

**WOODS CROSS PLANNING COMMISSION MEETING
JULY 11, 2023**

CONDUCTING:

Joe Rupp, Chairman

COMMISSIONERS PRESENT:

Joe Rupp, Chairman
LeGrand Blackley

Mike Doxey-online
Jim Grover-online
Eric Jones

COMMISSIONERS EXCUSED:

Melanie Brooks

STAFF PRESENT:

Tim Stephens, Community Development Director
Bonnie Craig, Secretary
Gary Sharp, City Council

VISITORS:

Paul Keddington
Mike Beornson

Shane Cullimore
Breeann Wright

Nick Brady

PLEDGE OF ALLEGIANCE:

Eric Jones

MINUTE APPROVAL

Chairman Rupp then called for the review of the minutes of the Planning Commission meeting held June 13, 2023.

It was noted the Commission had not received these minutes for review, so Commissioner Blackley made a motion to table the minute approval until the next meeting. Commissioner Jones seconded the motion, and all voted in favor of the motion through a roll call vote.

OPEN SESSION

Chairman Rupp then opened the meeting to address items from the public that were no on the agenda.

There were no public comments and Chairman Rupp closed the open session.

PVP RENTALS HOME OCCUPATION—1058 SOUTH 1100 WEST—PAUL KEDDINGTON

Mr. Tim Stephens, the Community Development Director noted that during the last Planning Commission meeting, the Commission discussed the jet ski home occupation proposal. He noted that at that meeting the Commission discovered there would be upwards of 7 trailers involved in the proposal. He noted a discussion had ensued regarding whether or not the home occupation should be approved or denied based on various regulations found in the home occupation chapter and elsewhere in the ordinance. He noted the Planning Commission tabled this matter and gave direction to staff to review the issue with the city attorney and provide further information and input at the next meeting.

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Mr. Stephens went on to say that he had met with the city attorney on two occasions since the last Planning Commission meeting. He said during those meetings they reviewed the Planning Commission's concerns regarding this matter and the zoning ordinance. He said that recreational vehicle rentals are not specifically listed as a conditional occupation in section 12-29-104. He said the mechanism for approval of the applicant's application would be for the Planning Commission to make a finding that Mr. Keddington's proposal is "demonstrated to be substantially similar to those outlined in section 104." He said it was the city attorney's opinion, the application should be denied. He noted the following reasons for his conclusion:

- A. "The clear intent of Chapter 29 is that, with the single exception for horticultural nurseries, the home occupation must be conducted entirely within the home or within the approved garage or accessory building." This includes any "storage of merchandise or materials." Section 12-29-106 (B)
- B. Section 104 (E) allows small engine repairs, but expressly prohibits repairs to vehicles including recreation vehicles. It seems obvious that Mr. Keddington may do repairs onsite. In Mr. Bell's opinion, this would prohibit the proposed use.
- C. Mr. Bell noted that the proposed use is somewhat similar to the two types of businesses that are prohibited in Section 12-29-105 (B) Towing, Trucking, and Delivery Operations.
- D. There are references in section 106 to vehicles and equipment. The intent of this language is to cover "vehicles used by the occupant, owner, and/employees in association with the home occupation." The intent here is to allow a business like a contractor to handle its business affair's paperwork within the home while allowing a contractor to park a truck or trailer on the home premise.

Mr. Stephens noted that with his discussion with the city attorney, they could discuss a possible resolution for the applicant, or the Commission may propose a text amendment for Chapter 29 to include vehicle rentals as an allowed conditional use occupation. He said Mr. Bell felt that in many ways this is advisable. He said there are many residents in our community that rent their recreational vehicles and toys. He said a text amendment would encourage residents to comply with the code.

Mr. Stephens went on to say that a text amendment would also allow for some needed changes for horticultural operations. He said some of the items that could be addressed in a text amendment would be:

- 1. Minimum lot size/parcel size.
- 2. The percentage of the lot or parcel devoted to the home occupation.
- 3. Fencing requirements.
- 4. Ensure all rental vehicles are appropriately registered and fully operational. For example, Mr. Keddington's parcel of 2.5 acres and would accommodate a much larger number of recreational vehicles than a ¼ acre or smaller lot, but he should be required to register all his personal watercraft and store them behind a fence or other barrier and have them all fully operational and registered.

Mr. Stephens said that based on the input from the city attorney, it seems advisable to deny the home occupation request based on the information provided above. Mr. Stephens noted that should the Planning

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Commission or Mr. Keddington want to pursue a text amendment, perhaps this use could be contemplated and permitted in the future.

Following the information given by Mr. Stephens, Chairman Rupp invited Mr. Keddington to come and give any updates to the Commission that he might have.

Mr. Paul Keddington addressed the Commission and said he did not have any further information to add at this time.

Commissioner Blackley said he felt like with what the city attorney had pointed out, the ordinance did not allow this type of activity for a home business.

Commissioner Jones asked how the Commission felt about doing a text amendment that would facilitate this type of use and how a text amendment might be initiated.

Commissioner Blackley said he felt like a text amendment would work because there could be some restrictions on how this type of business could be operated and could control how this type of business would work. He said he did not feel like this would be the only request for this type of business the Commission would likely have to consider in the future.

Commissioner Hennessy said he thought that a text amendment would be the only way to be able to approve this request for the home occupation. He said he also felt like what the city attorney said about there likely being people in the community that are already renting out recreational vehicles is very likely. He said if the text amendment were added it would be good because this would probably be something that would only become more popular.

Mr. Stephens said the text amendment could be initiated by the city staff or the Planning Commission or by anyone else that wanted to put together an application. He said it would go through the Planning Commission, and they would decide what shape that text amendment would take and then forward it to the City Council for their review. He said it is a little bit of a lengthy process, but it could be worked through with adjustments and changes by the Planning Commission and then recommendations to the City Council to decide if they would like to make any changes.

Council Member Sharp asked what the land was zoned, and Mr. Stephens said is zone S-15-20 Single Family residential which is a larger lot area.

Commissioner Doxey said he would entertain a change for this specific property type with the text amendment.

Commissioner Grover said there had been several groups contacting him that had said they have seen resident's trailers spilling out onto city streets. He said it is a problem if there is overflow with trailers and such.

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Commissioner Jones said one of his concerns with the big picture is that this could be seen as creating commercial properties in a residential area because of the number of trailers that would be on the property. He said he did not think that would be the best idea. He said for him it would depend on how the new ordinance read but he was not sure how he felt about having a text amendment.

Chairman Rupp said he would like to have the ability to approve a use with conditions as far as a conditional use. He said he felt like where this property was located, it could be approved for a use like this, but because of the ordinance, it is not allowed. He said that he would like to see a text amendment because he thinks the city will continue to see more and more of this type of activity and without having the structure in the code, the Planning Commission has no ability to put restrictions on this type of activity. He said he would like to see restrictions so that this type of activity can be controlled in the future. He said he does not see this as something specifically prohibited. He said he does not know how the vehicles are used so he feels like with the current code it cannot be approved. He also said he feels like society is changing the way they do things, so the city code needs to be updated. He said without having the structure in the city code, the Commission has no ability to put restrictions on this type of business.

Commissioner Jones asked how it would work if people were going to rent their personal vehicles and if they would be required to receive a business license. Mr. Stephens said if it were a single vehicle they probably would not necessarily know if it was being rented, but if there is more than one, it would need to be addressed. He said there may be another community that has already had to review something like this and has come up with some good language for their city code.

Commissioner Grover said there is a certain aspect to where a person goes from a hobby to a commercial business. He said he did not know if that was one car or one trailer. He said he thought if it reaches a certain threshold it needs to be addressed. He said he would be leaning on looking at how you go from the hobby to the commercial aspect of renting out vehicles.

Chairman Rupp said if this issue were addressed in the city code, this type of use would be better managed for the future. He said it is hard to tell when it crosses over from a rental of one car to something more. He said it would be better to have more rules and regulations, so it is not treated as something new each time someone comes to ask about doing something like this.

City Council Member Sharp said his concern is about collecting sales taxes for that type of activity. He said when things went from one to more than one, there needs to be a definition. He said he thought good policies needed to be made.

Mr. Keddington noted he does do seasonal rentals and that could be considered because this is something that just happens in the summer. He said he does collect sales tax and pays that quarterly. He said he is trying to do the right things. He said he was doing this business before on county property and operated under county regulations in the Kaysville area. Council Member Sharp thanked him for doing things the right way and staying within the law.

Commissioner Jones asked if the Planning Commission wanted to initiate the text amendment. Mr. Stephens said yes, the Commission could give staff direction to move ahead and initiate the text

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amendment if they would like to do so. He said he would work with the city attorney to come up with a text amendment for these types of uses.

Following the discussion above, Commissioner Jones made a motion to deny the PVP home occupation based on input from the city attorney because the intent of Chapter 29 of city ordinance is not being met in this case. Commissioner Blackley seconded the motion, and all voted in favor of the motion through a roll call vote.

Commissioner Blackley then made a motion to remand this matter to staff to further explore the matter in regard to suggestions that had been discussed by the Planning Commission and to create a proposed text amendment to forward to the City Council. Commissioner Hennessy seconded the motion, and all voted in favor of the motion through a roll call vote.

Chairman Rupp asked Council Member Sharp to let the City Council know that something would be coming for their review on this matter.

ROWAN PEPPER, LLC CONDITIONAL USE—2269 SOUTH 1200 WEST SUITE #107—SHANE CULLIMORE

Mr. Stephens then reviewed this item with the Commission. He said this is proposed to be in a suite in the new office buildings near the city's public works department. He noted this business would be a distribution warehouse for things like cabinets, flooring, and tile. He said the business would have a few box vans, trucks, and enclosed trailers that would be parked on the property. He said as part of this conditional use they are allowed up to 20 feet vehicles that could be parked on the site. He said they have two deliveries a week. He noted it is in the I-1 Light Industrial Zone and is a conditional use within this zone. He noted the hours of operation are 9:00 AM to 5:00 PM and would be conducive to the residential neighborhood. He said as long as they stick with the hours of operations, he did not see an issue with this business at this location near the residential neighborhood.

Mr. Shane Cullimore representing this item addressed the Commission. He is looking to move into a bigger, newer warehouse.

Commissioner Hennessy asked if all of the deliveries would be within the hours of operation. Mr. Cullimore said yes, they would be delivered during business hours.

Commissioner Jones asked if Mr. Cullimore had looked at the conditions and if they were acceptable to him and Mr. Cullimore said the conditions were acceptable to him.

Chairman Rupp asked where the trailers would be parked in association with the business. Mr. Cullimore said he currently has one enclosed trailer that is being parked inside. He said there could be a maximum of 4 or 5 trucks. He said he would probably park all vehicles inside the building.

Mr. Stephens said visually it would be best if the vehicles were parked in the back if they were parked outside of the building.

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There were no further questions and Commissioner Jones made a motion to approve the conditional use for Rowan Pepper with the following conditions:

1. At no time may the business operation negatively impact adjacent business properties, particularly the neighboring residential area.
2. The business operation shall be in conformance at all times with any government agency having jurisdiction over the business or subject property.
3. At no time may any equipment, materials, or merchandise be stored or staged outside of the enclosed building.
4. Applicant shall obtain a South Davis Metro Fire Inspection approval and submit a copy to the city prior to the issuance of a business license.
5. Applicant shall obtain and maintain a Woods Cross City Business License.

Commissioner Blackley seconded the motion, and all voted in favor of the motion through a roll call vote.

PUBLIC HEARING: SS EQUITIES SPECIAL EXCEPTION REQUEST: REQUEST FOR SPECIAL EXCEPTION TO THE BUILDING HEIGHT REGULATIONS OF THE I-1 LIGHT INDUSTRIAL/BUSINESS PARK ZONE RELATING TO A PROPOSED BUILDING ADDITION LOCATED AT 2256 SOUTH 1250 WEST—NICHOLAS BRADY

Mr. Stephens noted that recently the Commission had made zoning changes regarding building heights in the industrial zone, and they became more restrictive when they abut a residential area. He said now there is a height restriction for a step back provision that if a building is located nearby a residential area the step back heights go from 35 feet to 45 feet, to 55 feet, and then to a maximum height of 65 feet, depending on their proximity to the residential neighborhood. He noted the owners of this building are proposing to construct an addition to the south side of the building. He said they would like to match the existing building, but the back portion of the building would be restricted to the 35 foot height because of its proximity to the residential neighborhood. Mr. Stephens said the applicants have filed for a special exception for the Planning Commission to take a look at it. Mr. Stephens showed renderings of what the building would look like with the addition with the height being the same as the existing building. He said it would be constructed to look like the original part of the building.

Mr. Stephens directed the Planning Commission to Title 12, Chapter 4, Section 102, and what authority the Planning Commission has regarding the special exception section of the city ordinance. He said he had spoken with the city attorney, and he said it was an acceptable way to apply for the exception and to have it reviewed. Mr. Stephens said this action would require a public hearing and he said this action had been advertised so the public was aware of this hearing so the public could give their input.

Mr. Stephens said the standards that would apply to an approval of a special exception would be that the Commission can impose conditions necessary to prevent or minimize any adverse affects upon other properties or improvements of a special exception upon the city as a whole or public services or facilities and it is not limited to those conditions. He said the use can concern, construction, character, location, screening, landscaping, parking, or any other items that might relate to a special exception. Mr. Stephens

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said in authorizing a special exception unless the evidence presented establishes otherwise the special exception needs to be found:

1. Not to be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property improvements in the vicinity.
2. Will not create unreasonable traffic hazards.
3. Is located on a lot or parcel of sufficient size to accommodate it.

Mr. Stephens went on to say the first thing that would need to take place would be for the public hearing and then the applicant could speak to the case and then the Planning Commission could decide what they wanted to do following the information given.

Following the information given by Mr. Stephens, Commissioner Blackley asked what the height of the building was, and Mr. Stephens said it was just a little over 41 ft. Mr. Blackley asked about the extension and what would be allowed under the new ordinance. It was noted that the step up is a difference of six feet and that would go back for about 20 feet. Mr. Stephens said in the end if there was a case to approve the special exception the Planning Commission would still need to complete a site plan amendment application and have it reviewed by staff and the Planning Commission at a later meeting.

Mr. Nicholas Brady, architect for this project, and Mr. Shu Sito were in attendance at the meeting to speak about this issue.

Mr. Nicholas Brady addressed this issue and said the building was recently completed and was previously approved at the height they are trying to match. He said on the west side there is a drain easement and trail that acts as a buffer to the residential neighborhood. He said it puts them at about 145 feet to the closest corner which would be the southwest corner of the new expansion point to the east property line of the residential lots. He said there is quite a distance between the residential lots and the corner of the building, even with expansion. He said what they were up against was the zone line versus the property line at the residents. He said to match the existing building height they need about 6 or 7 feet, but that puts them into the 45 foot height restriction. He said the owner would like to maximize the use of the inside of the warehouse. He noted that a racking system is inside the building, and they need the extra 6 feet to be able to fit another rack into the building. He said the restriction would not allow the extra rack which would be detrimental to the business. He said he would like to retain as much of the functionality inside of the warehouse as possible. He said he felt that it would be an eyesore if the building were to be stepped down. He said it would look more aesthetically pleasing to keep the addition at the same height as the rest of the building.

Commissioner Grover said he had taken a field trip to the location from his home nearby where he had been joining the Planning Commission meeting through Zoom. He said he wanted to give the Commission an idea of what the addition would look like. He said he was standing next to the fence of some of his neighbors and showed the Commission what the addition might look like. He said he did not feel like it would be of any benefit if the building was shorter. He said his opinion was that conformity towards having the same amount of space and the same height would be more aesthetically pleasing for the addition.

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Mr. Sito, the owner, added that he felt Mr. Brady had explained everything well. He said when the building was originally built, he had the future expansion planned and it was approved, but the height was not given at that time. He also said with the changes in the zoning, that also changed what height would be allowed.

Commissioner Jones asked if it was the intention to have the wall taken down in the existing building to put up the extension. Mr. Brady said it would just be added to the existing building because it had been planned for originally and the openings are already there.

Chairman Rupp then opened the public hearing.

Ms. Breeann Wright commented and said she thought the building would look funny if it was different heights.

There were no further public comments, and Chairman Rupp closed the public hearing.

DISCUSSION AND CONSIDERATION TO APPROVE SS EQUITIES REQUEST FOR A SPECIAL EXCEPTION—JOE RUPP

Following the information above, Chairman Rupp asked what Council Member Sharp thought after reviewing the matter. Council Member Sharp said he agreed with what was said and that it would look odd to have the step up in the height of the building and it would be best to have it all one height and to match the existing building.

Chairman Rupp asked if the Planning Commission thought this matter met the criteria for the special request.

The Commission looked over the criteria again which were reviewed above and noted they did not see anything that would preclude the request to allow for the special exception.

Commissioner Jones said as a general rule he is hesitant to accept special exceptions but, in this case, he said he thought it would look more aesthetically pleasing with the building to be the same height and he did not feel like 6 feet added to this building would cause any issues. He said it is so far away from the nearby residential area it made it easier to make the decision.

Commissioner Blackley said it would not impact the neighborhood at all having the building a few feet higher.

Following the review and discussion, Commissioner Blackley made a motion to approve the special exception request from SS Equities for the change in the building height. Commissioner Jones second the motion and all voted in favor of the motion through a roll call vote.

CITY COUNCIL REPORT

Council Member Sharp noted there had been no City Council meeting because of the holiday.

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GENERAL AND PENDING BUSINESS

Mr. Stephens updated the Commission on the Audrey subdivision and what they are working on to try and conform with the request the Commission had discussed with them previously.

ADJOURNMENT

There being no further business before the Commission, Commissioner Hennessy made a motion to adjourn the meeting at 7:43 P.M.

Joe Rupp, Chairman

Bonnie Craig, Secretary