appreciative to see the issue as a public hearing tonight. She said if she had her scouts with her at the last meeting, she would not have let them sit through that. She said South Jordan is better than this; it is a great city. She said they should do this right, with a public hearing. She said a house divided cannot stand. She said she has seen Councils that have not gotten along but they brought it together for the sake of the city. She noted 4 people that have participated in the city, after they have been released from the City Council. She said they need to serve the city and remember to always hold public hearings.

#### IV. SHORT RECESS PRIOR TO BEGINNING BUSINESS & PUBLIC HEARINGS

Mayor Osborne indicated that the City Council would take a 5 minute recess.

#### **BUSINESS AND PUBLIC HEARINGS**

#### V. PUBLIC HEARINGS AND POTENTIAL LEGISLATIVE ACTION ITEMS

- A.1. **PUBLIC HEARING** – Ordinance 2013-06, Proposed Text Amendment Revising the Requirements and Standards for Collector Street Fencing, Title 16.04.200. (*By Community Development Director Shaw*)

Planner Schindler reviewed the background information on this item.

**Brian Marrow**, applicant, Rhino Rock (Provo), said they have been in business since 1995. They started the precast concrete fencing in the Salt Lake Valley. It is dangerous to install precast concrete fencing, and he noted some fatalities in the industry. After 10 years, he developed a concrete fence panel that is durable, but they reduced the weight by 90 percent. It looks the same as the heavier product. It has a concrete shell and is installed with the column system, just like the precast concrete fence. Because the panels are lightweight, it increases the safety and reduces the cost by 25 percent.

Mayor Osborne asked if the durability of this fence is less than a solid concrete fence? Mr. Marrow said not on normal wear and tear. It is better in freeze and thaw resistance. Heavy equipment and cars can damage it. It is easier to replace if damaged, and it has a 10 year warranty.

Council Member Seethaler asked how many legitimate competitors are there for this product? Mr. Marrow said none that he is aware of. That does not mean there won't be more in the future. It was noted that they can fit 10 times the product on a truck, versus normal concrete fencing. They ship product as far as Texas and have done business in 14 states. Council Member Seethaler said he does not want to rewrite the Ordinance for a monopolistic advantage. Mr. Marrow said the way the code is written, it does not favor their company; it just makes it so their product would be allowed on a collector street.

Council Member Newton asked if this material comes in 8 foot sections? Mr. Marrow said they are working on a 2 ft. section that would go below a 6 ft. panel. Council Member Newton asked how does this stand up to the wind, and how would graffiti and scarring be treated on this fence? Mr. Marrow said they use the same column system for this fence as they do for the heavy precast fence. The fence is engineered with a column every 9 feet. The fence is designed for 90 mph winds, and the panel was tested at 140 mph. He said going from a 6 to an 8 ft. fence would require a building permit, and the footings have to be designed for an 8 ft. fence.

Mr. Marrow said with graffiti, they can reapply the stain treatment for \$150, and the fence looks like new. The pressure wash is not effective. Scarring on the fence would be minimal but the fence can be patched up and repaired; they have even repaired holes in the fence to look like new.

Council Member Short said this type of fence is used back east.

Planner Schindler noted some changes to the Ordinance, section C. 5. He passed out the proposed changes (Attachment A).

Planner Schindler explained that a solid fence is required so the fence will be durable. This change gives them flexibility so that if the fence had another material in the core, but the exterior fence is still concrete and the fence is solid, staff could approve the fence.

Council Member Newton asked why they are proposing to bring back front yard fencing? Planner Schindler said they have had many requests. CM Geilmann said it is because of 11400 South. Council Member Newton asked if there would be some restriction so there is some continuity in the look of the front yard fences. Planner Schindler said they can require that they match if they are next to each other. For the back yards, the first one to come in with the request picked the fence, and the neighbors had to match it. Council Member Barnes said he does not want to place a restriction on people to require them to have a matching fence. Council Member Newton said they are trying to avoid the patchwork appearance and destroy the appearance of South Jordan.

**Council Member Seethaler made a motion to limit the discussion on this item.**

Council Member Seethaler said he would like to limit the discussion to the amendments, as proposed, and not open up discussion on the entire Ordinance. It would be appropriate to bring back the entire collector street fencing at another time.

**Council Member Barnes seconded the motion.**

Council Member Newton said the question is if they want to have congruency in the law for the front yard versus the back yard.

**The vote was 4-1 in favor, with Council Member Newton opposed.**

Mayor Osborne opened the public hearing.

**Kevin Peterson**, 1083 Willow Trail Way, said he has purchased and used this fence, and he was pleased with it. It is an exciting option that is needed in the market. It meets the aesthetics criteria, but installation is easier and it still has the strength with the columns. It is nice that they can install the fence without heavy equipment, and it is affordable. The fence looks great.

**Aleta Taylor**, 11131 S. Anna Cir., said she is in favor of the text amendment. She said it is good to allow more options. She likes the variety, and noted the safety issues and challenges to install a precast concrete fence. She said the solid fence was required because the fences are between busy roads and residential homes. The fences are meant to keep a car out. Wrought iron does not work because it is denying the residents privacy and safety. If they want continuity in their fences, they should choose something that gives them privacy, safety, and a sound barrier. She said she supports the text amendment as it gives them another option.

Mayor Osborne closed the public hearing.

A.2. Potential Action Item – (See V. A.1.) Ordinance 2013-06

Planner Schindler clarified that the code calls for all collector street fences to be consistent or similar in design, including front yards, provided that it meets the City Ordinance.

Council Member Barnes said one reason for the solid fence is to stop cars from driving through. What mph would this fence keep cars out versus a precast concrete fence? Mr. Marrow said trucks can go through solid concrete, and through this fence too. He said it protects better than vinyl. There is more collateral damage with the concrete wall, and they need to consider damage to the driver.

Council Member Barnes said it would be impossible to say what fence would keep out danger. He said fence style is very subjective. Are they more concerned about keeping the car out, or collateral damage? He feels they should let the market drive this because they can't mandate these things across the city.

**Council Member Barnes made a motion to approve Ordinance 2013-06, with the recommended change to item C.5. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.**