

CEDAR CITY PLANNING COMMISSION
MINUTES – June 3, 2025

The Cedar City Planning Commission held a meeting on Tuesday, June 3, 2025, at 5:15 p.m., in the City Council Chambers, 10 North Main, Cedar City, Utah.

Members in attendance: Councilmember Robert Cox, Adam Hahn, Tom Jett, Jennifer Davis, Wayne Decker

Members absent: John Webster, Jim Lunt

Staff in attendance: Kent Fugal-City Engineer, Randall McUne-City Attorney, Donald Boudreau-City Planner, Faith Kenfield-Executive Assistant

Others in attendance:

<u>ITEM/REQUESTED MOTION</u>	<u>LOCATION/PROJECT</u>	<u>APPLICANT/PRESENTER</u>
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- Pledge of Allegiance – the pledge was led by Adam.

I. REGULAR ITEMS

1. Approval of Minutes (dated May 20, 2025)
(Approval)

Cox motions to approve the minutes from the May 20th meeting; Jennifer seconds; all in favor for a unanimous vote.

2. Vacating a Drainage / Construction Easement (Recommendation)	780 Cross Hollow Road	Daryl Brown / Watson Engineering
3. Vacating Public Trail Easement (Recommendation)	780 Cross Hollow Road	Daryl Brown / Watson Engineering

Tim Watson: I am representing Daryl Brown tonight for Watson Engineering. For items two and three we have a vacation for a drainage easement and a public trail easement. Both items are on Cross Hollow Road to give you a reference. Cross Hollow Road is here on the East side; we have Silver Silo a little bit over here further to the East and then this is the city pond parcel. The city has been working with my client Steve Airburst on this for a while. This is the pedestrian easement. This orange piece is the pedestrian easement that we are proposing to be vacated because there is a new drainage easement that they want to combine with a pedestrian trail easement. They are going to combine the drainage easement and the pedestrian trial easement into one. That way we can get rid of the orange piece, which is the 20ft pedestrian easement and then also the drainage. The only modification that we are making to this drainage easement is the construction easement. It is currently shown as a 50-foot wide and the city has come back

and said that they only need 40 feet wide. We are trying to agree with what they have told us.

Cox: It makes good sense to put the trial over the drainage.

Jett: Is this where that new commercial is going?

Watson: I have no idea what you are talking about.

Jett: Where it makes that leg where the pond is.

Watson: There is a pond here. This is a zone commercial. I don't know what the Leavitt Land is doing on their property.

Jett: Oh, that is Leavitt, that is doing that. I thought this was Armbrust.

Watson: No sir. This property boundary right here stops here. The Armbrust's and the Leavitt's. They completed a land swap and a parcel line adjustment several months ago. That is what we are asking for. We do have the new pedestrian trail and drainage easement in place, and it is ready. It has been agreed to be signed. We need to ensure that this area is vacated first, and then we will modify the construction easement.

Cox: That will be underground drainage. Right?

Watson: Somewhat subsurface. The drainage easement will be the box covert extension to here and then this section from the angle point to the pond is supposed to be opened to the top.

Cox: With the trial on the bank.

Watson: No, the trail is on the bottom. So don't walk while it floods.

Cox: Interesting.

Watson: It's dry 99% of the time. We are going to utilize that.

Kent: The advantage of utilizing that is that it gives a way for people to cross the road. Not being at grade crossing at the surface of the road for those who wish to use that. Some people won't wish to use that, but for those who do, it allows them to get across the road with a grade separation. That is the reason for having a trail down there.

Adam: The trail will continue through the box culvert across the road or under the road.

Kent: The trail will continue through the box culvert.

Adam: That is awesome.

Kent: There are plans for an alternate crossing of the road as well for those who do not wish to go through a long culvert, but the culvert would be available for those who wish to use it.

Adam: Nice. Anything else Mr. Watson?

Watson: No, only if you have a question.

Kent: My question is, regarding the vacation and the new easements, are you working with the Leavitt's also on their portion of it, or is this only the Armbrust portion?

Watson: We are working with both. The only that will affect if you will. The Leavitt's, are not the vacation of the items that are on the agenda but the new deeds. They have verbally agreed to those.

Kent: The intent is that we are running the whole thing through Planning Commission and City Council and the two property owners would both be executing their portions on the new.

Watson: I was hoping just for the Planning Commission.

Kent: The vacation must go through the City Council.

Watson: Does it? Okay.

Don: I think that we have the deeds from Leavitt's already.

Watson: The deeds from the Leavitt's are in your hands.

Don: I believe that is the case.

Watson: They didn't follow my instructions very well. I wanted to hold them until you guys approved of it. Because we know that sometimes things get recorded when they are not supposed to.

Don: Maybe I am mistaken.

Watson: Okay.

Kent: If we have them, we will make sure we hold them until it is approved.

Watson: That is the kids watching the cookie jar. Thank you.

Don: We haven't recorded anything.

Adam: Commission, do we have any questions for Mr. Watson?

Decker: I am familiar with trials down around Boulder City and other places where this is the case and it doesn't seem to be a problem to me, not in my mind. There are times you can't go through it, but it is very seldom, and it works fine. River Mountain trail around Boulder, Nevada. Maybe you have done it. There are other places. Crescent Cove Beach is next to Laguna Beach, that is the same thing in California, and it works fine.

Jett motions for a Positive Recommendation for item 2 for Vacating the Drainage Construction Easement on contingent upon the establishment of the new easements; Decker seconds; all in favor for a unanimous vote.

Jennifer motions for a Positive Recommendation for item 3 contingent upon the establishment of a new easement; Jett seconds, all in favor for a unanimous vote.

4. Vesting Extension (Recommendation)	668 North 1450 West Fort Cedar Phase 4	Tom Jett
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Tom Jett: We have Eric Heaton to present. I need to recuse myself on this item. Would you like me to leave the room?

Adam: No you are okay with staying.

Eric Heaton: This is just a request for a vesting extension for phase 4 for Cedar Subdivision that we need an extension on. It was approved in January 2023. We completed the improvements in November, but by the time we got to the city, it was after it expired. Had we known there was a 2-year expiration, we would have done it, but we didn't. Now we are here at your mercy.

Adam: Alright, when did it expire?

Eric: I think it was January 15, 2025

Adam: Okay so about 6 months ago. Staff, do we have any concerns with this? I know we have done this in the past, but what do we have to do?

Randall: I know in past ones where they have all been asked the same question. Which essentially is what has changed. The main reason why we set these time limits is one to get people to move along and two when someone puts in a complete application they vest in the ordinances, policies, rules, statutes, and everything at that time. The question always is what has changed? One of the difficulties we have is that most of the time we don't necessarily know what might have changed without running through the whole process again. This one does have two areas that we know have changed. I don't know if anybody else found anything else. Both have been changed, and both relate to the same ordinance change, the one that I refer to as the public improvement avoidance ordinance. The one that prohibits gerrymandering, I guess, of your subdivisions to avoid having to put in public improvements. There are two changes here that the current phase that we are talking about today will no longer meet. Number one is they're within the distance of the master plan road that is to the east of this development, and the other one is related to the remainder parcel that is not deep enough. It has to be 200 feet deep to meet our current ordinance. That is the question that is asked every time on these and this is what has changed? That is the bests set of changes here. This phase would no longer legally be allowed under our ordinances. He would have to

if you look at these at least 6, 5,4, and 3 those lots would have to expand outwards to include the remainder parcel. So, you don't have a remainder parcel for nothing. He would have to put in his portion of the public improvement for that frontage road.

Eric: I would probably say 2,3,4,5,6,7, and 8.

Randall: That is true. You also have a remainder parcel on that north side. Correct?

Eric: One possibly meets it but the other seven don't.

Randall: So, in full disclosure, this is one of the two we discussed when we were drafting that ordinance. This one and 4B Ranch, which you guys dealt with recently. When the changing ordinance made them come back as well to put in what should have been put in the first place. That one they are doing hopefully they will get back to me on the development agreement. This one doesn't have one. If you approve it as is, by granting this extension you will be allowing Mr. Jett to continue with something our ordinance currently prohibits.

Kent: The other thing that I found on this and I have no idea what in Jan. 2023 the requirements were, but I do know that the center line radius on these curves does not meet our Engineering Standards. It is only 30 feet. Our minimum standard is 100 ft. on that center line radius. That does not meet our current standards.

Cox: Is the infrastructure already in there?

Jett: Yup.

Cox: There is already a road and that part is already approved as per prior.

Randall: You can meet halfway on that. Because the ordinance gives the council authority to do this. The City Council retains the ability to enter agreements that provide vesting rights contrary to this ordinance. When the City Council finds the proposed agreement furthers the city's policy of establishing, and maintaining sound, stable, and desirable development within the city and promotes more fully the objectives and purposes of the city's ordinances. You could meet part way and say, we see three problems that wouldn't meet the current ordinance. You could recommend the council vote and say we are okay with one, two, or all three getting vesting rights, but we are not okay with say some of the other ones. You can meet each other partway.

Cox: If we accept this, does that mean they never have to develop the frontage like everyone else does currently? That will just go undeveloped.

Randall: Correct. Again, that is the reason we passed that ordinance because they have created essentially a parcel that cannot be developed in a way that would ever require a building permit or anything that would bring in the road. It is just narrow.

Cox: What is your plan?

Eric: We put storage along that perimeter. So, container storage. To the north of us is airtight storage.

Randall: They will be access.

Eric: There will be a container storage unit. They paved that road, and we have containers that will align that, and it will be for storage rental. That was the original design.

Randall: How are they accessing that storage?

Eric: From the street.

Randall: From the unimproved street?

Eric: I mean there is space there, but I don't know how much.

Cox: From Industrial or from the other side.

Eric: No, this a dirt road. It is between the freeway 60 feet or 85 feet, how deep?

Jett: It is 55 feet.

Eric: So that plus the container size.

Don: Is that a support business? I wasn't aware that there were containers out there.

Eric: Oh you mean the Airtight containers? Brinley's own that.

Cox: He is saying that it is there, he is saying, it is like Airtight.

Eric: Correct.

Cox: Airtight, there is one off of Westview Drive and one tucked down by 400 West or something.

Jett: Airtight is out there.

Eric: If you go farther to the North higher than us. We are not opposed to saying, hey we need to improve the road or whatever. I don't think it will be improved, but it might. So, if you want to put those stipulations that is fine. To the North, you can see there the Brinley. They have container things. I don't think they are going to ever want to improve the road. You have BZI, that was our idea. We really should have done what we did in the prior phases and just bonded or did a letter of credit, but we didn't realize there was an expiration. You can kind of see that it is an older picture, but they will be lined up along that edge. Between its 40-foot then there are 25 feet up the road. If it is 20 feet then there is 40 feet space, there.

Don: Is there a dedication on that plat Kent? On the north side. Did we even get dedication?

Eric: I am sure that it is part of the master-planned road. There wasn't a master planned road. Then there was and wasn't.

Decker: Do I understand this right? Currently, this does not meet our city ordinances, but there are things that don't meet the city ordinances that are there that may set a precedent. What am I understanding here? I am not in favor that doesn't coincide with our city ordinances.

Randall: When this came in, the city approved of what is before you. At that time, I don't know about the roads, but the rest of it that I was discussing met the requirements of city ordinances at the time. Basic normal case law they say get vesting right some ability that even if we change the rules on them midstream, they get to stick with the old rule. But all those vesting rights can have limits. In our case, the city ordinance back then and as well as now putting a two-year limit from it is approved to get your plat recorded. Our goal is that we don't have a plat older than get to have an advantage.

Cox: Grandfathered in.

Randall: Correct. We want things to come into compliance with what we currently have. When we approved of this initially, it was fine. If they had recorded it a year ago, you wouldn't be having this discussion. We'd be dealing with a master plan road that will probably never get finished. Now if they must come back through with this same plan. If you said no on extending, well, if the council this Vesting Extension request. They would have to change their plans. They wouldn't be able to build this.

Cox: The times we have approved these have been because they have made significant progress and they are almost there, and the time is almost expired. They planned all of it out and they have infrastructure in place, and they are almost there, right? When we are progressing to that. It was the old rule. We are not going to change the rule on them mid-stream, right?

Jennifer: I feel like you guys are there. Am I right?

Eric: Like I say, we did finish in November, got it paved and everything.

Randall: At least with road. That is the thing, right? If you ask them to tear up that road and redo it. That is big.

Jennifer: That is substantial.

Randall: We the parts what now would be unlawful leftover and not finishing the master plan road or doing any of it. That doesn't take them backwards. That just says, Okay now you got to do something the ordinance now requires.

Jett: That would take us backwards.

Randall: It would in the sense it would cost you money, but you wouldn't have to undo.

Jett: If that road became master plan, it would eat up half of the storage units. So, the storage units

wouldn't be able to be there anymore.

Randall: We aren't approving the storage units. Nothing of what is discussed today.

Jett: The parcel where the storage units are, would leave us with 20 feet.

Adam: Sorry, let me ask for a point of order with legal. If he recuses himself, should he be speaking during the meeting?

Randall: He is allowed to talk. It would be preferable if he jumped down with the regular. Just to make it easier.

Adam: I just want to make sure we are doing it right.

Randall: Are there effects? Yes, there is always effects when we say you have to follow a master plan road, right? If they brought in this same plan, there is no history. Just imagine we are starting at square one, and they want to build exactly what they are building now. Yeah, our ordinance would prohibit them from doing what they want to do. It would prohibit them from having that space for the storage units.

Cox: Is the Coke plant next door? It is already developed. They can build there without having to improve it. The one Jenkins is, across the freeway, is developed, they don't have to do it. You would have this developed road jut out and in. Because the rest of that is developed almost. Just from a commonsense approach.

Randall: Right, and that becomes the question of whether you can get them where they want to be, but maybe through a different means. If you make a Vesting Extension Agreement, we will get nothing in return. All they get to do is vest and get exactly what they were approved to do two and half years ago. You could make a development agreement which is what you have pushed, we council pushed for 4B Ranch. Not that they will get back to me, but either way. That at least allows you to say at some trigger in the future, you now must put it in. Mr. Jett, you and I have talked about this a few times. Does the city say we don't want this as a master plan road anymore? In this case, it is not a requirement anyway.

Cox: That is my question, do we want to curb and gutter on this one stretch? It is not going to be another because they are already developed on both sides, and they don't have to pull a permit.

Jennifer: Exactly, that has already set a precedence.

Randall: In many ways that is a better solution than kicking the can down the road.

Cox: Correct.

Randall: The Vesting Extension agreement would do exactly that. It would kick the can down the road and let it be somebody else's problem.

Cox: To me, we have a worse situation where there is a small strip of curb and gutter and master-sized road, and the rest is never going to be that. Because you have this going on and that causes more potential problems for me than if it is all going to be developed.

Jennifer: I agree.

Decker: I spent my career building plans, but I am having a hard time understanding this. Unless I go see it. It is a whole different view if you go and see it. It is difficult for me to sit here and listen to something for 10 to 15 minutes and then decide on something that is going to affect Cedar forever. That is neither here or there. I am not familiar with the specifics of that area. It is kind of interesting, I wish I could drive out there and take a look at it right now and then come back. But that is not doable.

Adam: I see where the master plan roads are the brown dots and the green dots, right?

Kent: Yes,

Adam: The point of those roads is to give access to the other properties or what is the point of the roads?

Don: Well one of them is that North/South connection. That is the green line, then the brown line could potentially open up those land lock properties back there.

Adam: Okay.

Cox: Where does that tie in further north?

Eric: It ties in between Kitty Hawk.

Cox: Okay, I got it.

Eric: I mean, if that went straight to North Bulldog Road, it would make sense in my opinion.

Randall: Well except for the view. The angle there for the overpass would probably be extremely dangerous.

Eric: The way you have the dog pound there and everything you can't go straight.

Randall: Yeah, you couldn't but that would have been my biggest fear. That already is a fairly dangerous intersection as it is. If you added another direction we would be in trouble.

Kent: There is a big grade change there.

Randall: Then again, that may be a better discussion than kicking the can down the road. I think this is Mr. Jett's thought anyway. He wants it gone.

Cox: So, what are the odds of us going through eminent domaining through that property and up that way? We don't have easements or anything there, right? You just laid a line on the map and said this is a master-planned road. We said, we don't own the property, and don't have an easement. We'd have to eminent domain to get us there, which I don't like at all.

Jennifer: If we don't have to have it. Why do that?

Adam: What other options are there for the landlock properties to have access roads in the future?

Jett: None of those properties are landlocked.

Eric: They all have access roads to them, but they are dirt roads. Basically, you maintain the roads to get to your property. The Airtight storage would never develop that.

Adam: This is where I am going with my question. I am with a lot of these guys and believing just because there is a line on the map doesn't mean it is a good idea. I don't want to hold you to saying that we have to master-planned road if it doesn't make sense. I also don't want to eliminate access to some sort of property, and it eliminates the potential for development anytime in the future. Looking at let's say this property here, if they developed that property how do they get access to it?

Eric: It is not that there are no roads there. The question is whether this will be a city-maintained road or if it will be a private drive road. All those are dirt roads with access.

Jett: This road right here is us, this road BZI uses it every day with their semi-trucks and their employees.

Adam: Okay.

Jett: It is approximately a 50-foot-wide road.

Adam: It is city or private?

Jett: It is owned by UDOT. This one was put in by UDOT when the freeway was built. That is according to the previous City Engineer, and UDOT Engineer that I met with about three ago when we were trying to figure this out. Then there is a full road right here. Here is Airtight Storage. They have full access to their property not approximately a 50-foot road. They have access. The Plats have just developed a few properties right here. They have full access plus what I have when told, the Plats are going to run a road to theirs. Then Corey Childs has a trucking company right here and he has full access right here.

Kent: Right now, he only has access via an easement over city property. There is no road there.

Cox: There is no easement. It is a trail that people have been using Right?

Jennifer: Right.

Kent: Corry did get an easement from the city to access his trucking school. That is not something that is a public road that all those parcels have access to necessarily. What the city owns and was able to grant an easement across is not a full road width through the entire length either.

Jennifer: So, what would be a good compromise to put on a development agreement without kicking the rug out from underneath these guys. I feel like they have done their stuff. They have everything in place. It just makes me sick to think about, hey gosh that is not going to work. Sorry, you

missed the deadline.

Kent: Firat let me correct one comment that I made on the street radius that was for a public street. I did not remember that they are only 30-foot private streets. Please forget that comment. Master-planned roads, that certainly is an issue. Whether people sitting at the table here think that those are good or bad master-planned roads is not the issue that is a master-planned that went through study. It came through the Planning Commission, and it was recommended to the City Council and the City Council adopted it. So, at this point I don't think it is wise making judgment calls about the master plan.

Cox: Not to be contrary but we also have masterplans that went straight up hills with trials. Again, the master plan is not perfect and when you got and look at the geography you must be critical of the master plan. Because it doesn't make sense. We have had multiple situations where you go out there and its like, why in the world did we drop the line there.

Adam: We had a trail that went through the Coca Cola plant.

Cox: Correct. Then we had one that went into the airport runway. To say we can't be critical of the master plan means we can't think or change. I do think there is room to say there may be something better.

Randall: For me, it is a procedural question. If he comes in asking, I want this, and we agree with the reasoning, but we say we would rather get you through the proper method which is to amend the master plan.

Cox: Correct. That is my point is we need to look at that and say, well, there probably is a better way and change to Kent's point, as opposed to saying, hey no it is gospel, and it is not. Because we have seen that it is not. Because you can't make a trial through the Coco-Cola plant.

Don: There is no such thing as a perfect master plan.

Cox: Correct.

Don: When you talk about those straight lines, they don't take into consideration every single contour, but they are a plan to get from A to B. When I look at this plan whether it has it faults or not, it is to get to North/South/East and West. That is how I look at it.

Jennifer: But two ago wasn't this master plan already here or was that changed as well? Because when these guys filed.

Randall: I think it was more than two years ago, right? The change here was his creative line drawing no longer worked. The creative line drawing back then to not build up to the master planned road and therefore not have to put in the master plan road.

Cox: What happens is people would flag a lot in and must develop the frontage, and I get that too. I don't want to say, hey we are not going to require everyone to play on a level playing field. Because that is not right either.

Jennifer: Right, it is not, looking at the surrounding properties, just like Robert said, they are not developed, and they probably never will be. To have these guys to the curb and gutter, you know all that just in front of theirs is kind of crazy. Because you look at the property before and after, they are never going to.

Decker: Is there a property anywhere that will never be developed?

Cox: No, it is because they are developed. Like Coco-Cola, they have already pulled the plant. They don't have to get one. They didn't have to comply with the new standards. There is a whole bunch down that road that already have buildings that aren't going to build it to the same specs. You are going to have a little narrow strip to one spec and the rest is just going to go back to what it is.

Jennifer: Right.

Cox: That is more of my issue is that it is already developed and it is what it is. More likely it is not going to be developed.

Randall: You could eventually have some type of building permit pulled that would require improvements, but the odds are substantially lower for a developed lot than a developed one. And again those are some of the discussions to often have a master plan change do you move it to where it is more vacant ones on there, just go straight up kind of thing, or do you modify what is required, and say, okay I think what is the current requirement is it 66?

Don: I think that brown one is

Randall: So, it is a 66-foot-wide-one. Do you change it to 55-foot-wide? Do you maybe make some modifications to some of the other improvements? That would make sense. That is a discussion, if you recall, not to long ago, one of our illustrious council members brought through planning commission and council some requirements to do a master plan change. One of the main ones is notifications to the neighbors. Right now, we are talking about all these other property owners and making guesses.

Cox: Right, and maybe they are depending on that road. Right, who knows?

Randall: We don't know their opinion. We have no idea. If you are going to change a master plan, they have their chance. If you cheat around that and grant a vesting extension agreement that is now expired. You will get their input.

Cox: Have you guys come up with a good solution for another place for that or have you even thought about it?

Eric: Are you talking about the master planned road?

Cox: Yes.

Eric: We have looked at it. It was master plan and then it was out and then it was back in. I guess the question is, is there going to be quicker for the public to go from Industrial to Kittyhawk? Is that going to be a good road for the public to use. Otherwise, it is going to be access.

Cox: Yeah, 800 West is close to being punched through. It is close.

Eric: I guess my argument would be that Kittyhawk is already a busy road, and someone is going to pull up there and go right or left. I don't know what advantage you are going to have going North or South there. Accessing those properties, those people will be interested. Airtight storage, he wants to get people into his property, but he is not going to want to develop it. Corey Childs and the Plats are parking their stuff. So, whether you decide to an agreement. So that we develop that when everyone else does. I don't know if we are opposed to that. We don't think it is going to happen, but we are not opposed to that. I don't know looking at the master plan road to me, what advantage is going to get going North and South on that road as opposed to going north on Airport or North on 800 West. Those would be more natural. The other one's kind of up over up you are still. I mean I guess you can at least keep going west after you make that jog.

Cox: Well, from a city cost of infrastructure to maintain that when it is so. To me we don't gain a lot of advantages. Our money would be better spent redoing elsewhere like the 800 West or whatever and making it flow better then. You can call it enriching all those property owners by putting a master plan road through there. We just increase their property value at the city's or whoever's expense. That has to maintain that. So, I see arguments on both sides of this issue.

Eric: You go right through BZI property. I mean you'd probably have to condemn that. There is a basketball court right there. That they've got their little place. So, I guess you could do whatever you need to do to get imminent domain.

Decker: Eric, I can't hear you.

Eric: Sorry, I just say that BZI has a building right there that you mastered and planned right through it. So, unless you went around it or condemned it or the dominant domain, I don't know how you would get through there on that North to South and East to West. I mean you could at least tie into that 850 North and go all the way over. So, that is maybe a different day to address that. I don't know if the master plan

best or a good idea, but whether is or not, it is right now. We don't really want to develop it now, but if you want to put in some stipulations that we would do it in conjunction with someone else. I guess we could do that.

Randall: You could tear it, right? You could come back with master plan amendment as well as a potential DA if the master plan doesn't go completely away and, say, okay, this is what we think the road should really be. Again, I mentioned not because I am in support of it, but just that it could be 55 instead of 66, which means you guys would lose some substantially less property.

Eric: The challenge would be if we didn't

Jett: If we lost 80, we would be in trouble.

Randall: You guys indicated the road is already 50.

Jett: It is about 50 feet right now.

Randall: So, at 55 that is the whole right-of-way, so we are talking about 5-foot difference of what is already there.

Jett: It is not because it is 55. It is 50 feet to the edge of the freeway where the fence is on the freeway. The city would have. That is an irrigation ditch. There would be several \$100,000 for the city to run the pipeline that irrigation ditches and paves over it.

Randall: At this point, one of your complaints was the loss of property, and again we are not talking about it today because we don't get to decide that without proper notifications. Let's just say the city said, we like the location because it does help some of these partially landlocked properties to make sure they have guaranteed access, but we don't necessarily need an arterial, a major collector, sorry. We just need something through there, but we don't even need that last 5 feet until somebody else comes in. You can kind of tear that and say, let's shrink it, let's move it, and if it still affects Mr. Jett's property. Great. Then let's do a DA that holds it till a trigger event.

Eric: If we had done it, you know if we had planned a little bit differently, you know, because we would have made that a little bit deeper. So, we could utilize that property.

Randall: That is the danger, right? Because part of the goal in doing this was to avoid that public improvement that you guys didn't think was necessary. Which is fine, I am not faulting you.

Eric: Yeah, we do have a purpose for it.

Randall: That is what I mean.

Eric: The storage units are kind of like what you see on Coal Creek. Where people can drive up to them. It was a great idea especially since there are already storage units there.

Randall: I mention again that there are trade-offs on those two different things, right? We know of two things that the current plan would violate the current ordinances. One is the width of where the storage units would go. It is not 200 feet deep, which is required by ordinance now, and the road. You can split the baby, you can say, yeah, we are okay with talking about the road and everything else. We are not okay with this otherwise unbuildable property or vice versa or go the same way on both.

Cox: Or we could make it 55-foot road through there instead of.

Randall: You can't do that today.

Cox: I know, but that could be one of their solutions. Is to come back and say, hey let's narrow this down. Then it is less infrastructure to get through there. Which to me is not going to benefit many people other than the property owners that are going to get Highway Frontage.

Don: If I could chime in really quick. We are kind of spit balling. Does it make sense, does it not? Does it work, does it not work? What we would require them to model these changes. I think that is where your answers may lie. The whole model is interconnected, to keep our intersections at a minimum LOS.

When we start taking things and changing them, we want to see what those impacts are. If this road never goes in, what does it do to the airport road? And that is what we would look at in the modeling. Maybe

there are some things that could be changed that don't impact the model. That is what we would ask.

Jett: Can I just clarify one issue here? No one is going to limit access to anybody. We don't have ownership over that road. Our project doesn't block the road. It is way off the road. I keep hearing people talk about well we don't want to landlock someone. We can't land lock anybody.

Adam: That was my concern. That was dispelled. I appreciate that.

Cox: Well, if they bought land down there and it was landlocked, that is their fault, right? It is not the city's responsibility to build a road to landlocked property.

Adam: Well, if you buy a landlocked piece of property with a master plan road that is supposed to go through, and we take it away, that 100% is not their fault, right? So, that is what I was looking at.

Eric: They have done that a couple times already.

Adam: Oh, I know. I am not saying they haven't.

Jett: I just wanted to make that clear point clear.

Adam: I appreciate that.

Jett: Nobody is going to limit access to anybody's property.

Adam: Thank you for clarifying that. I don't want somebody suddenly not having access.

Jett: If we do develop that property at some point and put in buildings that require building permits, then we can address at that point of what may be required. Right now, we aren't requiring building permits for temporary structures, just cargo containers on that property.

Eric: That road goes all the way to BZI, then that is where it ends. Their trucks come through real steel trucks come through. Nothing comes except for over to Corey goes over to his property and Matt goes over to the Plats.

Adam: Commission or staff, do we have any other questions or comments for Mr. Heaton? I am not sure where the rest of you sit. I don't know what to do.

Cox: I have a question? What would you propose as a compromise? Or do you want to table this and think about it and come back, and say, hey, this is what we think is kind of equitable based on where we are at with our development. Or like what Mr. Boudreau said, let's remodel that and see if. I just don't think we have enough information to make a decision that is going to be beneficial across the board.

Decker: I had to go against one of my former boy scouts, but I am not conformable with this unless I get more information. I would like to go out and take a good look at it. Maybe with more information, revisit it. I may have different opinions, but right now there are too many ordinance and other concerns. I am not comfortable with it.

Eric: As far as we what we propose, I mean if the master planned road stayed. Then I guess we would propose that we have whatever agreements in place when.

Cox: The trigger point agreements.

Eric: Right, I guess the trigger point is.

Jennifer: Or the development agreement.

Eric: Or that's where we would develop it or pay for whatever infrastructure borders our property.

Jett: The problem we have here is, and this just isn't purely economic. We would have designed this whole project different had this. We made a mistake and missed the deadline. It was done. I take full responsibility for that. But there is no way this is economically feasible for us to through and put in curb and gutter for 70% of this whole road for everybody else. Pave it that everybody else can be driving over our frontage and put water, sewer, curb, and everything. It is just not financially feasible to do this.

Adam: I think we all understand that.

Cox: Which means it never gets developed, right?

Adam: That is the hard thing, right? Tom, you know that what has been said, that is why ordinances change you found a piece of property that you found a loophole and this is a way you used the loophole

in order to make the project work. In other words, it would not work. I don't fault you for that. Smart people use loopholes all the time. I get it, the problem is now the ordinance has changed and now we have got to find a way to make this jive with ordinance and current. I don't know what to do.

Cox: Trying to bring the current and past together. It is in a situation that is difficult to do.

Adam: I don't want to torpedo your project. I don't feel like it is ever the government's position or responsibility to tell somebody no, you can't do something. We must figure out how to make it work. I don't think we have enough information tonight to figure out how to make it work. So, I am going to make a motion that we table this to the next meeting. So, we can have further discussion and if you guys want to bring back some sort of idea of what you want, like basically figure out. This is a game of Let's make a Deal. We need something from you. Hey, we will give you this and then we will see if the city can make that work, but you are not going to get your blanket extension. I don't think the commission is comfortable with that.

Eric: I guess the question is what other proposals would we have?

Adam: I think that is a good discussion to have.

Eric: Agree to develop it if that ever comes to that.

Adam: I think what you need to do is. This is going to be some discussion you are going to have with city staff because I don't know. I recommend we table this so you can have discussion with city staff to come to some sort of agreement that you can bring to the commission, and then we can push it on to City Council and get your project moving forward. That is what I would like to see.

Randall: You have heard generally two suggestions which one is amend the master plan, two development agreement, or a marriage of the two. Those steps especially the master plan amendment would get us some of that information both by modeling, as well as notification to the neighbors. So, they would be here to express their opinion as well. Some of them may love the idea of this not being a master plan road, but we don't know that.

Eric: Yeah, I like that suggestion.

Randall: But you don't know it gives a chance to have a different input from people who would be affected by this change.

Cox: I would be interested in the traffic modeling because we just increased the value dramatically and the city cost to maintain that if it doesn't improve traffic flow much. Then why are we doing it? Why is that on the master plan?

Eric: That is just going north and south. I guess I don't know who is going to go. What is the person going to take instead of 800 or airport.

Adam: No, I agree with you.

Eric: It really is an access road to the different properties to get to their own properties, which we are totally fine with.

Don: I can tell you has you urbanized. It is so hard to see right now. I understand, but as you urbanize, every alternative becomes a very good alternative. Sometimes a very good one. Even if it is further.

Eric: I guess if you go to the point 4 and go straight north and you fill in those different sand. What is it Western Rock there and all the quality, the pits that are 80 feet deep. I just don't know where you are going to go.

Cox: There is no good way through there.

Jett: If anybody doesn't know this is the old land fill right here.

Eric: I am not afraid to investigate whatever, when you say urbanization, what that is going to do. I can't imagine any use besides the access to that north and south route, that is not direct to east, west, or anywhere.

Cox: We have motion.

Adam: My motion is to table this to allow the applicants and city staff to come to an agreement that will be brought up to us at our next meeting.

Jennifer: My opinion is that, knowing the location and the type of property that surrounds this, I would be for granting the extension. Just because they missed it and that is unfortunate, but sometimes when you are doing a project like this it takes time. Sometimes you are juggling a lot of balls and things happen. This is not a subdivision, residential, and everything around it is just like it. To me it makes zero sense to require them to do that.

Cox: What time frame would you request for an extension if we were to do that?

Jett: 4 months.

Eric: Well, until we, we are already done with the sub. It has been six months.

Cox: So, it is virtually done.

Jett: It is done.

Eric: It was done in November, the reason why we didn't do it earlier was because it didn't really relate to the city. The sewer and water and roads were in. We had a conduit that needed to be in and the power. We could have gone into the city in November, December, or January.

Cox: So, you couldn't give up any land on those? If you were to give up land on that between your lots and the streets there is nothing left. Theoretically, you can sell that land.

Jett: To whom?

Cox: To whoever buys it.

Randall: That is the problem. They created a strip of land that is useless otherwise, which was the whole reason we passed the ordinance. They could, with the council's consent.

Eric: It is not useless; it would only be useless if they took part of our road. We have a use for it, a really good use.

Randall: For storage, but nothing that you could build. Because your separations from anything wouldn't work very what 80 feet deep. That is the thing there are that is the thing there are solutions on that part. That is why I bring that up. You could have a slightly different plat that extends the properties all the way to the edge of it. They could even have agreements to put the storage sheds there. There is nothing that would stop that. We would just prevent a mostly useless strip of land from existing.

Cox: I would rather see them develop right to the storage units than do nothing, and that is our option right now. Is nothing or allow to come through with what they are doing.

Adam: I am going to withdraw my motion. Maybe I didn't understand.

Cox: I didn't realize they had all the infrastructure.

Adam: I didn't realize it was done.

Eric: We had it done two months before the expiration.

Adam motions for a Positive Recommendation for the Vesting Extension for 1 year; Jennifer seconds; Cox yay, Adam yay, Jennifer yay, Decker nay.

5. PUBLIC HEARING

**Development Agreement 478 East 325 South Tom Jett
(Recommendation)**

6. PUBLIC HEARING

**Road Vacation 400 East 325 South Tom Jett
(Recommendation)**

Tom Jett: This has been before the board before. I hope I don't get emotional like I acted like before. This is a piece of property.

Decker: I am just going to say this. You apologized for that, but I didn't see any concerns. I saw no problems.

Jett: I have a lot pressure my wife, if I don't build her a home there.

Jennifer: Happy life, Happy wife.

Jett: That is exactly right. This part of town is commonly referred to as Dog Town.

Decker: It is a cool part of town. Get that canyon breeze. There is a small dirt road which is 325 South that is East of 400. Many probably know where it is. I know she knows where it is. She has a property on that same street.

Jennifer: I do.

Jett: Is this the development agreement for the improvements or is this vacate that we are doing right now?

Randall: It is the development agreement.

Jett: Our home is going to go right here. We are asking to waive the curb and gutter on this. There is a curb and gutter. On Jennifer Davis's property from here to approximately here. There is no curb and gutter. Then there is a curb and gutter from here. To approximately here.

Randall: Tom, can I pause you for a second? I have brought this up as quickly as I can and I have forgotten until you said it. You may not have a quorum to address this issue.

Jennifer: Because of me?

Randall: You have a conflict.

Jennifer: Yeah, I probably do.

Randall: You have a direct financial interest in the decision being made. We only have three members of the board today that could address this issue legally. So, you don't have a quorum.

Jett: Why does Jennifer have a conflict?

Randall: Because the decision on what improvements or not improvements made on your road may directly affect her property.

Jett: How? My property, the improvements would be from here. It is not even adjoining her property.

Randall: You are required to have 24 feet of asphalt from the nearest improved road to get to yours.

Jett: So, you mean I would have to have 24 feet of asphalt from 400?

Randall: That is where we have done it everywhere else.

Don: That would be a minimum access road.

Randall: Right. You have to have an access road to yours. Think of all the properties up next to the golf course. The road that goes all the way from Main Street is all the way there. It was just asphalt. That is the is the access road we required for them to put in.

Cox: It would be a minimum size requirement.

Randall: It's minimal, but it is something that could be financially.

Don: I believe that is 26. I would have to look at the Engineering Standards

Jett: To clarify, I would have to do all of 325, not just what is in front of my property.

Adam: Is it all dirt?

Jett: Yes.

Randall: Again, I don't want to say all because you wouldn't have to do curb, gutter, sidewalk. That part is not in front of you. You would have to minimum, which I thought was 24 but it might be 26.

Jett: I would have to improve this gentlemen's lot also.

Randall: You could do it right down the middle.

Jett: I don't own this corner. I would have to improve his frontage also.

Randall: Again, I emphasize it is just the access road part. If someone wants to build a house or subdivision and it is half a mile away from the nearest improved road. We don't say, hey, don't worry about getting there. It is fine that you have a curb, gutter, and sidewalk and road in front of your property. We still require an access road to get people there.

Cox: He could do non-curb and gutter, and it could be chip sill access to and then developed out curb, gutter if you were to do the order.

Randall: I would expect so. It is just a standard asphalt. If you drive up to all homes up to the golf course and you take that lovely little route that goes up there. That is what you get. You get that very minimal asphalt to get people there.

Jett: Well, it is not minimal. The road, if everything goes correctly, will be 45 feet wide.

Randall: That is what I am saying. You would not have to be full.

Jett: No, I would have to do all but 12 feet of it, no all but 8 feet of it. If the road is 45, but the asphalt I would have to go.

Adam: Tom, sorry, you are getting lost in the weeds. The only concern we have is whether Jennifer can vote.

Jett: Okay, I am glad you brought that up. Because I didn't have that other issue.

Adam: Because there is an ordinance that says to build on your lot, you would have to improve that access road. That would improve Jennifer's property. Which legal is telling us that would create a conflict for her. Now, I will always side with legal because I don't want to get to sued, and Jennifer doesn't want to get sued. We are going to side with that and say that you don't have a quorum tonight for this. Okay. But we are not telling you now. We are just telling you that you are unfortunately going to have to tell your wife that there was no vote on this tonight.

Adam: The next item. Does the appley to the same thing?

Randall: It may lead there. I am trying to remember if Mr. Jett requested it just in front of his property because I think you did. The difficulty in coming to the city is you consider vacating only in front of his property and going back to Mr. Cox's point about in/out. The request itself is not a conflict, but if the board is okay only inclined to consider it based on the other, then you have just found your conflict.

Adam: I am going to ask the board if we can just focus on this piece in front of his property, we can have a discussion, but if we can't then we are going to have to table it as well.

Decker: We should cover both together when we have a full quorum.

Randall: Just one clarification quick because they are public hearings to put it to a certain date, so we don't have to republish and do all that lovely stuff. Unless we have heard other rumors, the next meeting is June 17. Does that work for you?

Tabling Items 5 and 6 due to not having a full quorum to vote; to a date certain for the next Planning Commission meeting on June 17.

7. PUBLIC HEARING

Ordinance Text Amendment (Recommendation) **Section 26-I-4(B)152 Pertaining to the Definition Of a Sight-Obscuring Fence** **Tyler Melling**

8. PUBLIC HEARING

Ordinance Text Amendment (Recommendation) **Section 26-IV-4 Pertaining To Fence Materials and Requirements** **Tyler Melling**

9. PUBLIC HEARING

**Ordinance Text Amendment
(Recommendation)**

**Section 32-8(C)6
Pertaining to Exceptions
To Fencing Requirements for
Planned Unit Developments**

Tyler Melling

10. PUBLIC HEARING

**Engineering Standard Revision 4.6.1 Pertaining to Allowed
(Recommendation) Fence Types**

11. PUBLIC HEARING

**Engineering Standard Detail
(Recommendation)**

**Storm Drainage D6
Pertaining to Fencing around
Detention Basins**

Tyler Melling

Tyler Melling: I am here on behalf of Cottonwood Hollow LLC, we just have one very simple request, but because we were going to be opening the fence ordinance and talking with staff there were quite a few other things that needed discussion. Before we get into the weeds. What we are in the process of doing, the old Hershey Farm, north of Gemini Meadows, it is a little 8-acre subdivision it is 37 single family units and 32 townhome units. It is a hybrid public subdivision, and private development. In looking at that and then experience with some of the other units in that area. There is a lot of clay in the soil, which means as it gets wet and then dries out the soil moves a little bit. When it comes to masonry walls, it isn't exactly ideal. Especially because part of this is a public subdivision, an HOA is not going to be maintaining those walls long term. The private homeowners will be. When you are fixing a masonry wall, the fix is generally in thousands of dollars. Whereas something like vinyl fencing, you are looking at a few hundred for a panel or two, a Saturday, and unskilled labor. The current fence ordinance requires that those fences, depending on where they are, either be masonry or a composite like trex or factory inserted slats in chain link. We are asking for vinyl to be added to that. That is the crux of what we are asking for. However, in opening the ordinance, there are few places where the ordinance conflicts. If you recall last year, the city amended some aspects of the fence ordinance. One of those was related to changes in density. Some of those changes in density, however, were based on a gross unit count not a density per acre count. Just correcting some of that language. Since then, we have found a couple aspects. Especially when you deal with differences in elevation where there is a wall, but it is on the wrong side of the cars. You have required a wall, but the cars still shine on the neighbor's property. So, we could look at some ordinance changes that way, as we dive into the discussion, if we can't address all the aspects tonight. I would ask we are here for kind of one thing and rest is a courtesy to the city, if we could get a yes or no on the issue of do we expand the materials allowed, if we require a lot more discussion and maybe tabling some of the nuts and bolts of the when and where's, that would not apply to our projects that we are working on.

Adam: Fantastic, alright with that we will start with item number 7. This is the one where you would add vinyl. Is that correct?

Don: I thought it might help kind of focus on all these moving parts, and this put together very quickly.

Tyler: This is the existing definition of site obscuring fence. There are some areas of the ordinance, for example the commercial industrial that does limit these options further to just masonry. Generally, a site obscuring fence in Cedar City is a fence 6 to 8 feet in height, that is either masonry, trex, or factory

inserted slats. The language that I have proposed in the change. I looked through several jurisdictions and how they tackled the issue. We could simply add wood or vinyl to the definition. I do like the definition that was Wilcox, Arizona and they defined as any material and workmanship to permit vision of not more than 10% of each square foot more than 8 inches above the ground. Basically, it allows for the drainage area below, but not more than 10% light penetration above that. They are creative because they are contemplated like living fences, things like that. I don't know if 90% is a threshold we want to look at. This privacy link is 98%. If we look at, arguably one of the nicest PUDs, one of our oldest ones that aged well is Three Fountain PUD. That is just aftermarket slats probably. What is that, Don? Maybe 80%.

Don: Maybe 80, it has got a lot of shrubbery and stuff like that.

Tyler: To that point, a lot of fences become living over time and the fence itself is just chain link. Now from a market perspective and especially with tariffs and some of the issues with steel right now, the chain link isn't as cheap as it used to be. Vinyl is probably the most competitive. It is about half the cost of masonry to install. Before we go on, we will get into the where and when with some of these other materials. Philosophically, do we lean more to a broad definition that just says, any material that blocks the light or do we want to be specific as to wood or vinyl. Then if someone else has a better idea and something else that they would like to use overtime. Then at that point, they can lobby for another material.

Adam: Who owns the fence?

Tyler: I am not aware of any city owned fences that would be required under some of these ordinances. I think they are generally privately owned. It is just a matter of whether it is HOA or individual homeowner owned. That is when we get into some of these other questions and those do further restrict depending on the situation. There is a broad definition of what site obscuring fence is in the city; do we have preference. Do we want to name precise materials or do we want them broader. Also based on the function rather than the material.

Don: I am not fan of having name brands in a zoning ordinance. It doesn't need to be there. Engineering Standards are different. Fencing, services for many purposes. Some of the limitations we have whether it is height, 30 inches in our front yard, 6 feet in the rear yard, those are impact driven. Sometimes it is a concern for your neighbors, so you bury your neighbors, especially small lots, and small setbacks. As far as your materials go, if we take impacts out of it, you are more in the land of aesthetics. I think where aesthetics becomes more important. Let's say on subdivision and you are on a master planned road and the houses back up and you are going to see one long linear fence. Sometimes subdivisions are small, and sometimes you are looking at a lot of linear footage. On those master plan roads is chain link one of those things we want to present along those master plan roads. Maybe it is, maybe it is not. In my opinion, it is not my favorite. As you guys drive around town. You see different applications. One that looks good is on Cross Hollow. It is block, one of the biggest things that makes that look nice. Just south of Genpact there is a nice PUD, it is not necessarily the block, it is the landscape that makes that whole area shine. Those are a couple of my thoughts for what they are worth.

Adam: Thank you, I appreciate that.

Cox: Is this ordinance talking about master, it is not long master planned roads.

Tyler: There is a part that gets into that. As far as to what is on the screen here. I thought maybe we could kind of piecemeal it at first, right? We are just philosophically as a general definition for a site obscuring fence, what do we do? Then as we get into some of these other ordinance sections that state whether it is industrial or commercial, do we want to further specify? If it is a PUD, do we want to further specify? If it is against a master planned road, do we want to further specify?

Cox: So, this is only for material of site obscuring fence where site obscuring would be required.

Tyler: Generally, unless otherwise specified in the ordinance.

Cox: I am fine with any material. If it is the site obscuring that is the issue, then you can do that with any material in my mind.

Jett: How site obscuring are we talking?

Cox: 98% or something like that.

Tyler: The existing for the privacy link is 98 and I think what they were trying to do. Again, I am trying to imagine what council was thinking. This would have been, I know, the trex was added about 6 to 7 years ago. I am not sure when the privacy link was added in, but they were trying to avoid the look of the chain link with the aftermarket inserted slats. So, this privacy link is a 98% obstruction. I was looking at a lot of the ordinances, generally it was about 90%. With wood slats for example or even trex for that matter a lot of times with trex you still would leave a gap, so there is some light penetration.

Don: This was driven by Engineering at that time. I knew wood was in there. I don't remember anything else or any other exclusions. I think a big thing in Engineering mind was durability. I remember vinyl specifically just because of the durability aspect. I know that privacy links are supposed to be bulletproof. The slats don't fly out and for trex at the time was seen as durable. Although some of those things are thin.

Cox: They have made some good ones now with more of your vinyl type material in them.

Tyler: The difference is when vinyl was new for fences, the UV protection wasn't there. Especially in our high altitude, it was flimsy. The stuff we see now is quite more durable. Any fence is going to have maintenance over time, and we have an HOA that we are working with. There was a fence repair, and it took about 10 months to get two different Engineers to agree on the fix because masonry is different animal. If that falls over, someone is dead if they are next to it. Whereas the vinyl or wood you must replace it arguably more often, but it doesn't necessarily take skilled labor to fix it either.

Cox: Do we have a situation where a site obscuring fence would be required one lot at a time. In other words, I would buy a lot.

Tyler: Only in a commercial setting, usually it is on a subdivision basis.

Cox: Okay so we don't have a situation where we have lot owner A, hey they can't afford a block wall, so they are just going to do nothing and then the one next door, hey I want a block wall. So, I am going to put a block wall. Site obscuring is more along a major thoroughfare that is a separate code from other fencing. on your subdivision.

Tyler: Yeah and will get into that in just a bit. As far as how we will define that. I agree with Mr. Boudreau; we may not want to be wed to one material only on master-planned roads. Certainly, we would want continuity through ta subdivision.

Cox: On the master plan roads? I would agree with that. If it is subdivision wide approach, if it is lot by lot, you aren't going to have the same people who can afford the same thing. If you want a fence and a vinyl fence, then. place.

Don: On your newer subdivisions, wherever the commission and council lands, you will have consistency. The older ones, in my old neighborhood, it looks hodgepodge. You have all different types of fences. To me it is more specific on the different applications.

Adam: Tyler, if you don't mind let's look forward to the application.

Randall: Can I ask one thing? This is just a thought. I think partly, I don't know if how much we enforce it. Picture your typical masonry wall and a large percentage of those have almost kind of a decorative top. It is not a solid brick, it is maybe kind of cross where half of it is see through and other half is not.

Technically, that would violate our ordinance.

Cox: Because you can see more than 90% through it.

Randall: Correct. I have never seen us deny one on that basis, but I am one of those nerds that says, why not have the ordinance say what we do. You have it where you exclude the bottom 8-inches. Can we also

exclude the top 8 inches? That would be about a typical break.

Tyler: I don't see a problem with that one bit.

Cox: That bottom 8 usually let drains and some other.

Randall: The bottom's drainage, the top is decorative. Those are standard for a lot of fences, even the ones that we haven't approved of right now.

Tyler: On the next slide, this is some of the requirements. In my ignorance, anywhere where it specified something like this with commercial and industrial masonry just struck it to go back to the site obscuring. However, Don made a good point, where it is less about aesthetics with commercial and industrial against residential and more, there is noise abatement things like that. I would not be opposed; this is more of policy consideration. Do we require masonry there? Generally, that does help with noise in a limited number of circumstances, it could make it worse. It just depends.

Jennifer: For the most part. I feel like the masonry should stand. Because it does look better and it is a better separation from commercial and industrial to the residential. It is almost a courtesy thing.

Tyler: I see that. If you ignore that top half, the bottom half, you will see that last year there was clarification when to put this in. When there is a change of density. Basically, if we are going from anything but an R-1, 3 unit per acre type of approach. Into any other type of density, there is a site obscuring fence requirement. However, it just stated, dwellings of 3 or more, but it didn't specify it, as far as density per acre. It would be correcting that language there into a per acre analysis. If you recall this letter C has some added language, this is to address a concern that came up about a year ago. It was that Rose Bradly Development. Where you had a city master planned trial, and the way the ordinance was written. I think what they ended up doing in practice as well is you had a master plan trial bounded on either side by a site obscuring fence for a quarter mile or more and the concern then is well if you've got masonry wall on either side of you. For a quarter of a mile if there is any kind of safety concern. There is nowhere to go and there is no one who can see or hear you. That also ties into, about 3 years ago, the DR Horton project on Cross Hollow, where the back of that PUD abutted to a public trail. They didn't want to put up a block wall to block the trial, they said, hey, if our people want to go out of a low fence or some kind of iron bar fence or whatever. Be able to enjoy nature and see that. Some people want privacy and want the site to be obscured. Those people are not going to buy these lots from us. We would rather have the ones that prioritize access to the trail do that. It turned out nice in my opinion. I believe at that time they asked for a variance and the council granted. This letter C is an attempt to kind of get after that. You would not necessarily require the site-obscurring fence. Now from a marking standpoint you would probably want some kind of fence, not necessarily site obscuring if it is against a drainage channel public recreational amenity and then borrowing from the PUD ordinance regarding the required common open space. Basically, if it is a nice landscape area, why block it off?

Randall: I have a grammatical question for you. The last part of it you have measuring at least 10 feet wide. What does that modify?

Tyler: That modifies the private common open space area. It is from that ordinance. I know Don doesn't like that ordinance and how it is written. If you recall when we amended the PUD ordinance and the required open space, to make sure that open space wasn't unusable land and it was nice, landscaped stuff that people could use. We required that be to be at least 10 feet wide.

Randall: Okay, and that makes sense. The only fear would be is a court would interpret that last phrase to apply to all three parts. You may want to reword that.

Tyler: We can do that.

Don: Was the main intent on this one because I was not quite sure. When you do at DR Horton where it backs up against that nice hillside. You would not have to do that.

Tyler: You wouldn't have to do a site obscuring. Now someone might still want to. It kind of just

depends on what they are selling. Some of these master plan subdivisions up north that are along these recreational amenities. They will have the little 30-inch picket fence and that is it.

Don: I am trying to think of situation where we would require a fence that is not a PUD.

Tyler: I think you are right, it is only for PUDs.

Don: I think this is only applicable to PUDs, where you must surround the whole thing. I don't think we would require it.

Randall: Theoretically you could have it for an apartment complex because we are talking about density differences.

Don: In my mind's eye that was when you are adjacent to other residents.

Randall: Right, if you had an apartment complex next to an R-1 or even a R-2-2.

Don: That is when you comprise.

Randall: I am thinking of Old Farm, the apartment complex that is next door. We would require a fence.

Tyler: Yeah, I guess that is the question. Is that somewhere we would still require. If you are going to have those units right next to that one public amenity, why do you wall it off? Just because you live in an apartment doesn't mean you should have to walk.

Don: A couple of years ago we did stick an exception in the PUD ordinance. Where they must come to city council. This would codify that exception.

Tyler: I think of a time when the council was inclined to deny that when that was the case. Because that is really the analysis we were looking at. If it is abiding these amenities, then why shield it.

Don: Where it says, public when you are adjacent to a recreational amenity of a recreational amenity where the proponents. Where I get a little confused too is when we are talking about the private open space. Are we saying you must have private open space next to the public recreational facility or?

Tyler: I guess what I meant there is if you had that landscaped nice, private open space. Then, likewise we would not want to shield that from the view of the public either.

Don: Okay, maybe we can tweak it. I am not coming to conclusion.

Tyler: No, this was 3 hours of looking through the ordinance and while we have it open, can we address some of the other issues.

Don: If it is a PUDs dumpster area, we would still want that fence?

Cox: I think we get caught up in fences. Up in Provo, they have it very open and zeroscaped and there are no fences in between. It is a very awesome cozy feel in a tight density community. They are all single families.

Don: I think there are some points to be made there.

Cox: I don't know that we need to have fences as much as we think we do.

Don: I would go back to more of the impacts and density changes. Like the commercial versus the residential. I think the fences are necessary, they jive with our general plan. I can read that stuff to you. Just on section 1, which I think you are agreeing to a certain degree. On the changes of density when we talk about units per acre. There is an apartment building next to an RNZ. Where we have our density is 8 units per zone, but they are single families. If I have one lot sitting on 5k lot, that is dense. Would we require the fence in that case next to a single-family home. Because, that home is at 8 units per acre.

Tyler: The way I read the ordinance as it is currently written is you wouldn't have to put a fence that it seems that the changes we made last year and maybe we want to tweak that some more. The way it is written now if that less dense property says, will not apply when the less dense property already exhibits four or more units per acre.

Don: Could be single family home. I just want to be clear on that. To me the impacts are when you are multiple-family developments. In Cascade Springs comes to my mind, where you start to change from a duplex single-family. Where your lots, the parking, densities, you are trash enclosures start to morph into

a commercial nature. You have touched on this with some of the fencing, headlights, and things like that. That is where I think fencing is more important. We did change it, and we went with use. To be clear if you have a small lot, small single-family lot and the apartment comes in next door, they are not on the hook in this case.

Tyler: Right, per the changes last year. That is not part of this proposal. The changes last year do away with that.

Don: Well the changes last year would have said, if you had 3- or 4-units next to a single-family. You would have to put the fence. If it is based on acreage.

Tyler: Oh, I see what you are saying. If it is just one house and 4 units. So maybe we would think that second per acre is what you are getting at.

Don: I just want to clear if I read this and Randall, you tell me if I am off base. If I have a small lot and I'm a 5K lot with a single-family home and a single-family neighborhood. Then an apartment comes in next door to me, and it was vacant before. Then that lot is technically at a higher density. That is why I am reading it, unless I am off base.

Randall: You are correct. If you are thinking of all your R-2-1s, for example you wording is if the wall would long apply even if a large apartment complex came in next to it. Verus right now if you didn't do it per acre, it is just a total of four units. Those would all be one unit. Each property would only have one unit.

Tyler: I see, we can take it out.

Adam: This is why I say we don't let two lawyers discuss something in Planning Commission anymore.

Tyler: Again, my initial reading of that was something different. I was thinking more of the overall density and thought the per acre was just something that we missed last year, but that you explain that. I am okay with taking that proposed amendment out.

Jett: One of the worse experiences I have when dealing with our Building, Engineering, or any other department, is when they use the word, well I interpret it this way. If a 6th grader can't read it needs to be rewritten. So, we can take the word and interpret it out. Because as staff changes it happens. Well, they interpreted this way, and they interpreted something different. That is what makes people go bonkers. So, whenever we write this stuff. If we could write in such a simplistic 6th grade manner. We don't have interpretation, we have can remove it or add. Just make it so everybody can prepare the same thing.

Tyler: As far as changes on this page, it would be just the kind of looking at this letter C after Randall can fix some of the grammar there. To put into ordinance what the council already grants in variances to not obscure the nice stuff.

Tyler: The next slide is to illustrate.

Don: Regarding masonry commercial versus residential building. In my opinion this is where the masonry makes the difference. Since Randall won't let me do any CUPS, the masonry comes into play. I have worked in the city, when these self-service carwashes started to blow up in Southern California. I think they are quieter now than they used to be, but they were a major a roar. In this case, it is angled right at someone's windows. These are the types of cases I think that masonry is important. I don't know how late Jimmy Johns stays open, but some places are open all night. You have that squawk box next to your window.

Adam: Not only that but also the headlights from cars driving. I think we should make them redo their wall, since it doesn't comply with the ordinance. Next slide.

Tyler: This one is to address some of the concerns about headlights. It has been about two years ago that Leavitt's came through and asked for a variance. Which I think was a development agreement for their project because they were worried about headlights. The city ordinance prohibited a fence where they wanted to put it. To block headlights from neighbors. We have another one up on the hill. If you could

advance slide, that bottom is the one in question. Fiddlers' Canyon area where that retaining wall meets the site obscuring fence ordinance provisions. However, the head lights all shine on to the neighbor's property still. How do we kind of balance and again where this is residential, I don't think you need masonry. Other than being a major health hazard and liability. I don't think it needs to be masonry, but something that shields those lights from the neighboring properties.

Jett: Still the 90%?

Tyler: Yes. If we could back a slide to that language. The proposed language here would be that any property proposing new construction or drive aisles, or parking areas designed for 8 vehicles. Basically 4 units or more give or take. Our designed such as vehicle headlights will shine onto neighboring properties used for residential purposes. We will require the construction of a 6-foot-high site obscuring fence along the affected property lines or between buildings. Again, it doesn't quite address the differences in grade, which will get to later. At least here it is stating, look the purpose of this is to mitigate the light intrusion from the parking lot. That gives staff something to hang onto. If we want to amend, in some other way to beef that up or whatever else. There is a reduction of the 30-inch height in the front yard setback areas. Again, maybe we want that to have a little taller. I don't know what that would be. I am trying to think like some of these bigger trucks 48 inches, I think. I don't know the best way to address that. The goal here is to have language in there that staff can lean on saying, look we want you to mitigate lights shining onto other properties but without being overly prescriptive either. This is an attempt to thread the needle.

Adam: This would only apply to areas where there are 8 parking spaces?

Tyler: Right, basically higher density projects because again not all high-density projects are PUDs. A lot of them are common ownership, so it is an apartment building or something like that. So, it is not subdivided, PUD ordinances do not apply. This would be a goal to address that.

Don: This could be commercial too, right? The way it is written.

Tyler: Yes. Commercial parking lots as well.

Don: This one is tough. I certainly understand the intent. Melling, you may want to touch on grading down the road, but when we raise the grade. In this case if this was a PUD without that big change in grade, you would have that 6-foot fence there anyway. It would never have been an issue. When we retain up to 6 feet like is the case in some of this or some spots in this project. Your site obscuring is no longer there as we interpret the 6-inch retaining wall. To hide it further, you would probably at least be adding another 4 feet. No, we have more of a prison look going on in our front yards. Without landscape setbacks, which I don't even know I can do there now, with some of the state law changes. It becomes a difficult situation. I don't have a good answer to this now, but I certainly get the intent. What the Leavitt's did here worked out nice. They have hidden that parking lot from all those homes across the street. Landscaped it nicely, saved a couple big trees out there. I think it serves its purpose and still looks pretty good.

Tyler: Maybe one of the ways to address that is amending, rather than along property lines that are around the parking area.

Don: I still think your fences if you are going to go taller in those front yards should be set back further, like what the Leavitt's did. If we get into retaining situations, there may be cases where if we want to additional site obscuring, especially in the front yards. Where we want those fences tiered back, so we don't have 20-foot walls in our front yards. There are a lot of moving components on this one.

Tyler: I am just here for one thing, but while it is open we wanted to have a broader discussion on some of these issues.

Don: Engineering may want to seek having these big retaining walls in our PUEs as well. In this case there is only a 10-foot PUE on this town home project to the right. In some cases when we do a lot of

retaining in the front yards, our PUEs become unusable. There are a lot of little nuances to this situation. Jett: All I ask this body and any other body that has input, to keep in mind we are already pricing out well over half the population in being able to buy a home. From a development standpoint and think most people will understand this. The more we force it on the developers, additional costs, the more we eliminate the larger percentage of people being able to own a home in our town. Eventually, we are only going to have the wealthy that can afford to live here. That is going to be very tough and sad for our children. That would like to stay here and take care of us as we get older. And still living with us when they are 45 years old.

Randal: Along those lines, I know when The Leavitt's did theirs that was voluntary. We only put that in agreement because they needed to put it where they wouldn't otherwise be allowed to put it. This is one of those and I think mentioned during the sketch meeting. Where you may want to change the word. One we may want to table to bring back with some more details, but it also may be one of those where it is a may, not a shall. Where you don't require it. It doesn't add to the expense if it is not necessary. But a developer is hoping to not cause that impact. Would have an option to do what a PUD is required to do which is put a fence 10 feet from the property boundary, but a normal subdivision maybe be prohibited from doing the same thing. That is what they ran into, it was just a single property. So, they couldn't even do what they wanted to do. Just a thought, the one thought; table it so we can get more details to cover some of these other areas. Again, don't table everything else. Just three, that subsection three that we could have further discussion on, but let the other parts that sounds like we have some similar agreements on. To bring those back and like I said it is maybe more of a may.

Tyler: I will also add to in the development community, a lot of the push back on the fence requirement based on cost is because masonry is dang expansive, especially on slopes, depending on where it is. It is a nightmare to maintain. Short of a HOA or something like that if there is a problem.

Jett: Very expensive to fix when someone bumps into it.

Tyler: Right, and by opening other materials it is a lot easier to put in the site obscuring stuff with parking lots and things like that as well.

Don: I like vinyl a lot better than privacy link.

Tyler: There is the cost and marketability, too. We would like to allow vinyl. Wood is another 25ish% cheaper than that. We are not going to be putting up wood because you need to sell units at a certain price point to make a project pencil. Vinyl is not going to hurt that wood. Vinyl per unit you are looking for our project around 2 to 3 thousand and masonry would be 5 to 6 thousand. The vinyl adds that value. More than that value the wood you save a thousand dollars per unit you perhaps lose more than that in value. It depends on where you are at some places it blows to hard for vinyl. It is not just going to hold up. That is the private parking stuff for drive aisles. One more slide forward is the PUD. This is one of those places where it specifies masonry or composite. For the PUDs, it essentially eliminates the privacy chain link option from site obscuring. It just says masonry or composite. Where there are residential PUDs, I suggest eliminating that qualifier and just allowing any site to obscure a fence around a PUD. I know some folks would rather have razor wire; I just see a problem with townhomes myself. My parents live in a PUD on the golf course. There is no site obscuring fences around that one. That was before the ordinance change. Today no one would think of adding a site obscuring fence around those low life's that live on the golf course.

Cox: Heaven, forbid they must look at people living in high density housing.

Tyler: For PUDs that would be the case. The road one comes up later I think and then added in this language specifically to PUDs as well.

Cox: Isn't Utah a fence in state?

Tyler: It is a fence out State. You must keep livestock out of your property.

Cox: So, if you don't want to see then you can fence it out yourself.

Tyler: Don, on this slide it was added to just kind of bring back that language from the other two.

Don: Just to show the commission, what we have now. You had added to 32-8-C, right?

Tyler: Yes.

Don: 32-6-B is what you added.

Tyler: Yes, it is all there, you just skipped all the boring stuff. I see it now.

Don: There are some exceptions already there. This is what I was trying to convey is unites. We have exceptions when the unites front the streets. up the streets. They have individual driveways. You have seen some of those. We have exceptions when the density is less, that is subject to the city council.

Proposed space between proposed building units. That is also subject to city council approval. Then geologic features between existing or potential development sites that provide for privacy. I think that was the DR Horton one where they have the big hillside back there. Those are existing exceptions. B kind of, the one that is proposed to be added kind of replaces that geologic structure or is your geared more toward amenities?

Tyler: Yes, and maybe that was my attempt to encompass what we are some of those exceptions that we all already grant. I can't think of situations where we would deny, even though it is a variance where they need to go to council. If it meets these criteria area.

Randall: Don't tell Dave Clark that the council denied one for him next to the golf course and he met 2 of those 3 requirements.

Tyler: I do remember that, and I remember disagreeing with that decision.

Don: It was a posted rail fence, right?

Randal: That is what he ended up with. He didn't get a site obscuring fence anyway because the Board of Adjustment gave him a variance, and the council didn't give him this exception.

Tyler: I think maybe because of the way the variance language was written, it was, not necessarily a geologic issue or anything else. If you are next to an amenity, why obscure it? Unless you want to.

Tyler: On the next side, we have pictures of some of the applications that we have seen. You can see in the top left picture; they did have to put up the fence. They did a double fence. Is that a drainage area between the two sets of fences.

Don: I don't recall why that was done.

Tyler: The way I see it. Is they put that masonry fence because they had to per ordinance, but it didn't offer enough privacy in the backyards. They did the backyard privacy fences, as well. I could be wrong; it was a lot of wasted cost. They landscaped it beautifully. Let them landscape it and leave it open.

Cox: I would prefer that bottom left one over any of those others. I just think it looks nice and open.

Tyler: That one predates that ordinance back when PUDs.

Cox: Right, then we require a fence, and we have more cost. I don't think it looks good. I don't think the city should be into aesthetics. If the people want fence let them build a fence. If they don't let us not require them to build a fence, except for in some very slim circumstances.

Tyler: That is the challenge. Before we had the PUD fencing ordinance, we had developments like that. Then once required PUDs to be behind a fence, we started to get a work product that deserved to be behind a fence. Where you are allowed to have creativity, landscape nicely, and have the building orient the fence because at the end of the day you must sell your units. You are not going to have something that looks horrible unless the city says you must put in the \$150,000 fence. Then you must make cuts somewhere else to have a pencil out.

Jett: I agree with Robert. I hate the city being in the aesthetics business.

Tyler: In the bottom right, that is Three Fountains. That is the worst stretch of Three Fountains.

Don: I was looking for a chain link.

Tyler: In most areas of the Three Fountains that aren't naked. It is covered in vegetation in most of those areas except for that one stretch. That is a chain-link with aftermarket privacy slots, that is no longer allowed. Unless steel costs come way down, I don't think we will see that come back. Just because it doesn't pencil and it is not a perceived nice thing, especially when you have materials like vinyl as an option. This is an example of some of those situations where it was either required or where it wouldn't be. I believe the revisions we made, Don, that bottom left would allow again today, would it not?

Don: I was looking for that, and Robert I put that in for you.

Cox: Oh, thank you.

Tyler: I agree, there was about a 15 year stretch where that was not allowed. To that is hands down better than others. If the porches are articulated toward the street, if you have varying.

Adam: Can we please continue?

Tyler: The next is Engineering Standards. There are two spots that are discussed in the Engineering Standards. One is 4.6.1 about allowed fence types. Where the types of fences allowed to be installed around the developments listed 4.6 above. Like PUDs, Industrial Developments, things like that. There needs to be some kind of consistency between the standards to match our ordinance and vice versa.

Whatever we allow and site obscuring fences unless otherwise restricted for like commercial or industrial. Just so it will match. If we are changing one, we need to change the other and vice versa. Then that last one that was a little funky is this D6 Detail. It is buried in there, but I found it just because I was doing control F search through the standards. It states for detention basins that are city-owned. 6-inch tall chain link fence with three strands of barbed wire, and it says per a UDOT detail. I am not sure that is something that we still want. Or if that is something that we want to amend. Either way as we were working on this subdivision plan with the city, there are some questions as far as the way the ordinance and the details written as to private detention basins. We just need to have that clarified whether it is city-owned or not. If there a site obscuring fence requirement or not? Does that standard change based on ownership?

Cox: I don't think we should require barbed wire on top unless there is a safety issue. Like a sewer lagoon would be one or maybe well housing. Where you don't want people on it.

Adam: Is that detail just for city infrastructure or is that privately held?

It says for city maintained only but then the question is, what do we do with private. Because we didn't update the detail to show what the spec for private.

Cox: In this case they couldn't put block walls. If they wanted to, we'd have to do the chain link with the 3 rows of barb wire.

Tyler: For our project we would like to be consistent using vinyl. It is a privately maintained basin.

Adam: For me, I am not of the opinion that this government should dictate what material you should use for a private project including your fence. The government has full authority to dictate what material they use for government infrastructure. I think if the city wants to say, we require this for our detention basin, fantastic. For you, unless for some reason city staff thinks it is a safety issue, which I don't think it would be.

Tyler: Generally, part of this scale? The city will only maintain a drainage basin if it services more than 160 acres. You are talking a fair deal of water. Whereas anything smaller than that must be privately maintained.

Jett: That eliminated about 99.99% of the subdivisions.

Randall: I think part of your question as you go through this, is it where water sits in it a lot?

Robert: Or it becomes a safety issue, right?

Randall: You think of your safety concern. You think of a standard swimming pool where they want 6-foot fences around them because that is just a standard safety concern.

Jett: My thought, you are better putting a chain link fence around it. If a kid did get into it, you can see and hear them.

Randall: The barbed wire on this is entertaining because we have a city ordinance that prohibits barbed wire in Cedar City. We have an ordinance that contradicts our standard. I couldn't find the UDOT standard. I don't if somebody else did.

Adam: Does the ordinance prohibit razor wire?

Randall: It says barbed wire, but I think its definition is probably sufficient.

Jett: Tyler, are you asking to change the ordinance around the retention pond to any material?

Tyler: Again, I am here for our subdivision we're working on. Because it is a private basin and the city spec clearly isn't acceptable, and it does say for city-maintained basins only. I believe if we simply address the materials issue under site obscuring, PUDS, and residential subdivisions change of density all that stuff. That covers our concerns.

Jett: So, it could be a clear chain link.

Tyler: We would want to do it as vinyl.

Jett: If we changed the ordinance, would this still allow someone to have a clear chain link?

Tyler: I would think so, again it depends on. This part was more for decision rather than a proposed verbiage change. I think we need to coordinate a little more with staff as far as what exactly needs to say. I would think about safety reasons and other things. Especially if you don't have a percolation, sometimes something that is not sight obscuring but is secure might be safer. If it is along a master plan road, is that what we want? This is a combination of this private pond in our situation abuts a master plan road and an existing residential subdivision and our public subdivision. Consistency is what we are shooting for. It has a high percolation rate. It won't have sitting water, to it will be.

Don: I don't think we would be enforcing this on yours because it is city. I didn't vet this.

Tyler: That is okay.

Don: The way I read it, yours is private. Kent, do you know what we have done on the engineering side with this?

Tyler: The only issue Engineering brought up is that they wanted it fenced, but as far as what material that wasn't specified. We would like it to just be consistent.

Don: Reading on the surface and then the previous ones.

Cox: The retention basins are not going to have a top on them. It is just like a French drain or is it going to be open?

Tyler: It is a rapid infatuation. They dug down like 30 feet.

Cox: They have grass on top of it, or landscaped.

Tyler: It will be gravel; it is a big sieve.

Cox: You can walk on it. It is not going to be an open basin full of water.

Tyler: Right, it is not going to be attractive, and the slope because of the space we were looking at it doesn't meet at that 3:1. It is more move of a 2:1. Which you want people walking on. It is an area where there is no master plan storm drain systems of any kind. There are good gravel layers about 20 to 30 feet down. You dig down to that fill, back fill with boulders, leave about a 5 to 6 feet deep hole. Other than that, Don you had few other discussion items on the next three sides.

Don: These are more of a FYI. We can run through it quickly. These are just other areas where site obscuring fences come into play. Solar fields, cell tower sites for that equipment at grade that, it does say block. We do have a section about site obscuring fences for parking now for 5 vehicles but only if they are close to another structure. Next slide, we have site obscuring language for outdoor storage sites that are in industrial and commercial zones. Then we have this junkyard one that requires a six-foot site obscuring fence. These are just other areas where that comes into play. Most of these are obvious for

obscuring junk and broken-down vehicles. I think that is the end of the presentation.

Jett: That is in all zones?

Don: Commercial Industrial.

Tyler: The only other thing that was not in these slides that we listed. I think on the public notices, a discussion item was related to. Sorry Chair. There was couple that came to the Board of Adjustments a couple months ago, their concern was they had difference in grade between their property and their neighbor's property. Standing on their front porch they can see the bottom of their neighbor's front porch. Even over their site-obscuring fence, because of the grade difference. Sometimes you can go in and back fill that and change the base of fence to cheat that up and sometimes you can't. As a discussion item as we are looking at this. Could we entertain a possibility? My understanding is if a fence is more than 7 feet above grade, it must have a building permit and inspections. It must be engineered in a certain way and everything. If someone wanted to go higher than that. One of the ways I envisioned was writing that into ordinance. As long as it is not against the public right-of-way or in the PUE, if it is just separating two properties, there is a grade difference between the two, you can go 6 feet up from the structural grade of the lower property not to exceed 10 ft in overall height. For those who have that grade differentials, they could add some height to those fences without a foul of the ordinance. I don't know if staff or anyone else would have an objection to that.

Jett: Don may ask a clarifying question? Did you say outdoor storage units have to have a site obscuring fence?

Don: No, your storage units are fine. It is the idea of site-obscuring or enclosed. Storage units are enclosed. That would not impact on your storage units.

Tyler: It would be a storage yard.

Don: If you are a contractor and you have got debris, your pick a part junkyard, that sort of thing.

Jett: I think we should narrow that. Because the best sanitizer is sunlight, and when it comes to security, when someone has creeping around behind closed walls, they can do a lot more damage. When our police department can't see inside that fence. I can see around junkyards. But for general storage, you want as much light as possible. To keep people from vandalizing or breaking into those things. We have an ordinance in our city. I think it is our downtown area. You can't have more than so much signage blocking windows. For the exact reason. So, our police can see if there is something.

Don: That is something we can chew on down the road. We have enforced this on auto body repair and things like that. And that is probably going to have a visual impact, that is where we look. If you are selling propane refills, we are not chasing you. On the height of the fencing and retaining. The way we interpreted this is that you can retain on your side. We don't limit to 6 feet. You will see that everywhere. Then you go 6 feet on top of that. Even in the front yards, we have read it in its entirety, and you see large retaining walls in front yards all over the place. To me it can be a concern we really don't have grading ordinance that controls you the height. You can grade up to 10 feet and then put your building up. That does cause some conflict sometimes, with neighbors and privacy. Then it becomes an issue especially on your side setbacks, where things get closer together. I wasn't at that meeting, but when you start to go to the tall, at what point is that impact? It is accepted in most towns in the USA that 6 feet is that middle ground where we don't start blocking light and ventilation or cause's someone's narrow side yard to remain wet, for all summer long or whatever the case maybe. I haven't put a lot thought into that. I am not quite sure where we should go. To where we can meet in the middle or are there triggers so to speak when we should go higher. Sometimes two neighbors may say great, but we can't use that to my understanding. My understanding is we can't do that if two neighbors agreed to basically give a de facto variance. I don't know where that line is in the sand. I haven't put a lot thought into it. In my experience it is when people want to change that grade to mitigate those impacts. I'm talking about whether other

cities will do or require some tearing to happen. Let's say you want to come up 6 feet on your side yard and maybe your neighbor's house is five feet. We don't bury them behind a 12-foot wall, that is fine. If you want to do an additional 6 feet, you have got to bring that back 6 feet. You keep a daylight plane on those tall fences. That is one solution I have seen.

Cox: Couldn't they do that, anyway? Theoretically, if there is a 6-foot fence on the downhill side. You could come off that fence 6 inch and build another 6-foot fence, there is nothing stopping that.

Randall: Correct, that is why the Board of Adjustments denied the variance on this one is they saw multiple other routes around it that would have complied with ordinance or an ordinance change. In their case the only thing that would have met their requirement, 6 feet, was ground level on the other side.

There was a 6 to 10 foot gap. They didn't get to cheat like this and say, my ground is higher. They needed at least 10 feet to get any of the privacy they wanted.

Tyler: I think that part of that difference too, is these where the people are on the lower side. That were asking for, can we be in bowl?

Randall: They didn't start with a fence that was designed to go 10 feet. I want to say that was part of the concern. You took a masonry wall that was designed to be 6, and I am assuming for decorative purposes the bricks weren't straight. I am hoping for decorative purposes. Then they wanted to add 4 more feet to that. Most of us were terrified about what you mention earlier Tyler and have it falling over. That was part of our concern. You can shift the ground, move it around. We told him them it was our basis is where we measure is based on where dirt is, not where God put it. You can easily move the dirt to then meet the requirements. I look at it and say anything more than 7 feet is going to cause a lot more issues with the building department. 6 foot is very standard. I don't know if it is worth going through this for everybody who might have a neighbor who is higher up than them. Your other one is, you have all your natural fences, shrubbery, trees, and whatever else that could serve the exact same purpose.

Tyler: We are building a house right now. We are the upper side, but we look straight into someone else's backyard. We are going to plant trees and that is going to be our fix.

Randall: Every two-story house is the same thing. You get a 16-foot wall, so they can't see down from the second story. I don't know if you can ever guarantee somebody complete privacy without a 20-foot wall.

Tyler: Again, that issue had come up before some of the material changes. I think where the permitted materials change. Now for this situation there are CCNRs require masonry. Depending on where in the CCNRs sometimes it is masonry fences, masonry fences, but that was a spell check issue.

Don: Does it say that in there?

Tyler: Yeah, it did. Not here, but the CCNRs for these folks who had the issue.

Randall: I think from my angle it would cause some legal and additional work for Planning, Zoning, and Building specifically if we change fence height from what we are doing now.

Don: What some cities do is they will control the height of your building from the average grade of your lot. Which mitigates the guy here and the guy here. That is another control. It is more of a complicated control to implement on the regulatory side for sure.

Tyler: I think what I was getting at with that is if you open the materials too. Then those savings in using a different material could be used to boost the berm height or something else as well. It is about the options, the more you have the easier it is to make things pencils.

Cox: How about if you don't like being in a bowl you don't buy there. How about if someone looks in your backyard, you put blinds up. How about the city getting out of trying to fence and make people so they have privacy? I mean, this is ridiculous almost.

Don: We are not telling anybody to build those fences.

Cox: I don't think we have a solution to that problem or we ever should have a solution to that problem.

Tyler: To sum up, there seems to be more discussion on this language and a few things. We some of the other issues tabled, if we could a head up or down on the definition site obscuring fence, and whether to expand that and to also allow those same options in PUDs.

*Open Public Hearing
Closed Public Hearing*

Tyler: We would ask if you would be inclined to vote on whether to strike the language restricting it to only masonry and composite in PUDs, but to leave the other exception language tabled until the second meeting of July.

Tyler: My only question to staff. Would this create a subdivision issue if the Engineering stand doesn't perfectly match the zoning ordinance at the time of approval?

Don: To be honest, I didn't even know Fiberon was in there.

Tyler: That is a weird one.

Don: I don't remember where or why that happened.

Jett: Is this going to allow people to use a chain link fence for the drainage?

Tyler: That is next one, this one is just the Engineering Standard of referencing back to the definition of sight obscuring fence. But there is conflict between the two.

Don: If it was consistent with ordinance that would be much better.

Tyler: Our ask then would be that the Planning Commission would favorably recommend that staff reconcile this provision with the first one that was recommended to go to the council.

Jett: Is this going to slow you down at all?

Tyler: Yes, if it doesn't match, it could. That was the question I had.

Adam: Staff, do we have any issue with matching it? Okay, the City Engineer said it should match.

Tyler: From what I heard earlier, it is not going to hurt us the way it's written now if the other stuff matches. If the commission wanted to table, this item to be worked on with other items. I wouldn't be opposed to that.

Jennifer motions for a Positive Recommendation to change the site obscuring fence to the proposed language that includes vinyl, wood, slots, and soon-to-be-invented materials; Jett seconds; all in favor for a unanimous vote.

Adam motions to Table Item 8 to July 15; Jennifer seconds; all in favor for a unanimous vote.

Jett motions for a Positive Recommendation to strike masonry or composite. 32-8-(B) to be Table to July 15 for Randall to tweak the language. Jennifer seconds; all in favor for a unanimous vote.

Adam motions for Positive Recommendation to have Engineering Standards Revision 4.6.1 match the rest of the ordinances. Jennifer seconds; all in favor for a unanimous vote.

Cox motions to Table Item 11 to go with others on July 15; Adam seconds; all in favor for a unanimous vote.

II. CITY ITEMS

1) **Creating a Power Easement on City Property (Recommendation)**

7218 North 2300 West Jonathan Stathis

Jonathan Statis: As you may know we are working on a project to install a new filtration facility at the wastewater treatment plant. This will improve the wastewater to what we call a type one effluent. Which will allow the wastewater to be used on parks, and the golf course. Eventually we would like to bring the wastewater back into town. Use it on city facilities and others may want to into the city's secondary. Jett: 30 years behind schedule.

Jonathan: Yes, it should have been done a long time ago. We are moving forward with it. The project is coming along quite nicely. As part of the project of course we need to run power to the new building. The Rocky Mountain Power serves the existing facility. They need to extend their line over to the new building. Rocky Mountain Power requires an easement even though this is city owned property.

Cox: They always require an easement so they can do off that if it is closer to go somewhere else. Right?

Jonathan: Yes, they require it, and it will be 15-foot easement. It is approximately 400 feet long. The conduit has already been installed. It has been surveyed so everything is ready to go with this.

Cox: Perfect.

Jonathan: This just needs to have a Planning Commission vote, and it will go city council.

Jett motions for a Positive Recommendation; Jennifer seconds; all in favor for a unanimous vote.

The meeting was adjourned at 7:46 p.m.

Faith Kenfield
Faith Kenfield, Executive Assistant