MINUTES

SNYDERVILLE BASIN PLANNING COMMISSION

REGULAR MEETING
TUESDAY, JULY 12, 2016
Sheldon Richins Building (Library)
1885 West Ute Boulevard,
Park City, UT

COMMISSIONERS PRESENT:

Bea Peck, *Chair*
Julia Collins
Colin DeFord
Mike Franklin
Chuck Klingenstein
Greg Lawson

Regrets: Canice Harte

STAFF PRESENT:

Peter Barnes– *Planning and Zoning Administrator*
Amir Caus- *County Planner*
Robert Hilder – *County Attorney*
Ray Milliner- *Principal Planner*
Patrick Putt– *Community Development Director*
Jennifer Strader- *Senior Planner*
Kathy Lewis– *Commission Secretary*

The regular meeting of the Snyderville Basin Planning Commission was called to order at 6:00 PM.

REGULAR ITEMS

1. General Public Input Items

The general public input session was opened.

Glenn Colvin said he is a resident of and is on the Board of Trustees for Service Area #3. He attended a Commission meeting in late winter and asked if they would consider developing a neighborhood plan to help in their business district. At the time, the Commission was preoccupied with implementing the Master Plan in the Code. They requested to defer this request until mid-summer. He is back to ask if that is something they are now able to address. Director Putt responded that he believes this will be part of the discussion they have on the General Plan.

John Tinklepaugh said he believes that Attorney Brackin gave the Commission some bad advice. At the last meeting, she said the County doesn't enforce CC&Rs. The advice given by Attorney Brackin should have been that they don't put more burdens on an area which is unable to keep up with their duties due to lack of money and manpower. At the same meeting **Commissioner Klingenstein** made the comment that we should deal with each other in a respectful manner. Mr. Tinklepaugh said he believes that respect has to come from the new people first.

Mr. Tinklepaugh said development rights approved by the Commission have impacts on the roads and the water. He reminded the Commission that the roads in Silver Creek are not County roads. Additionally, there are many residents that are on wells. Even though each person has an acre foot of water, this is a "paper" acre foot. No one knows the amount of water that is really there. If a well runs dry, the County won't pay to have a new well drilled.

Many of the long-time residents are becoming frustrated. He noticed there was frustration from many of the Commissioners as well when they were processing the Dell application. It seemed they felt their hands were tied.

Mr. Tinklepaugh proposed that in the future when a presentation comes before them the most important aspect of their decision making is common sense. It is common sense that a parcel with multiple buildings will have negative impacts on their roads that the citizens of Silver Creek have to maintain. It will have negative impacts on their wells. He thanked the Commission for their time.

There were no other comments made and the public input session was closed.

2. *****The applicant has requested this item be taken off the agenda*****
<u>Public hearing and possible action</u> regarding a Plat Amendment to adjust the Lot lines between two lots and vacate a portion of Redden Road and Maple; 343

Maple Drive; Parcel SL-F-314-A and SS-18-D; Scott Sharp, applicant – *Jennifer Strader, Senior Planner*

3. **<u>Public hearing and possible action</u> regarding a Plat Amendment to amend Lot 7 of the Cove at Sun Peak Subdivision Plat; 5420C Hollow Lane; CSP-7; Jared Rakisitis, applicant – *Sean Lewis, County Planner***

Planner Sean Lewis said the application is to amend the building pad on Lot 7 of the Cove at Sun Peak. The property owners want to expand the pad to have a longer driveway and move the house to a higher elevation on the hill. A vicinity map was shown that demonstrated the location of the lot.

Planner Lewis said there have been two plat amendments approved in the subdivision to amend building pads. The first was on Lot 8, which is immediately adjacent to Lot 7. It smoothed out the lines of the building pad. The building pad was expanded, which gave some extra room to build the house. The second amendment was on Lot 5, which had three 5,000 square-foot building pads. This was combined into two. This reduced the building area by 5,000 square feet.

The proposed house is sitting almost entirely outside of the building pad. A slide was shown of the proposed building pad and another as it currently exists. Planner Lewis said that Staff's analysis shows that the proposed house would fit into the existing building pad.

Planner Lewis said the applicant would like to have the driveway come to the back of the house so that the garage and main living area is one level. The neighbors would like to have the house moved up the mountain so that the adjoining houses don't have a linear feel.

Planner Lewis said Staff has recommended denial due to lack of good cause. Staff believes the original building pad would be sufficient to what is being proposed; however, Staff has no issue if the Commission can find good cause.

The applicant, Jared Rakisitis, said there are a few reasons to alter the building pad. One is to distance from the road. One is to avoid a linear design with the neighboring properties. Another reason is the topography of the lot. It creates a 20-foot difference in elevation. The lot is very steep on the bottom part which would result in having to go up a half a flight of stairs to reach the house. Meeting the driveway grade requirement of the Code would be difficult.

Chair Peck asked if the reason why the building pad was placed at this location is known. Planner Lewis responded that in the original plat, all of the building pads are hugging the road. It appears the original desire might have been to have the open space behind the house.

COMMISSION QUESTIONS AND COMMENTS

Commissioner DeFord asked if the property owners were aware of the building pads when they purchased the lot. Mr. Rakisitis said they were. They were also aware that other building pads had been moved within the subdivision. He said when Lot 8 smoothed out the building pad lines, they also moved the home out of the original building pad.

Commissioner DeFord said he is hesitant to move a building pad because he doesn't know the reason why it was put there. He needs to know the history so that he will know if there is a good cause to move it. What he is hearing from the applicant is that the elevations where the house is proposed will be difficult. It will be difficult to meet the Code on the driveway. Is that because he wants to put it in a different location than what has been specified? The driveway grade was discussed.
Mr. Rakisitis said the Code requires an average driveway grade of 12% grade. The longer the driveway, the easier it is to obtain the needed elevation. When they push the

house towards the road they don't have much driveway to gain the needed elevation. He added this is more than just a design issue.

Commissioner DeFord said he still has to ask why the pad was put at this location in the first place. What would be the affects of moving it? He asked Planner Lewis if there has been an analysis of the grading that would be required. Planner Lewis said for every 10 feet of elevation increase, there needs to be 100 feet for a longer driveway in order to keep the grade. There would be some significant cuts that would go into the driveway as proposed. Even in the amended plat there would be some significant grading issues.

Commissioner DeFord said he isn't convinced at this time that there is good cause. He would like to know if the cuts will be visible.

The public hearing was opened.

Janice Ugaki said she lives on Lot 6. She used to sit on the HOA board. She is in favor of the plat amendment. She has some background information about the location of the building pads. When the subdivision was developed, the developer believed the houses would be set back an adequate distance from the road.

When the owners of Lot 8 asked for an amendment to the building pad, they placed their house as close as possible to Lot 7. When the Wades purchased their property, they knew where the building pad was located, but the house next to them had not been built. The amendment to Lot 8 had not yet been granted. They bought a 10-acre lot thinking they had a fair amount of ground to build on; however, as it has turned out the houses are much closer than one would think.

Ms. Ugaki said she believes the Code concerning the driveway grade has changed since the Wades bought their home. Because of this, their house will need a longer driveway to reach the home and meet the requirements of the Code.

Chair Peck asked if the structure on Lot 8 was moved closer to Lot 7 when the building pad was altered. Ms. Ugaki said that is correct. The owners of Lot 8 placed their home are as close as possible to Lot 7. She said Lot 7 is getting squeezed on both sides. If the Wades build their house in the designated location, they would be right next to neighboring houses. If they move the house up the hill about 25 feet, they would have a little more space on each side. Planner Lewis displayed an aerial photograph of the parcels. He pointed out the lots that had been discussed.

Chair Peck questioned if other lots in the area will be coming in to ask to have the plat amended. Ms. Ugaki said the only lot that has been built on is Lot #3. She closed her statement by saying she is strongly in favor of the plat amendment.

Marcus Leleux said he is the current owner of Lot 8. He moved there in 2012. He owns 15 acres. His house would be about 20-30 feet from the house on Lot 7. When they moved into the neighborhood they didn't think this would be a possibility with lots this large. It appears the Wades are proposing to build a single level home. With the gain in elevation the house wouldn't peek out too much.

The public hearing was closed.

COMMISSION QUESTIONS AND COMMENTS

Commissioner Lawson said he agrees with **Commissioner DeFord**. He doesn't think they have enough information. He would like to see a topo map that shows what the slopes are. Looking at the contour lines, the slope seems to increase uphill. He recommended that a grading plan be submitted.

Commissioner Lawson said he suspects the building pads were located where they were because this is in the Hillside Stewardship zone, which has a steeper topography. A grading plan would help the Commission come to an objective conclusion. At this time, he could vote in favor of it.

Planner Lewis said the vacation of the access easement to the Utah Olympic Park has not been discussed. This was recorded before the subdivision was developed. It may be the reason for the location of the building pad, which was placed outside of the easement. Even though there is a recorded document that removes the easement, it is still shown on the plat. **Commissioner Lawson** said he would be in favor of changing the plat to reflect what is actually on the ground.

Commissioner Klingenstein said he appreciates the history, although it doesn't explain why the rest of the lots are located close to the road. He said it seems to be a reasonable request, but they don't know what the consequences might be. Mr. Rakisitis needs to start educating the Commission as to why there is good cause. He added that good cause is not something that helps the applicant have a better house.

Commissioner Klingenstein explained that the reason they are concerned about good cause is precedence setting. The Commission has to be consistent with their decisions. The applicant's job is to prove why there is good cause. It can't be about the view from the back yard. Right now, he can't come up with a good cause to move the building pad.

Commissioner Franklin said he echoes the feelings of his fellow Commissioners. He doesn't see a reason to say there is good cause. If they were to shift the house slightly to the west, it could fit in the original building pad. The house wouldn't have to go up the hill. He said that a variance would most likely be granted for the steepness of the driveway if they can prove that this is the only way they can access the building. He said they have plenty of space to put their house in a good sized building pad.

Commissioner Collins said she agrees with the other Commissioners. One of her concerns is that this would be the biggest building pad in the area. It would be 27,753 square feet. Her second concern is the ridgeline and site lines.

Commissioner DeFord asked Planner Lewis when the easement was removed. Planner Lewis said according to the applicant it was August 17, 2007. The applicant has the recordation number. This was after the neighborhood was platted.

Commissioner DeFord said this is about the third application this year that has come to the Commission without any information concerning why there is good cause even though Staff has most likely informed them that information is needed.

Commissioner DeFord noted there has been testimony from the neighbors in favor of the amendment; however, he wants the applicant to tell the Commission what the good cause is. He doesn't think the Commission should make it up as they move through the process. At this point, he is in favor of a continuance; otherwise, he would vote against it. There seems to be a consensus from the Commission that they don't understand the good cause.

Chair Peck asked Planner Lewis to address what constitutes good cause. Planner Lewis said it is a low bar. He said **Commissioner Klingenstein** has stated it well. There has to be a reason regarding grading or site issues that lead to good cause. It is not just because someone wants a specifically designed house or to have a better view. There has to be a measurable way that the change they are requesting is better. The applicant needs to answer the question, "What are they making better?"

Attorney Hilder said that Planner Lewis has made a good statement. Good cause has to be measureable and it is a low bar. Good cause is not defined in the Code. In general, good cause legally means "adequate or substantial grounds or reasons to take a certain

action." He said the phrase "good cause" is found in many legal documents for no other reason than that wordsmith's believe it sounds "lawyerly."

Attorney Hilder said good cause could be what they heard from the witnesses that they are too close and they don't need to be that close. It is something that makes sense and is supportable by the evidence. It is particular to a set of circumstance. The key point is that they don't have the facts before them.

Commissioner Klingenstein said to him good cause is about health, safety, and welfare. It has to do with the General Plan and the Development Code. It has to do with things like the driveway, cut and fills, and retaining walls. It is up to the applicant to work with Staff who will then state if there is good cause. This hasn't been done. He doesn't think the Commission should create the reason there is good cause in behalf of the applicant.

Chair Peck asked if good cause is created by the lack of bad effects or does it have to have more specific things. She agrees that more information is needed. When someone says there is no good cause, she has to ask what the good cause is that they are looking for. **Commissioner Klingenstein** said he wants to know how the action honors the General Plan and the Development Code. It is their job to see what the good cause is, but the applicant should demonstrate it.

Planner Lewis said that good cause can be different for different applications. From Staff's perspective, in this particular incidence, he would want to see if they put the house in the existing building pad what would the driveway look like. What are the cuts and fills? What would the driveway grade be? The amount of disturbance would be considered. All this information would be the baseline. Then the applicant should show what it would be with the house located at the proposed location. That analysis would most likely show the good cause. **Commissioner Lawson** noted there is language in

the Hillside Stewardship Zone that talks about areas susceptible to erosion and negative impacts to water quality, wildland fires, and impacts on viewsheds.

Chair Peck said she thinks this gives good feedback to the applicant. The applicant asked when the next meeting is that he could come back. Planner Lewis said the next opening would be on August 23rd.

Commissioner Franklin made the motion to continue this discussion to August 23rd, 2016. Commissioner DeFord seconded the motion. All voted in favor.

- **MOTION CARRIED (6-0)**

A five minute break was declared.

4. <u>Public hearing and possible action</u> regarding a Low Impact Permit for an accessory building between 2,000 and 10,000 square feet in size; 1123 Beehive Street; Parcel SL-D-244; Bob Davis, applicant – ***Amir Caus, County Planner***

Planner Caus introduced the applicants, Bob and Ronda Davis. An aerial view of the property was shown. He said in 2014 the property acquired an agricultural exemption permit to construct a 2,400 square-foot barn for goats and chickens. A slide showed the application for the agricultural exemption.

Between October 2014 and June 2015, multiple complaints were received and a stop-work order was issued. In November 2015, the Administrative Law Judge directed the applicant to work with the Building Department. From that time to April 2016 there was no communication from the applicant.

On April 7, 2016, a Summit County Deputy, the Code Enforcement Officer, and a Building inspector inspected the property. It was documented that contractors were

installing septic, plumbing, heating, and electrical. Soon after, another stop work order was issued.

On April 19, 2016, the applicant received a non-compliance letter from the Code Enforcement officer. In May 2016, an application was received by the Planning Department. This application was for a low impact permit for an accessory dwelling. As of June 6, 2016, fines have accrued for the property to almost $37,000 for building without a permit.

Pictures were shown of the construction that has taken place. Sheetrock and bathtubs have been delivered. Full electrical wiring has been installed. There are pictures of septic being installed, which was not permitted through the Health Department. No grading has been permitted from the Engineering Department so there is no information on stabilization, revegetation, driveways, or the number of parking stalls.

The request by the applicant is to convert the agricultural building into an accessory building. The structure has been divided into three spaces. One space would serve as an accessory dwelling, the other two as art studios. According to the Snyderville Basin Development Code, this would require a low impact permit. The Community Development Director is the final land use authority.

Planner Caus said that art is a broad term. It can contain hazardous chemicals. Would welding occur? It is unclear what is intended for this particular application.

Planner Caus said that information has come to Staff's attention that there already is an accessory dwelling within the existing home. The Code allows for only one accessory dwelling. That means that an accessory structure would not be permitted. The Code enforcement officer has attempted several times to enter the house but access has been denied.

Additional concerns of the low impact permit would be:

- Would vehicular traffic be increased?
- Would the demand for parking be increased?
- Would two separate art studios mean additional parking?
- Pedestrian-vehicle conflicts would be intensified.
- Environmental concerns exist due to the non-permitted septic that has been installed. What kind of chemicals would be used in the art studio? Would they be disposed of into the septic system?
- Increased noise would be expected.
- Significant dust and dirt would be expected because there are no plans for stabilization.
- Intensification of lighting would be expected.
- No landscaping plans have been received; therefore, Staff cannot confirm the landscaping requirements would be met.
- Several Chapter 4 requirements are not being met.
- The use is not consistent with the goals and policies of the General Plan.

Staff recommends the Planning Commission gives direction to the applicant and Staff how to move this application forward. Should the Commission choose to make that recommendation, Staff has prepared findings of fact and conclusions of law.

The public hearing was opened.

Bob Olson said he is representing the Board of Trustees of Silver Creek, of which he is the chairman. He is also representing himself as a resident. In the packet the Commission has his comments. He was very careful with his wording. He doesn't believe the LIP, as presented, will be what they see on this property. He suggested this is a very difficult LIP to approve.

Commissioner Collins asked the position of Special Service Area #3 is for this application. Mr. Olson said there is a letter that states his opinion. They are against this being approved.

LuAnn Lukenbach said she lives in Silver Creek. It is her understanding that originally the request was for an agricultural building. She said there have been bathtubs, showers, and heating units being brought to the building along with a furnace and a boiler. This leads her to believe it is not intended to be an agricultural building.

The structure has three sets of doors and three sets of entrances. This would make three nice rental units. She noted there are three sets of furnaces and three sets of bathrooms. She doesn't think an art studio needs a full bathroom. Her concern is that even if the application is denied, what will happen if the applicant still turns it into a triplex. What type of enforcement can take place?

Don Covert lives on Parkway Drive. He is the closest neighbor and is impacted the most by what is occurring. There are many vehicles parked on the property. There are dead animals on top of fencing posts. This should not happen in a neighborhood.

Mr. Covert said that chickens and goats are normal for Silver Creek. He said it would be a disaster if the Commission approved 10,000 square feet. He believes that the septic system runs down into his neighbor's pond. Planner Caus clarified that the structure being proposed is 2,400 square feet.

The public hearing was closed.

Chair Peck asked Mr. Davis if he had anything he would like to add.

Mr. Davis said in 2014 he came to Summit County and received a permit to build a barn. He put goats in the barn, but no chickens. He went to the Judge with the Ordinance

Officer. The Judge said he had no problem with what he was doing. He is upset because he has made about 15 trips to the Planning Department. He has not only his spent time, but about $6,000 in blueprints, surveys, and other items. He has only asked for what he was told he is allowed to do within the zone.

Mr. Davis said his intention was to make goat cheese, but he has discovered that he is allergic to goats. The barn is not going to work out because he is allergic to goats. He has told the Planning Department several times why he wants to change the use of the building. He said there is a lot of presumption being made by the Planners. During this time, his father-in-law has passed away and his mother-in-law needed a place to live.

Mr. Davis said that "this guy" (Planner Caus) called him on the phone and yelled and screamed at him. He said he doesn't want to communicate with someone like this. "This guy" told him that a bulldozer was going to come and tear down the structure. He does not want to do business with this sort of arrangement.

Chair Peck asked Mr. Davis if he lives in the house on the property. Mr. Davis said that sometimes he lives at the property. **Chair Peck** asked if he is trying to convert the barn into an accessory dwelling for his mother-in-law. Mr. Davis said one part would be for his mother-in-law, there would be an art studio for his wife and a "man-cave" for him.

Chair Peck asked if there is a mother-in-law apartment located within the house. Is there a separate entrance or a separate dwelling in the house as has been reported? Mr. Davis said, he wouldn't say that, and then added there is not.

Chair Peck asked him to describe what he believes the County told him is allowed to be built. Mr. Davis said that someone came out and said he could have a 1,000 square-foot accessory dwelling. She said he could have two large studios if he converted the building that was already constructed. She gave him instructions on how to go about doing this.

Mr. Davis said he has paid for an engineered set of blueprints. He has a topo map with a surveyor's stamp on it. He has spent close to $6,000 and has taken about ten trips to accomplish these things. He is unhappy with how he has been treated. He has made around 20 trips, including visits to the Fire Department and the Health Department. He has done nothing illegal. Everything people are saying is based on presumption.

Commissioner Franklin told Mr. Davis that he has a strong credibility problem. The County had documented evidence that he has not had any inspections. He has built this structure without proper authorization. He stated he doesn't understand why a full bathroom is needed for each art studio.

Commissioner Franklin said people from the neighborhood have stated they have seen a mother-in-law accessory apartment in the house. By Code, two accessory dwellings are prohibited. **Commissioner Franklin** told Mr. Davis he is contradicting his own story. This creates a lack of credibility.

Commissioner Klingenstein said he is trying to learn the history of what has happened, but is confused. He said the first piece of history they have is an application for an agricultural permit. This application clearly states there were to be goats and chickens in the structure. At some point, the decision was made to convert the structure to a different use. He asked when that decision was made. Mr. Davis said it is being made right now. **Commissioner Klingenstein** asked him to fill in the blanks of what happened between August 2014 and right now. When were goats introduced to the property?

Mr. Davis said there were two goats on the property around October 2015. **Commissioner Klingenstein** asked how long did the agricultural use continue. Mr. Davis said it was short lived because of his allergies. The goats were there a couple of weeks.

Commissioner Klingenstein asked what happened at that point. Did the building sit dormant until construction commenced? Mr. Davis said there was a little construction. **Commissioner Klingenstein** said he needs Mr. Davis to build a timeline of the events. **Commissioner Klingenstein** said the County's Enforcement Officer has kept a detailed history. He told Mr. Davis that the Commission's job is to understand his point of view, but they haven't been shown any evidence supporting what he has stated.

Commissioner Klingenstein said what he is seeing is an agricultural use that has suddenly become a residential use with three barn doors and three stalls for two goats. **Commissioner Klingenstein** asked if he hoped to increase the goat herd. Mr. Davis said that is correct.

Commissioner Klingenstein said he is having a hard time understanding how it got from an agricultural use to a residential use. Mr. Davis said he thinks this is still an agricultural use. He said the bathrooms are not plumbed. The bathtubs were put there for watering troughs for the animals. He said there are no toilets or sinks. There is no sheetrock, but there is some wiring.

Commissioner Klingenstein said another issue is that people have testified there is already an accessory dwelling in the single family home. The only way to ascertain if that statement is true is to allow an inspection, which he has prohibited. That adds to the difficulty that the Commission has to make a decision.

Commissioner Klingenstein told Mr. Davis that he appreciates his patience. The Commission expects him to be treated well, but they also expect Staff to be treated well. Mr. Davis said Staff needs to abide by the rules. **Commissioner Klingenstein** responded that they all need to abide by the rules.

Mr. Davis asked if agricultural buildings have ever been converted to residences in Summit County. Planner Caus said it has been done and gave some examples.

Commissioner Klingenstein said that once the change was made from agricultural use to human use, it triggered the need for inspections. Mr. Davis said it is not for human use. That is presumptuous. **Commissioner Klingenstein** said it is now being designed for human use. Mr. Davis said the design is for either goats or humans.

Commissioner Collins said it has been brought to their attention that the septic tank was installed without the Health Department's knowledge. Mr. Davis said it is a cistern. He explained what a cistern is. He said this is acceptable to the Health Department. The Health Department said they would issue a letter stating so to "this person" (Planner Caus). He doesn't know if they did or not. He talked to the Health Department four different times. They have never said they have a problem.

Commissioner Collins asked Planner Caus to address the issues of the septic if this should become an art studio. Planner Caus said without knowing what kind of materials are being used, the Health Department wouldn't know what kind of septic and infiltration system would need to go in place. No approvals have been received from the Health Department.

Commissioner Collins said the average agricultural pole barn has a dirt floor. Cement is very expensive. She noted he has added heat to the floor. If the intention was to build an agricultural barn, this is somewhat suspicious. Mr. Davis responded that all milking barns have heated floors. The animals milk much better. He said there are no furnaces in the building.

Commissioner Collins asked if he would describe the art studio use. Why does he need three bathrooms? Mr. Davis said one art studio would be for water colors and the other would be a "man cave." He said everybody has to use the bathroom and a toilet seems better than a tin can.

Commissioner Collins said that in the packet there is a picture that shows ten cars in the driveway. She asked if he can explain what was happening to require that many cars to be on the property. Mr. Davis said the building will take care of the cars because there will be parking provided.

Commissioner Collins asked why there were ten cars at his home. Mr. Davis said they were at his property for this and that. **Chair Peck** asked if the cars belonged to people that he knows. Mr. Davis said he has 17 kids and 28 grandkids, so it's hard to say. He added that all the cars are registered. **Commissioner Collins** asked if this is a daily occurrence. Mr. Davis said that he wouldn't say that it is. He said he owns three cars.

Commissioner Collins said that she would like to see some evidence of what he is saying. Mr. Davis said he is tired and fed up with the entire thing. He is going to put up a "no trespassing sign" and see where it goes. He believes he is within his rights. **Chair Peck** said the Commission will continue to flesh out his application. If he doesn't want to participate that is his right, but she would appreciate if he would allow them to finish asking him questions. Mr. Davis said he is confused by the question of why he would want to have a bathroom in a building. **Chair Peck** said they will try to clarify why they are asking the questions they are.

Attorney Hilder said that he has to leave the meeting, but would like to make some comments before he does. As has been well pointed out there is a huge credibility issue. They have non-responsive answers, such as "a little bit of this and a little bit of that." That response is not an answer to a legal question. He left his card with Mr. Davis. Mr. Davis needs to understand that having engaged in the building process through the low impact permit, he has granted access which the County will get through the courts if he doesn't provide it.

Attorney Hilder said he also needs to understand that the person sitting by him is Planner Caus. He is not "that person." He needs to be addressed with respect. Attorney

Hilder said if he were still wearing his judge's robes he would find him lacking credibility; however, that is the Commission's role tonight, not his.

Commissioner DeFord asked Attorney Hilder how the Planning Commission can even see this when he has so many fines. Attorney Hilder said in his office, they don't want the fines as much as they want compliance. They would work with Mr. Davis if he was in compliance. Mr. Davis has asked what is wrong with having a bathroom in a building; however, the plan shows three bathrooms. He asks what is wrong with having an art studio and an apartment; however, there are two art studios and an apartment.

Attorney Hilder said if one of the three sections is a "man cave," then the allowable square-footage of the living area will be exceeded. Mr. Davis needs to settle on what he is doing. Attorney Hilder said he needs to determine if Mr. Davis is guilty of a Class B misdemeanor in his initial statements.

Attorney Hilder said the County will sue for the fines because they are being ignored. The property will be inspected to see what is and is not there. It is known that this has gone beyond agricultural. At this meeting, Mr. Davis has said that there is some wiring, but initially he said there would be no wiring. Attorney Hilder said this could be brought into conformance. If it was, than perhaps something could be worked out.

Commissioner DeFord asked Mr. Davis if this is his primary residence. Mr. Davis said it is. Planner Caus said the records show the main residence for Mr. Davis is in Willard, UT.

Commissioner DeFord asked Planner Caus if the County knows that there is an existing accessory dwelling. Have they been allowed to inspect it? Planner Caus said they have not been allowed to inspect the single family home to see if there is an accessory dwelling, but they have reason to believe there is. The Code Enforcement Officer has said he has tried to inspect it eight different times but he has never been

granted access. **Commissioner DeFord** said he doesn't believe the Commission should even see this application if Staff can't confirm there is an accessory dwelling on the lot.

Commissioner DeFord asked Mr. Davis why he would go through such an expense as constructing the barn with heated concrete flooring without knowing that he had an allergy to goats. Wouldn't he have checked out that he liked making goat cheese before he went through this expense? Mr. Davis answered that apparently he didn't.

Commissioner Lawson said the Staff Report pointed out that there are existing violations with the sewer. Additionally, there are issues with the water supply. There is no storm water plan. These three violations need to be cleared up before the application proceeds. Mr. Davis is not in compliance with what he has already done. The violations need to be corrected before the Commission can process a new application. The fourth issue is how many accessory dwellings are already on the site. If there is already one, his rights are exhausted. These things have to be taken care of before the Commission can take any type of action.

Mr. Davis asked if the Commission can appreciate his frustration. **Chair Peck** said she believes there is frustration on both sides. She summarized what the Commission is hearing. The primary question is if there is already an accessory dwelling on the lot. Mr. Davis asked for an accessory dwelling to be explained to him. Planner Caus read the definition from the Code. **Chair Peck** said it might be called a mother-in-law apartment. If there already is one in the house, he has met the allowed limit. It appears he is now trying to put in three units. Mr. Davis said that is presumptuous.

Chair Peck told Mr. Davis it is troublesome for the Commission that he is under the cloud of fines and that he is not willing to let anyone enter the home or the proposed structure. Mr. Davis said he has been asking the Building Department to come out, but they won't come. **Chair Peck** said he is welcome to call the Staff tomorrow to come out.

Planner Caus added that the Enforcement Officer is in attendance. **Chair Peck** said she is sure the Enforcement Officer would be delighted make an appointment with him.

Chair Peck said she believes the application is going to fail because of lack of information, not allowing inspections, and not answering the questions. She is troubled with the existing fines. Mr. Davis said he has been blindsided. He will not come back.

Commissioner Franklin made the motion to forward a negative recommendation to the Community Development Director. The motion was seconded by Commissioner Klingenstein.

- **MOTION CARRIED (6-0)**

Mr. Davis requested the record show that he has wasted a lot of his time.

5. <u>Approval of Minutes</u>

May 10, 2016:
Commissioner Franklin made a motion, which was seconded by Commissioner Collins, to approve the minutes as written. All voted in favor.

MOTION CARRIED (6 - 0)

DRC UPDATES

(None)

COMMISSION ITEMS

Commissioner Klingenstein thanked the Commission secretary for the quality for the minutes. He requested his comment be placed in the record.

Commissioner Klingenstein said he was frustrated at the last meeting. He hopes Staff and the County Council will take a look at the last vestiges of the "wild west." He agrees it is a shame to have to get into the regulation business, but that is the cost of urbanization. He thinks they will continue to see these types of applications.

Commissioner Collins said a member of the audience raised a question during the public input session about neighborhood plans. She asked if it has been contemplated to discuss this during the summer months. Director Putt answered that he fears overextending themselves, taking into account what is in front of them to complete the Code rewrite. He said they are making good progress in some key areas.

Director Putt said he hasn't had clear policy direction in terms of the number of accessory buildings or site coverage in the Rural Residential zone. He would feel more comfortable with having a conversation with the County Council before Staff begins to work in that area.

Director Putt said a bigger discussion is needed along the lines of what is intended by low density in the agricultural and rural residential zones. They need to discuss the issue of site coverage and accessory buildings, including barns versus ice rinks versus riding arenas in a rural agricultural zone. It needs to be decided if they want to further regulate development of structures and buildings in these zones.

Director Putt said this is an important, but not an easy, topic. There will be strong opinions on both sides. **Commissioner DeFord** said that for him, it would be what the intent is of an accessory dwelling. In the Basin, they are interested in housing more people and giving more people the opportunity to live here, beyond that is the caretaker's or the mother-in-law's suite.

Director Putt said there are two issues. One is the accessory building. He thinks these are aptly defined in the Code. They are clearly incidental and subordinate to the

primary structure and use. A goat barn would be an accessory use in an agricultural situation. A horse stable in an equestrian community would be an accessory use to a residential structure. A tool shed would be as well.

Director Putt reminded the Commission that the County has changed in the last 40 years. The Rural Residential zone was very low density. Someone could have their goats or whatever they wanted because they lived a distance from anybody. Now, they are starting to fill in on each other. The Rural Residential zone may not necessarily be the best zone in all areas.

Director Putt said there is a difference between an accessory building and an accessory dwelling unit. This is an often-forgotten-about tool to meet their housing needs. They probably have the most liberal accessory dwelling unit regulations in the County. This has been designed on purpose to provide for another form of housing that meets Code.

Director Putt said at the same time, it is not their intent to go back 120 years and put people in substandard housing. When it comes to the "tiny houses" their hands are tied. They cannot allow fulltime occupancy in something that is not a Code-compliant home. The State has tied the County's hands on this.

DIRECTOR ITEMS

Director Putt informed the Commission that at the next meeting they will probably see another application for an accessory structure in Silver Creek. He said the next meeting will be a full agenda. There is a possibility that a couple of the applications will move to another date. He outlined the potential items on the agenda. In addition to the applications, he would like to give a quick overview of the draft helicopter ordinance.

Chair Peck asked if there is a way to not super-load when they have big items coming before them. She would like to give the items full attention and her best concentration. She doesn't want to be making quasi-judicial decisions beginning at 9:00 p.m. Director Putt

responded that Staff tries to manage the calendar. Staff can see if any of these applications are willing to move to another date. **Commissioner Franklin** asked if they could hold a special meeting.

Commissioner Collins said the Salt Lake City Planning Meeting frequently lasts to 1:00 a.m. She said that adding another meeting would not be a good solution for her because of her work schedule.

It was noted that **Commissioner Klingenstein**, **Commissioner Lawson**, and **Commissioner Collins** will be gone for the next meeting. Director Putt said Staff will check with Commissioner Harte to see if they will have a quorum for the next meeting and if they have any agenda items that could be moved to another date. He will report back to the Commission on what he finds out.

ADJOURN

At 8:10 p.m. the meeting was adjourned.

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Approval Signature