

CITY OF NORTH SALT LAKE
PLANNING COMMISSION MEETING
JANUARY 23, 2018

FINAL

Chairman Robert Drinkall called the meeting to order at 6:30 p.m. and Will Mark led those present in the Pledge of Allegiance.

PRESENT: Commission Chairman Robert Drinkall
Commissioner Ted Knowlton
Commissioner Stephen Garn
Commissioner Kent Kirkham
Commissioner Leslie Mascaro
Commissioner William Ward
Commissioner Brandon Tucker

STAFF PRESENT: Ken Leetham, City Manager; Sherrie Llewelyn, Community Development Director; Shannon Andersen, Planning Technician; Andrea Bradford, Minutes Secretary.

OTHERS PRESENT: Brad Sweet, Mark Greenwood, Granite Construction; Josh Merrell, Four Foods Group; Patsy Zamani, Dariush Zamari, Diane Boade, F. Scott Smith, Karen Blanco, Lesley Garaycochea, Ron Barney, Marilyn Barney, Katherine Olson, Brent Nielson, Ryan Benard, Eric Waite, Mary Lynn Kinsel, Phil Kinsel, Bill Paez, Nancy Paez, Dave Coats, Chris Coats, Joan Teasdale, Steve Israelsen, Bonnie Lee, Hyrum Garaycechea, Cheryl Rosvall, Roger Jones, Marlene Jones, Steven Akerlow, John Burggraf, Brian Horrocks, Len Arave, Kris Garcia, Rafael Chavez, Stanley Garcia, Tom Durrant, Jack Leary, Edward Anderson, Miriam Harrison, Ryan Sutherland, Ryan Mumford, Stan Porter, residents; Amy Whetton, Kemper Northwest; Rick Hellstrom, Dominion Energy.

1. PUBLIC COMMENTS

There were no public comments.

Brandon Tucker was introduced as the newest Planning Commissioner. He explained he was employed previously with UDOT and had continued to work as a civil engineer for a private firm in transportation engineering and roadway construction.

2. CONSIDERATION OF A CONDITIONAL USE PERMIT FOR AN INDUSTRIAL EQUIPMENT SERVICE AND REPAIR AT 905 NORTH MAIN STREET, KEMPER NORTHWEST, APPLICANT

Shannon Anderson reported on a conditional use permit for Kemper Northwest which is an industrial refrigeration repair company. The applicant planned to use 5,000 square feet of an existing 22,500 square foot building located at 905 North Main Street. The space would be used for prefabrication and pipe storage, part storage, and general office space. There would be no outdoor storage onsite. The hours of operation would be 7 a.m. to 5 p.m. with most of the work to be conducted offsite. The Development Review Committee (DRC) recommended approval with three conditions which included a comprehensive hazard assessment for the protection of the well head protection area where the building is located, approval and inspection from the fire marshal, and sign permit prior to install of a new business sign.

Commissioner Drinkall asked what type of hazardous material would be used and stored onsite. Amy Whetton, Kemper Northwest, replied that there was minimal hazardous material proposed to be stored onsite but said that there would be some refrigeration oil.

Commissioner Mascaro moved that the Planning Commission approve the conditional use permit for Kemper Northwest Inc. located at 905 North Main Street with the following conditions:

- 1) **A comprehensive hazard assessment is completed with Public Works, showing proper disposal and storage of all chemicals and old equipment;**
- 2) **Approval from the Fire Marshal;**
- 3) **A sign permit is obtained prior to installing new business sign**

Commissioner Garn seconded the motion. The motion was approved by Commissioners Drinkall, Knowlton, Garn, Kirkham, Mascaro, Ward, and Tucker.

3. CONSIDERATION OF A CONCEPT PLAN APPROVAL FOR A TWO LOT SUBDIVISION, LOCATED AT 1065 NORTH HIGHWAY 89, FOUR FOODS GROUP, APPLICANT

Sherrie Llewelyn reported that the concept plan application was for a two lot subdivision located at 1065 North Highway 89. The existing parcel currently consisted of a Top Stop and Subway restaurant, a Key Bank, and a Master Muffler. The parcel would be divided into two parcels and would contain R&R BBQ on one parcel with Key Bank to retain the second parcel. She explained that there were two conditions which included a provision that the preliminary plat

require an easement on the dividing property line for the installation of future water lines from the existing city well to the west and a second condition that the subdivision line be located with landscaping on one lot to avoid maintenance issues.

Commissioner Mascaro asked if the well was culinary or secondary water and if there would be provisions put in place to protect culinary water. Sherrie Llewelyn replied that it was culinary water and that the protections allowed certain uses. She also said that a geological study revealed contamination on the Top Stop property which would require mediation which would be done by the applicant.

Commissioner Drinkall asked if the width of the City easement needed to be noted. Sherrie Llewelyn said that the easement would be 15 feet and that this requirement would be reviewed by the Planning Commission when the item returned for preliminary and final plat approval.

Commissioner Garn moved that the Planning Commission recommend to the City Council the concept plan approval for a two lot subdivision at 1065 North Highway 89 subject to the following conditions:

- 1) Provision for a utility easement along the divided property line for future water line;
- 2) Subdivision line should be located with the landscaping on only one lot, unless a recorded maintenance agreement is attached to the plat.

Commissioner Mascaro seconded the motion. The motion was approved by Commissioners Drinkall, Knowlton, Garn, Kirkham, Mascaro, Ward, and Tucker.

4. CONSIDERATION OF A SITE PLAN APPROVAL FOR R&R BBQ, LOCATED AT 1065 NORTH HIGHWAY 89, FOUR FOODS GROUP, APPLICANT

Sherrie Llewelyn reported that this site plan approval was for R&R BBQ which was discussed in the previous agenda item. She explained that the City owned a portion of the property and would enter into a long term lease to allow the restaurant to use that property for parking. The street was previously owned by UDOT and was currently being used as an access for Apollo Burger, South Fork Hardware and Kneaders which is also owned by Four Foods Group. The shared access would continue and the applicant would maintain the parking area including snow removal, landscaping and asphalt.

Staff has asked the applicant for additional changes to the site, which are reflected on the site plan. These would include providing unobstructed access near the well and future pump house

with space for a 60' long crane, the narrowing the entrance to a driveway width, as opposed to street width as presently constructed, and a reconfiguration to the garbage enclosure for better access. Additionally, and not shown on the plan presented to the Planning Commission, but submitted to staff that afternoon is a slight rotation to the parking near the garbage enclosure to ensure a safer angle for the two spots.

The applicant proposed to exceed the parking requirement of 62 parking stalls with 69 total stalls including 3 ADA stalls. The landscaping plan of 24% also exceeded the required 10% minimum landscaping requirements. The DRC recommended approval with the condition that final approval of the lease agreement be reached with the City Council.

Josh Merrell, Four Foods Group, commented that this was a difficult site due to the removal of the Top Stop gas station and remediation of the property.

Commissioner Drinkall asked in regards to the timeline for demolition and opening of the new restaurant. Josh Merrell replied that they would close on the property in March and would start construction after that with a proposed opening date in September.

Commissioner Drinkall also asked if the applicant had owned other local restaurants. Josh Merrell replied that Four Foods Group also owned Kneaders, R&R, Mo'Bettahs (Hawaiian Restaurant), and Swig.

Commissioner Knowlton commented that the pedestrian walkway shown on the landscaping plan was absent on the site plan and asked that this omission be remedied.

Commissioner Drinkall also noted that the address on the presented site plan should be corrected to reflect that 2600 South was north of the property.

Commissioner Kirkham moved that the Planning Commission approve the requested site plan for R&R BBQ at 1065 North Highway 89 subject to the following conditions:

- 1) Final approval of the lease agreement with the City Council.**

Commissioner Garn seconded the motion. The motion was approved by Commissioners Drinkall, Knowlton, Garn, Kirkham, Mascaro, Ward, and Tucker.

The Commission commended the applicant for redevelopment of the site, the appearance of the building, and for working with City staff on the parking solution.

5. CONSIDERATION OF A CONDITIONAL USE PERMIT FOR A SAND AND GRAVEL MINING OPERATION AT APPROXIMATELY 650 SOUTH EDGECREST LANE, GRANITE CONSTRUCTION, APPLICANT

At 6:55 p.m. the Planning Commission adjourned for a short recess. The Commission reconvened at 7:02 p.m.

Commissioner Drinkall explained to those present that City staff would present the finding and facts of the application, the applicant would have a chance to present any additional information, and then a public hearing would be held for those interested in addressing the Commission. He clarified that the Planning Commission was comprised of appointed members with a variety of backgrounds and that they had reviewed materials submitted for the proposed conditional use permit and would now like to hear from the public.

Commissioner Ward disclosed that his former law firm represented the applicant. He explained he did not work on the case while he was employed there so he did not feel that there was a conflict of interest.

Sherrie Llewelyn reported that this was an application for a conditional use permit and not an application for a zone change. She reviewed the history of the application and the circumstances of this application. She explained that the City staff believes that the northern parcel of the request is zoned P-District, which would not allow for further mining. The applicant believes that both parcels are zoned S-R. The applicant position is that the P District zone on the north parcel is void, as the former Granite Ridge Subdivision was never built and the development agreement was not fulfilled by Brighton Homes Utah.

She further explained that this application for a conditional use permit was rejected by the City staff, as one parcel was zoned P district and does not allow mining as a permitted or conditionally permitted use. The applicant has filed an appeal of the City staff's administrative determination regarding the zone designation. A hearing is to be set for the appeal authority to review the appeal and potentially make a final determination.

Mrs. Llewelyn explained that staff had intended to have the CUP request by the Planning Commission after the decision on the zoning from the appeal authority. An attorney representing the applicant submitted a letter to the city requesting that the CUP be processed and reviewed by the Planning Commission within forty-five days, per the state statute 10-9a-509.5(2), which allows an applicant to invoke such a request. She said that the first condition recommended in the staff report is that the hearing officer or district court, if appealed there, determine that the property is in fact zoned S-R. The additional 34 recommended conditions are predicated by the

first condition being met and are those conditions that staff recommended to mitigate the impact of the proposed use on the neighboring properties in the area.

Sherrie Llewelyn reported that the property was located east of the Monte Thomas and Lakeview Rock Products pits, and to the west of the Edgewood Estates and Eaglepointe Estates subdivisions. She presented maps, to those in attendance, detailing the history of the zoning changes from 1955 to the present and showed the original annexation and property lines of the parcels in 1955. The original zoning was F-1, was then changed to R-1, and in 1997 both parcels were rezoned to SR. In March of 2014 the north parcel was zoned P District to create the Granite Ridge subdivision on the northern half of the property. This subdivision was to be developed by Brighton Homes and a development agreement was signed with the City. Brighton Homes also obtained preliminary plat approvals for the subdivision and was scheduled to receive final plat approval on August 5, 2014 (the date of the Parkway Landslide), that evening, Brighton Homes withdrew their application and did not complete the purchase agreement with Granite Construction.

Mrs. Llewelyn presented Granite's proposed plan for mining which included a 100' buffer between the property and the east neighbors, a light duty vehicle access road off Edgecrest Lane, a crusher to be located 400 feet from residential property, chain link fencing along the east property line as well as an earthen berm, and active mining signs. She detailed the proposed haul routes which included a route across the Monte Thomas and Lakeview parcels and out onto the frontage road and a route that proposes to go north out of LRP pit on the frontage road, then north on Hwy 89, turning east onto Eaglewood Drive, using the roundabout to return to Hwy 89 and onto 1-15 south. City staff recommended that the haul route be permitted due to the congestion at the roundabout and public safety. Trucks leaving the pit can access I-15 South via Beck Street instead.

Sherrie Llewelyn explained that there are many stipulations detailed in the staff report that would need to be met for the conditional use permit related to zoning, draft mining ordinance standards, haul road and truck routes, access roads, water, landscape buffers, finished grade/slope, high pressure gas line easement, air quality and dust control, storm water, noise, blasting, inspection, and security. She said that a draft mining ordinance was currently under review by the City Council and those regulations would be applied to this item as well.

Mrs. Llewelyn said that any roads which serviced the pit and were located within 100' of a residential property must be paved per the draft ordinance and 50' under the current ordinance. She then explained the requirements for the stipulations and said that an agreement would need to be in place to use the Lakeview Rock Products access, construction plans would need to be submitted to show the installation and use of City water facilities for landscape and dust control,

a 10' high, 30' wide landscape buffer/berm would need to be placed, the finish grade/slope would need to meet the required 2:1 slope, an agreement addressing the buffer with Questar (Dominion Energy) and Kern River, a 300' setback of buffer, plan for air quality and dust control standards, a storm water plan, a noise study as well as installation of noise monitoring devices, yearly inspections, and adequate fencing and security measures.

Mrs. Llewelyn also said that the applicant would need to meet all requirements for blasting per the new City ordinance which would require a certified blasting plan per an independent blasting specialist and the notification of adjacent property owners within 72 hours.

Commissioner Mascaro asked about the actual use of the gravel pit and if the applicant had ever been issued a conditional use permit for the site. Sherrie Llewelyn replied that a conditional use permit was issued for mining activity on both parcels in 1997. This mining was to be done in preparation for the 2002 Olympics and once the work was completed the pit and application was closed. A conditional use permit was approved for the south parcel in 2014 but minimal prep work has occurred on the site since then.

Mark Greenwood, Granite Construction, thanked staff for putting the conditions together but said that as they had just received the information on Thursday they had been unable to thoroughly review the requests. He asked that the public hearing be held to receive additional feedback and then requested that the item be tabled.

Commissioner Drinkall explained that while a public hearing was not required for this item that the Commission wanted to be fair to both the applicant and residents. Commissioner Knowlton suggested that the members of the public provide information that had not already been stated by previous speakers. He also said that per State law the Commission would be required to approve a conditional use permit if the Planning Commission can place conditions on the applicant which mitigate the impacts of the operation.

Commission Chairman Drinkall opened the public hearing at 7:34 p.m.

Bill Paez, 221 Edgewood Circle, commented that he was the president of the Edgewood Estates HOA and said that the conditions would not be able to mitigate the effects of allowing Granite to mine and blast by homes. He said it would be very difficult to measure the impacts that the mining would have on everything from traffic, to earth movement, and potential damage to homes.

Mary Lynn Kinsel, 298 East Kinsel Drive, said that while she appreciated the Commission this issue had been discussed before and that the mining was not a compatible use. She said mining was a nuisance and hazard and that the mining company should not be trusted.

Tom Durrant said he owns TLC Construction and was also a real estate agent. He commented that he uses a lot of sand and gravel and that mining impacted everyone from builders, property owners, and residents. He said that zone changes should not be taken lightly as it affected those who had purchased a home in the City and planned for/expected certain uses near their property.

Commissioner Ward asked Tom Durrant if he noticed whether the north parcel was zoned P-District at the time he helped homeowners purchase property in the City. Tom Durrant replied that it was zone P-District as it was important for his buyers to know what was occurring in certain areas.

Ron Barney, 209 Edgewood Circle, said he felt that there was an obligation by the City to deny applications that may harm residents. He explained that his daughter's home was damaged by an explosion at a Woods Cross refinery and the City was unwilling to help. He said once the City Council approved housing adjacent to mining that certain considerations should be made.

Commissioner Knowlton commented that the City's position was that the north parcel was currently zoned P-District which would not allow for mining. The applicant has appealed the determination and in the event that the parcel was determined to be zoned S-R, by the appeal authority or a judge, the City would need conditions in place to address potential mining of the property.

Commissioner Drinkall said both of the parcels are owned by Granite Construction. The applicant could take the decision made by the appeal authority before a judge who could then determine that the property was zoned S-R which would allow for future mining. He said that affected residents could also appeal any approval granted by the city.

Sherrie Llewelyn defined the S-R zone and said that this zoning would allow mining as a conditional use. She said the only property currently zoned S-R in the City was the southern parcel and that the zoning of the northern parcel was changed to a Planned or P-District at the request of Brighton Homes with permission from Granite Construction. The City Council approved the zone change and a development agreement signed for residential development.

David Coates, 193 Pace Lane, asked whether it was necessary to review the two parcels together. Commissioner Drinkall replied that the applicant owned both parcels and had asked for a conditional use permit for both parcels.

David Coates then asked if Kern River owned the property where the gas line was placed or if there was an easement. Sherrie Llewelyn replied that Kern River owned the line but had an easement on Granite's property.

Steve Israelsen, 742 Eaglepass, said that he lived adjacent to the proposed property and was a homebuilder who had constructed a majority of the homes on the ridge. He said there were three major gas lines located in the area and that blasting so closely to the lines was a significant issue. Mr. Israelsen said that there would need to be adequate setbacks from the gas lines. He also said his company would be interested in purchasing the north parcel for residential development. He believed residential use was the best use for this property.

Jack Leery, 736 Eaglepass, commented that Steve Israelsen had constructed a home for him in Eaglewood Estates and he was aware of the proximity of the pipelines but did not feel it was an issue at that time. He said that mining and blasting should not be allowed near the pipelines as it was not only a nuisance but would affect property values and could cause any explosion.

David Coates requested that if the item was tabled residents receive another notice when the item was back on the agenda.

Rick Halstrom, Dominion Energy, formerly Questar gas line, owned the line. He said they appreciated the proposed conditions of the conditional use permit that required Granite to seek certain permissions and agreements from Dominion for the protection of the gas lines. Mr. Halstrom then asked that Granite provide additional items which included a geotechnical study, a geological hazards study for the hillside, a slope stability analysis, and a blasting plan. He also said that trees would not be allowed on the easement.

Commissioner Drinkall said that these would potentially be extra conditions for the conditional use permit. He also asked that Questar Gas be changed to Dominion Energy in the paperwork.

Ryan Sutherland, 117 East Sunset Vista Court, said there was some concern as during a previous meeting resident were told that Questar and Kern River did not have any additional issues with the potential mining.

Commissioner Drinkall commented that following the landslide Questar and Kern River were quick to respond and that they took any potential safety issues seriously.

Roger Jones, 645 Edgewood Drive, said that air quality issues caused by mining could not be mitigated by a berm regardless of the size. He said the dust would be detrimental to the air quality.

Lesley Garaycochea, 721 Eaglepass, commented that manmade improvements and engineering could not overcome what Mother Nature could do. She said it was ludicrous to believe that nothing bad could occur when the property is located on a known fault line, the hillside had stability issues, and was in close proximity to gas lines.

Edward Anderson, 259 Edgemont Drive, he asked why the item was being addressed before the zoning was clarified. Sherrie Llewelyn replied that under State statute an applicant can require that the item was reviewed and processed within 45 days of a written request.

Edward Anderson asked if the conditional use permit could be done separately for the parcel zoned S-R and the parcel zoned P. Commissioner Drinkall replied that the applicant owned both and it was their decision to process both parcels together.

Commission Chairman Drinkall closed the public hearing at 8:24 p.m.

Marilyn Barney, 209 Edgewood Circle, commented that the City had to act on the application but said that the applicant had not acted on the City's request for reclamation of the property that they already mined. Sherrie Llewelyn replied that the property Mrs. Barney was referencing was the Monte Thomas property which was not owned, nor mined, by Granite Construction.

Marilyn Barney then said that the map from September showed the parcels were zoned the same and asked for clarification on why the parcels are now zoned P and S-R. Sherrie Llewelyn clarified that in 2016 Kilgore who had a purchase agreement with Granite and Monte Thomas had submitted an application to rezone the north Granite parcel from P to SR, and the Monte Thomas parcel from R1-10 to SR. That application was tabled by the Planning Commission in September of 2016 with a request from Kilgore to submit additional information. That information was not submitted and the application was closed for lack of action on the part of the applicant after 12 months. At this time Kilgore no longer has a purchase contract with Granite, and therefore Granite is requesting a new conditional use permit on the two properties they own.

Commissioner Knowlton asked staff and the Commissioners if there were any additional issues identified from public comments that were not already addressed in the draft conditions. Sherrie Llewelyn recommended that a condition associated to the blasting studies in relation to the Dominion and Kern River gas lines should be added.

Mary Lynn Kinsel asked what Granite Construction intended to do with the property in the event that the conditional use permit was approved. Sherrie Llewelyn replied that Granite intended to mine the property.

Commissioner Drinkall asked if there were additional parties interested in the property. Mark Greenwood with Granite Construction replied that while he could not elaborate there were multiple parties interested in the property for everything from mining to residential development.

Commissioner Knowlton asked for a listing of the pipelines on or near the property. Sherrie Llewelyn replied that there were two 36" pipelines owned by Kern River and one 20" pipeline owned by Dominion Energy.

Commissioner Knowlton commented it was likely the appeal authority would find the northern section was zoned P-District, as the city believes, but the decision could be made that the northern parcel was zoned S-R. He said the Commission's job was to administer the law whether the property was zoned as a P District and as a contingency administer the law assuming S-R zoning. If through the appeal, the property was determined to be zoned S-R the Commission would have to approve the conditional use permit if conditions can be put on the application to mitigate the impacts as this is a requirement of State law. If the property was determined to be zoned S-R these conditions would be put in place to help mitigate the impacts and if one of the conditions could not be met by the applicant they would not be granted a permit to begin operations.

Commissioner Mascaro requested additional information from the applicant including the types of equipment that would be used, the hours of operation, a phasing plan, and a crushing schedule. Mark Greenwood replied that these items would depend on the draft mining ordinance.

Sherrie Llewelyn commented that the mining ordinance has been drafted and was currently being reviewed by the City Council.

Commissioner Ward asked the applicant to state for the record that Granite was requesting the item be tabled and withdrew their request and waiving their right to have final action taken within the 45 day time limit as provided by state statute. Mark Greenwood replied in the affirmative that Granite was making that request and that their the purpose of the request for the processing in the 45 day letter was to obtain a review that identified the issues and recommended conditions so that they could adequately address them.

The Commissioners were in favor of tabling the item to allow the applicant to work with staff on the proposed conditions. It was also requested, by the Commission, that an additional condition be made to address the mitigation of the potential impact to the pipelines.

Commissioner Knowlton moved to table the item for no more than 60 days after the final decision.

Mark Greenwood asked to be put back on the agenda two months after the appeal process was completed. Sherrie Llewelyn commented that the appeal hearing had not yet been scheduled. She also said that the City could prepare notices to be sent to residents informing them of the next meeting.

Commissioner Mascaro suggested that the motion be to table the item for 60 days after the final decision had been made and to send notices to residents. Sherrie Llewelyn clarified that the applicant would need to provide new stamped envelopes with addresses for property owners within 300' that were current and updated in the event of new property owners in the area at the time of the being placed on the Planning Commission agenda for additional review.

Commissioner Knowlton amended the motion to table to a date no more than 60 days after a final decision on the zoning designation of the northern parcel. In addition the applicant will notify all adjacent landowners within 300 feet at the applicant's expense.

Commissioner Mascaro seconded the motion. The motion was approved by Commissioners Drinkall, Knowlton, Garn, Kirkham, Mascaro, Ward, and Tucker.

6. APPROVAL OF MINUTES

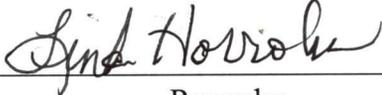
The Planning Commission meeting minutes of January 9, 2018 were reviewed and approved. **Commissioner Garn moved that the minutes for January 9, 2018 stand approved as noted. Commissioner Kirkham seconded the motion. The motion was approved by Commissioners Drinkall, Knowlton, Garn, Kirkham, Mascaro, Ward, and Tucker.**

7. ADJOURN

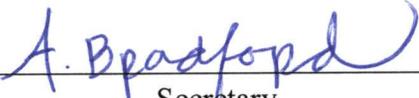
Chairman Drinkall adjourned the meeting at 8:57 p.m.



Chairman



Recorder



Secretary