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COMMUNITY DEVELOPMENT  
DIRECTOR

KURT BRADBURN  
MAYOR

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CHIEF ADMINISTRATIVE OFFICER

## MEMORANDUM

November 1, 2018

To: Sandy City Planning Commission Members

From: Douglas L. Wheelwright, Development Services Manager

Re: CUP #07-18-5462, 7-Eleven Gasoline Sales and Extended Business Hours to 7/24.

Dear Commission Members:

Attached, please find "revised draft minutes" and "restatement of findings" documents concerning your actions, at the October 18, 2018, Sandy City Planning Commission meeting, relative to the CUP request of Wright Development Group for the proposed 7-Eleven Convenience Store project at 711 West 9000 South. With assistance from the Sandy City Attorney's Office, these revised draft minutes and restatement of findings have been prepared, for the Planning Commission to consider on this matter.

Since you have not received the revised draft minutes and this restatement of findings documents for this portion of the minutes for the October 15, 2018 meeting with your regular packet for tonight's meeting, **staff is asking that when the Planning Commission votes on the approval of the minutes from the October 15, 2018 meeting, that the motion include an exemption from ratification on items # 14, 15 and 16.** Staff will bring the minutes for those items back for your ratification at a future date. We welcome any comments or revisions to the revised draft minutes and restatement of findings that Commissioners may have on these documents in the meantime.

Thank you.

A handwritten signature in blue ink, appearing to read "Doug", is written below the "Thank you." text.

## MEMORANDUM

November 1, 2018

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<b>To:</b>	Planning Commission	
<b>From:</b>	Community Development Department	
<b>Subject:</b>	<b>7-Eleven Convenience Store Conditional Use</b>	<b>CUP – 07-18-5462</b>
	(Civic Center, Community #2)	0994 acres
		CvC Zone
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711 West 9000 South Street		

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*A copy of the applicant's materials were provided to the Planning commission at the October 18, 2018 Planning Commission meeting and therefore, are not included in this report in the interest of saving paper. An electronic version is available by request.*

### INTRODUCTION

This matter involves an application by Wright Development Group, Inc. (the "**Applicant**") requesting conditional uses for gasoline sales associated with a retail convenience store, and for extended operation hours to 24 hours a day, seven days a week) pursuant to the Sandy City Land Development Code ("**Development Code**"). The property for which the permit is requested is located at 711 West 9000 South Street, Sandy, Utah (the "**Property**"). The Property is a 0.994-acre lot, zoned Civic Center Commercial, on an unimproved lot.

The Development Code allows a convenience store within 250 feet of a residential district to operate from 6:00 AM. to 10:00 P.M. Staff recommended that the store hours be extended to midnight, and 15 conditions of approval set out in the Memorandum to the Planning Commission dated October 18, 2018 "(Staff Report)".

Following a public hearing at which the Applicant presented evidence and argument held on October 18, 2018, and at which residents of the adjacent homes to the south spoke and expressed their concerns about the extended operating hours, the Planning Commission granted the request for gasoline sales in connection with the convenience store use, and approved extending the hours of operation from 6:00 A.M. to midnight, beyond the 6:00 a.m. to 10:00 p.m. hours allowed without a conditional use.

The public hearing was held pursuant to notice provided to property owners within 300 feet of the Property. Joe Baker, presided, with Alternate Planning Commissioner Michael Christopherson, assisting and conducting the hearing.

Douglas Wheelwright, Development Services Manager for Sandy City, presented the

staff report. Following the staff report, Justin Atwater, representing the Applicant, set out the facts and arguments supporting the application, and answered questions, and stated, among other things, that the Applicant would be happy to consider erecting a ten-foot high masonry wall, rather than the eight-foot wall originally proposed by the Applicant. The hearing was then opened to comments of others attending the hearing. Several members of the public spoke during the public hearing, including resident neighbors Jen Archuleta, Seung Ho Mun, also known as Bruce, who lives at 728 West Jordan Oaks Drive, Sandy, , , Jeremiah Johnson, who lives at 722 West Jordan Oaks Drive, Sandy, and Sandy resident Steven Vanmaren who expressed concerns about noise and light from the Property during the late-night hours, as well as drawing homeless persons, vagrants, and others to the site. The Planning Commissioners asked the Applicant several questions to which Justin Atwater and Logan Johnson responded. The Planning Commission then discussed the application and asked City staff questions, including the depth of groundwater in the vicinity of the Property. On motion and a second, the Commissioners voted 4-1 to grant the applicant's conditional use to sell gasoline, and to extend the hours of operation until midnight only, but not to operate around the clock, based on proposed conditions and findings numbered 1 through 15 of the Staff Report, proposed findings A, B, and C, the five additional conditions on page five of the Staff Report, and a sixth condition added by the Planning Commission that dense landscape screening be required along the south property line of the Property, defined as additional conifer trees with at least a ten-percent overlap of the trees, planted with trees which will reach at least 20 feet in height at maturity.

Based on the documents and statements from the Applicant, the correspondence and comments of residents and citizens, the information provided by staff and others, knowledge of the Planning Commission, and for other good cause, the Planning Commission makes the following findings of fact in respect to this matter:

#### **FINDINGS**

1. Sandy City is a residential community of approximately 96,000 people. The Sandy City Planning Commission is composed of residents of Sandy City which is empowered, among other things, to decide whether to grant a conditional use permit pursuant to the Sandy Land Development Code, notably including Section 15A-33-04 thereof, and to impose conditions related to conditional uses.
2. The parcel is currently unimproved and slopes downward from east to west.

*Findings – 7-Eleven Conven. Store Cond'l Use.*

3. There is a six-foot masonry wall along the lot line separating the Property from the homes on the south Property line.
4. The rear-yard setback of the residences along the Property's south lot line is 20 feet.
5. Many of the residents of the homes adjacent to the Property work daytime jobs, and there are now and in the future there will likely be children living in those homes.
6. The natural contour of the land slopes from the south residential properties adjacent to the Property to 9000 South Street. The upper floors of the homes along the south Property line will be substantially higher than an eight-foot or ten-foot masonry wall. Many of the residents of the homes sleep in the upper floors of those homes.
7. The Applicant's site plan for the development of the Property provides for construction of a convenience store approximately 43 feet from the south Property line. A masonry wall eight feet high will run along the south property line. The gasoline pumps will be 150 feet from the south Property line and 170 feet away from the homes. The convenience store will be of masonry construction, and will be approximately 20.6 feet in height.
8. The CVC Zone allows automobile service stations as a conditional use according to the use matrix in Section 15A-08-02 of the City's Land Development Code.
9. Extended business hours before 6:00 a.m. and after 10:00 p.m. are restricted by Section 15A-23-19 when business hours are requested to be extended, when in proximity to Residential Zoning or use nearer than 250 feet. The Planning Commission identified the following reasonably anticipated detrimental effects of the proposed conditional use, which are based on substantial evidence which cannot be substantially mitigated by reasonable conditions:

- (a) Noise from the Property will include the noise of vehicles entering, exiting, and operating on the Property; as well as customers, employees, and other persons moving, working, opening and closing doors, talking, laughing, shouting, and otherwise making noise on the property. Limiting the hours of deliveries and trash pickup, the placement of the convenience store on the site, the erection of a eight or ten-foot high masonry wall along the south Property line, and the planting of trees or shrubs will reduce some of anticipated noise. Some noise will still be heard by and will disturb the sleep of residents of the homes adjacent to the south line of the Property so the convenience store and gas station are not allowed to operate during the hours of midnight to 6:00 a.m.

- (b) Some light from the property, even with the shielded lights proposed by the Applicant, will still be visible from and disturb the adjacent residents during the late-night hours, which light will not be adequately reduced by the masonry wall), nor the conifer trees (even at their 20-foot maximum height years into the future. Lights from cars pulling into the driveway to be placed near the south Property line from 700 West Street may be mitigated by lowering the drive approach, sidewalk, lowering the driveway into the Property, and blocking the entrance from 700 West during late night hours, but because the south Property line drops from east to west, motor vehicle lights from the Property will also shine into some of the homes even if the south fence or wall is eight or ten feet high. Because some indirect and direct light is still highly likely to disturb the sleep of the residents, particularly in upper-story bedrooms in the homes south of the Property, the convenience store and gas station hours should not extend beyond midnight.

10. Trespassing and break-ins of residences of the neighborhood to the south of the Property have increased recently. There are homeless people in the area along the Jordan River, 500 feet to the west and others, who will be drawn to the neighborhood by the presence of a convenience store. An eight or ten-foot-high wall and closing at midnight will help mitigate but will not adequately protect the residents adjacent to and near the Property, as a person can easily walk around the wall at the ends, if he doesn't climb over it.. Substantial evidence shows that the reasonably anticipated detrimental impacts of staying open from midnight until 6:00 a.m. cannot be substantially mitigated by reasonable conditions.

#### **DETERMINATION**

Based on the findings above, the application for the gasoline station in connection with the convenience store is granted, and extended hours of operation of the convenience store are granted in part, extending from 6:00 a.m. until midnight, pursuant to the conditions set out above.

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Joe Baker, Planning Commissioner, presiding

*Findings – 7-Eleven Conven. Store Cond'l Use.*