

PLANNING COMMISSION MEETING
Thursday, August 31, 2017 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: David Driggs, Presiding
Commissioners: Jared Anderson, John Dredge, Brian Miller, LoriAnne Spear, Steve Thomas
Absent/Excused: Craig Clement, Jeff Dodge
Chandler Goodwin, City Manager/City Planner
Denise Andersen, City Council Representative
Colleen Mulvey, City Recorder
Others: Jenney Rees, Gary Gygi

1. Call to Order.

This meeting of the Planning Commission of the City of Cedar Hills having been properly noticed was called to order at 7:02 p.m. by C. Driggs. The voting members of the Planning Commission were recognized.

2. Public Comment:

Tyler Gardner of 10218 North Oak Court started his comments by saying he was born and raised in Cedar Hills. He spoke regarding the open space near his home of which there had been a continuous battle to have it rezoned. He and a number of other members of the community had a number of items they would like to take place: (1) denial of the zone amendment, (2) immediate enforcement of the maintenance of the property, (3) purchase of the land by the City that would develop and maintain the open space.

Ray Layne of 4279 West Oak Road North also commented on the aforementioned open space. After thirty eight years of living where did, the open space continued to be an issue. He discussed conflicting language from the City as to whether or not it was still considered open space, or if the City was trying to sell the property. He went into detail of the negative impact that the changing of the area from open space to another residential space would have on current residential homes.

Dave Free of 4309 West Oak Road North also discussed the open space in question. He spoke on the views that owners bought when purchasing homes. Residents didn't buy the view of the side of a house, rather, a park-like space. He cited this being no different than those who had purchased homes overlooking the golf course and how their property values would go down if the golf course were to be sold for the purpose of building new homes. He requested the voting of the Commission be in opposition to the proposal.

Cherie Condie of 4221 West Oak Road North thanked the Commission for the opportunity to speak. She wanted to speak with the Commission regarding rezoning open space. She stated that would be great mistake and urged the denial of the petitioner's request. She also implored of the Commission to not recommend for rezone to the City Council.

Steve Brantley explained that the owner of the lot that had been spoken of by those who preceded him was not looking to put more than one lot in the aforementioned space. Also, the owner was not looking to build a home anywhere outside of City building regulations. C. Driggs asked if Steve Brantley represented the owner of the lot. Steve Brantley stated that he represented Allen Parsons through Pettey and Associates. C. Driggs cited Steve Brantley having said there was a desire to build on part of the zone, and he inquired as to what part. Steve Brantley responded that he was willing to work with the City to determine the best section to build.

Mark Grant of 10196 North Oak Court stated he had lived in Cedar Hills for approximately thirty years. He stated that Allen Parsons had bullied him and his family and made unspecified threats. He continued that the land in question was nothing but weeds. He requested that City officials take action.

Mike Taylor of 10099 North Sage Road East stated that a decided factor of purchasing his home when he did was that the land in question was designated open space. He was against the development of even a section of the land. He, among others, believed that the space was not ugly, but beautiful and enjoyed the beauty of unmanicured, natural lands.

Ken Hazelbaker of 10253 North Oak Road West discussed the definition of “integrity”. He asked the City to not compromise its integrity for the sake of one individual, while seventy five others opposed the will of that individual. This was regarding the possible residential development of the land aforementioned.

Jean Peaslee of 10147 North Oak Road West discussed what the open space meant for children living in the area. She was concerned that building on the ground could destabilize the land, thereby putting nearby homes in jeopardy.

Markus Memmott of 10137 North Maple Court wished to bring a historical perspective into the conversation, believing such a view to be of value. He shared that he had been one of the individuals that signed the petition of the County to grant Cedar Hills the status of being an independent town to become a city. A part of that petition included plats that illustrated the open spaces requested. The County accepted the statement as what the residents of now Cedar Hills wanted at that time. Markus Memmott continued that many residents had bought land near the space with the intent that the open space would continue, of which they would benefit. He would like to see the land remain as was into the future.

Troy Flickinger of 10130 North Maple Court explained that he had previously lived in an area where he was fish-bowled in. He had bought land having not been surrounded by other homes, but that quickly became the case. He didn’t enjoy feeling he had no privacy, and for this purpose he moved to Cedar Hills as he was told the aforementioned area was open space and he wouldn’t have to worry about privacy. He expressed concerns with the land shifting, possible flooding, density and difficulty of travel, and privacy. He asked that the Commission do what was best for the majority and not the minority in this case.

Eric Richardson of 4275 West Sandalwood Drive stated that he loved Cedar Hills having built two homes in the City, and would most likely be buried in the City cemetery if it was finished by that time. He stated there were no development rights on open space. He would like to see the property bought at a reasonable rate to preserve the owner's rights as a property owner and the rights of the citizens of Cedar Hills. He hoped the Commission would deny the request.

Judy Ball of 10116 North Sage Road East sought to clarify that Allen Parsons was not seeking to build on his lot, but hoped to sell it. She also shared her opposition of the request.

Joann Holmes of 196 South 850 West Lehi stated she was the residential real estate agent for the property. She made the recommendation that the City make a reasonable offer.

Brent Holbrook of 10217 North Oak Court asked if all those opposed could stand to show that even those that hadn't spoken were in opposition to the request. It was noted that the greater majority of audience stood up.

Mary Witty of 4222 West Cedar Hills Drive expressed concern of the geology of the property.

Diane Sorensen of 4078 West Oak Road North agreed with all the other residents. She had one question, that being what was the basis for the Staff's recommendation.

C. Driggs stated that the Planning Commission would recommend this item to City Council who would ultimately decide the outcome of the request. He spoke on the rights of the property owner to submit a request. He also wanted to make it clear that the Planning Commission is not made up of elected officials; rather they are appointed officials.

C. Driggs then closed the public comment segment of the meeting.

SCHEDULED ITEMS

3. Approval of Minutes from the July 25, 2017 Planning Commission Meeting

MOTION: C. Miller—To approve the minutes from the July 25, 2017 Planning Commission Meeting. Seconded by C. Spear.

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

C. Driggs reviewed the agenda items. He also noted that items number five and six had been suggested to be discussed but not voted on as they were not properly publically noticed.

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 explained that land use issues required a public hearing and public notice. He wrote down some of the concerns of the public and hoped he could cover them in his presentation. He stated that property owners had the right to due process. He spoke on the history of the land parcel and explained the plat was signed in 1976 by Utah County, before Cedar Hills was incorporated. The land had not previously had a city to be dedicated to and had been held privately.

Chandler Goodwin then explained in detail the State's code concerning powers and duties of a city. One of the duties dealt with regulation of density and open space.

He then addressed Diane Sorensen's question regarding the Staff's recommendation. He read the official recommendation of Staff which stated either the landowner be allowed to build or leave the land as it was. He stated that rezoning would not grant developmental rights.

An unidentified audience member asked if it was a requirement of every resident to maintain the property. C. Driggs stated that the public comment section was over.

Chandler Goodwin said he didn't see how the issue at hand pertained to the violation of property rights.

C. Thomas cited the staff report, mentioning two other parcels that were privately owned. Chandler Goodwin made the correction that there was only one other parcel now, the second being the Harvey land which was acquired by the City.

C. Spear stated that last month Chandler Goodwin was going to seek legal advice on this matter, and asked Mr. Goodwin what he had learned. Mr. Goodwin expressed his concerns on taking the land. C. Spear stated that there had been attempts to purchase the land from Allen Parsons and wondered when the last attempt had been made. Eric Richardson replied that the most recent attempt was either 2010 or 2011. Chandler Goodwin stated he wasn't privy to those discussions.

Mr. Goodwin explained that the same open space provision was still intact on the property. That hadn't changed since the time the plat had been recorded. C. Miller stated that it seemed odd to have private property designated as a public facility. C. Driggs cited a section of City code which had to do with public land zoning.

Chandler Goodwin stated that the owner's rights had not changed, but the City did have the intent to someday acquire the land. C. Driggs asked if this was currently on the City's master plan for a park. He pointed out that according to nuisance section of City Code, weeds and general appearance only applied to commercial residential lots, not to public facilities which the land in question would be labeled. Chandler Goodwin stated there were park rules which would be considered nuisance, such as fireworks. C. Driggs stated that the plat currently was a fire hazard, but because the nuisance ordinance didn't apply to a public facilities zone the City didn't have any recourse to encourage the owner to maintain the land. Chandler Goodwin responded that if the area stayed in the public facilities zone, the City would need to reach an agreement with Allen Parsons regarding the needed maintenance. C. Driggs asked Chandler Goodwin what

he would suggest. Chandler Goodwin stated that the City did do weed abatement on private property and billed the owner, but that was on residential lots. C. Anderson inquired as to why the City would even want to interject on land maintenance. Chandler Goodwin stated the City typically did not do this.

C. Driggs stated that unless the plat went back to an R-1-11,000 zone, there would be no recourse for the owner to take care of the land. Chandler Goodwin stated that the space could be rezoned to R-1-11,000 and the Commission could forward a recommendation to the City Council as to whether or not the open space should be vacated.

C. Dredge asked about the timeline for acquiring the property and turning it into a park. Chandler Goodwin stated that for the last fifteen years the City had been trying to acquire the Harvey property. In those years, other parks had been developed. Now that the Harvey property had been acquired, that would take precedence over other park developments because of funding availability.

C. Driggs stated that he believed Allen Parsons had no legal right to revert the land from open space. He also spoke on how the property rights of the neighbors began and ended on their own property. Much of the conversation came back to what was in the best interest of the City, since neither party held legal claim to force the other to do what they wished. His opinion was that the best interest of the City was to keep the land as open space. He suggested the City put the land back in the R-1-11,000 zone so the owner would be responsible for addressing the maintenance needs of the property.

C. Dredge believed the Commission was not discussing whether to vacate the land from open space. It was stated that this was to be a part of the motion.

C. Spears stated that the property owner knew what the land was when he bought it. C. Miller didn't see any compelling reason to change the status of the property. He also didn't fault the property owner. Expectations were set with a hope of development which was not a right.

Chandler Goodwin interjected with a side note that he was willing to work with Steve Brantley to begin conversation regarding acquisition of the property.

C. Thomas asked where the trail would go if the property becomes a park. Chandler Goodwin responded that it would simply snake through the land beginning in the east. There was more discussion as to the overall layout possibilities.

There was some discussion as to what type of motion to make on this item.

MOTION: C. Spear moved that the Commission recommend to the City Council to not rezone the certain portions of the area currently in the Public Facilities zone and not recommend the amendment of the official zone map to reflect those changes.

C. Driggs asked if C. Spear wished to keep the land a Public Facilities zone and C. Spear answered affirmatively.

C. Dredge seconded the motion.

C. Driggs stated it would be hard for him to vote with the issue of nuisance and fire hazard that the land posed. C. Spear questioned that if the land was put back into R-1-11,000 zone that the owner would then be responsible. C. Driggs responded that was correct. C. Miller stated that the City code enforcer could issue citations.

A vote was called for the motion. All were opposed.

C. Driggs asked if it was the intent of the Planning Commission body to have the property owner subject to the nuisance ordinance. There was subsequent discussion concerning this question.

C. Miller asked if there was another option for amending City code.

Mr. Goodwin explained that R-1-11,000 was a residential designation and was what all homes were in. He stated the only other option was to make the space commercial. C. Miller believed that if the Commission was to put the land back into the R-1-11,000 zone, with the City being years away from acquiring the land, there would be time between now and the time of acquisition to make the necessary amendments to nuisance to public lands.

C. Driggs recognized a number of hands raised in the audience. He reminded the audience that public segment was closed.

MOTION: C. Dredge moved to recommend amending the official zoning map of Cedar Hills to move Lot 26 Plat I of the Cedar Hills subdivision into the R-1-11,000 zone and to not vacate the open space provision associated with Lot 26 Plat I. The motion was seconded by C. Spear. Voting was unanimous in carrying the motion.

Note: The Commission took a break beginning at 8:28 pm. They reconvened at 8:40 pm.

Chandler Goodwin noted on the previous decision that recommended rezoning only had to do with the Parson's piece.

5. Review/Recommendation on Amendments to the City Code Title 10, Chapter 5, Section 27: Landscaping, Relating to Artificial Turf

Chandler Goodwin stated once more that this item was for discussion only. There were two codes for landscaping; one in favor, one for denial. The code only addressed front and side yards.

C. Dredge was looking at the proposed code and believed wording needed to be changed in order to reflect artificial versus genuine blades of grass. There was deliberation as to what the wording should read and properties that had requested the City consider the usage of artificial turf on lawn space.

C. Driggs was opposed to artificial lawn space because it was not ozone friendly. C. Thomas didn't like artificial lawn space as it was not meant to last. C. Driggs stated there was a safety issue as well.

C. Spear asked if the Commission had discussed last month that these kinds of astro-turfs were different than those used for sporting events. Staff responded in the affirmative and explained that the hazards associated with athletic astro-turfs were not an issue with the artificial lawn spaces in question.

C. Driggs stated regardless that it was artificial turf. Cedar Hills was a natural city not an artificial city. C. Spear stated the City did use vinyl fences which were plastic and artificial.

C. Driggs asked for a straw poll on this item. C. Anderson and C. Dredge were in favor of allowing artificial turf. C. Driggs, C. Spear, C. Thomas, and C. Miller were in opposition to the allowance.

MOTION: C. Thomas moved to table the agenda item on artificial turf code until a future Planning Commission meeting. The motion was seconded by C. Miller. Voting was unanimous in favor of the motion.

6. Review/Recommendation on Amendments to the City Code title 10, Chapter 5, Section 38, Relating to Ground Mounted Renewable Energy Systems

Chandler Goodwin stated that rather than disallow such renewable energy systems it was the desire to constrain residents from placing said systems above the property lines and twenty feet tall. He went into detail concerning the specifics of the amendments.

C. Dredge observed that those on smaller lots would not be able to take advantage of systems according to the specifications. Chandler Goodwin stated the amendment affected those smaller backyards. The amendment would limit the renewable energy system size based on square footage of the backyard in which it was placed. He continued that he would not want to have such a large system in his own backyard blocking his and the view of his neighbors. C. Thomas stated it was like having a billboard in the backyard.

Chandler Goodwin stated the amendment would be similar to the limitations on the City's large animal units; for each horse a resident must own 5,000 square feet of agricultural area. Not every property right was held by every property.

C. Driggs asked about the placement of solar panels and whether or not there was an allowance to place the panels on the front side of a home. Chandler Goodwin responded there were no restrictions on placement due to solar panel efficiency being constrained by where the sun was.

C. Driggs talked about trying to mitigate solar panel glare. Chandler Goodwin thought the Commission had addressed mitigation of solar panel glare. He read the code regarding said issue and upon reading the code stated that there wasn't prevention of panel placement, only mitigation.

C. Driggs asked for a motion to table this item.

MOTION: C. Miller moved to table the item for proposed changed to Code 10-5-38 Renewable Energy Systems to City Council until future Planning Commission meeting. The motion was seconded by C. Dredge. Voting was unanimous in favor of the motion.

ADJOURNMENT

This meeting was adjourned at 8:57 p.m. on a motion by C. Dredge, seconded by C. Thomas and unanimously approved.

Approved:
September 26, 2017

/s/ Colleen A. Mulvey, MMC
City Recorder