

4. Fratelli Rezone, SD(PO/R [R5.7]) to CC
1420 E. Sego Lily Dr. [Willow Canyon, Community #17] ZONE-04-16-5076

Mr. David Cannell, with Fratelli Ristorante, requested to rezone approximately 0.66 acres from the SD(PO/R [R5.7]) “Special Development District” to the CC “Community Commercial District”. The subject property is located at approximately 1420 East Sego Lily Drive. The resulting application of zoning would allow for a commercial use (specifically planned to be a restaurant) on the subject property.

Mr. Cannell has submitted a conceptual site plan that will need to be further refined through the review process with City Staff. The plan includes development of a stand-alone restaurant building and associated parking.

Staff recommends that the Planning Commission forward a positive recommendation to the City Council to rezone the subject property from the SD(PO/R [R5.7]) “Special Development District” to the CC “Community Commercial District” based on the following findings:

1. That the proposed rezoning is consistent with the Sandy City General Plan.
2. That the proposed rezoning will have no unmitigated negative impacts on the surrounding properties or the area as a whole.

Doug Wheelwright presented this item to the Planning Commission.

Pete Canella, 2506 Simpson Avenue, Salt Lake City, or 9236 Village Shop Drive, applicant, stated that they are looking to invest in the Sandy Community and are in their 9th year of business at Quarry Bend. He stated that business has gone well and they have grown out of that space. This would give them an opportunity for more room, capacity for a deli, a walk-up, and a take-out to service the neighborhood, including the dining they have now, and to own something to invest in their family’s future. He stated that he has read the staff report and does not have any questions.

Jory Walker, 13459 South 1400 East, Draper, Beecher Walker Architects, stated that he has been helping with the site plan. He stated that they had a meeting with the neighbors and have looked at their concerns. He stated that they are also looking at Wasatch Properties and Magna Development.

Pete Canella stated that Magna owns the property (to the west) and leases it to Wasatch Properties. They have 25 years left of their lease. He stated that there is talk of Wasatch Properties buying the property from Magna. He stated that they have been working with the 2 entities about getting access to the west side of their property.

Mr. Walker pointed out on the site plan that they have done a pull off so that any delivery trucks could pull off of that lane and be on their property so that the lane would be open. Instead of having any deliveries coming off of Sejo Lily, they will be coming off of the back lane and having a pull off. They believe that by having that they will have no problem with Wasatch. He stated that the idea is to have this be an Italian/residential looking building, so it will look like it's an old Italian Restaurant, so it becomes a nice transition piece from the PUD. He indicated that they have also pulled the building as far as they can toward the Smith's, so that the parking and the landscaping is between the restaurant and the neighbors. He stated that they will probably do low impact lighting for the parking lot and the idea of having deliveries only during certain times in the mornings, so it wouldn't impact the neighbors as much.

Commissioner Doug Haymore commented that the pull out that Mr. Walker referred to on the site plan, so that the deliveries can happen, is off the lane in the back. The lane is there, but they are cutting into their property and the delivery trucks will be on Fratelli's property.

Chairman Scott Sabey opened this item to public comment.

Gil Avellar, 11747 South Watson Road, Sandy, stated that he came to the meeting to support Fratelli's. He has known them for 9 years, since they first came opened their restaurant in Sandy City. He believes that they treat their customers like family and will treat their neighbors the same way. He believes that this would be a good use for the property and he would recommend that this be rezoned and that they be given an opportunity to do business here.

Dan Fisher, 10444 Dimple Dell Road, Sandy, commented that more good restaurants are needed in Sandy. Driving downtown is too far. If these people can expand and make it work then he is all for it.

Doug Darrington, 1502 Buttercup Drive, Sandy, Community Coordinator for this this area, stated that he got home from work this afternoon and there was a message on his home phone from Questar asking him to call them back. He stated that this is the first that they have heard from them and that there is a high pressure gas line that goes through this property.

Michael Sheldon, 10272 Eagle Cliff Way, Sandy, stated that they were told that the site of the restaurant would be smaller than the current footprint that they have in Quarry Bend. Second, he stated that they already own that land. Third, he believes the reason that they are going there is because they don't want to continue to pay the kinds of fees that they pay for commercial property and they want to take it to private property. He stated that there is a whole strip mall that has had a series of successes and failures and the same goes down to 10600 South. When he asked if they did any marketing studies to suggest that they would have any kind of success, the answer was no. He is concerned what will be done if this fails. What will be done if this is now puts a commercial property at risk next to a residential area. He stated that one of the key things that needs to be done is that the zoning needs to be protected.

Paul Godot, 10359 Eagle Cliff Way, Sandy, stated that his residence is not that close, but is within the SD(5.1) Zone. He believes that the burden of proof is on the applicant to provide reasonable, compelling, probative evidence that overwhelmingly proves that a rezone permitting commercial use will stabilize property value, enhance the economic wellbeing of Sandy City and its inhabitants, justify commercial use adjacent to the less dense residential district in direct contradiction of the values and goals inherent in the present zoning. He stated that the present zoning really allows for a buffer and we have that natural buffer. He stated that it is zoned CC, but it is not abutted right up against the building. He believes the primary function of government is the protection of property. He believes what the applicant is asking for is for him to be granted greater rights than he currently has. He stated that they knowingly bought the property as the 5.7 zone and now they want the Planning Commission and the City Council to grant them greater rights. They can only do that at the expense of others. He stated that property rights are inherent and their ability to not just have title to that property, but to use it, which is much more important. When single families, living in a single family residence, they have great expectations to be able to use the property without being encumbered by a commercial entity. He opposes the rezone and doesn't believe that the property is best used for any commercial use.

Drew Brown, 1421 Firelight Way, Sandy, stated that this is the first Planning Commission meeting that he has been to and appreciates the Planning Commission. He commented on the access road and stated that most of the access road goes down when the slope of the property goes up. He doesn't know how they will build an access road there. He also mentioned traffic and stated that there are 2 direct accesses to Sego Lily right now and during rush hour it's really difficult to get onto Sego Lily from Eagle Cliff. He is concerned about the traffic issue. He believes that if a restaurant is put at that location, it is just going to get worse. He opposes the restaurant.

Paula Lowry, 10278 Eagle Cliff Way, Sandy, stated that this new development that has gone in is residential and those of her like herself, they sold their properties. She said that they were hit very hard with the real estate crash and they've only just begun to come back. She stated that traffic is a big issue and they will not be able to turn left during rush hour. She stated that it will be bad for her community.

(Inaudible) wanted to add clarification on the gas line. That is a 16 inch high pressure line that was put in last year. From what they are describing, they will have some portion of their construction over that line. He stated that if the Planning Commission was at that corner today, not only do they have a high pressure line there, that is where they did all of their testing and compression testing, and they have an extra valve that is in that area.

Nancy Sheldon, 10272 Eagle Cliff Way, Sandy, stated that she is opposed to rezoning this property to commercial.

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Amy Wall, 11290 Eagle Cliff Way, Sandy, stated that she is concerned about the gas line inspection.

Chairman Scott Sabey closed this item to public comment.

Commissioner Doug Haymore commented that he wants to clarify a couple of things. Is he correct that this property was left out of the Hearthstone Subdivision and as a result of that process it created a unique remnant property with some unique conditions.

Chairman Scott Sabey responded that when Bruce McMullin developed the parcel, that was part of the total parcel that he owned. When the subdivision was platted and designed, that lot was not platted the same as the balance was. So, it wasn't left out, it was zoned when Bruce brought the whole thing in and it was part of the whole package so it got zoned with the other homes.

Commissioner Doug Haymore confirmed that it was left out of the development. He confirmed that it was zoned contemplating residential development and then was left out of the plat and now, in his opinion, it doesn't render itself to residential development, so it's kind of a different piece of land that stands out.

Chairman Scott Sabey responded that he sought to zone the entire parcel, so the whole thing got zoning at once before it got platted, much like it is before the Planning Commission now, they came in before a zoning before a final plan was submitted. That was included because when he bought the parcel it was all one parcel.

Commissioner Nancy Day asked how far away the residence is from the building.

Jory Walker responded that they have the 10 to 12 foot setbacks, then there is an 8 foot landscape buffer, which makes 20. Then there is an 18 foot parking stall, 24 foot drive lane, so they have pushed the whole building as much as possible towards the Smith's building, which is approximately 80 feet from residential. He stated that they are trying to make it so it is not hidden so much, but also have it be a nice transition piece.

Jared Clayton asked what the hours of operation are.

Pete Cannelli responded that they are open 10:00 a.m. to 9:00 p.m., Monday through Thursday, and 10:00 a.m. to 10:00 p.m., Friday and Saturday, and are currently closed Sunday.

Commissioner Doug Haymore commented that we wouldn't even be having this meeting if they were building the office buildings across the street, which are the office buildings across the street. He stated that the restaurant would have less negative impacts to the neighbors. It's more rustic and looks like a home. He also asked how the grading will be changing.

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Jory Walker responded that there is a 10 foot slope across the property and the footprint of the building is about 3,000 square feet, but they are putting a basement in it, which takes up the back slope. So the deliveries, the trash, and the cold and dry storage will be downstairs, so there will be an elevator that will go downstairs. The footprint is very compatible with the restaurant that they have, but by having the basement, it takes some of that grade off.

Jared Clayton commented that his only comment is on the hours. He believes that would be more of a negative draw than if they were to build an office use.

Chairman Scott Sabey commented that on the other rezone and stated that here they are talking about shifting the location of an existing line. He stated that everyone that bought here was aware that they bought a lot that backed on a commercial lot. He stated that it's easier for him to consider approving this than it is to consider approving a complete rezone like Pepperwood View.

Doug Haymore stated that he would vote to approve this based upon the findings that it is consistent with the General Plan, it's consistent with the zoning that is around it already, it's actually a potentially less negative impact on its neighbors than the current zone, and that this property bares some unique difficulties based on the fact that it wasn't included for the purpose that it was zoned at the time it was zoned for that purpose. Because of its shape and size, renders it with some unique difficulties, so someone is going to have to find something that makes it work because it doesn't work right for houses. He stated that what's allowable in a community commercial district would require the Planning Commission's approval for the conditional use and for the plan design. So he believes that the Planning Commission has a lot of control that would make it have to be at least as good as or better than what is being looked at. He believes that the community commercial district is consistent with other zoning that is around it, it abuts to other zoning, it doesn't have any unmitigated negative impacts on the area as a whole and he believes it is an appropriate allocation given the unique circumstances that this property faces as a result of it being left of the earlier development.

Chairman Scott Sabey commented that one of the issues raised was about traffic. He asked Ryan Kump if he could address traffic counts and other things.

Ryan Kump, City Transportation Engineer, stated that this site does have some issues with grading and location. Originally, he had requested that the site access of this drive, not just deliveries, because of some of the concerns that have been raised. When the pros/cons list is created, in order for them to do that, they have to push the building to the property line, they have to drop the grade, it becomes more problematic from a constructability issue. Upon seeing those he recognizes those issues and agrees that in order to access the property in a way that fits the zone that they're requesting, they do need a drive access up at the top. In order to accommodate that, they have expanded sight lines. Normally the City requires a 20 x 60 sight lines, but they sit on the inside of a radius, so due to that he's requiring much larger sight triangles. That should

alleviate the visibility through that radius. However, during peak times, that driveway might stack up as people wait to make left turns. That will impact the business, but it won't impact the flow of Sego Lily Drive because they will be at a stop and Sego Lily will continue to move.

Doug Haymore moved that the Planning Commission forward a positive recommendation to the City Council to rezone the subject property from SD(PO-R5.7) Special Development District to CC, Community Commercial District, based on the findings that:

- 1. The proposed rezoning is consistent with the Sandy City General Plan.**
- 2. That the proposed rezoning would have no unmitigated negative impacts on the surrounding properties in the surrounding abutting properties or the properties in the area as a whole.**
- 3. That there is actually potentially less negative impact with the rezone than the current zone.**
- 4. This property has unique attributes dating back and caused by the failure to include it in the subdivision when the property was zoned to create the subdivision.**

Jared Clayton seconded the motion. The vote was as follows: Doug Haymore, yes; Jared Clayton, yes; Nancy Day, yes; Ron Mortimer, yes; Joe Baker, yes; Scott Sabey, yes. The vote was unanimous in favor.

5. Dimple Dell Overlay Zone – Amend Title 15A, Land Development Code, Revised Ordinances of Sandy City, 2008 CODE-5-16-5082

The Sandy City Community Development Department requested to amend Title 15A, Land Use Development Code, Revised Ordinances of Sandy City, 2008. The purpose of the Code Amendment is to consider adding a new chapter to the Land Development Code that would create a new overlay zone, with associated development standards, for development projects adjacent to certain portions of the Dimple Dell Park (Park). The proposed overlay zone will allow for a traditional subdivision with bigger setbacks along Dimple Dell Road (10600 South) and adjacent to the Park or a cluster subdivision with smaller lot sizes and dedicated open space adjoining the Park.

Following a rezoning application for a proposed residential project along Dimple Dell Road that was denied, the Sandy City Council adopted Ordinance #15-36 in December 2015. This was a temporary land use regulation prohibiting property development bordering the Dimple Dell Regional Park. This temporary land use regulation expires on June 12, 2016.

As mentioned before, the committee met seven different times to discuss potential solutions. At the end of March, it was clear that we had no specific direction on what to present to the Planning Commission and City Council. It was scheduled for a field trip with the Council in