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Staff Report Memorandum July 20, 2023

To: City Council via Planning Commission

From: Community Development Department

Subject: Amendments to Title 21 of the Land Development Code, Chapter 19, Special Development (SD) Districts, Section 20, SD (Carnation) -10600 S. 1000 E. CA05252023-0006537

Public Hearing Notice: This item has been noticed on public websites, sent to affected entities and property owners within 500 feet of the zoning district and posted in three public locations at least 10 days prior to the Public Hearing.

Request

Adam Nash, representing several property owners that are part of the area zoned SD (Carnation), has applied to amend Title 21, *Land Development Code*, Chapter 19, *Special Development (SD) Districts*, Section 20, *SD (Carnation)-10600 S. 1000E* of the Sandy Municipal Code. The SD Carnation zone only affects approximately 2 acres of land located around 984 East 10600 South (see map insert). The proposed code change would allow gasoline service stations in the SD Carnation zone, where they are currently prohibited. The applicant intends to develop a gas station with a convenience store in the future if the code amendment is approved. This proposal is included with this report as Exhibit “A” (redlined version) and Exhibit “B” (clean version).



Background

In 2004, the SD Carnation Zone was established specifically for this site and is not used in any other location in the city. The purpose of the SD Carnation Zone is “to provide an area for convenience commercial retail services and professional and business offices with development standards compatible with those of contiguous properties” ([Sec. 21-19-20](#)). The properties are bordered to the north by single-family homes and churches (jurisdiction of White City); to the west and south by the Dimple Dell Recreation Center (OS Zone); and to the east is a school and a church (R-1-8 Zone).



CA05252023-0006537
Code Amendment
984 E 10600 S

Sandy City, Community Development Department



Case History	
Case Number	Case Summary
Ord. No. 04-25 CA-04-L Ord. No. 04-26 R-04-04	Creation of the SD (Carnation) zone, and a rezone from CVC and Open Space (OS) to the SD (Carnation) zone, May 2004.
SPR-04-20	Site Plan Review for the 106 th South Retail Center, Phase 1, Big 5 Sports, September 2004.
Ord. No. 19-34 CODE-10-19-5752	Amendments to the SD (Carnation) zone to allow Pharmacies and Medical Office as permitted uses in the zone and to reduce the code required landscaped front yard setbacks from 10 feet to 8 feet. Approved, December 2019.

Public Notice

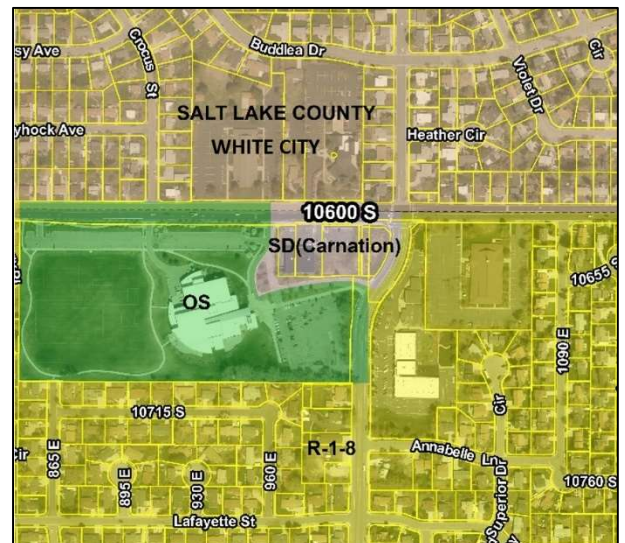
The city issued notice of the public hearing for the proposed code amendments on public websites, mailed notice to affected entities and property owners within 500 feet of the zoning district, and posted in three public locations at least 10 days prior to the Planning Commission public hearing in accordance with the Land Development Code Sec. 21-36-1 and the Utah State Code § 10-9a-205.

A neighborhood meeting was held on Tuesday, June 27, 2023, at 6 pm. In attendance was the applicant Adam Nash, his business partner Troy Johansen, and one participant. Participant Jackie Smith stated that she lived nearby, and she was concerned about the possibility of having another 24-hour business with gas station in the neighborhood and that it would increase traffic. An email was also received from Tom Burns, who was unable to attend the neighborhood meeting. Mr. Burns stated in an email that he is opposed to the proposal because there are already enough gas stations in the area and that it would only add to the noise and traffic at this location. His comments are included as Exhibit “E”.

Analysis

As proposed by the applicant, the code change would allow gasoline service stations in the SD Carnation zone (see [Section 21-19-20](#)). The specific amendments to the Land Development Code are included as Exhibit “A” (red-lined version) and Exhibit “B” (clean version). The applicant’s narrative for the proposal is included as Exhibit “C.”

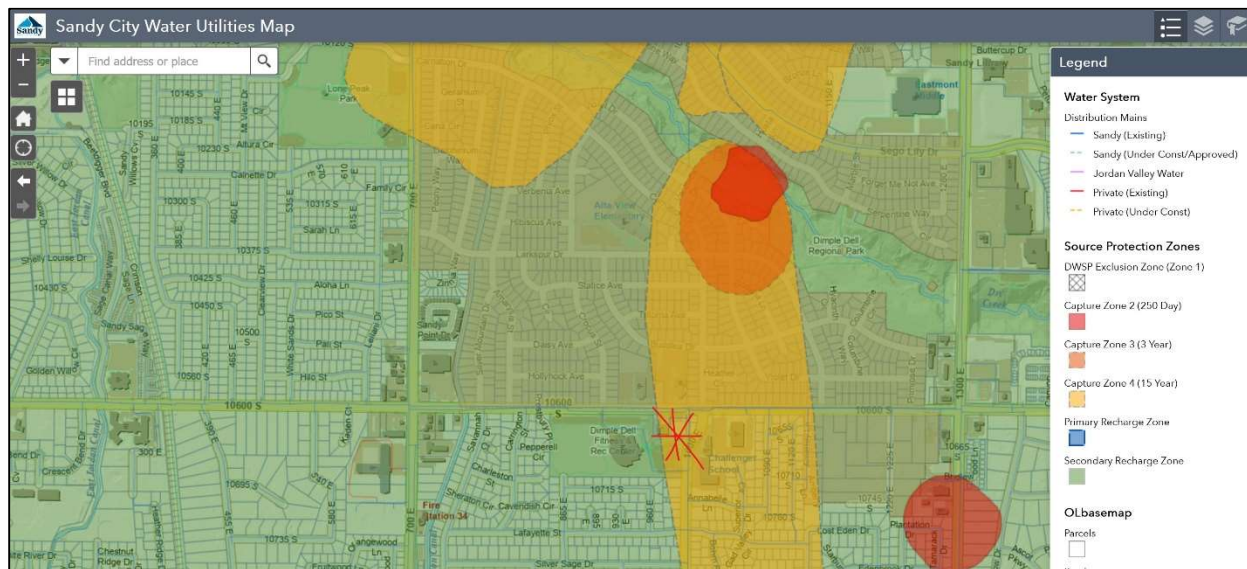
Currently, the SD Carnation zone states that permitted and conditional uses shall follow the land use list for the CvC zone (Planned Center-Convenience Zoning District), as listed in [Section 21-8-2](#), with the exception of automotive uses; all automotive-related land uses were intentionally excluded from the zone by the City Council at the time this special district was established.



In the CvC zone, automotive service stations and automotive self-service stations are allowed with a conditional use permit; however, all other automotive-related land uses are not permitted in the zone. Therefore, the proposed code change would effectively allow gasoline service stations with conditional use permit approval, but all other automotive-related uses (i.e., auto sales and rentals, auto service and repair) would remain prohibited in the SD Carnation zone.

The White City Water Improvement District (WCWID) was notified that the applicant proposed to construct and operate a service station in the SD Carnation zone, which is just outside WCWID's service area. Mr. Paul Ashton, General Manager/General Counsel of the WCWID provided comments to Sandy City opposing a service station in this area due to its proximity to existing ground-water resources (Exhibit “D”). Mr. Ashton states: *“In this situation, the potential consequence of leakage and contamination would be catastrophic to water wells within the area including, but not limited to those owned and run by WCWID, but also wells owned and run by Sandy City and the Jordan Valley Water Conservation District. In that regard, the underground aquifer from which those wells draw pristine drinking water would be severely damaged if petroleum products leak and contaminate the aquifer. The proposed gas station lies directly in groundwater source protection zone 4 of White City Water Improvement District's Well No. 3A. I have brought this matter up to the elected WCWID Board of Trustees and they have instructed us to petition Sandy City to **not** grant approval for construction of the proposed gas station.”*

The Sandy City Code helps protect all water sources, regardless of agency. The Sandy Public Utilities Department is charged with the responsibility of ensuring that those water sources are protected and has agreed with the WCWID letter. While the SD Carnation zone is not within the White City Water Service District, the affected properties are still within a Drinking Water Source Protection Overlay Zone (see [Sec. 21-17](#)). The map below shows the subject properties are located within Drinking Water Source Protection Overlay Zone #4, which is described in the code under [Sec. 21-17-3, Extent and Designation of Recharge Areas and Protection Zones](#).



The Land Use Matrix for Potential Contamination Sources ([Sec. 21-17-6](#)) states that “Gasoline Service Stations” proposed within Drinking Water Source Protection Overlay Zone #4 require Public Utilities Department approval. The Public Utilities Department has reviewed the proposal and they will not grant approval of a gasoline service station at this location due to the proximity to ground-water resources. Sandy City Public Utilities Department Assistant Director/Engineering Manager Richard Benham, P.E., states that this area is known to have sandy soils that would allow contaminants to travel to multiple wells in the area. The city has lost wells to contaminant sources, and it is vital that the City protect these important investments.

Non-Conforming Uses

This code amendment would not create any non-conforming situations.

Land Development Code Purpose Compliance

The Sandy City Land Development Code in 21-1-3 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

21-1-3 Purpose

This Code is adopted to implement Sandy City's General Plan and to promote public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

1. General

- a. To facilitate the orderly growth and development of Sandy City.*
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.*
- c. To stabilize property values.*
- d. To enhance the economic well-being of Sandy City and its inhabitants.*

2. Implementation of General Plan

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

3. Comprehensive, Consistent and Equitable Regulations

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

4. Efficiently and Effectively Managed Procedures

- a. To promote fair procedures that are efficient and effective in terms of time and expense.*
- b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.*
- c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.*

The proposed code amendment is inconsistent with the purpose of the Land Development Code because the proposal does not promote public health, safety, and welfare. Based on the findings stated previously in this report, the proposal to allow gasoline service stations in the SD Carnation zone creates the potential for ground-water contamination. Neither the WCWID nor the Sandy Public Utilities Department will grant approval for a gasoline service station in this area.

General Plan Compliance

Water Source Protection Goals and Policies were adopted into the Sandy General Plan under Ordinance 98-21. These include a goal to adopt Drinking Water Source Protection Regulations, and policies to apply zoning that protect wells from potential contamination sources and that regulate new businesses from locating within certain zones. Based on these goals and policies, a Drinking Water Source Protection Overlay Zone ([Sec. 21-17](#)) was adopted into the Sandy Municipal Code, and through its implementation a gasoline service station is not an appropriate use within the SD Carnation zone.

Recommendation

Staff recommends that the Planning Commission recommend to the City Council to deny the application to amend Section 21-19-20 of the Sandy Municipal Code to allow gasoline service stations in the SD Carnation zone, based on the following findings:

Findings:

1. The City Council may amend land use ordinances consistent with the purposes of the Sandy Land Development Code, the Sandy City General Plan, and the Utah Code, Municipal Land Use, Development, and Management Act per Title 21 Chapter 5 of the Sandy Municipal Code.
2. The proposal is reviewed by the Planning Commission and City Council in accordance with the requirements of Title 21 Chapter 5 of the Sandy Municipal Code.
3. The proposal does not comply with the purpose of the Land Development Code under Section 21-1-03 because it would create the potential for ground-water contamination, and thus poses a threat the public health, safety, and welfare.
4. The proposal does not comply with the Sandy City General Plan because it is contrary to the Water Source Protection Goals and Policies.

Planner:



Melissa Anderson
Zoning Administrator

Exhibits:

- A. Proposed code amendments (red-lined version)
- B. Proposed code amendments (clean version)
- C. Applicant's Proposal and Narrative
- D. Letter from the White City Water Improvement District (dated 5/15/2023)
- E. Comment from Tom Burns (dated 6/29/2023)

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