

# SOUTH WEBER CITY CITY COUNCIL MEETING

**DATE OF MEETING:** 28 April 2022

**TIME COMMENCED:** 2:00 p.m.

**LOCATION:** South Weber City Office at 1600 East South Weber Drive, South Weber, UT

**PRESENT: MAYOR:** Rod Westbroek

**COUNCIL MEMBERS:** Hayley Alberts  
Joel Dills  
Blair Halverson  
Angie Petty  
Quin Soderquist

**COMMUNITY DIRECTOR:** Trevor Cahoon

**CITY ATTORNEY:** Jayme Blakesley

**CITY ENGINEER:** Brandon Jones

**CITY RECORDER:** Lisa Smith

**Minutes:** Michelle Clark

**ATTENDEES:** Paul Sturm, Sky Hazelhurst, and Brad Brown.

Mayor Westbroek called the meeting to order and welcomed those in attendance.

**1. Pledge of Allegiance:** Councilwoman Petty

**2. Prayer:** Councilman Soderquist

## **DISCUSSION ITEMS:**

**3. Final Plat, Improvement Plans, and Conditional Use for South Weber Gateway at approximately 2350 E South Weber Drive by Applicant Brad Brown**

Mayor Westbroek expressed there are questions surrounding this project which created the necessity for this meeting. City Engineer Brandon Jones reviewed there has been interest on the Poll property for some time, even previous to Brad Brown and his team. When the developer started looking at this property, it was identified in the city's General Plan with a crosshatch indicating a possible development agreement. Since then, the property was rezoned and split from agricultural to C-H and R-7 zones.

Councilwoman Petty questioned why there is not a townhome description in the city code. Community Director Trevor Cahoon replied when the city updated the land use matrix there was

an oversight. Councilwoman Alberts recalled, at the time, the Council suggested townhomes fall under multi-family. City Attorney Jayme Blakesley explained in this zone there is not a specific category for “townhome” which would be individual units that are platted and sold in the R-7 zone. He further explained there can be a multi-family structure that contains multi-family units, but with this particular zone, they cannot be separately owned units. However, if there is a zone change enacted, then units can be converted into being separately sold.

Councilman Dills stated a townhome is a design of a multi-family unit. Mr. Cahoon explained townhome is a design element but also a type of plat and the plat dictates how property can be sold. A townhome plat allows for ownership of the ground underneath, shared zero lot lines, and shared walls. Our current code does not offer that option. Councilman Halverson puzzled why the interior space could not be sold to individuals, yet the Homeowner’s Association (HOA) still maintain the outer building. Mr. Cahoon pronounced if the developer did a condominium plat, which allows for ownership of the air space per unit, then they would be able to sell each unit. This possibility was explained to the developer, and they chose not to take that option.

Councilwoman Alberts indicated the only difference with multi-family is that there is no minimum lot line. Multi-family is allowed in the R-7 zone, but the code does not identify a minimum lot size. She suggested the City Council review a minimum lot size requirement. The code does not state that the owner cannot have their own lot. In her research of the code, she saw a need to review/discuss each lot should have a minimum width of 100’. Mr. Cahoon replied there is no provision for zero lot lines, and they are not allowed in that zone. Councilwoman Alberts declared this development addressed the units as condominiums with CC&R’s and an HOA in previous meetings. She opined during preliminary plat and final approval something changed.

Developer Sky Hazelhurst conveyed it is always better to have units individually platted with an actual parcel number because they are easier to sell, but they knew there was no city code in place to do that under the R-7 Zone. He explained they looked into selling the properties individually, but it was not possible. He divulged condominiums are typically meant to be vertically stacked with different shared amenities. He vocalized townhomes are industry standard and banks/lenders are used to financing them because it is easier to sell and more valuable. Trevor mentioned if the developer wishes to turn it into a condominium project, then he would be required to submit a plat amendment. Right now, this project is a single lot with multiple dwellings which is allowed in the city code as a “for rent” product.

Councilman Halverson had misgivings about changing the phasing of this project. After conducting his own research, he found in July 2020 the developer’s presentation to the City Council for phase 1 included 33 units built in conjunction with commercial development. He discussed the phasing totally changing and verified he will vote no to the project as currently presented. Trevor communicated at submission the developer asked if he could build to suit on the commercial. The developer is concerned a larger tenant might need a larger space.

Councilwoman Alberts verified the site plan approval must be completed within 18 months or the zone reverts back to agriculture. Mr. Cahoon offered the developer has presented a site plan. If there are any changes made, then the developer would be required to submit a site plan amendment. Councilwoman Alberts feared the residential would be built and the commercial space would remain empty.

Developer Brad Brown submitted they were told they could do it all at once. Councilman Halverson voiced the project can still be one lot and done in phases. Mr. Cahoon related without a development agreement phasing is solely the developer's choice as to how they want to phase their project.

Jayne Blakesley explained the only way to bring up phasing as part of zoning approval would be a development agreement. Further discussion took place regarding the history of the development agreement and the timing of the decision not to have one in the past.

Councilwoman Alberts affirmed the development agreement did come up, but not since the rezone. Mr. Brown averred he has had this discussion several times and he is not trying to switch something, but this is how staff recommended he do it. Trevor clarified during development meetings staff presented all available options to the developer to complete the project.

Councilwoman Alberts queried if the developer would be willing to do a development agreement that identifies phasing as proposed at the rezone request. Mr. Brown and Mr. Hazelhurst replied if it can be done by 10 May 2022. She then asked Mr. Blakesley about the process. He reported there are different types of development agreements that can be used to accomplish zone changes or legislative work for the Council. There are development agreements that can be used for administrative functional items such as, layouts, phasing, lighting, sharing of costs and amenities etc. Making the units available for individual sale would be a zone change which can be completed through a development agreement or text amendment to the zone or city code. Mr. Blakesley stated it is important to note if the development agreement related to the phasing of the project, he would view that as an administrative decision. If the Council favored amending the city code, it would need to go through the public notice process as it would be legislative.

Councilwoman Petty thanked Mr. Brown and Mr. Hazelhurst for being understanding as this is a high-profile project in the city. She inquired about the setbacks from the charter school to the back of the multi-use buildings. Mr. Cahoon confirmed it is 30'. He declared it is the City Council's prerogative to determine the setbacks for townhomes by approval of the ordinance. Councilman Dills did not believe there should be a change for setbacks if it is defined in the code. Mr. Cahoon disclosed the biggest difference is the zero-lot line. Mr. Blakesley explained the difference is how the units are platted and sold. A zero-lot line townhome style plat allows for owner of the unit to own the ground underneath the unit as well as the exterior of the unit with the right to modify all of those things. If it is a condominium style, the full façade, exterior, and shared utilities would be common and managed by a common entity.

Mr. Blakesley conveyed this project can move forward as designed and be constructed as designed regardless of how it is ultimately platted. It could be amended at a later time. Mr. Hazelhurst declared he wants to do the plat the way he is allowed now and when the project is under construction or completed, he can do a townhome plat. His preference is to sell the units individually.

Councilwoman Alberts queried if the units are on the multiple listing service (MLS). Mr. Hazelhurst reported Millcreek wanted to test the market. Councilwoman Alberts asked Mr. Cahoon to review City Code Section 11-3-1B item #6. Mr. Cahoon relayed when the city received information regarding the advertisement to sell the units, they reached out to City Attorney Jayne Blakesley. The city staff made the decision to provide notice to the developer. At this time, it was undecided as to whether or not it was an investment opportunity or a selling opportunity. Mr. Hazelhurst pledged to follow up with Millcreek.

Councilwoman Petty acknowledged it does appear the developer has tried to work within city code on the setbacks. Councilman Halverson agreed; however, he noted he did not think any of the Council expected rental units without phasing.

The legal description that was given for the rezone does not reflect the current plan. Brandon Jones explained the road width differed from the original plan. He reported the size of commercial development is approximately 7,500 sq. ft. of land.

Mr. Blakesley recommended the Council decide on two points:

- (1) Should the zoning code be amended to allow for the units to be sold in a different way?
- (2) Will the phasing presented to the Planning Commission be required?

He suggested decisions should be based on the current presentation so the developer could begin the work on the project and consider a basic development agreement that phasing would be implemented as shown in the Planning Commission meeting. Councilwoman Alberts hesitated to allow the developer to move forward with plans to amend the plat in the future believing he would not return with an amended plat. Councilwoman Petty supported a development agreement with the phasing outlined.

#### **Councilwoman Petty was excused at 3:03 p.m.**

Councilwoman Alberts would not support the project without an amended plat. Mr. Hazelhurst verified he does want to sell the units and recounted as the owner of the property he has the right to make that decision. Mr. Jones confirmed a townhome plat is much simpler than a condominium plat. Mr. Hazelhurst stated if there is a way to move forward and then come back to individually plat as a townhome when that is available in code, then he is willing to come back to do that.

The Council agreed Mr. Blakesley should put together a simple development agreement which includes phasing and re-platting this project as a townhome development. Keeping in mind the city needs to put in place the zoning regulations that would allow it.

Councilman Soderquist voiced concern with the 11' hillside retention and the potential for slides. Staff verified the retaining wall will need to be stamped and approved by a geotechnical engineer. Some talk about the hillside landscape followed. Caution was given about fire hazard. Councilman Soderquist also asked about water mains through the development being public but other utilities being private. Mr. Jones replied that the Homeowner's Association is responsible for the pipes – cleaning, maintenance, etc. which is good for the city. Councilman Soderquist queried about the garages use as outside storage space. Mr. Cahoon explained the city code lacks a definition for "outside storage". Councilman Soderquist was concerned for the safety of children walking to and from High Mark School through a commercial development. He recommended the walkway continue straight east. Mr. Hazelhurst agreed with the safety concerns and stated that should be no problem.

Mr. Cahoon reported he and Mr. Larson met with High Mark School this week to discuss safety concerns. It was the first of many conversations that will take place. Brandon Jones pointed out the turn lane will restrict any parking. Also, UDOT has approved painting no parking along the street. The discussion needs to continue between the city and High Mark School.

Councilman Soderquist inquired about the reason for the berm with a 3' fence. Mr. Hazelhurst related he will do whatever the City Council decides as the berm was more for aesthetics.

Councilman Halverson asked about local garbage collection. Mr. Jones affirmed the developer will need to work with Robinson Waste. Councilwoman Alberts voiced concern about the location of the commercial garbage collection. She wanted a masonry wall to create a better buffer. She noted there was a decrease in plants, and she proclaimed water wise is not plant-less.

Councilman Dills inquired about approving the commercial portion without knowing exactly what is going in there. Mr. Cahoon identified the site plan process and articulated any amendments will require a site plan amendment. Mr. Jones clarified any site plan amendment would only be approved by the Planning Commission.

Councilman Dills wondered about a lighting plan. Mr. Jones explained the streetlights are labeled on the plat and there is nothing proposed that is outside the norm.

**Next Steps:**

City will:

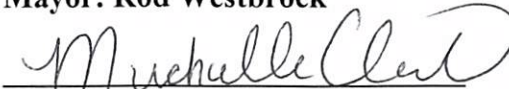
Draft a simple development agreement which will include: (a) verbiage for the project to be replatted as townhomes (b) phasing as agreed by developer (c) install walkway on east side of the development.

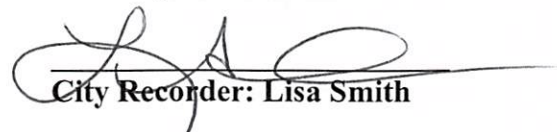
Developer will:

- Amend fencing to masonry wall and no berm or rail fence
- Research into garbage service options
- Check MLS – make sure it is removed
- Look into water wise plants
- Review lighting with Mr. Jones
- Check zoning square footage between the two zones

**ADJOURN:** Councilwoman Alberts moved to adjourn the City Council meeting at 3:50 p.m. Councilman Soderquist seconded the motion. Mayor Westbrook called for the vote. Council Members Alberts, Dills, Halverson, Petty, and Soderquist voted aye. The motion carried.

**APPROVED:**  **Date** 05-24-2022  
**Mayor: Rod Westbrook**

  
**Transcriber: Michelle Clark**

**Attest:**   
**City Recorder: Lisa Smith**