

**MINUTES OF A REGULAR PLEASANT VIEW CITY
PLANNING COMMISSION MEETING HELD**

July 6, 2023

<https://www.utah.gov/pmn/files/1013609.m4a>

MEMBERS PRESENT

Andy Nef
Dean Stokes
Jeff Bolingbroke
Julie Farr
Manya Stolrow
Chad Kotter
David Gossner
Sean Wilkinson

VISITORS

Cameron Diehl
Todd Godfrey
Scott Cope
Kevin Fullmer

EXCUSED

STAFF PRESENT

Amy Mabey, City Administrator
Brandon Bell, Planning and Zoning Administrator

MINUTES PREPARED BY:

Brooke Smith, MMC

MINUTES APPROVED:

October 5, 2023

Commission Chair, Andy Nef, called the meeting to order at 6 pm

OPENING PRAYER

PLEDGE OF ALLEGIANCE

DECLARATION OF CONFLICT OF INTEREST

Commissioner Nef welcomed the audience and expressed gratitude for their presence despite the meeting's relocation due to painting upstairs. Commissioner Wilkinson was asked to lead with a prayer. The prayer, expressed gratitude for the city, its people, and the country, especially in light of Independence Day. The prayer also acknowledged those who had contributed to the nation's progress and asked for guidance in continuing their work. Commissioner Nef asked for conflicts of interest. None were declared.

LEGISLATIVE ITEMS

Cameron Diehl, Executive Director of Utah League of Cities and Towns (ULCT).

Cameron Diehl, Executive Director of the Utah League of Cities and Towns, and land use attorney Todd Godfrey presented on recent changes to state land use law. Specifically, they detailed Senate Bill 174, passed in the 2022 legislative session, which institutes a uniform subdivision approval process for cities across Utah.

Mr. Diehl began with an overview of the political climate and recent trends in the state legislature's approach to municipal governance. He explained that the legislature has increasingly encroached upon local authority in recent years, evidenced by the fact that the 2023 legislative session saw over 240 bills introduced that impacted cities in some manner. This represented a dramatic increase from just 100 such bills when Mr. Diehl began his career at the League of Cities and Towns in 2006.

As the advocacy organization for Utah's cities and towns, the League aims to collaborate with state officials wherever possible but also stands ready to vigorously defend local control and planning authority when necessary. Mr. Diehl explained that a major inflection point in the legislature's

approach came in 2005 when lawmakers fully overhauled the Land Use Development and Management Act (LUDMA) in a way that blurred the lines between cities' administrative and legislative land use decisions. Courts grant much more deference to cities on legislative zoning actions, whereas administrative approvals like subdivisions receive heavier scrutiny. By merging zoning and subdivision concepts under LUDMA, cities lost some discretion on subdivision decisions.

This provided helpful context for the changes instituted under SB 174. Mr. Godfrey explained that the new law creates a uniform subdivision approval process across Utah. Most significantly, city councils may no longer approve subdivisions, as those are now considered solely administrative decisions made by planning department staff and planning commissions. Planning commissions are restricted to reviewing only the preliminary plat for a subdivision; final plat approval goes to staff.

The law allows but does not require any public hearings on subdivisions. Mr. Godfrey suggested this change could improve the process by avoiding emotional public testimony on broader zoning issues already decided when the land was designated for that use. However, cities retain full discretion over legislative zoning decisions.

The presenters stressed all cities must update their ordinances by February 2024 to comply with the new subdivision approval process mandated under SB 174. The League has already secured state funds to assist cities with implementation. Mr. Diehl encouraged Pleasant View to reach out to their technical assistance resources.

During a Q&A portion, Pleasant View officials asked several clarifying questions about aspects of the law and how it would impact their current processes. For example, they sought clarity on which subdivisions fell under the bill's provisions. The presenters provided helpful answers, emphasizing that only housing-related subdivisions were affected, not commercial ones.

The presenters underscored the importance of cities proactively updating their general plans before addressing zoning issues. They noted comprehensive planning helps provide the supportive context and rationale for subsequent zoning policies.

The presentation ended with the presenters urged ongoing communication with state legislators about local needs, as planning authority derives from local residents. Pleasant View's unique context and housing challenges may differ from other cities, and communicating this helps defend against unwanted state interference in local governance.

Public Hearings – Administrative Considerations

a. Minor Subdivision.

Consideration of an application for approval of a Minor Subdivision for the property located at approximately 883 West Pleasant View Drive.

The Pleasant View Planning Commission held a public hearing in August 2023 to consider approval of a minor subdivision application for a 0.35-acre property located at 883 West Pleasant View Drive. City Planner Brandon Bell presented the staff recommendation and outlined key details regarding the request.

Mr. Bell explained the minor subdivision would formally create a legal lot, allowing the property owner to later obtain permits and approvals for development. While the parcel had existed separately since the 1960s, it had never been legally subdivided as required for permitting.

He detailed the proposed subdivision met basic requirements for a minor subdivision based on its size and location on an existing public right-of-way. However, staff recommended approval subject to several conditions due to the property's unique circumstances.

Mr. Bell described the recommended conditions of approval intended to address utility easements, access, and other technical requirements:

- Verify and record any necessary utility easements for existing overhead power lines and underground storm drains on the property
- Provide legal ingress/egress access through an agreement with the adjacent Stromberg Market, since the property lacks street frontage
- Coordinate potential shared parking agreements with the city for public stalls on adjacent park property
- Vacate a recorded 12-foot right-of-way on the south side after verifying its status via title research
- Record the subdivision plat concurrently with all associated easements to clarify property rights
- Meet redline revision requirements from the city engineer on the preliminary plat submittal
- Make any other technical adjustments needed for county recording compliance

Mr. Bell emphasized the number of easements and agreements required for the property. He stated the plat should only be recorded after preparing the legal documents so property rights were clear. Staff aimed to ensure the subdivision's technical compliance before the applicant invested in site plan approval and construction.

CITIZEN COMMENTS

The Pleasant View Planning Commission held a public hearing on the subdivision request. The Commission opened the hearing for public input, but there were no speakers from the public during the citizen comment period. After confirming there were no public speakers, the Commission closed the public hearing portion.

DISCUSSION

The applicant, Scott Cope, spoke to the concerns raised by staff. He stated he was generally amenable to the proposed conditions of approval but felt the overall development review process had been frustrating and expensive for an average resident like himself pursuing a small project.

The applicant, suggested the planning commission have earlier conceptual reviews for residents to get high-level feedback on project feasibility before spending resources on fully engineered plans. He felt coming before the Commission so late in the process provided little value.

In response, the commissioners acknowledged Mr. Cope's frustrations but emphasized their role was evaluating complete, technical applications at this stage versus providing initial project feasibility guidance. They noted the city leadership was open to improving its development review procedures to aid small businesses.

Brandon Bell wanted to contribute to a discussion about concerns. He proposes modifying the staff recommendations, specifically regarding item number six. This item involves verifying a 12-foot right of way on the site's south side and indicating it on the plat. Brandon Bell refers to comments made by the applicant that they can choose to adjust or remove this easement if they can obtain the necessary signature from someone else.

MOTION AND CONDITIONS

After extensive discussion, the Planning Commission voted unanimously to recommend approval of the minor subdivision subject to the staff's conditions of approval, with a modification to address the 12-foot right-of-way pending fire marshal review. * This approval would allow the legal lot to be created.

STAFF RECOMMENDATION

Staff recommends approval of the Soda Shop Subdivision, subject to the following recommended conditions of approval:

- Rocky Mountain Power, needs to verify what distance a building would need to be from the power line, not just vertically, but horizontally, and have that area shown accurately on the plat. If an easement is not in place, an easement should be granted to city, as a Public Utility Easement, or to Rocky Mountain Power.*
- The applicant needs to provide a storm drain easement to Straw Market, to enable them to have the storm drain line cross the property, provide an easement agreement to the Straw Market property, and show that easement on the plat.*
- The property currently in Pleasant View Park Road belonging to the parcel proposed for subdivision on the west side of the plat be dedicated to City, and that the applicant show that dedication on the subdivision plat.*
- The applicant provide an access easement agreement to the City, for this property that will be newly dedicated City property for a road, with an exhibit for an egress route for the property owner, through the road.*
- The applicant enter into an agreement with the City to use the parking stalls on City property to the south.*
- Staff recommends that the applicant verify potential existence and purpose of a 12' R.O.W. on south side of site, and show this easement on the plat, or vacate the easement if not present. **
- The applicant also needs to provide a title report, to verify easements on the property, among other reasons, etc.*
- The plat be recorded no sooner than all related easement agreements that are being required to be prepared for the property are recorded. The respective agreement numbers for these easements, and the easements themselves need to be shown on the plat.*
- Any easements or other agreements being provided from the City, or entered into with the City need to be approved by the City Council.*
- Further the applicant should show the former property lines on the plat, in light grey, to indicate the former property boundaries, on the plat.*
- The applicant be required to meet any redline comments currently spelled out by Engineer on City Plat.*
 - Adjust signature blocks to correct signature blocks for this type of subdivision.*
- The above recommended conditions of approval be reviewed for completion by members of the Development Review Committee.*
- Any adjustments necessary to record, including those required by Weber County, that do not violate the City requirements for a plat.*

b. Conditional Use Permit and Site Plan for Soda Shop.**Consideration of an application for approval of a Conditional Use Permit and Site Plan for a soda shop (drive-in refreshment stand).**

The Pleasant View Planning Commission held a public hearing to consider a conditional use permit and site plan application from Scott Cope and Kevin Fullmer for a proposed soda shop on a 0.35-acre parcel at 883 West Pleasant View Drive. This was the same minor subdivision parcel discussed in the earlier agenda item.

City Planner Brandon Bell presented the staff recommendation to table the application due to unresolved technical issues with the site plan, specifically lacking engineered solutions for sewer service and stormwater drainage. He outlined that the Adequate Public Facilities ordinance requires infrastructure to support development to be available concurrent with impacts. Additionally, setback limitations from overhead power lines traversing the site remained unclear without an easement verification from Rocky Mountain Power. Bell felt these infrastructure uncertainties precluded confirming the site plan's technical viability at this stage.

DISCUSSION

The discussion revolved around whether to approve or table a public hearing. The conversation covered various aspects and concerns regarding the proposal. The commissioners contemplated the option to table it, deny it, or approve it with conditions. The group emphasized the need for the technical requirements of the ordinance to be met, including landscaping, signage, building height, and setbacks. Concerns were raised about utilities, particularly sewer and storm drain solutions, with the absence of proposed solutions causing delays. Commissioners discussed the potential impact of power line issues and the costs associated with potential modifications.

There was also debate about granting conditional approval with staff's conditions versus waiting for further details. The commissioners sought to find a balance between expediting the process and ensuring that core engineering issues were addressed. The conversation concluded with the suggestion to continue with the proposal, track the necessary conditions, and decide at a later point whether to deny, table, or recommend approval based on the evolving information. The need for an easement agreement for storm drainage through city property was noted, and it was confirmed that a public hearing had not yet taken place.

APPLICANT

During the applicant's presentation, Scott Cope and Kevin Fullmer addressed concerns related to their proposal. They responded to questions about the feasibility of their business model, explaining that their concept was inspired by a neighboring property owner's initial idea, which proved too expensive to implement. They highlighted that their building design aimed to accommodate potential traffic flow challenges by placing a sliding door for service, similar to other businesses in the area. The applicant acknowledged potential traffic concerns and the need for a possible second lane. They emphasized their efforts to optimize the layout for a successful operation. Questions about signage were addressed, with the understanding that it would need to comply with the city's sign ordinance.

The applicants discussed the building's design, explaining their choice of using shipping containers to create a modern and unique appearance. They clarified that the containers would be modified to have an overhang, lighting, and other amenities. The timeline for their project was also discussed, with the

applicants aiming to have the container build-out completed in approximately six weeks once they receive the necessary approvals. They highlighted the financial investment required for their venture and expressed confidence in the location's potential. The applicants concluded by indicating their readiness to engage with the public and receive feedback on their proposal.

CITIZEN COMMENTS

Commissioner Nef opened a public hearing to gather community input. No members of the public provided comments, so the hearing was closed.

DISCUSSION

During the subsequent discussion, the planning commissioners, staff, and the applicant engaged in a dialogue regarding the proposal. A suggestion was made by one commissioner to incorporate the conditions recommended by the engineer's report into the approval process. The idea was to ensure that any conditions not explicitly covered by the approval would need to be addressed before moving forward. This suggestion aimed to provide clarity and accountability for meeting the requirements. The proposal's details were further examined, and the discussion revolved around potential conditions, site-specific challenges, and the applicant's intentions. The conversation reflected an effort to ensure that all aspects of the proposal were thoroughly considered and that the necessary conditions were integrated into the approval process.

MOTION AND CONDITIONS

A motion was made to conditionally approve the conditional use permit and site plan, incorporating all staff recommendations outlined in the staff report. They specified that the approval should encompass the provisions of the application and the city ordinances referenced by the staff. The motion also addressed the concerns that led to the proposal's tabling and indicated that all these issues be resolved. They emphasized the importance of obtaining city council approval for any easements across neighboring properties and city-owned land. Furthermore, the motion ensured that the recommendations provided by Jones and Associates and the city engineer were to be addressed in their entirety without being superseded by the approval. The motion was seconded.

DISCUSSION

After the motion was made, the discussion continued with commissioners addressing additional points. The conversation acknowledged the motion on the table and confirmed that it had been seconded for further discussion. The discussion confirmed that the shared parking agreement, driveway adjustments, and related matters were adequately addressed in the proposal. The conversation demonstrated a careful review of the proposal to ensure that all relevant conditions and considerations were taken into account.

MOTION

A vote was called. The motion passed 5-1.

DISCUSSION

The Commission emphasized the approval's conditions placed a substantial burden on city staff to ensure technical requirements were met. Mr. Cope acknowledged the challenges but hoped for prompt approvals to open before the winter season. The commissioners indicated general support for the proposed use at that location to enliven the area.

Staff Recommendation

Based on the core concerns listed at the beginning of this report, Staff recommends tabling of this item, until those issues are resolved. Even when those issues are resolved, the following items will still need to be addressed, when the item is considered by the Commission, (or reconsidered, if this item is tabled). Staff further recommends that the following items be Conditions of Approval, if still unresolved, if the project is granted approval, at this time (or at a future meeting):

- *Staff recommends that the applicant add a distance from the closest point of building on the west side of the property (similar to the other ones that have been provided to the other property lines).*
- *The applicant needs to provide an easement agreement for a sewer lateral to be located on the Straw Market parcel to the east, or an easement agreement from the City to the applicant, for the applicant's private sewer service line, through the City park, depending on where the sewer main line is able to be connected to - (10' wide is acceptable). If either of these options for sewer is not pursued, as another, less desirable option, the applicant has the option to connect to a sewer main line in Pleasant View Drive. This option is less desirable to do to needed excavation in an area crowded with utility, and the potentially exorbitant expense associated with such excavation.*
- *The applicant needs to enter into agreement to be approved by the City Council for fee-in-lieu of onsite detention, if City storage detention is used. (The City can provide an example of this agreement if this option is chosen.)*
- *The applicant needs to complete a shared parking agreement with the City to enable the use of City property for parking.*
 - *Adjustments to the elevations or design of the buildings be permitted, if there are discrepancies between the proposed plans, or other adjustments are needed, within the requirements of City Code.*
 - *Any minor design changes, that are within the requirements of City ordinance and the Public Works Standards, that are needed to accomplish any recommended conditions of approval listed above.*

CONDITIONAL RECOMMENDATIONS MADE DURING THE MOTION

The Commission specified that the approval should encompass the provisions of the application and the city ordinances referenced by the staff. They emphasized the importance of obtaining city council approval for any easements across neighboring properties and city-owned land. Furthermore, the motion ensured that the recommendations provided by Jones and Associates and the city engineer were to be addressed in their entirety without being superseded by the approval.

REMARKS FROM COMMISSIONER AND/OR STAFF

At the conclusion of the Planning Commission meeting, Commission Chair Nef offered brief closing remarks and updates. He thanked everyone for attending the recent joint training session with the City Council, noting it had been informative and well-received. He mentioned the calendar showed only one meeting currently scheduled for next month, with nothing else on the docket this month barring any urgent items.

Amy Maybe provided several updates on upcoming projects. She said the transportation master plan was nearly complete and would soon be presented for discussion before consideration and adoption by the City Council. Maybe described it as an exciting plan that incorporated public input from open houses last year. Adoption would allow the implementation of updated transportation fees to maintain infrastructure.

The general plan update would follow on the heels of the transportation plan's approval, keeping the Planning Commission busy. Brandon Bell shared he had arranged training in August/September with former Salt Lake County Planning Director Wilf Sommerkorn on group decision-making and avoiding bias. Additionally, Bell encouraged attending the upcoming American Planning Association conference in Ogden in late September.

In closing remarks, the Commissioners thanked the staff for arranging the conference and training.

ADJOURNMENT

A motion was made to adjourn the meeting.