

**MEETING MINUTE SUMMARY**  
**SALT LAKE COUNTY PLANNING COMMISSION MEETING**  
**Wednesday, January 16, 2019 8:30 a.m.**

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

**Approximate meeting length:** 1 hour 55 minutes

**Number of public in attendance:** 10

**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
Curtis Woodward		
Jim Nakamura	x	x
Zach Shaw (DA)	x	

**BUSINESS MEETING**

**Meeting began at – 8:32 a.m.**

- 1) Election of Chair and Vice Chair 2019

Election of Chair

**Motion:** Commissioner Vance nominated Commissioner Cohen for Chair, Commissioner Cohen accepted.

**Motion by:** Commissioner Barbushev

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

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

Election of Vice Chair

**Motion:** Commissioner Barbushev nominated Commissioner Vance for Vice Chair, Commissioner Vance accepted.

**Motion by:** Commissioner Barbushev

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

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

- 2) Approval of Minutes from the December 12, 2018 meeting.

**Motion:** To continue minutes from the December 12, 2018 meeting to the February 13<sup>th</sup> meeting.

**Motion by:** Commissioner Barbushev

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

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

3) Other Business Items (as needed)

*No other business items to discuss*

## **PUBLIC HEARINGS**

**Hearings began at – 8:36 a.m.**

**30763 – (Continued from 12/12/2018)** - 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 addressed staff analysis, points raised by public concerns, asked to touch on general plan considerations. Mr. Nakamura said would have the applicant's counsel touch on the general plan but noted that the general plan discourages commercial uses but doesn't see how this use falls into a commercial use. Commissioner Cohen asked if bed and breakfast homestay requires a business license, would they be required to pay transient room tax, does Utah clean air act regarding smoking apply, and do ADA requirements apply? Mr. Nakamura said ADA applicability determined with county building review, the building isn't under the commercial building code but is considered a residential building. Commissioner Cohen said clean air act does allow smoking in guest rooms but not common areas. Mr. Nakamura said he doesn't know if health department will touch on that. Commissioner Cohen said the health department touched on food code, and if applicant served only continental breakfast, won't need a food handler permit. Commissioner Cohen asked staff if they recommended approval, because in their opinion, reasonable conditions can be imposed. Commissioner Barbushev asked if county building department says the home is owner occupied. Mr. Nakamura said they didn't address or imply. Commissioner Cohen said in this case needs to be owner occupied or individual responsible for operating.*

## **PUBLIC PORTION OF MEETING OPENED**

**Speaker # 1:** Real Estate Attorney

**Name:** Brett Hastings

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

**Comments:** Mr. Hastings addressed concerns and stated that applicant will meet conditions. He's had several conversations with staff and counsel, conditions are acceptable and reasonable. Conditions, when applied and met, will mitigate any detrimental effect. Regarding the issue of granite community plan, which discourages commercial development, there is no definition of commercial use. This use doesn't change the nature of the building from residential to commercial, this use is squarely within the residential portion of the building code. It isn't a hotel or commercial use in that sense. Utah case law supports the fact it doesn't violate the city plan. Building codes and conditional use recognize the home remains residential. He addressed letters received that if parking is on the road, it could cause hazards. Applicant will take steps that no one parks on the road and communicate that to their guests. The clients will be prohibited. If they fail, that can be reported to this body and subject the property to revocation of conditional use. All the expected detrimental effects can be mitigated. Applicant will comply and believes the conditions are reasonable and address detrimental effects. As staff report states, state statute requires approval. Respectfully request body to approve.

*Commissioner Cohen asked if this will be a bed and breakfast, how will it be advertised, and the name of the bed and breakfast. Mr. Hastings said they use Airbnb to advertise, have not ever had a business name, typically don't have a name, known these are private residence. Commissioner Cohen said if they have to get a business license it will need a name and verified that applicant plans to rent all to one group and not to five different people. Mr. Hastings said historically that's how they've done it, but not out of the question to rent to five different people; there might be an instance where that might change. Commissioner Cohen said it sounds like they want to use it as a short-term rental not a bed and breakfasts. A bed and breakfast has check in and breakfast is served in the dining area; this looks to be set up with the kitchen upstairs, stock the fridge, downstairs is private living quarters and if the dining is downstairs, doesn't fit what a bed and breakfast is. Mr. Hastings said he had discussion with counsel, breakfast will be served in the upstairs kitchen area. They haven't allowed guests to make their own meals, can't see how that changes the nature from a bed and breakfast. He defers to the ordinance and has met all conditions. Ordinance allows up to 30 consecutive nights, this is used as temporary when someone is visiting the area. The nature of the home is that on the second-floor clients have elected to rent rooms and will not rent to more than ten people, maximum nine because of beds. Willing to meet all special conditions, which addresses all concerns; approval is appropriate and required by state statute.*

*Salt Lake County District Attorney, Zach Shaw wanted to give guidance. Looking at ordinance, there are two significant distinctions between a bed and breakfast and a short-term rental. 1) There is an owner or operator living at the bed and breakfast, and 2) breakfast is served in bed and breakfasts; neither is a requirement for short term rental under county ordinance.*

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

**Speaker # 2:** Granite Community Council Vice Chair

**Name:** Greg Schiffman

**Address:** 10015 Altavilla Drive

**Comments:** Mr. Schiffman said if the County is indeed upholding the ordinance, it should verify that whoever is the caretaker is a full time resident, verify he is a tax payer, and not a transient caretaker who may or may not be a part time resident. Mr. Schiffman attended a UDOT meeting, and all rental cars from Salt Lake airport are two-wheel drive; because of the steepness of the property, unless someone has 4x4 or snow tires, getting up the driveway will be an issue. There was recently an overturned car on the private road. Airbnb is not set up to be a bed and breakfast offering, but set up for short term rentals. Bed and breakfast use is to skirt the law; the property is a short-term rental. He understands there are nine beds, someone will bring a sleeping bag, 10-person capacity can be skirted. If they don't comply with ordinance, the County should look at revoking the business license.

*Commissioner Cohen said that business licensing issues will be looked at with the business license application. Point of 2-wheel drive or 4-wheel drive will be important, if they're going up the canyons they will need that or chains. Inconceivable in Utah that no rentals have 4-wheel drive. Commissioner Elieson said if you are renting a vehicle at the airport and require 4-wheel drive, all agencies will accommodate and have one available. Commissioner Cohen said condition needs to be made known to potential customers. Mr. Schiffman said if commission will hold applicant to the fire, they should make sure ordinance is upheld and that caretaker is a full time resident at the home and paying taxes. Commissioner Cohen said it could be owner or operator, you could hire someone to run it. Counsel said commission could add condition that staff verifies the operator will occupy the home. Mr. Schiffman asked about the business license process. Commissioner Cohen said they aren't the business license official, the county business licensing department would check off everything and confirm they can obtain a business license and qualify.*

*Mr. Nakamura said he checked with business license, and applicants could register under their personal name as owners of the property. Mr. Schiffman said Granite does recognize the ordinance and to be very careful applicants adhere to the full ordinance and just not part.*

**Speaker # 3:** Citizen

**Name:** Terry Wood

**Address:** 3227 East Deer Hollow Drive

**Comments:** Mr. Wood said that a five-bedroom bed and breakfast is not just one person renting out their home. It does become a commercial business and would require a license. With the conditions imposed, how are they going to be enforced, inspected, enough staff to do regular inspections, have inspections before they can receive a license, inspected once a year, and that employees go out and make sure every condition is met? He doubts this will happen on a regular basis.

Mr. Wood has the following additional concerns: One: Quality of lifestyle, found location, still close to an urban environment, built his home in 1976. People in the neighborhood have the same special feeling, very quiet neighborhood. Can't mitigate that with conditions. Two: Precedence. Once bed and breakfast established, what will stop other big homes from doing the same. They aren't Moab. County has a planning commission because they have experience and wisdom, not stated in county ordinances. Hope these concerns are taken to heart, contemplate and use wise judgment, respectfully ask to protect the lifestyle and investment in the area, don't want to change the nature of neighborhood.

**Speaker # 4:** Citizen

**Name:** Christine Sears

**Address:** 3257 East Deer Hollow Drive

**Comments:** Ms. Sears said this is an eight-bedroom property. Large group rental has seen 30 people in the property for political rally, who don't know the neighborhood. Looked at 124 homes before she found hers; this is her home and has lived there for a lot of years and has never seen anyone living in the property. Invested in where she lives, her street has sixteen occupants, just increased traffic 40 percent of people that don't live there. Secondly, concern about fire is not the ashtrays; she has seen the quail fire, she has heard renters out on the patio and isn't confident there will not be a cigarette flick because they are not vested in the property. Had a gas leak 3 ½ years ago, they live in a difficult area for egress, took responders over eighteen minutes to arrive. Can't say it's residential yet comply with commercial requirements. Commercial entity zoned single family residential is not fair or right and not true honor of law or ordinance. She's seen the cars, she's seen the parties. This is making a profit by people who don't live here and paying professionals to push this through. This is the first time she's seen the owners, she knows her neighbors. Respectfully ask to not put one person's profit above an entire community.

**Speaker # 5:** Citizen

**Name:** Robert McMichael

**Address:** 3257 East Deer Hollow Drive

**Comments:** Mr. McMichael said the neighborhood in question is very steep. Community maintains its own road, due to the steepness of primary access road. Uniqueness should come in to play; fire department calls the area nonconforming and added additional traffic is a concern. How will the special conditions and uses be patrolled? Community pays for plow and repairs and two HOAs. Where does liability lie if guests have an accident?

*Commissioner Cohen asked about the history of the gate. Mr. McMichael said they did gate the bottom off, but gating Wasatch would pose an issue. Gate was locked as often as it could be but had to pay to have it repaired because folks were running in to it. Gate code is required in and out. Commissioner Cohen asked*

*if they had a remote control. Mr. McMichael said it's an arm, not a gate. Access points are all labeled private lane, private property.*

**Speaker # 6:** Citizen

**Name:** DeeDee King

**Address:** 3171 Deer Hollow Drive

**Comments:** Ms. King understands that a lot of parking is required, and only one spot at the bottom. She is concerned that two cars parked at the bottom because they cannot get up the driveway will not satisfy the required parking. Doesn't know how this will be enforced. When five people are there, and four to five cars can't get up the hill, where do they park?

**Speaker # 7:** Granite Community Council Vice Chair

**Name:** Greg Schiffman

**Address:** 10015 Altavilla Drive

**Comments:** Mr. Schiffman cannot speak enough to the master plan. Intent of the plan was never to have commercial activity; technology got ahead of the master plan. People vested in the master plan; had intent not to allow commercial activity. Intent to keep residential; take into consideration the master plan.

*Commissioner Cohen said all around concept of the people was to have rural character, notwithstanding being encroached on by cities. Island of peace is lovely, a unique part of the county, hope for the area remains 1-acre zoning R-1-43, discourage commercial operations. Plan does recognize the uses permitted or conditional uses within the zoning plan, can't disregard what's allowed or the process such as this. Mr. Schiffman said it is one of the last rural communities to keep its identity. Master plan intended community to be protected. Commissioner Cohen said applicants were caught and ceased doing what they were doing and are going through the process, and County giving homeowner an opportunity to comply. Staff listed ten conditions. Mr. Schiffman said when you think of the intent to put together the master plan, didn't think they could foresee this happening or intend to use as commercial.*

**Speaker # 8:** Real Estate Attorney

**Name:** Brett Hastings

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

**Comments:** Mr. Hastings said his clients are here to make sure they are compliant and property will be used in such a way. Doesn't know any inspections required but will comply for this use. This has become a legalistic type process, spent eight months reviewing codes, ordinance and statutes. Helping applicants through the process, here to not skirt the law, but to come into compliance. Granite community plan in cooperation with ordinance states this use is appropriate in this area; applicant can comply with conditions to use their property for this use. It doesn't change the residential nature of the area, quality of life remains, people using the home and allowed to use every other home. Recommendations made, this property is complying, will comply with special conditions and will be subject to review. Understand and commit to conditions imposed on them. Respectfully ask for approval with the information presented.

*Commissioner Cohen said staff conditions state someone has to live there. Mr. Hastings said Chris has lived there 11 years full time. Applicants live there secondary and pay taxes and full-time resident lives there. Commissioner Barbushev asked if applicant applied for conditional use eight months ago. Mr. Nakamura said initial discussions started eight months ago. Commissioner Barbushev asked if they stopped renting. Chris said they stopped advertising and only personal friends have stayed. Mr. Hastings said several people came to visit; once clients understood the compliance issues, they began the process to get the conditional use and have not rented through Airbnb and have not advertised. Mr. Hastings went down the list of conditions regarding parking, clear driveway, etc. Another space on the property is an old basketball court and could make additional space for additional spots. Lower parking is asphalt paved. Mr.*

*Hastings said it would only be cleared when there are guests. Commissioner Cohen went through the reasonable times for snow removal. Mr. Shaw said if standards in place elsewhere in county ordinance, that would be a great way to define reasonable and appropriate standard. Mr. Hastings said the “reasonable” language is ambiguous, but committed that at any time the home is being used, a parking stall will be provided for that guest. Never allowed on street parking, his clients stopped renting and began this process after a problem arose. Mr. Hastings confirmed his client is fine with all the conditions.*

*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 snow removal, short-term rental ordinance 19.04.547, changing the hours of snow removal, clean air act, business license, inspections, code enforcement to verify use is appropriate, and allowing signage.*

**Motion:** To approve application #30763 with staff recommendations and snow and ice removable one hour after snow fall and if storm is between 7pm and 6am, snow/ice is removed by 8am. Planning Commission Chair will write Findings, Conclusions and Decision.

**Motion by:** Commissioner Barbushev

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

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

*Commissioner Barbushev asked if commercial use needs to be defined in the general plan. Commissioner Cohen said the general plan would have to be amended.*

### **MEETING ADJOURNED**

**Time Adjourned – 10:27 a.m.**