

CEDAR CITY PLANNING COMMISSION
MINUTES – January 16th, 2024

The Cedar City Planning Commission held a meeting on Tuesday, January 16th, 2024, at 5:15 p.m., in the City Council Chambers, 10 North Main, Cedar City Utah.

Members in attendance: Councilmember Robert Cox, Ray Gardner, Adam Hahn, Tom Jett, Jennifer Davis, John Webster, Jim Lunt

Staff in attendance: Jonathan Stathis-City Engineer, Randall McUne-City Attorney, Donald Boudreau-City Planner, Amber Ray-Executive Assistant

Others in attendance: Shannon Poulsen, Lynn White, Draven Stallings, Steven Chaichi, Bob Platt, Ann Clark, Bassetts, Vickie Graham, Daryl Brown, Dallas Buckner

ITEM/REQUESTED MOTION LOCATION/PROJECT APPLICANT/PRESENTER

- Pledge of Allegiance – the pledge was led by Adam Hahn.

I. REGULAR ITEMS

1. Approval of Minutes (dated January 2nd, 2024)
(Approval)

Jett motions to approve the minutes from the January 2nd meeting; Webster seconds; all in favor for unanimous vote.

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| 2. PUBLIC HEARING
Zone Change from
AT to R-3-M
(Recommendation) | 3400 W South Mountain Dr
Parcel #B-1846-0003-0000 | Chamberlain/ Henstra |
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Jonathan: Applicant did not send out notices. The zone change on South Mountain Drive conforms with RDO. Zoned AT- which is a holding transition. In order to Develop, they need to do the zone change.

Public Hearing Opened

Vickie Graham: Where on South Mountain? What is R-3-M?
Hahn: Multi family.

Public Hearing Closed

Councilmember Cox motions to table the zone change at 3400 W South Mountain Drive; Gardner seconds; all in favor for unanimous vote.

3. Simple Minor Lot (Approval) 423 E 200 S/ 189 S 400 E Draven Stallings

Draven Stallings: I am from Washington Fields. We have had the survey done. Just need signatures to move on.

Jonathan: One item, there is an existing accessory building. By splitting the parcel, the accessory would not be allowed without a residence on property. Staff recommends that approval would be subject to obtaining a building permit from the city. Draven is close to submitting the permit.

Hahn: So, no accessory dwelling without a dwelling to be an accessory to.

Jonathan: As it is, it is all one lot, so it is fine as it is right now. Splitting the lot makes it non-conforming.

Draven: Can you give me the signatures or are we waiting for Building Permit.

Jonathan: Staff recommendation to wait for signatures until you have the building permit.

Randall: You can approve today contingent on the building permit, and we wouldn't accept as separate lot until it is done.

Draven: I am building a rental house there. Single Family house.

Gardner motions to approve the simple minor lot at 423 E 200 S; Davis seconds; all in favor for unanimous vote.

4. PUBLIC HEARING Amended Plat- Subd. (Recommendation) 653 S 2475 W Lots 28 & 29 Wild Flower Subdivision Phase 3 Johnson/ Watson Engineering

Daryl Brown: I am here to amend a plat. The owner wants to combine lots 28 and 29 into a single lot. There is an existing house on lot 29 and a garage on 28.

Jett: For clarification, you cannot have accessory building on lot without home.

Don: This was permitted. It is not just a garage. It is a private recreation building, which is a permitted use in the zone. If you're in a residential zone, and want to put up a garage for storage, it is permitted use, not accessory use.

Jonathan: We have the mylar, so everything is ready to go on our end.

Public Hearing Opened

Ann Clark: I know this place. What does it benefit the owner of the home to combine the lot. I know it was built as a recreational unit, but it is a giant garage. But now listening, if it is permitted for some kind of use, who checks once they are approved.

Don: We inspect according to plans.

Hahn: I think it helps tax purposes.

Cox: Taxed as personal residence. I am assuming that is the case, but not for sure.

Davis: For resell, it would be good to have as one lot.

Public Hearing Closed

Jett motions for a positive recommendation for the amended plat of lots 28 and 29 of Wild Flower

Subdivision. Davis seconds; all in favor for unanimous vote.

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| 5. PUBLIC HEARING | approx. 1950 S Westview Dr | Hansen/ GO Civil |
| PUD- Vicinity | Prairie at Bauer Meadows PUD | |
| (Recommendation) | Phases 1 & 2 | |

Dallas Buckner: This is the formal plan. The zone change to R-2-2 is on counsel this week. They will be single family homes for these two phases. Proposed subdivision, of 7000 square foot single family lots. There is a private road, proposed trail around lots. Phase 1 has 24 lots Phase 2 has 24 for a total of 48.

Hahn: Will there be a sight obscuring wall?

Don: It is not required per ordinance with single family homes. There will be some sort of gate.

Hahn: How wide on Westview?

Buckner:

Lunt: Single Story?

Buckner: I don't know. We just have as proposed 7000 square foot lots.

Public Hearing Opened

Lynn White: I am confirming, it is not duplexes.

Buckner: Correct

Lynn: Any restriction so the homes don't become Airbnb's?

Hahn: No city restrictions

Lynn: So, they can be used for it?

Don: Correct

Lynn: With this new planned development, does it change any plans for Westview?

Jonathan: Westview is Master Planned for 100 foot right of way. They will be putting in Curb Gutter and Sidewalk. Ultimately, they may have two lanes with a turn lane. I don't know when, but it is a possibility.

Lynn: Is it the case that right now we are talking about one lane with a turning lane in between?

Jonathan: With this project, nothing with change with the travel lane, they will just widen road in front of their subdivision.

Hahn: The answer to your questions, has the plan changed- no. Main Street is 100 feet wide.

Lynn: But the plan now is one lane each way?

Jonathan: As development occurs, it can change. Right now, the striping will not change in the 490 feet then get back together. So, this one development will not change the striping. As development occurs in the future that may change. What you will see is what we call a taper on each side of the development. A wider shoulder on the side. Unfortunately, these kinds of things happen piece mail.

Vickie Graham: So, all the drivers will be coming past my house.

Public Hearing Closed

Jett motions for a positive recommendation for the PUD at approx. 1950 S Westview Dr; Lunt seconds; all in favor for unanimous vote.

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| 6. PUBLIC HEARING | 732 E. Fiddlers Canyon Rd. | McDonald/ GO Civil |
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Amended Plat- Subdivision
(Recommendation)

Lots 1 & 2
Fiddlers Canyon Subd. Unit 5

Buckner: There are two lots they are combining into one. There is a townhome project under construction on the next lot. This has a steep driveway and an undeveloped lot.

Jonathan: Everything is good on this.

Public Hearing Opened

Shannon Poulson: I live directly across from lot #1. I hope to give you more information. I want to make sure the zoning is correct. We used to be the last house at the end of the road. Some growth has been painful. There are few lots left for one building in our area. My concern is for the activity on this lot. Can you pull up pictures? As you can see progress is being made on the condos. This is the view out my window, two Connex boxes. The home is as far away as possible from the boxes. In the space in between the units, they have parked stuff. There is a sidewalk that goes by. It has never been maintained. Nothing has been done with the front of the lot. When I went to the zoning for R-1. It says a residential environment. Strictly prohibited are commercial uses. These two boxes are being used to house a rental company. The material is being moved into these boxes. The house sits so high there is not a yard. Whenever they have done something, it has been a dumping ground for years. I know people are doing business out of their homes. This is a residential lot. I think a Connex box is a trailer. If there is going to be a trailer, it has to be for construction purposes, up to two years. Trailers are not part of R-1. Section F all accessory buildings in rear. If two lots are combined, there is no way to move to 6 feet beyond the building. CC&Rs state no lots except for residential. No buildings erected except single family. No dwellings or buildings moved without plans submitted to the architectural board.

Jett: The city has no authority over CC&Rs.

Shannon: I am speaking to the fact that we are not going to have extra buildings put on the area. If these two lots are merged, will it negate the 6 feet required? Will they still be held accountable? The lots combining came after 17 years of residence and after the arrival of the Connex boxes. Maybe the planning commission should look at how the Connexes are used. The double lots in the area are nice. It adds to the feeling of inviting to the neighborhood. They are parks that are part of the neighborhood and use. I am skeptical of the future use. Unfortunately, it is showing no benefit to the community.

Don: There are no ordinances against Connexes The council addressed the issue a few years ago. Once they get to a certain size, then we get into permitting issue. This looks like a setback issue.

Hahn: If they combine the two lots, can they build an accessory building?

Davis: Wouldn't combining them put them in violation?

Randall: Side setback is 8 feet minimum on a side lot for private garage. May have minimum side yard as one foot. Not that everything has to be 6 feet behind, side buildings have been built, but have to be 6 foot. If you're not six feet behind, you have to be in the normal setbacks.

Lunt: The lot, can it have Connex boxes?

Don: It would go with what we talked about earlier. This would bring them closer to conformance. I don't know the exact dimensions. I don't have a perfect answer.

Jett: The lot that the Connex boxes are on, can it be a separate lot?

Don: I am sure it meets minimum width; the ordinance states you can build a single-family home.

Buckner: It's a legal 10,000 square foot lot. We are just dissolving the interior lot line. I know they have an existing garage or shed on lot line. Combine into one lot.

Cox: Does a Connex qualify as an accessory unit?

Cox: Same thing applies to trailer without tires. Wheels or no wheel, functionally it is the same. Sitting there as a storage unit.

Hahn: I remember the Connex discussion. The city council decided not to do anything with it.

Cox: Does the city have a leg to stand on?

Don: We have not looked at them as a trailer. There is no design parameters on accessory units. You do have size limitations when it would need a building permit.

Lunt: Logically if you require a contractor to use the box, but then move it. I understand the reasoning to not want them to sit there forever. But now we have one just sitting there.

Randall: 5 and 6 talk about if it is a temporary building.

Hahn: This is referring to if it is something associated with construction. If it is not for construction, this doesn't apply.

Lunt: That seems like common sense, I am wondering what the homeowners plan is.

Randall: People are just using them as storage all over town.

Lunt: He doesn't have room on the lot he has his house on, so he bought another one.

Davis: It does look temporary, and part of the construction. It is ugly.

Webster: Did you say it was used commercially?

Shannon: We have just watched chairs and tables hauled in. Using it for storage.

Cox: Is there an active HOA

Davis: No

Cox: Get together and start an HOA.

Randall: We are addressing one issue here. If they have evidence that they are a business, they talk to Renon. Storage alone is not business. We are stuck with what to do with them when the council doesn't tell us.

Cox: We have these decisions to make. But no guidance.

Randall: On the legislative end, you can say: The city has not been enforcing. If those people have proposals and try to get some guidelines with what to do with Connexes it would be easier for us.

Public Hearing Closed

Cox: Is it appropriate to go back and ask what they plan to do with the Connex boxes?

Buckner: It is my understanding that there was a building on the property line, and he just wants to combine. These are two separate issues.

Randall: Technically yes you can table and ask, but if he says no, is it going to change your mind?

Jett: I am not sure why we are talking about this. It isn't relative to each other.

Randall: If you think it would affect your decisions, you can. It is a dangerous road.

Jett: I personally struggle with the city saying do this or else. This issue is independent of what we are talking about.

Randall: Does combining the lots make it worse? Or is it a tool to make them do something you want them to do?

Webster: Is it truly unrelated? What goes on that lot has to be a single-family residence.

Randall: This could easily be classified as a structure.

Jett: They don't even fall into permitting, but the only concern would be the setback.

Randall: The city can say something is illegal, even if you don't need a permit.

Jett: They can move them to the correct setback and be fine.

General Plan Amendment Phoenix Plaza LLC
Natural Open Space to
Central Commercial
(Recommendation)

Bob Platt: We divided a parcel into two. Part of it is zoned CC part AT. We want to zone the rest CC which is in conformance with the rest of the property. This is also a General Plan change because the General Plan is Natural Open Space.

Jonathan: Legal is good. General Plan is a remnant. Used to be UDOT property. Seems to fit in zoning. To the north is already CC. Makes sense to continue zoning.

Public Hearing with #9

9. PUBLIC HEARING 1581 S Providence Center Dr Jones/ Platt & Platt
Zone Change AT to CC Phoenix Plaza LLC
(Recommendation)

Public Hearing Opened

Vickie: Can you tell me what is going to go in the section? You know people straighten out at 50 miles per hour. Goes right into the blind curve.

Bob: I am not at liberty to say. Just trying to clean it up to be complaint.

Hahn: Is the property large enough for Commercial property?

Bob: Yes. As it is now, it is a split zone. It was one parcel.

Cox: If they developed, then would they have to improve the road?

Jonathan: Yes

Public Hearing Closed

Jett motions for a positive recommendation for General Plan change from NOS to CC and the Zone Change from AT to CC for 1581 S Providence Center Dr; Davis seconds; all in favor for unanimous vote.

10. Detailed Minor Lot- Vicinity 701 N Aviation Way Pappas/Platt & Platt
(Approval)

Bob: They want to add two more parcels. There is a sidewalk along Aviation Way.

Jonathan: Detailed minor lot is a two-step process. First it gets vicinity approved by Planning Commission then the Final needs to then be approved. Bonding will need to be in place for the sidewalk.

Gardner motions for a positive recommendation for the Detailed Minor Lot at 701 N Aviation Way; Councilmember Cox seconds; all in favor for a unanimous vote.

11. Detailed Minor Lot- Vicinity 135 N Westview Dr Gubler/ Platt & Platt
(Approval)

Bob Platt: This requires widening of Westview. They will need to put in the sidewalk, curb and gutter.
Jonathan: This is the same process. They will need to bond for frontage improvements. Also provide construction drawings.

Councilmember Cox motions for a positive recommendation for detailed minor lot at 135 N Westview Dr; Davis seconds; all in favor for a unanimous vote.

II. CITY ITEMS

1. PUBLIC HEARING Section 26-VIII-5 Wilkey/ McUne
Ordinance Text Amendment Notification Requirements for
(Recommendation) Master Planned Public Infrastructure

Randall: I took what we talked about last meeting and made the revisions. Changed 5 business days to 10. We tightened up language in 1 (B). Added, proposed change will change access point to master plan. No longer cover Master Planned roads and trails. It got complicated and not as dire as not having connection to sewer line. Posting of signs stayed the same.

Jonathan: It should say: Water, Sewer and Storm Drain Infrastructure.

Randall: Limitations on notices, we left it, so if PC recommends, we remove, that's easy. If you're okay with limitation. We are aiming for: if AB & C exceeds 100 then just go with A&B. At H- proposed protest period. If no one protesting, simpler path. This is simply a timeframe, doesn't change the process. 30-day delay rather than changing path. Primary purpose, to give a delay, not a bad thing since it affects the Master Plan. Another is to give people more time. We have discussed no limitations, that is not uncommon. Sometimes all the noticing, return mail, signatures, etc. hinders.

Cox: Give me an example.

Randall: A Master Planned Road running through neighbor's property. They develop before you. They come and say more to neighbor's property. We will pay for infrastructure, but not pay you for the road. You then cannot build what you were planning to build. The burden to notice goes to who is initiating or requesting it. This is normal and fits what I am used to as an attorney.

Hahn: The rerouting of 1600 N is one that came to mind as we discussed this. We ran it through private property. That will be a massive cost. There are a lot of reasons why it makes sense. I like the revisions.

Cox: As long as we change Wastewater to storm drain

Jett: Carter said don't feel like this needs to be approved tonight.

Davis: I passed it along to developers and engineers, talked to them at length. They don't have heartburn. I think it could be good.

Cox: What are the consequences?

Randall: It makes changes harder because it makes it a longer more expensive process. You can take the stance, even though we haven't done it in the past, we don't have to keep doing it. What is the remedy, do we get rid of that master plan, or do we let you come in and change it without the other party. What does this look like on the ground? Whatever wrongs we have committed, it would be better if opposing parties were present to state their case.

Public Hearing Opened

Tyler Romeril: Who is responsible to amend the plan if we say it isn't possible.

Randall: If you point it out, you would be the one. It gets sticky because these are just lines drawn.

Cox: Is there language to add if it is geographically not possible.

Randall: A different procedure- who is at fault. Engineering would say it is feasible.

Cox: Is there a more efficient solution?

Jett: When we master plan a road, do we walk it to see potential.

Jonathan: This is more difficult when we do a comprehensive master plan. A consultant looks at the entire city. Are they looking at a survey? No, It falls on staff to look at what they are proposing.

Randall: If we move it, we may have to adjust angles. Are there situations where we would say, because it is so egregious, we went with an easy trigger. Staff initiates, the other easy way, all notifications have to be done with city staff, difficult when may not be the one who wants to move it.

Tyler: Maybe a sentence, if no agreement on who partitioner is, goes to City Council. 1/3 of the time it comes through, the staff agrees, yet all the expense and burden falls on our side.

Randall: We have to give them some kind of standard as to when, maybe Planning Commission or City Council.

Cox: There has to be some recourse to when it is physically impossible.

Randall: We can do that; we just have to have a standard. We are not just dealing with one master plan. Specific enough we can use under administrative rules, yet helpful in all areas of the master plan.

Tyler: Not all master plan is created equally.

Cox: There is a ravine you would have to dig out or build over it.

Hahn: Some changes just make sense. They take a really zoomed out view. When it is built it doesn't fit. Doesn't happen until someone tries to develop the property. With out current Master Plan, when there is a Master Plan through their subdivision, they just have to connect.

Don: Master Planned straight line through Iron Horse. Just made sense to change to not straight.

Tyler: If there isn't a huge rush, I would be willing to sit down and talk through it. I don't see any benefit of the 30-day notice. It seems too long. I don't like making laws for potential problems, but we can fix what has happened.

Jett: It is better to error on people's rights to what is going on in their property.

Tyler: I think there is a balance and I think 30 days is too long. I think there will be an unintended consequence.

Cox: If you make 15, it would naturally be the 30.

Jett: You know people come in and say we didn't tell them. My thought was to give them time.

Don: Changing to a 10-day notice, I think that it helps. The complaint I have heard is the 5 days for Zone Change is too short. It's true. 10 days would be helpful.

Randall: We know the 5 days is too short.

Cox: 40 days is too long

Tyler: And that is only if you hit it perfectly.

Cox: 15 days I think is perfect.

Randall: Staff does get pressured by developers to move quickly.

Cox: Is 15 days enough for staff?

Hahn: I would like to give Tyler time to talk about it and talk with Carter.

Randall: It would be helpful to include it so we don't have to table it if you want to change the timeframe

in the future.

Davis: I think it is good to send it out and get input.

Jett: We have people all over the world owning property in Cedar.

Randall: Do you think 15 days is enough for what you're talking about

Lunt: 10 days' notice.

Davis: I think do away with certified. I can't get them because the post office is closed when I can go.

Hahn: No way to track.

Cox: Registered, not certified.

Don: Registered, we know it hits their door.

Hahn: We can't have that person come in and say they never were notified.

Tyler: Work through who is going to be the parishioner.

Jonathan: With the new subdivision process, we are requiring this to all be done prior to submitting the application. They can't even start until they work out these issues.

Don: I like the idea of registered mail if it gets us what we need.

Jett: Can we consider changing that to registered?

Randall: We would have to look and see if it meets our needs.

Cox: Is email sufficient?

Randall: Usually only if they have consented to it. We will have to look and see if there are limitations. If it is part of the proper methods of service that are allowed or restricted. We have property owners of record. Finding their email would require a search to find email addresses.

Ann Clark: I am very concerned that we are going to have the Leavitts involved with this. When Leavitts are involved it benefits them and hurts the citizens. It has happened over and over again. They broke their promise with the church. It is convenient to have Tyler come and get cozy. Whatever we do, I want to make sure it doesn't just benefit the Leavitts. If you have seen them with the city council, they usually get what they want. Citizens beg and Leavitts still get what they want. There has to be a balance.

Cox: How do you suggest we balance the rights of both property owners?

Ann: Who is making the rules? If it is only the developer, then it is advantageous to them. SHD zone we went around. People don't have a voice. When there is zoning, people can go in and buy where they see a future for what they want to do, so people can look and buy where they want. You can't come in and change it. The city council thinks it is so easy to change zoning. The people who were there originally, they have no rights. Zoning is so important. It is really hard, it takes a big person to go against what their boss wants. It's really hard to not make rules towards your developer.

Jett: We are not in debt to Leavitts or anyone else.

Ann: It is hard for someone to come in and suggest changes without bringing their developer in mind.

Cox: Would you like to be at the table to work through that?

Ann: Sure. When you look at the houses around the University you know they were supposed to be single family. Please think of regular citizens. How neighborhoods were meant to be.

Steve: You were bringing up the time period of notification. Maybe if someone is out of state, they could make a formal request to have it extended. Then if there wasn't a formal request, the option is to defer to the minimal time. Then if there was a formal request, then it could be extended.

Jett: I have seen situations where people ask for more time. The City Council always gives them more time.

Public Hearing Closed

Jett motions to table the ordinance text amendment; Councilmember Cox seconds; all in favor for a unanimous vote.

2. Training-
Ethics and Public Meetings

Randall McUne

Randall: Each year we have to go through the Ethics and Public Meetings Training. A couple of you talking is not a public meeting. We don't need to discuss closed sessions and executive sessions. The council does that. They discuss lawsuits, land, personnel, no conversation happens in public. You don't have that. Beware that there is a risk, if someone sends an email saying- what so you think about this. Don't respond to that. Anything approving, positive recommendations etc., becomes a digital meeting. And it needs to be noticed. We have to publish when the Planning Commission and City Council are scheduled for the year. Emergency meetings are allowed. When you read minutes, if something is incorrect, please let us know. Some changes have to go back through to be approved. The minutes become the records. Please bring it up if there is a problem. If you are gathered to discuss a topic for Planning Commission, it is considered a meeting.

Jonathan: We used to do field trips every Friday.

Randall: You can do those on your own. Ethics- I am hoping you have gone into Renon and filled out the disclosure form. Businesses, interests etc. should be known to the public. If you haven't done it, please go get it done. It is signed once then if anything changes, you go in and disclose. In the state of Utah, if something comes and you or someone in your home has a financial benefit from it, you have to disclose. You are in a position of authority. If it personally impacts you, send a representative to the meeting. It is illegal to vote on it. You all have other conflicts, if it relates to the person, you have to ask yourself, is my relationship with that person going to impact my decision. Also, is the decision based on financial loss or gain. If not, please disclose any ways. In your legal jobs, you have a code of ethics, if there is something you know, you should recuse yourself. The information you have could hinder. If someone wants to take you out to lunch up to \$15, other gifts are \$50. Monetary. But even if it is less, but it would influence your decision, that is a concern, keep that in mind. Even if it is of no monetary value. If you're receiving financial compensation that involves work with the city, disclose. You may have a direct transaction with the city, it's not illegal, just be aware of it. Those are the main ones. The following could be a class A misdemeanor. It could be a fine but could also be a misdemeanor. It could also undo decisions, if someone finds out you have a conflict, and you voted, we would have to go through the whole process again. There are always other things that could come into play. If anything, else changes, we will let you know. If you think there may be a conflict, come sit down with me. Just remember, when you talk to me, I am not your attorney. The city gets the attorney client privilege, but not you individually. One final item, your job covers a lot of areas, one area we kind of have lacked on, you have the authority and duty, if you see an ordinance that needs to be corrected, that is causing issues, bring it up to change it. That is what you are supposed to do. Come and talk to staff about changing the language. I want you to feel comfortable to come talk.

Lunt: Because we sit on this council, can we come to City Council and share our thoughts?

Randall: When you make your recommendation, we attach it to the council packet. They have a summary of what was discussed and decided. If you feel it is not enough, you are welcome to come and share at City Council. You can also send a liaison. While you are acting in this capacity, please do not violate

these rights.

The meeting was adjourned at 7:56 p.m.

Amber Ray

Amber Ray, Executive Assistant