

MINUTES
PLANNING COMMISSION MEETING
FRUIT HEIGHTS CITY
910 South Mountain Road
August 24, 2021

WELCOME: Chairman Curtis Tanner called the meeting to order at 7:00 PM.

PLEDGE & OPENING CEREMONY: The Pledge of Allegiance was led by Chairman Curtis Tanner, and the meeting was opened with City Manager Brandon Green offering a word of prayer.

PLANNING COMMISSION MEMBERS PRESENT: Planning Commissioners Brian Bare, Sam Brady, Carrie Carroll, Kevin Paulsen and Curtis Tanner (Chairman) were present. City Council Member Diane Anderson was present as well.

CITY STAFF PRESENT: City Manager Brandon Green, City Planner Jeff Oyler and City Recording Secretary Amy Gardiner were present.

VISITORS: Edward Spendlove, Lisa Lin, Susan Webster, Nancy Dean, Barbara Spendlove, Kylan Liu, Jayda Liu, Scott Justensen, Brent Dopp, Todd Webster, Blaine Spendlove, Greg Lazalere, Diane Clift, Doug Clift, Kelly Francis, Ted Larkin, Scott Webster, Gary Anderson, George Ray, Nate Reeve, Russ Tanner, Scott Justensen, Jessica Kezerian and Eileen Moss.

PUBLIC HEARING:

Public Comment on the Rezone Request for Rock Loft Estates Subdivision. Rezone property from A-1 to R-1-12.

Commissioner Sam Brady made a motion to enter into a Public Hearing. The motion was seconded by Commissioner Brian Bare and it was approved unanimously.

Barbara Spendlove commented on the rezoning of the Rock Loft Estates development. She shared some historical facts she wanted people to consider including that her great grandfather, Grandison Raymond Sr., had settled and cultivated the land starting sometime around 1850. She also said she was one of the original 100 citizens living in the newly established town of Fruit Heights in 1939. The Raymond family still owns 32 acres of the proposed Rock Loft Estates Subdivision. She talked about how the infrastructure on the land is old and needs to be updated. The family is losing money on the orchard every year. She said that she is confident that the potential problems and concerns have been studied and she believes all involved have done their best to minimize potential dangers. She finished by saying that "to everything there is a season" and her family should be allowed the opportunity to sell the land to be developed.

Nancy Raymond Dean commented that both her parents have passed away in the seven years it has taken to try to develop their property. She has looked at the plans and believes that the developer has done his due diligence to make it a safe and enjoyable environment. She mentioned the lot sizes in the development and thanked the Commission for their service. She finished by saying she hoped that they would approve the rezoning of the property to R-1-12.

Doug Cliff encouraged the Commission to wait on the rezoning. He was hoping that the developer would include space for a park, a possible museum in the Webster home and a possible community garden. He wanted a space where Fruit Heights could remember where it came from. He wanted the Commission to wait on the rezone until the hoped for items were included in the developer's plan.

Diane Cliff grew up picking cherries for the Raymonds. She felt like it would be nice to have a place to preserve some of the memories and a place for memorabilia to be displayed. She wanted the memories preserved so that everything would not be developed away -- why would the City be called Fruit Heights if all the trees have been replaced by houses?

Susan Raymond Webster said that the property needs to be rezoned. She is currently farming the property, and she stated she cannot do it anymore. She encouraged the Commission to approve a rezone and then let it go to the City Council for them to decide otherwise if needed.

Jessica Kezerian suggested the City create a zone in the City that requires larger lots than the current R-1-12. She expressed concerns about additional traffic and possible landslides. She asked for a compromise of larger lots.

Nate Reeve, the principle engineer and planner for Reeve and Associates, commented that this has been a multistep process and has taken a lot of work to get the City staff and others comfortable and to this point. He appreciated the opportunity to work with the staff and feel like this is in line with the City's general plan and excited to be here for the rezone. He offered to answer questions later in the evening if needed.

Russ Tanner commented that if things change in the development process, he is worried about what the project will look like at the next stage. He also wanted a possible different zone than the current R-1-12 so that there would be a bigger lot requirement. He is worried the lots may end up as small as 0.25 acres.

Scott Justensen, speaking for the developer, indicated the property owners and developers have done everything the City has asked them to. This has been a seven-year project. The City and County have been stellar to work with. The developer has considered parks. He is going to invest in a trail system. Also some surplus property will be donated to the City or to the Forest Service. Additionally, there are no 0.25 acre lots. The smallest lot is 0.28 acres. This is the largest development and largest lots you will see in Fruit Heights. He affirmed the developer's desire that the Commission approve the proposed rezoning and asked for the Commissioners' approval so the development can advance to the next step.

Commissioner Carrie Carroll made a motion to close the Public Hearing. The motion was seconded by Commissioner Sam Brady and it was approved unanimously.

Chairman Curtis Tanner realized there was a written public comment turned in by Greg Lasiler that needed to be read so he looked for a motion to reopen the Public Hearing.

Commissioner Carrie Carroll made a motion to reopen the Public Hearing. The motion was seconded by Commissioner Sam Brady and it was approved unanimously.

Council Member Diane Anderson read a comment by Greg Lasiler. The letter stated that he felt that safety was being ignored in the design of Rock Loft Estates. He estimated that there will be

about 197 vehicles added to the neighborhood and it will force cars onto East Oaks Drive which he feels is the most dangerous street in the City. He is asking the City to not sacrifice its citizens' safety.

Commissioner Sam Brady made a motion to close the Public Hearing. The motion was seconded by Commissioner Kevin Paulsen and it was approved unanimously.

SUBDIVISION REVIEW:

Review/Discuss/Approve/Deny Rock Loft Estates Subdivision Rezone Request from A-1 to R-1-12

City Planner Jeff Oyler explained that he had read the staff report and felt that it was appropriate at this juncture to request the rezoning for this development to move forward. Some items he pointed out included:

- The plan includes the development of 90 lots with an average size of 0.75 acres;
- The developer has been working over 6 years on the project and has complied one of the largest geotech reports that he has seen -- there has been a lot of analysis and discussion;
- He suggested the Planning Commission and City Council consider the street layout and how they tie into existing streets as well as the lot layout;
- The forthcoming development agreement is where the development details will come together; and
- The staff recommendation is that the Planning Commission grant the rezoning request, but it should be subject to final plat approval and approval of the development agreement by the City Council -- so if for some reason those approvals fail, the property would revert back to its original A-1 zoning and the developer would need to pay a rezoning fee

Chairman Curtis Tanner opened it up for discussion with the Planning Commission. Issues that were discussed included:

- Average lot size and wishing the City had a zone that required 0.5 acre lots.
- Concerns with geotechnical issues and water issues;
- The significance of the development and that it will need to be monitored;
- A lot of measures will need to be in place before final plat approval;
- The development is concerning because of the history of landslides in the area;
- A 600-page document is telling that there are concerns with the development and is not normal
- Geotech experts have done their due diligence;
- Concerns can be addressed in the HOA and CC&Rs;
- Next step -- make sure protections are in place moving forward;
- The need for the property to be annexed into the City
- Concerns over developing over a 6 ½ foot aqueduct and easement

After a lengthy discussion, Chairman Curtis Tanner asked for a motion to act on the proposed rezoning. He also wanted to declare that he is an adjoining neighbor of the proposed project.

Following discussion, Commissioner Brian Bare made a motion to approve the Rock Loft Estates Subdivision Rezone request from A-1 to R-1-12 subject to the final plat approval and approval of the development agreement by the City Council -- if for some reason these approvals fail, the property would revert back to the original A-1 zoning and the developer would pay the rezoning fee. The motion was seconded by Commissioner Carrie Carroll. Commissioners Kevin Paulsen, Brian Bare, and Carrie Carroll approved the motion, and Commissioners Sam Brady and Chairman Curtis Tanner opposed it. It was approved 3 to 2.

Review/Discuss/Approve/Deny Larkin Subdivision Preliminary Plat

City Planner Jeff Oyler explained the to Commission information about the proposed plat for the Larkin property including:

- The proposal is for a two-lot subdivision at about 1410 E. Green Road;
- The existing home on lot 1 has been torn down;
- The property owners intend to build two new residential dwellings;

City Planner Jeff Oyler reported that there was nothing out of the ordinary but he did have several recommendations including:

- Allowing Davis County Flood Control to obtain a flood control easement on Baer Creek that runs through the property -- it would be the width of the canal and then 30 ft on top of the embankment on one side and would allow Davis County Flood Control to make improvements along the creek canal.
- Requiring the owner to pay the \$620 plat fee.
- Requesting a 20 ft. easement for access from the Nicholls trail to other trails east in the City -- this proposed access has been part of a 25-year old master plan, and it would provide an important east/west trail connection.
- Adding new curb and gutter across the frontage.
- Putting in new service laterals on lot 1 but will leave this up to the owner.

The owner Ted Larkin was present and said that he was excited. The Commissioners asked questions of Ted Larkin and City Planner Jeff Oyler.

Following discussion, Commissioner Kevin Poulsen made a motion to approve the Larkin Subdivision plat including all the recommendations made by City Planner Jeff Oyler. The motion was seconded by Commissioner Carrie Carroll. It was approved unanimously.

OTHER BUSINESS:

Review and Discuss Accessory Dwelling Unit Ordinance (ADU)

Prior to the meeting, the Planning Commission was provided with a Draft Accessory Dwelling Units (ADUs) Ordinance (from the Wasatch Front Regional Council). The following was the introduction to that document: "In March 2021 HB 0082 H.B. 82 was passed by the State of Utah, requiring that all municipal codes be amended to comply with the new state law related to Internal ADUS (IADUs). According to the American Planning Association, an ADU is 'a smaller, independent residential dwelling unit located on the same lot as a stand-alone ... single-family home.' While ADUs and short-term rentals have typically been regulated by cities and counties, the Utah State Legislature passed the legislation which 'prohibits municipalities and counties from establishing restrictions for certain accessory dwelling units with limited exceptions.' House Bill 82 addresses 'internal' ADUs, e.g. accessory dwelling units that are located within or

attached to the primary residence the premise that an accessory dwelling unit inside someone's home, and do not address standalone ADUs or Ads attached to garages and other secondary structures on a residential property. The bill permits internal ADUs in all municipalities, and includes several changes to allow make it easier to create accessory dwelling units by removing some of the obstacles that often prevent such uses from being permitted.”

City Planner Jeff Oyler spent time going over the details of the effects the bill will have on cities and had a lengthy discussion with the Planning Commission on how the bill will affect Fruit Heights City and its residents. Items that were discussed included: size, elements, parking, attached vs. detached dwellings, language, impact on neighbors, water use, utilities and much more. City Council Member Eileen Moss was in attendance as a visitor and participated in the discussion as well.

The Planning Commission was encouraged to review the draft ordinance and send their changes to Chairman Curtis Tanner. City Manager Brandon Green thought that the draft ordinance was pretty good but could use clarification. City Planner Jeff Oyler reminded the Commission that the ordinance will require a Public Hearing at a Planning Commission meeting. The Planning Commission and staff spent time talking through the possible timing of getting the ordinance approved and completed. The Planning Commission picked October 26, 2021 as a goal to hold the public hearing. City Planner Jeff Oyler and City Manager Brandon Green talked about meeting with the City attorney to get his response as well.

REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS MEETING:

Planning Commission Meeting March 23, 2021

Planning Commission members discussed the draft minutes that previously had been provided to them for the March 23, 2021 Planning Commission Meeting and no corrections were suggested.

After brief discussion, Commissioner Brian Bare made a motion to approve the minutes for the March 23, 2021 Planning Commission meeting. The motion was seconded by Commissioner Sam Brady and it was approved unanimously except Commissioner Kevin Poulsen abstained from voting because he was not on the Planning Commission when the meeting occurred.

Planning Commission Meeting May 4, 2021

Planning Commission members discussed the draft minutes that previously had been provided to them for the May 4, 2021 Planning Commission Meeting and no corrections were suggested.

After brief discussion, Commissioner Carrie Carroll made a motion to approve the minutes for the May 4, 2021 Planning Commission meeting. The motion was seconded by Commissioner Sam Brady and it was approved unanimously except Commissioner Kevin Paulsen abstained from voting because he was not on the Planning Commission when the meeting occurred.

Commissioner Carrie Carroll made a motion to adjourn the Planning Commission meeting, and it was seconded by Commissioner Kevin Paulsen. The meeting was adjourned at 9:28 pm.

I HEREBY CERTIFY that the foregoing is a true, accurate and complete record of the Fruit Heights Planning Commission meeting held August 24, 2021.

Not approved until signed.

/s/ Brandon Green

Brandon Green, City Recorder

Date approved by Planning Commission: September 28, 2021