

1 bedroom apartments. An addition was to be added to the rear of the building, which would
2 incorporate a ground floor garage, and a shop. Above, there will be additional apartments and an
3 extension of the shop office.

4
5 Mr. Taylor explained that because the project will require a substantial remodel, the new (as of
6 October 2019) lighting ordinance will apply. A major concern of the project is parking/design. The
7 City Code bases the parking standards on the International Traffic Engineers Parking Generation
8 Rate, which requires the apartment units have 1¼ spaces per unit or 9 stalls and the office use 2.85
9 spaces per 1,000 square feet for a total of 14 stalls. The applicants are proposing 24 stalls. The
10 current plans do not meet established requirements and require a redesign in order to meet the current
11 standards.

12
13 Mr. Taylor described the difference between a bed and breakfast and a short-term rental. Short-
14 term rentals are required to be rented for 3 to 30 days while a bed and breakfast can be rented nightly.
15 Concern was expressed about the long-term rental period, which would need to be defined. There
16 was also concern about whether the planned project can be classified as a true bed and breakfast.
17 One Commission member considered the proposed use to be an ingenious use of the property.

18
19 As part of the Conditional Use Permit, the Commission can impose conditions to mitigate the
20 detrimental impacts of the project. One option was rather than address the specific use, to have a
21 broader discussion on residential parking standards and whether the City-wide standard should be
22 amended to address certain cases. Other developments where the parking standard is working were
23 identified. Concern was expressed that a bed and breakfast will be similar to a short-term rental
24 where the parking demand will be greater than the standards call for. It was suggested that
25 Architectural Review Commission be consulted for further consideration on the use of the space
26 before committing to the proposed mixed-use project.

- 27
28 • **(Project ZMA-19-005) – A Public Hearing and Possible Action on a Request**
29 **from Mohammad Pourkazemi for a Zoning Map Amendment from RR-1-43**
30 **(Rural Residential – One Acre Lot Minimum) to RR-1-21 (Rural Residential –**
31 **½ Acre Lot Minimum) on 1.19 Acres of Property located at 8120 South Royal**
32 **Lane.**
33

34 Mr. Taylor reported that a request was made to rezone a property from RR-1-43 to RR-1-21 in order
35 to facilitate the development of a new subdivision. The General Plan requires the area in question
36 be of rural residential density, which is defined as one-third, one-half, and one-acre lots. Most of
37 the lots in the area that fall within the one-acre zone are more comparable to those in the one-half
38 acre zone. For this reason, the recommendation was for the Commission to recommend acceptance
39 of the request to the Council.

- 40
41 • **(Project SUB-19-012) – A Public Hearing and Possible Action on a Request by**
42 **Mo Vedadi for a Reduction to the Flag Lot Side Yard Setback Requirement at**
43 **Property located at 8564 South Little Willow Circle in the R-1-87 – Residential**
44 **Single-Family Zone.**
45

1 **1.2 A Presentation by Landmark Design on an Amendment to the Planned**
2 **Development District (PDD) Zone.**
3

4 Community Development Director, Michael Johnson, reported that four or five months ago, the
5 process began to initiate an amendment to the Planned Development District (“PDD”) Ordinance.
6 They signed a contract with the consultant, Landmark Design to look at the ordinance and provide
7 assistance on revising it. Due to the number of changes required, it was determined to be advisable
8 to contract with a consultant to perform an analysis to determine standard practices, interview
9 stakeholders, and ensure that all processes are clear to all.

10
11 Mark Vlastic, President and Owner of Landmark Design, reported that the Salt Lake City-based
12 landscape architecture and community planning firm has been consulting on the review of the
13 Ordinance for the past three months. They have reached the point of beginning to draft changes to
14 the Code. By January 2020, they plan to develop two drafts for review, followed by a final draft for
15 adoption.

16
17 So far, key findings indicate that the Ordinance in its present state lacks clarity and purpose. The
18 current model of addressing three tiers of development under a single code is challenging and can
19 lead to a politicized decision-making process. Landmark Design feels that the Code should cover
20 Tiers 1 and 2 only, rather than the smaller Tier 3 sites.

21
22 Further clarification of the changes suggested with respect to Tier 3 was requested. Options include
23 either removing Tier 3 entirely and covering it under an alternate segment of the Ordinance; or
24 completely overhauling the Tier 3 standards in the PDD. In addition, updated and more specific
25 language to define affordable housing classification will be needed. Affordability issues were
26 discussed.

27
28 City Attorney, Shane Topham stressed the importance of the City Council ensuring that they retain
29 their ability to guide the process legislatively. He stated that there were some problems with the
30 verbiage in the PDD ordinance but although difficult, they ended up with a better project than they
31 would have otherwise.

32
33 Mr. Johnson stated that the same information will be relayed to the Council in two weeks. Once
34 their feedback has been received, a revised draft will be developed. The draft ordinance will be
35 provided for the committee’s review in early 2020.

36
37 **1.3 Additional Discussion Items.**
38

39 **1.4 Adjournment.**
40

41 *Commissioner Allen moved to adjourn the Work Session. Commissioner Rhodes seconded the*
42 *motion. The motion passed with the unanimous consent of the Commission.*
43

44 The Work Session adjourned at 6:00 p.m.

1 Mr. Taylor described the proposed layout of the office/apartment/bed and breakfast, as outlined by
2 the applicant. The proposed addition meets the requirements for height, maximum lot coverage,
3 front/rear/side setbacks, and number of parking spaces. There are, however, design issues with the
4 current parking stalls. The stalls, at 15 feet in length, are three feet shorter than the required 18 feet.
5 The drive aisle is required to have a depth of 24 feet but is only 21 feet deep. Staff feels that the
6 issues can be addressed by redesigning the lot as angled parking spaces. A condition of approval
7 would require Castle Valley Properties to work with staff to redesign the parking area to meet
8 required standards.

9
10 The Neighborhood Commercial Zone requires all uses obtain a Conditional Use Permits. Mixed
11 residential housing, such as the proposed office/apartment/bed and breakfast, qualifies as a
12 conditional use. The 16 criteria for granting conditional use permits were outlined in the staff report.
13 Staff recommended approval subject to the conditions set forth in the staff report.

14
15 A question was raised about verbiage in relation to an apartment (defined in Code as a multi-family
16 dwelling) compared to a bed and breakfast. It was note that further distinction may be needed
17 between a “dwelling” and “unit”. Mr. Taylor acknowledged that the existing language may leave
18 room for interpretation but he was confident that the proposal satisfies the definitions.

19
20 The applicant further outlined Castle Valley Properties’ plans for the space. He stated that many of
21 the surrounding buildings do not meet the zoning standards. The goal was to be granted both an
22 apartment or long-term designation, as well as a bed and breakfast designation. A question was
23 raised about kitchen facilities in the planned space. The applicant indicated that a kitchen area will
24 be included in the office. An additional request was made for more information about the office
25 use, number of employees, etc. Per the applicant, the space will house a full-time employee who
26 is an architect, as well as an administrative staff member.

27
28 Chair Griffin opened the public hearing.

29
30 Kenneth King stated that he lives behind the 6970 South 3000 East space and inquired as to whether
31 staff will be onsite to mitigate the potential for parties or excessive alcohol consumption that might
32 prove disruptive to neighbors.

33
34 Shane Anders asked if Castle Valley Properties can guarantee that the building will not be rented
35 out as an Airbnb or through VRBO.

36
37 Kay Roberts, who lives across from the property, expressed concerns about construction noise. She
38 felt that the property should be deemed either an apartment or a bed and breakfast but not both.

39
40 Kathy Carter, a neighbor, inquired about the type of lighting that will be used. She was concerned
41 that bright lighting may impact neighbors. Mr. Taylor informed her that a new ordinance is in place
42 to require lighting that does not trespass across property lines or into neighboring windows. The
43 proposed project would need to adhere to these standards.

44
45 There were no further public comments. The public hearing was closed.

1 There was continued discussion about whether the building can truly be deemed a bed and breakfast,
2 because it is comprised of seven independent units. It was agreed that the definition is open to
3 interpretation, but that there are existing bed and breakfasts that are designed in a similar fashion.
4 A further concern related to the mixed-use function of the space, which may result in too much
5 latitude and may not meet the definition of a bed and breakfast.

6
7 A Commission member asked if the proposed construction office with a garage would be considered
8 an office or a manufacturing space. Mr. Taylor stated that although not clearly defined in the Code,
9 the proposed construction office seems to meet the standard for office space.

10
11 *Commissioner Wilde moved to deny the application based on the fact that the planned project*
12 *does not meet the requirements for a bed and breakfast as contained in the Ordinance.*
13 *Commissioner Ryser seconded the motion.*

14
15 *Commissioner Wilde amended the motion to continue the application and consider it based on*
16 *the tonight's discussion on how they would like to proceed. The motion was seconded by*
17 *Commissioner Allen. Vote on motion: Douglas Rhodes-Aye, Christine Coutts-Aye, Bob Wilde-*
18 *Aye, Sue Ryser-Aye, Jesse Allen-Aye, Chair Graig Griffin-Aye. The motion passed unanimously.*

19
20 **3.2 (Project ZMA-19-005) – A Public Hearing and Possible Action on a Request**
21 **from Mohammad Pourkazemi for a Zoning Map Amendment from RR-1-43**
22 **(Rural Residential – One Acre Lot Minimum) to RR-1-21 (Rural Residential –**
23 **½ Acre Lot Minimum) on 1.19 Acres of Property located at 8120 South Royal**
24 **Lane.**

25
26 Mr. Taylor reported that a request was received pertaining to property located at 8120 South Royal
27 Lane. The property is approximately 1.19 acres in size. The application is to amend the zoning
28 from RR-1-43 (one-acre lot minimum) to RR-1-21 (one-half acre minimum). Per the General Plan,
29 the area must be comprised completely of rural residential density lots. To be classified as rural
30 residential, lots must be one-acre, half-acre, or one-third acre in size. On average, the lots in the
31 area are non-conforming, with most of the lots in the one-acre zone falling short of the required
32 minimum acreage. Thus, the request to amend the zoning of 8120 South Royal Lane is not
33 inconsistent with the sizing of area properties.

34
35 There are two buildings on the property, including a large home and a pool house. Although not a
36 component of the application, the property owner does intend to subdivide and renovate the pool
37 house as a single-family home.

38
39 Mr. Taylor stated that the proposed amendment meets the goals of the General Plan and is consistent
40 with the zoning and usage of the area. Staff recommended that the Planning Commission consider
41 a recommendation to the Council for approval of the request.

42
43 A question was raised as to whether the property is part of the Royal Lane homeowner's association
44 ("HOA"). Mr. Taylor explained said that HOA participation does not factor into the decision-
45 making process as they involve private agreements that are civilly enforced between adjacent
46 owners. With regard to how the property will be divided there was concern that once the property
47 is divided, it will not meet the one-half acre minimum requirement. Mr. Taylor stated that he

1 reviewed the subdivision for accuracy and confirmed that the new meander lot line will meet the
2 acreage standards.

3
4 The applicant, Mohammad Pourkazemi reported that he purchased the property more than 16 years
5 ago and now finds it too large for his family. As part of his estate planning, he would like to put the
6 pool house in his daughter's name. His daughter is his only surviving child as his son passed away
7 three years ago.

8
9 Chair Griffin opened the public hearing.

10
11 Robert Crockett, attorney for the Royal Lane HOA, stated that although the property falls within the
12 jurisdiction of the association, it has not been consulted about the proposed zoning change. Mr.
13 Crockett said that the homeowner has had a different family residing in the pool house for some
14 time, which is in violation of City code 19.76030, which prohibits the use of guest houses as
15 permanent residences for second families. The violation has been brought to the attention of
16 enforcement officials with no resolution. In addition, the proposed subdivision may result in a
17 violation of setback requirements. Royal Lane HOA requests that the decision be continued, so that
18 the appropriate process can be followed. Mr. Taylor noted that the proposal refers specifically to
19 rezoning the property and does not affect any existing property lines. The points presented by Mr.
20 Crockett relate to the subdivision process, which falls outside of the scope of the proposal.

21
22 Commissioner Wilde voiced an objection to the receipt of the documents referenced by Mr. Crockett
23 due to a violation of Planning Commission policy requiring documents be received in advance of
24 the hearing.

25
26 Commissioner Wilde asked Mr. Crockett at what point the HOA became aware of the issue of
27 permanent residents in Mr. Pourkazemi's pool house, and what steps have been taken to resolve the
28 issue. Mr. Crockett stated that the HOA has known for years, and that they have had many
29 conversations with Mr. Pourkazemi, informing him of the need to be in compliance with City Code.
30 In addition, Royal Lane's property manager has brought the issue to the attention of various
31 enforcement divisions, but there has been no resolution. Chair Griffin asked if the HOA has
32 confirmed that the residents of the pool house are occupying the space in exchange for financial
33 compensation. Mr. Crockett explained that the HOA has not confirmed, but regardless, City Code
34 states that guest houses cannot be occupied by a second family for longer than 30 days.

35
36 Daniel Godfrey identified himself as the President of the Royal Lane HOA. He commented that the
37 zoning request and subdivision of the property are separate, but closely related issues; public
38 consideration cannot be given for one without the other. In his opinion, to approve the request
39 would deprive the HOA of its rights as the first layer of governance regarding planning and
40 architectural matters within the boundaries of its community. The structure of the pool house does
41 not meet the association's architectural standards and likely would not be approved by the HOA.
42 He reiterated that the HOA is requesting a continuance, so that appropriate processes for such a
43 request can be followed. Chair Griffin noted that the City is not involved in the enforcement of
44 CC&Rs. It remains the responsibility of property owners and HOAs to resolve their differences
45 independent of the City. Commissioner Ryser's opinion was that Mr. Pourkazemi should be
46 required to continue the matter and address the issues presented with his HOA before returning to
47 speak to the Planning Commission.

1
2 Dale Bennett from Benchmark Engineering & Land Surveying indicated that he is the Civil
3 Engineer and Surveyor of record. His firm has been compiling information to ensure compliance.
4 He was confident that Mr. Pourkazemi will take all necessary steps to ensure that requirements for
5 subdivision are satisfied.

6
7 There were no further public comments. The public hearing was closed.

8
9 Commissioner Ryser further expressed her belief that the issue should be continued, allowing
10 Mr. Pourkazemi and the HOA the opportunity to work through their concerns. She felt that
11 Mr. Pourkazemi was aware of the HOA guidelines when he purchased his home. Staff strongly
12 recommended against withholding a Planning Commission decision to allow the applicant and the
13 HOA to work through CC&Rs.

14
15 *Commissioner Wilde moved to forward a recommendation of approval to the City Council given*
16 *that the application satisfies the criteria of the General Plan, and that neighboring properties are*
17 *similarly zoned. Approval was based on the following:*

18
19 *Findings:*

- 20
21 • *The proposed zoning is compatible with the goals of the General Plan.*
22 • *A public hearing was held in accordance with local and State requirements.*

23
24 *Commissioner Ryser seconded the motion. Vote on motion: Jesse Allen-Aye, Sue Ryser-Nay,*
25 *Christine Coutts-Aye, Douglas Rhodes-Aye, Bob Wilde-Aye, Chair Graig Griffin-Aye. Motion*
26 *passed 5-to-1.*

27
28 **3.3 (Project SUB-19-012) – A Public Hearing and Possible Action on a Request by**
29 **Mo Vedadi for a Reduction to the Flag Lot Side Yard Setback Requirement at**
30 **Property located at 8564 South Little Willow Circle in the R-1-87 – Residential**
31 **Single-Family Zone.**

32
33 Associate City Planner, Andrew Hulka presented a request regarding a proposed reduction to the
34 flag lot side yard at the property at 8564 South Little Willow Circle. The property is in the R-1-87
35 zone; however, it is governed by flag lot standards. It is surrounded by single-family homes and
36 duplexes. The house was constructed on an angle and as a result, the north side of the property
37 violates the 20-foot setback requirements in all directions.

38
39 A building permit for the dwelling was received in November 2018. A site plan was submitted to
40 the City and was determined to be in compliance with the flag lot requirements. In December 2018,
41 the footing inspection was passed. In September of 2019, a letter of concern was submitted from
42 the adjacent neighbor, who was developing the lot to the north of 8564 South Little Willow Circle.
43 The neighbor noted the possibility of a setback violation. Following a site visit, a Stop Work Order
44 was issued. One week later, a survey was conducted, and results submitted to staff on September
45 27, 2019. Staff worked closely with both neighbors to identify a resolution to the setback issue.
46 The applicant applied for a variance but was not considered a viable candidate.

1 Upon further review, it was determined that the property was appropriate for a subdivision
2 exception. In order to be granted the exception, the Planning Commission must make a
3 recommendation to the City Council. The Commission must find that the request meets one of the
4 outlined criteria for an exception as outlined in the staff report. The applicant requested approval
5 based on the criteria that "...the welfare, best interests and safety of the general public will be
6 usefully served or protected." Staff noted that there are additional site concerns related to the
7 setback issue, that staff is working with the property owner to address. The property owner and the
8 referenced neighbor to the north were actively working together to find a resolution.

9
10 Staff recommended that the Planning Commission make a recommendation of approval to the City
11 Council with the condition that the applicant work with staff to address all of the necessary technical
12 corrections noted in the staff report. A question was raised about the position of the home. Staff
13 suggested that a mistake may have been made when the footings for the home were poured. The
14 reason for such an error was not conclusively known.

15
16 Craig Hall, from the law firm of Bennett, Tueller, Johnson, & Deere, spoke on behalf of the builder
17 and property owner Mo Vedadi. The footings for the foundation were poured in December 2018
18 and the mistake was discovered in September 2019. He was unsure who was responsible for the
19 error but acknowledged that it was a significant mistake and apologized on behalf of Mr. Vedadi.
20 Mr. Hall stated that the City was very gracious to conduct an inspection and stated that as a condition
21 of the approval of the subdivision exception, he and his client were prepared to finalize and provide
22 the requested documentation. This million-dollar project was mere weeks away from completion.
23 Going forward, every effort will be made to minimize any impact to the neighboring property owner.

24
25 Commissioner Ryser asked how the Commission can be certain that the footing issue was truly a
26 mistake. Mr. Hall stated that he could not provide any guarantee beyond his word and the word of
27 his client. He fully believed it was an innocent error.

28
29 Chair Griffin opened the public hearing.

30
31 Ryan Reid reported that he purchased the adjacent lot to the north on December 28, 2018. He
32 remarked that this has been an emotional process for him as this is his first time building and owning
33 his own residence. He wanted to make it clear that the victim in this situation is Mo Vedadi, the
34 owner of the property at 8564 South Little Willow Circle. In his opinion, the special exception
35 should be granted. There is a drop of approximately seven feet from the post to the grade of Mr.
36 Reid's property. His greatest concern was ensuring that the property is properly retained and
37 overseen and certified by appropriate engineering officials, to mitigate the potential for future
38 problems. He believed that mistakes happen and that tearing down a neighboring house would
39 ultimately result in a hardship for him as a homeowner.

40
41 James Foster resides in a neighboring home. He felt that the setback issue can be overcome but was
42 concerned about drainage. In heavy rain, his property takes on a large amount of washdown from
43 the construction site. There is no retaining wall to catch the drainage, so water, sand, and silt
44 accumulate in Mr. Foster's yard. He would like to see that issue addressed. Mr. Hulka stated that
45 proper installation of retention ponds is a required item on the list of conditions to be addressed prior
46 to a special exception being granted.

1 Bob Clark, the property owner to the southwest, felt that the mistake with the pouring of the footings
2 is the responsibility of the builder. Because of the error, property values for the neighboring homes
3 will be impacted. He did not believe Mr. Vedadi was at fault but stated that the builder was informed
4 early on, multiple times, that there was a possible issue, but the concerns were disregarded. In his
5 opinion, none of the criteria for a subdivision exception apply to this situation.

6
7 There were no further public comments. The public hearing was closed.

8
9 *Commissioner Wilde moved to forward a recommendation of approval to the City Council subject*
10 *to the following:*

11 ***Findings:***

- 12
13
14 1. *The request constitutes a case where unusual topographic, aesthetic or other*
15 *exceptional conditions exist or the welfare, best interests and safety of the general*
16 *public will be usefully served or protected, as required by Section 12.08.020*
17 *(Exceptions – Permitted when) of the Subdivision Ordinance.*
18
19 2. *The requested exception will not be a substantial detriment to the public good and*
20 *will not substantially impair the intent and purpose of Title 12 (Subdivisions).*
21
22 3. *That perceived negative impacts which would not be in harmony with the*
23 *neighboring uses will be abated by the conditions imposed.*

24
25 ***Condition:***

- 26
27 1. *The applicant shall work with City staff to address all technical corrections to the*
28 *proposed plans.*

29
30 *The motion was seconded by Commissioner Rhodes. Vote on motion: Jesse Allen-Aye, Sue Ryser-*
31 *Abstain, Christine Coutts-Aye, Douglas Rhodes-Aye, Bob Wilde-Aye, Chair Graig Griffin-Aye.*
32 *The motion passed unanimously with one abstention.*

33
34 **4.1.1 Approval of Minutes of October 2, 2019.**

35
36 **4.1.2 Approval of Minutes of November 6, 2019.**

37
38 *Commissioner Coutts moved to continue approval of the minutes until the January 2020 meeting.*
39 *Commissioner Ryser seconded the motion. The motion passed with the unanimous consent of*
40 *the Commission.*

41
42 **5.0 ADJOURNMENT**

43
44 *Commissioner Griffin moved to adjourn. The motion was seconded by Commissioner Coutts.*
45 *The motion passed with the unanimous consent of the Commission. Alternate Planning*
46 *Commission Member, Bob Wilde did not participate in the vote.*

47
48 The Planning Commission Meeting adjourned at approximately 8:01 p.m.

1 *I hereby certify that the foregoing represents a true, accurate and complete record of the*
2 *Cottonwood Heights City Planning Commission Meeting held Wednesday, December 4, 2019.*

3
4

5 Teri Forbes

6 Teri Forbes
7 T Forbes Group
8 Minutes Secretary

9
10 Minutes Approved: February 5, 2020
11