

**City of Saratoga Springs
Planning Commission Meeting**

August 25, 2016

Regular Session held at the City of Saratoga Springs City Offices
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

Minutes

Present:

Commission Members: Sandra Steele, Hayden Williamson, David Funk, Ken Kilgore, Troy Cunningham, Brandon MacKay

Staff: Kimber Gabryszak, Planning Director; Mark Christensen, City Manager; City Planner Kara

Knighton; Kevin Thurman, City Attorney; Gordon Miner, City Engineer; Nicolette Fike, Deputy Recorder

Others: Krisel Travis, Greg Haws

Excused: Commissioner Wilkins

Call to Order - 6:30 p.m. by Vice Chairman David Funk

1. **Pledge of Allegiance** - led by Commissioner Steele

2. **Roll Call** – A quorum was present

3. **Public Input**

Public Input Open by Vice Chairman David Funk

No public input was given.

Public Input Closed by Vice Chairman David Funk

4. **Public Hearing: Community Plan Amendment for Legacy Farms, generally located at 400 S. Redwood Road. D.R. Horton Applicant.**

Planning Director Gabryszak presented the plans. The applicants are requesting a modification to the Community Plan to allow recordation of the plats currently in the floodplain, without the additional building requirements. No certificate of occupancy will be issued by the City until the map revision is finalized. The applicants have received a letter of LOMR, but need to wait 90 more days. The applicants are also requesting an amendment for signage allowance, up to 50 sq. ft. on up to 4 entry features and to allow 100 sq. ft. of temporary signage at each of those 4 locations for up to 9 months. Also to allow up to 6 entry flags and window signs. There is corrected language in the agreement.

Krisel Travis noted they were asking that they be allowed to sell and put under contract (striking condition #5) but not occupy. They will have a recoded plat and will be willing to disclose it's in a flood plain.

Public Hearing Open by Vice Chairman David Funk

No Comments were made.

Public Hearing Closed by Vice Chairman David Funk

City Attorney Thurman mentioned that he had recommended condition #5 because the LOMR is not truly in effect yet. Any interested party may request that they reconsider the determination. They need to be 1 foot above the flood plain to build. Under Utah law a plat is not able to be recorded unless there are improvements installed or bonded to be installed. That is to protect the lot owners. There have been plaintiffs that have sued cities who allowed plats to be recorded without the improvements and we are looking to protect against that. He is not sure any company would issue a bond guaranteeing it would be finished where it's in a flood plain. He is recommending that condition not be removed; it would expose us to liability.

City Manager Christensen remarked that this will ultimately not be an issue. We've tried to work with the developer so they can begin infrastructure assuming all liability. If the map revision does not occur then the infrastructure does not meet the standard. If they construct their properties they are assuming 100% of the risk and liability. He agrees with what the attorney says but our concern is to keep the liability purely on them. The question is if they can sell thus transferring some of that liability. It's the sale that triggers the liability. We want them to move forward if they are willing to assume all of the risk. He commented that they have changed other sections of code via the Community Plan process. The homes they are starting wouldn't be done and ready to sell till late January, it would only be about a 20 day period that it may still remain in the flood plain.

Planning Director Gabryszak commented that since it is a community plan they do have the ability to propose their own code. When we originally met with them we were not supportive, however; with the copy of the LOMR from FEMA and the prohibition on selling lots, staff feels that it protects the city adequately. They are not bound strictly by the municipal code. She noted community plan guiding standards that allow them to create their standards.

Krisel Travis mentioned that there has already been another 90 day protest period where any affected entities have been notified and there was no protest. The chance that this would have anything now is very very small. As far as the flood plain, Tickville is functioning very well. They are willing to not occupy the building and that if someone did protest they would be stuck with millions of dollars of corrections. They are willing to give full disclosure and would like to keep the momentum going.

Commissioner Steele commented that this is asking them to ignore the municipal code that it falls under. We don't have any control over that, we are also being asked to not adhere to federal law and building code or 18.02 of our code. The map has to be changed or they need to build 1ft above. Our main job is to make sure an application meets code. She does not believe it meets code in any way, but it is City Council's discretion. She said on the flood plain it does not meet our code and she would not recommend it for approval. The liability may not be all that small.

Commissioner Steele would prefer they adhere to our city code on signs. She feels they are above code for the height of the water tower feature and they should not be allowed to put their sign on top the tower. Krisel Travis shared that they see it more of a branding structure, nothing to read, more of an icon and not an advertisement. Commissioner Steele noted that we have required all other developments to keep their signage below 10 feet; they could have taller structures but the signs had to stay below. It bothers her that they want up to 4 of those. In the future they need to be kept at 20 feet she doesn't want any more 30 ft. water towers. She noted that trailer wrap looks terrible. We have enough visual clutter out there without the wrap. She asked about the concierge signs they are asking for above what is already there. Krisel Travis replied they were for temporary signs like a community event. Commissioner Steele would rather see a mechanical changeable sign than to put this in the entrances. She is concerned with the temporary flags and banners; we allow 1 banner per residential lot. People are living here while you are selling, out of consideration to them if you have model homes; six per lot is way too many. Krisel Travis noted the 6 is meant for the main sales center. Commissioner Steele thinks one per lot is sufficient. Krisel Travis asked if they could have 6 at their sales trailer and one for models and noted their flags are smaller.

Commissioner Williamson asked if we were to accept this with the stipulations that they can't sell, occupy or put under contract until the map is revised then would that eliminate all chance of liability. City Attorney Thurman replied that it would eliminate most of it. Commissioner Williamson is ok with passing this the way it was written. Commissioner Williamson said he is ok with the water tower sign. He has concern with the concierge signs that could become permanent. He would be ok with 6 flags at the main sales office and 1 everywhere else, which would revert to one sign when it gets sold. He is less concerned about the window coverings. Krisel Travis said once it isn't a sales office it would go away.

Commissioner Kilgore asked who had inspected for the flood plain. Krisel Travis responded that a third party does the inspection and sends the report data to FEMA. Commissioner Kilgore asked if the applicant

felt our city standard was inadequate, why they felt they needed to change it. Krisel Travis responded they are not used to these kinds of regulations in other cities they work with; it's not typical for them.

Commissioner Cunningham felt he was able to find the sales trailer and clubhouse with the signage that was there and felt it was adequate and seemed like a lot, and he thinks we don't need to change that. On the tower sign he was ok with a logo but would prefer it further down.

Commissioner MacKay would be opposed to the increased signage. He wondered what if the project got delayed and doesn't come through and they don't build, would the neighbors have any recourse to the City? City Attorney Thurman replied that they would have to remove the infrastructure if it got repealed. Commissioner MacKay doesn't want to have this discussion again with flags and signs for another builder. He is hesitant to give a lot of leniency knowing that the next builder may ask for that or more. Right now no one is having an issue finding the builder or them selling lots. If the market goes down he may change his mind on that as it may be more necessary to help sell projects.

Commissioner Funk commented on signage that he thinks we need a level playing field equal for everyone and thinks we should go with code. He doesn't think they should allow the building on the flood plain.

Motion made by Commissioner Williamson that based on the discussion today he moves to forward a positive recommendation to the City Council for the proposed amendments to the Legacy Farms Community Plan regarding the flood plain changes with the modified language* included in the presentation. Seconded by Commissioner MacKay

*Modified Floodplain Language from the presentation.
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- The developer shall be allowed to build and record in a Flood Plain so long as measures to mitigate the Flood Plain through FEMA and the City Engineer have been completed through a formal LOMR. The City Engineer's signature on the LOMR shall constitute the City's acceptance of the improvements completed to mitigate the existing conditions of the Flood Plain. Construction and plat recording shall be allowed upon receipt of the LOMR from FEMA. **A Flood Plain map that has been revised to reflect Zone X or higher shall be allowed to proceed with all construction. The City will not be obligated to issue any Certificate of Occupancy until such time as the FIRM revision has been completed.**

Discussion on the motion:

Planning Director Gabryszak asked them to include the findings and conditions in the staff report.

City Attorney Thurman wanted them to be clear what modified language they passing. Commissioner Williamson responded his intent was the language of the floodplain amendment that was present on the power point presentation.

Planning Director Gabryszak noted it was the language that was presented regarding the certificates of occupancy.

Commissioner Williamson amended the motion to include the findings and conditions in the staff report and the modified language that was presented regarding the certificates of occupancy. Second was in agreement.

Aye: Brandon MacKay, Hayden Williamson, Troy Cunningham, Ken Kilgore.

Nay: Sandra Steele, David Funk.

Motion passed 4-2.

Motion made by Commissioner Williamson that based upon the discussion today he moves to continue the discussion regarding signage to give staff and the applicant a chance to implement some of the discussion from today's meeting to our next meeting.

Motion failed due to no second.

Motion made by Commissioner Steele that the Planning Commission forward a negative recommendation to the City Council for the Legacy Farms community plan amendments concerning signs. The amendments are not consistent with section 19.26 of the code as articulated by the Commission and that the previous signs that were in effect remain in effect and that the amendments do not comply with what had been approved before. Seconded by Commissioner Cunningham.

Aye: Brandon MacKay, Troy Cunningham, Ken Kilgore, Sandra Steele, David Funk.

Nay: Commissioner Williamson.

Motion passed 5-1.

5. Public Hearing: Preliminary Plats for Legacy Farms Village Plans 3A-E, generally located at 137 E. Legacy Parkway. D.R. Horton Applicant.

City Planner Kara Knighton presented the plats. The application contains preliminary plats for a total of 196 units and ~14 nonresidential ERUs. The 196 single-family and multi-family units are below the potential maximum of 304 Residential units approved in VP3. She noted the arrangement of the north area is different but the unit numbers remain the same. Additional suggested conditions are 1. No units shall be sold until the FIRM map revision is finalized. 2. Alternate addresses shall be placed on corner lots prior to Final Plat approval.

Commissioner Steele commented that there are horizontal improvements in the flood plain. But that hasn't been voted on by them yet. Where does that put us in infrastructure, there is a good bit in the flood plain. City Attorney Thurman thought it was fine because we are placing conditions on it. By the time it comes imperative they meet the condition at that point they will meet it, staff will verify it. You could say conditioned on the Community Plan Amendments. Planning Director Gabryszak noted that there is already a recommended condition that they not sell lots. This is for the preliminary plats. The final plats still have to go through staff approval project. You have already approved plats in previous Village Plan's under the knowledge that they couldn't build anything until it was taken out of the flood plains. Commissioner Williamson commented that we then may not need that condition as it was in the Community Plan. City Attorney Thurman said that would be fine, the Community Plan governs development.

Commissioner Funk asked about the lots that would be kept at 8000 sq. ft. Planning Director Gabryszak responded that those lots would remain at 8000 sq. ft. but they are being identified as 6000 because of different width standards. They now comply with the 8000 sq. ft. standard. Commissioner Funk commented that his other concern is that the lot lines in a few spots don't go to the corners, it seems to be preferred by owners.

Motion made by Commissioner Williamson based on the discussions today he moves to forward a positive recommendation to the City Council for the Legacy Farms Plats [3A, 3B, 3C, 3D, and 3E] with the Findings and Conditions in the Staff Report. With the addition of the alternate address condition in the power point. (Alternate addresses shall be placed on corner lots prior to Final Plat approval.) Seconded by Commissioner Kilgore.

Aye: Brandon MacKay, David Funk, Hayden Williamson, Troy Cunningham, Ken Kilgore.

Nay: Sandra Steele.

Motion passed 5-1.

Commissioner Steele noted she voted nay to be consistent with her vote on the previous item concerning flood plains.

Commissioner Funk is voting yes because the other motion passed.

A short break was taken at this time.

6. Work Session: Accessory Dwelling Units Code Amendments.

Planning Director Gabryszak presented the proposed changes. On July 28, 2016, the Planning Commission discussed Accessory Dwellings and provided feedback on the potential code. The Planning Commission discussed the need to further regulate the maximum size of dwelling units, as 1/3 of the primary structure could lead to a large accessory dwelling, and adding Education Leave to the list of qualified reasons of a temporary absence. There was some interest in limiting the number you could have in a neighborhood or block, is it sort of picking winners and losers. You don't see that many typically anyway. She is currently working on the Affordable Housing Update. A law student that looked at prop 6 and its impact on affordable housing noted that it could go one way or another depending on case law. If we are allowing other types of affordable housing like ADUs it could be ok. They will be having a work session with Council soon. After that they will do some public outreach. Planning Director Gabryszak noted we are trying to have the balance where it's allowed all over but limited.

Commissioner Funk commented that if you have a limit per street you should encourage them to do it. He noted some people would try to get around the requirements. He believes the requirements will help limit the amount of people wanting to do it anyway.

Commissioner Williamson does not like the idea of limiting it; it may have some unintended consequences we wouldn't appreciate. He feels it should happen in existing neighborhoods. The majority of the people will not want to do this, only a small percentage will want to do it.

Commissioner Williamson was excused at this time.

Commissioner Kilgore likes the changes, and agrees with Commissioner Williamson about not limiting to a number per neighborhood. Over time what if new people move in and don't want the apartment but someone else can't because there is already one. There needs to be a pathway to legality and something that makes it tolerable to all neighborhoods. Communities with smaller lots would want to discourage it anyway.

Commissioner Cunningham echoed the previous two commissioners. He likes the idea of not limiting the number, on a fairness bases but likes minimum requirements which would help limit it anyway.

Commissioner Steele is more in favor of allowing in new developments. If they allow them in, say Mt. Saratoga, how do they figure the extra ERUs. What might it do to your schools; it could be the straw that breaks the camel's back. Second thing is mail. The post office won't allow mail boxes anymore. How would they get their mail? Planning Director Gabryszak said the options are that all the mail goes to one box or the basement obtains a P.O. Box. Commissioner Steele remarked that it defies logic and common sense to say a family upstairs and a family downstairs is a single family home. It is a two family dwelling. We need to think about our definitions in that respect. She is concerned about the fact that if we have a down turn in the economy we could have a lot of these and then it affects water and schools. She thinks it should be put in the code to check their CCRs to see if it's allowed.

Commissioner Kilgore thinks the school thing is an interesting question; even a 10% increase could be an issue. Commissioner Funk commented that size of the house and number of bedrooms may make the bigger difference in the number of students than the number of families.

Planning Director Gabryszak asked if there was anything else they may want them to discuss with City Council. Commissioner Steele said the 1250 sq. ft. bothered her in one zone with the minimum footage with an accessory dwelling unit that was the same size.

7. Approval of Minutes:

a. August 11, 2016

Motion made by Commissioner Kilgore to approve the minutes of August 11, 2016. Seconded by Commissioner Cunningham. Aye: Sandra Steele, Brandon MacKay, David Funk, Kirk Wilkins, Troy Cunningham, Ken Kilgore. Motion passed 6 - 0.

8. **Reports of Action.** – No reports.

9. **Commission Comments.** – No comments.

10. Director's Report:

- a. **Council Actions** – Mt. Saratoga and Code amendments were continued to the 6th.
- b. **Applications and Approvals**
- c. **Upcoming Agendas** – code amendments, papas express car wash and a rezone and Master Development Agreement for HADCO.
- d. **Other** – City Planner Jamie Baron is leaving. They are starting interviews soon.

11. **Motion to enter into closed session for the purchase, exchange, or lease of property, pending or reasonably imminent litigation, the character, professional competence, the deployment of security personnel, devices or systems or the physical or mental health of an individual.**

Motion made by Commissioner Kilgore to have a closed session for the reasons stated on the agenda. Seconded by Commissioner Steele. Aye: Sandra Steele, Brandon MacKay, David Funk, Troy Cunningham, Ken Kilgore. Motion passed 5 - 0.

Meeting Moved to Closed Session 8:35p.m.

Closed Session

Present: Kimber Gabryszak, Sandra Steele, Brandon MacKay, David Funk, Troy Cunningham, Ken Kilgore, Mark Christensen, Kevin Thurman, Nicolette Fike

Closed Session commenced at 8:36 p.m.

Motion to adjourn closed session made by Commissioner Cunningham. Seconded by Commissioner MacKay. Aye: Sandra Steele, Brandon MacKay, David Funk, Troy Cunningham, Ken Kilgore. Motion passed 5 - 0.

Closed Session Adjourned at 9:05p.m.

12. **Meeting Adjourned without objection at 9:05 p.m.** by Vice Chairman David Funk

9/8/2016
Date of Approval

City Recorder



Planning Commission Chair
Kirk Wilkins