

22 September 2016 Minutes

KAYSVILLE CITY PLANNING COMMISSION

September 22, 2016

Members Attending: Chairperson Matthew Anderson, Gary Bullock, Stroh DeCaire, Betty Parker, Joshua Sundloff, Thomas Wood

Excused: Lorene Kamalu

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

Others Present: Councilman Larry Page, Denise Deru, Curt Deru, Dan Stephenson, Mark Dyson, Terry Messerly, Devin Smith, Heather Smith, Sidney Stevenson, Ramona Porter, Emilee Minalga, Steven Spencer, Bruce Howard, Steven Burke, Jamie Burke, David Moore, Sherese Peterson, Luke Jacobsmeier, Jaron Peterson, Caryn Thomson, Caroline Eichelberger, Brandon Mattson, Jennifer Standridge, Eric Hopper, David Stuart, Monique Jeppson, Shilene James

OPENING

The Planning Commission meeting was held on Thursday, September 22, 2016 at 7:00 p.m. in the Municipal Center.

Chairperson Matthew Anderson opened the meeting by welcoming those present. The minutes of the September 8, 2016 meeting were presented for approval.

Stroh DeCaire made a motion to approve the minutes of the September 8, 2016 meeting. Thomas Wood seconded the motion and it passed unanimously.

PUBLIC HEARING AND REQUEST TO REZONE 0.43 ACRE OF PROPERTY AT 30 NORTH 760 EAST FROM R-1-8 TO INCLUDE A PRUD OVERLAY ZONE – CURT AND DENISE DERU

Lyle Gibson explained that Curt and Denise Deru have requested that their property at 30 North 760 East be rezoned to include a PRUD overlay zone, which would permit a flag lot to be developed behind the existing home. In 2012, Kaysville City passed an ordinance vacating a fifty foot section of the Center Street right-of-way between 760 East and the border of Fruit Heights and Kaysville City. An easement was placed on the property for the use of Kaysville City and all public utilities including the reservation of a permanent eight foot right-of-way for

the walkway that has since been constructed and installed within the easement. Of the fifty foot right-of-way width that was vacated, half was given to the subject property and half to the property just to the north of the subject property. Prior to the vacation of the street, the property was 3,500 square feet smaller. The property now measures at 0.43 acre. Because of the acquired additional acreage, the Deru's now have sufficient area and frontage to accommodate one standard 8,000 square foot lot, and one 10,000 square foot flag lot. Despite meeting lot size and frontage requirements, the buildable area on the site is limited because of the encroachment of both the twenty-five foot right-of-way easement stretching across the northern portion of the lot and a gas line easement stretching along the eastern half of the property. If the PRUD overlay zone request is approved, additional steps will need to be taken before the plat is recorded to ensure that the flag lot will be buildable.

Chairperson Matthew Anderson opened the Public Hearing.

Emilee Minalga said that she lives north of this property and had moved to this area of Kaysville because it's an established area and new development was unlikely. Ms. Minalga said she is concerned about the flag lot driveway being too close to the pedestrian walkway. The walkway is used often and there needs to be clear visibility for the safety of the pedestrians. The property is also steep and the driveway could become slick in the winter. It is a safety concern for many in the area. There are large properties nearby that could try to develop their properties in a similar manner if flag lots start to be approved in the area. The new home would need to have similar architectural features as what is in the area so that it doesn't change the feel of the neighborhood.

Caroline Eichelberger said that she lives on Village Way in Fruit Heights, directly east of this property, and is concerned how this might affect the privacy of adjacent properties. The proposed home will be taller than surrounding homes and might feel like an intrusion. Ms. Eichelberger added that she is also concerned that approving this proposed flag lot might set a precedence for creating more density within the neighborhood.

Sidney Stevenson said that she is also concerned about other neighboring properties trying to propose similar developments because flag lots tend to create problems for surrounding properties.

David Stuart stated that he lives across the street from this development and came tonight to see what was planned for the property. Mr. Stuart said that he'd spoken with the Deru's about their plans, and is concerned about the multi-level home because most homes in this area aren't built as tall and the new home would stick out above the rest. A decision on this needs to be carefully reviewed to make sure that it won't dramatically affect the neighborhood as the decision will be a permanent one. Mr. Stuart added that he is also concerned with the planned driveway running alongside the pedestrian walkway where many children walk to get to and from school.

Shilene James said that her property borders this project and her home looks directly onto the property. This is concerning as it could affect the privacy of her home. To look at the property as it is now it doesn't appear that another home would be able to fit on the property, especially because of the gas line easement that runs along the back of the property. The homes in this area

are established permanent structures and while the residents expect small changes to occur within the neighborhood, this is a drastic one.

Caryn Thomson commented that she also lives near the property and decided to move to this area because of the privacy that these larger lots provide. The lots have large backyards and most neighbors don't want to see more homes built in their backyards. Ms. Thomson added that they had also been told that the Deru's have no intention of living in either home, but plan to rent them. Adding more rental properties changes the feel of the neighborhood.

Monique Jeppson said that she is a neighbor and would like to reiterate the concerns already mentioned. The proposed flag lot doesn't fit within the area, and gives the feeling that we are just trying to fit homes into whatever little space might be left. This neighborhood was built for single family homes, not high density housing.

Ramona Porter stated that she has lived in this area for over forty years and doesn't feel that another home on this property is reasonable. The backyard has a steep slope and there could very likely be water runoff problems. Also, 760 East is narrow and adding additional traffic to it is a safety concern. Especially with the amount of children in the area that use the pedestrian walkway to get to and from school. Building next to a pipeline easement should also be a concern.

There were no further comments or questions from the public. Chairperson Matthew Anderson closed the Public Hearing.

Curt Deru said that change can be tough. Many are concerned that this will set a precedence in the area, but while there might be other lots with the square footage needed to create a flag lot, they lack the required frontage. Their lot is one of very few that now has the required frontage. It meets city ordinances and therefore should be approved. The architecture of the home will be planned to complement the surrounding homes in the area, and they will continue to work closely with the city to ensure they meet all requirements. A drainage system will be installed so as to contain any water runoff. They've already had people express interest in the property after the new home is built so they can put an elderly parent in the new home while they live in the existing home. It is not planned to be a rental. Some of the concerns mentioned tonight can be addressed down the road in a development agreement. Mr. Deru added that they want to be good neighbors and address concerns that have been mentioned, and don't feel that this development will be a hindrance to the neighborhood. Smaller lots and homes can work well to create diversity within a neighborhood because not all home buyers are looking for a large lot to have to maintain.

Thomas Wood asked Mr. Deru if he was currently living in the existing home.

Curt Deru responded that he does not. They currently live in Layton and had purchased the home with the plan to renovate and sell. However, they have considered moving into the new home on the flag lot once completed.

Josh Sundloff asked about the size of the home.

Curt Deru said that they plan to have a two story home, which includes a basement. They are currently working with a builder to make sure that it will fit on the lot appropriately.

Lyle Gibson added that in this R-1-8 zone the building height restriction is thirty feet. If the Commission sees a need to further restrict the height of the building, it could be done through a development agreement.

Matthew Anderson asked about the location of the driveway and expressed concern about the safety of pedestrians with the driveway being so close to the walkway.

Lyle Gibson said that there is currently a fence which runs alongside the pedestrian trail. The city could also request further improvements to help to ensure pedestrian safety.

Curt Deru said that they plan to put a landscape barrier between the proposed driveway and existing pedestrian walkway.

Stroh DeCaire commented that he is concerned with the possibility of the new home or driveway being placed over an easement. The existing easements on the property really limit the buildable area left on the property, and it feels that we are being asked to allow a home to be forced into an inadequate space.

Gary Bullock said that he doesn't agree that approving this development would set a precedence for potential future development. Each development that is brought before the Commission is considered separately based on each unique situation, and the Commission determines if each development is appropriate. No proposal is the same. Flag lots can be very functional in the proper setting, but they can also be very detrimental. While this proposal may meet all of the city's zoning and subdivision regulations, it may not be appropriate for this neighborhood. This flag lot feels as if it's being forced onto the property, and does not fit within the neighborhood.

Josh Sundloff said that he doesn't think that this development would drastically change the feel of the neighborhood because it is similar in density and character of the area. There are a couple of duplexes located to the east of this property and this flag lot is a similar density. As long as the new home is built outside of the gas line easement there should be no concern with building a home next to it. Mr. Sundloff added that he'd received an e-mail from a resident stating that they felt that zoning plans are unhelpful in protecting existing residents as the plans seem to constantly be changed.

Thomas Wood commented that we want to ensure that each development is cohesive to the community and will help to preserve or enhance the area. This development does not seem to do that. Rather, it seems, that it creates more questions about how the home would fit into the buildable area, and the potential problems it might encounter with the easements on the property.

Curt Deru said that he doesn't feel that this would affect neighboring property values. Many concerns that have been expressed could be resolved through a development agreement.

Stroh DeCaire said that although the project might meet the necessary regulations, it doesn't mean that it fits within the neighborhood. Is it really enhancing the neighborhood when we are having to possibly compromise easements and move property boundaries to make this development fit?

Curt Deru said that he feels that by bringing in a smaller home on a smaller lot, it will help to create more diversity and give an opportunity to someone looking to purchase something smaller within the area.

Matthew Anderson commented that the concept plan seems to show a small portion of the home being built over the right-of-way.

Andy Thompson responded that as part of this request, the developer is asking that the city vacate a small portion of the easement where the proposed building overlaps in order to create a slightly larger home with a better layout.

Josh Sundloff added that although the city would be giving up rights to that easement, it seems unlikely that the city would ever need to use the right-of-way for anything but the pedestrian walkway.

Matthew Anderson responded that we may not feel that it would make an impact now, but allowing an encroachment into the easement would remove any option of the city being able to utilize the right-of-way.

Josh Sundloff made a motion to recommend approval of the request to rezone 0.43 acre of property at 30 North 760 East from R-1-8 to include a PRUD overlay zone for Curt and Denise Deru subject to the following:

1. Approval of a development agreement, including architectural guidelines.
2. Vacating a portion of the right-of-way easement where the building overlaps.
3. The home on the flag lot be limited to a one story home with basement.

Thomas Wood seconded the motion.

Voting was as follows:

Stroh DeCaire	nay
Matthew Anderson	nay
Betty Parker	nay
Josh Sundloff	yea
Thomas Wood	yea
Gary Bullock	nay

The motion failed with a vote of two to four.

Stroh DeCaire made a motion to recommend denial of the request to rezone 0.43 acre of property at 30 North 760 East from R-1-8 to include a PRUD overlay zone for Curt and Denise Deru. Betty Parker seconded the motion.

Voting was as follows:

Matthew Anderson	yea
Betty Parker	yea
Josh Sundloff	nay
Thomas Wood	nay
Gary Bullock	yea
Stroh DeCaire	yea

The motion passed with a vote of four to two.

PUBLIC HEARING AND REQUEST TO REZONE 0.95 ACRE OF PROPERTY AT 85 EAST CRESTWOOD ROAD FROM R-1-8 TO R-2 AND A PRUD OVERLAY ZONE – DAN STEPHENSON

PUBLIC HEARING AND PRELIMINARY PLAT APPROVAL FOR CRESTWOOD ROAD SUBDIVISION LOCATED AT 85 EAST CRESTWOOD ROAD – DAN STEPHENSON

Andy Thompson explained that the Planning Commission reviewed this property at 85 East Crestwood Road earlier this spring with a request for R-4 zoning to accommodate a twelve unit townhome type development. After much discussion, the Planning Commission recommended denial of the request because of concerns with the overall density of the proposed twelve units. The applicant then elected to not proceed to the City Council for a final determination at that time. Mr. Stephenson has recently submitted a new request showing an eight unit configuration, meeting the density allowed in the R-2 zone. The configuration of the project is similar to the previously proposed plat, with the exception of four less units and additional open space. The remaining units are now slightly larger than on the twelve unit plan. The R-2 zoning allows for up to ten units per acre. The PRUD overlay zone is requested to accommodate the private street and open space subdivision proposed. The lots are individually platted, allowing for separate ownership with the private drive and common open space. The Kaysville City General Plan states that east of I-15 the City should allow zero to five units per acre with some areas of higher density housing. It also states that the majority of housing should be single family with about ten percent being more than one unit per structure, and multiple unit housing should consist of mostly duplexes and some three to six unit structures dispersed throughout the city.

Chairperson Matthew Anderson opened the Public Hearing.

Steven Burke said that he has lived in his current home located near this property for over twenty years now, and is concerned that approving this rezone request would set a precedence for the properties to the west of this subject property. Much of the subdivision has been lost to the

encroachment of higher density and commercial uses, and the existing residents feel overburdened by it. The General Plan states that high density housing should be dispersed throughout the city, and the neighbors feel that it's not. We need to look at the current density, and the potential for it. While the reduced number of proposed units helps, it is still too many and will be a detriment to the area. There is also a safety concern regarding pedestrians crossing the street from this development to Heritage Park.

Devin Smith said that he had done his own research about the number of high density units in this area and recently presented his findings to the City Council. At that meeting he also suggested to the Council that the city do further research regarding high density housing within Kaysville and if there is ten percent of multi-family housing and if it's dispersed throughout the city. The city may be unintentionally confining high density housing to certain areas of the city. This area seems to already be a high density area, and exceeding the ten percent recommendation. Recently neighbors were informed that the property directly to the west of Mr. Stephenson's was sold, and that the new owner would like to possibly develop that land as well. The existing neighbors are concerned that the new owner is looking to tie their development into Mr. Stephenson's, and that they will have to continue to fight to maintain the area as single family residential which was established many years ago. Mr. Smith said that he was also asked by his neighbor, Eric Hopper, to represent him tonight and wanted to state that he has concerns that this project would add to the transience of the area.

Jennifer Standridge said that she lives two houses west of this project, on the corner of Crestwood Road and 30 West Street, and was also told that property directly west of this project is being considered for development. Many are concerned that if we allow too many homes into a small area it will feel cramped and change the feel of the neighborhood. Any new construction should fit into what already exists, which this project does not. There are too many concerns and questions because of this project, and many residents feel that their rights and property values aren't being protected.

David Moore stated that he is also a neighbor and while the number of units being proposed has decreased, there is still concern that there are too many units. These units seem more like apartment units, Mr. Moore suggested that the units be separated to make them look more like single family homes. Mr. Moore asked if the developer would consider less units on the property, and who would maintain the open space areas.

Steven Spencer said that he lives northwest of this property and has been there about eighteen years. This is a quiet neighborhood and they never anticipated needing to worry about high density housing being built in their backyard. This proposed development doesn't fit within the neighborhood and the neighbors already feel burdened by the nearby commercial uses.

Terry Messerly commented that he has lived here for about twenty-five years and it seems that traffic gets worse every year, especially at peak hours. Cars speed in the area, and adding more homes will just add to the problem. The infrastructure isn't in place to handle more homes in the area.

Mark Dyson said that his back property line abuts this development and he is concerned about the number of units on the property because they will be an intrusion upon neighbor's privacy. Adding more traffic to the area is a huge concern as there are many kids that live in the area. How will this, and other potential developments, impact neighboring property values?

Bruce Howard commented that while he doesn't live near Mr. Stephenson's property, there are some obvious negative impacts this could have on the neighborhood. Just because something could be done, doesn't mean that it should be. High density housing seems to take away from the hometown feel and values. This development will not be an improvement to the neighborhood, but rather will only benefit the developer.

Tony Coombs said that he is working with the owner, Dan Stephenson, on this project and they have looked into many different options for this property. They have taken into account the comments and concerns made at the previous meetings, and feel that what they are proposing is a great option for the property. The units are bigger than before and will be quality units. The open space will be maintained by the homeowners association. Kaysville is a great place to live and there is a demand for these types of units.

There were no further comments or question from the public. Chairperson Matthew Anderson closed the Public Hearing.

Lyle Gibson commented that he had received a phone call earlier from David Fisher who lives to the west of this property who would like to see a fence or sound wall installed.

Josh Sundloff asked Mr. Coombs if they had purchased the property directly west of this development, or if the new owner had made contact with them.

Tony Coombs responded that they hadn't been in contact with the property owner to the west and was unaware until tonight that it had been purchased.

Josh Sundloff commented that with the current zoning, the developer could propose a plan with five homes on this piece of property and would be in compliance with the zoning requirements. It doesn't seem that the impact on surrounding properties would be much different between five units allowed in the current zoning, and the proposed eight units.

Betty Parker said that she feels that the additional three units would be detrimental enough to justify a negative recommendation.

Gary Bullock said that the developer has made an effort to try to make this development fit better within the neighborhood. By increasing the size of the units, their value has also increased. Mr. Bullock said that he would prefer to see these units separated so they are individual units because they will better fit into the surrounding neighborhood. While there are still concerns and questions to address, these units could potentially enhance and contribute to the neighborhood depending on how they are developed.

Andy Thompson added that there is a powerline easement running through the middle of the property that the units will have to be planned around.

Josh Sundloff suggested that the unit closest to Crestwood Road face the street.

Matthew Anderson commented that while he feels that the developer has been responsive to the comments and concerns of the neighbors, the proposed number of units seem to be too dense for this area.

Thomas Wood said that single family homes seem to be the core of what Kaysville is made of and is what gives the city it's hometown feel. Mr. Wood said that he is also concerned with the current language of the General Plan, and how it's being applied. It seems like high density housing is only located on the east side of the city. This might not have been the city's intent as it's been developed, but it's become our reality. There needs to be a better balance with where high density housing is being developed.

Josh Sundloff commented that concerns about rental properties seem to be anecdotal. There is multi-family housing located on the south side of Crestwood Road near here that does not seem to have the negative impacts that people think go with multi-family housing. While traffic safety is a concern, the infrastructure currently in place seems to be adequate to bear the traffic load of the area.

Thomas Wood responded that the difference between those referenced multi-family units across the street and this property is this proposed development is changing the current use to a more dense use. The property itself and the properties surrounding it are zoned for single family uses. This is not what the existing residents planned for.

Matthew Anderson commented that anything more than just a single home will change the character of the neighborhood. Mr. Anderson asked Staff if the city had any data in regards to meeting the suggest ten percent multi-family housing within the city limits, as mentioned in the General Plan.

Andy Thompson said that the information the city has is based on the number of building permits issued since 1998. The City is required to have a low income housing plan, which we have. Our information is not complete, but it appears that the city is below ten percent multi-family housing.

Betty Parker commented that not only does the city probably not have enough multi-family housing, there's always the question of where to allow it.

Josh Sundloff said that he agrees there is a need for multi-family housing within the city, and that the housing needs to be dispersed throughout the city. This property seems to be better suited for multi-family housing because of its location close to arterial roads and commercial areas.

Gary Bullock commented that he feels that with some redesign this development could better conform to the neighborhood and feels that this fits within the parameters of the General Plan.

Josh Sundloff made a motion to recommend approval of the request to rezone 0.95 acre of property at 85 East Crestwood Road from R-1-8 to R-2 and a PRUD overlay zone for Dan Stephenson. Gary Bullock seconded the motion.

Voting was as follows:

Betty Parker	nay
Josh Sundloff	yea
Thomas Wood	nay
Gary Bullock	yea
Stroh DeCaire	nay
Matthew Anderson	yea

The motion was lost for lack of a majority vote.

Gary Bullock made a motion to forward the request to rezone 0.95 acre of property at 85 East Crestwood Road from R-1-8 to R-2 and a PRUD overlay zone for Dan Stephenson to the City Council with the split vote recommendation for the Council's review. Stroh DeCaire seconded the motion and it passed unanimously.

Betty Parker made a motion to table the request for preliminary plat approval for Crestwood Road Subdivision located at 85 East Crestwood Road for Dan Stephenson. Gary Bullock seconded the motion and it passed unanimously.

**APPEAL TO THE INTERPRETATION OF TITLE 17 BY KAYSVILLE CITY
ADMINISTRATION REGARDING SIDE YARD REQUIREMENTS IN THE R-1
ZONING DISTRICT – BRANDON MATTSON**

Lyle Gibson explained that Kaysville City recently received an application for a building permit to build a swimming pool at 1944 South Kerrybrook Drive. The property is located on a corner lot and because of that the Building Department informed the applicant that he would need to meet the required twenty-foot side yard for the pool before a building permit would be issued. Mr. Mattson is appealing the decision of City staff based on his understanding of the ordinance. Per Section 17-4-5 "Appeals", an individual affected by a decision administering or interpreting Title 17 can appeal that decision to the Planning Commission. For many years the City has required that swimming pools be built twenty feet from the side property line abutting a street based on the interpretation of city ordinances, including definitions of both a structure, and side yards. If the Planning Commission determines that the current interpretation by Staff is appropriate, Staff will continue to enforce the ordinance in this manner on this and other similar proposals. If the Commission determines that the interpretation has been in error, the applicant will only be required to demonstrate that the pool is at least eight feet from a property line and this same interpretation will be applied on similar proposals moving forward. In either case, it may also be appropriate to give direction to Staff to work on an update to the ordinance that includes language which more clearly reflects the decision.

Andy Thompson added that if a change in interpretation is made, then it will impact every swimming pool permit on a corner lot, which could negatively impact neighbors in other situations. The Planning Commission not only needs to consider this regulation for Mr. Mattson, but as a global decision.

Betty Parker asked about fencing.

Brandon Mattson responded that they are required to enclose the swimming pool with a fence, and plan to do so. Mr. Mattson said that when he first came to the city offices to find out the setback requirements for a swimming pool, he had not been made aware of the twenty foot requirement of corner lots. It seems to him that the twenty foot side yard requirement is intended for accessory buildings because of traffic visibility. Since his pool will be in-ground, it will not impede any traffic visibility and therefore Mr. Mattson said he doesn't believe he should have to meet the twenty foot side yard requirement. Also, the city allows basketball and tennis courts to be within the twenty-foot side yard and Mr. Mattson said that he feels swimming pools should be considered as the same.

Andy Thompson said that the city doesn't regulate flatwork and therefore allows the game courts to be within those setback requirements. Swimming pools are considered more of a structure and therefore have to meet certain building regulations as well as obtain a building permit.

The Planning Commission discussed current city ordinances regarding side yard requirements on corner lots, and the required setbacks for swimming pools. The Commission agreed that there seemed to be some areas of the ordinance that were not completely clear to interpretation.

Josh Sundloff made a motion to approve the appeal of interpretation of Title 17 by Kaysville City Administration regarding side yard requirement in the R-1 zoning district for Brandon Mattson, and directed Staff to review the language of city ordinances regarding side yard setbacks on corner lots. Betty Parker seconded the motion and it passed unanimously.

CALL TO THE PUBLIC

Nothing was brought under this item.

CALENDAR

The next regularly scheduled meeting will be held on Thursday, October 13, 2016 at 7:00 p.m.

ADJOURNMENT

Stroh DeCaire made a motion to adjourn. The motion passed unanimously and the meeting adjourned at 9:32 p.m.