

**MEETING MINUTE SUMMARY**  
**SALT LAKE COUNTY PLANNING COMMISSION MEETING**  
**Wednesday, December 12, 2018 8:30 a.m.**

**\*\*Meeting minutes approved on February 13, 2019\*\***

**Approximate meeting length:** 1 hour 52 minutes  
**Number of public in attendance:** 9  
**Summary Prepared by:** Wendy Gurr  
**Meeting Conducted by:** Commissioner Cohen

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

**ATTENDANCE**

Commissioners	Public Mtg	Business Mtg	Absent
Neil Cohen	x	x	
Ronald Vance	x	x	
Mark Elieson	x	x	
Bryan O’Meara			x
Kim Barbushev	x	x	

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Jim Nakamura	x	x
Curtis Woodward		
Zach Shaw (DA)	x	x

**BUSINESS MEETING**

**Meeting began at – 8:30 a.m.**

- 1) Approval of Minutes from the November 14, 2018 meeting.

**Motion:** To approve minutes from the November 14, 2018 meeting as presented.

**Motion by:** Commissioner Elieson

**2<sup>nd</sup> by:** Commissioner Barbushev

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

- 2) Other Business Items (as needed)  
*No other business items to discuss.*

**PUBLIC HEARINGS**

**Hearings began at – 8:33 a.m.**

**30763** – Mike Owczarek is requesting Conditional Use approval for a Bed and Breakfast Homestay. **Parcel Area:** 1.3 acres. **Location:** 3188 East Deer Hollow Drive. **Community Council:** Granite. **Zone:** R-1-43. **Planner:** Jim Nakamura

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

*Commissioner Cohen asked how right of way is defined and if right of way was established by easement. Mr. Nakamura said the 60 foot right of way was platted. Mr. Nakamura said right of way is 30 feet on each side of the center of the road. Commissioner Cohen asked how there can be a 60 feet right of way when the street isn't 60 feet wide. Mr. Nakamura said the ordinance doesn't state the street must be 60 feet wide. Mr. Nakamura said he talked to the applicant and initially didn't think they had a 60 foot right of way, but applicant was able to come up with the plat and show the right of way. Commissioner Cohen said the ordinance says the bed and breakfast must be on the street with a 60 foot right of way, and to him that says the street must be 60 feet. Mr. Nakamura said the standard for private road is 25 feet. The plat is from 1972 when the subdivision was platted out. Commissioner Cohen asked counsel if the street must be 60 feet wide. Zach Shaw, Counsel said he would like to investigate the county street standards. Commissioner Cohen said since the packet came out, they've received 21 pages of public input, report from Granite Community Council and letters from the community. Commissioner Cohen noted that staff recommendation was written before these came out and asked if staff would change their recommendation. Mr. Shaw said he just saw this staff report and community input, which raised legal questions that he wants to spend some time looking up. Commissioner Cohen said there is public safety and fire department issues and asked if there were reviews or approvals. Mr. Nakamura said applicant must meet the health and fire department requirements and he just went off the information sent by them. Commissioner Vance said they may be changing their approval as well. Commissioner Cohen said this was sent prematurely since counsel needs more time.*

*Commissioner Cohen noted that planning commission usually gets an analysis of section 19.84.040 standards of approval. Referring to Standard E, he asked what community general plan standards are applicable to this application. Mr. Nakamura said he will look in to it.*

## **PUBLIC PORTION OF MEETING OPENED**

### **Speaker # 1: Real Estate Attorney**

**Name:** Brett Hastings

**Address:** 299 South Main Street, Suite 1300

**Comments:** Mr. Hastings introduced Magdalena and Chris, the family member living in the home. He has been able to answer the questions and demonstrate through the report that the subject property does meet all the conditions required by ordinance. He attended the Granite Community Council meeting and presented and took questions. Utah law requires that applicants address adverse effects that may occur. He has seen Granite Community Council letter, but no new letters. The road was narrow and parking on the road could be a safety hazard, but staff looked at requirements and determined there is sufficient off-street parking. Applicant has never condoned on street parking and they will never allow parking on the street. Applicant brought a site plan with overlay where parking is. They have room for nine; seven is required. Applicant doesn't condone or allow parking on the street; one single incidence in the past was not condoned.

*Mr. Shaw said he wanted to verify the garage fits four and that parking exhibit is drawn to scale. Magdalena said it is a four-car garage and is drawn to scale. Mr. Hastings said the scale shows a 30-foot scale start to finish, this was done through photoshop, used the scaling to create the parking stalls, but the cars on the exhibit may be larger than scale. Mr. Hastings addressed the second concern of the private gate and that the code would be given out. He handed out an exhibit of gates and access points, showing that property could be accessed without the gate. Commissioner Cohen asked if there is a gate into the property itself. Mr. Hastings said it isn't a private community. Applicants have never given out the private code, guests don't use the gate to access the property, and guests will be advised to access the property off Wasatch Blvd. No need to give out code because there isn't a gate off Wasatch road. Commissioner Vance said he is concerned about the gate at the property. Mr. Hastings said there is no gate at the property. Mr. Hastings*

said they believe they addressed any concerns, and that conditional use is grounded if any detrimental effects are addressed, and onsite parking, safety concerns and private gate are all handled. Because you designate a right of way doesn't mean it will be paved, but will include green space, sidewalks and capacity for future widening of roads. Home has frontage on two streets. The road is a typical road, the right of way is there and sufficient. The purpose of the right of way isn't to have a 60-foot road, but right of way from other property owners. The ordinance allows this use in this area. Everyone in the area has received notice this use can be there. It isn't a use as a hotel. Applicants have been there for 10 years and is their second residence. There is not a lack of compatibility and they have located no recorded CC&R's or HOA dictating this type of use is prohibited. Commissioner Cohen said there is a Granite Community Plan and when he moved in he got a copy of the plan. Mr. Hastings said no private CC&R's or HOA and no other recorded document restricting this use. They have fulfilled statute and requirements of the ordinance. Home does have frontage on street with 60 feet, maximum guest rooms of five and occupied by person full time. Won't serve meals, and continental breakfast may be served. Fire has approved and confident shouldn't be a detrimental effect by this use. No parking allowed on the street. Health has commented and if ever in the future applicants serve food that requires a license, they will be appropriately licensed to serve food. All conditions met, all reasonably detrimental effects addressed, concerns addressed, ask to approve the use.

Commissioner Cohen said community has been there a long time and can't say that no one has had a party and no one can park on the street. Mr. Hastings said the rooms were rented to members of a political campaign, and without the knowledge of the owners, guests invited other people, and there was parking on the street in that instance. Owners will take additional steps and address parking issues. In the event it does occur, parking on the street could be fined, and there could be noncompliance issues. The minute the applicants knew they should do the conditional use process, they ceased the use. It's a property right allowed in this community, contemplated and specifically allowed in the community and they would like to use it in that way and in a responsible way. Commissioner Cohen asked how long they've owned this property. Mr. Hastings said 11 years and they use it as a second residence and it does qualify as a second residence and Chris lives at the property full time. Commissioner Cohen asked staff for this conditional use, do they need a business license, and is this the same thing as a short-term rental? Mr. Nakamura said it is required (a business license), but ordinance allowed bed and breakfast in this area, and not short-term rental.

Commissioner Barbushev motioned to open the public hearing, Commissioner Vance seconded that motion.

**Speaker # 2: Granite Community Council**

**Name:** Vaughn Cox

**Address:** 9906 South 2700 East

**Comments:** Mr. Cox said they heard from Mr. Draper (planning staff), then applicant and the residents, who described the concerns and answered questions. In the letter the Council believes there are circumstances that cannot be easily mitigated. He addressed the residents' concerns in the letter and how the Council came to their decision, namely how difficult it is to enforce street parking, how this is a gated community and release of the access code would compromise the safety of the neighborhood. He acknowledged that there are three accesses, and only one is gated. He questioned what the applicants would do if all accesses were gated and applicants were prohibited from giving out codes. Council does try to respect private property rights.

Commissioner Elieson said most letters and complaints state that this is a gated community; with three accesses and one gate, don't think that qualifies as gated community. Statements made this is gated are erroneous, you have full access to the general public. Regarding parking on the street, we are getting assurances from the property owner that they will not allow parking on the street, and coming from an area of excessive parking on the street, if the property owner and residents are going to enforce no parking,

*think that becomes a lot less of an issue. Commissioner Elieson said he does have concerns on emergency access with the size of the road, he's afraid if fire department looked at the location, there might be complaints with access and should be addressed. Mr. Nakamura said he doesn't know and they can send correspondence out again. Mr. Cox said they found out many residents didn't receive notification. Commissioner Cohen asked Mr. Cox if he was aware of a Granite community plan. Mr. Cox said there is a master plan, but not aware of anything more detailed.*

**Speaker # 3:** Citizen

**Name:** Mike Menlove

**Address:** 3160 East Deer Hollow Drive

**Comments:** Mr. Menlove said if you notice, their property lines go to the center of the road. They don't have sidewalks or storm drain, no curb and gutter. Their property lines go to the middle, but there's an easement.

*Commissioner Cohen asked if there's an easement for travel lane, phone/electrical/sewer and access and egress road and is there a minimum footage for the road to be maintained. Mr. Menlove said no, just what's standard and this is a safety issue, the street is like a bobsled. The gate at the bottom wasn't to make them a gated. That street is a short cut and wasn't designed for the traffic, the reason for the gate. They pave their own road with HOA, whatever happens in the neighborhood they pay for, but they get garbage pickup. To make it wider would be expensive. After a snow storm there is no room and have to pullover to let a person go by. The fire trucks and snowstorm, if someone is parked out, it is trouble. Commissioner Cohen asked if this is an island or a larger area. Mr. Nakamura said Sandy is close by, this is an unincorporated pocket/island. Mr. Menlove said if someone is renting with snow conditions, should have four-wheel drive with the steep driveway, need four-wheel drive with good tires. Chance of having people off the street is unlikely.*

**Speaker # 4:** Citizen

**Name:** Hal Hudson

**Address:** 3195 Deer Hollow Drive

**Comments:** Mr. Hudson said he's concerned about safety, reason gate put in is because of traffic. In order to put the gate in, they went through an event. Important to make sure the code isn't given out and traffic comes back out on the road. Road won't handle parking with kids. Big concern is how they keep the parking off the street and there has been more than one occasion they've had parking on the road. If they're parked on the road with snow, a snowplow could not push the snow and the road up to Wasatch is steep. Concerns are safety and that no cars park in the roadway.

*Commissioner Cohen asked if the group arranged to have it plowed. Mr. Hudson said he thinks this property is used to access the ski resorts and he has concerns with guests getting up that driveway.*

**Speaker # 5:** Citizen

**Name:** DeeDee King

**Address:** 3171 Deer Hollow Drive

**Comments:** Ms. King said she has only lived there for 10 months; she has yet to meet the owners. This is a business. Regarding the incident with parking, her driveway has a roundabout and she's had cars parked in her roundabout. They haven't done anything to prevent this yet. This property sits on top of a hill, several people have been outside hanging out, and you can hear everything--noise is an issue. They pay HOA dues to maintain the road, this is a potential business to be using the road, unreasonable to allow them to use this road when it is designed as a private road. These businesses set a precedence, they know it's an Airbnb. Business owners move and leave a property manager in charge. Opens up to crime, noise, and trash. Look at the big picture.

**Speaker # 6:** Citizen

**Name:** Susan Wood

**Address:** 3227 Deer Hollow Drive

**Comments:** Ms. Wood said she walked off where it said 60-foot right-of-way, it is 17 feet and had to pull over for a truck. They talked about putting other gates in; if they did, the turn and slope from Wasatch, could become a bigger safety issue. Want to create more of a private area, safety in homes or road. She thinks there is a third floor and more room for guests.

**Speaker # 7:** Real Estate Attorney

**Name:** Brett Hastings

**Address:** 299 South Main Street, Suite 1300

**Comments:** Mr. Hastings said the owners take concerns seriously. Concern over gate is mitigated, will never give out the code. Comments on width, yes, it is 20 feet wide may be less. The street is the street, will not create a safety hazard, based on the off-street parking, someone is there full time, will notify all guests there is no on street parking, the owners will not allow guests to park on the street. Right of way is adequate. Home does have a basement, conditional use is only sought for the five rooms as allowed in the ordinance.

*Commissioner Cohen said bed and breakfast shows five rooms, each room can be rented individually, and asked if intention is to rent each room or the whole house. Mr. Hastings said they rent the room individually and know the limitation on rooms, but there are times one group will rent all five rooms, up to ten people. Mr. Hastings clarified that the typical practice is to rent to a single group, one room or five. Not a situation where they have five separate rentals, but they could choose to operate that way. They use it to subsidize their income and pay for the home. Ordinance allows this use in the area to this extent. Chris lives there full time and the lower living space is their personal space. The way the particular property is advertised, they prohibit parties and person on site enforces that. There are ordinances within the county, this doesn't change the rights of surrounding property owners, owners take steps to mitigate loud noise or nuisance. In response to the idea there is a Granite Community Council standard that precludes this use, there is a 2017 case citation with a similar situation that was denied and taken to court. An ordinance allowed the use and was consistent with the neighborhood, and those buying properties had implicit notice the use could be had. Mr. Hastings submitted that all conditions met, positive recommendation of staff. Owners will take affirmative steps no one parks on the road, any potential issues can be mitigated, and allow property owners to use their properties.*

*Commissioner Barbushev motioned to close the public hearing, Commissioner Elieson seconded that motion.*

**PUBLIC PORTION OF MEETING CLOSED**

*Commissioners and Counsel had a brief discussion regarding character of property, with regards to construction. Commissioners discussed increased traffic.*

*Jena Carver, County traffic engineer said county transportation master plan shows arterials and collectors and impact of this use would be minimal and insignificant and would not impact the master plan at all. Method of calculating impact would be to count the homes and number of trips per day and add increase. When the subdivision was recorded they put in 60 feet right of way, when measured it met the 20-foot requirement. No parking can be enforced, could sign no parking on both sides of the road.*

*Counsel said he would like to look at legal issues and analysis, requests continuation. Commissioner Cohen asked to look at comments and evaluate in essence if this is a true bed and breakfast or a short-term rental. Fire could look at no parking signs since it could be a fire issue and could put signs if an issue.*

**Motion:** To continue application #30763 to the January 16<sup>th</sup> meeting to allow time for Counsel to look in to legal issues and analysis.

**Motion by:** Commissioner Elieson

**2<sup>nd</sup> by:** Commissioner Barbushev

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

**MEETING ADJOURNED**

**Time Adjourned – 10:22 a.m.**