

CITY COUNCIL MEETING

Tuesday, August 21, 2018 7:00 p.m.
Community Recreation Center
10460 N Clubhouse Drive, Cedar Hills, Utah

Present: Jenney Rees, Mayor, Presiding
Councilmembers: Denise Andersen, Ben Bailey, Ben Ellsworth, Mike Geddes, Brian Miller
Chandler Goodwin, City Manager
Greg Gordon, Recreation Director
Jeff Maag, Public Works Director
Colleen Mulvey, City Recorder
Others: Rance Jones, Lori Anne Spear, John Dredge, Steve Thomas, David Driggs, Sgt. Josh Christensen

1. Call to Order

This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:00 p.m. by Mayor Rees. The Pledge of Allegiance was led by C. Geddes, and the invocation was given by C. Ellsworth.

2. Approval of Meeting’s Agenda.

MOTION: C. Andersen—To approve the meeting’s agenda. Seconded by C. Miller.

Yes - C. Andersen
C. Bailey
C. Ellsworth
C. Geddes
C. Miller Motion passes.

3. Public Comment: Time has been set aside for the public to express their ideas, concerns and comments. Comments are limited to three minutes per person with a total of 30 minutes for this item.

Josh Van Amstel, 3516 West Canyon Heights, expressed opposition to the radar speed sign on his road. There were two pedestrian cross walks nearby and solar radar speed signs did not discourage aggressive drivers; he submitted several suggestions to the Council for alternative speed reduction mechanisms that could be more effective. Mayor Rees stated the Council would discuss the matter further and get back to Mr. Van Amstel.

CITY REPORTS AND BUSINESS

4. City Manager

Mr. Goodwin reported the following:

- Tot soccer kicked off tonight; however, it was rained out. Flag football starts on September 4th.

- The City hosted Damsel in Defense—self-defense classes—this summer, for the first time. The classes were successful and staff would like to see more registrations in the future.
- Staff met with the new administrators at Lone Peak to schedule the Junior Jazz season.
- The golf course would now be the new home for the Skyridge High School Boys Golf team.
- Mr. Goodwin thanked Walmart and Ernie’s for their work at community breakfast this past Saturday.
- The City was offering a new high fitness class beginning September 10th. More information could be found at the City’s website.

5. Mayor and Council

C. Miller reported that the Beautification, Recreation, Parks and Trails Committee did a great job with the pancake breakfast. The event was well attended, it was scheduled from 9:00 to 10:30 and they had run out of food by 10:00 am.

Mayor Rees stated that the Utah League of Cities and Towns (ULCT) started up its legislative policy meetings again, and she reported upon having attended its most recent meeting.

C. Andersen reported that she recently attended the Utah County Dispatch meeting, wherein the group discussed becoming more involved in the community.

SCHEDULED ITEMS & PUBLIC HEARINGS

6. Review/Action and Public Hearing on an Ordinance Amending City Code Title 10, Chapter 3 regarding re-zoning a portion of Lot 26 Cedar Hills Subdivision Plat I from the PF Public Facilities 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 presented the staff report, and began by discussing the history on piece of property within the City. The property in question was originally approved by Utah County 1976, one year prior to Cedar Hills incorporating as a City. He subsequently identified Lot 26 on an aerial map of Cedar Hills Subdivision Plat I. Typically, when the City approved a subdivision with open space, that open space was dedicated to the municipality. Since the plat in question was dedicated prior to the City’s incorporation, the open space was held privately by a developer. In 1983, the open space went to tax sale auction, at which point the City did not purchase it. The open space has remained under private ownership ever since that time. Mr. Goodwin subsequently read State Code 10-9a-102 and 10-9a-505, pertaining to land use development.

Mr. Goodwin stated he had met with a number of residents surrounding this area, many of whom expressed concerns pertaining to the development of this property. The residents had indicated that when they purchased the property it was open space; therefore, they would like for it to remain this way. He then presented a video showing views of the property, open space, and slopes.

Mr. Goodwin explained that this item was reviewed by the Planning Commission last month, and had been considered by the City a number of times in the past. The Planning Commission recommended that the lot be rezoned, the open space be vacated, and that the home be built. If the Council approved the vacation of open space and rezoning of the property, at that point the landowners could process a subdivision plan. The Planning Commission felt that the proposal was a reasonable solution. However, many citizens strongly opposed the development of the area and had expressed a desire to protect the open space.

Mr. Goodwin presented pictures of private property encroaching into the open space, and stated that this presented a civil issue. He said getting a trail through the area would be difficult due to the slopes, but the encroachments had gone so far that a narrower choke point had been created through the area.

Rance Jones stated that he was looking at developing the property, but this had been difficult to accomplish. He was proposing to build on a small parcel and would gift the rest to the City. Lot 25 was rezoned from open space in 1985; therefore, he argued, there was precedent for the type of proposal he was making. Mr. Jones reiterated his intent to work with the City on this project.

C. Ellsworth asked Mr. Jones if he was the property owner, to which Mr. Jones explained that he was under contract to purchase the land. C. Ellsworth asked how long the property had been under its current ownership. Mr. Jones stated that they had owned it for several years; his involvement with the property spanned approximately six months.

C. Geddes asked if during Mr. Jones's involvement of six months, had he met with homeowners. Mr. Jones indicated having met with most of the homeowners. He then explained that there had only been a few neighborhood meetings, at which point several accusations were made. Mr. Jones restated several points previously made, followed by subsequent discussion.

C. Bailey stated that he did not understand how cutting off the one piece of property and making it private would transfer liability to the City. He stated that the City would run into the same issues that the current property owner was facing. Mr. Jones explained that he had developed a lot of land in the northwest, and he had seen other cities with similar situations that were corrected using the same strategies he was proposing.

Note: Due to background noise, some of Mr. Jones's comments were inaudible on the recording.

C. Andersen asked Mr. Jones if he was aware of the situation with this property when entering into a purchase contract. Mr. Jones said he had heard of another developer that had wanted to put multiple homes on the property.

Mayor Rees welcomed members of Planning Commission to speak.

Planning Commissioner John Dredge summarized the discussions that have taken place at the Planning Commission level pertaining to this item. Several residents insisted the area remain a park; however, this open space was not a park. He said he liked the idea of having open space

that could be appropriately used for the residents' benefit. However, this had not been his observation with the land. Current use of the parcel was extremely limited. Being private property, there was no allowed use for public parks, trails, or play areas. Several of the adjoining residents had encroached on the land, and the bulk of the parcel had overgrown grass and was a fire hazard. Planning Commissioner Dredge briefly reviewed the property's history, which dated back to the City's incorporation in the late 1970s. He stated that in the case of the subject property the City needed to deal with the issues they had inherited. As a Planning Commission, they sought to provide recommendations to the City Council that they felt benefited the City. He stated that he was in favor of increasing both the quality and size of the City's parks and trails system, and this could be best accomplished by rezoning a small portion of the parcel in question. He asked the Council to consider the time, thought, and efforts of the Planning Commission on this issue.

Planning Commissioner Lori Anne Spear, said she wished to clarify the reasons why she voted the way she did. In speaking to the residents directly, she also expressed that she understood what it meant to "fight" for one's neighborhood. She read from page 29 of the General Plan regarding rezone proposals and land use development. She explained that 21 years ago she purchased a lot that bordered a privately owned orchard. Eventually, the City bought property but did not rezone it to commercial until several years later. This had a huge impact on the neighborhood. She stated that the City did have an obligation to its residents; however, they were not legally bound to change an area from its original design and purpose. She concluded that rezoning a small portion of the subject property was a good solution to the issues that had been identified. For this reason, she voted to recommend approval.

Planning Commissioner Steve Thomas stated he lead the charge on the Planning Commission's recommendation to the Council. This had been an issue for 40 years, and the Planning Commission had never recommended a permanent change; they had just "kicked the can down the road." He stated that he was an advocate of property rights, and he felt there was a solution to a very complicated problem. Not only were there civil issues with property encroachments, there was also a fire hazard, and issues with the zone. The solution recommended by the Planned Commission prevented the City from spending a lot more money later to purchase the property. For this reason, he voted to recommend approval.

Planning Commissioner David Driggs stated he was absent from the last Commission meeting and therefore did not vote on this item; however, the issue had been in front of them several times before. He explained that this was a tough topic; land owners had an expectation when purchasing property. Planning Commissioner Driggs stated that his primary concern was public safety. He explained that various uses were permitted in the PF Zone and he felt the proposed solution was reasonable.

PUBLIC HEARING

Dave Free, 4309 West Oak Road, stated that Planning Commissioner Jeff Dodge—who cast a dissenting vote on this item—had talked about commercial property and the golf course, and the ability to purchase property based on certain expectations. He stated that Cedar Hills only had so much open space. Selling off a small piece of it to build one home was different than developing

nine acres of commercial property. Mr. Free explained that by keeping the parcel in the PF Zone, the price of the land would be kept low. He said that never once, in the 22 years he had lived in Cedar Hills, had the weeds been taken down on the property. Residents were not arguing that the subject property was a park; rather, it had potential to be a park. He asked the Council to ask Mr. Jones if he planned to reside in the home he wanted to build. If not, then the residents would get stuck with what was left behind. For the residents in the area, it was important to them that the open space be maintained.

Steve Spear, 9937 North 4680 West, stated that he did not border the property in question. However, as a resident of Cedar Hills, he could not enjoy the area unless it was owned and maintained by the City. He reviewed the history of the area and concluded that things did change, and typically did so for the benefit of the residents.

Ken Hazelbaker, 10253 North Oak Road West, referenced a petition containing 150 names of residents in the area, in addition to eight pages of Facebook comments on this matter. There are residents who had always wanted this land to be open space. He stated that the Mayor and Council were elected to represent the people. Encroachments and choke points could be corrected. He asked the Council not to give up the most valuable piece of property in the area.

John Condie, 4221 North Oak Road West, also discussed the petition, noting that he collected over half of them personally. The residents he spoke to were clear about not wanting the subject property to be zoned residential. Mr. Condie discussed the difference between opinions and facts. He concluded by thanking elected officials for their time and attention to this issue. He expressed confidence in their ability to make the right decision.

Kathy Hanks, 10185 Oak Court, stated that she originally petitioned to have Cedar Hills incorporated as a City. She reminded those in attendance of the hillside disaster. She noted that the land had always been open space, and expressed concerns with how development would impact its stability. In conclusion, she expressed appreciation for the fact that the Council had to make difficult decisions.

Eric Richardson, 4075 Sandalwood, stated that the parcel in question had never paid impact fees. This issue came down to two points: rezoning and vacating. While he could understand the request for a rezone, the more difficult action was vacating the property because there were different standards to be considered. He encouraged the City to honor the members of its community when making a decision.

Steve Thomas wanted to point out that there was no distinction between developer and someone living in/renting a home; all of these individuals had certain property rights. He encouraged those in attendance to keep this in mind.

Mayor Rees expressed appreciation to residents, staff, and the Planning Commission for their time and research on this issue.

Mr. Goodwin addressed citizen comments. First, a portion of the land the City could own was where encroachment was happening. This was currently civil issue between the landowner and

residents, and if the land was donated to City, the City would then inherit these issues. Weed abatement was tricky because the City did not enforce weed abatement for the entire property. Whether or not Mr. Jones would be residing in home was not a germane discussion. Either way, Mr. Goodwin did not believe a precedent was being set.

Mayor Rees referenced comments made regarding the other allowed uses in the PF Zone. She asked Mr. Goodwin to speak to this point. Mr. Goodwin listed some uses in the PF Zone, including cemeteries, parks, and power substations. He discussed the difference between permitted and conditional uses.

C. Geddes thanked residents, staff and the Planning Commission for their time and attention to this item. He said this was a tough decision as there were a lot of implications. He agreed with the Planning Commission's stance that land use decisions evolved. He said he loved compromise, and he believed the proposal was a good start as a compromise that provided many public benefits. He stated that he did not mind this item coming back if the proposal were to improve in the future. His biggest issues were the encroachments; he felt they should be resolved first before coming back to the City.

C. Andersen said she used to live on Oak Road North, and she bought her property with the promise of living near designated open space. In this case, she did not see the benefit of changing for one house. Therefore, the matter came down to what residents in the area wanted, and they did not want this proposal to move forward. She said the Planning Commission did exactly what they were supposed to do in terms of forwarding a recommendation to the Council. Her position was that the City should protect open space. She agreed with C. Geddes that the property owner needed to deal with the encroachments.

C. Ellsworth appreciated the comments made from both sides of the issue. He did not see the benefit to City; while they had reached a good starting point, he believed more research was needed to reach the best solution.

C. Bailey thanked residents, staff and the Planning Commission for their time and attention to this item. He noted that the last park that was built was Bayhill, and it took 15 years to complete; so much effort went into these types of projects. C. Bailey stated that the whole community was a fire hazard. He reiterated similar points made regarding liability, legal issues pertaining to the encroachments, and private property rights.

C. Miller said he understood the position of the applicant and the Planning Commission. A home on that portion made sense; however, this was not the issue and he did not believe the proposal was right for the City. If approved, the City would be left with a portion of land that he viewed as useless. It was expensive to make a hillside of pretty green grass. C. Miller said he was an advocate of open space for Cedar Hills, and did not see this proposal as solving the issues that needed to be solved. Therefore, he could not support it.

C. Bailey stated that he would entertain the proposal, if owner would like to sell for fair market value. There was subsequent discussion on what motion would be made for this item.

MOTION: C. Andersen–To deny the proposed ordinance and deny amending Title 10 Chapter 3 of the city code of the City of Cedar Hills, 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 deny vacating the open space provision of a portion of Lot 26 Cedar Hills Subdivision Plat I. Seconded by C. Ellsworth. Vote taken by roll call.

Yes - C. Andersen
C. Bailey
C. Ellsworth
C. Geddes
C. Miller Motion passes.

ADJOURNMENT

This meeting was adjourned at 8:34 p.m. on a motion by C. Geddes, seconded by C. Miller, and unanimously approved.

Approved by Council:
September 18, 2018

/s/ Colleen A. Mulvey, MMC
City Recorder