



CENTERVILLE CITY PLANNING COMMISSION AGENDA

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY PLANNING COMMISSION WILL HOLD ITS REGULAR PUBLIC MEETING AT 7:00 PM ON JULY 28, 2021 AT CENTERVILLE CITY HALL, 250 NORTH MAIN STREET. THE AGENDA IS SHOWN BELOW.

Meetings of the Planning Commission of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Administrative Services Director, at 801-295-3477, giving at least 24 hours notice prior to the meeting.

The full packet of backups can be found at <http://centerville.novusagenda.com/agendapublic>.

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. PRAYER OR THOUGHT

D. COMMISSION BUSINESS

1. Public Hearing -LEGISLATIVE RECOMMENDATION - Zone Text Amendment - Internal ADUs

As a result of Senate Bill 82 of the 2021 Legislative Session cities are required to implement the allowance of “*interior accessory dwelling units*” as permitted uses within a municipality. However, there are some conditions or terms that cities are allowed to regulate. Staff has prepared an initial draft ordinance (*see attachments for this Agenda Item*), which is being presented to Commission as the proposed Zoning Text Amendments.

2. Public Hearing - LEGISLATIVE RECOMMENDATION - Zone Text Amendment - Fences and Walls

Recently, the Council directed the Planning Commission and staff to review and recommend potential changes for fencing height limitations, specifically for situations involving corner lots, along the side street frontage.

3. Land Use Training - Municipal Land Use, Development, and Management Act - Part 6 - Subdivisions

Land use training and discussion regarding Part 6 (Subdivisions) of the Municipal Land Use, Development, and Management Act

4. Community Development Director's Report

Next Planning Commission Meeting - August 11, 2021:

- ***No New Applications Have Been Submitted***

City Council Report:

- *Legacy Crossing Lots 2 & 3 - PDO Amendment - **Council Approved***

E. MINUTES REVIEW AND ACCEPTANCE

July 14, 2021

F. ADJOURNMENT

Mackenzie Wood
Centerville Assistant Planner

**CENTERVILLE
PLANNING COMMISSION
Staff Backup Report
7/28/2021**

Item No. 1.

Short Title: Public Hearing -LEGISLATIVE RECOMMENDATION - Zone Text Amendment - Internal ADUs

Initiated By: Planning Commission

Staff Representative: Planning Staff - Cory Snyder

SUBJECT

As a result of Senate Bill 82 of the 2021 Legislative Session cities are required to implement the allowance of “*interior accessory dwelling units*” as permitted uses within a municipality. However, there are some conditions or terms that cities are allowed to regulate. Staff has prepared an initial draft ordinance (*see attachments for this Agenda Item*), which is being presented to Commission as the proposed Zoning Text Amendments.

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- ▣ 07-28-2021 PC Staff Report - ADU Zone Text Amendment
- ▣ Internal Accessory Dwelling Proposed Ordinance

**CENTERVILLE CITY
COMMUNITY DEVELOPMENT DEPARTMENT
655 North 1250 West, Centerville, Utah 84014
(801) 292-8232**

**STAFF REPORT
AGENDA: ITEM 1**

PETITIONER: STATE OF UTAH – 2021 LEGISLATIVE SESSION
“MUNICIPAL REQUIREMENTS FOR ESTABLISHING INTERNAL
ACCESSORY DWELLING UNITS”

AGENT: CENTERVILLE CITY PLANNING COMMISSION
c/o KEVIN DALY, COMMISSION CHAIR
**250 NORTH MAIN STREET
CENTERVILLE, UTAH 84014**

APPLICATION: ZONING CODE TEXT AMENDMENTS

APPLICANT REQUEST: AMEND CENTERVILLE CITY ZONING ORDINANCES TO
ALLOW FOR THE DEVELOPMENT AND USE OF
INTERNAL ACCESSORY DWELLING UNITS (ADUs)

RECOMMENDATION: CONSIDER RECOMMENDING APPROVAL

BACKGROUND

As previously discussed with the Planning Commission, SB 82 of the 2021 Legislative Session requires cities to implement the allowance of “*interior accessory dwelling units*” as permitted uses within a municipality. However, there are some conditions or terms that cities are allowed to regulate.

Staff has prepared an initial draft ordinance (*see attachments for this Agenda Item*), which is being presented to Commission as the proposed Zoning Text Amendments. It is expected that the Commission will receive and consider the draft ordinance language, conduct the required “public hearing,” and then formulate an official recommendation to the City Council when the language of the ordinance is deemed acceptable.

DRAFT ADU ORDINANCE SUMMARY

The draft ADU Ordinance is compiled using typical standards found throughout many Utah cities. However, such provisions have been modified or altered to reflect Centerville’s Zoning Ordinance style; as well as elements that attempt to reflect the local characteristics and temperament of using ADUs in Centerville City. Each section contains a brief description of the issues described in the Ordinance section.

Purpose – General Ordinance language describing the “why” of the Ordinance.

Scope – General Ordinance language setting the “who” of the Ordinance.

Definitions – General Ordinance language referencing the use of terms and locations for further understanding.

Use Allowed – General Ordinance language describing the allowance and zoning districts regarding ADUs. Ordinance currently only proposes ADU use in (A-L) and (R-L) Zones.

Limitations, Termination, and Exemptions – Specific Ordinance language addressing the parameters for ADU use. ADU use fundamentals such as occupancy, density, location, measurement, termination, and exceptions are identified.

General Development Standards – Specific Ordinance language setting terms and conditions of ADU use with regards to ensuring that the dwelling is subordinate to the primary home. The regulations address establishment, space and size, setbacks, heights, parking, etc.

Design Standards (Optional Consideration) – Specific Ordinance language addressing visual aesthetics for additions or detached structures. Elements identified include use of exterior materials, entrance locations, roof pitch, window treatment, etc.

Occupancy Requirements – Specific Ordinance language establishing an owner occupancy requirement and/or when a termination is warranted. The regulations also allow a temporary leave of absence before any cessation is required. A written recorded agreement with specific terms and conditions is required as part of establishing an ADU.

Violations and Enforcement – General procedures involving both civil citations or criminal penalties. Also, including the adopted state statutes violations and holding liens.

Other Applicable Regulations and Codes – General Ordinance language referencing other applicable codes and requirements such as building and fire codes.

ZONE TEXT AMENDMENT REVIEW PROCESS

Factors to be Considered

The deciding entity must consider three (3) factors when making a recommendation and a final decision for a zone text amendment. These required factors are found in Section 12-21-080(e) of Centerville City’s Zoning Ordinance. Staff’s review and conclusions for these factors are provided below:

1. **Is the proposed amendment consistent with the goals, objectives, and policies of the City’s General Plan?**

✓ ***Section 12-490.F, Moderate Income Housing Plan***

Goal 6-D – “Consider Adopting Basic or Flexible Design Standards for Small-Lot or Underutilized Land Parcels Within Existing Developed Areas of the City”

- City Objective 6-D.4 – “Consider Adopting an ‘accessory dwelling’ Ordinance with design standards. Such allowances may also be considered ‘conditional uses’ in single family zones...”
- City Objective 6-D.5 – “Consider adopting additional design and layout standards with any objectives mentioned above to ensure compatibility with the surrounding context and appearance of the neighborhood.”

✓ **Section 12-450-6. Coordination Of Transportation Planning With Moderate-Income Housing Needs**

Goal 1 – Moderate Income Housing placement opportunities should be based on their proximity to various collector or arterial transportation corridors.

Policy 1.A: As the City develops and adopts provisions and/or strategies for the allowance of accessory dwelling units or accessory apartments, the first focus for deciding appropriate locations should be properties fronting or substantially located within ½ block (i.e., 300 feet), along specified major collectors, minor arterials, and major arterial transportation corridors.

Policy 1.B: Owner-Occupied Accessory Dwelling Units should be encouraged along the following transportation corridors... [language describes various corridors]

Staff’s Conclusion – These objectives are centered around allowing for the use of ADUs. Keeping in mind that the state statues now require municipalities to allow them for a least 75% of the areas zoned for single-family uses. Additionally, some concepts also including design standards for creating compatibility with surrounding uses. Thus, staff concludes that the proposed Ordinance is consistent with the City’s Transportation and Moderate-Income Housing Elements concerning both the use of ADUs and of implementing design standards.

2. Is the proposed amendment harmonious with the overall character of existing development in the vicinity of the subject property?

AND,

3. What is the extent to which the proposed amendment may adversely affect adjacent property?

- **Staff’s Response:** The proposed Ordinance also includes parameters, restrictions, or limitations to prevent or mitigate impacts to adjacent properties. The listed parameters, restrictions or limitations include:

- *Limiting ADUs to be internal to the primary residence (state mandate)*
- *Owner-occupancy requirements and limitations*
- *Provision of parking spaces for both house and ADU*
- *Design Standards supporting the single-family character of neighborhoods*

OTHER POLICY MATTERS:

- *Zoning Approval Process* – The current draft authorizes the Zoning Administrator to review and approve permits for ADUs. Staff believes ADUs should be a permitted use, subject to an appeals process, and NOT subject to an approval procedure that involves “*public hearings and input.*” It sets up false expectations in the public’s perception that it could be administratively rejected if the public dislikes the allowance of the ADU.
- *Exception to Gross Density Allowance* – Due to the internally located requirement of a ADU within a primary residence, the current draft ordinance exempts ADUs from the overall gross density allowances of the single-family zones.
- *Exemption of Impact Fees* – As part of any development proposal, from single-family subdivisions to large commercial development, the City has adopted “impact fees.” Impact fees are charged to cover the costs of expanding or sizing utility service infrastructure. Such fees cover items such as water lines and meters, storm drains, fire service, and even for providing parks. Since ADUs may create added demands for some services, it may not always be the case for other such services. The concept of ADUs are to capitalize and opportunity to use existing single-family style developments and associated infrastructure to keep costs down but increase the opportunity to find housing options. Charging a full-service impact fee to an ADU may be a dis-incentive and may not be a flawless balance between the actual impact and the end user of an ADU.

PLANNING STAFF RECOMMENDATION

Staff Suggested Action - I hereby make a motion for the Planning Commission to **RECOMMEND APPROVAL** of the proposed Zoning Text Amendment for Internal Accessory Dwelling Units, with the following finding or reasons for action:

[New Section] Chapter 12.60 Internal Accessory Dwelling Units

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[Add]	12.60.010	Purpose.
	12.60.020	Scope
	12.60.030.	Definitions
	12.60.040.	Approval and Authorization
	12.60.050.	Use Allowed
	12.60.060.	Limitations, Termination, and Exemptions
	12.60.070.	General Development Standards
	12.60.080.	Design Standards
	12.60.090.	Occupancy Requirements, Licenses, and Owner Affidavits
	12.60.100.	Violations and Enforcement
	12.60.110.	Other Applicable Regulations and Codes

[Add] 12.60.010. Purpose

The purpose of this Chapter is to establish the use and development regulations for the allowance of internal accessory dwelling units (Internal ADUs) within the City. These regulations are intended to provide opportunity for an internally located secondary separated living quarters (i.e., dwelling unit) within a primary single-family dwelling in accordance with applicable State law, including, but not limited to Utah Code § 10-9a-530.

[Add] 12.60.020. Scope

The requirements of this Chapter shall apply to any Internal ADU created or established within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, the Centerville Municipal Code, or other laws.

[Add] 12.60.030. Definitions

Certain words and phrases in this Chapter, including uses, are defined in CZC 12.12 (Definitions). In addition to the definitions set forth in CZC 12.12 (Definitions), the following words and phrases shall have the following meanings:

- (a) Internal Accessory Dwelling Unit (Internal ADU). An internal accessory dwelling unit means an accessory dwelling unit created within a primary dwelling as more particularly defined in Utah Code § 10-9a-511.5.
- (b) Primary Dwelling or Primary Single-Family Dwelling. Primary dwelling or primary single-family dwelling means a single-family dwelling that is detached and is occupied as the primary residence of the owner of record as more particularly defined in Utah Code § 10-9a-511.5.

[Add] **12.60.040 Approval and Authorization.**

The Zoning Administrator is authorized to issue permits for Internal ADUs in accordance with the procedures and objective standards for review as set forth in this Chapter and as set forth in CZC 12.21.090 (Permitted Use Review). Decisions regarding the review, approval, or denial of Internal ADUs are administrative proceedings and shall be made in accordance with the provisions of this Chapter and CZC 12.21.060 regarding decision-making standards for administrative proceedings.

[Add] **12.60.050. Use Allowed**

Internal ADUs are allowed in residential zones as set forth in CZC 12.36 (Table of Uses). Permitted and conditional uses are indicated by “P” or “C,” respectively. Uses not permitted are indicated by “N.”

[Add] **12.60.060. Limitations, Termination, and Exemptions**

(a) *Use in Combination.* An Internal ADU shall be established as an internally located secondary accessory dwelling unit and shall only be established in combination within a primary single-family dwelling.

(b) *Owner Occupancy Required.* An Internal ADU shall only be established for a primary single-family dwelling that is occupied by an owner in accordance with the “Owner Occupancy” requirements of CZC 12.60.090.

(c) *Number allowed.* Only one Internal ADU is allowed for:

- (1) A lot, parcel, or tract of land greater than 6,000 square feet; and
- (2) A primary single-family dwelling located within a primarily residential use zone as more particularly designated in CZC 12.36 (Table of Uses).

(d) *Location or Placement.* An Internal ADU may be integrated within or as a part of the primary single-family dwelling structure and shall maintain the character of the primary single-family dwelling structure and such neighborhood context.

(e) *Separate Dwelling Units.* Any portion of a primary single-family dwelling that has been sectioned off, mechanically, physically, or by other means, so that any occupant in the primary single-family dwelling does not have full and free access to the separated portion of the dwelling and such separated area contains living quarters which provide sleeping, sanitary, and fixed kitchen facilities, or any separate accessory building or structure containing the same, shall be subject to the provisions of this Chapter, regardless of the relationship of the occupants.

(f) *No Short-Term Rental.* An Internal ADU may not be used as a short-term rental for fewer than 30 consecutive days as more particularly defined and regulated pursuant to Utah Code § 10-8-85.4. In order to regulate and prohibit short-term rentals, the City shall require and record a notice for any approved Internal ADU with the Davis County Recorder's Office in accordance with Utah Code § 10-9a-530.

(g) *Termination of Internal ADU Use.* The approval permit for an Internal ADU shall become null and void if the occupancy requirements of this Chapter are not satisfied, or the owner declares termination through writing or through neglect or any other confirmed non-corrected action that violates the provisions of this Chapter. Upon such termination of an Internal ADU use, the owner shall remove one or more features that make up an Internal ADU including but not limited to living, sleeping, or kitchen facilities, including electrical, gas, or plumbing, as deemed acceptable to the City to render the Internal ADU removed or unusable.

(h) *Exemptions.* Internal ADUs shall not be included in the gross density calculations for primarily single-family zoning districts.

[Add] **12.60.070. General Development Standards**

The development standards set forth in this Section shall apply to any Internal ADU that is created or established within the City. The purposes of these development standards are to ensure that the Internal ADU is clearly and distinctly an accessory use and internally located as part of the approved primary single-family dwelling use located on the property.

(a) *Creation.* An Internal ADU shall only be established through the following methods:

- (1) Converting existing living area, attic, basement, or other area of a primary single-family dwelling. The conversion of the primary single-family dwelling's garage space is prohibited without providing the required parking stalls in another appropriately City approved location;
- (2) Adding floor area to the primary single-family dwelling; or
- (3) Integrating an Internal ADU into the design plan for new construction of a primary single-family dwelling.

(b) *Minimum Lot Size.* The minimum lot size for establishing an Internal ADU shall be 6,000 square feet or more within a primary single-family dwelling.

(c) *Setbacks.*

An Internal ADU created within or attached to the primary single-family dwelling shall meet the applicable front, side, and rear yard setbacks for “*main buildings*” as listed in the development standards of the respective zone.

(d) *Heights.*

An Internal ADU created within or attached to the primary single-family dwelling shall meet the applicable height requirement for primary or main buildings as listed in the development standards of the respective zone.

(e) *Parking.* At least one additional parking space shall be provided for an Internal ADU; provided, however that the existing parking requirements for the primary single-family dwelling are to remain in place or restored if missing. The Internal ADU parking space may be located in tandem with other required parking spaces. All required parking spaces must be located behind the front yard setback line of the lot.

(f) *Bulk Yard Area Limitation.* The combined building footprint coverage of a lot area for the primary single-family dwelling and the Internal ADU shall not exceed the impervious surface allowance for the respective zoning district in which it is located.

[Add]

12.60.080. Design Standards

The design standards set forth in this Section are to apply to any Internal ADU that is created or established within the City. The purposes of these design standards are to ensure Internal ADU compatibility with the general pattern, character, and livability of Centerville’s typical low density single-family neighborhoods.

(a) *Exterior Finish Materials.* The exterior finish materials should be compatible with, or visually appear to be harmonious with the type, size, and colors of the finish materials utilized on the primary single-family dwelling on the lot or parcel.

(b) *Location of Entrances.* Only one additional entrance may be located on the wall facade that can be viewed from the public street directly adjacent to the same lot or parcel in which the Internal ADU is located. All other entrances must be located on wall facades facing interior to the lot.

(1) *Ground Entrance Restrictions.* Ground entrances and coverings are prohibited on a wall facade facing a perimeter lot line, unless such wall façade is at least 10 feet from a perimeter lot line and such coverings are located at least 6 feet from any perimeter lot line.

(2) *Upper Story Entrance Restrictions.* Upper story entrances and coverings (*e.g., access from balconies and decks*) having no other ground entrances are

prohibited on a wall façade facing a perimeter lot line unless such wall façade is located 10 feet from the perimeter lot line and such coverings are located at least 6 feet from any perimeter lot line.

- (c) *Roof Pitch*. The roof pitch should be compatible or visually appear to be harmonious with the roof pitch style of the primary single-family dwelling on the lot or parcel in which the ADU is located.
- (d) *Windows*. Windows should be compatible or visually appear to be harmonious in proportion (*i.e., width to height*) and orientation (*i.e., horizontal, or vertical*) to windows used for the primary single-family dwelling.
- (e) *Eaves*. Building eaves for Internal ADUs should meet one of the following designs:
 - (1) The eaves are to project from the walls the same distance as the eaves on the primary single-family dwelling.
 - (2) The eaves are to project from the walls at least one foot on all elevations.
 - (3) If the primary single-family dwelling style has no eaves, then eaves are not required for the Internal ADU.
- (f) *Design*. The Internal ADU shall be designed and maintained in a manner that does not change the appearance of the primary single-family dwelling.
- (g) *Exceptions*. If there is a conflict between these design standards and the adopted Construction Codes of the City, then the applicable Construction Code shall govern that particular design element.

[Add] **12.60.090. Occupancy Requirements, Licenses, and Owner Affidavits**

The occupancy requirements set forth in this Section shall apply to any ADU that is created or established within the City. The purposes of these occupancy requirements are to accommodate internal secondary separated living quarters (*i.e., dwelling unit*) with reasonable limitations on their use and to minimize the impact on neighboring properties and the desired setting of the City's single-family neighborhoods.

- (a) *Definitions and Terms*. The following definitions or terms are applicable to the creation and use of Internal ADUs;
 - (1) *Owner*. An owner is defined as a person occupying the premises as their sole primary residence and having at least 25% or greater ownership interest in the property; or, if the property is owned by an entity or trust, a person occupying the premises as their sole primary residence and having at least 25% or greater ownership interest in the entity or trust that owns the property.
 - (2) *Full-Time Residency*. Full-time residency means the owner must live in a

dwelling for at least six months of each calendar year.

- (3) *Internal ADU Occupation*. The Internal ADU is exclusively used for other family members or for long-term rental with a minimum rental period of 30 days or more.
 - (4) *Owner Occupancy Affidavit*. A signed and notarized owner-occupancy acknowledgement for the property for sanctioning an Internal ADU and filed with the City Recorder's Office and/or recorded at the Davis County Recorder's Office.
 - (5) *Temporary Owner Absence Waiver*. An approval granting a waiver of the occupancy requirement due to specific short-term or temporary absences.
- (b) *Full Time Owner Residency*. Either the primary single-family dwelling or the Internal ADU is to be occupied by a full-time residency property owner as shown on the Davis County Tax Assessment rolls.
- (c) *Owner Occupancy Affidavit and License*. An Internal ADU owner must apply for an Internal ADU License and sign an "owner occupancy affidavit" with the City and have it filed with the City Recorder and/or recorded at the Davis County Recorder's Office prior to receiving authorization of constructing and/or use of an Internal ADU. Such license and affidavit shall at minimum establish the following:
- (1) That he/she/they are owner(s) of the property located in Centerville, Utah.
 - (2) That he/she/they applied and intend to receive approval to construct or use an Internal ADU pursuant to Centerville City ordinances.
 - (3) That the owner(s) of the property confirm that the Internal ADU will be used for the purpose of offering a long-term rental of at least 30 days or more to any occupant of the Internal ADU.
 - (4) That an owner with at least a 50% interest in the property will occupy either the primary single-family dwelling or Internal ADU for six months of each calendar year, except where a "temporary owner absence waiver" is granted in accordance with Subsection (d).
 - (5) That if the owner(s) of property are unable or unwilling to fulfill the requirements for use of an Internal ADU, then the owners agree to remove one or more features that make it an Internal ADU, including but not limited to living areas, sleeping areas, or kitchen facilities, including electrical, gas, or plumbing and further agree to terminate, in writing, the Internal ADU permit and approval.
 - (6) That the license and affidavit shall run with the land and be binding upon all owners, heirs, and assigns, and upon all parties acquiring any right, title, or interest in the property.

- (7) That the owners and their heirs, successors, and assigns will inform all prospective purchasers of the property of the terms and conditions of the permit authorizing the ADU.

- (d) *Recorded Notice of Internal ADU*. On or after October 1, 2021, the City may record against the property a notice of any approved Internal ADU in the Davis County Recorder's Office in accordance with Utah Code § 10-9a-530(6).
- (e) *Temporary Owner Absence Waiver*. The owner(s) shall comply with the Full-Time Owner Residency Requirements, or such absence or abandonment shall terminate the Internal ADU permit, as approved by the City. Nonetheless, an owner may receive a waiver of the occupancy requirement upon submitting in writing evidence showing good cause, such as:

- (1) A temporary job re-location;
- (2) Military assignment;
- (3) Medical or other care of other family members or relatives;
- (4) Sabbatical leave;
- (5) Educational pursuits; or
- (6) Personal Illness.

A waiver of the occupancy requirement will then be authorized, by the City's Zoning Administrator, up to a maximum of three years. Thereafter, if not re-occupied by the property owner, then the Internal ADU permit shall be deemed null and void and one or more features constituting the Internal ADU shall be removed immediately, upon notice from Centerville City, or the property will subject to applicable enforcement measures.

[Add] **12.60.100. Violations and Enforcement.**

The applicable enforcement procedures for violations of these Internal ADU ordinance provisions shall be subject to the civil or criminal penalties of CZC 12.23 (Enforcement). Additionally, the City may utilize the enforcement provisions of Utah Code § 10-9a-530 (Internal Accessory Dwelling Units) regarding violations and holding liens against the property.

[Add] **12.60.110 Other Applicable Regulations and Codes**

The creation and use of Internal ADUs are subject to other pertinent codes, restrictions, and regulations that address applicable life, safety, and welfare concerns. Any Internal ADU shall comply with the following:

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- (a) *Construction and Fire Codes.* An Internal ADU shall be subject to all related regulations regarding the building construction and fire codes, as adopted by the City and State. 8
- (b) *Utilities and Charges.* An Internal ADU shall provide the necessary utilities and services such as, but not limited to, sewer, water, gas, electricity, and garbage collection. All City provided utilities shall be established in the property owner(s) name and the property owner shall be responsible for the payment of such utility services.
- (c) *Development and Impact Fees.* Internal ADUs meeting the development standards of this Title shall be exempt from payment of additional impact fees beyond the establishment of the primary single-family dwelling for the property.
- (d) *Street Addressing.* An Internal ADU will not be given a new distinct address by the City. Such Internal ADUs may refer mail/parcel packages to be delivered separately by the same address as the primary building using a subsidiary numerical or alphabetical reference (*e.g., 1390 West #A*), as approved by the Public Works Director, local postmaster, and emergency service agencies, or by securing a separate postal box.
- (e) *Second Kitchen in Single-Family Dwelling.* An Internal ADU is separate and distinct from a second kitchen authorization pursuant to CZC 12.55.160. If a property owner has an approved second kitchen that the property owner wants to convert into or eliminate to allow for an Internal ADU, the property owner shall notify the City of the second kitchen authorization as part of the application process for approval of an Internal ADU. Any document recorded against the property regarding conversion of or limitations on the second kitchen shall be vacated or removed from the property title prior to approval or as a condition of approval of the Internal ADU.
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Related Zoning Ordinance Amendments

Chapter 12.12. Definitions

- [Edit] Dwelling, Single-Family, with Internal Accessory ~~Apartment~~ **Dwelling Unit (Internal ADU):** A **lot, parcel, or tract of land** ~~building~~ having only one **primary** single-family dwelling unit and one **internal** accessory dwelling unit.
- [Add] Internal Accessory Dwelling Unit (Internal ADU): See definition of Internal Accessory Dwelling Unit (Internal ADU) as more particularly set forth in CZC 12.60.030.

[Add] Dwelling, Primary or Primary Single-Family Dwelling: See definition of Primary Dwelling or Primary Single-Family Dwelling as more particularly set forth in CZC 12.60.030.

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Chapter 12.36. Table of Uses

[Edit] [Residential Uses] Dwelling, Single-Family, with **Internal** Accessory ~~Apartment~~ **Dwelling Unit (*Internal ADU*)** – Strike **“N”** and list as a permitted use **“P”** in both the AL and RL Zones.

CENTERVILLE

Staff Backup Report 7/28/2021

Item No. 2.

Short Title: Public Hearing - LEGISLATIVE RECOMMENDATION - Zone Text Amendment - Fences and Walls

Initiated By: City Council

Staff Representative: Planning Staff - Cory Snyder

SUBJECT

Recently, the Council directed the Planning Commission and staff to review and recommend potential changes for fencing height limitations, specifically for situations involving corner lots, along the side street frontage.

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- 07-28-2021 PC Staff Report - Fencing & Walls Zone Text Amendment

**CENTERVILLE CITY
COMMUNITY DEVELOPMENT DEPARTMENT
655 North 1250 West, Centerville, Utah 84014
(801) 292-8232**

**STAFF REPORT
AGENDA: ITEM 2**

APPLICANT:	CENTERVILLE CITY COUNCIL c/o MAYOR WILKINSON 250 NORTH MAIN STREET CENTERVILLE CITY, UT 84014
APPLICATION:	ZONING ORDINANCE TEXT AMENDMENT
APPLICANT REQUEST:	AMEND THE ZONING CODE REGARDING FENCING STANDARDS FOR CORNER LOTS
RECOMMENDATION:	CONSIDER RECOMENDING THE PROPOSED CHANGES TO THE CITY COUNCIL

BACKGROUND

Recently, the Council directed the Planning Commission and staff to review and recommend potential changes for fencing height limitations, specifically for situations involving corner lots, along the side street frontage.

PROPOSED ZONING ORDINANCE TEXT/POLICY EDITS

CZC 12.55.110 Fences And Wall

- (a) Height of Fences and Walls. No fence, wall or other similar structure exceeding six feet in height shall be erected in any rear or side yard except for accessory buildings and structures permitted by this Title, except as provided below.
 - (1) When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from:
 - (A) The average elevation of the finished grade of adjoining properties at the fence line; or
 - (B) If excavated or filled, the native elevation.
 - (2) Street Side Yard, Corner Lots – For residential zones, fencing up to 6 feet in height may be allowed within the street side yard portion of a corner lot, as measured from an interior lot line of the lot to a line intersecting at the Front Yard Setback line of the lot along the other street. Exception, fences shall not exceed 4 feet in height for a minimum distance of at least 12 feet, when a driveway***

on an adjacent lot is located within 12 feet of the interior lot line of the corner lot (see Figure 1.1 for a visual reference).

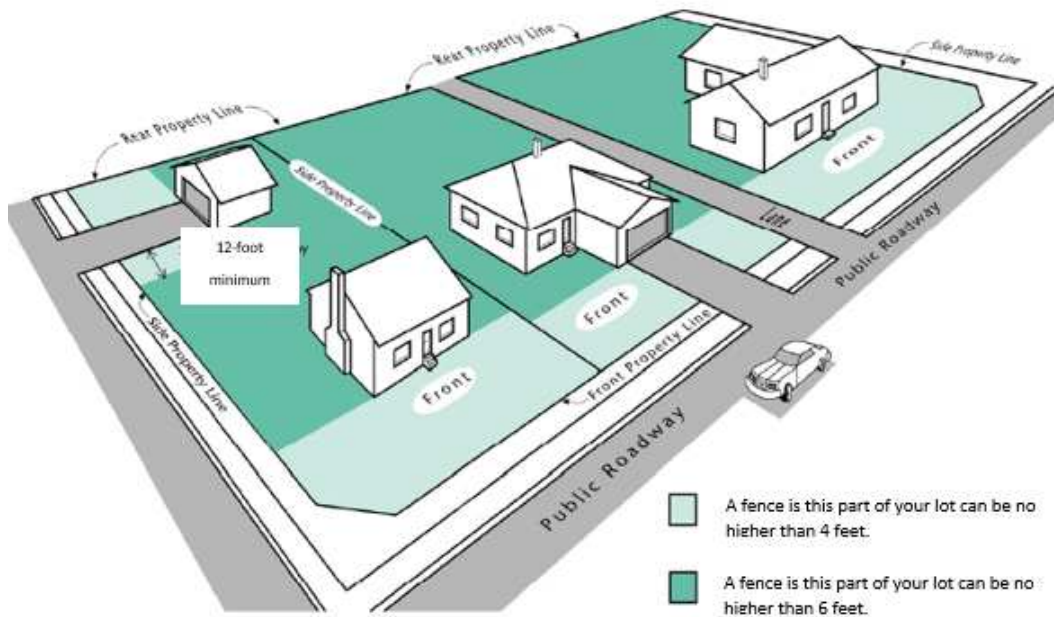


Figure 1.1

ZONE TEXT AMENDMENT POLICY

Factors to be Considered

The Planning Commission is to consider four (4) factors when making a recommendation and a final decision for a Zoning Ordinance Text and Map amendments. These required factors are in Section 12.21.080(e) of Centerville City's Zoning Ordinance. However, factors two (2) through four (4) are related specifically to map amendments rather than text or code changes. Thus, staff's review and conclusions are limited to factor one (1) the General Plan guidance, as provided below:

- 1. Is the proposed amendment consistent with the goals, objectives and policies of the City's General Plan?**

CGP 12-435-3. Fences and Wall. Visually obstructing materials such as fences constructed of wood, composite materials, concrete or masonry are typically used. In determining the appropriate choice, maintainability and vulnerability to the elements, graffiti and other forms of vandalism, should be considered. Wood and composite materials are more vulnerable to vandalism and destruction and are more difficult to clean. Concrete and masonry construction is much more vandal resistant and may be constructed of graffiti-resistant surfaces which make removal of graffiti or resurfacing easier. Smooth, clean, lightly colored surfaces are more attractive to vandals and should

be avoided. Textured surfaces, combined with landscape materials and plants which restrict access to the barrier, have a deterrent effect on vandalism and graffiti and should be used appropriate. In any event, walls and fences should be compatible with the design of the structures.

Staff's Conclusion – From review of the General Plan, it is staff's position that the proposed amendment only raises the potential question regarding “vulnerability to graffiti” of the City's General Plan. However, any fence is a potential risk for such vulnerability.

SUGGESTED MOTION AND FINDINGS

[Suggested Motion] “I hereby make a motion to **recommend APPROVAL** of the proposed Zoning Ordinance Text Amendments regarding “fencing and walls” depicted in red text, with an illustrative figure, as follows:

CZC 12.55.110 Fences And Wall

(2) Street Side Yard, Corner Lots – For residential zones, fencing up to 6 feet in height may be allowed within the street side yard portion of a corner lot, as measured from an interior lot line of the lot to a line intersecting at the Front Yard Setback line of the lot along the other street. Exception, fences shall not exceed 4 feet in height for a minimum distance of at least 12 feet, when a driveway on an adjacent lot is located within 12 feet of the interior lot line of the corner lot (see Figure 1.1 for a visual reference).

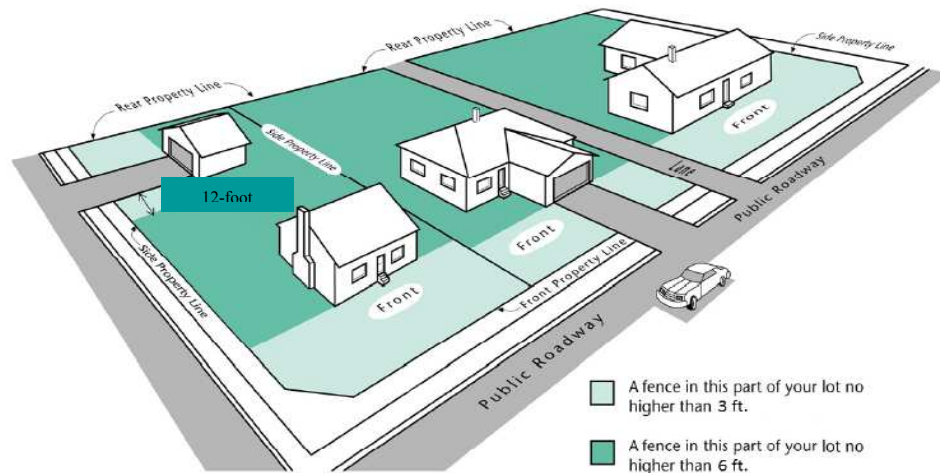


Figure 2.1

Suggested Reasons for Action (findings):

- The Planning Commission finds that the proposed text amendments are consistent with and even further the objectives and policies of the City's General Plan.*
- Therefore, the Planning Commission finds that the proposed amendments can be deemed acceptable and/or consistent with review factors of Section 12.21.080(e) of Centerville City's Zoning Ordinance.*

**CENTERVILLE
PLANNING COMMISSION
Staff Backup Report
7/28/2021**

Item No. 3.

Short Title: Land Use Training - Municipal Land Use, Development, and Management Act - Part 6 - Subdivisions

Initiated By: Lisa Romney, City Attorney

Staff Representative: Lisa Romney, City Attorney

SUBJECT

Land use training and discussion regarding Part 6 (Subdivisions) of the Municipal Land Use, Development, and Management Act

RECOMMENDATION

BACKGROUND

The Planning Commission has agreed to read the entire Municipal Land Use, Development, and Management Act (LUDMA) as a 2021 training goal. LUDMA provides statutory provisions governing local land use regulation, including zoning and subdivisions. This month's training includes reading and discussing Part 6 (Subdivisions).

ATTACHMENTS:

Description

- ▣ LUDMA - Part 6 - Subdivisions

Part 6 Subdivisions

10-9a-601 Enactment of subdivision ordinance.

- (1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:
 - (a) the subdivision plat may be filed and recorded in the county recorder's office; and
 - (b) lots may be sold.
- (2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.
- (3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

Amended by Chapter 385, 2021 General Session

10-9a-602 Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

- (1) A planning commission shall:
 - (a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the municipality;
 - (b) review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the land in the municipality;
 - (c) provide notice consistent with Section 10-9a-205; and
 - (d) hold a public hearing on the proposed ordinance before making the planning commission's final recommendation to the legislative body.
- (2)
 - (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.
 - (b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Amended by Chapter 384, 2019 General Session

10-9a-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

- (1) As used in this section:
 - (a)
 - (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.
 - (ii) "Facility owner" includes a canal owner or associated canal operator contact described in:
 - (A) Section 10-9a-211;
 - (B) Subsection 73-5-7(3); or
 - (C) Subsection (6)(c).
 - (b) "Local health department" means the same as that term is defined in Section 26A-1-102.
 - (c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

- (d) "Underground facility" means the same as that term is defined in Section 54-8a-2.
- (e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.
- (2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:
 - (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
 - (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
 - (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;
 - (d) every existing right-of-way and recorded easement located within the plat for:
 - (i) an underground facility;
 - (ii) a water conveyance facility; or
 - (iii) any other utility facility; and
 - (e) any water conveyance facility located, entirely or partially, within the plat that:
 - (i) is not recorded; and
 - (ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:
 - (A) in the state engineer's inventory of canals; or
 - (B) from a surveyor under Subsection (6)(c).
- (3)
 - (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.
 - (b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.
 - (c) A municipality may not require that a plat be approved or signed by a person or entity who:
 - (i) is not an employee or agent of the municipality; or
 - (ii) does not:
 - (A) have a legal or equitable interest in the property within the proposed subdivision;
 - (B) provide a utility or other service directly to a lot within the subdivision;
 - (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or
 - (D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.
 - (d) A municipality shall:
 - (i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially,

- within 100 feet of the subdivision plat, as determined using information made available to the municipality:
- (A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
 - (B) in the state engineer's inventory of canals; or
 - (C) from a surveyor under Subsection (6)(c); and
- (ii) not approve the subdivision plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order to receive any comments from each facility owner regarding:
- (A) access to the water conveyance facility;
 - (B) maintenance of the water conveyance facility;
 - (C) protection of the water conveyance facility;
 - (D) safety of the water conveyance facility; or
 - (E) any other issue related to water conveyance facility operations.
- (e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.
- (f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.
- (4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
- (5)
- (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):
 - (i) an electronic copy of the approved final plat; or
 - (ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.
 - (b) If requested by the Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:
 - (i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and
 - (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.
- (6)
- (a) A county recorder may not record a plat unless:
 - (i) prior to recordation, the municipality has approved and signed the plat;
 - (ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
 - (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.
 - (b) The surveyor making the plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

- (iii) has placed monuments as represented on the plat.
- (c)
 - (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:
 - (A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;
 - (B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and
 - (C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.
 - (ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):
 - (A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and
 - (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.
- (7)
 - (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.
 - (b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the municipality.

Amended by Chapter 47, 2021 General Session
Amended by Chapter 162, 2021 General Session
Amended by Chapter 345, 2021 General Session

10-9a-604 Subdivision plat approval procedure -- Effect of not complying.

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
 - (a) the person has complied with the requirements of Subsection 10-9a-603(6)(a);
 - (b) the plat has been approved by:
 - (i) the land use authority of the municipality in which the land described in the plat is located; and
 - (ii) other officers that the municipality designates in its ordinance;
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and
 - (d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.
- (2) A subdivision plat recorded without the signatures required under this section is void.
- (3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Amended by Chapter 47, 2021 General Session

10-9a-604.5 Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

- (1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement that the land use authority requires.
- (2)
 - (a) Before an applicant conducts any development activity or records a plat, the applicant shall:
 - (i) complete any required landscaping or infrastructure improvements; or
 - (ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.
 - (b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:
 - (i) completion of 100% of the required landscaping or infrastructure improvements; or
 - (ii) if the municipality has inspected and accepted a portion of the landscaping or infrastructure improvements, 100% of the incomplete or unaccepted landscaping or infrastructure improvements.
 - (c) A municipality shall:
 - (i) establish a minimum of two acceptable forms of completion assurance;
 - (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;
 - (iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and
 - (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of landscaping or infrastructure improvements.
 - (d) A municipality may not require an applicant to post an improvement completion assurance for:
 - (i) landscaping or an infrastructure improvement that the municipality has previously inspected and accepted;
 - (ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or
 - (iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private.
- (3) At any time before a municipality accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant to:
 - (a) execute an improvement warranty for the improvement warranty period; and
 - (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:
 - (i) municipal engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.
- (4) When a municipality accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

- (5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Amended by Chapter 384, 2019 General Session

10-9a-605 Exemptions from plat requirement.

- (1) Notwithstanding any other provision of law, a plat is not required if:
- (a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer lots without a plat; and
 - (b) the municipality provides in writing that:
 - (i) the municipality has provided notice as required by ordinance; and
 - (ii) the proposed subdivision:
 - (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;
 - (B) has been approved by the culinary water authority and the sanitary sewer authority;
 - (C) is located in a zoned area; and
 - (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.
- (2)
- (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:
 - (i) qualifies as land in agricultural use under Section 59-2-502;
 - (ii) meets the minimum size requirement of applicable land use ordinances; and
 - (iii) is not used and will not be used for any nonagricultural purpose.
 - (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.
 - (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.
- (3)
- (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.
 - (b) The absence of the certificate or written approval required by Subsection (1) does not:
 - (i) prohibit the county recorder from recording a document; or
 - (ii) affect the validity of a recorded document.
 - (c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

Amended by Chapter 434, 2020 General Session

10-9a-606 Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

- (1) As used in this section:
 - (a) "Association" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (b) "Common area" means the same as that term is defined in Section 57-8a-102.
 - (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.
 - (d) "Declarant" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.
 - (f) "Period of administrative control" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
- (2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:
 - (a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or
 - (b) the conveyance or modification is approved under Subsection (5).
- (3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:
 - (a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or
 - (b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.
- (4) When a plat contains a common area or common area and facility:
 - (a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and
 - (b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility, even if that ownership interest is not explicitly stated in the instrument.
- (5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:
 - (a) the local government;
 - (b)
 - (i) for a common area that an association owns, 67% of the voting interests in the association; or
 - (ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and
 - (c) during the period of administrative control, the declarant.

Amended by Chapter 405, 2017 General Session

10-9a-607 Dedication by plat of public streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the municipality for public streets and other public places that are dedicated in this manner but are unimproved unless:
 - (a) adequate financial assurance has been provided in accordance with this chapter; and
 - (b) the municipality has accepted the dedication.

Amended by Chapter 384, 2019 General Session

10-9a-608 Subdivision amendments.

- (1)
 - (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.
 - (b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:
 - (i) depicts only the portion of the subdivision that is proposed to be amended;
 - (ii) includes a plat name distinguishing the amended plat from the original plat;
 - (iii) describes the differences between the amended plat and the original plat; and
 - (iv) includes references to the original plat.
 - (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.
 - (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or
 - (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
 - (e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.
- (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:
 - (a) the petition seeks to:
 - (i) join two or more of the petitioner fee owner's contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

- (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or
 - (B) designated as a common area; and
 - (b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.
- (3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.
- (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:
 - (a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
 - (b) the signature of each owner described in Subsection (4)(a) who consents to the petition.
- (5)
 - (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
 - (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and
 - (ii) a document of conveyance shall be recorded in the office of the county recorder with an amended plat.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.
- (6)
 - (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
 - (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

- (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Amended by Chapter 385, 2021 General Session

10-9a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street or municipal utility easement has been vacated or amended.
- (2)
 - (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)
 - (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

Amended by Chapter 384, 2019 General Session

10-9a-609.5 Petition to vacate a public street.

- (1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.
- (2) A petition to vacate some or all of a public street or municipal utility easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
 - (ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;
 - (b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
 - (c) the signature of each owner under Subsection (2)(a) who consents to the vacation.
- (3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

- (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:
- (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
- (a) a plat reflecting the vacation; or
 - (b)
 - (i) an ordinance described in Subsection (4); and
 - (ii) a legal description of the public street to be vacated.
- (6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:
- (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any parcel or lot owner;
 - (ii) the rights of any public utility; or
 - (iii) the rights of a culinary water authority or sanitary sewer authority.
- (7)
- (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.
 - (b) If a municipality submits a petition and initiates a process under Subsection (7)(a):
 - (i) the legislative body shall hold a public hearing;
 - (ii) the petition and process may not apply to or affect a public utility easement, except to the extent:
 - (A) the easement is not a protected utility easement as defined in Section 54-3-27;
 - (B) the easement is included within the public street; and
 - (C) the notice to vacate the public street also contains a notice to vacate the easement; and
 - (iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.
- (8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Amended by Chapter 385, 2021 General Session

10-9a-610 Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-611 Prohibited acts.

- (1)
 - (a)
 - (i) If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
 - (ii) A violation of Subsection (1)(a)(i) is an infraction.
 - (b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.
 - (c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:
 - (i) does not affect the validity of the instrument or other document; and
 - (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.
- (2)
 - (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.
 - (b) An action under this Subsection (2) may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation.
 - (c) A municipality need only establish the violation to obtain the injunction.

Amended by Chapter 434, 2020 General Session

**CENTERVILLE
PLANNING COMMISSION
Staff Backup Report
7/28/2021**

Item No. 4.

Short Title: Community Development Director's Report

Initiated By: Community Development Director

Staff Representative: Community Development Director

SUBJECT

Next Planning Commission Meeting - August 11, 2021:

- *No New Applications Have Been Submitted*

City Council Report:

- *Legacy Crossing Lots 2 & 3 - PDO Amendment - Council Approved*

RECOMMENDATION

BACKGROUND

CENTERVILLE

**Staff Backup Report
7/28/2021**

Item No.

Short Title: July 14, 2021

Initiated By:

Staff Representative:

SUBJECT

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- ▣ 7-14-21 Planning Commission Draft Minutes

1 **PLANNING COMMISSION MINUTES OF MEETING**
2 **Wednesday, July 14, 2021**
3 **7:00 p.m.**
4

5 A quorum being present at City Hall, 250 North Main Street, Centerville, Utah, the
6 meeting of the Centerville City Planning Commission was called to order at 7:00 p.m.
7

8 **MEMBERS PRESENT**

9 Kevin Daly, Chair
10 Cheylynn Hayman
11 Christina Wilcox
12 Becki Wright
13

14 **MEMBERS ABSENT**

15 Mason Kjar
16 Heidi Shegrud
17 Spencer Summerhays
18

19 **STAFF PRESENT**

20 Cory Snyder, Community Development Director
21 Lisa Romney, City Attorney
22 Mackenzie Wood, Assistant Planner
23 Connie Larson, Recording Secretary
24

25 **VISITORS**

26 Chad Morris	Kent Bangerter
27 Zach Swenson	William Nelson
28 Paul Gregerson	George Andrews
29 Wendy Bangerter	Barry

30

31 **PLEDGE OF ALLEGIANCE**

32
33 **OPENING COMMENTS/LEGISLATIVE PRAYER** Commissioner Wright
34

35 **ADMINISTRATIVE DECISION – PUBLIC HEARING – CONCEPTUAL SITE &**
36 **CONCEPTUAL SUBDIVISION PLANS – CANYON POINT. A PROPOSED MULTI-**
37 **FAMILY DEVELOPMENT LOCATED AT APPROXIMATELY 347 NORTH 400 EAST**
38 **CONSISTING OF FIVE (5) DUPLEXES AND ONE (1) SINGLE-FAMILY DWELLING.**
39 **ZONING DISTRICT IS RESIDENTIAL MEDIUM (R-M).**

40 Cory Snyder, Community Development Director, explained the applicant has submitted
41 the Conceptual Site Plan for the property located at 347 North 400 East. He has purchased this
42 property, along with other homes and lots on 400 North, which will become one development.
43 The proposed development will be eleven duplexes on 1.62 acres, and will be in the Residential-
44 Medium (R-M) Zone.

1 The Commission viewed the architectural plans and the Conceptual Site Plan. The proposed
2 development is in the Deuel Creek Historic District, which was established by the Landmarks
3 Commission with the intention of preserving historic homes. There are incentives available to
4 preserve historic homes, but the applicant has not requested these incentives.

5
6 The duplexes are allowed in the R-M Zone, and the applicant complies with the setback
7 requirements. There are two parking spaces per unit, and five visitor parking stalls, one stall
8 short. The issue of trash removal must be addressed, as the development will have a private
9 street, and there are still questions on utility easements.

10
11 At the last State Legislative session, the State no longer allows cities to address the
12 outside design of duplexes.

13
14 An HOA will need to be formed for this development, as the road and landscaping will
15 be common. Voluntary standards for the Deuel Creek Historic District were established by the
16 Landmarks Commission, and they are enforced by the Zoning Administrator. Commissioner
17 Wright asked about the setback requirements on the Conceptual Site Plan for units 3, 4, and 5,
18 and if they are all on one lot. Mr. Snyder said the setbacks are applied from both streets. The
19 Commission viewed the residential zoning requirements. CZC 12.55.130(1), allows for
20 flexibility of setbacks. Commissioner Wilcox asked if there will be a buffer between the two
21 properties and the road behind them. Cory Snyder said it is up to the property owners to install a
22 fence, as there is no requirement for the applicant to provide a buffer.

23
24 Chad Morris, applicant, said the property owners in this area have been very helpful and
25 understanding that this area needs to be revitalized. He is also working on providing extra visitor
26 parking stalls and on trash removal for the private street.

27
28 At 7:42 p.m., Chair Kevin Daly opened the public hearing for comments.

29
30 Paul Gregerson, Granite Square resident, asked about two car garage driveways facing
31 the private drive. He suggested the trash cans could be placed on 400 North for the City to pick
32 up.

33
34 Wendy Bangerter, Granite Square resident, asked what the plans are for stormwater
35 retention. She suggested the retention be walled with a concrete wall, so that it will not
36 compromise the vinyl fence of the Granite Square development.

37
38 Barry _____, Granite Square resident, said the proposed units are single level, but inquired
39 if that could change with due process. He is concerned about the height of the units.

40
41 William Nelson, Granite Square resident, is concerned about the drainage of water from
42 the property, and asked who is responsible if the engineering of the water retention fails.

1 Kent Bangerter, Granite Square resident, said he is concerned about the loss of privacy of
2 the backyards of the Granite Square residents. He is also concerned about two-story buildings.
3 Will the zoning allow for the owners of these units to turnaround and rent them?

4 George Andrews, Granite Square resident, requested if the electrical power source will be
5 above or below ground. He is concerned about fire protection.

6
7 At 7:49 p.m., Chair Daly closed the public hearing for comments.

8
9 Mr. Snyder explained fire hydrants are required at 400 feet radius. South Davis Metro
10 Fire District will evaluate the fire hydrants and the ability of the fire apparatus to access the
11 private road and to turn the fire truck around. This will be reviewed with the construction
12 drawings at final application. The units are 27 feet high, which is in compliance with the base
13 zone of 35 feet. In the future, if the HOA decides to add another level to the units, they can
14 request a site plan amendment. The current City Ordinance requires all utility lines to be
15 underground. There are no standards to mitigate loss of privacy to a backyard, and the City has
16 no way to determine if a home is purchased and then rented out. However, the renter cannot
17 sublease the unit. The City Engineer will review storm water retention and reasonable
18 engineering covers most circumstances, but it cannot guarantee against retention failure.

19
20 Lisa Romney, City Engineer, explained the HOA is responsible for any retention failure.
21 The City is responsible to have the engineering review, but most failures are because the HOA
22 did not maintain the property.

23
24 Chad Morris said the two-car garage driveways will go out to the private street, and he
25 does not have the exact details on garbage collection. The private street will be a wider road, and
26 perhaps all of the garbage cans could be on one side of the road. He has not talked to a garbage
27 collection company at this time. He has submitted the plans for the units to be 27 feet high, and
28 all of the units will have basements.

29
30 Commissioner Hayman made a **motion** to accept the Conceptual Site Plan for Canyon
31 Point in Centerville, located at approximately 347 North 400 East, with the following directives:

- 32
33 1. A final site plan shall be submitted as outlined in Section 12.21.110(e) of the City's
34 Zoning Ordinance.
35 2. The site layout shall be corrected to meet the setback requirements, or the applicant
36 may use CZC 12.55.130(1), to enhance the internal development layout spacing.
37 3. The site plan layout shall be corrected to provide the required six (6) visitor parking
38 stalls and correct fence heights within any front yard area.
39 4. The Final Site Plan shall provide a complete landscaping plan, designed by a
40 Landscape Architect. According to 12.51.060 one tree and two shrubs shall be
41 provided per dwelling unit and that the landscaping shall be designed to address the
42 enhancement of crime prevention, provide privacy, and maximize energy efficiency
43 by planning for proper solar orientation.
44 5. The Final Site Plan submittal shall address the trash enclosers or other means of
45 refuse service.

6. If the applicant desires to have signage for the project, this shall be indicated on the Final Site Plan, and meet the requirements found in Chapter 12.54 of the Zoning Ordinance.
7. As part of the Final Site Plan submittal, the applicant shall obtain and submit all missing and applicable utility provider comment sheets.
8. The Final Site Plan and/or Preliminary Subdivision submittal shall address the City Engineer's comments regarding the development's civil engineering. Additionally, a soils study shall be prepared to determine the depth of the water table.
9. Architectural building design ought to consider the Deuel Creek Historic District architectural context and the incentives listed for this historical area.

Suggested reasons for the action:

- a) The Conceptual Site Plan submittal has adequately shown how the property may be developed [CZC 12.21.110(d) (2)].
- b) The development appears to satisfy the goals and objectives found within the Centerville City General Plan, Section 12-480-2(b) (3) & 12-480-2(b) (4).
- c) The proposed Conceptual Site Plan, with the directives given, appears to be capable of satisfying the applicable Development Standards for the R-M Zone.

Commissioner Wilcox seconded the motion, which was approved by unanimous roll-call vote (4-0).

Commissioner Wright made a **motion** for the Planning Commission to accept the Conceptual Subdivision Plan for Canyon Point in Centerville, located at approximately 347 North 400 East, with the following directives:

1. A Preliminary Subdivision Application shall be prepared in accordance with CMC 15.4.102, Preliminary Subdivision.
2. The applicant shall obtain a Final Site Plan Approval prior to or in conjunction with a Preliminary Subdivision submittal to ensure that the site's development layout is finalized.

Suggested reasons for the action:

- a) The conceptual subdivision is in harmony with the Centerville City General Plan, Section 12-480-2(b) (3) & 12-480-2(b) (4).
- b) The proposed Conceptual Subdivision submittal, with the directives given, meet the requirements for a conceptual subdivision acceptance listed in CMC 15.02.050 and ensures an adequate review of the requirements for Planned Unit Development listed in CMC 15.06.010.
- c) The proposed conceptual subdivision plan, with the directives given, appears to be capable of satisfying the applicable Development Standards for the R-M Zone.

Commissioner Heyman seconded the motion, which was passed by unanimous roll-call vote (4-0).

ADMINISTRATIVE DECISIONS – PUBLIC HEARING – CONCEPTUAL SITE PLAN AND CONCEPTUAL SUBDIVISION – THE LANE – A PROPOSED SINGLE-FAMILY DEVELOPMENT LOCATED AT APPROXIMATELY 644 WEST 400 SOUTH CONSISTING OF TWELVE SINGLE-FAMILY DWELLINGS. ZONING DISTRICT IS RESIDENTIAL MEDIUM (R-M).

Mackenzie Wood, Assistant Planner, explained this is the Dave Bell property located on the Porter Lane next to the Porter Walton townhomes. This is a PUD with the lots being sold separately. The landscaping ordinance and open space requirements of the R-M Zone do not apply for single-family units. The units will share a common driveway. The PUD is on two separate parcels but they will need to be combined. For the Conceptual Subdivision Review, the City Engineer is requesting more information for on-site retention to drain to the Frontage Road. The Street Supervisor is requesting street lights be placed every 500 feet in the subdivision, and at the entrance to the subdivision.

Ms. Romney, explained at the site plan review, it is usually required to do away with lot lines. One of the conditions for approval with both of the projects is to remove the lot lines prior to final plat recording or final site plan.

Zach Swenson, applicant, said this PUD is for the moderately priced homebuyer. The intention is to purchase the property and then make the change of eliminating the property line. The homeowners will decide what landscaping they want. The existing building in the northwest corner is a shed, and it must be removed. Mr. Swenson has talked with the owner to have it demolished. The units are 2,600 square feet with three to four bedrooms each, and are one story with a basement.

At 8:29 p.m., Chair Daly opened the public hearing for comments. There was no one wishing to comment, and the public hearing was closed.

Commissioner Hayman discussed the possibility of having citizens who are viewing the Planning Commission meetings on YouTube have the ability to call in their comments on items being discussed.

Commissioner Wright asked if the City Engineer has researched the retention pond for The Lane Subdivision to determine if there is proper drainage. Mr. Snyder replied the City Engineer has not completed the soil and analysis study at this time, which must be done in order to determine the size of the retention area.

Commissioner Hayman made a **motion** for the Centerville Planning Commission to accept the Conceptual Site Plan for The Lane, located at approximately 644 West 400 South, with the following directives:

1. A final Site Plan shall be submitted as outlined in CZC 12.21.110(e).
2. Provide stamped architectural plans at Final Site Plan application.
3. If the applicant desires to have signage for the project, this shall be indicated on the Final Site Plan, and meet the requirements found in CZC 12.54.
4. The applicant shall combine the two parcels prior to or concurrent with recording the final plat or prior to issuance of any development or building permit within the project, whichever occurs first.
5. The applicant shall combine the two parcels prior to or concurrent with recording the final plat or prior to issuance of any development or building permit within the project, whichever occurs first.

Suggested reasons for findings:

- a) The Conceptual Site Plan submittal has adequately shown how the property may be developed [CZC 12.21.110(d) (2)].
- b) The development appears to satisfy the goals and objectives found within the Centerville City General Plan [12-480-3].

Commissioner Hayman **amended her motion** to add the following conditions:

1. The applicant shall combine the two parcels prior to or concurrent with recording the final plat or prior to issuance of any development or building permit within the project, whichever occurs first.

Commissioner Wright seconded the motion, which was passed by unanimous roll-call vote (4-0).

Commissioner Wilcox made a **motion** to approve the Conceptual Subdivision Plan for The Lane, located at 644 West 400 South, with the following directives:

1. A Preliminary Subdivision Application shall be prepared in accordance with CMC 15.03.030.
2. The applicant shall obtain Final site Plan approval prior to or in conjunction with a preliminary subdivision submittal to ensure that the site's development layout is finalized.
3. The applicant shall provide street light information at preliminary submittal.
4. The applicant shall provide proof of drainage compliant with applicable City Ordinance.

Suggested reasons for action (findings):

- a) The conceptual subdivision is in harmony with the Centerville City General Plan, Section 12-480-3.

- b) The proposed Conceptual Subdivision submittal, with the directives given, meets the requirements for a conceptual subdivision acceptance listed in CMC 15.02.050, and ensures an adequate review of the requirements for Planned Unit Development listed in CMC 15.06.010.
- c) The proposed Conceptual Subdivision Plan, with the directives given, appears to be capable of satisfying the applicable development standards for the R-M Zone.

Commissioner Hayman seconded the motion, which was passed by unanimous roll-call vote (4-0).

ADMINISTRATIVE DECISION – SMALL SUBDIVISION – BRADLEY TRUMP – SMALL SUBDIVISION WAIVER/LOT SPLIT APPLICATION REVIEW FOR PROPERTY LOCATED AT 470 EAST 400 SOUTH, PREVIOUSLY REVIEWED IN MARCH 2020. PREVIOUSLY TABLED ON JUNE 23, 2021.

Ms. Romney, explained the small subdivision lot split will create an illegality, in that there will be an accessory buildings or structures on one of the proposed lots without a primary residential use on the property. Staff realizes the applicant has one year to record the plat. If the applicant intends to apply for a building permit, then most of the conditions will not have to be imposed. The structures must be removed before the plat is recorded.

Lisa Romney recommends a bond with an agreement, and a note on the title if someone else purchases the property.

Chair Daly asked for clarification that the applicant has 12 months to record the plat, and after that they can apply for the building permit. After 30 months from approval for construction the structure must be completed. Mr. Snyder stated he talked with the applicant on the conditions for approval and the bonding and construction loan.

Commissioner Hayman made a **motion** for the Planning Commission to approve the small subdivision waiver, subject to the following:

1. The small subdivision waiver shall be for Parcels 02-068-0141 and 02-068-0081, located at approximately 424 East 470 East 400 South Street.
2. The following items shall be effective or addressed as part of this small subdivision waiver approval:
 - a. The applicant shall prepare a final paper plat for the properties, as per the City subdivision standards to the Centerville City recorder. After the paper plat is deemed acceptable by the City, a Final Linen Plat, for County recording, shall be prepared, signed, and submitted to the City Recorder.
 - b. The applicant shall prepare required subdivision construction drawings for the minimum needed improvements (e.g., sewer, drainage, and public improvements, etc.) to be installed for the subdivision and shall be deemed acceptable by the City Engineer.

- c. The Final Linen Plat shall show and provide all required seven-foot interior lot line public utility easements, which shall be deemed acceptable by the City Engineer and Public Works Director.
 - d. The subdivision construction drawings and Final Linen Plat shall show and comply with the required 2,000 square-foot buildable area for the new lot.
 - e. Prior to recording the small subdivision waiver plat, applicant shall submit an updated title report for the entire property area for review and approval of encumbrances and ownership by the City Attorney and City Engineer.
 - f. At minimum, the following plat notes shall be set forth on the final plat, or as deemed acceptable to the City Attorney, for the small subdivision waiver:
 - Approval of the small subdivision waiver plat by Centerville City does not constitute any representation as to the adequacy of subsurface soil conditions nor the location or depth of ground water tables.
3. The applicant shall provide the required Utility Provider sheets to the City.
 4. The applicant shall provide verification that the applicable secondary water service is available for the proposed new lot and shall install all necessary improvements.
 5. The applicant shall pay all applicable impact fees and post the related bonds for public improvements prior to recordation of the Final Linen Subdivision Plat.
 6. The small subdivision lot split will create an illegality in that there will be accessory buildings or structures on one of the proposed lots without a primary residential use on the property. In order to remedy this illegality, approval of the small subdivision waiver and final plat shall be conditioned upon the applicant and/or property owner complying with the following:
 - a. Remove the illegal accessory structures from the property prior to recording the final plat; or
 - b. Obtain a building permit for the construction of a primary residential dwelling on the property within 12 months from the date of final plat recording and completing the construction of such primary residential dwelling within 30 months from the date of final plat recording.
 - c. In the event a building permit for the construction of a primary residential dwelling is not obtained within 12 months from the date of final plat recording, the applicant and/or property owner shall be required to remove the accessory structures within 15 months from the date of final plat recording.
 - d. In the event the primary residential dwelling is not completed within the required 30 months from the date of final plat recording, the applicant and/or property owner shall be required to remove the accessory structures within 33 months from the date of final plat recording.
 - e. In the event the accessory structures are not removed prior to recording of the final plat, the applicant shall be required to place a note on the final plat in a form acceptable to the City describing the illegality of the accessory structures and the condition of removal or construction of a primary residential dwelling on the property as provided in this condition.

- 1 f. In the event the accessory structures are not removed prior to recording of the
2 final plat, the applicant shall be required to post a \$10,000 demolition bond
3 with the City and enter into an agreement with the City for use of the bond in
4 the event of default by the applicant and/or property owner under the terms of
5 this condition.
6 g. In the event the accessory structures are not removed prior to recording of the
7 final plat, the City shall be authorized to record a notice of illegality or
8 nonconformity against the property providing notice of the requirements of
9 this condition.

10
11 Suggested reasons for the action (findings):
12

- 13 a. The Planning Commission finds that the subdivision qualifies for the small
14 subdivision waiver, in accordance with the criteria found in CMC 15.02.070 of
15 the Subdivision Ordinance.
16 b. The Planning Commission finds that two lots are consistent with the applicable
17 Zoning Standards for the Residential Low Zone.
18 c. The Planning Commission finds that with the conditions imposed, the general
19 requirements for all subdivisions have been addressed and/or fulfilled.
20

21 Commissioner Wilcox seconded the motion, which was passed by unanimous roll-call
22 vote (4-0).
23

24 **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**
25

- 26 • Owner Occupancy Requirements will be discussed at the July 28, 2021 meeting.
27 • Citizens have approached Mayor Wilkinson about changing the fencing requirements
28 to allow for higher fencing on street facing property.
29 • Proposed Zone Text Amendment – Internal ADU's – State Requirement.
30

31 Chair Daly reported on the work session with the City Council on goals.
32

33 **MINUTES REVIEW AND APPROVAL**
34

35 Minutes of the June 23, 2021 Planning Commission meeting were reviewed.
36 Commissioner Hayman made a motion to approve the minutes as amended. Commissioner
37 Wright seconded the motion, which was passed by unanimous vote (4-0).
38

39 **NEXT MEETING**
40

41 The next Planning Commission meeting will be held on Wednesday, July 28, 2021 at
42 7:00 p.m. at City Hall.
43

44 **ADJOURN**

At 9:04 p.m., Chair Daly made a **motion** to adjourn the meeting. Commissioner Wright seconded the motion, which was passed by unanimous vote (4-0).

Jennifer Hansen, City Recorder

Date Approved

Connie Larson, Recording Secretary

DRAFT