

**MINUTES OF THE GRANTSVILLE CITY PLANNING COMMISSION
HELD 4/09/2020. This meeting was an electronic meeting through Zoom and
a lot of the audio was inaudible.**

The meeting was held in the Grantsville City Council Chambers at 429 East Main Street in Grantsville, Utah. Those present were Commission Chairman Jaime Topham, Commission Member Gary Pinkham, Commission Member Jacob Linares, Commission Member Brian Pattee and Commission Member Erik Stromberg. Also present were Zoning Administrator Kristy Clark, Attorney Coombs, Shay Stark with Aqua Engineering, Fire Marshal Brad Clayton, Adam Nash, Howard Schmidt, Barry Bunderson, Ron and Sherrie Butler, Joaquin and Katherine Harris, Kolten Kinsman and City Council Liaison Darrin Rowberry.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS:

- a. Proposed Commercial Conditional Use Permit for Marty Rueckert to operate a Chiropractic Clinic business located at 822 East Main Street, Suite 13 in the CD zone.**

Chairman Jaime Topham opened the public hearing at 7:00 p.m. and called for comments.

With no additional comments offered, Chairman Jaime Topham closed the public hearing at 7:03p.m.

- b. Proposed Final Plat Amendment for the K&L Minor Subdivision to be able to adjust lot lines and reconfigure the 3 lots in the R-1-21 zone located at approximately 652 South Quirk Street.**

Chairman Jaime Topham opened the public hearing at 7:03 p.m. and called for comments.

With no additional comments offered, Chairman Jaime Topham closed the public hearing at 7:04 p.m.

PUBLIC MEETING:

- a. Proposed Annexation Policy Plan and Map of Expansion Area – Only for Affected Entities.**

Chairman Jaime Topham opened the public hearing at 7:03 p.m. and called for comments.

Attorney Coombs was present for this agenda item and stated to the

Commission: As you know the Planning Commission and the City Council are working together to amend our current Annexation Policy Plan which hasn't been updated for a decade. This is the first step in the process. We sent out notices to any entities that could be affected by this. These are public entities such as County, City, and Special Service Districts. I have proposed plan and maps that I can share with them. An Annexation Policy Plan is a plan that shows areas that could be annexed into the City. We have received applications from properties that are outside our current Annexation Policy Plan and this is the reason that we are amending our current plan. What follows this meeting is that the noticed entities have ten (10) days to file a written comment with the City. Once the comments are received, we can amend the proposed policy plan and then present it to the public and we will have a public hearing or two. It then comes to Planning Commission and City Council to vote on.

With no additional comments offered, Chairman Jaime Topham closed the public hearing at 7:16 p.m.

CHAIRMAN JAIME TOPHAM OFFICIALLY CALLED THE MEETING TO ORDER AT 7:16 P.M.

- 1. Consideration to approve the Conditional Use Application for Temporary Living during Construction for Joaquin and Katherine Harris located at 133 North Paige Lane.**

Joaquin and Katherine Harris were present for this item and stated to the Commission: Joaquin stated, I've never done anything like before, so I don't know what the procedure is.

Jaime stated, we will look through what has been presented to us and then we will ask any questions that we may have. Jaime asked Kristy Clark, I notice that you have a note here about having them hook up to sewer.

Kristy Clark stated, yes. I attached a note that they are already paying for water and that they will need to come into the City and add the sewer and they may want to add the garbage. It just makes sense to add the garbage rather than using a trailer since he will be paying for sewer and water.

Gary stated, I have been out to the property and he has done a good job at keeping it clean and he is making good progress on the house. I believe that if he keeps going at the rate, he is going this will be relatively temporary.

Erik made the motion to approve the Conditional Use Application for Temporary Living during Construction for Joaquin and Katherine Harris located at 133 North Paige Lane. Recommend that they come in and sign up for the sewer and

add a garbage can if they desire. Gary seconded the motion. All voted in favor and the motion carried unanimously.

2. Consideration to approve a Conditional Use Application for Dwellings fronting on a Private Street for Ron and Sherri Butler for their property located off West Cherry street.

Barry Bunderson, Ron and Sherri Butler were present for this item:

Barry stated, the parcels are currently landlocked. So, we are going through a Boundary Line Adjustment to make them useable.

Gary asked, I was confused with the plans that we got. The first drawing shows two parcels (roughly nine acres total). The second drawing shows the private drive off Cherry Blossom. It actually shows a total of four parcels and the acreage appears to be up to about eleven plus acres. Gary said it looks like we have a subdivision name proposed; the acres don't seem to add up, and he was not sure what they were trying to do here.

Barry stated, there are four parcels that the Butler's own and there will still be four parcels. We aren't creating any new parcels just a private drive to be able to access them.

Gary asked, the existing parcel, number nineteen, is it private ground. He asked if it is currently providing access to those parcels to the south of that sliver.

Barry answered, you're correct.

Gary asked, if lot nineteen would still own the land that is in the Cherry Street strip and would still serve as a private drive for those four parcels. He asked how they will be provided legal access.

Barry answered, they currently have legal access on the crosshatched area in the first plat which has some issues by itself, but we are addressing those issues. He said the crosshatch area crosses this piece plus the Ron and Sherrie piece and the Jensen's piece and the Stapely piece that gives access to each of those parcels. So it crosses this land then exits the land and crosses the other parcels and then enters the Butler's piece again. The reason why it was being addressed and other parties were involved is because when Cherry Street is dedicated or the area is developed, there is enough right of way width to provide standard street section and people will have access at that time. He added that is for the subdivision process which they are not doing at this time.

Gary commented, like you said, there are a number of issues regarding that Cherry Street parcel. Because you come outside of the current zoning or City ordinances, he

could see the crosshatched area as dedicated at 22.75 feet and he was sure the fire department would have concerns about private access with only 22 feet of width, so ultimately that will have to be resolved and it does cross several other parcels. I have a hunch this goes back before I was born and you didn't mess with people back then. But ultimately, the Butlers intent is all four of the reconfigured parcels will have legal access off of Cherry Blossom. Gary asked how this land would prevent them from using access off Cherry.

Barry answered, yes and they would probably maintain that parcel nineteen that goes clear in and has to be dedicated at Cherry Street so you would have access on both sides.

Jaime asked, so Barry why the kind of odd configuration of these four lots? She assumed that at some point they will be selling them for development or for some other reason. She asked him to address that.

Barry said, yeah, Ron and Sherrie chime in if you have something to add. Barry explained they bought the property and want to make it usable. He understood they have children that may want to build their houses here at some point. There are three parcels they could build on and the parcel eighteen and nineteen, and kind of the remaining parcel, they got whatever is left.

Gary asked if Cherry Blossom in the future was extended, would it make sense to have the property line between lot 18 and lot 19 the equivalent of the center of the street of Cherry Blossom if it works out. He pointed out the problem is that you will have to come in and reconfigure all the lots again.

Barry said they were going for a certain size for number nineteen, but yeah, you're right because of the subdivision plat, parcel eighteen and nineteen will have to be part of that subdivision.

Gary agreed that with the dedication of both Cherry Street and Cherry Blossom, by the time you re-route the boundary line nineteen is probably only going to be about two acres. He commented when you reroute that boundary line then eighteen is going to gain an acre so when this gets pushed around in the future, it seems like we're just creating another problem for ourselves down the road.

Barry pointed out it straightens that line and both of those parcels will still be part of the subdivision. He added, now, I don't know that this will ever happen (the subdivision potential) but there are significant physical impediments to that. There is a ten or fifteen-foot hole that would have to be filled in for a road to be built. So it may become financially unfeasible until a future date that may be a hundred years away, who knows. So both parcels will have to be part of that subdivision in the future, whether the line goes straight or it jogs but that isn't solving that issue with the line because they both need the thirty feet on Cherry Blossom Lane so that connection has to be where it is.

Gary asked what the right of way is now on Cherry Blossom.
Barry answered it is a sixty foot right of way.

Jaime asked if any of the remote Commissioners had any comments. They did not have any comments.

Fire Marshal, Brad Clayton, had a comment but no one could hear him.

Barry reported that Brad sent him an email about it.

Brad called in and said it looks like the road is going to be 350 feet long, so it will require some type of an approved turnaround on it, and if the homes are more than 500 feet from the closest fire hydrant, they'll have to add a fire hydrant. And if they do that, they'll have to have at least 26 feet of road. He explained the requirements to meet SEC standards. They discussed the fire hydrant issue.

Gary made the motion to approve a Conditional Use Application for Dwellings fronting on a Private Street for Ron and Sherri Butler for their property located off West Cherry street. Erik seconded the motion. All voted in favor and the motion carried unanimously.

- 3. Consideration to recommend approval of a Commercial Conditional Use Application for Marty Rueckert to operate a Chiropractic Clinic business located at 822 East Main Street, Suite 13 in the CD zone.**

No one was present for this agenda item.

Jaime made the motion to table the Commercial Conditional Use Application for Marty Rueckert to operate a Chiropractic Clinic business located at 822 East Main Street, Suite 13 in the CD zone. Gary seconded the motion. All voted in favor and the motion carried unanimously.

- 4. Consideration to recommend approval of the Rezone of 9.64 acres for Adam Nash located at approximately 265 North Cooley Street to go from an A-10 zone to an R-1-21 zone.**

Adam Nash was present for this item:

Jaime asked Adam Nash, are you still seeking the rezone for .5 acre lots?

Adam stated, yes.

Jaime stated, the last time you were here we talked about one acre lots. Are you not considering the one acre lots?

Adam answered, I'm not. Would you like me to elaborate? Jaime stated, absolutely. At the time I filed this application the information that was available to us was the existing zoning and future land use which allowed this application to be an approved use. It's only been since January that the amended future land use has been adopted. At the back of your packet there is a preliminary subdivision plat that shows our overall plan. We feel that the RM-7 lots will flow better into half-acre lots rather than one acre lots. With the timing of our application we met the requirements to be able seek approval for our application.

Jaime stated, Adam, under the Utah State 10-9a-509, subsection 1a, subsection ii, subsection B, it specifically states that the land use authority, in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted. And how we are looking at this is that we were in the middle of our amendment to our general plan when this application was submitted. I understand that your application was submitted on November 1, 2019, and our general plan amendment was well under way at that time. The statute goes on to say, the municipality shall process an application without regard to proceedings, the municipality initiated to amend the municipality's ordinances as described if 180 days have passed since the municipality initiated the proceedings and the proceedings have not resulted in an enactment that prohibits approval of the application submitted. Basically, what it boils down to, is that 180 days have not passed since we were in the process and your application was submitted and the enactment does prohibit the approval of the application under our new general plan. The amended future land use map show that this area is reserved for one acre or larger lots.

Adam stated, during that time that you were reviewing and amending the future land use for the whole City you accepted and processed applications during that time period.

Attorney Coombs stated, the statute that was referenced, specifically references the fact that an applicant is generally entitled to approval if it meets all the requirements. The subsection is an exception to that rule. If there are proceedings to amend a land use regulation that could affect that application. The fact that your application does or does not meet the requirements, I am not making an opinion on that. The fact that we were amending a land use regulation that can and does affect the Commission's ability to recommend approval of an application when you are initiating a general plan amendment.

Adam stated, in discussion with the Utah Ombudsman office, what you were reviewing was the future land use designation is not a zoning adopted law. It's a guidance and it's supported by the Utah State Law and the Ombudsman decision.

Attorney Coombs stated, Adam if that is the case, please forward me the case law and the Ombudsman opinion that you are referring to so I can use it to take it into my

analysis. A general plan falls under a land use regulation.

Adam asked, is it the Planning Commission saying that they don't want to approve half acre lots?

Jaime answered, yes, we had stated that the last time you were here. We had the expectation that you were going to come back with an amended rezone for the one acre lots because you stated that you didn't have a problem with the one acre lots. You are vested with the RM-7 zone, there is nothing that we can do about that. But we don't have to approve or rezone if we don't agree that what you are asking for is appropriate.

Adam stated, I would like to amend my application to request the RR-1 zone.

Erik made the motion to recommend approval of the Rezone of 9.64 acres for Adam Nash located at approximately 265 North Cooley Street to go from an A-10 zone to an RR-1 zone, amended by Mr. Adam Nash at tonight's meeting. Gary seconded the motion. All voted in favor and the motion carried unanimously.

- 5. Consideration to recommend approval of the Final Plat Amendment for the K&L Minor Subdivision to be able to adjust lot lines and reconfigure the 3 lots in the R-1-21 zone located at approximately 652 South Quirk Street.**

Kolten Kinsman was present for this agenda item:

Jaime stated, thank you for fixing the lines from the previous plat.

Jaime made the motion to recommend approval Amendment for the K&L Minor Subdivision to be able to adjust lot lines and reconfigure the 3 lots in the R-1-21 zone located at approximately 652 South Quirk Street. Gary seconded the motion. All voted in favor and the motion carried unanimously.

- 6. Consideration to approve the Preliminary Plat for Cherry Grove Subdivision Phase D-2, which contains thirty-five (35) lots, for CG Tooole, LLC, and Howard Schmidt in the R-1-21 zone.**

Howard Schmidt was present for this item:

Jaime asked Shay Stark with Aqua Engineering, I seen your memo. Has everything been addressed? Are there any issues that we need to address?

Shay stated, yes, everything has been addressed and has been updated.

Gary asked, will there be a new development agreement?

Shay answered, correct.

Attorney Coombs asked Shay Stark, is there anything that you are aware of that we need to add as an amendment to the development agreement?

Shay stated, the only thing that I think that we need to add is why we are allowing 35 lots to this final phase rather than the 25 lots.

Jaime made the motion to approve the Preliminary Plat for Cherry Grove Subdivision Phase D-2, which contains thirty-five (35) lots, for CG Tooole, LLC, and Howard Schmidt in the R-1-21 zone. Erik seconded the motion. All voted in favor and the motion carried unanimously.

7. Consideration to recommend approval of the Final Plat for Cherry Grove Subdivision Phase D-2, which contains thirty-five (35) lots, for CG Tooole, LLC, and Howard Schmidt in the R-1-21 zone.

Howard Schmidt was present for this item:

Attorney Coombs asked, for the development agreement, can I get clarification for why we are allowing the 35 lots instead of the standard 25.

Howard Schmidt answered, that is the remaining lots and that will complete the subdivision. After discussion with staff it seemed like a better process to allow us to complete the infrastructure throughout the subdivision.

Shay stated, there are a couple issues that this will also benefit. One is there is a large drainage that runs into the property and we would like them to finish that, so we don't have a temporary re-route. The second issue, this is at the end of a long water line and allowing them to finish the 35 lot will allow them to loop that line.

Erik made the motion to recommend approval of the Final Plat for Cherry Grove Subdivision Phase D-2, which contains thirty-five (35) lots, for CG Tooole, LLC, and Howard Schmidt in the R-1-21 zone. Gary seconded the motion. All voted in favor and the motion carried unanimously.

8. Discussion to Amend Chapter 2, Definitions, #77 of the Grantsville City Land Use and Development Code.

Jaime stated, we received an email from Shay Stark with Aqua Engineering for agenda items eight and nine. Shay, can you give us an idea of why we are looking at this? What is the issue that came to light?

Shay stated, we have had a situation arise that has caused staff to consider the definition of Development as found in the Grantsville City Land Use Development and Management Code Chapter 2 Definitions # 77 Development (Land) The definition is as follows: The conversion or alteration of use or physical characteristics of land; placing improvements on the land; or putting land to intensive use such as a subdivision, P.U.D., mobile home park, recreation vehicle park, shopping center, industrial park, excavation, etc. The issue that has brought this to light is a question of what constitutes developed land and how that effects the application of the open space requirements. The staff feels that this definition does not accurately define the critical characteristics that constitutes development. The State Code contains a definition for development which includes key language which helps to better clarify essential characteristics of development. It states: Utah Code 10-9a-103 (10) "Development activity" means: (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities; (b) any change in use of a building or structure that creates additional demand and need for public facilities; or (c) any change in the use of land that creates additional demand and need for public facilities. The key difference in language between the two definitions is the use of "creates additional demand and need for public facilities." This language becomes important in the case of a minor subdivision that may include existing homes with existing public improvements. The new lots created would create additional demand and need for public facilities. Two lots being split into three with existing water sewer street and sidewalk will still create additional demand and need for public facilities as the new lot will require additional water and sewer connections. By definition this additional lot is the "development" that would require the provision of open space and helps to clarify what portion of the minor subdivision would be included in the calculation for open space. Another example might be changing the physical characteristic of the land in order to landscape a private parcel. In this case this activity does not constitute development. However, if this same activity is occurring to provide a new building site it is development and should be regulated as such. The City's definition does not make this distinction. It is recommended that the City consider amending the code to either replace the city definition for development with the language found in the State Code or amend the City definition to include the language: "that creates additional demand and need for public facilities."

Attorney Coombs stated, this came out of a discussion that Shay and I had regarding the minor subdivision that was submitted. In our code 21.1.12 it states, all undeveloped parcels that come before the City as a subdivision of land shall comply with the open space regulations found in this chapter. We then went and tried to determine how the City defines an undeveloped parcel. We don't have a definition for undeveloped parcel. We then what do define as a developed parcel. It is pretty broad. It's #77 in the definitions and it states, any alteration of use or physical characteristics of land. So if you go and grade the land and not do anything you've altered the characteristic of it. So now it is no longer an undeveloped parcel. I like the State's definition of development, but it still doesn't define what an undeveloped parcel is. If we accept the

State's definition of development, we probably need to define what an undeveloped parcel. Shay and I can get together and come up with some clarification that should help with this decision.

9. Discussion to Amend the Minor Subdivision Ordinance, Chapter 21.3 of the Grantsville City Land Use and Development Code.

10. Consideration to approve the meeting minutes for the previous P&Z Meeting that was held February 13, 2020.

Jaime made the motion to approve the meeting minutes for the previous P&Z Meeting that was held February 13, 2020. Gary seconded the motion. All voted in favor and the motion carried unanimously.

11. Consideration to approve the meeting minutes for the previous P&Z Meeting that was held March 12, 2020.

Jaime made the motion to table the meeting minutes for the previous P&Z Meeting that was held March 12, 2020. Gary seconded the motion. All voted in favor and the motion carried unanimously.

12. Consideration to approve the meeting minutes for the previous P&Z Meeting that was held March 16, 2020.

Jaime made the motion to approve the meeting minutes for the previous P&Z Meeting that was held March 16, 2020. Gary seconded the motion. All voted in favor and the motion carried unanimously.

13. Report from City Council Liaison Darrin Rowberry.

14. Jaime made the motion to adjourn the meeting at 9:00. Gary seconded the motion. All voted in favor and the motion carried unanimously.

Kristy Clark
Zoning Administrator