

KAYSVILLE CITY COUNCIL

March 21, 2019

Minutes of a regular Kaysville City Council held March 21, 2019 at 7:00 p.m. in the City Council Chambers of the Kaysville City Municipal Center.

Council Members present: Mayor Katie Witt, Council Member Dave Adams, Council Member Larry Page, Council Member Jake Garn, Council Member Michelle Barber, and Council Member Stroh DeCaire

Others Present: City Manager Shayne Scott, City Recorder Annemarie Plaizier, Community Development Director Lyle Gibson, Dan Wilson, Steve Einfeldt, David Hirschi, Nancy Over, Elton M. Over, Blake Walker, Pat Stenquist, MacRay Baxter, Ramona Porter, Carole Walker, Brenda Mumford, Gary Mumford, Joe Fisher, Wendy Fisher, Andre Lortz, Cara Lortz, Arica Lortz, Jim Neuner, Pam Neuner, Jens Gibbs, Oliver Gibbs, Connor Gibbs, Logan Gibbs, Richard Allen, Ephraim Raehl, Ty Neilson, Adam Barnett, Cory Stahle, Greg Garff, Will Sorensen, Ethan Plyer, Seth Mauory, Teage Derr, Jake Morris, Spencer Lott, Logan Harodsen, Wade Hull, Justin Steed, Cooper Nichle, Drew Lords, Josh Foster, DeeKen Farr, Jameson Evans, Brayton Borchett, Lincoln Westlund, Adam Child, Trent Henderson, Beauregard James Bell, Queenie McKenzie Aydelott, Douglas Aydelott, Craig Smith, Janet Smith, Hugh Parke, Robert Green, Carole G. Walters, Brian Pennock, Logan Pennock, Richard Proctor, Randi VonBose, Alana Cloud

OPENING

Douglas Aydelott provided an opening prayer.

RECOGNITIONS AND PRESENTATIONS

PROCLAMATION DECLARING APRIL AS SEXUAL ABUSE AWARENESS MONTH

Mayor Witt said that April is recognized as Sexual Abuse Awareness Month in the United States and is to raise public awareness about sexual violence and educate communities on how to prevent it. Kaysville City welcomes the opportunity to reaffirm our commitment to end sexual violence and therefore is declaring April 2019 as Kaysville City Sexual Assault Awareness Month.

Alana Cloud, from Safe Harbor Crisis Center, said that this campaign is important and they have seen a lot of success and support from the community for it. It is something that many don't want to talk about but by getting the word out we help those who need it and we can support the survivors. During April there will be events to help spread awareness of sexual assault. First we will have a number of volunteers tying teal ribbons around the area. These ribbons will be a visible statement showing Kaysville's support in raising awareness. There will also be a portrait exhibit on display at the Layton Hills Mall which will spotlight fourteen survivors within the community. It will help to demonstrate the diversity and resiliency of sexual assault survivors. Sexual violence doesn't discriminate. There will also be an art showcase in Bountiful at the Bountiful Davis Art

Center displaying artwork created by survivors. Survivors have created the art as a way to heal when words haven't been enough.

POLICE DEPARTMENT/VICTIMS ADVOCATE REPORT

Police Chief Sol Oberg presented a report of the Kaysville Police Department from the 2018 year and explained that over the year there were significant highlights that occurred. The crime index went down in 2018 and he hopes it will even out from here. One significant type of crime that went up was child abuse and neglect calls which went up about 62% from the previous year. The number of traffic stops have also gone up due in large part to their hiring a full-time traffic officer. About two years ago when traffic stops were down Chief Oberg said that he was asked if there was a correlation between the number of traffic stops and accidents. These numbers from 2018 show that they seem to relate to each other because while the number of traffic stops have gone up, the number of accidents have decreased. The Police Department personnel had a tough year in their department. It started last spring with the explosion at Chevron, causing significant burns to some of the officers on scene. It not only hurt their staffing but the number of hours working the case. They've had a few other officers injured during the year, some while on duty, and they've had to try to fill those vacant spots. They have also had another officer sent out on deployment. Three of their most senior officers retired, and have been scrambling to hire and fill all of these vacant spots. In 2018 their Department has also received several accolades through the year, including being ranked the 9th safest city in Utah in 2018, as well as receiving Law Enforcement Agency of the Year from Costco.

Council Member Page thanked the Police Department for their service, especially after a tough year. Kaysville is a great place to live in, and appreciates their officer's willingness to serve their community.

Council Member Barber asked if there were still open positions to fill.

Chief Oberg responded that there were still openings. They recently hired one officer, and have two others that are currently going through the police academy. Since the first of the year Lt. Kenton Pies also retired and they are working on promotional processes within their department and filling positions.

Jennifer Winchester stated that she works with the city's Victim Advocate Services. This program was given funding through a grant to benefit the city and pay for services. As part of that grant she is required to give a report on the previous year and how they've been serving the community. Ms. Winchester said the purpose of their program is to offer victims of crime emotional support, explain to them their rights and how to exercise them as they move through the criminal process, and connect them to resources to provide further help. They have been able to work with 375 victims since the program started, and have provided about 1,500 services. It's been a bit of a learning curve, but we've met the goals outlined in the grant program. Currently the grant they are funded through will expire in July and they are in the process of reapplying for the next grant cycle.

DECLARATIONS OF ANY CONFLICTS OF INTEREST

No conflicts were disclosed.

CONSENT ITEMS

Mayor Witt asked for a vote on the Consent Items:

- a. Agreement for Dispatch Services with Davis County Sheriff's Office.
- b. Acceptance of Improvements for The Preserve Subdivision.
- c. Award of the 2019 Asphalt Maintenance Bids:
 - i. Crack Seal Bid.
 - ii. Chip Seal Bid.
 - ii. Seal Coat Bid.

Council Member DeCaire made a motion to accept the Consent Items, seconded by Council Member Adams.

The vote on the motion was as follows:

Council Member Adams, yea
Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed unanimously.

ACTION ITEMS

REQUEST TO REZONE 1.31 ACRES OF PROPERTY AT 1048 TYLER'S WAY FROM R-A (RESIDENTIAL AGRICULTURE) TO THE R-1-10 (SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT – MACRAY AND SHEILA BAXTER

Lyle Gibson explained that the Baxter's property is located at 1048 Tyler's Way and is surrounded by R-A and R-1-8 zoning districts. The property is well over an acre in size and has an existing home and large detached garage building. While the property is large and could be divided based on an acreage calculation in the existing zoning district, as it sits on the end of a cul-de-sac it lacks the necessary frontage to be subdivided with the existing zoning. The R-A zoning requires that there be at least ninety feet of frontage, while the R-1-10 zone only requires eighty feet. The Baxter's are requesting a rezone to the R-1-10 zoning to be able to divide the property into two lots, keeping the existing home and allowing the detached garage to be on a separate lot, which will ultimately be converted into a dwelling. A flag lot division under the existing zoning has been considered by the Baxter's, but it would create a side yard setback issue between the existing buildings as there is only twenty feet from the home to the detached garage. A development agreement will be approved as part of this rezone request, which will state that no more than two lots can be created.

Council Member Garn made a motion to approve the request to rezone 1.31 acres of property at 1048 Tyler’s Way from R-A (Residential Agriculture) to the R-1-10 (Single Family Residential) zoning district for MacRay and Sheila Baxter, subject to a development agreement limiting the number of potential lots to two. The motion was seconded by Council Member DeCaire.

The vote on the motion was as follows:

Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, yea

The motion passed unanimously.

REQUEST TO REZONE 3 ACRES OF PROPERTY AT 1576 WEST 200 NORTH FROM R-A (RESIDENTIAL AGRICULTURE) TO R-2 (SINGLE AND TWO FAMILY RESIDENTIAL) WITH THE PRUD (PLANNED RESIDENTIAL UNIT DEVELOPMENT) OVERLAY ZONE – ROBERT GREEN

Lyle Gibson explained that the applicant is seeking a rezone from the City Council in order to pursue a townhome development on his property at 1576 West 200 North. The original proposal consisted of 37 total units, and also included a portion of the property owned by the Neuner family. The Planning Commission reviewed this request and held Public Hearings at their meetings on December 13, 2018 and January 10, 2019, and ultimately asked the applicant to meet with the neighbors of this property to further refine the development to something that might be more palatable to nearby property owners. The developers set up a meeting and invited many from the surrounding neighborhoods on January 30, 2019. Multiple concepts and issues were discussed, and based on feedback received the applicant reconfigured their plans to remove the Neuner’s property as part of the requested rezone, and reduced the number of units down to 29. The Neuner’s property may be utilized by way of easement rights or ownership as open space for the proposed development. Staff has worked with the developer and negotiated a development agreement to ensure that anything pursued beyond the rezone, if approved, is essentially as portrayed in the agreement. The modified plan was presented to the Planning Commission on February 28, 2019. Several concerns have been expressed through the review and consideration of this proposal, including density, access and traffic impacts, utility capacity, and pipeline safety, among others. The current density is just under 10 units per acre on the Green family property. With the open space component on the north end of the project, not part of this requested rezone, the density would be just over 8 units per acre. The proposed number of units on the 3 acre property is within the allowed density of the R-2 PRUD zoning requested. The Planning Commission also requested that data be given regarding traffic impact and trip generation. While not a full traffic study, as was directed, Staff has researched data to demonstrate the impact of this development primarily on 200 North Street. According to the Institute of Transportation Engineers Trip Generation Manual, a townhome type development would be expected to generate an average of roughly 7 daily trips per dwelling, with a peak hour generation of approximately 0.7 trips per unit.

This equates to an average of 203 new daily vehicle trips and 20 new trips during peak hours. The 200 North Street is a two-lane facility with a center turn lane. According to the Highway Capacity Manual from the Transportation Research Board, a street such as this can service up to 18,300 vehicles per day at an acceptable level of service. The most recent numbers Kaysville City has from traffic counts on this section of 200 North Street indicated 10,230 average daily trips. The proposed development would increase this by approximately 2%, keeping the amount of traffic on 200 North Street well within its designed capacity. There is an indication that there are solutions to the previously-raised concerns regarding sewer capacity, storm water management and the potential for fencing the eastern property boundary. Among the most technical items, these items must be verified as part of the subdivision process should the rezone be approved. Staff has visited with representatives from Tesoro, who own and operate the pipeline that runs through this property. They have a 16.5 foot easement along the eastern border where they will not permit buildings. While they can only legally regulate what takes place within their easement, they have stated that the suggested distance for a dwelling from a pipeline is 50 feet, according to the Pipeline and Hazardous Materials Safety Administration. After discussing this item, the Planning Commission ultimately voted unanimously to recommend approval of the rezone request with the following stipulations:

1. There be a minimum of 8 to 10 guest parking stalls, not including garages and driveways.
2. A turn-around or something complying with public safety turn-around requirements be included where the road stops at the southeast corner of the development.
3. The language be modified in the development agreement to reflect the option for inclusion of the open space by either ownership or easement rights.
4. There be two connections to the D&RGW rail trail.

David Hirschi commented that he is the legal representative for the Overs and by approving a change in zoning it opens the door for subdivision. This proposed development is flawed and the development agreement is incomplete. There are violations within the land use proposals and flaws in the conceptual plan. The patios on the north side of the development sit on a dedicated public easement. Drainage is already a problem in this area and a drainage plan needs to be provided for. Traffic safety and parking issues need to be addressed in the development agreement. There are no restrictions outlined for usage of the open space or park. We don't know what the lighting will be here or information about a privacy fence. The park opens up to the backyard of residents and they are concerned about security of their property. Noise enforcement isn't addressed. There are already covenants outlined for the neighboring subdivision and they should be administered to the new subdivision as well.

Steve Einfeldt said that he was representing his wife as well, who couldn't be here tonight. Mr. Einfeldt read a letter that was written by both of them in regards to this development. The only way we make progress in our society is with compromise, especially with controversial issues. The long-time residents of west Kaysville have financially put a lot into their homes. City ordinances have protected our properties to some degree, but that threshold of protection is being threatened. This is a drastic change to the area, and will put a burden on neighboring residents. There needs to be a compromise on the part of the developer. We still need answers about this development. What about the proximity of the gas line to these units? Will neighbors be at risk

for greater flooding than already exists here? The developer can still make a profit but is proposing too many units.

Gary Mumford stated that he lives on Willow Drive and feels that the proposed development is not good for their neighborhood. The character of the existing neighborhood needs to be preserved and any new construction should be compatible with the area. The homes built should be smaller single level homes. This would be a good place to put a retirement community. If a precast concrete fence was installed along here it would help to block the noise from the commercial uses nearby. Also, the fifty foot setback from the pipeline should be enforced because it's a big safety concern.

Hugh Parke, a developer working with the Green Family, said that these are just concept plans being presented with their rezone request. They have looked at different development options for this property and feel this is the highest and best use of the property. The General Plan states that properties west of I-15 should have zero to two residential units per acre, with some higher density being allowed along major streets. In taking into account the comments received by neighbors and the Planning Commission, they have reduced the density from what was first proposed. They've spent a lot of time trying to address everyone's concerns and they understand that this is a controversial project. However if it's done correctly it will help to add to the area. Many people want to either move back to Kaysville or stay in Kaysville, but may be looking for something smaller. This project will allow that to happen.

Council Member Barber asked about the Neuner's property to the north.

Hugh Parke responded that it's not being considered as part of the rezone, but would be used as a separate park and owned by the Homeowner's Association. There will not be any structures on the property.

Council Member Adams asked if the Neuner's property were not included in this development if it would still meet the open space requirements under the PRUD ordinance.

Hugh Parke responded that without including the Neuner's property they would still meet the open space requirements.

Council Member DeCaire said that the Pipeline and Hazardous Materials Safety Administration suggests that a dwelling be 50 feet from a pipeline and feels that should be adhered to.

Council Member Barber asked about the pipeline easement.

Hugh Parke responded that the pipeline easement is only 16.5 feet wide, and the closest building would be about 7 feet from that easement. Since this is only a concept drawing they don't have an exact measurement. There are many areas along this pipeline where dwellings have been built inside that 50 foot setback.

Council Member Garn asked if the developer had considered a less dense zoning district.

Hugh Parke responded that when they first approached the city about developing the property they were given the recommendation of the R-2 zoning because of the townhome type units they are hoping to build.

Council Member Garn said that the R-2 zone limits the number of attached units to two, which most of these buildings have more than that.

Lyle Gibson responded that the requested PRUD overlay zone gives the developer more flexibility and allows them to attach more than two units together as long as they don't have more than 4,000 square feet for each unit. These are still considered as single family units even though they are attached.

Hugh Parke added that each of these units will be sold separately because there is a property line dividing each one of them.

Council Member Garn commented that the PRUD ordinance states that "New construction in already developed areas should, to the greatest extent possible, maintain the established mass, scale, height, width, and form of the surrounding buildings." These proposed buildings are much larger than the surrounding homes, not only in square footage but in height it seems. Even though each unit might be considered one single family dwelling, combining many of them together creates one large contiguous building, which is much different than the surrounding single family homes. Because this lot is odd shaped, it might be more appropriate for the developer to consider the R-1-LD zone. It would allow for single family residential uses, but would give the developer some flexibility on the layout of the property.

Hugh Park said that they are attempting to introduce a new product into this area of the city and has expected some pushback because it is different than what is already here. But they will be utilizing the architectural and structural designs of the area to help it blend in. This is only a concept plan they've proposed and the buildings will need a full design. Public utility lines will also need to be addressed through plat approval.

Council Member Garn said that there needs to be a harmonious arrangement of the buildings because this could impact the privacy of adjacent properties. The fencing, landscape, building design, larger setbacks from existing homes, and a reduction of the proposed density would help mitigate the impact on neighboring properties and make sure their privacy is assured. Council Member Garn commented that while he's not against creating a higher density area, he would like to see these large buildings broken up into only a couple units each.

Hugh Park responded that they have looked at many scenarios for this development and are trying to make this something financially viable for them.

Council Member Page made a motion to table the request to rezone 3 acres of property at 1576 West 200 North from R-A (Residential Agriculture) to R-2 (Single and Two Family Residential) with the PRUD (Planned Residential Unit Development) Overlay Zone for Robert Green, seconded by Council Member DeCaire.

Council Member Barber said that she appreciated the comments that have been made by the developer and residents about this development. Council Member Barber commented that she feels that more compromise could be done.

Council Member Page responded that he has attended the Planning Commission meetings where this project has been discussed, and has spoken with many of the residents about this. We need to be very specific on what we want to see here. The 29 units being proposed seems like too many for this area, but creating half-acre single family lots isn't financially compatible for the developer. This is a good location to have high density housing and it will give an opportunity for more people to live in the city. However, this is alongside a high pressure pipeline and there is a lot of concern about building high density housing within the recommended 50 foot setback. There also needs to be more of a buffer between this development and the existing neighborhood. This project could be better planned in a way to compromise with both the developer and existing residents. These will be very sellable units, but we need to make sure we do this correctly.

Council Member DeCaire commented that he served for six years on the Planning Commission and have seen other developers, when faced with similar concerns, reach a compromise to make it work for all parties. There needs to be some give and take, and it seems that the developer could look at doing this development differently, including proposing a less dense zone. Rezoning this property to the R-2 zone could set a precedence for this area of Kaysville as there are many large vacant properties left around here along 200 North. It seems that the neighbors seem generally okay with the property being developed, but agree that it could be done better to benefit the area.

Council Member Garn said that he agrees that this is a good location for higher density but would like to see fewer units be proposed. Adding 29 units would create a drastic change to the area. Council Member Garn added that he agrees that the 50 foot setback should be adhered to, especially as we are considering high density housing here.

Mayor Witt commented that she fully supports having a variety of housing options in Kaysville and appreciate the proposal to get a different housing type in west Kaysville.

Council Member Barber said that there are still a lot of unknowns. There were some things mentioned by the Planning Commission that they would like to see in the development plans and would like to see those items reflected in the final product.

The vote on the motion was as follows:

Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, yea
Council Member Page, yea

The motion passed unanimously.

CALL TO THE PUBLIC

Richard Proctor said that our nation was established as a republic and it seems that the only political branches that are still republics are our city councils. There seem to have been violations of the constitution within our nation and more power is being given to private entities who control us financially.

Beauregard Bell stated that he is representing many of the residents of Shepard Lane who are concerned about the proposed improvement project. They would like to have the opportunity to speak with the Council about their concerns. It seems that the improvements being required to them are different than what was required on Burton Lane. Why were they not required to install sidewalks? The residents of Shepard Lane have been told that they would be required to pay \$37 per linear foot in order to improve the frontage of their properties. They feel this large amount is because construction costs are so high and there are many labor shortages. This is not the residents fault and we feel we shouldn't have to pay over \$30 a linear foot, and that those fees could be paid through their storm drainage fees. They've also been told that after the improvements are done, the residents will have to bring their yards back to their original state, which will add an additional cost to residents.

Douglas Aydelott said that he also lives on Shepard Lane and would like to be given a chance to be heard by the Council at a future meeting. He was originally told by someone at the Langdon Group, who has been working with the city on this project, that their fees would be paid through storm water fees. Now residents are being asked to sign an agreement.

Randi VonBose commented that she had spoken at a Planning Commission meeting in favor of incorporating more high density housing into the city, especially to west Kaysville. Cities cannot have rules in place to restrict people from living in certain areas of town and feels that the regulation of only allowing two units per acre creates that restriction in Kaysville. The city needs to consider allowing something closer to five units an acre. We have an opportunity before us to add more diverse housing to the city and we need to take a chance with them or we will regret it.

COUNCIL MEMBER REPORTS

Council Member Barber said that Kaysville's Annual Easter Egg Hunt will be on Saturday, April 20, 2019 at 9:00 a.m. The Parks and Recreation Department will also be including more Spring sports this year. Pioneer Park will also be opening on May 16th, and there will be a ribbon cutting ceremony at 5:30 p.m.

Council Member DeCaire said that the Power Commission has moved their next meeting from April 2nd to April 9th because of Spring Break.

Council Member Page stated that last Tuesday they had the City Hall Open House for residents to come and see the plans for the building remodel. There was a good turnout and they had received a lot of good feedback about it.

Mayor Witt announced that the City Council meeting on April 4, 2019 would be cancelled because of Spring Break. Their next meeting will be on April 18, 2019.

ADJOURNMENT

Council Member DeCaire made a motion to adjourn the meeting at 8:53 p.m., seconded by Council Member Garn and passed unanimously.