

# SOUTH WEBER CITY PLANNING COMMISSION MEETING

**DATE OF MEETING:** 2 September 2020

**TIME COMMENCED:** 6:00 p.m.

**LOCATION:** Electronic Meeting through Zoom

**PRESENT: COMMISSIONERS:**

Tim Grubb  
Gary Boatright  
Rob Osborne  
Wes Johnson  
Taylor Walton

**CITY ENGINEER:** Brandon Jones

**CITY PLANNER:** Barry Burton

**CITY ATTORNEY:** Jayme Blakesley

**DEVELOPMENT COORDINATOR:** Kimberli Guill

**Transcriber:** Minutes transcribed by Michelle Clark

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**ATTENDEES:** Blair Halverson, Joe Perrin, Enrique de Varona, Joseph Cook, Fred Cox, and Leland Martineau.

**PLEDGE OF ALLEGIANCE:** Commissioner Osborne

**Public Comment:** Anyone requesting to comment live via Zoom must pre-register at the following <https://forms.gle/PMJFhYFJsD3KCi899> before 5 pm on the meeting date.

Comments will also be accepted at [publiccomment@southwebercity.com](mailto:publiccomment@southwebercity.com)

- a. Individuals may speak once for 3 minutes or less
- b. State your name and address
- c. Direct comments to the entire planning commission
- d. Note planning commission will not respond during the public comment period

## **ACTION ITEMS:**

**Action on Preliminary Site Plan & Improvements for The Lofts at Deer Run (approx. 3.21 acres), located at Approx. 7870 S 2700 E by Developer Joseph M Cook of Deer Run Investments, LLC.:**

Commissioner Osborne expressed this meeting is a continuation from the last meeting in which the planning commission asked the developer for several items. He voiced his concerns with Building D not having any commercial parts to it; therefore, it doesn't fit into the zone.

Joseph Cook, developer of the Lofts, disagreed and referenced Utah Code Section 10-9A-306 concerning land use regulation. He then referenced South Weber City Code of the CO Zone 10.5.6 D concerning mixed use developments shall include a ground floor commercial component fronting all major streets and are encouraged to include a vertical residential component. Residential and commercial are encouraged to be combined vertically; however, upon planning commission recommendation, detached residential units shall be permitted. Joseph pointed out Building D is not fronting a major street and has no commercial value.

Commissioner Grubb stated the C-O Zone does allow for it with under 10-5N-6. City Planner, Barry Burton stated it is clear the ordinance allows for buildings that do not have commercial in them, it just says the planning commission must approve that. Commissioner Grubb explained the planning commission has the authority to recommend commercial or not recommend commercial if the building doesn't front a major street. He is okay with recommending residential only for Building D. Commissioner Walton agreed. Commissioner Boatright agreed. Commissioner Johnson feels the entire development should be commercial overlay because that is what the developer requested, and every building needs to have some commercial component. Barry remarked the C-O Zone allows for a building that has no commercial component if the planning commission recommends it.

Commissioner Walton addressed the development agreement – item #2 concerning elimination of commercial requirements. He would like to know how we arrived at the 27,000 sq. ft. in the development agreement.

Fred Cox, developer, explained the layout has an attached exhibit for the development agreement, which shows approximately 27,000 or more square feet of commercial fronting the major street. They wanted to make sure with the 72 residential units, there was a certain amount of commercial. He conveyed there is additional space that has not been counted for which includes exercise and storage for residents. The exhibit shows residential units in the back with no commercial under them. He expressed the developer has met the requirement for 27,000 sq. ft. leasable area which is included in the development agreement. Barry clarified you arrived at the figure of 27,000 sq. ft. because that was the square footage of the bottom floor of the two buildings that front the major street.

Commissioner Walton asked the developer what he anticipates as commercial for this location because he is concerned about empty store fronts. Joseph understands the concern with commercial and explained they have a contract for half of the commercial space right now. Commissioner Walton is concerned there may be too much commercial for this development. Brandon Jones, city engineer, expressed 27,000 sq. ft. is not a specific number required by the zone and any amendments would be made to the development agreement. Joseph is concerned about the commercial space and suggested there is room for discussion.

Enrique de Varona would like to discuss the commercial, but they have been in negotiations with a company, in good faith, and he would like to maintain that. Joseph would hope if they take out some commercial, then he would hope to be able to reduce the commercial density of this site. Enrique is willing to discuss commercial on Buildings B & C. Barry explained the city staff met with the city attorney and was told any amendment would require a revision of the development agreement. Enrique expressed if 27,000 sq. ft. is reduced by two-thirds, it would help with the

parking. Brandon questioned how that will look. Joseph would be amenable to decreasing the commercial and dropping the buildings down a floor. Commissioner Grubb suggested the possibility of turning Buildings B & C so that they face each other, which will create more of a residential type space. Enrique discussed the cost involved with redrawing the plan.

Jayne Blakesley, City Attorney, discussed the ordinance does not specify a minimum square footage requirement for commercial, that requirement is only in the development agreement. Any change would require an amendment to the development agreement. Barry pointed out the ordinance does require commercial on any building facing the street, and that is why there is the suggestion to turn the buildings.

Commissioner Osborne is willing to eliminate the commercial which would save the developer money, and requested the developer look at reducing the number of residential units. Commissioner Johnson asked if the developer is willing to eliminate all commercial. Joseph discussed that being a huge expense. He would be open to eliminate the commercial, but they do have a 2.5 million contract on the table right now. He thinks there is room on the commercial to decrease the density. Joseph would consider eliminating all the commercial; however, there is a contract for Building A. He is willing to eliminate a couple of units.

**Access Driveway:** Commissioner Osborne requested the access driveway be amended to 36'. Joseph voiced his frustration because this is something that has been thrown out at them at the last minute. He pointed out two fire marshals and the city engineer have approved this plan. Commissioner Osborne explained the city requires all commercial properties to have a 36' wide entrance. (i.e. Maverik and Morty's Car Wash). Brandon discussed 26' allows for one lane in one lane out and 36' allows for one lane in and two lanes out. Commissioner Grubb discussed the pinch points with the 26' and he doesn't feel it is unreasonable to ask for 36'. Fred pointed out the 36' is something that hasn't been discussed with them in the last 18 months. Brandon disagreed and stated the width of those entrances have been discussed multiple times.

Dr. Joe Perrin, who conducted the traffic study, discussed the analysis. He explained the latest study points out there is not enough traffic on 2700 East. Commissioner Johnson asked about the site radius for the north entrance/exit. Commissioner Osborne asked what the site distance from Deer Run Drive is turning onto 2700 East with the assumption there is a three-story building. Fred discussed they were told the area at the corner fencing will be open (rod iron see through fencing).

Leland Martineau, developer's civil engineer, discussed the site distance. From the north entrance the site distance is over 350 ft. which meets the requirement for a 35-mph road. Joseph is willing to make the 36' entrance work, but he wants it on the record that the 36' entrance hasn't been brought up until now and the traffic engineer doesn't think it is necessary.

Commissioner Johnson discussed the State requirement for day care center fencing. He stated the fence is required to be a solid fence as per (Rule 381-100-9). Fred Cox will check into that.

Commissioner Osborne wants to go on record that the planning commission has required the 36' entrance for other commercial properties in the city. Fred Cox expressed the north entrance will work better for 36'. Commissioner Walton questioned the 36' requirement because he doesn't see how it benefits the city. Commissioner Johnson feels it benefits the safety. Commissioner

Walton pointed out the traffic study and site lines are okay with the 26' and what makes sense to require the 36'. Commissioner Grubb feels it became an issue when he saw 150 students and 20 employees and the timing of residents coming and going from this site and children being brought coming and going to this site, and the city using the frontage road, is pretty much the same time. He pointed out if the developer is willing to eliminate some of the commercial, it may change this. Commissioner Walton commented when he looks at the facts of the traffic study, he does not see it warrants a change in the entrance width. Commissioner Johnson asked what the minimum width requirement for entrance is into commercial. Joseph read from city code 10.8.2. Barry does not see a requirement for a minimum width and stated the ordinance is silent on a minimum width. He stated 26' is the minimum requirement for fire code.

**Parking:** Dr. Joe Perrin discussed how parking is calculated and based upon the number of students and typical drop off time, the day care only needs 8 parking spaces. In theory, they used a standard practice for shared parking. Technically, there will be more parking during the day. He explained the difference between day care drop off and school drop off. Joseph discussed peak time for schools is the same for everyone because there is a set time that school starts and school ends, but a day care has random drop off and pick up at no set time. Commissioner Johnson discussed at a day care center, the children need to be walked into the day care and checked in. Commissioner Boatright asked about the culture shift because of COVID and people working at home. Dr. Perrin discussed the shared parking analysis is based on no COVID. He discussed less traffic because of COVID, but there is not the data out there. Commissioner Grubb referenced the traffic study concerning 50% of residents need their parking during the day, which to him, seems a little bit low. He questioned on the weekend it shows a 5% for offices and services. He assumes those offices and services will still be used on a weekend. Dr. Perrin discussed offices and services being a different service which is based on data that has been collected over the years, verses retail services.

**Hours of Operation:** Commissioner Grubb suggested sticking to the commercial operation hours from 5:00 a.m. to 6:00 p.m. and no operation on weekends. Fred discussed most day care centers typically being closed on weekends. Commissioner Grubb asked for specific business hours because that will affect the traffic study numbers. Dr. Perrin commented if the day care center extends their hours, then the percentage needs to be changed in the parking analysis.

The planning commission discussed concerns with the hours of operation being limited with the 5:00 a.m. to 6:00 p.m. for commercial businesses. Commissioner Grubb pointed out that is why the general plan pushes residential for this area. Fred commented on the zone being changed three years ago and the difficulty the previous owner had with the commercial component. He discussed the hours of operation being office type hours. He stated the childcare center will act as an anchor and the residential as well, but they are trying to be careful because they don't want the commercial be blight.

Commissioner Boatright doesn't feel this is a good area for commercial. He likes the fact if the commercial is removed the buildings will be lower. He agrees with Commissioner Grubb concerning the parking. Joseph asked if the commercial is removed from the other two buildings and they bring more residential up to the front, a lot of these issues can be resolved. He asked what an addendum to the development agreement would look like when referring to issues in the city code. He is amenable to working something out.

City Attorney, Jayme Blakesley discussed typically development agreements are not legislative actions. In this case, if what you are intending the development agreement to do is it to become a legislative instrument legislative and sub-plant code where code exists, then the development agreement would need to go through a public hearing requirements under LUDMA to be amended. He thinks unfortunately, concerning the building that front the major street, city code requires some commercial space. Brandon asked if the buildings were turned, does that change it. Jayme read city code 10-5N-6 paragraph D. He interpreted it as a mixed-use development shall include a commercial component and the building should front the major street. Jayme is having a hard time figuring out if the code will allow for the entire development to shed any commercial uses. Brandon discussed Building A being the day care center and still being commercial and Buildings B & C potentially not having commercial. Commissioner Grubb questioned what qualifies as fronting, because Building D can front even though it is setback. Barry stated the maximum setback is 10'. Jayme explained presently there is a site plan where one of the buildings is clearly oriented to front or run parallel to the major street. If the site plan were to be re-oriented where the shorter width of each building along the major street, then there would be a question as to which of the buildings, if any, front the major street. Jayme explained what Commissioner Grubb is proposing is that the development agreement may be vehicle to resolve that question. Commissioner Grubb suggested the development agreement designate a direction of the building and not considered to be commercial but recommended to be 100% residential. Jayme read paragraph D which states, "*shall include a ground floor commercial component fronting all major streets*". Jayme questioned if it is the building or the commercial component front the major street. Commissioner Grubb interprets it as the commercial component fronting the major street, which is what is being asked for Building A. Jayme reads that the same way.

Barry discussed the ordinance which states, "*however, upon planning commission recommendation, detached residential units shall be permitted*". It appears to him if the planning commission recommends a detached residential unit, the last sentence does not apply. Jayme expressed without question there are some things in the subparagraph that need to be figured out. The rule of interpretation when you are reading something like this would be to favor an interpretation where you can find some cohesion among the various sentences. He stated the final sentence is referring to the building with the ground floor commercial component and not all the buildings in the development. Barry discussed that negating the orientation of the buildings. Commissioner Grubb expressed the development agreement will clarify the gray areas. Joseph discussed ambiguity in the interpretation of this paragraph. He then referred to Utah State Code 10-9A-306 concerning the land use authority making the interpretation. Jayme suggested pinpointing exactly what the ambiguity is.

**Architectural Review:** Commissioner Grubb discussed the design standards and if he is going to recommend this type of development in a CO Zone – pedestrian friendly, carpooling, cycling, public transport, distinctive entrance opening, architectural features, visual interests, etc. As he looks at the buildings, he does not see any of that. This development should give a sense of harmony with the neighborhood and this style does not fit in this neighborhood. He doesn't see this giving a feeling of small-town South Weber. He feels there is a real disconnect with the architecture of these buildings and the area. This site is being raised on the back side with a 14 ft. retaining wall and he does not see how that fits in with the surrounding neighborhood. He feels the development should represent the topography of the land. There is no gathering spaces and coverings. Joseph is willing to investigate this and make this a reality. Commissioner

Grubb would like engineering to tell him why there is to be a 14 ft. retaining wall. Joseph explained the fire code regulates the grade. He feels this is an engineering and fire code issue. Commissioner Grubb commented how terracing can still satisfy the fire code.

Leland Martineau, developer's civil engineer, addressed the 40 ft. grade on this site. He pointed out there is 25 ft. of grade to be able to terrace and that is why the 14 ft. wall. Commissioner Johnson discussed the patio homes down the road from this development and how they worked with the topography in terracing between one floor and the next. Commissioner Johnson does not see a lot of open space area that creates gathering for residents. Fred pointed out on the drawings there is 3,000 sq. ft. in the basement of Building A for exercise. There is additional space in Building B for residents as well. He discussed the detention pond to the north, which can be a park as well as the play area for the day care. The lower area of the play area for the day care could be developed for residential use. Commissioner Johnson does not think the detention basin should be considered in the open space requirement. Brandon pointed out the landscape area is required to be 15%, but there is not a specific percent requirement for open space. Fred suggested open space on a roof of a building.

Commissioner Walton is more concerned about having enough parking spaces verses open space. He does appreciate Commissioner Grubb's comments concerning the design standards. Commissioner Walton is concerned about the visual for neighbors to the west. Discussion took place regarding lowering the buildings with the building closest to the west being the priority. Commissioner Boatright agreed. He questioned Building D that is on stilts and the potential for it coming down with an earthquake. Barry stated the city code does address building standards. Commissioner Osborne is not in favor of the 14 ft. retaining wall in the back. He is also concerned about the look of the buildings. He would like to see different materials used, particularly on the back, to allow for more appeal. Joseph is willing to work on the aesthetics of the buildings. Commissioner Johnson understands there are a lot of individuals who are concerned about the height of the buildings. Fred commented they tried to push Buildings A & B down as far as they could. He is not sure how to get Building D down any further. If the buildings are turned sideways, because of the 40' fall, it doesn't really help them. They purposely broke up the buildings in small areas, but the materials used outside can give the look of different buildings verses one big building.

Commissioner Osborne suggested the developers visit the patio home development on 2700 East. Commissioner Johnson asked if the commercial is removed from Building B & C, will that drop the building height. Fred would need to take a closer look at that. He suggested looking at the possibility of moving units from Building D to Buildings B & C.

**Break at 8:45 p.m.**

**Water Pressure:** Brandon explained the residents that live below the canal are on a different pressure zone. He is in the process of designing a project to get the transmission line from the east reservoir more directly connected, which may help some, but he actually hasn't been made aware of the low pressure, so he will look into that further. Brandon pointed out this development has the necessary fire flow pressure.

**Weber Basin Project:** Commissioner Osborne asked if this development would affect Weber Basin's project. Brandon commented Weber Basin has not presented anything set in stone with their project.

Joseph presented a plan that would line the buildings along the back of the property with green walkability. From the back it would look like a condominium. This would change the slope, but it would hide the retaining wall with the structures. Commissioner Grubb suggested making sure there are the necessary setbacks from the canal. He wants to make sure the developer can look at lowering the height. Joseph stated instead of a 14' wall the building would be incorporated into the 14' wall. Commissioner Grubb wants to be careful with bringing the building closer to the wall which would make it look larger. Joseph pointed out there are only two residential neighbors that abut this property. Commissioner Grubb stated there are residents on the other side of the canal.

Commissioner Walton asked if there is a fence between the canal. Brandon stated there will be a fence required between this development and the canal company. He stated there is a licensed agreement for the crossing of the canal.

Leland stated this plan is all subject to layout because he needs to look at the grade, etc. Joseph commented if they can reduce the commercial, the parking should not be an issue. He will look at roof lines and differentiating each unit.

Commissioner Osborne suggested decreasing the number of residential units, which would go a long way in goodwill. Joseph spoke to an investor during the break and he is willing to look at that.

Commissioner Grubb mentioned he would like to be able to review CC&R's, review current title report with current legal description. Joseph did not think that was part of the code requirement. Barry reported we do require a title report on all developments. Commissioner Grubb would like to see a specific drawing of what the detention basin looks like. Barry stated the bottom is to be rock and native grasses around it. Commissioner Grubb asked if it is going to be fenced. He doesn't want to drive by and look at a weed patch. It should be taken care of better than what he is hearing. Commissioner Johnson suggested grassing it. Barry stated that is not what is being proposed. Joseph stated they will grass it. Brandon stated there will need to be a fence along the south side and west side of the canal.

**Conditional Use Permit:** Barry explained this project is a conditional use because of the residential component. There will be an additional conditional use permit for the day care center. Because of the day care center, the city staff looked at how it will impact this project.

Discussion took place regarding when to meet and discuss this project again. Brandon reminded everyone this next review will be a concept drawing to make sure this new plan can even work. He doesn't want there to be expectations that are difficult to meet. It was decided the next meeting will be held on 16 September 2020 at 6:00 p.m.

Jayne discussed the amended development agreement requiring a legislative action. It will require approval from the planning commission and city council. The development agreement

and preliminary plat can be reviewed simultaneously. Joseph thanked the planning commission for their time.

Commissioner Grubb recommended the developer review the following:

1. Revisit the preliminary approval request with a request to look at a new plan that deals with residential only on Buildings B, C, & D.
2. Request a 36' wide entrance near the building that has commercial.
3. Amend development agreement to show square footage minimum for the day care center.
4. Redesign engineering which would disperse the 14' retaining wall, whether terracing throughout or using the buildings themselves.
5. By eliminating the commercial in buildings B, C, & D, look to lower the height of buildings.
6. Reduce number of residential units.
7. Architecturally designed buildings all the way around.
8. Buildings have harmony with surrounding neighborhoods.
9. Detention basin be some form of mow able grass with fence on south and west.
10. The detention basin to include a lining in the bottom and side to protect the neighbor to the west.
11. Show fencing of the Davis/Weber Canal.
12. Update title report with current surveyed description.
13. Submit CC&R's to include rentals only to family owners (follow Utah Condominium Ownership Act).

Commissioner Osborne stated the neighbor next to the detention basin was concerned about a light by the detention basin, but there is no light there. Brandon brought up the detention basin will have an irrigation system which is shown on the plan.

Commissioner Walton is not ready to eliminate the commercial completely.

**The following is information from the city staff meeting held on September 1, 2020:**

The City Staff (consisting of David Larson, Jayme Blakesley, Barry Burton, Kim Guill, and Brandon Jones) have met and discussed the concerns and questions brought up by the residents through public comment (both emailed and stated in person) and Planning Commission members (prior to, during, and since their meeting on August 27, 2020). The purpose of this memo is to respond to those questions and concerns from a staff perspective and provide some additional information for the Planning Commission's continued review of the preliminary plans of the Lofts at Deer Run.

**PLANNING COMMISSION DECISION-MAKING AUTHORITY**

City Staff has done a thorough review of the Lofts preliminary plans for code compliance. However, City Code specifically authorizes the Planning Commission to make certain decisions as it relates to development approvals. The following items outline the parameters for decisions specifically reserved to the Planning Commission for the Lofts development proposal:

1. **DETACHED RESIDENTIAL UNITS (BUILDING D)**: A recommendation from the Planning Commission is required for the development to include detached residential units without a commercial component. City Code section 10-5N-6.D allows for some flexibility regarding the ground floor commercial component of the development on buildings that do not front major streets. Buildings fronting major streets must have ground floor commercial. If the Planning Commission does not recommend Building D as a residential-only building the developer would be required to revise the plan.

2. ACCESS DRIVEWAYS: The City Staff does not have the authority to require the driveway widths to be any larger than what the Fire Code and projected use of the site would require. However, based on the City Code (10-8-2.C.1), the Planning Commission may require driveways in commercial zones to be 36' wide. The driveway width could be required from the street to the parking lot.

3. PARKING: There have been discussions about the sufficiency of 164 spaces due to the contemplated commercial uses in the development and the ratio of shared parking spaces between residential and commercial uses. Where the Development Agreement states "at least" 164 parking spaces shall be provided, it does not prohibit the City from requiring more spaces based on the criteria in City Code (10-8) and quantitative calculations based on the use of the proposed buildings (residents, visitors, employees, drop-off/pick-off, etc.). It would be appropriate for the Planning Commission to anticipate and discuss parking and circulation needs that may arise as part of a later conditional use permit application for a daycare use, to the extent those needs relate to the site plan.

a. INTERNAL TRAFFIC CIRCULATION: The traffic studies performed by A-Trans addressed the number of trips that would be generated from the site based on Multi Family, Daycare, and Retail (see Table 3, pg. 8, A-Trans TIA, dated May 2020). Based on these numbers (both on Opening Day and a future estimate for 2025) the impact to the Level of Service (LOS) at the intersections of 7800 South / 2700 East and the two accesses for the site were analyzed. The internal circulation of the parking lot, especially as it relates to drop-off and pick-up for the Daycare was not analyzed. The Planning Commission may request additional analysis and modification of the site to address this concern.

4. ARCHITECTURAL REVIEW, SPECIAL PROVISIONS, AND LIMITATIONS (DESIGN GUIDELINES): City Code sections 10-12 and 10-5N-11 outline the design elements and other special provisions and limitations specifically assigned to the Planning Commission for review.

#### DEVELOPMENT AGREEMENT

The Development Agreement, along with City Code, provide the parameters within which the development must comply. The items below address comments and questions related to the Development Agreement.

1. WHAT DOES THE DEVELOPMENT AGREEMENT GIVE THE DEVELOPER: The Development Agreement requires that all applicable conditions in the City Code be complied with, other than those expressly altered. The only provisions stated that appear to alter what is already in City Code are the requirement of 27,000 sf of commercial space, the minimum of 164 parking spaces, and the hours of operation for commercial being limited to the hours of 5:00am to 6:00pm.

2. ELIMINATION OF COMMERCIAL REQUIREMENT: The development agreement requires a minimum of 27,000 square feet of commercial space. If the Planning Commission recommends detached residential units without a commercial component, it must ensure that the minimum square footage requirement for commercial space in the development agreement is satisfied, or the development agreement would have to be amended. Both the City and the developer would have to agree to any amendments to the Development Agreement.

3. SIZE/DENSITY CALCULATION: The acreage in the Development Agreement is approximate. A Record of Survey was later done by Great Basin Engineering (stamped on 3/19/2020). This was stamped by the surveyor and recorded in the County Surveyors office. This Record of Survey is a survey performed by a licensed professional surveyor in the field (on-site) and is the best information available. Its purpose is to establish the actual property acreage, considering all previously recorded title information and reconciling any discrepancies with field data and observations. Unless it is found to be in error, the field survey constitutes the ultimate authority on the size of the property. Staff review of the Record of Survey did not identify any substantive errors were found. We are not aware of any facts that would negate the validity of the survey. The property zoned C-O is 2.914 acres. The property where the detention basin is located is not zoned C-O and is therefore not part of the calculation. Based on 2.914 acres with the maximum density of 25 unit/acre, this calculates to 72.85, which rounds down to 72 units. Based on the ROS, the detention basin property is 11,372 sf (0.261 acres). Therefore, the total development is 3.175 acres.

4. GEOTECHNICAL: All the required studies have been performed and give direction on what needs to be done in order to build the buildings and retaining walls proposed. Final design of the retaining walls by a licensed professional engineer is still required and must be provided to the City prior to final approval. The only hazard identified that needed further mitigation measures incorporated was radon gas. The buildings will be required to have a radon gas mitigation system.

5. SEWER: The sewer system for the development is a gravity system. No pumping is required. The outfall line for the site will go under the canal to the north and connect into the top of the system in 7800 South. This line has relatively few existing connections and we are not concerned with its ability to meet the

anticipated demand. The sewer is not connected to the line in Deer Run Drive and will have no impact to any resident on Deer Run Dr.

6. **DETENTION BASIN:** The detention basin will have a liner underneath it to prevent the infiltration of storm water into the ground to protect any adjacent homes from being impacted by this storm water. The ground surface will also be graded so that in the event of a storm with an intensity higher than the 100-yr storm, the storm water will be directed back out to 2700 East and away from any property or homes to the west. The detention basin will be maintained by the development HOA and subject to code enforcement if not adequately maintained. The detention basin property will remain the property of the HOA and is not intended to function as a public park. Fencing is required along the canal property line and may be required around the rest of the detention basin if there are safety concerns that can be mitigated with a fence. There are a few detention basins throughout the city that are fenced, but most are not. The aesthetics of a fence may also be considered.

### **CONDITIONAL USE PERMITS**

The Commercial Overlay (C-O) Zone requires that this development receive a Conditional Use Permit for the Site Plan because it is over 1 acre. Title 10-5N-2.A states that “Because of the possible adverse impacts of large scale commercial developments on surrounding neighborhoods, in terms of site design and layout, traffic control, as well as visual appearance, all C-O developments greater than one acre shall fall under the conditional use permit procedure pursuant to chapter 7 of this title.”

While the CUP Application for this development would come with the final approval, due to the nature of this development and its associated topography, it makes sense to address any concerns with the preliminary plans before proceeding to final approval. Any uses occupying the commercial space that are listed as conditional uses in the C-O zone would require separate conditional use applications and approval (e.g. daycare).

Planning Commission’s responsibility and authority as it relates to conditional use permits is outlined in City Code 10-7-3 and 10-7-10.

### **CONDITIONS, COVENANTS & RESTRICTIONS**

The HOA’s final CC&Rs are required to be submitted along with final plans. For this development, among other things, the City will require the CC&Rs to memorialize the parking and hours of operation limitations contained in the Development Agreement.

### **LANDSCAPING**

The percent landscaping was taken from the table on Sheet C300 (Site Plan – Overall) of the Civil Site Plans from Entellus entitled “Area Tabulation.” This table only represents the main site (2.914 acres) and does not account for the detention basin area. However, all the detention basin area would count as landscaping. Therefore, the development meets the requirement.

### **BUILDING HEIGHT**

The C-O zone allows a maximum building height of 3-1/2 stories or 50’. All structures are under the 50’ height restriction. This is measured from the front of the building facing the public street. You will see that Building A, the south eastern most building, has 4 floors. This was a factor of much debate among the staff and developers. It was argued by developers that the bottom floor of that building is a basement. Initially, Buildings A and B were one building and at that time the bottom floor clearly did not meet the definition of a basement. Developers subsequently split the building in two and adjusted elevations to meet the definition of a basement. Staff then had to concede that the bottom floor met the definition of a basement; therefore, the buildings are technically only three stories and meet the height restriction. Building A is using the bottom floor (parking lot level) for the Daycare. Building B is using the bottom floor for individual private storage for the residents of the development. The second floor of Building B (parking lot level) will be used for commercial.

### **BUILDING C STAIRWAYS**

The initial fire report indicated that Building C did not have sufficient stairways for the number of units. A subsequent floor plan was provided by the developers showing sufficient stairways.

### **BUFFER YARD VARIANCE**

A buffer yard is required on the southwest sides from Deer Run Drive to the canal. The required buffer yard is provided along the first 351’ from Deer Run. At that point the grade has fallen sufficiently that a retaining wall is

required to retain the parking lot along the rest of that southwest side. Because the retaining wall varies from 6' in height to about 14'. Developers are requesting that the retaining wall be allowed to take the place of the required 6' masonry wall. The retaining wall is set back from the property line about 18'. This 18' would be planted with the required buffer yard trees which will help screen the retaining wall and parking from the adjacent residential lot. At the top of the retaining wall is a 42" fence that will provide further screening for the parking area. Also, between the retaining wall and the parking lot is a 2.5' planter which together with the 18' planter below the retaining wall creates a total of 20.5' of planter along this property line.

The purpose of the buffer yard is being met with the proposed design and keeps the area visible and accessible. However, the City does not have to grant the variance and can require the 6' masonry wall to be installed. The Planning Commission must make a recommendation to the City Council on the variance request.

**Commissioner Grubb moved to table the Preliminary Site Plan & Improvements for The Lofts at Deer Run (approx. 3.21 acres), located at Approx. 7870 S 2700 E by Developer Joseph M Cook of Deer Run Investments, LLC until 16 September 2020. Commissioner Johnson seconded the motion. Commissioner Osborne called for a roll call vote. Commissioners Boatright, Grubb, Osborne, Walton, and Johnson voted aye. The motion carried.**

## **REPORTS:**

### **7. Planning Commission Comments (Boatright, Grubb, Johnson, Osborne, Walton)**

**Commissioner Osborne:** He read the order on public meetings.

Order on public meetings: read by Commissioner Osborne is as follows:

#### **Order on Public Meetings of the South Weber City Planning Commission**

I, Robert Osborne, as the Chair of the South Weber City Planning Commission, do hereby find and declare as follows:

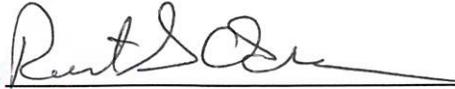
1. Due to the Emergency conditions which currently exist in the State of Utah, and specifically in Davis County and South Weber City as a result of the COVID-19 Pandemic and the recent surge in COVID-19 infections across the state and in Davis County, the holding of public meetings with an anchor location as defined in the *Utah Open and Public Meetings Act*, presents a substantial risk to the health and safety of those who may be present at the anchor location; and
2. The risk to those who may be present at an anchor location can be substantially mitigated by holding public meetings of the Planning Commission pursuant to electronic means that allow for public participation via virtual means; and
3. The City has the means and ability to allow virtual participation in the public meetings in accordance with the *Utah Open and Public Meetings Act*;

NOW THEREFORE, BASED UPON THE FOREGOING,

For thirty days from the date of this Order, meetings of the South Weber City Planning Commission shall be conducted by virtual means without an anchor location.

DATED this 26 day of August 2020.

**ADJOURNED:** Commissioner Johnson moved to adjourn the Planning Commission meeting at 9:50 p.m. Commissioner Grubb seconded the motion. Commissioners Boatright, Grubb, Osborne, Walton, and Johnson voted aye. The motion carried.

**APPROVED:**     Date <sup>2 SEPT</sup> ~~29~~ 2020  
Chairperson: Rob Osborne

  
Transcriber: Michelle Clark

  
Attest: Development Coordinator, Kimberli Guill