

PLANNING COMMISSION MEETING

Tuesday, July 25, 2017 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: John Dredge, Presiding
Commissioners: Jared Anderson, Brian Miller, LoriAnne Spear
Absent/Excused: Craig Clement, Jeff Dodge, Steven Thomas
Chandler Goodwin, City Manager/City Planner
Denise Andersen, City Council Representative
Colleen Mulvey, City Recorder

This meeting of the Planning Commission of the City of Cedar Hills having been properly noticed was called to order at 7:09 p.m. by John Dredge.

1. Call to Order.
2. Public Comment: Time has been set aside for the public to express their ideas, concerns and comments (comments limited to three minutes per person with a total of 30 minutes for this item).

Rick Stewart, 14502 Downing Drive, presented some information regarding artificial turf for the Planning Commission to consider as they discussed the final agenda item. Mr. Stewart believed there was a place for artificial turf in some commercial areas, but he was not in favor of allowing it in residential areas. Synthetic turf does not process animal waste or any other debris, nor does it filter pollen, dirt, or any organic material. It also reflects heat. Mr. Stewart stated that the most expensive turf would be attractive, but it was unlikely that residents would invest in the most expensive product. He argued that even the highest quality turf did not age well and would have to be replaced within a few years. Others may argue that installing artificial turf would be an economically responsible choice, but he did not agree.

PUBLIC HEARING

Amendments to the City Code Title 10, Chapter 3 Regarding the Re-zoning of Certain Portions of Area Currently in the PF Public Facilities Zone to the R-1-11,000 Residential Zone, and to Amend the Official Zone Map to Reflect these Zone Changes

Ken Hazelbaker, 10253 North Oak Road West, said that he lived in the Reed Swenson home directly west of the subject parcel. He was concerned about the proposal to rezone the land from open space to residential. The property had been designated as open space for 35 years, and Mr. Hazelbaker bought his home knowing that the property was intended to be open space. Mr. Hazelbaker submitted a petition of 157 names of persons opposed to the rezone.

Ray Lane, 4279 West Oak Road North, stated that he and his family love Cedar Hills for the schools, the people, the carnival and fireworks, and the park system. Mr. Lane read from the General Plan, which says that an open atmosphere has always been an identifying characteristic

of Cedar Hills. At least two dozen homes would be affected by the proposed change. Mr. Lane urged the City to protect and defend the residents' property rights.

Ryan Scott, 4229 West Sandalwood Drive, said that his family moved to Cedar Hills from Austin, Texas two years ago, and they understood that the property was intended to remain open space. He said that the idea of due process was important in seeking for a minimum standard of fairness during the process of making public decisions that impact private rights. Mr. Lane then asked four questions:

1. What was the basis for the change?
2. Had the City considered that many of the residents paid a premium for their lots and homes based on both the current zoning and the well-known history of the property?
3. Should the rezoning of the land privilege one land owner, who has no long-term interest in the City?
4. Does the City have enough recreation and open space without the parcel?

Cheri Conde, 4221 West Oak Road North, read the Webster's Dictionary definition of open space and said that there was an economic value to having open space within the City. Protecting open land would stabilize property taxes, prevent sprawl development, and could save money over land development because it would not require public utilities and services. Ms. Conde presented a few studies that she had found regarding preserving open space.

Dave Free, 4309 West Oak Road North, commented that the General Plan outlined all the planned parks, and the subject parcel had been on that map for 30 years. He said that the open space and the park system was a major attraction for residents of Cedar Hills.

Ben Smith, 10233 North Oak Road West, explained that he purchased his home in 1992 with the understanding that the subject parcel was designated as open space. Mr. Smith served as a precinct captain in Cedar Hills for many years and was an active member of the Timpanogos Rotary Club. He said that the City recently conducted a resident survey regarding the park system, and he encouraged the Planning Commission to table the discussion until the results of that survey were tabulated and distributed to the public.

Tyler Gardner, 10218 North Oak Court, said that he was born and raised in Cedar Hills and recently purchased his childhood home from his father. He urged the Planning Commission to recommend denial of the rezone amendment and to enforce maintenance of the property immediately. The weeds on the property were very high and it was a nuisance.

Jean Peasley, 10147 North Oak Road West, commented that she and all her neighbors moved to the area because of the view and the openness of the property. She asked that the City consider keeping the parcel as it is.

Melissa Grant, 10196 North Oak Court, said that her backyard backed up to the subject property. She agreed with all the statements that had been shared by her neighbors so far and she encouraged maintaining the open space.

Steve Kesler, 4186 West Sage Road, spoke of the dangers of building on backfill and the risks that the property owner would be taking in trying to build a home or homes on the property. He claimed that the cost of infrastructure alone would not be worth the cost. Mr. Kesler suggested that the item be tabled until more information could be gathered.

Steve Brantley stated that he represented the property owner, Mr. Parsons. Mr. Brantley emphasized the fact that the subject parcel was private property and was not owned by the City. He claimed that they were in a situation where a government entity was effectively taking away property and that issue needed to be resolved. He understood that the neighbors wanted to keep the property open, but the private property owner had the right to sell or develop the property. Mr. Brantley was not aware of an instance where the neighbors had tried to resolve the issue with Mr. Parsons.

Jeff Lindstrom, 10469 North Mesquite, moved into the subdivision in 1976 when Cedar Hills was still part of the County. Mr. Lindstrom said that the owner has argued that the land is useless, but he did have the option of maintaining the property as open space without selling it to the City. The City should be seeking options that would balance the rights of the property owner and the interests of the public.

Eric Richardson, 4275 Sandalwood Drive, commented that the parcel has maintained the open space designation despite several actions on this property over the years. If open space was important 40 years ago, it was certainly important today. Mr. Richardson claimed that there were no development rights to the property and it would be more valuable as open space.

Brooke Richardson, 4275 Sandalwood Drive, stated that she was in favor of maintaining the open space.

J.D. Brisk, 4034 West Oak Road North, echoed the comments made by his neighbors and stated that the property owner knew about the open space designation when he purchased the property.

Rodney Price, 4152 West Oak Road North, said that it was important to recognize that the surrounding residents had invested in Cedar Hills and put roots down here. They loved parks and open space in the City and wanted to preserve them.

Chris Warner, 4249 Sandalwood Drive, also agreed with the statements shared before him.

End of public hearing comments.

C. Anderson, C. Dredge, C. Miller and C. Spear were recognized as the voting members for this meeting.

SCHEDULED ITEMS

3. Approval of Minutes from the March 28, 2017 and the April 25, 2017 Planning Commission Meetings

MOTION: C. Spear—To approve the minutes from the March 28, 2017 and the April 25, 2017 Planning Commission Meetings. Seconded by C. Anderson.

Yes - C. Anderson
C. Dredge
C. Miller
C. Spear Motion passes.

4. Review/Recommendation on Amendments to the City Code Title 10, Chapter 3 Regarding the Re-zoning of Certain Portions of Area Currently in the PF Public Facilities Zone to the R-1-11,000 Residential Zone, and to Amend the Official Zone Map to Reflect these Zone Changes

Chandler Goodwin, City Manager/City Planner, went over a brief history of the subject parcel and explained that it was part of the original development for Cedar Hills, as approved by the County Commission. The property was designated as open space on the plat recorded by the original developer in 1976, and it has remained such ever since. He noted that the property had always been held in private hands, which made the situation unique.

C. Anderson asked how the property came into the hands of Mr. Parsons. Mr. Goodwin said that he obtained the property through a quit claim deed. Staff had spent a lot of time searching through old meeting minutes to obtain a lot of the information presented today, and Mr. Goodwin was sure that there was still more to be found.

Mr. Goodwin stated that this application represented due process, in that the land owner has a right to make an application regarding his or her property. The request was not generated by the City. Mr. Goodwin then read from Utah State Code regarding a municipality's powers and duties, which essentially gave the City legislative authority to govern land uses within the City limits. The Planning Commission had the option of forwarding a positive or negative recommendation to the City Council, who would make the final decision, or they could choose to continue the item. Mr. Goodwin noted that if the application were approved by the City Council, it would start the process of creating a subdivision.

C. Anderson asked for further information regarding the Public Facilities zoning designation. Mr. Goodwin explained that the City recently moved several parcels into the Public Facilities zone because the City intended to put public facilities on those properties in the future. The General Plan does specify the importance of open space in the City of Cedar Hills, and although the General Plan was adopted in 1995, Mr. Goodwin felt that it was still relevant to the City today. Regarding the resident survey the City sent out, Mr. Goodwin reported that the results show open space and recreation as the highest priority for the residents.

C. Anderson asked when the designation was changed to Public Facilities, and Mr. Goodwin answered that this was done in 2015. The City received no objections from Mr. Parsons at that time.

C. Spear asked if the subject parcel was the only Public Facilities property that was privately owned, and Mr. Goodwin reported that there were two other properties besides the one being discussed.

C. Miller asked why the subject property had not been developed into a park yet. Mr. Goodwin stated that the development of other parks had been at the forefront of the City's plans. It was Mr. Goodwin's understanding that the City had previously attempted to obtain the property.

Mr. Goodwin said the Mr. Hazelwood had presented some minutes that stated that the property was never to be developed residentially. Those minutes also state that the property was intended to be dedicated to the town, but that was never done. When the parcel was designated as open space, Cedar Hills did not exist, but that would not take away the City's legislative authority to control land uses within the City. Mr. Goodwin said that the General Plan was very important to this case, as was the original intent of the subdivision. He noted that there had never been a time when the property was a buildable lot. If the owner wanted to create a buildable lot, he would have to go through a lengthy process to do so. At that point, the City had no details of what the buildable lot would look like, if it were possible at all.

C. Anderson emphasized that the Planning Commission would not be approving a subdivision that night. The application was simply for a rezone, and the City Council would make the ultimate decision.

C. Spear asked if there were any details about the City's previous attempts to purchase the land from Mr. Parsons. Mr. Richardson, a previous City Official, said that he was present when those previous attempts were made. Along with purchase offers, the parties also discussed donating the land in exchange for a tax deduction. At the time, Mr. Parsons wanted to sell the land based on a valuation of the property with development rights, while the City valued the property without development rights.

Mrs. Grant reported that the residents had also tried to negotiate purchasing the property from Mr. Parsons, but the valuations he gave were in the extreme.

Mr. Lane added that the residents would willingly each purchase a small section of the property and maintain it as open space, but none of them could afford the price set forth by Mr. Parsons. Mr. Lane believed that the property should be valued without development rights.

Mr. Brentley reiterated the importance of private property rights. Mr. Parsons wanted to build a home on the buildable area of the property, and they were trying to get this situation resolved before Mr. Parsons passed away.

Mr. Goodwin addressed the potential buildable area on the property and explained that it was unlikely that more than one lot could be made. The application would have to be examined by the Engineering Department to determine the buildable area exactly.

Mr. Goodwin said something else to consider was whether maintaining the Public Facility zoning designation constituted a taking of private property, as stated by Mr. Brentley. Staff's

initial analysis of the issues says that it would not be a taking. Based on case law, it could only be considered a taking if the regulations deprive the property of all economic benefit. In this case, there were some permitted uses in the Public Facilities zone, including cemeteries, parks, schools, water reservoirs, and municipal buildings.

C. Dredge asked what the zoning of the property was at the time that Mr. Parsons purchased it. Mr. Goodwin said that the original zoning was with the County, but it could be best described as being platted as open space. When Mr. Parsons purchased the property, it was most likely zoned R-1-10,000, and then later changed to R-1-11,000 when the General Plan was adopted in 1995. Although it was zoned residentially, the property had always been platted as open space within that zone.

C. Anderson said that the rezone would essentially be undoing the change that took place in 2015. He was uncomfortable with a private property being zoned Public Facilities. Mr. Goodwin commented that changing the zoning to R-1-11,000 would not automatically create a buildable lot.

Mr. Goodwin explained that the sample motion in the staff report really contained two recommendations. The first was regarding the zoning, and the other was a recommendation to vacate the open space.

C. Dredge noted that the Chair and Vice Chair were both absent for the meeting, and he felt that their input would be valuable to the discussion. He suggested tabling the discussion. Mr. Goodwin agreed and stated that a continuation would allow him additional time to research the legal side of the issue.

C. Anderson argued that the Planning Commission's recommendation would have no effect on the legal issue at hand.

MOTION: C. Spear—To table the decision regarding the proposed changes to the Cedar Hills Zoning Map and the decision to vacate the open space provision of the Cedar Hills Subdivision, Plat I, Lot 26. Seconded by C. Miller.

Yes	-	C. Spear
		C. Miller
		C. Dredge
No	-	C. Anderson
		Motion passes, 3-to-1

NOTE: The Planning Commission took a break from 8:40 p.m. to 8:55 pm.

5. Discussion on Amending the City Code to Allow Artificial Turf as a Landscape Option

Mr. Goodwin explained that a resident recently approached the City Council during public comment and asked that the City consider amending the land use ordinance regarding landscaping to allow artificial turf. This ordinance was recently amended to allow certain types

of xeriscaping, but artificial turf was not included in that allowance. Mr. Goodwin noted that the current ordinance regulates the front yard of residential homes, but not the back yard. Ogden City recently adopted an ordinance that allowed for artificial turf, and that language was included in the packet. Mr. Goodwin said that the comments made by Mr. Stewart at the beginning of the meeting covered the issue quite well and he had little to add.

C. Dredge said that the City should be concerned about appearance and possible detrimental effect to the surrounding neighbors and City infrastructure.

C. Miller assumed that individuals would want to install artificial turf because it was low maintenance and would conserve water; however, the concerns brought up by Mr. Stewart were valid. Synthetic turf is not natural, and there was a wide variation on quality that the City would have difficulty regulating.

C. Anderson noted that Ogden's ordinance is very specific when it comes to the quality of the synthetic turf.

C. Spear asked if Ogden was the only City in Utah that allows artificial turf. Mr. Goodwin was sure that there were other cities, but he chose Ogden because their ordinance had an ample amount of information that Cedar Hills could potentially use.

Mr. Goodwin said that he had considered possibly allowing artificial turf in back yards.

C. Miller was not in favor of allowing artificial turf in front yards, but he could think of a few situations where it would be appropriate, such as a back yard putting green. The General Plan emphasizes open space and the natural feel of the City, and artificial turf would take away from that. He said it was possible for someone to xeriscape most of the front yard and have small grassy areas. This would conserve water and it would fit into the General Plan.

After further discussion, it was determined that Mr. Goodwin would create and present two drafts of the ordinance, one allowing and one disallowing artificial turf as a landscaping material. Mr. Goodwin said that he would have the language ready to present within a month.

6. Discussion on Ground Mounted Renewable Energy Systems

Mr. Goodwin explained that there was an instance within Cedar Hills where a resident had installed a ground mounted system that can be rotated to catch sunlight. The City had received several complaints about this system, mostly relating to height and the view shed. Mr. Goodwin asked if these types of solar panels should be allowed in the City.

C. Miller recalled the discussion the Planning Commission had regarding this issue the previous year and said that they had recommended denial. Mr. Goodwin said that the ordinance was approved allowing ground mounted panels, but it prohibited roof mounted wind turbines.

C. Anderson asked if any amendment to the ordinance would affect the existing solar panel, and Mr. Goodwin explained that the existing panels would be grandfathered in. An amendment would only affect future applications.

C. Anderson suggested that some of the issues could be resolved with greater setback requirements.

C. Dredge said that height was not the only issue. Residents have tall basketball hoops in their yards, but no one complains about them because people like basketball. It would be better to limit ground mounted panels with other requirements. C. Spear said that glare seems to be the greatest nuisance.

Mr. Goodwin said that he could draft language that limited ground mounted solar panels by imposing setback requirements, light reflection and heat restrictions, and possibly height. It was also suggested that they only allow ground mounted panels in larger lots.

C. Dredge said that the easiest solution would be to disallow ground mounted panels. C. Miller was in favor of allowing the panels with very narrow confines. This would take more time and research, but it would be more agreeable.

Denise Andersen said that restricting ground mounted panels by lot size would be a good idea. The panels would have less impact on a larger lot. C. Spear said that this would be similar to allowing animal rights on large lots.

There was some discussion about creating a formula based on lot size and setback requirements. It was suggested that the language include an allowance for panels that were very small and low to the ground.

ADJOURNMENT

This meeting was adjourned at 9:30 p.m. on a motion by C. Miller, seconded by C. Spear and unanimously approved.

Approved:
August 31, 2017

/s/ Colleen A. Mulvey, MMC
City Recorder