

MINUTES OF THE GRANTSVILLE CITY PLANNING COMMISSION WORK MEETING HELD 7/23/2019.

The meeting was held in the Grantsville City Council Chambers at 429 East Main Street in Grantsville, Utah. Those present were Commission Chairman Jaime Topham, Commission Member Gary Pinkham, Commission Member Erik Stromberg, and Commission Member Jacob Linares. Absent were Commission Member Robbie Palmer and Commission Alternate Shane Watson. Also present were Zoning Administrator Kristy Clark, Shay Stark with Aqua Engineering, Attorney Coombs and Mark Watson with the Tooele Transcript Bulletin.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS:

- a. Proposed amendment to the P.U.D. Requirements for Residential Development in Chapter 12 and Chapter 21 of the Grantsville City Land Use and Management Code.**

Chairman Jaime Topham opened the public hearing at 6:03 p.m. and called for comments.

With no comments offered, Chairman Jaime Topham closed the public hearing at 6:03 p.m.

CHAIRMAN JAIME TOPHAM OFFICIALLY CALLED THE MEETING TO ORDER AT 6:03 P.M.

- 1. Consideration to recommend approval to amend the P.U.D. Requirements for Residential Development in Chapter 12 and Chapter 21 of the Grantsville City Land Use and Management Code.**

Kristy stated: The City Council wants this on their August meeting for approval, so we will discuss it and consider it tonight.

Attorney Coombs said: That is typically how it is done, but the law allows you to have a work meeting.

Jaime stated: Alright. We are considering making the changes. Shay, could you give us an idea of what these changes are? I only see one change in here.

Shay said: Brett may have to help me with this because I am just going off the document you received. I didn't actually make these changes.

Attorney Coombs provided some background on this: This was specifically requested by the City Council. We made changes to the commercial P.U.D. requirements and we reserved the residential P.U.D. requirements for further discussion. Well, a certain developer in the City has really been pushing for certain members of the City Council to get this done, so now, here we are. Specifically, the complaint is that the requirement that residential P.U.D.s reserve 15% of use for open space is too much or too unwieldy or maybe even illegal. The changes

that you see here were suggested by this developer and the Mayor to move it to 10% from 15%. You will see that on the bottom of page 4 on the proposed changes and also on the top of page 5. Basically I deleted 15% and replaced it with 10% and I took out one sentence on page 2 which is in 12.1B which I think we actually need to put back in but with some changes. This is the substance of our discussion today. Jaime thanked him for that clarification.

Gary stated: Over the last several months, we have been requiring developers to do 15. I'm not aware of anybody complaining about it in the past, and this developer is the only one so far who is not okay with this. We've had a dozen or more DRCs on reviews on developments and had no complaints on those ones about the 15%. They did the 15 or in lieu, 15% of the valuation. I imagine there are some developers that would like it to go to zero for financial reasons. This guy is the minority. The rest of the developers we've talked with are okay with the 15. I know when we were discussing this issue a few months ago, a couple of the developers actually proposed the 15% number to us as being acceptable to them and being consistent in this area and throughout the Wasatch Front. So I don't know why we would move away from the 15. I think we should stay with the 15 to stay consistent. And with regards to the deleted sentence, I think we need to leave the tie in to chapter 21 because that tells us what kinds of parcels we are expecting of them. We are not expecting junk parcels; those aren't acceptable.

Attorney Coombs said: The issue that we are running into is that in 12.1B it says 10% minimum, but then we tell them to go to chapter 21 and it says 15%.

Gary said: I think that 10 used to be 15. I think we need 15 all the way through. Attorney Coombs said that is fine.

Gary said: The other thing is if we look in 21.1.15, both para 1 and para 2 have some redundant language.

Jaime asked Attorney Coombs what his opinion is regarding the developers saying there are some legal issues here. He replied: I was told that there was an advisory opinion that put 15% as too high. I have been unable to find that advisory opinion and verify it.

Gary asked about other cities. Shay said that north Ogden is 20% across the board.

Attorney Coombs verified that the developer didn't propose a lower number, they just said that 15% is too high.

Shay said that a developer can come and complain to the City and try to work things out between them, but one of the options that is used quite often is if they see a problem with the code, instead of trying to go through legal means, they will write their opinion and give it to the City. He said: If the City is smart, they will follow that opinion so they don't end up in legal trouble. But it's an opportunity for well-known land use attorneys to volunteer or get paid a small stipend for it. These are people that have been around for a while and done court cases in this. They then post those opinions on websites. A lot of times when we're looking at an amendment to a code, I'll go in on that website and see if I can find anything because they give some really good direction there.

Attorney Coombs reiterated that he has not found another opinion that says that 15% is too

much and that the developer did not pose an alternate solution. He said that the office that posts those opinions has been around for a decade and the information is not very searchable so that makes it hard to find.

Shay stated: I have found that their opinions are very well-rounded. They try to get information from everybody and they are not afraid to go back to the part that filed the complaint and tell them their complaint is unreasonable.

Jaime stated: I'm looking at their website right now and things are only listed by name, so this tells us nothing.

Shay said that there is another section that has categories, but they are so broad that it's almost useless. He agreed that searching this is always a challenge. He then said: I just have one question after looking at this. We spent a lot of time discussing the P.U.D. initially, and we came up with this 15%. We went to City Council and they approved the 15% initially, and then we came back and we revised some wording and brought it back to the Council, but then they changed it to 10%. What's the purpose of the P.U.D. now? What benefit does the City get from a P.U.D.? The P.U.D. says that we can basically make exceptions to code for a developer. But what are we getting in return for it? That was the big issue, that's what we thought the Council wanted too, was open space and parks. That's what we wrote it around, and now that that's gone, I'm almost looking at it asking if we even keep the P.U.D. anymore. Does it serve any beneficial purpose for the City?

Jaime stated: Well, our one shining example of a P.U.D. right now is certainly not beneficial. But I think we could have a good application and have something where the developer does what we want, but we need to have a clear vision of what that is.

Shay agreed and said: Yes, exactly. If we keep it, then we need to clearly spell out what we want. If they come in and want exceptions to the code or they want additional density, what are we going to receive in return for it? If we take away open space and parks, there's just not much. Jaime agreed.

Shay added: Especially now looking through this general plan, we have these flex districts and I haven't heard what exactly they envision that to be. Are all of those supposed to be handled through a P.U.D.? Jaime said: Well, I think that's kind of the problem. We have this general plan, but we don't have any ordinances to enforce these new districts and new ideas yet. So we're going to have to think through that. It will be a good conversation. And the idea we went through with flex space is that it can be multi-residential, or commercial, or more of that mixed use because it's in more of a transportation zone, where it might make sense to have higher density mixed with some commercial. They're wanting to leave it flexible enough so that it doesn't have to just fit one specific thing. But again, this is a plan, not a code.

Shay asked Jaime: As you were thinking through this process, did you think it would fall under a P.U.D. to make that happen? Was there any discussion about how that occurs?

Jaime answered: No, there wasn't really any discussion. I feel like the flexible use is more about having the flexibility to say we can do medium density here instead of high density or third acres there instead of medium density, rather than we're specifically going to put something in this area. But it's something we're going to have to keep considering as we go through.

Shay stated: Personally, I don't have a problem with the flex zone and I think it's a great idea. The key is that we are going to have to spell out clearly what the acceptable uses are. And there will have to be some conditions tied to that too.

Jaime said: I was thinking about something with the P.U.D. In Park City where they have that Promontory development, I'm pretty sure that it is a planned unit development. They have a centralized barn, and then each home around it has a shared barn. That is something that is out-of-box and I'm sure they'd have to have some kind of variance for that because they are mixing uses.

Shay confirmed that that whole project was a P.U.D. He also said that their code is much more complex than what our code is and what we would want to administer.

Jaime said: Right, but I still think it's kind of similar in that if you wanted to do something a little unique, there's no way they could do that right now. But maybe that unique thing could be very beneficial to the public.

Shay said: It's a good point. But do we want to take the time to modify the P.U.D. to explain that?

Jaime said: I think that would probably be a good idea. It seems like the only thing we're dealing with right now, tonight, is the open space part of the P.U.D.

Shay said: Honestly, we got burned on Sun Sage Meadows because the previous P.U.D. code said to meet one of the following 12 criteria, and then didn't spell out what they had to provide and what the City was required to do. So they brought in a high-power attorney and basically exploited that loophole.

Jaime said: And part of that was also that the conditional use permit was granted for high density. Had that not happened, we would have had a lot more ability to get what we wanted out of that. Back to the 10% versus 15%, as a landowner, I don't understand why the City should be entitled to a majority of my land that they've not contributed in any way to. I feel like 10% is more reasonable.

Gary said: But we're grossly behind with parks and open space because we haven't been requiring it. 15% hasn't been a problem to date. Like I said earlier, they would be happy with 0%. It doesn't seem out of line with what is going on in the rest of the state. I think we need to just say that 15% is reasonable.

Jaime mentioned: This isn't all about big developers, though. If I as an individual wanted to do something unique with my 2-acre property, I would have to give up 15% to the City. It's not a lot, but financially, it's a lot of money. It comes down to the land owner. The land owner is the one who is going to feel it. The developer is going to pay the landowner the money. They are who is going to lose out on that money.

Gary said: Then they would just want it to be 0. But that means that no one, not the City, not the residents, not the future property owner, gets anything out of it. Jaime said: But it's about the balance for the property owner.

Erik Stromberg said: I understand your point about the land owner, but I really think this is all

the developer. I look at these subdivisions and it is all about the money that is thrown in their pocket. That's why they want quarter-acre lots and higher density because that puts more money in their pockets. This is why we need to go with the higher percentage of open space. The land owner is the one who decides whether it's selling or not. There are very few land owners *and* developers.

Jaime said that John Clay is one example right now. But we still need to consider the property interests. It's all about balancing.

Gary stated: The City of Grantsville and the people of Grantsville, if you look at the total acreage right now, it's probably about 60 to 70% open space. A developer walks in here and wants to plow that down and put in houses. Who is taking from whom? The developer is taking from the City and people of Grantsville the open space environment that we all say we came here for. From a taking point of view, the developer is eventually going to take 100% of our open space acreage. Or are we asking him to only take 85% and leave us a piece? The other side, if you look at other agencies, if you want to develop a parcel, and there is a danger, you need to offset it. He said there are multiple examples: the airport, the forest service, BLM. I don't see the City asking the developer to leave us 15% of what we already have. We are giving up 85% and in trade giving them permission to plow it down. I don't know where the law would see all of that, but if the law in the Wasatch Front is setting an open space requirement and some places are getting 15% or even more, I do not see 15 as being out of line. Today, other than 1 property owner, no one else has had a problem. I hate for one man walking here in the City of Grantsville saying you have to give everything up to me to change how things are. We deserve better than that for our people and we should be doing better for our people than letting one man say how we do things here. If he doesn't like it here, he can develop somewhere else. I say change everything to 15%.

Shay said: On page 2 where it says "all projects shall meet the open space requirements found in chapter 21," my thought was to say that "all planned unit development projects that require open space shall conform" because at the time that was written, we had commercial in there and now we don't. We're not requiring open space in commercial because that doesn't impact our parks.

Jacob Linares said: I agree with Gary. Are we going to keep changing things to satisfy one man?

Jaime said: No one has provided actual evidence about the 15% being illegal. My concern is that we don't want to bring the City into lawsuits. We need to make sure that we are following the law.

Jacob Linares said: Ogden is doing 20%. You can't have a lawsuit over 15% when other cities are doing 20%.

Jaime asked: Have we done the research to see if there is a law that has set this up?

Attorney Coombs responded: I've looked and I haven't found anything. The court will look at if 15% is roughly proportional. I have not found a case that creates a fine line.

Erik Stromberg said: As I look at it, if the City attorney comes to us and says they've looked and there is no concern, I don't care if one developer says they're going to come after us

about this. We're not going to change what we want. I don't think that from a legal standpoint, we need to change anything.

Gary mentioned impact fees. Shay said the problem with that is that impact fees are based upon the impact of the development. It turns into percentages. Most of our impact fees if you really start to look at it, are considered over a 5-year period, so it's the growth over that time. It ends up being only 40% of that. We would get that 40% of the impact fees but then as the City we would have to find out how to get that 60%. We can't spend the impact fee money and not put in our portion as the City. That's the challenge.

Gary said: What I'm saying is that the population is going to double. We're currently at 41 acres for our parks. We should have 175. If we go from our 11,000 population to 20,000 in 5 years, we need 350 acres of parks and open space in this town. We're talking many thousands of dollars per lot that we're going to charge the developer. I think he'd be more than happy to give us 15% of the ground value than 20% of his lot. I think this is the easiest way to do it. The developers come in and have the responsibility to create an environment that is desirable to the people, and that includes open space. That's a requirement. They have to put in the sewer. They can't come in and say they don't want to do a sewer. Or a road. The same applies to parks. I don't see why we should not be requiring them to do it. 15% has not been a problem. If they don't like it, they can go to Draper.

Gary made the motion to recommend approval to amend the P.U.D. Requirements for Residential Development in Chapter 12 and Chapter 21 of the Grantsville City Land Use and Management Code to 15% open space. Jacob seconded the motion. All did not vote in favor and a roll call was done: Erik - Yes, Jacob - Yes, Jaime - Nay, Gary - Yes.

2. Gary made the motion to adjourn the meeting at 6:46. Jaime seconded the motion. All voted in favor and the motion carried unanimously.

Kristy Clark
Zoning Administrator