STAFF REPORT

To: Summit County Council
From: Tiffanie Robinson, County Planner
Date of Meeting: February 5, 2020
Type of Item: Special Exception - Public Hearing, Possible Action
Process: Legislative Review

RECOMMENDATION: It is staff’s finding that the project does meet the minimum standards for approval of a Special Exception as found in the Snyderville Basin Development Code. Staff recommends that the County Council review and approve the application according to the findings of fact and conclusions of law in this staff report.

Project Description

Project Name: Kraus Septic Special Exception
Applicant(s): Paul and Stacy Kraus
Property Owner(s): Paul and Stacy Kraus Family Trust
Location: 7316 Whileaway Road
Zone District: Rural Residential (RR)
Parcel Number and Size: SL-H-498, 2.40 Acres
Type of Process: Special Exception
Final Land Use Authority: Summit County Council

Proposal

The applicant requests that the County Council grant a Special Exception from Snyderville Basin Development Code Section 10-4-2.C to reduce the prohibition on septic tanks within 200 feet from a wetland. The applicant proposes to replace the existing conventional septic system with an advanced/alternative system. The new system will serve the existing single family home and addition of a 1,000 square foot accessory dwelling on the site EXHIBIT A.

The County Council has final decision authority for a Special Exceptions.


**Background**

Paul and Stacy Kraus are owners of platted lot SL-H-498 located at 7316 N. Whileaway Road.

- The lot is approximately 2.40 acres in size.
- Snyderville Basin Development Code Section 10-4-2.C prohibits septic tanks within 200’ of a wetland.
- There is an existing single family dwelling on site that was constructed in 2007.
- The existing home is served by a conventional septic system.
- In 2018, the applicants proposed an accessory structure with a 1,000 accessory dwelling unit above.
- The existing tank did not have capacity to serve the accessory dwelling.
- The applicants were granted a building permit for the accessory structure but not the accessory dwelling.
- The applicant proposed replacing the existing conventional system with an advance system to serve the existing single family dwelling and proposed accessory dwelling.
• The proposed advanced septic system would be located within the 136’ of the wetland area.
• The Summit County Health Department has given preliminary approval for the proposed alternative/advanced septic system to be installed within 136’ of the wetland.

The applicant’s property is a rectangular lot that is essentially flat. The lot is surrounded on all sides by lots with a similar size, shape and slope.

Nathan brooks from the Health Department has been working with the applicant’s contractor to review preliminary design for an advanced technology septic system. Additionally, Rocky Pace has confirmed that the new system is not going to be located within Summit County Area 3 well protection area EXHIBIT B.

Analysis and Findings

The standards required for granting a Special Exception are set forth in the Snyderville Basin Development Code Section 10-3-7, which standards are provided below. If the County Council finds that the standards are met, then a Special Exception to reduce the prohibition may be granted.

Standard 1: The special exception is not detrimental to the public health, safety and welfare. COMPLIES

Analysis: The replacement of the conventional septic system with an advanced/alternative system will significantly reduce potential contamination to ground water. The system has been located as far away from the wetland as possible.

Standard 2: The intent of the development code and general plan will be met; COMPLIES

Analysis: The intent of the development code prohibition is to protect natural waterways from contamination. The proposed advance/alternative will replace an existing conventional system on site. The applicants have setback the system as far as possible from the delineated wetland area. The intent of the protection of these waterways are being met.

Standard 3: The applicant does not reasonably qualify for any other equitable processes provided through the provisions of [the Snyderville Basin Development Code]. COMPLIES

Analysis: Per Section 10-9-10.E.5 of the Snyderville Basin Development Code, the Board of Adjustment does not have power to grant variances from provisions in Chapter 4 of the
Therefore, only the County Council has authority to grant relief from the prohibition on septic tanks within 200’ of a wetland.

**Standard 4:** There are equitable claims or unique circumstances warranting the special exception. **COMPLIES**

**Analysis:** There is currently no available sewer service in this area. With the amount of wetlands on the lot, there is no available place within the Lot boundaries to place a septic system that would comply with the 200’ standard. In order to replace the existing system with an advanced system, an exception must be granted.

**Recommendation**

It is staff’s finding that the project does meet the minimum standards for approval of a Special Exception in the Snyderville Basin Development Code. Staff recommends that the County Council conduct a public hearing, review staff’s analysis and approve the special exception, according to the findings of fact and conclusions of law in this staff report.

**Findings of Fact:**

1. Summit County assessment parcel SL-H-498 is owned by Paul and Stacy Kraus Family Trust.
2. Parcel SL-H-498 was platted as part of the Silver Creek Estates Unit H Subdivision Plat.
3. Parcel SL-H-498 is located in the Rural Residential (RR) zone.
4. The lot is approximately 2.40 acres in size. The property has access from Whileaway Road.
5. A substantial portion of the lot is covered in jurisdictional wetlands delineated by the Army Corps of Engineers.
7. The applicant proposes to replace the existing conventional septic system that serves the existing residence and would serve a 1,000 square foot accessory dwelling unit.
8. The applicant is requesting to install an alternative/advanced septic system within 136’ of a delineated wetland area.

**Conclusions of Law:**

1. There is not sufficient room on this lot to maintain the 200 foot setback from delineated wetland areas that is required for septic tanks. The advanced septic system will reduce potential impacts to the surrounding groundwater as compared to a traditional septic system.
2. The intent of the development code prohibition is to protect natural waterways from contamination. The proposed replacement to an advanced septic system is located appropriately outside of the delineated wetland area.
3. There is currently no available sewer service in this area, the new Silver Creek sewer will end more than 600 feet from this lot.
4. With the amount of wetlands on the lot, there is no available place within the lot boundaries to place a septic system that would comply with the 200’ setback standard. In order to exercise the building right on this property, an exception must be granted.

**Conditions of Approval:**

1. The applicant shall install an advanced type septic system more than 136’ feet from the delineated wetland boundary as shown on the attached site plan. The Summit County Health Department shall have final approval on design and location of the septic system.
2. The applicant must obtain the Low impact Permit for the Accessory Dwelling unit, prior to installation of the new advanced septic system.
3. A building permit shall be obtained from Summit County prior to any construction on the accessory dwelling unit.

**Public Notice, Meetings and Comments**

This item was publicly noticed as a public hearing with possible action by the Summit County Council. Notice of the public hearing was published in the January 25, 2020 issue of *The Park Record*. Courtesy postcards were mailed to all property owners within 1,000 feet of the subject Parcel.

**Attachments**

- Exhibit A – Proposed Site Plan
- Exhibit B – Health Dept. Information
Molly J. Orgill
Assistant Planner
Summit County Planning
(435) 336-3153
www.summitcounty.org

From: Nathan Brooks <nbrooks@summitcounty.org>
Sent: Wednesday, September 4, 2019 3:10 PM
To: Molly Orgill <morgill@summitcounty.org>
Subject: FW: Kraus Workshop Project - Health Department Approval - 7316 Whileaway Road W
Importance: High

Molly

I had a meeting the general of this project today. I believe last year we signed off on the building permit with the idea that no plumbing would go into the structure since it would be in violation with the 200’ setback within the Basin development code. However they have approached us with the attached design for an alternative/advanced septic system to plumb the current and future structure into this system. This would eliminate the old system that the house is currently utilizing (which is in violation of the 200’ setback) and would route all the waste to a new advanced technology septic system. However the only catch is the system will still only be about 137’ from the wetland, so it would require a variance from the County Council. The contractor should be reaching out to you to initiate the process, but I wanted to give you a heads up that we are

Nathan Brooks MPA, LEHS
Director of Environmental Health
Summit County Health Department
435-333-1585

From: Paul Kraus <pkraus@paul-kraus.com>
Sent: Friday, August 30, 2019 10:30 AM
To: Nathan Brooks <nbrooks@summitcounty.org>; Rocky Pace <rpace@summitcounty.org>
Cc: Brian Brassey <brasseyc@gmail.com>; Stacy Sitzer <stacy.sitzer@gmail.com>
Subject: Re: Kraus Workshop Project - Health Department Approval - 7316 Whileaway Road W
Importance: High
Hey Guys – happy Friday. We have been working with Ben at Alternative Solutions to come up with a system that has characteristics of others which have been approved for use in Silvercreek. This system has the capabilities to handle both the current house and the proposed supplemental space. I am attaching the plans from Ben to this email.

Are either of you (Nate/Rocky) available for a quick face to face meeting today – to discuss what Ben has proposed as well as a go-forward strategy? Brian and I can meet you at the Health Department after lunch.

See you soon!
Paul.

From: Nathan Brooks <nbrooks@summitcounty.org>
Date: Wednesday, July 31, 2019 at 7:00 AM
To: Paul Kraus <pkraus@paul-kraus.com>
Cc: Rocky Pace <rpace@summitcounty.org>
Subject: RE: Kraus Workshop Project - Health Department Approval - 7316 Whileaway Road W

According to code the bedroom count of 5 would require a 1500 gal., but with Summit County anything over 4000 sq ft living space will require a 1750 gallon tank.

Hope that helps.

Nate

From: Paul Kraus <pkraus@paul-kraus.com>
Sent: Tuesday, July 30, 2019 3:49 PM
To: Nathan Brooks <nbrooks@summitcounty.org>
Cc: Rocky Pace <rpace@summitcounty.org>
Subject: Re: Kraus Workshop Project - Health Department Approval - 7316 Whileaway Road W

Hey Nate – I hope your summer is going well. We have been moving well on the current workshop

I wanted to confirm something with you. My research shows that homes with less than 4500 sf with 5 or fewer bedrooms can have a septic tank of 1250. Is this true for Summit County?

Paul.

From: Nathan Brooks <nbrooks@summitcounty.org>
Date: Thursday, November 15, 2018 at 1:12 PM
To: Paul Kraus <pkraus@paul-kraus.com>
Cc: Rocky Pace <rpace@summitcounty.org>
Subject: RE: Kraus Workshop Project - Health Department Approval - 7316 Whileaway Road W

Paul

Looks like we got your building permit singed off today. If you could just let us know when you get the new sewer line installed from new structure to the existing tank. We would like to come out and inspect to make sure everything looks good and update the existing record for the system. Let us know if you have questions as you install the new portion.

Thx
Chris,
I apologize it took so long to get back to you. I have been trying to track down exactly what is going on with this project and where everything stands. I have looked up your source protection zones. The proposed project is in your zone 4 protection area for your district well and outside of all protection zones for your green field well. There is no restriction for septic systems in a zone 4 protection area. We have not issued a septic permit for the project yet, but are in the plan review stages. The plan is to abandon the old septic system and install a new alternative septic system to service the existing home as well as the accessory building. The 200’ setback from open water is a Snyderville basin development code requirement which is more strict than the Utah onsite wastewater code which only requires 100’ setback from open water with a conventional system and 50’ separation from open water with an alternative septic system. The alternative system design that has been submitted shows 136’ of separation between the drain field and the nearest portion of the designated wetland area. Putting in an alternative system and abandoning the old system will be better for the environment as well as your drinking water sources.

Let me know if you have any more questions or concerns.

Rocky Pace
Environmental Health Scientist
Summit County Health Department
85 North 50 East
Coalville, Ut 84017
Phone: 435-336-3239
Website: summitcountyhealth.org

From: Chris Bullock [mailto:chris@scsa3.org]
Sent: Thursday, January 16, 2020 1:56 PM
To: Philip Bondurant <pbondurant@summitcounty.org>
Subject: 7316 Whileaway Rd- special exception request on new septic tank

Good morning,

Will you please look at this request for a special exception on a new advanced septic tank with in 200 ft of wetland. I would like to discuss the new source protection impact.

I believe Nathan Brooks signed off on the septic and Tiffaniee in planning is doing the SpecialException public hearing.

Please give me your thoughts once you have had time to look at the plans. I believe the hearing is set for Jan 22. This is close to our district well and up stream of the drainage to our green field well.

Thank you
Chris Bullock
Summit County Service Area #3
Tiffanie,

I just copied you on my response to Chris with SCSA #3. I have completed the plan review of the system. I have sent over my plan review to the system designer requesting that he puts the drain field a little shallower to give us more separation distance from the highest anticipated groundwater. Other than that everything looks good.

Rocky Pace  
Environmental Health Scientist  
Summit County Health Department  
85 North 50 East  
Coalville, Ut 84017  
Phone: 435-336-3239  
Website: summitcountyhealth.org