

11 December 2014 Minutes

KAYSVILLE CITY PLANNING COMMISSION
December 11, 2014

Members Attending: Chairperson Gary Bullock, Matthew Anderson, Jake Garn, Lorene Kamalu, Russell Lindberg, Betty Parker

Excused: Stroh DeCaire

Staff Present: City Engineer Andy Thompson, Zoning Administrator Lyle Gibson

Others Present: Councilmember Jared R. Taylor, Jeff Peterson, Karen Peterson, Michelle Heninger, Michael George, David Peterson, George S. Kimble, Viki Sutton, Josh Scharf, Sean Healy, Josh Wheatley, Shane Egan, Donna Egan, Robert Day, John Peterson, Derek Peterson, Linda Peterson, Dennis Morley, Richard Rosier, Leslie Mascaro, Joe Child, Quinn Biesinger, Mary Biesinger, Steve Mitchell, Blaine Flinders

OPENING

The Planning Commission meeting was held on Thursday, December 11, 2014 at 7:00 p.m. in the Municipal Center.

Chairperson Gary Bullock opened the meeting by welcoming those present. The minutes of the October 9, 2014 and October 23, 2014 meetings were presented for approval.

Russell Lindberg made a motion to approve the minutes of the October 9, 2014 and October 23, 2014 meetings. Jake Garn seconded the motion and it passed unanimously.

CONDITIONAL USE PERMIT FOR A MAJOR HOME OCCUPATION “B”, CONTRACTOR OFFICE AT 1636 WEST CRESTMONT WAY – ROBERT DAY

Lyle Gibson explained that Mr. Day has operated a major home occupation in Kaysville City for several years without any complaints. He has recently moved and is required to obtain a conditional use permit for the new location. Mr. Day will continue the same business operations as he has in the past.

Matthew Anderson made a motion to grant a conditional use permit for a major home occupation B, contractor office at 1636 West Crestmont Way for Robert Day. Betty Parker seconded the motion and it passed unanimously.

CONDITIONAL USE PERMIT FOR A SALES TRAILER AT 67 NORTH FLINT STREET – BRIGHTON HOMES

Lyle Gibson explained that Brighton Homes is applying for a conditional use permit in order to place a temporary sales trailer/office on Lot 14 of the Hales Farm Subdivision. Kaysville City Ordinance allows for temporary buildings and tract offices with new development subject to a conditional use permit being obtained. Brighton Homes plans to install a gravel surface adjacent to the sales trailer to provide off-street parking. Staff is recommending approval with the condition that the conditional use permit for the sales trailer expire within one year from date of approval, or upon completion of a model home.

Jake Garn made a motion to grant a conditional use permit for a sales trailer at 67 North Flint Street for Brighton Homes with the following conditions:

1. A minimum of two off-street parking stalls be provided on a gravel surface.
2. The sales trailer be removed from the site upon completion of the subdivision's model home, or within one year from date of approval, whichever occurs first.

Lorene Kamalu seconded the motion and it passed unanimously.

PUBLIC HEARING AND REQUEST TO REZONE 0.91 ACRES OF PROPERTY AT 647 SOUTH SUNSET DRIVE FROM A-1 (LIGHT AGRICULTURAL) TO LI (LIGHT INDUSTRIAL) – JEFF PETERSON

Lyle Gibson explained that City Staff received a complaint regarding Mr. Peterson's agricultural home occupation located at 647 South Sunset Drive in May of 2014. Upon verification of non-compliance, Staff met with Mr. Peterson and also sent him a letter indicating that the business needed to be brought back into compliance to meet the city's agricultural home occupation regulations. On September 2, 2014, Steve Mitchell, a client of Mr. Peterson's, spoke with the City Council about Mr. Peterson's situation, asking for a solution to help "First Response Auto" to continue to operate at this location. The City Council directed Staff to review possible options for Mr. Peterson. In the meantime, Mr. Peterson was allowed to continue business operation as usual until a decision was made. Agricultural home occupations allow for minor automobile repair of up to three vehicles at any one time. In Mr. Peterson's case there have been two key issues with his business practices. First, Mr. Peterson does not live on-site and therefore does not meet the requirements of a home occupation. Secondly, more than three vehicles are continuously being stored on the premises. As Staff has thoroughly investigated several options for this situation, they have concluded that a property rezone may be the most appropriate course of action. Making any changes to the language of city ordinances would affect the entire city and other businesses, whereas a rezone would be focused on one property. In working with Mr. Petersen, Staff originally recommended that he apply for a rezone to the Light Industrial zone district. However, upon further discussion it has been determined that the General Commercial zone would be necessary in order for the residential use of the single family dwelling, currently located on the property, to continue to be used as a dwelling for the proprietor or employee. One potential problem this could cause would be in regards to the structures on site meeting the setbacks of the General Commercial zone, and commercial building code. Commercial structures are required to have a twenty foot setback from any abutting residential property, and a change in the zoning of this property would put the garage into a non-conforming status. Since

this came to Staff's attention earlier this year, the city has continued to receive complaints from neighbors in regards to Mr. Peterson's business, most specifically about the large amount of cars that are being parked on his property.

Jake Garn asked when Mr. Peterson was approved for a conditional use permit for his home business.

Lyle Gibson responded that the conditional use permit was approved in April 2010.

Gary Bullock asked about the privacy fence.

Lyle Gibson responded that although there has been some concern expressed by neighbors about the height of the fence, it seems to be in compliance.

Betty Parker asked about signage for the business.

Lyle Gibson said that although agricultural home occupations are allowed to have one sign, the a-frame sign that Mr. Peterson is currently using is only allowed within the General Commercial zone.

Jake Garn asked if there could be a limit set to the amount of cars that could be parked on-site if zoned commercial.

Gary Bullock added that rezoning this property to commercial would allow for other types of commercial uses. The property is surrounded by residential uses and doesn't seem to fit within the scope of the General Plan.

Lyle Gibson responded that a development agreement would need to be approved along with the rezone request restricting the amount of cars on the property. It could also restrict the types of uses that could be allowed on the property.

Betty Parker asked if there are any commercial use properties located near this area.

Lyle Gibson said that this property is mostly surrounded by agricultural and residential properties. The closest commercial use area would be the Kaysville Business Park, zoned Light Industrial.

Chairperson Gary Bullock opened the Public Hearing.

Dennis Morley said that he lives on the north side of the Peterson's property and is opposed to the proposed rezone of this property. This is a residential area, and a commercial use doesn't fit into the area. Mr. Peterson has been operating for a couple of years now, and it's been a constant annoyance to those who have to live next door to it. Traffic and tow trucks come onto the property at all hours of the day and night. The neighbors are also dealing with noises coming from the garage starting early in the day until late at night. There is a certain amount of liability

living next to an auto repair business. Also, there are also concern about what will happen to the property once Mr. Peterson is gone if it is zoned commercial.

Donna Egan commented that she is the owner of Egan Automotive, which is located within Kaysville City. A few years ago their business found themselves in a similar situation where they had grown to the point where it was making an impact to the surrounding community. They needed to make a change in order to be in compliance with the city standards, but also to make their business better fit into the community. A decision was made to purchase property on Flint Street, where they are currently located. A lot of effort, energy, expense and risk was put into their business to ensure it was set up properly and compliant with city standards. Mrs. Egan asked that the City enforce that same standard for all other businesses.

Steve Mitchell said that Mr. Peterson has created a clean operating and honest business. He has done a lot for the community and he has tried to comply with all of the rules and regulations of the city. There hasn't been any problems before the complaint was made earlier this year.

Keith Heninger said that he lives a few doors down from Mr. Peterson and hasn't had problems with Mr. Peterson's business. He has made a lot of improvements to the property and continues to maintain it. The property is presentable and his business very low impact. It seems that most neighbors don't have a problem with Mr. Peterson's business.

Michelle Heninger added that Mr. Peterson is a very responsible and accommodating business owner, and she has enjoyed having his auto repair business close by.

Mike George, living at 659 South Sunset Drive, said that he lives a couple of houses down from the Peterson's and agrees that Mr. Peterson runs a very credible business. He has been very conscientious of the neighborhood and has tried to make it as low impact as possible. Centennial Junior High has created more traffic problems for Sunset Drive than Mr. Peterson's business ever will.

Dave Peterson said that he lives in Hess Farms Subdivision, and was made aware of Mr. Peterson's business by some of his neighbors who go to him for business. Mr. Peterson's business is honest in his doings and has fair prices. The sign in front is the only indication that there is even a business on the property.

Sammy Kimble said that he lives north of the Peterson's property, and hasn't had any problems with Mr. Peterson's business in the two years he's lived here. The fencing that has been installed hides any cars that are parked on the property. There are other places within the city that look more cluttered than the Peterson's property.

Josh Wheatley, living at 602 South Sunset Drive, said that while Mr. Peterson has been a great neighbor and has done a lot for the community, the rezone being proposed for the property is not appropriate for the area. If approved, this change will affect property values in the immediate area. There is no other commercial or industrial businesses on this street or in the area, and many would probably prefer not to place their family next to a commercial auto repair business. Also, Mr. Peterson does not live in the home currently on the property and therefore

won't be affected by having to live on or next to a commercial property. This rezone feels unnecessary and there should be another solution found for Mr. Peterson's situation. Putting commercial in the middle of a residential neighborhood will set a precedence for Kaysville. Kaysville City has already clearly defined where we want our residential and commercial areas within the city.

Richard Rosier said that Mr. Peterson is his brother-in-law, and is very honest with his dealings, including those with the city. Mr. Rosier stated that he was serving on the Planning Commission when Mr. Peterson was first approved for his conditional use permit, and because of his experience on the Commission, understands that these types of uses are conditional so that impacts to surrounding properties can be mitigated if needed. Mr. Peterson was living in his home on Sunset Drive when he was approved, but his family has since outgrown their house. Since receiving notice from the City about the complaint, Mr. Peterson has come forward to try to work with the City to resolve the issues, and has also tried to work with his neighbors. At this point, it seems that a zone change is the only way for him to continue to do business and live in his current home.

Blaine Flinders, living at 781 South Sunset Drive, said that he has lived here many years and was unaware of Mr. Peterson's business until recently. Mr. Peterson is a good man and has been helping a lot of people.

There were no further comments or questions from the public. Chairperson Gary Bullock closed the Public Hearing.

Gary Bullock commented that while there have been many comments made about Mr. Peterson's character, the Commission must look at any proposal from a logical standpoint to make sure that it meets city codes and regulations.

Jeff Peterson said that he doesn't want to do anything that would do damage or cause problems to the community or to his neighbors. Until this last year, he was unaware of any complaints that were being made about his business or property. He has looked for commercial property to move his business to within Kaysville, but has been unsuccessful. This rezone request is his only hope to try to keep his business, which is an installment into the community, on this property and be able to be compliant. A development agreement could be drawn up to help address the concerns of the neighbors. While his business hours are from 10:00am to 6:00pm, there has been a few occasions that they will work later to meet the high business demands. A solid fence was installed to help block out any visibility of the parked cars, and his property has been graded to prevent any kind of run-off.

Gary Bullock said in the minutes from Mr. Peterson's permit approval it stated that he would be doing minor automobile repair. Although his business has expanded from that, Mr. Peterson has been aware of the city's regulations for this type of home business right from the beginning.

Jeff Peterson said that when he first started his business he never expected his business to grow to the amount of clientele he has.

Matthew Anderson asked about the maximum number of cars Mr. Peterson would like to keep on the property.

Jeff Peterson said that although he only anticipates having twenty cars on the property at one time, at the most, he would ultimately like to propose to have a maximum of twenty-five cars. Customers prefer to leave their car until it can be repaired, which can be some time if they have to wait for parts. There have also been some cars left on the property until the customer can pay for the repairs, and therefore not all of the cars on the premises are being actively worked on.

Gary Bullock asked about the number of employees Mr. Peterson currently has.

Jeff Peterson responded that he has three, which is what the city ordinance limits him to.

Russell Lindberg asked how often tow trucks come to his business.

Jeff Peterson said that it varies from week to week, but does not occur very often. Most tow trucks come during normal business hours.

Gary Bullock commented that he is concerned that rezoning this property to commercial would set a precedence. Mr. Bullock added that he wouldn't feel comfortable approving a rezone of this property because of the potential problems it could create in the future. Having a viable commercial business located in the middle of a residential area doesn't fit.

Jake Garn said that Mr. Peterson's business is growing and expanding, and therefore this location isn't appropriate for his use anymore. The regulations for this type of business and zone have been set, and this rezone request seems like an attempt to get around those regulations rather than addressing the issue of non-compliance.

Matthew Anderson said that he is familiar with the area and feels that Mr. Peterson's business is making very little impact to the community. Other options should be looked into to find a solution for Mr. Peterson, rather than a rezone of the property. Mr. Anderson suggested Mr. Peterson ask people within the community to possibly help find a better location for his business.

Jeff Peterson asked if a variance could be obtained to allow more vehicles on his property.

Andy Thompson said that current State Statute and City regulations require that variance requests must meet specific criteria in order to be approved. It is unlikely that any variance would be granted in Mr. Peterson's situation. The city's ordinance regarding agricultural home occupations could be changed to allow for a business of this nature, but the change would affect the entire city and could create further problems. Staff felt that a rezone, along with a development agreement is Mr. Peterson's best option to continue operating his business at this location, because it will limit the property to specific provisions.

Lorene Kamalu suggested possibly finding another location to park cars that aren't currently being repaired.

Jeff Peterson responded that he had considered that but feels that it wouldn't be a reasonable option for his business.

Gary Bullock commented that there doesn't seem to be any viable options available for Mr. Peterson at this point, with the exception of finding at different business location.

Andy Thompson said that when Egan Automotive was approved on Flint Street they had certain requirements they had to meet, including installing a buffer wall and limiting the number of cars being parked in front of the building, because of their proximity to residential properties. Mr. Peterson could be required to meet similar requirements if approved for a rezone.

Russell Lindberg said that this type of business needs to be in a commercial area and not at this residential location.

Lorene Kamalu said that while someone may not notice the business driving by the property, it has become a problem for those living adjacent to it. When the adjacent neighbors try to sell their property, a thriving auto repair shop will affect the value and desirability of their home.

Matthew Anderson asked that Mr. Peterson be given some time to find another solution for his situation.

Jared Taylor commented that Mr. Peterson received his first letter requesting his compliance in May of this year and has since been granted many time extensions. He has had plenty of time to get his business into compliance and look into other solutions. Mr. Peterson has met with Staff, who have delayed any enforcement of his noncompliance in an effort to try to help Mr. Peterson find another option. Staff has done a thorough job and have researched every possible alternative, and the Commission should consider all of the work that has already been done to try to help Mr. Peterson.

Russell Lindberg made a motion to recommend denial of the request to rezone 0.91 acre of property at 647 South Sunset Drive from A-1 (Light Agricultural) to GC (General Commercial) for Jeff Peterson. Jake Garn seconded the motion and it passed unanimously.

PUBLIC HEARING AND PRELIMINARY AND FINAL PLAT APPROVAL FOR KAYSVILLE BUSINESS PARK NO. 17 AMENDED AT APPROXIMATELY 600 NORTH 900 WEST – KIM KELLER

Andy Thompson explained that the owners of Lot 117 in the Kaysville Business Park have sold a portion of their property and have requested an amendment of the plat to reflect the new property lines. The existing building is located on Lot 117A, and Lots 117B and 117C are the newly created lots. All of the new lots comply with the Kaysville Business Park Covenants and Kaysville City subdivision requirements.

Chairperson Gary Bullock opened the Public Hearing.

There were no comments or questions from the public. Chairperson Gary Bullock closed the Public Hearing.

Matthew Anderson made a motion to recommend preliminary and final plat approval for Kaysville Business Park No. 17 Amended at approximately 600 North 900 West for Kim Keller. Russell Lindberg seconded the motion and it passed unanimously.

REVISED FINAL PLAT APPROVAL TO PHASE WEST CREEK SIDE ESTATES (FORMERLY SADDLEBROOK SUBDIVISION) AT APPROXIMATELY 2260 WEST 200 NORTH – OAKWOOD HOMES

Andy Thompson explained that West Creek Side Estates, originally approved as Saddlebrook Estates, was approved earlier this year and construction is underway. Because of the weather, Oakwood Homes has requested that the project be split into two phases. This will allow them to concentrate the construction and finish Phase 1 now so that they can begin construction of the homes. Phase 2, which is already partially built, can then be completed in the spring. Phase 1 consists of Island Drive, 200 North and the school lot. Phase 2 will contain the cul-de-sac road going to the south. Staff is recommending approval with the condition that a building permit for the school not be granted until Phase 2 is complete.

Leslie Mascaro, with Oakwood Homes, said that they fully intend to install the infrastructure for Phases 1 and 2, however because of the weather, they would like to be able to get started on their two model homes located within Phase 1.

Matthew Anderson made a motion to recommend approval of the revised final plat approval to phase West Creek Side Estates (formerly Saddlebrook Subdivision) at approximately 2260 West 200 North for Oakwood Homes, subject to Phase 2 being completed before a construction permit is granted for the school. Russell Lindberg seconded the motion and it passed unanimously.

CALL TO THE PUBLIC

Nothing was brought under this matter.

REPORTS

Lorene Kamalu said that she recently attending the City Council meeting where approval of the General Plan was discussed. A member of the public in attendance that night asked about if the proposed density increase would affect irrigation water and if schools would be able to meet demands that comes with a higher density.

Russell Lindberg commented that it was mentioned in an earlier meeting that an increase in density would not have an effect on water pressure as the water districts plan in accordance as lots are developed.

Andy Thompson said that the School District often review's each city's population and projected growth. They determine where schools are needed from those numbers, and try to fill every school to accommodate for the ever changing population.

CALENDAR

The next regularly scheduled meeting will be held on Thursday, January 8, 2015 at 7:00 p.m.

ADJOURNMENT

Jake Garn made a motion to adjourn. The motion passed unanimously and the meeting adjourned at 9:15 p.m.