MINUTES
PLANNING COMMISSION MEETING
FRUIT HEIGHTS CITY
910 South Mountain Road
March 26, 2024

WELCOME:
Chairman Kevin Paulsen called the meeting to order at 7:02 pm.

PLEDGE & CEREMONY:
The Pledge of Allegiance was led by Commissioner Brian Bare. Commissioner Justin Wright offering a word of prayer.

PLANNING COMMISSION MEMBERS PRESENT:
Chairman Kevin Paulsen, Commission Members, Brian Bare, Clark Moss, Heidi Murdock, and Justin Wright. Council Member Gary Anderson (had to leave at 7:45)

CITY STAFF PRESENT:
City Manager Darren Frandsen, City Planner Jeff Oyler, Public Works Director Layne Leonard, Deputy Recorder Hailee Ballingham, and City Attorney Brad Christopherson.

VISITORS:
Marc Van Oene, Virginia Cate, John Cate, Garn Butcher, Latricha Butcher, Jan Barker,
Celeste Cottrell, Mark Cottrell, Tom Housholder, Aaron Rasmussen, Emily Rasmussen, Terry Smith, Christy Smith, Steve Petty, Rhonda Petty, Starli Taft, Dale Taft, Scott Penman, Rob Glance, Frank Hunt, Shawn Roach, Kerry McCloud, Jack Kite, Dave Rendon, Tray Olcott, David Hale, Nicole Hale, Susan Darger, Jenn Davis, Nate Davis, Victoria Stone, Lynda Stapp, Suzanne Hersley, Dale Kunkel, Caroline Eichelberger, Sharon Ray, George Ray, Kent Jones, Donna Jones, Stetsen Womack, Jerry Darger, Rich Skaggs, Lori Pettit, Rick Pettit, Andrew Burton, Rachelle Burton, Tara Arnold, Brace Arnold, Russ Tanner, Boyd Kezerian, Whitni Nye, Seth Nye, Adam Woolston, Jennifer Stout, Dallin Stout, Cara Trujillo, Jody Trujillo, Eillen Moss, Florence Sadler. Joe Christensen, Kris Christensen, Cody Beckett, Todd Haggard, Andrew Murnaghan, Ralph Mumford, Terry Darger

REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS MEETINGS:
Commissioner Justin Wright made a motion to approve the January 30, 2024, Minutes with the amendments discussed with Commissioner Brain Bare seconded the motion. The motion was unanimously approved by the Commission. (6:29)
Commissioner Clark Moss made a motion to approve the February 5, 2024, minutes with Commissioner Heidi Murdock Seconded the motion. The motion was unanimously approved by the commission. (7:06)

PRESENTATION:
None

PLANNING COMMISSION BUSINESS:
5.1 Public Hearing discussion to update Chickens and/or Rabbits in a single-family residential zone.

Commissioner Clark Moss made a motion to open the public hearing. Commissioner Justin Wright seconded the motion. The commission unanimously approved the motion. (8:04)

The city is considering a chicken ordinance due to complaints and requests from residents. Currently, chicken is only allowed in specific areas. The proposed ordinance is still being finalized, with concerns about lot sizes, the selling of eggs, and the number of chickens. Public comments on the ordinance are divided. The planning commission will make changes before submitting it to the council for a decision.

Tom Householder: We bought our home 21 years ago, which had a history of housing chickens. We continued the tradition and currently have 24 chickens on our three-quarters of an acre property. Our five children have learned

responsibility, animal care, and entrepreneurial skills through this experience. It has been a great thing for our family and community. It would be a mistake to criminalize this.

Karen Dixon: I have concerns about certain aspects of the proposed language, specifically regarding the severity of punishment for a class B misdemeanor. It seems excessive, considering that crimes such as assault, criminal trespass, petty theft, and cyber harassment fall under the same category. Additionally, I question the practicality of enforcing these rules, such as ensuring wires are buried deep enough. How will you determine compliance and who will be responsible for monitoring this?

Kent Jones: My wife, Donna, and I have lived in Fruit Heights for 44 years and we're here tonight because we have been raising chickens for the past 15 years. I am speaking on behalf of Donna's friends because she has named all the chickens, and we want to defend our operation. We are mostly compliant with the ordinance requirements, except for being closer than ten feet to the property line and having some additional structures surpassing eight feet. We would appreciate it if the Planning Commission could include provisions for grandfathering or exceptions for our existing situation. We have been successful in providing eggs to our neighbors and maintaining a clean and well-managed coop. Thank you for considering our request.

Victoria Stone: The urban homesteading community has grown significantly in recent years due to concerns about accessing food and being self-sufficient. Fruit Heights promotes supporting local producers and farmers. Despite having a small property, the speaker mentions buying milk from Milk Barn Creamery, honey from Eden Foods, eggs from local homeowners, and meat from Utah National Meat and Milk. They express a desire to eventually raise chickens and emphasize the importance of self-sufficiency and cultivating our food for emergency preparedness. Simplifying rules and encouraging people to provide healthy, locally grown food is suggested.

Caroline Eichelberger fully supports the right to grow one's food but opposes excessive restrictions and intrusions into neighbors' privacy. She criticizes a proposed ordinance that reminds her of an HOA or Californian mentality. While she supports expanding the right to have chickens.

Kris Christensen: concerned about the issues that arise from keeping chickens in one's yard. He mentions two main problems: the noise, particularly in the mornings, and the mess they create. He believes that regulations regarding coop size, wire depth, and ventilation should not be the government's concern. Kris had a similar experience with his neighbors' chickens encroaching on his property, but they resolved the issue amicably. However, Kris suggests that the city should reconsider and reduce the current ordinances, as he believes they address non-existent problems. He emphasizes the importance of respecting each other's property and feels that the government should not be involved.

Andrew Bergman shared his thoughts on the importance of hard work and entrepreneurship for his children, who deliver eggs for a dollar per delivery. He hopes that they will eventually take over caring for the chickens and gathering the eggs. While his chickens roam freely, and he respects his neighbors.

Nicole Hale expressed gratitude for the opportunity to comment and thanked the Planning Commission and Staff for their efforts. As an experienced chicken owner, Nicole shared insights on chicken management, suggesting the use of chicken tractors to contain the birds while allowing them to roam safely. She emphasized that enclosure size should be measured in cubic feet per bird due to variations in bird and cavity sizes. Nicole questioned the need for a rooster-related rule and expressed concern about slaughtering animals without a respectful and practical location. She stressed the importance of water, shade, and proper care for responsible animal management.

Adam Woolston: Came from a long line of pioneers who settled the land. through hard work and self-reliance. Lets remember and appreciate our ancestors' contributions to this wonderful state and city. We shouldn't underestimate our roots and surrender to unnecessary ordinances.

Dale Kunkel: He supports the idea of allowing chickens for property owners who don't meet the current requirements. He suggested adopting a language like Utah's code for small producers, which requires proper identification and labeling for eggs being sold. It doesn't make sense to allow the sale of outside produce but not eggs. However, he does have concerns about predators and the need for proper pens or coops to prevent them from being attracted to the area.

Donna Jones: She emphasizes the importance of getting along and appreciates everyone's perspectives.

Todd Haggard stated the Utah state code that was passed last year and enterprise and working animal regulations. It says a political subdivision may not adopt or enforce an ordinance. or other regulation that prohibits or effectively prohibits the operation of an animal enterprise. He wanted to know why the city is not following the state code.

Cody Beckett discusses his decision to move to Fruit Heights and his appreciation for farming history and tradition. He questions the need for government regulations regarding pets and animals, expressing the belief that people should have the freedom to raise animals and slaughter them for food.

Steve Petty appreciates the proposed changes to allow chicken ownership in more residential areas but expresses concern about having to give up his chickens. He supports expanding the ability to raise chickens but feels that the additional restrictions are unnecessary. He emphasizes the need to be responsible and good neighbors.

Garn Butcher: He shared a childhood memory of gathering eggs from their grandfather's chicken coops. The speaker emphasized the importance of strong fences, citing their grandfather's statement that "strong fences make good neighbors."

Stetson Womack: disagrees with excluding bunnies as household pets.

Rachelle Burton moved to Fruit Heights to raise animals and grow their food. They invested a lot of money in their coop and chickens to teach their children about hard work. Rochelle feels that the government is overstepping its boundaries by taking away their rights and dreams. Their chickens are not causing any issues and their neighbors support them. Rochelle believes that everyone should have the opportunity to have chickens regardless of zoning restrictions.

Gary Anderson: interrupted the open public hearing and wanted to say a few things before leaving. The ordinance is too strict, but good fences make good neighbors. We may need a different ordinance. Regarding the zone change, he moved on to the next Public Hearing about the Rezone we previously discussed smaller density and potentially being in favor of it. However, going from Rs- 12 to R -3 is a big step. The system is broken, and we need to modify it.

Scott Penman: Has no issues with chickens or rabbits but strongly dislikes guinea hens due to their annoying noise. He questions if guinea hens are necessary to raise chickens and believes they should not be allowed in Fruit Heights.
David Hale: Suggests forming a small group of passionate pro-animal raisers and concerned individuals to create a well-rounded and refined proposal for community regulations on animal-raising techniques.

After the last resident made their Comment Chairman Paulsen looked for a motion to close the public hearing.

Commissioner Brian Bare made a motion to close the public hearing. Commissioner Justin Wright Seconded the motion. The commission unanimously approved the motion.

The Planning Commission discussed concerns regarding an ordinance that aimed to expand the allowance of chickens in residential areas. Some members expressed the need for regulations to ensure respect among neighbors and promote the enjoyment of properties. However, they also recognized that small lots might not be suitable for keeping too many chickens. The Commission emphasized the importance of finding a balance. In addition, the complexity of zoning regulations was brought up as a source of confusion for residents. The Commission agreed that addressing this issue is necessary. Regarding the ordinance, a member proposed a provision to ensure that the rights granted to livestock owners in the existing R-S-12 code section remain unaffected. This was seen as a logical step since these owners likely have more rights than the proposed ordinance provides.
Further topics of discussion included the design and construction of chicken coops. While some specific requirements were difficult to visualize, it was generally agreed that focusing on well-built and properly maintained enclosures would be more helpful. Concerns were raised about the selling of eggs. It was clarified that running a

commercial operation is already restricted in residential zones.
Overall, the Planning Commission aimed to strike a balance between allowing the keeping of chickens and addressing concerns related to zoning, coop construction, and egg sales, all while considering the diverse needs of the community.

Commissioner Justin Wright made a motion to Suggest to the city council, to have a working group to discussion to continue to refine the Chicken Ordinance.) Commissioner Clark Moss Seconded the motion. The commission unanimously approved the motion. (1:9:02)

Five minutes of recess.

5.2 Public Hearing rezone from R-S-12 to R-3 Located at 1357 650 N (East Mountain Townhomes).

Jeff Oyler City Planner provides some background on the Rezone: We are currently reviewing the BJ subdivision, developed by Joe Christianson a few years ago It consists of four lots on 650 North. The current situation includes a house and a vacant lot. Joe is proposing to develop lots one and two. In a previous meeting, Joe presented a plan to rezone the property from R-1-12 to R-3 to build eight units. However, the Planning Commission recommended denying the rezoning, citing concerns and limitations of R-3 zoning. The City Council agreed with the denial but stated they would consider a proposal for six units instead. Joe has since returned with three different renditions of the plan.

Commissioner Justin Wright made a motion to open the public hearing. Commissioner Brain Bare seconded the motion. The commission unanimously approved the motion. (1:29:09)

Andrew Murnaghan. appreciate the city plan but have questions about multifamily residential plans and the compatibility of high-density housing with single-family neighborhoods.

Caroline Eichelberger worries that considering it as a precedent would lead to unwanted approvals. I stand with abutting landowners, as this exception affects someone else's backyard. Changing the zoning to have houses right over my fence and invading my privacy would upset me. She prefers a single-family home over connected townhomes.

Letter read into the record that was written by Marchesa and Matt Van Drimmelenexpress opposition to rezoning JB subdivision lots They are currently in Spain but have sent a letter to the Planning Commission and City Council. They emphasize their dream home and love for the Fruit Heights community. Originally buying a single-family lot, they discovered the developer planned high-density housing in the remaining lots. They argue this goes against the master plan and would set a dangerous precedent. They fear a loss of development control and question affordability. They urge adherence to established codes, plans, and ordinances to protect the community.

Ralph Mumford. Agrees with previous statements and prefers single-family homes on the properties instead of high rises.

Terry Darger: opposes the zoning he believes change would negatively impact the neighborhood. A petition signed by 35 nearby residents adjacent to this rezoning. Darger requests the Planning Commission to consider the previous denial's reasons.

Virginia Stone: Opposes the proposed zoning R-3, which could allow for a 45-foot tall structure with minimal setbacks. The general plan states that future development should align with the character of the surrounding neighborhood.

Rob Glance: He emphasizes the importance of preserving the feel of the neighborhood and fears that the proposed development will decrease property value.

Linda Stapp: Oppose the rezoning. If this area is rezoned, then the whole city should be zoned for high density. We want to sell our property and profit from it. She also mentioned that the landowner, Mr. Christensen, has neglected

the property and There are no restrictions on developers, so they can do as they please. As residents, we should have a say in how our city develops rather than allowing developers to dictate it.

Dale Kunkel appreciates the grassroots expression of views at the meeting. However, he believes that property owners should have the right to develop and use their property according to regulations. He refers to a previous public hearing where people rejected limitations on their property and stresses the importance of allowing thoughtful development within the community's ordinances and laws. Dale mentions a neighboring property, 650 North, which also has public access and suggests that adding six more single-family homes will not significantly increase traffic. He acknowledges concerns about turning the city into a downtown area but suggests that conditional rezoning can address these concerns. Dale finds it offensive that some people want to use their property as they wish but deny others the same right.

Kris Christiansen shared his thoughts on the development in the area. He mentioned that he had lived there since the 1960s and had seen the neighborhood evolve. He acknowledged the concerns of the community but appreciated the opportunity for a civil discussion. He clarified that Joe had no intention of creating a negative impact and wanted to contribute positively to the community. Kris emphasized his belief in personal property rights. Kris expressed the need for more children in the community and highlighted that the proposed units would be family-friendly with multiple bedrooms. He concluded by expressing his hope for the development's approval.

Scott Nelson. Contrary to the belief that zoning is necessary for successful urban planning, the city of Houston, Texas proves otherwise with its zero zoning laws. By allowing individuals to make innovative decisions based on market forces, housing needs can be met without unnecessary government interference. Central planning, akin to Soviet practices, does not lead to favorable outcomes. While beneficial for some, it is morally wrong to transfer wealth from others to property owners like me.

Joe Christensen emphasizes the importance of building a community and helping other families. He reminisces about growing up in Fruit Heights and the mischief he caused. He believes that his project is beneficial to the city and respects the opinions of his neighbors. He highlights the location's convenient access to major roads and trails. He assures that the development will not be an eyesore or overly dense, and it will not significantly impact traffic. He is open to a development agreement limiting the number of units to six and is committed to signing it. He concludes by expressing his desire to contribute positively to the city.

Dave Rendon mentioned that he is the property owner south of the mentioned location. He may not always agree with Joe's opinions but acknowledges that he may not always get what he wants. Dave and Joe are friends despite their differing views. He had a conversation with the mayor and clarified that the city isn't rezoning for affordable housing due to a state mandate. Dave questions if the state has withheld funding from cities for similar situations. He requests any additional information or comments before ending his speech.

Commissioner Heidi Murdock made a motion to Close the public hearing. Commissioner Clark Moss Seconded the motion. The commission unanimously approved the motion. (3:8:10)

Chairman Paulsen believes there is an opportunity for the city to increase affordable housing options. However, there are concerns about the city's ability to limit activity and the number of units if the area is rezoned as R3. The city attorney clarified that the planning commission's recommendation tonight is not a zone change but a suggestion. If the council agrees to rezone as R3 without conditions, the developer can build the maximum number of units. However, if there is a development agreement that can limit the units to six, it can be enforced. There is also discussion about road funds being withheld when it comes to affordable high-density developments. Many cities have met the state's requirements and avoided penalties by submitting affordable housing plans.
Commissioner Moss questions the project's compliance with city codes and ordinances, particularly as it relates to the general plan. He mentions the need for a transition zone between high-density and lower-density areas. He also raises concerns about the impact on adjacent lots and the requirement for condominiums to be on at least an acre of land in Fruit Heights. These issues need to be addressed before moving forward.

City Planner Oyler that they are talking about Townhomes and not condominiums. Townhomes are sold individually, and Condominiums are where the person owns the airspace inside the unit and an HOA Owns the shell.

Commissioner Murdock was concerned about a gap in the city's zoning specifically regarding a transitional zone for townhomes. Rezoning to R-3 is seen as problematic and may not be the best fit for the area. She suggests creating a new zone specifically for transitional areas, allowing for easier development without the need for constant meetings. She acknowledges the right of property owners to develop their land but highlights the need for a zoning ordinance that addresses this gap and provides a more appropriate solution. The Commission expresses discomfort with the current situation and the potential for ongoing stress and uncertainty in the community.

Chairman Paulsen stated one possible recommendation is to rezone the area, but the development agreement must be signed by the developer first. This agreement will limit what the developer can do and is between the city and the developer. While some are concerned about finding a zone that perfectly fits the situation, there are tools available to navigate this safely. The high-density map of the General Plan depicts areas to be considered for this type of zoning, and it can be used in conjunction with a residential unit development overlay designation to encourage efficient land utilization. These tools will help prevent any drastic changes and ensure a suitable solution.

Commissioner Bare supports the proposal despite the high cost because it demonstrates progress. Considering the location and neighboring high-density areas, this plan is suitable.

Commissioner Moss was still uncomfortable with the lack of clarity in the current R3 plan. He stated the city should have had a more comprehensive solution already in place.

The discussion continues about the need to be a transition zone they felt like the city had a gap in zones
Chairman Paulsen looked for a motion.

Commissioner Brian Bare Made a motion to approve the R-3 Rezone with the condition of the development agreement for six units. Chairman Kevin Paulsen seconded the motion. 2 (Bare, Paulsen) to 3 (Moss, Murdock, Wright) The motion failed (3:45:35)

Commissioner Justin Wright made a motion to move it to the City Council with a negative recommendation to rezone this property. Commissioner Clark Moss seconded the motion was approved 3 (Moss Murdock Wright). to 2 (Bare, Paulsen) Nay. (3:47:39)

The commission asked the staff to start working on a transitional zone.

TABLE ITEMS: None

COMMISSION AND STAFF REPORTS: None

CALENDAR: None

ADJOURNMENT:

Commissioner Heidi Murdock made a motion to adjourn the meeting. Commissioner Clark Moss seconded the motion. The commission approved the motion (9:51)

Not approved until signed.

/s/: Hailee Ballingham
Hailee Ballingham, City Deputy Recorder
Date approved by City Planning Commission: May 28, 2024