Kearns Metro Township Planning Commission
Public Meeting Agenda

Monday, December 10, 2018 5:30 P.M.

Location
KEARNS LIBRARY
5350 SOUTH 4220 WEST
MEETING ROOM
(385) 468-6700

Upon request, with 5 working days notice, reasonable accommodations for qualified individuals may be provided. Please contact Wendy Gurr at 385-468-6707. TTY users should call 711.

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and County staff regarding land use applications and other items on the Commission’s agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance or recommendation to other bodies as applicable.

Business Meeting

1) Approval of Minutes from the November 19, and November 26, 2018 meetings.
2) Other Business Items (as needed)

Public Hearings

30795 – (Continued from 11/19 and 11/26/18) - Amendment to 19.14.050 to allow exceptions to the minimum yard requirements for permanent structural additions to single family dwellings such as carports, awnings, and decks. Planner: Curtis Woodward

30798 – (Continued from 11/19 and 11/26/18) - Amendments to 19.04.315 and 19.80.035 to remove the “one vehicle” exception to the definition of “junk,” and to clarify the parking requirements to allow parking private vehicles on a compacted gravel parking area. Planner: Curtis Woodward

Adjourn
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MEETING MINUTE SUMMARY
KEARNS METRO TOWNSHIP PLANNING COMMISSION MEETING
Monday, November 19, 2018 5:30 p.m.

Approximate meeting length: 1 hour 11 minutes
Number of public in attendance: 20
Summary Prepared by: Wendy Gurr
Meeting Conducted by: Commissioner Robertson

ATTENDANCE

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*NOTE: Staff Reports referenced in this document can be found on the State and County websites, or from Salt Lake County Planning & Development Services.

BUSINESS MEETING
Meeting began at – 5:30 p.m.

1) Approval of Minutes from the October 8, 2018 meeting.

   **Motion:** To approve minutes from the October 8, 2018 meeting as presented.
   **Motion by:** Commissioner Wellman
   **2nd by:** Commissioner Walton
   **Vote:** Commissioners voted unanimous in favor

2) *David White provided an update regarding an application from Octobers meeting, that once agency review has been met, they will meet with Commissioner Robertson and get sign off on the plat. Mr. Snow wanted to make sure the access and lot 39 goes all the way up.*

   **Motion:** Motion to approve the Parkwood Estates Plat, a 39-lot single family residential subdivision with the condition/requirement of the prior Parkwood Estates Preliminary Plat of the Kearns Metro Township Planning Commission and the Kearns Metro Township Planning Commission Chair shall confirm with the staff that all state law, Kearns Township Ordinances, Requirements, and Conditions, including clarification of the location, easement width (ten feet or greater), pavement width minimum six (6) feet, for the improvements of the pedestrian access to the Oquirrh Park meet
or exceed the original plat approval and agency review technical corrections and requirements have been implemented on the Parkwood Estates Final Plat.

**Motion by:** Commissioner Wellman

**2nd by:** Commissioner Nelson

**Vote:** Commissioners voted unanimous in favor

3) Ordinance changes discussion: mobile or manufactured homes and absentee land owners vs. owner-occupied properties – Curtis Woodward

*Mr. Woodward provided an update with issues, penalties, and will be brought forward in the near future.*

4) Other Business Items (as needed)

*No other business items to discuss.*

**PUBLIC HEARINGS**

**Hearings began at – 5:52 p.m.**

30737 – Greg Houge on behalf of Craig Gunther is requesting a rezone approval to change the zoning from M-1 to RM. **Parcel Area:** 6.537 Acres. **Location:** 4702 West 6200 South. **Zone:** M-1. **Planner:** Curtis Woodward/David D. White

*Salt Lake County Planning and Development Services Planner David White provided an analysis of the staff report.*

*Jena Carver traffic engineer advised a couple recommendations the rezone will not increase traffic. Commissioner Wellman asked if possible construction on the opposite side of 6200. Ms. Carver said they didn’t look at that and didn’t look at any other specific sites. Economic development is happy to do a market study with direction.*

*Commissioner Robertson said there is a legal risk that a community takes if the attempt to keep development from happening at all. Mr. White said the future of community and uses can be used for current M-1 zone or R-M.*

**PUBLIC PORTION OF MEETING OPENED**

**Speaker # 1:** Applicant

**Name:** Bryan Bayles

**Address:** 1656 Equestrian Parkway

**Comments:** Mr. Bayles said the owner is in California, they own the self-storage. In development, understand who they’re dealing with. He works for the LDS Church development. Mr. Bayley provided a power point presentation.

*Commissioner Robertson opened the public hearing.*

**Speaker # 2:** Citizen

**Name:** Fabian Castro

**Address:** 3421 Sweetgum Drive

**Comments:** Mr. Castro said he is a school teacher with Entheos. Brought up benefits and advantages. He wants to share why the change would benefit the area, especially safety of students. If you have heavy equipment, that particular corner would be unsafe, changing to residential the plans to work with the school,
60-80% drop off on a daily basis. If proposed changes to housing community and create play ground to share. Very restrained with the size of area to play. Important in their view if you bring families in the area, would work as a buffer between school and 6200, it’s very busy and bringing industrial will not bring safety. He appreciates this and has a cdl license and doesn’t have a view, if not changing would be creating a fatality of one kid, families in the area will bring value to the community and feel safe with laws in place they are protected.

Speaker # 3: Citizen  
Name: Brett Helsten  
Address: 5379 South 5420 West  
Comments: Mr. Helsten said for the consideration of developer, one driveway is coming off the private lane, will have an entrance going on to 6200 south. Problem for years picking and dropping off and clogging the neighborhood to the east, people will be impatient. He’s providing a piece of information.

Speaker # 4: Kearns Community Council  
Name: Roger Snow  
Address: 5977 South Parkwood Drive  
Comments: Mr. Snow asked the commission to give their full time to this application. He said he has not seen the site plan, change from manufacturing. If this area is rezoned, not sure which part will be what, more storage units and questions not answered and frontage on 6200 south. Half commercial and half residential. Traffic on 6200 is already a failure, will have to do something.

PUBLIC PORTION OF MEETING CLOSED

Motion: to continue application #30737 to the November 26th meeting.  
Motion by: Commissioner Walton  
2nd by: Commissioner Wellman  
Vote: Commissioners voted unanimous in favor

30807 – Greg Anderson on behalf of Kearns Improvement District is requesting a conditional use approval to construct new two (2) million-gallon buried concrete drinking water tank adjacent to the existing one (1) million-gallon drinking water tank. Parcel Area: 1.76 Acres. Location: 5821 West 5400 South. Zone: R-1-8. Planner: Curtis Woodward/David D. White

Motion: to continue application #30807 to the November 26th meeting.  
Motion by: Commissioner Walton  
2nd by: Commissioner Wellman  
Vote: Commissioners voted unanimous in favor

30795 – Amendment to 19.14.050 to allow exceptions to the minimum yard requirements for permanent structural additions to single family dwellings such as carports, awnings, and decks. Planner: Curtis Woodward

Motion: to continue application #30795 to the November 26th meeting.  
Motion by: Commissioner Walton  
2nd by: Commissioner Wellman  
Vote: Commissioners voted unanimous in favor

30798 – Amendments to 19.04.315 and 19.80.035 to remove the “one vehicle” exception to the definition
of “junk,” and to clarify the parking requirements to allow parking private vehicles on a compacted gravel parking area. Planner: Curtis Woodward

Motion: to continue application #30798 to the November 26th meeting.
  Motion by: Commissioner Walton
  2nd by: Commissioner Wellman
  Vote: Commissioners voted unanimous in favor

MEETING ADJOURNED

Time Adjourned – 6:41 p.m.
MEETING MINUTE SUMMARY
KEARNS METRO TOWNSHIP PLANNING COMMISSION MEETING
Monday, November 26, 2018 6:15 p.m.

Approximate meeting length: 2 hours 13 minutes
Number of public in attendance: 17
Summary Prepared by: Wendy Gurr
Meeting Conducted by: Commissioner Robertson

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BUSINESS MEETING

Meeting began at – 6:17 p.m.

1) Other Business Items (as needed)

Commissioner Walton motioned to limit comments to five minutes, Commissioner Hatch seconded that motion. Commissioner Wellman voted nay, all other commissioners voted in favor. Motion passed.

No other business items to discuss.

Commissioner Robertson motioned to close the business meeting.

PUBLIC HEARINGS

Hearings began at – 6:20 p.m.

30737 – (Continued from 11/19/18) - Greg Houge on behalf of Craig Gunther is requesting a rezone approval to change the zoning from M-1 to RM. Parcel Area: 6.537 Acres. Location: 4702 West 6200 South. Zone: M-1. Planner: Curtis Woodward/David D. White

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided
an analysis of the staff report.

Commissioner Wellman said if this is changed, they can do anything in the R-M zone, but nothing addresses the traffic issues on 6200 and can’t attach any conditions to a zone change. Mr. Woodward said ordinance allows four types of conditions: limitation on uses, density, building size, and building height to limit. Commissioner Wellman said there is a parcel not included. Mr. Woodward said part of property proposed to stay M-1. Commissioner Wellman asked if the recommendation could be all or none. Mr. Woodward said you can recommend all kinds of things, but not necessarily legal for council to accept them, if part of the same parcel, and would want to check with their attorney. Commissioner Wellman said in the general plan from 2011, this area is called a key commercial area for the township and why put a residential area in there. Mr. Woodward said key commercial goes from this area to the west end. Mr. Woodward said the projects list that made its way into the plan was a result of feedback from the community, to assume the county hired an expert, that’s not the correct assumption, but is still vacant and the community said that was an opportunity for the community to put in a commercial area. Commissioner Walton asked if there are best practices for height that close to the airport. Mr. Woodward said it’s in an overlay zone E or F, they have to do with sound impact and use compatibility, but from a common-sense standpoint to limit the height is more along the lines of a single family residential zone type. The Church across the street and to the east wanted to build an antenna. The report back from the FAA is they’re fine and just wanted radio transmission.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Applicant
Name: Bryan Bayles
Address: 1656 Equestrian Parkway
Comments: Mr. Bayles said zoning condition discussed is 15 units to the acre. Airport allows up to 117 feet up to that area. Adjacent uses, if traffic is an issue for residential, would be more trouble to accommodate for commercial. This is a good use as a buffer, given all the constraints. Reached out to commercial users and the county, good compromise to say this use makes sense. Townhomes, 2-3 stories, one to the north of Kearns boundaries with proposed architecture and third story makes the most sense with two car garages and becomes a garage story. Bedroom counts between 2-5, price point $240,000 to $300,000. Quality of HOA and remaining space undevelopable. Space on site plan and Entheos using that space. Traffic would come off 6200 south, secondary access and don’t want to access, have to the east. General plan talks about important nodes on highly traffic corridors and he agrees with questions with use, challenge is commercial and private alley. Retail users need access, the county will not allow a light in the location because of the lights so close. Proposed rezone challenge around site is best use. Residential use will act as a buffer. Plan is consistent with the general plan. Front doors on the road, no driveways and provide for the walkable neighborhood. Provides housing options that don’t exist in Kearns. Proposed residential, shared open space and storage. Additional housing and challenging commercial site. Staff recommends.

Commissioner Walton said talk about walkable area and where is the nearest granite elementary school. Beehive or Fox Hills. Mr. Bayles said they don’t have buses and hundreds of homes right near theirs and walkability is not just for schools and close to things. Commissioner Wellman asked why the M-I zone is left in there. Mr. Bayles said the owner is leaving because there is no front door to the storage and this would be a front office for storage units and potentially be more storage units there. The challenge is parking and traffic goes way down. Commissioner Wellman asked about the private access. Mr. Bayles said they own middle. Talked about opening the connection and is very controversial. Could be construction going on in the M-I.
Commissioner Wellman motioned to open the public hearing, Commissioner Hatch seconded that motion.

Speaker # 2: Kearns Community Council
Name: Roger Snow
Address: 5977 South Parkwood Drive
Comments: Mr. Snow said the Kearns Community Council only wants the best for Kearns. High density housing on 4800 west. The Community Council wants Kearns community working and living in Kearns. Last traffic study was 6200 and 4800 already at failure, anything going in will add traffic. Property owner must give up 30 feet for traffic. Density and intensity, perfect reason for commercial, different businesses. Commercial feasibility plan hasn’t been completed and needs to be done and commercial has never been investigated. Needs to be rezoned, curious why the site plan and curious leaving that area M-1 and Kearns already has three separate storage units. Commercial and all for medium density housing. Only fronting 6200 be commercial still access to residential. Economic development hasn’t supplied a plan and no study. Property hasn’t been sold and hasn’t been up for sale until 2018. Read Kearns development plan and it does state commercial. Asking commercial along 6200 for retail, come out of M-1. In the past rezoned complete areas for the developer to come back and change everything. Consider thinking commercial on the front footage and low-density housing and still give a taxable base for the community.

Commissioner Robertson thanked the community council.

Speaker # 3: Land Owner
Name: Craig Gunther
Address: 1853 East Brighton Ridge
Comments: Mr. Gunther gave a brief history why it said, they had 2002 approval for the M-1 for commercial on the front and residential in the rear. July 2017 sold K-Town. 2002 had plans, 2007 dad passed away, 2012 started putting out word of mouth and a potential sale. 2014 and 2017 ready to sell and couldn’t make it work. Things have changed in 16 years, make sure the right thing happens, gets plenty of proposals. He said he lives in cottonwood heights, there isn’t a lot of affordable housing and apartments. In January changing from 8 wards to 6 wards, can’t afford housing and raising a family.

Commissioner Nelson motioned to extend two more minutes, Commissioner Hatch seconded that motion.

Mr. Gunther said in summary, not sure how soon would be developed, been four years and nothing’s happened and has a viable plan and he trusts Greg and has faith in the proposal. He has contacted a commercial realtor from Keller Williams, a lot of businesses don’t want to try and build across from similar businesses.

Speaker # 4: Citizen
Name: Kent Markus
Address: 5968 South Parkwood Drive
Comments: Mr. Markus said he has been involved in Kearns for 16 years. Over the period of time, countless acres turned in to homes and commercial being annexed. They need this to stay commercial, won’t be able to sustain as a township with residential. Best interest of community to go commercial. Not against, opposed to residential.

Commissioner Hatch asked what kind of commercial. Mr. Markus said some kind of retail. Not having heavy influx of traffic in and out and tax base.

Speaker # 5: Taylorsville Citizen
Name: Mike Meldrum
Address: 5683 South Inwood Drive
Comments: Mr. Meldrum said he has a student at Entheos. He never heard of a focused area of change. Zone change agrees it should be commercial and not high density residential to have a transitional area. His concern is safety of son. Parcel staying M-1, requiring by state law to follow the general plan.

Speaker # 6: Citizen
Name: Jennifer Winsett
Address: 6120 South 4636 West
Comments: Ms. Winsett said she deals with traffic all the time, and amount of traffic needs roundabout. To say commercial would be the same amount. If they’re five-bedroom town homes, could have five drivers. 100 percent for retail. Hoped the school would build another school to help, doesn’t understand the zones and what other options are there. Other food options and retail long before more residential, watched many accidents and fears for the kids.

Speaker # 7: Citizen and Kearns Community Council member
Name: Edward Aguirre
Address: 5993 South Parkwood Drive
Comments: Mr. Aguirre said it is a private road to the back to storage units and congestion to get out and make a right turn. If there’s a road here, can’t have a light. Could build a median, cause a lot of congestion, if they have 85 units and don’t get into Entheos, the closest school do we want all these kids walking down 6200 south. Allow food establishment and not much planning, more residential going up in their neighborhood. Not fully against, but not clearly thought out on head count and in and out. How full at capacity does the storage unit justify building another if it’s not at capacity.

Speaker # 8: Kearns Community Council
Name: Roger Snow
Address: 5977 South Parkwood Drive
Comments: Mr. Snow said he always hears affordable housing. It’s not that affordable. If the idea is to get people in need, then get them affordable housing.

Speaker # 9: Land Owner
Name: Craig Gunther
Address: 1853 East Brighton Ridge
Comments: Mr. Gunther said when they had K-Town they had 92-96 percent capacity. They want frontage it’s a quarter mile down the road.

Speaker # 10: Applicant
Name: Bryan Bayles
Address: 1656 Equestrian Parkway
Comments: Mr. Bayles said they shrunk down and fronted the M zone located this way and this is a good thing fronting and there would be a median all along 6200 south and narrows down and setting aside right of way. Asked why there were only three days changed before the meeting. Mr. Bayles said this isn’t required in this application and the plan they will stick to. Welcomes economic study by the county. R-M zone is multi-family, won’t build multi-family, building individual owned townhomes. They will subdivide after rezoning. Wants retail sales tax. Don’t call this capital affordable. Along the Wasatch front lot sizes are shrinking, people don’t want to maintain larger lots.

Commissioner Hatch asked about the traffic study. Mr. Bayles said first column is overall trips, peak hours traffic. Commissioner Wellman said subdivision to the east has 110 houses with two exits onto 6200 and he doesn’t agree with the owners. The issues are bigger than the proposal before you today.
Commissioner Wellman motioned to close the public hearing, Commissioner Walton seconded that motion.

**PUBLIC PORTION OF MEETING CLOSED**

Commissioners had a brief discussion regarding best and additional options, retail, Entheos academy, traffic study, and surrounding businesses.

**Motion:** To recommend application #30737 to the Kearns Metro Township Council with Staff Recommendations and three additional studies complete before a decision is rendered:

1. Economic and development study;
2. Feasibility study; and
3. Traffic study during school.

**Motion by:** Commissioner Hatch  
**2nd by:** Commissioner Walton  
**Vote:** Commissioner Wellman voted nay, all other Commissioners voted in favor. Motion passed.

30807 – (Continued from 11/19/18) - Greg Anderson on behalf of Kearns Improvement District is requesting a conditional use approval to construct new two (2) million-gallon buried concrete drinking water tank adjacent to the existing one (1) million-gallon drinking water tank. **Parcel Area:** 1.76 Acres. **Location:** 5821 West 5400 South. **Zone:** R-1-8. **Planner:** Curtis Woodward/David D. White

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the staff report.

**PUBLIC PORTION OF MEETING OPENED**

**Speaker # 1:** Applicant – Kearns Improvement District  
**Name:** Greg Anderson  
**Address:** 5350 West 5400 South  
**Comments:** Mr. Anderson said the current conditional use has been used for drinking water. Working with gas and they sold the property to them since they sold the property. Working with the power company with regards to proximity.

**Speaker # 2:** Kearns Community Council  
**Name:** Roger Snow  
**Address:** 5977 South Parkwood Drive  
**Comments:** Mr. Snow said he agrees.

Commissioner Wellman motioned to close the public hearing, Commissioner Hatch seconded that motion.

**PUBLIC PORTION OF MEETING CLOSED**

**Motion:** To approve application #30807 with staff recommendations as presented.  
**Motion by:** Commissioner Wellman  
**2nd by:** Commissioner Walton  
**Vote:** Commissioners voted unanimous in favor

30795 – (Continued from 11/19/18) - Amendment to 19.14.050 to allow exceptions to the minimum yard
requirements for permanent structural additions to single family dwellings such as carports, awnings, and decks. **Planner:** Curtis Woodward

_Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the ordinance amendment._

_Commissioner Wellman asked if this would prevent anyone from doing this around their house. Mr. Woodward said if you got all the property owners to sign off on it. Mr. Woodward said if a concern, you could request a change. Commissioner Robertson asked if a percentage could be appropriate. Mr. Woodward said percentage is something he looked at and looking at maximum lot coverage. Commissioner Wellman questions number 5. Mr. Woodward said there are a few decks solid around the railing._

**PUBLIC PORTION OF MEETING OPENED**

_Speaker # 1: Kearns Community Council_
_Name: Roger Snow_
_Address: 5977 South Parkwood Drive_
_Comments: Mr. Snow said to his knowledge, structures were not to be permanent and connected to the house. Buy a metal structure and required, purchased and not permanent, if it’s an open awning, if a car is there fire still must go back side. Only for carports and awnings, not decks only covered parking on the side of the home._

_Commissioner Walton asked if he purchased an awning can he put it on his property. Mr. Woodward said whether its covered under the building code and zoning ordinance. Accessory building in rear yard and six feet from home can be one foot away from the property line. Need to comply with setback requirements and check with council and mayor how they would feel._

_Speaker # 2: Kearns Community Council_
_Name: Paula Larsen_
_Address: Not provided_
_Comments: Ms. Larsen said when this came up, it wasn’t made to be thrown up, specific for nice sheds or awnings purchased and anchored to concrete. Not in favor of someone throwing up a shack, but as far as nice quality units in favor of. Should state should be anchored correctly._

_Commissioner Robertson asked if metal covered carports purchased bolted in to the cement. Mr. Woodward said instructions getting permanent and attached and not free standing. Once you get more specific and attached and make sure anchored correctly and snow loads comply and sturdy enough to satisfy the building officials._

_Speaker # 4: Citizen_
_Name: Kent Markus_
_Address: 5968 South Parkwood Drive_
_Comments: Mr. Markus said he has a free standing and he had to put regular footings in._

_Mr. Woodward said if you’d rather give instructions and come back or forwarding to the council with instructions. Think about denial either way._

_Commissioner Wellman motioned to close the public hearing, Commissioner Walton seconded that motion._

**PUBLIC PORTION OF MEETING CLOSED**
Motion: To continue file #30795 to the December 10th meeting, pending work with Mr. Woodward and Community Council.

Motion by: Commissioner Wellman
2nd by: Commissioner Walton
Vote: Commissioners voted unanimous in favor

30798 – (Continued from 11/19/18) - Amendments to 19.04.315 and 19.80.035 to remove the “one vehicle” exception to the definition of “junk,” and to clarify the parking requirements to allow parking private vehicles on a compacted gravel parking area. Planner: Curtis Woodward

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the ordinance amendment.

Commissioner Wellman said this is just residential and not car repair shops. Mr. Woodward said he has gone after them and sits there long enough, you don’t get a free pass. Commissioner Hatch said someone could buy the two by two pavers and would that be deemed fifty percent paved. Mr. Woodward asked if they want to restrict to the gravel area too, his issue with gravel, is it becomes weeds. Commissioner Hatch said not talking about a licensed vehicle and just sitting. Mr. Woodward said the junk vehicles expired or not running. Mr. Woodward said a section dealing with recreational, make concessions and allowance for certain vehicles and business on call.

PUBLIC PORTION OF MEETING OPENED

PUBLIC PORTION OF MEETING CLOSED

Motion: To continue file #30798 to the December 10th meeting.

Motion by: Commissioner Walton
2nd by: Commissioner Wellman
Vote: Commissioners voted unanimous in favor

MEETING ADJOURNED

Time Adjourned – 8:30 p.m.
Ordinance Amendment Summary and Recommendation

Public Body: Planning Commission          Meeting Date: December 10, 2018

Request: Amend the zoning ordinance of Kearns Metro to allow an approval process for carports, patio covers, decks, and other such “non-enclosed” structures to be closer to a property line than is currently allowed in the residential zones.

Planner: Curtis Woodward

EXECUTIVE SUMMARY

On July 9, 2018, the Kearns Metro Township Council was approached by a homeowner in Kearns who was frustrated that they could not build a 2-car carport that would extend from the side of their house to the side property line. They had discussed the possibility with the County staff, who informed them that there was a minimum setback of 8 feet to a side property line. After listening to the homeowner’s concerns, the metro council directed planning staff to see what could be done in cases like these to offer some relief to people. Some of the concerns we have are:

1. Equity. The setback requirements from property lines are in large measure required based on health and safety concerns. Having a 10 to 20 foot distance between residences on adjoining parcels helps with firefighting efforts and first responder access to rear yards. The setback requirements are based on distance from building to property line so that both property owners share the responsibility evenly to keep this “fire break.” Under the concept of “equal protection under the law,” the rules that apply to one property owner must also apply to the others in the same zone.

2. Consistency/legality. If the zoning ordinance is to have a simpler approval process for certain types of exceptions, how do we determine what are the criteria and limitations of granting an exception? The Metro must be careful to avoid decisions that can be construed as arbitrary or capricious. The criteria should ideally be based on health, safety, and general welfare concerns, and take into account the potential negative consequences.

3. Authority. The zoning ordinance currently allows variances to setback requirements as set forth in State Code. The criteria for variances are clearly delineated and are based on establishing hardship conditions that are unique to a property, with the authority for variances being the land use hearing officer. The idea behind the proposed ordinance is to allow for certain exceptions that may not rise to the level of “hardship,” but perhaps ought to be allowed in certain circumstances. However, the question remains: if we are discussing “exceptions to the norm,” should those exceptions simply be written into the code as a “by right” use, or should there be a public hearing whereby circumstances are considered and a decision rendered by a public body? If the exceptions are written into the code, what are the new “acceptable” limits of construction on a residential lot, and are we comfortable with shifting the norm?

REVIEWING AGENCIES RESPONSE
According to the Chief Building Official, buildings closer than 5' to the property line must be “fire rated” to pass building code. With structures like carports and covered patios, this can be difficult to accomplish, but it is not impossible. Your typical metal awnings and carports are not made of fire rated materials and would not be permitted. His concern is that the ordinance be worded (and administered) such that people understand the zoning ordinance cannot override building code.

UPDATE: On November 26, 2018, the planning commission considered the ordinance amendment, and provided some input to the staff regarding specific concerns: The responses of the planning commission members who wrote their concerns to the planning staff are attached to this report. Some of the issues that have been raised are:
1. Should there be a limit on lot coverage (a percentage)?
2. Should the exception allow for only one of the four yards to be reduced rather than potentially all four?
3. What constitutes “durable permanent materials?”
4. Should allowance be made for detached carports (like the steel “kits” available at home centers)?
5. Should the prohibition on walls be clarified to allow partial walls around deck railings?

PLANNING STAFF RECOMMENDATION

UPDATE: Planning staff has incorporated some potential changes to the draft, which are shown in a blue font in the attached draft.

If there are concerns about specific provisions of the proposed ordinance, the planning commission may recommend an amended version to the Metro Council.

If there are concerns that cannot be addressed by amending the ordinance, the planning commission may recommend denial.

Potential motions:

A. Move to recommend approval of application 30795 to amend section 19.14.050 of the zoning ordinance as contained in the November 19, 2018 planning commission packet.

B. Move to recommend approval of application 30795 to amend section 19.14.050 of the zoning ordinance, with the following amendment(s) to the draft contained in the November 19, 2018 planning commission packet:
   1. __________________________
   2. __________________________
   (...etc.)

C. Move to recommend denial of application 30795 to amend section 19.14.050 of the zoning ordinance for the following reason(s):

D. Move to continue action on application 30795 until the planning commission meeting of __________________.
Kearns Planning Commissioner Comments
Re: application 30795

From Joy Nelson:

“I want home owners to have as much freedom as possible to do what they want with their yards. With that in mind, I think number 1 under "Conditions of approval" should read "The structure is made of durable materials." May need to specify what qualifies as durable. Number 2 should give the option of permanently attaching the structure to the home if installed according to code or the structure may be detached if installed with concrete or sturdy footings to the pavement. Numbers 3 through 5 seem reasonable. Not sure if number 6 is needed. I think this should only be for carports and not decks or covered patios.

Maybe another section needs to be added for decks and covered patios and the language for set backs and conditions as written under D would work for those. Still not sure number 6 would be needed.”

From Jerry Wellman:

“My concern is that someone could, as I read the proposal, construct a deck or ??? that could pretty much cover a majority of a lot.

And, maybe we differentiate between a carport and/or a permanent fixture (attached to the house) and a vehicle cover, something that could be removed with minor effort.

Perhaps too an allowance for a deck and a carport, but the carport attached to the house would be subject to the current setback? Yet a portable shelter, approved with a permit and some standards for safety (like anchored, secure in the wind, non-powered, etc.)

A deck or even a covered patio ... A thought is that an owner (and do we specify what zone, i.e. single family) could choose and that the result be a percentage of a home's wall. For example, I could decide to put a deck on my side yard of a split level home and that would be 100% of the side of the house. That would be my only one. I could build the deck, or covered patio, around a corner, but I would be limited to a 100% value. I could cover 20% of the side and 80% of the back or 50/50, etc. No other deck/patio would now be allowed. And you get only one. It could be on a side or corner, but not 50% of a side, 20% of a front and 30% of a back. One.

The sides could be a half-wall to afford some privacy for either a deck or patio, but not a full wall. Maybe a height of 5 feet? So no enclosed decks or enclosed patios that would become living spaces or covertly changed once out of sight.

Not sure how to address existing rear decks affixed to split level doors. Perhaps allowed if under a certain size or wall percentage? I know some have taken liberty with rear entry decks and expanded them significantly. There should be some need to have these permitted if only for weight load and safety, i.e. anything that was not part of the original build. And maybe that's the exception ... if it was part of the original as-built, it's OK, but if changed, it becomes the homeowner's choice and part of the
percentage of a connected deck/patio provision. So folk with expanded decks not as-built could further expand, but not grandfather them into allowing yet another side or rear deck as well.

I do think a temporary vehicle cover would allowed and not covered in the deck/patio percentage. But with some oversight to prevent unsightly construction and safety events in high winds. I know nothing about these kind of standards but something must exist that could be specified, i.e. a type 123xyz conforming cover anchored in concrete or by using xyzabc ... and all approved with a building permit.

It may also be OK to continue to allow a carport attached to the house and built to standards but to the old setback and different than a deck or patio. It must be on the driveway next to a house and could be enclosed as many are now. Kind of a 1/2 garage I see around. This would be kind of a garage in progress concept, but to the original setback.

If a homeowner wanted a larger (wider and closer to property line) garage to new setbacks, then no additional decks/patios as above. In essence the new setback would be for one thing that covers a single wall (or corner in one area, not split around the house). ... again, one choice.

If the new setbacks were applied this way, the lots would still be the open yard seen throughout Kearns, it would allow fire access by not blocking all sides, and not put structures close on all sides to neighbors .... or worse if all neighbors did all sides.

Approval would still need to be given as outlined by the neighboring property for the construction of the lesser setbacks.

Also, nothing higher than the house ... I can see someone building a deck at roof level or something odd like that.”
A. Dwellings: The minimum yard requirements for a private garage or dwelling are as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Front Yard</th>
<th>Side Yard (Interior)</th>
<th>Side Yard (Facing a public street)</th>
<th>Rear Yard Without Garage</th>
<th>Rear Yard With Garage</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1-3, R-1-4, R-1-5</td>
<td>20 feet</td>
<td>5 feet unless attached to a dwelling on an adjacent lot</td>
<td>20 feet</td>
<td>20 feet</td>
<td>15 feet</td>
</tr>
<tr>
<td>R-1-6, R-1-7, R-1-8</td>
<td>25 feet</td>
<td>5 feet one side and 11 feet on the garage or driveway side or 8 feet on each side</td>
<td>20 feet</td>
<td>30 feet</td>
<td>15 feet</td>
</tr>
<tr>
<td>R-1-10, R-1-15, R-1-21</td>
<td>30 feet</td>
<td>10 feet on each side</td>
<td>20 feet</td>
<td>Same as above</td>
<td>Same as above</td>
</tr>
<tr>
<td>R-1-43</td>
<td>30 feet</td>
<td>15 feet on each side</td>
<td>20 feet</td>
<td>Same as above</td>
<td>Same as above</td>
</tr>
</tbody>
</table>

B. Accessory Buildings: The minimum yard requirements for an accessory building, which may include a private garage that does not meet the setback requirements listed in subsection A above, are as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Front Yard</th>
<th>Minimum Side Yard (Interior)</th>
<th>Minimum Side Yard (Facing a public street)</th>
<th>Minimum Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1-3, R-1-4, R-1-5, R-1-6, R-1-7, R-1-8, R-1-10, R-1-15, R-1-21, R-1-43</td>
<td>Must be in the rear yard and 6 feet away from the dwelling</td>
<td>1 foot</td>
<td>20 feet</td>
<td>1 foot, except lots which rear upon the side yard of an adjacent lot, in which case the minimum setback shall be 10 feet from the adjoining side yard.</td>
</tr>
</tbody>
</table>

C. The minimum yard requirements for a main building other than residential are as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Front Yard</th>
<th>Minimum Side Yards</th>
<th>Minimum Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1-3, R-1-4, R-1-5</td>
<td>20 feet</td>
<td>20 feet</td>
<td>20 feet</td>
</tr>
</tbody>
</table>
D. Subject to conditions 1 through 6 below, (one of) the minimum yard requirements for carports, decks, and covered patios shall be as follows (may be reduced to one of the following):

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard: 15 feet</td>
<td>25 feet</td>
<td>20 feet</td>
</tr>
<tr>
<td>Side Yard (interior): 3 feet</td>
<td>30 feet</td>
<td>20 feet</td>
</tr>
<tr>
<td>Side Yard (street facing): 10 feet</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear Yard: 10 feet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Conditions of approval:
1. The structure is made of durable, permanent materials, (vinyl, canvas, nylon, and other cloth “roofing” materials are not allowed).
2. A carport up to 600 square feet may be free-standing or attached to the dwelling. A deck or patio cover allowed under this provision shall be The structure is permanently attached to the dwelling.
3. The structure is approved by the building official prior to construction.
4. The adjacent property owner approves in writing the placement of the structure.
5. The structure (A carport or patio cover allowed under this provision shall have) has no exterior walls or panels. A deck allowed under this provision may have walls built up to the height of the railing, but shall not be enclosed with a roof and walls, and,
6. The structure is not within the clear view area of intersecting streets. (As an alternative to the restriction in the first sentence regarding only one setback exception, a provision could be inserted limiting the total lot coverage to no more than 50%)

D. Subject to the following conditions, the minimum yard requirements for carports, decks, and covered patios may be reduced by up to (75%), provided:

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1-3</td>
<td>11.0 units per acre</td>
<td></td>
</tr>
<tr>
<td>R-1-4</td>
<td>9.0 units per acre</td>
<td></td>
</tr>
<tr>
<td>R-1-5</td>
<td>7.0 units per acre</td>
<td></td>
</tr>
</tbody>
</table>


The allowable density for planned unit developments shall be determined by the planning commission on a case by case basis, taking into account the following factors: recommendations of metro township and non-metro township agencies; site constraints; compatibility with nearby land uses; and the provisions of the applicable general plan. Notwithstanding the above, the planning commission shall not approve a planned unit development with density higher than the following:
<table>
<thead>
<tr>
<th>Zoning</th>
<th>Units per Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1-6</td>
<td>6.0</td>
</tr>
<tr>
<td>R-1-7</td>
<td>5.0</td>
</tr>
<tr>
<td>R-1-8</td>
<td>4.5</td>
</tr>
<tr>
<td>R-1-10</td>
<td>4.0</td>
</tr>
<tr>
<td>R-1-15</td>
<td>2.5</td>
</tr>
<tr>
<td>R-1-21</td>
<td>2.0</td>
</tr>
<tr>
<td>R-1-43</td>
<td>1.0</td>
</tr>
</tbody>
</table>


Except as otherwise specifically provided in this title no building or structure shall exceed the following height (see Section 19.04.095 (A) for definition of "height"):

A. Main Buildings.
   1. Thirty feet on property where the slope of the original ground surface exceeds fifteen percent or the property is located in the hillside protection zone. The slope shall be determined using a line drawn from the highest point of elevation to the lowest point of elevation on the perimeter of a box which encircles the foundation line of the building or structure. Said box shall extend for a distance of fifteen feet or to the property line, whichever is less, around the foundation line of the building or structure. The elevation shall be determined using a certified topographic survey with a maximum contour interval of two feet.
   2. Thirty-five feet on properties other than those listed in number one of this subsection.
   3. No dwelling shall contain less than one story.

B. Accessory Buildings.
   1. No building which is accessory to a single-family dwelling shall exceed twenty feet in height. For each foot of height over fourteen feet, accessory buildings shall be set back from property lines an additional foot to allow a maximum height of twenty feet.


No accessory building or group of accessory buildings shall cover more than twenty-five percent of the rear yard.
Ordinance Amendment Summary and Recommendation

Public Body: Planning Commission  Meeting Date: December 10, 2018

Request: Amend the zoning ordinance of Kearns Metro to prevent rear yards from accumulating junk cars and to allow compacted gravel as an acceptable parking surface for residential vehicles.

Planner: Curtis Woodward
Planning Staff Recommendation:

EXECUTIVE SUMMARY

Zoning ordinance regulations currently in effect prohibit the outdoor storage of “junk,” as defined in the ordinance, in residential zones. Included in the definition of “junk,” is the following: “Junk, except as provided in subsections (B) or (C), shall also mean any dismantled, wrecked or inoperable motor vehicles or recreational vehicles or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of sixty days. An automobile, truck or bus shall be considered inoperable if it is not currently registered and licensed in this state or another state.” The exception allowed under (B) or (C) is that one unlicensed motor vehicle may be kept on a property for up to 2 years if it is otherwise operable, or up to 1 year if it is not operable and is kept in the rear yard. In recent weeks, the “exceptions” clause has been a source of frustration for people who register complaints about unsightly vehicles in neighbors’ yards. Enforcement of the “otherwise operable” section of the definition can be difficult, as County inspectors cannot legally force a property owner to prove the operability of a vehicle.

Another problem with the current code is that many homes in Kearns were built with a single-wide driveway or a double-wide driveway with no garage. Since paving an extra parking pad can be a financial burden, we are considering expanding the use of compacted gravel parking areas (currently only for RV parking) to include personal vehicle parking as well.

PLANNING STAFF ANALYSIS

The simplification of the “Junk” definition will certainly make the ordinance easier to understand and enforce. The exception clause was originally included by the County Commission based on feedback from people in Kearns and Magna who don’t have a lot of garage space in which to work on a “project” car. Allowing for one car was seen as a compromise between those who want neighborhoods cleaned up and those who have an auto repair or restoration project. The policy decision to make with this proposal is whether the public need for community cleanliness outweighs the personal freedom to have one inoperable vehicle sitting in a residential yard for up to 2 years.
19.04.315 - Junk.

A. “Junk” means any salvaged or scrap copper, brass, iron, steel, metal, rope, rags, batteries, paper, wood, trash, plastic, rubber, tires, waste or other articles or materials commonly designated as junk. Junk, except as provided in subsections (B) or (C), shall also mean any dismantled, wrecked or inoperable motor vehicles or recreational vehicles or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of sixty days. An automobile, truck or bus shall be considered inoperable if it is not currently registered and licensed in this state or another state.

B. One truck with a capacity of one ton or less or automobile which is not currently licensed and registered in this state or another state but is otherwise operable may be stored on property for a period not to exceed two years if it is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; or

C. One truck with a capacity of one ton or less or automobile which is inoperable may be stored in a side yard, except a side yard which faces on a street or a rear yard on property for a period not to exceed two years provided:

1. The automobile or truck is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; and

2. The automobile or truck shall not be visible from any public street; and

3. The automobile or truck is entirely concealed by a covering which is maintained in good condition and which does not extend closer to the ground than the lowest point of the vehicle body.

D. All existing legal nonconforming motor vehicles as of the effective date of the ordinance codified in this section, or any amendment hereto, shall comply with the provisions of this section within one year from the date of the enactment of this section or any amendment thereto.

19.80.035 - Parking in R-1 and R-2 Residential Zones.

A. Driveways. A driveway shall be provided for vehicular access from the street or right-of-way to the required parking spaces of any dwelling in an R-1 or R-2 zone. The driveway shall be constructed of a durable, hard surface such as: concrete (including permeable concrete), asphalt (including permeable asphalt), brick, pavers, stone, or block. The number, location, and width of driveways shall comply with the specifications set forth in sections 14.12.110 and 14.36.060 of the County Code of Ordinances. Driveways over one hundred fifty feet in length are subject to approval by the fire authority. The area within the front yard of any single- or two-family dwelling not occupied by a driveway or parking surface set forth above shall be landscaped in compliance with the applicable provisions of this title regulating landscaping. In no case shall paved or gravel parking areas or driveways occupy more than 50% of the area of a front or rear yard.

B. Private vehicles. Private vehicles parked on residential property in any R-1 or R-2 zone shall comply with the following:
1. If be parked or stored on a paved surface in compliance with section 19.80.030.C or 19.83.035.A, or on a parking pad which is constructed of 6 inches of compacted gravel, a private vehicle may be if located in the front yard, side yard, or rear yard of a dwelling.

2. If parked or stored on any other type of surface, private vehicles must be behind the front line of the dwelling and screened from view from public streets or neighboring properties with a six-foot tall (minimum) opaque fence.

C. Recreational Vehicles. Recreational vehicles parked or stored on residential property in any R-1 or R-2 zone shall comply with the following:

1. If be parked or stored on a paved surface in compliance with section 19.80.030.C or 19.83.035.A, a recreational vehicle may be if located in the front yard, side yard, or rear yard of a dwelling. Additionally, a recreational vehicle may be parked or stored on a parking pad which is constructed of six inches of compacted gravel. This area must be kept weed free.

2. If parked or stored on any other type of surface, recreational vehicles must be behind the front line of the dwelling and screened from view from public streets or neighboring properties with a six-foot tall (minimum) opaque fence.

D. Commercial vehicles. Commercial vehicles shall not be parked or stored on residential property in an R-1 or R-2 zone, except in the following circumstances:

1. Commercial vehicles may be parked on a property in conjunction with lawfully-permitted construction, maintenance, or site development activities so long as said activities are diligently pursued.

2. One commercial vehicle may be parked behind the front line of the dwelling and, screened from view from public streets or neighboring properties with a six-foot tall (minimum) opaque fence, provided it is parked on a paved surface in compliance with section 19.80.030.C or 19.83.035.A.

3. One commercial vehicle may be parked in the front yard or side yard of a dwelling, in the R-1 or R-2 zones upon issuance of a permit by planning and development services, as long as all of the following criteria are met:
   a. No other commercial vehicle is parked or stored on the property.
   b. The operator of the vehicle is required to be on call 24 hours a day to use the vehicle in response to an emergency;
   c. The commercial vehicle is parked on a paved surface in compliance with section 19.80.030.C or 19.80.035.A;
   d. The commercial vehicle is parked entirely on private property, not parked on or over the street or sidewalk; and
   e. The commercial vehicle does not exceed Class 5 (two-axle, six tire single unit trucks) in Federal Highway Administration vehicle classification.