

KAYSVILLE CITY PLANNING COMMISSION MEETING MINUTES

September 12, 2019

Planning Commission Members Attended: Chairperson Wilf Sommerkorn, Vice Chairperson Joshua Sundloff, Tamara Tran, Quan Nguyen, Toby Barrus, Matthew Anderson, Steve Lyon.

Staff Present: Zoning Administrator Lyle Gibson, City Attorney Nic Mills, City Recorder AnneMarie Plazier.

Others Present: City Councilman Larry Page, Attorney Brian Bolinder, Richards Brandt, Attorney Doug Farr, Amy Taylor, Sue Tice, Bryce Huff, Matt Briggs, Valerie Briggs, Cam Preston, Craig Larsen, Spencer Prince, Mark Larsen, Ken Brown, Andrew Thomas, Liza Thomas, Janel Henderson, Brady Perry, Lynel Perry.

OPENING

The Planning Commission meeting was held on Thursday, September 12, 2019 at 7:00 p.m. in the Kaysville City Parks and Recreation building. Chairperson Wilf Sommerkorn opened the meeting by welcoming those present.

The minutes of the August 22, 2019 meeting were presented for approval. Steve Lyon made a motion to approve the minutes. Tamara Tran seconded the motion and it passed unanimously.

FINAL PLAT APPROVAL FOR WHISPER HOLLOW SUBDIVISION AT 650 EAST 100 NORTH FOR SPECNER PRINCE.

Lyle Gibson explained that this project received preliminary plat approval from the City Council in June of 2017. The project was further reviewed and received a final plat approval from the Kaysville City Council in December of 2017 but has been on hold due to litigation. Minutes from those meetings have been provided for the commission's review.

The plat consists of 5 new lots on a private street with a separate piece of property labeled parcel 1 which exists to provide access together with the necessary easements for utilities to the property to the east. The lots range in size from 9,491 sq. ft. to 11,269 sq. ft.

The applicant has since been working to address the items of concern from the concerned parties and has resubmitted a final plat application to the city with updated subdivision design details for review. The Preliminary Plat approval on hand asked that the following items be addressed in the review of the final plat:

1. Before requesting final plat approval, access to the Briggs property be resolved.
2. Storm water problems be addressed.
3. Privacy concerns be addressed along the western property line.
4. Work with staff to determine if a geotechnical report is needed.

The above listed items have been addressed to the satisfaction of city staff and applicable

reviewing entities. The re-engineered subdivision while similar in layout to the preliminary, and very similar to the original proposed final plat, has provided a 36' wide parcel that is wide enough to provide access for a double flag lot development on the Briggs property. Enhanced storm water retention has been engineered to address storm water concerns. In addition to a configuration where homes are on the opposite side of the road from the western property line, the developer has proposed a vinyl fence and trees on the west side of the road to act as a screen in order to address privacy concerns. In regards to the last item, staff has received and reviewed a geotechnical investigation report addressing the hydrology concerns in the area.

The subdivision plat is consistent with the approved preliminary plat and meets the requirements of the underlying zoning for the property.

Staff is satisfied that this project meets the applicable requirements including the conditions placed by the Planning Commission at preliminary approval. The Planning Commission should review the proposed plat and assure that these conditions have been adequately met from their prospective. Staff recommends findings of fact and conclusions of law similar to those provided herein be made by the Planning Commission, which can be revised to identify the action taken by the Planning Commission.

Chairperson Wilf Sommerkorn opened the floor to comments from the public.

Lynell Perry said she is concerned about privacy for her backyard and does not support the subdivision.

Brady Perry was concerned about the rerouting of water and it causing low water pressure for him.

Attorney Doug Farr who represents the Taylors and Ms. Tice said that nearly two years ago they were here before the commission seeking final plat approval. They are back again after an appeal before the District Court for findings fact and conclusions of law to be able to submit their experts opinion about the water issues. There were conditions put on the property regarding the storm water issues. The property has had serious storm water issues and Kaysville City spent nearly \$30,000 building a berm and creating a detention basin on the north side of the property.

Mr. Farr explained that his clients are asking the Planning Commission to consider whether the developer has resolved the storm water issues. The engineering report from Mr. Cam Preston with Ensign Engineering showed that two pipes release water from a reservoir that goes across the property and empties into a one pipe system which causes flooding issues. His clients would like a letter from Hights Creek stating they will control the release of the storm water because the single pipe will not be able to support a 100 year storm. The original report from the cities engineer Andy Thompson said that he required a 100 year storm event plan. The developer is only providing a 10 year storm event. His clients are asking why the city has changed its position changing the storm event requirements.

Sue Tice wanted to reiterate that they are not opposed to development on this property. They want to make sure it is done correctly with all issues resolved. She mentioned that the area is

known to flood and has flooded for years. With houses being built at a lower elevation there will be ill effects with the water.

Amy Taylor lives at a home that borders the development to the west side. She mentioned when they all met in May the Planning Commission decided that the projects approval should be conditioned upon 4 items.

1. Developer would pay for a 30 foot paved access to the Briggs property.
2. The developer would address and handle the storm water problem for all residents including the Taylor's property that sits at the low point of the development and the downhill slope of the road 100 North.
3. The developer would work with the Taylor's to discuss grading issues and snow removal for the road.
4. The developer would work with the city's recommendations to provide a geotechnical report.

It's been two years and the developer has not made any contact with the neighbors and the items that were promised have not been met. As result she would like the Planning Commission to deny the plat.

Jenelle Henderson said she still owns the land and water shares where the Hights Creek water runs through the property and that the bottom half has always flooded. She would like it noted that she has been bullied by Spencer Prince regarding the property lines. She has gone off the stakes that she has in her yard but Mr. Prince said her fence was off the property line. She is also concerned about the privacy she will have in her home with this development.

Cam Preston with Ensign Engineering representing the Tice and Taylors said at the end of the cul-de-sac west of the Taylor's property there is a high point in the road where the water drains to the east into the Taylor's driveway. This is why the city built the berm and detention pond. The pond was full in April because Hights Creek said they keep the pond full so they can provide better water pressure.

Matt Briggs told the Planning Commission that he has given up hope on this process because the way he has been treated. He said he was promised a 30 ft. driveway easement that would be paved, however they won't pave it. He asked the commission to look at this in a sensible way. To do what is best for everyone involved instead of setting it up to fail

Valerie Briggs was not opposed to this development in the beginning but is disappointed with the city after this process. She said that this development is going to end up having a lot of troubles and the neighbors will be the ones to take care of it. She wants to make sure that the developer delivers on the road.

Chairperson Wilf Sommerkorn invited Spencer Prince to the stand with his partner Craig Larsen who is a civil engineer. Craig Larsen said that they have addressed all concerns and met the

city's code. He said the storm water has storage set up and will be taken care of, per code. It also meets the 10 year storm event that Kaysville City requires.

Ken Brown the attorney for the developer wanted to make it known that the District Court did not find that the developer failed to meet any conditions required by the city. They have been in touch with the Briggs' legal counsel to address the road issue and have reached an agreement for access and maintenance.

Matthew Anderson asked if there was a signed agreement between the developer and the Briggs regarding the road. Mr. Brown said there is an agreement drafted but they are all waiting for the decision from the city before completing the paperwork.

Mr. Briggs stood and said they have not come to agreement. He wants the road paved and stubbed with utilities. He would also like to know the width of the road and other details he feels he has not been provided.

Matthew Anderson asked if the city vacated the property on the condition that it would be an access easement for the Briggs. Lyle Gibson said yes, that it was the city's understanding that there would be provisions for access and utility services to the property. Matthew Anderson said that an easement should have been recorded to provide sufficient access to get to their property.

Wilf Sommerkorn asked Lyle Gibson if during the preliminary plat discussion there was any mention of the road being paved. Lyle Gibson said it was not something that was documented in the written minutes, however it may have been expressed verbally. Lyle Gibson stated he has gone back and listened to the minutes but cannot recall exactly what was said.

Mr. Briggs said that on one of the maps it was shown as being paved.

Josh Sundloff asked if the geotechnical report has been submitted. Lyle Gibson said yes the city has been provided a study and found it adequate for the city's requirements.

Matthew Anderson would like to see the 3rd party engineers review for the storm water event. He would like a letter stating that they have looked at it. He would also like the issue cleared up where Andy Thompson, the former engineer may have required a 100 year storm event and now we are only requiring a 10 year storm event.

Nic Mills suggested that the Planning Commission table this item since they are in current litigation. In two weeks staff could include the storm water information in the Planning Commission packets.

Chairperson Wilf Sommerkorn would also like to have the engineers in attendance at the next meeting.

Matthew Anderson made a motion to table the Whisper Hollow Subdivision at 650 East 100 North pending the availability of the city's and outside engineer's report and conclusions regarding storm water issues. He would also like answers regarding the 100 year storm event question. Tamara Tran seconded the motion and it was unanimously approved to be tabled.

VARIANCE REQUEST FOR REDUCED SETBACKS INTO SIDE YARD ON A CORNER LOT AT 780 EAST 1475 SOUTH FOR BRYCE HUFF

Lyle Gibson explained that the applicant has provided a letter included with this report stating their reasons for seeking a variance. The applicable zoning on the subject property requires that the lot have a 30 ft. front yard setback. As a corner lot the other side yard abutting a street must be at least 20 ft. per 17-12-6 (6).

The required front yard abuts 1475 South Street, the applicant desires to do an addition to the home which as planned would require the variance to build closer than 20 ft. to the property line along Haight Creek Drive.

Chairperson Wilf Sommerkorn invited the applicant Bryce Huff to the stand. Bryce Huff said he needs a variance because without it his plan creates a weird architectural feel and affects the look of his addition.

Chairperson Wilf Sommerkorn stated that Mr. Huff can still build an addition but not exactly like he wants it. He is not sure that this variance meets all five of the requirements.

Josh Sundloff said that Mr. Huff can't claim hardship since he is the one that is creating the hardship. Mr. Huff disagreed saying he can't enjoy his property like his neighbors can because of the restrictions on his lot. Josh Sundloff said the developer developed the lots to look and function the way they do.

Quan Nguyen made a motion approve the requited variance for a reduced setback into side yard on a corner lot for meeting all five conditions as proposed at 780 East 1475 South for Bryce Huff. Matthew Anderson seconded the motion.

Vote:

Yea: Quan Nguyen, Steve Lyon, Josh Sundloff

Nay: Tamara Tran, Wilf Sommerkorn, Toby Barrus, Matthew Anderson

Motion fails for lack of supporting votes.

Lyle Gibson explained to the applicant that they can reapply in 90 days. Lyle Gibson also asked Chairperson Wilf Sommerkorn to clarify the decision with a motion that passes.

Matthew Anderson made another motion to table the variance request for reduced setbacks into side yard on a corner lot at 780 East 1475 South for Bryce Huff. Tamara Tran seconded the motion and it was approved unanimously.

CALL TO THE PUBLIC

Nothing was brought under this item.

CALENDAR

The next regularly scheduled Planning Commission meeting will be held on Thursday, September 26, 2019.

Matthew Anderson made mention that this was his last Planning Commission meeting since his wife is having their child and his time will be needed at home.

ADJOURNMENT

Matthew Anderson made a motion to adjourn the meeting. Wilf Sommerkorn seconded the motion and it passed unanimously. The meeting adjourned at 10:06 p.m.