

**PLANNING COMMISSION MEETING**

Tuesday, July 31, 2018 7:00 p.m.  
Community Recreation Center  
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: John Dredge, Vice Chair, Presiding  
Commissioners: Jeff Dodge, Steve Thomas, Lori Anne Spear (7:05 p.m.)  
Absent/Excused: Jared Anderson, David Driggs  
Chandler Goodwin, City Manager  
Joel Wright, City Attorney  
Colleen Mulvey, City Recorder  
Others: Mark Greenwood, Rance Jones, Jenney Rees

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 7:01 p.m. by Vice Chair John Dredge.

2. Public Comments: 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.)

Ken Hazelbaker stated he had lived in Cedar Hills for three and a half years. He explained they were directly impacted by a development next to their home. He recently put in a window to give his home a view and this development would block that view. This same concern was expressed last year and 150 people were against the development. He asked the Commission to honor this area as open space.

3. Approval of Minutes from the July 10, 2018, Special Planning Commission meeting.

**MOTION: C. Dodge—To accept the minutes as presented.** Seconded by C. Spear.

Yes - C. Dodge  
C. Dredge  
C. Spear  
C. Thomas Motion passes

Mr. Hazelbaker asked if there was a packet concerning the development he referenced in the above statement. He was informed that those who would be affected the most by a development received a letter in the mail with instructions of how to access the packet. Mr. Goodwin said the packet is available on the city’s website and he would be happy to print out a packet for those who requested one.

4. Review/Recommendation on Amendments to the City Code Title 3, Chapter 3 regarding re-zoning a portion of Lot 26 Cedar Hills Subdivision Plat I from the PF Public Facility Zone to the R-1 11,000 Residential Zone, and vacating the open space provision of a

portion of Lot 26 Cedar Hills Subdivision Plat I, and to amend the Official Zone Map to reflect these zone changes

Mr. Goodwin explained the parcel was originally approved while it was a part of the County in 1976. Open space was not a requirement at this time because Cedar Hills did not exist. The parcel in question was a triangle piece behind existing homes. He read a section of the State code concerning the cities' power to govern this parcel's land use. He explained the Commission had more latitude in this decision compared to other rezoning requests. He then presented a video of the subject property and discussed the property's topography. He explained the property was a part of the City's capital improvement plan. The developer agreed to include a trail easement and the City intended to build a park through the open space on the property.

C. Thomas asked if the trail plan would change if they did not rezone the property. Mr. Goodwin answered in the affirmative. He explained the portion of the rezone would not be a part of the capital improvements plan.

Mr. Goodwin explained this was a difficult piece to develop. C. Thomas asked if the open space would be unaffected by the rezone piece, to which Mr. Goodwin answered in the affirmative.

Mr. Goodwin said he had met with the residents and wanted to share their concerns. He explained one of their concerns was drainage. He noted it was required that all developers maintained their own drainage. Any improvements would have to show the drainage was contained on site. C. Thomas asked if there was risk of flooding. Mr. Goodwin answered in the negative and explained the current condition of the property would not create flooding. He said they would need to engineer the property to avoid future flooding once it was developed.

In response to a comment regarding development on the hill throughout this area, Mr. Goodwin said it was expensive to develop these properties.

C Dodge asked if the overall property remains in private hands and we approve the proposed rezoning request for the west portion, what would inhibit a property owner from making similar rezoning requests for the other portions of this property. Mr. Goodwin explained that the current proposal set aside a portion to the City. None of their decisions were contingent on Mr. Jones donating land. He stated that the City would not develop the land if they purchased the land; however, if the land was held privately they could make a proposal in the future.

Mr. Goodwin noted a lot of people from the adjacent neighborhood had major concerns about this development. He said the Mayor put this issue on the Facebook page and noted many of the comments were from the adjacent neighborhood. Those opposed to the rezone came from throughout the community. Mr. Goodwin subsequently read some of the comments and distributed a copy of them to the Commissioners. He said the majority was against the rezone.

Using the aid of an aerial map, Mr. Goodwin identified where the property lines were located. He noted some of the neighbors had encroached on the property. He said this needed to be addressed as it was a civil issue.

C. Thomas asked if it was a zoning issue if a resident built outside their property lines. Mr. Goodwin answered yes and no, and explained that there were some actions that were not a zoning issue. C. Dredge asked if a resident would own the subject property after 20 years of encroaching on it. Mr. Goodwin stated that the issue was not that simple; the State Code had no rules regarding this issue and everything was based on precedent. He explained what precedent was used to determine property ownership, and stated that he was not an attorney and therefore not an expert on the legal issues. He did not think a resident could claim a piece of property based on a 20-year encroachment without challenge. He noted if the residents were successful in obtaining the encroached areas, a park would be impossible.

C. Thomas asked how wide the piece of land was where the trail would be built. Mr. Goodwin said he did not know. Mr. Goodwin stated these improvements were not easily built. C. Thomas explained the open space would be a trailhead. Mr. Goodwin explained there was a rock wall in this location and removing it would be a major undertaking. C. Thomas stated there was a potential precedent to rezone open space to residential somewhere else in the City. Mr. Goodwin explained this was different because there was an added density to the property.

C. Dredge asked if the City would purchase the property and turn it into a park, if a rezone did not take place. Mr. Goodwin answered in the affirmative, and said they planned on using this property as a part of the City's parks and trails system. He said the price was not worth the cost of open space. C. Dredge asked if he would feel the same if it was purchased at the open space price. Mr. Goodwin answered in the negative.

## PUBLIC HEARING

- Review/Recommendation on Amendments to the City Code Title 3, Chapter 3 regarding rezoning a portion of Lot 26 Cedar Hills Subdivision Plat I from the PF Public Facility Zone to the R-1 11,000 Residential Zone, and vacating the open space provision of a portion of Lot 26 Cedar Hills Subdivision Plat I, and to amend the Official Zone Map to reflect these zone changes

Cheri Condie thanked the Commissioners for hearing the residents' concerns. She asked the Commission to not recommend the petitioner's request to the City Council. She said it was a convenient piece of land to remind them of their pioneer heritage. In her opinion, it was not an eye sore because it had many trees and the community wanted more trees. She referenced Cedar Hills Code 11-4-3 which regards to approving plans and plats. She said there was no compelling reason for the Commission to approve anything in this circumstance. She said the open space plan entitled the area to be nature space not park space. She said if the Commission approved the rezone she would lose faith in the City's leadership.

Dave Free said his biggest concern was the open space. He explained if they did not rezone the property the price would improve. The City would never be able to purchase the property if there was a rezone. He suggested the property be a public facility and address the land in the future. He said the City should upkeep the property and enforce weed abatement.

Jean Mather said the open space was beautiful but she was concerned that it was a fire hazard. She said her children could not enjoy the space because it was full of thorns. She was concerned about the current owner not taking care of the property. She was not in favor of the development, but would be amenable to one home if that improved the property.

Rance Jones explained the encroachment had caused some of the issues with the open space. Developing one home allowed him to gift some of the property to the City and to create a trail easement to maintain the property. He said to be fair, they needed to talk about the encroachment on the open space.

Ken Hazelbaker explained the area they wanted to rezone was the only area they could create a park because it was flat. He referenced another issue within the City and asked if it would be similarly handled.

Mike Taylor asked if the same owner owned the two lots. He also asked if the weed abatement would be enforced if the property was left open space. His biggest concern was this would set a precedent for other lots. He noted open space did not necessarily need to be groomed. He asked the Commission to not approve the rezone.

C. Spear said none of the residents spoke about encroachment. Mr. Free stated those who had spoken on the topic were not present at this meeting.

In response to Mr. Taylor's question, Mr. Goodwin explained that separate owners owned the lots. He said the weed ordinance would be enforced and they had received notice to abate the weeds. Staff did not know details on the rock wall and would need to review building permits. He explained there was nothing that bound the City in the future concerning this decision.

The question was asked if the developer was obligated to include in the application that they would only build one home. Mr. Wright answered in the negative.

C. Spear asked where the park development would be included in the future. Mr. Goodwin said the park development would be on both parcels. He was concerned about the wall because it would make it difficult to put in a trail.

Mr. Wright said this property had unique problems. The open space was not owned by a government entity and there were encroachments. He said this proposal would solve these major issues with the property.

C. Thomas stated that many of the residents mentioned using this area as open space. He noted this was technically trespassing as it was currently private property. He said that injury, fire, or other damages could lead to criminal charges.

Mr. Goodwin said the parcel owned by Mr. Hansen could include park elements. C. Spear asked if they could include a parking lot, to which Mr. Goodwin answered in the negative. There were a lot of pocket parks in the City without parking lots. He said this would be more of a neighborhood park.

C. Thomas said if they turned this area into a park more people would come to the area, which could potentially create undesirable activity. Mr. Goodwin said this was a good point and noted that at the last Council Meeting, several residents expressed concerns with another park within the city for similar reasons.

C. Dodge said that while he had stated in a previous meeting that he felt the proposed rezoning was a reasonable compromise, he felt differently this evening after further consideration. He felt that residents had purchased property on this street with the understanding that the property in question was zoned as open space and would remain as such. C. Dredge said he was respectful of C. Dodge's opinion. He said he was concerned this was not reasonably an area they could call open space; the area could not be developed into a park. C. Dodge added that the City often reminds residents who purchase property adjacent to the commercial zone that they should expect future development to align with that zoning. Likewise, he felt the City had a responsibility to support those who live next to this property in their expectation that any future development would align with the open space zoning in place at the time of their purchase.

C. Dredge stated if it became a part of the trail system the space would dramatically change. He said this spoke to the encroachment because it needed to be open space not someone's yard. He said this was frustrating because people wanted the open space but were encroaching on the property.

Mr. Goodwin stated that people moved to the area because of open space. He said he agreed the homeowners could not encroach on the property and ask for open space. The City wanted this area to become a part of the parks and trails. He noted the City did not protect home values and the City needed to include the property as a part of their trails system.

C. Spear asked if a resident's view was ever protected by the City. Mr. Wright answered it could be, but the City had to have restrictions or something included in an agreement. Mr. Goodwin explained the protection had to be included in CC&Rs or some other agreement.

C. Thomas said they had talked about home and land values. He noted this was a privately owned piece of property and this put some expectations for it to be maintained a certain way. He explained for this property to be maintained properly it needed some value to the owner. He said this was why there needed to be development on the property.

Mr. Goodwin explained the point of rezoning areas was to ensure the right developments occurred in the right areas. C. Thomas said he was in favor of granting development rights because they would continue to readdress this issue in the future. He said the problems of encroachment, weeds, and fire safety would not disappear. Mr. Goodwin added private property owners had the right to develop their own land.

C. Thomas explained there was no land that was insurmountable for building. In other words, if developers wanted to build on a property they would find a way to do so. He said this plan allowed them to preserve portions of the open space. This was private property and they could not prevent the development from occurring.

C. Dredge stated when other lots were built they would obstruct the views of the existing homes. Mr. Free said the argument he had was a home being built on this property would prevent the open space to be used by the community. The owner purchased the land knowing it was open space and that it was unbuildable.

C. Thomas was concerned that if something was open space and in private hands, there was a reason. Mr. Free reiterated it was planned to be open space and unbuildable.

Mr. Goodwin explained the preservation of open space was not a denial of property rights. He noted if someone purchased open space they purchase it knowing the development rights. He said the manner in which Mr. Jones wanted to develop the property required them to rezone the property.

C. Dodge clarified that he understood that this was private property and was not questioning the legality of the requested rezoning. Rather, he thought that though there are issues that need resolution regarding this property, the proposal from the applicant was not the answer. Mr. Goodwin said whatever the outcome of the vote on this item, the Commission needed to address the issues with the property.

C. Thomas said he was a big advocate of open space. There were a number of issues on this property and this proposal was the cleanest and most efficient way of fixing said issues.

Mr. Goodwin said the issues with the subject property would be the same in the future. Tonight's vote would decide the direction for the property.

C. Thomas asked if the City decided to buy the property and made it a trail or park, would the same issues still exist. Mr. Goodwin said he could not answer that question as there were too many variables to consider.

C. Dredge stated that parks created problems for the residents that lived near them. C. Thomas commented people sometimes did not like the noise levels from parks and they created disturbances. Mr. Goodwin stated if the home was developed and the City put in a park, nothing dramatic would change about the area. C. Thomas explained there would not be a pavilion or a parking lot but only a trail.

Mr. Goodwin explained if a home was developed in this area a police officer would not be able to see into the park. C. Dredge said he used trails all the time and was sensitive to the homes that bordered them. He explained he was not in favor of living next to a trail. He said many people had approached him for a solution and what was presented tonight was a good compromise.

Cheri Condie asked how it was different for someone to walk on a trail behind a home than someone walking on a sidewalk in front of the home. C. Dredge explained it was very different because many people using the trail caused a privacy issue for a resident's back yard.

**MOTION: C. Thomas—To recommend to the City Council amending the City Code Title 3, Chapter 3 regarding the re-zoning a portion of Lot 26 Cedar Hills Subdivision Plat I from the PF Public Facility Zone to the R-1 11,000 Residential Zone, and vacating the open space provision of a portion of Lot 26 Cedar Hills Subdivision Plat I, and to amend the Official Zone Map to reflect these changes.** Seconded by C. Spear.

Yes - C. Dredge  
C. Spear  
C. Thomas  
No - C. Dodge Motion passes.

C. Thomas noted the City Council would make the final decision. It was the Commission’s job to interpret code.

*The Planning Commission took a recess from 8:35 p.m. to 8:45 p.m.*

5. Review/Recommendation on Final Plan Approval for the Cedar Hills Gateway Commercial Subdivision

Mr. Goodwin explained they were not approving individual lots; rather, they were approving the public right-of-ways. Using the aid of an aerial map, he identified where the parcel in question was located. He explained how the rights-of-way would be incorporated into the area, and explained they were attempting to create a more functional walkable area.

C. Thomas said this was previously designated for storage units. Mr. Goodwin said there were no proposals made yet.

C. Spear asked about the configuration. Mr. Goodwin stated that the configuration presented was what the developer wanted. He explained the reason why the City Council agreed on this specific configuration. There was discussion by the Council to make the southern access point a full access right-of-way.

Mr. Goodwin said they decided to remove a speed table for a four-way stop. This was to accommodate snow removal.

C. Dodge asked if there was a driveway across from the southern access point, to which he was given an affirmative answer. Mr. Goodwin said there was not a lot of change recommended because as each lot was developed they would determine how it would be incorporated into the development.

C. Spear asked if there were plans to include a roundabout. Mr. Goodwin answered in the negative. He explained the City’s standard for roundabouts were too big for the location. They were interested in allowing trucks and emergency vehicles access through this area.

C. Dredge opened public hearing.

PUBLIC HEARING

- Review/Recommendation on Final Plan Approval for the Cedar Hills Gateway Commercial Subdivision, located at approximately 9826 North 4800 West in the SC-1 Commercial Zone

There were no comments.

C. Thomas asked if Lots 1-4 would have double drive-through options. Mr. Goodwin stated they were only approving public improvements; they were not discussing the drive-through. It was noted the storm water was meant to be stored beneath the development for the entire property.

C. Spear asked if the first part of the development would include the installation of the concrete wall. Mr. Goodwin answered in the affirmative. C. Dredge asked about the size of the wall, and Mr. Goodwin answered it was six feet high. C. Spear asked if the wall design had been determined. Mr. Goodwin answered in the negative. He said the wall would be required to meet the City code. C. Spear asked if it would be similar to Walmart, to which Mr. Goodwin answered in the affirmative.

**MOTION: C. Thomas—To recommend to the City Council the final plan approval for the Cedar Hills Gateway Commercial Subdivision.** Seconded by C. Anderson.

Yes - C. Dodge  
C. Dredge  
C. Thomas  
C. Spear Motion passes

6. Adjourn

This meeting was adjourned at 8:59 p.m. on a motion by C. Dodge, seconded by C. Thomas and unanimously approved.

Approved:  
August 28, 2018

/s/ Colleen A. Mulvey, MMC  
City Recorder