

**HYDE PARK CITY
PLANNING COMMISSION MEETING
May 6, 2020
Minutes**

PZ Meeting (conducted via Zoom.us) began at 7:00 pm, and was conducted by Chairperson Tiffany Atkinson.

MEMBERS PRESENT

Chairman Tiffany Atkinson, Mark Lynne, Derek Grange, Trent Hagman and Rachel Erickson

OTHERS PRESENT

Mayor Flint, Council Member Brandon Buck, PZ Secretary Melinda Lee, Reed Elder, Chris Holton, Ian and Teri Chase-Dunn, Alex Bearnson, Jamie Lewis, Shelley Tarr, Matt Nielson, Julie Latvakoski, Becky Kowallis, Aaron McClellan, Jack Nixon, Daniel T. Ditto, Jeff and Paula Purser, Dan Turner, and Neal Christiansen

PRAYER OR THOUGHT – Derek Grange

PLEDGE OF ALLEGIANCE – Trent Hagman

APPROVAL OF MINUTES – April 15, 2020

Mark Lynne made a motion to approve the Minutes as presented from the Planning Commission Meeting held April 15, 2020. Derek Grange seconded the motion. Tiffany Atkinson, Rachel Erickson, Mark Lynne, Derek Grange and Trent Hagman voted in favor.

BUILDING PERMITS ISSUED

Solar	Niel Allen	245 North 840 East
Basement Finish	John Wright	427 North 150 West
Home	Travis & Liesl Hoopes	520 North 100 East
Home	Visionary Homes, LLC	249 West 520 South
Retaining Wall	Sarah Pett	1063 East 50 North
Home	Ryan & Kim Christopherson	13 North 760 East
Pool	Paul Merrill	832 East 20 South
Solar	MDP Properties	3735 North Highway 91
Solar	Robert Annesly	215 North 330 East
Solar	David Madrigal	304 West 350 South
Electrical	Brody Holbrook	670 East 100 South
Basement Finish	Taylor Oberg	544 North 800 East
Deck	David Fowles	34 West 385 North

CITY COUNCIL REPORT FROM APRIL 22, 2020 (Councilmember Buck)

Council Member Brandon Buck reported on City Council Meeting held April 22, 2020:

1. Passed municipal waste water planning resolution.
2. Decided to temporarily close the road near the Winborg property for 11 months.
3. Passed resolution regarding the way utilities are charged to apartments.
4. Discussed the budget and ramifications due to the current COVID-19 situation.
5. Discussed having City Engineer recalculate Impact Fees.

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PUBLIC HEARING FOR MOUNTAIN GATE SUBDIVISION PHASE 5 PRELIMINARY PLAT (Administrative)

- Submitted by Heritage Land Development
- 900 East 450 North (Parcel ID: 04-005-0002)
- 59 lots on 27 acres in a Residential (RE-20) zone

Tiffany opened and closed the Public Hearing due to no comments from the public.

CONSIDER MOUNTAIN GATE SUBDIVISION PHASE 5 PRELIMINARY PLAT (Administrative)

Mark questioned the proposed 59 lots. With 29.25 acres (27.27 + 1.98 cul-de-sac), 2 lots per acre allows 58.5 or 58 lots. Matt mistakenly thought because they used the Bonus Density option they were allowed the extra 4 lots. Reed and Mark pointed out that Bonus Density lots are included in the total allowed at 2 per acre. Matt agreed to go back to his engineer and remove one lot, likely one that backs up to the one acre parcels.

Mark Lynne made a motion to approve the Mountain Gate Phase 5 Subdivision Preliminary Plat, pending the verification of the total acreage and allowable lots (2 lots/acre). They may need to reduce the number of lots allowed. Derek seconded the motion. Tiffany Atkinson, Mark Lynne, Derek Grange, Trent Hagman and Rachel Erickson voted in favor.

PUBLIC HEARING FOR NIXON PROPERTY REZONE (Administrative)

- Application submitted by Jack Nixon
- 7.36 acres at 200 North 900 East (Parcel ID: 04-005-0007)
- Request rezone from Agricultural (A-1, minimum 1 acre lots) to Residential (RE-20, minimum 20,000' sq. lot size)

Tiffany opened the Public Hearing.

Julie Latvakoski sent comments in writing. She and her husband are opposed to the rezone because the adjacent property is A-1, and they see no need for a change. The developer just wants to make more money at the expense of current residents. Plenty of smaller lots are available for purchase in Hyde Park and elsewhere. She feels changing zoning to higher density is detrimentally commonplace now.

Reed noted this property is also contiguous to RE-20 property. All property comes into Hyde Park as A-1. Many of the current A-1 lots have a lot of weeds. It is expensive to water with culinary water. It is a better use of the property. He believes there are places to maintain A-1, but this is not one of them.

Shelley Tarr lives across the street. She is fine with the rezone, but is concerned about flooding. She hopes with development, the road would be improved to mitigate flooding issues.

Tiffany closed the Public Hearing.

CONSIDER NIXON REZONE APPLICATION (Administrative)

Mark said the city has to balance its budget and maintain all infrastructure. Zoning and eating up land in large lots hurts the city in two ways: 1) The amount of infrastructure maintained by the city is twice as great as in small lots. 2) Two lots pay twice the property taxes overall. It is a revenue issue. A possible answer would be to have people on one acre lots pay double taxes, but that is likely unconstitutional and illegal.

Derek Grange does not see how this goes against Hyde Park's plans. There needs to be a buffer of some kind between A-1 and RE-20. He made a motion to recommend the rezone to City Council. Trent Hagman seconded the motion. Tiffany Atkinson, Mark Lynne, Derek Grange, Trent Hagman and Rachel Erickson voted in favor.

CONSIDER PINE MEADOWS RETIREMENT COMMUNITY REVISED PRELIMINARY PLAT (Administrative)

- Propose 18 lots on 6 acres at 496 North 100 East (Parcel ID: 04-004-0060) as a Senior PUD (age 55+).
- Residential (RE-20) zone
- Submitted by Co-Ax Enterprises/Reed Elder

Reed indicated the existing home may not be part of the HOA, same for lot #1. Each resident may decide when purchasing their lot. Reed moved the road from Mark Lynne's design so that Pursers would not have road on 3 sides of their property.

Mark asked about the 50' ROW sample. It shows sidewalk on only one side. That works when the road borders the fence, but when there are homes on both sides, will there be sidewalk on both sides? Reed said he would be glad to do that. Construction drawings will show how they will pull all the water into the property. He does not like big holes (ie. retention ponds). He wants the water to drain toward the trees. He plans to keep as many as he can. Mark agreed and added the design works for snow plowing/piling as well. Reed wants to maintain and use all precipitation possible.

Derek asked about the existing home. Its access has always been from the west side. He also asked about lot 12 being a "flag lot" (Conditional Use Permit). Reed said it sort of is a flag lot, but those are allowed in new subdivisions without a CUP.

Mark pointed out the new ordinance requires 4 different home designs. Reed said every one of his homes have been custom made. He said, "I don't do 'cookie cutter'". He thinks that was a good addition to the ordinance.

Teri Chase-Dunn interrupted that there are still specifics in the ordinance that have not been addressed. She referred to Dan Ditto to address 4 issues. He has been retained as legal counsel by concerned neighbors. He sent an email to Melinda, but it arrived after this meeting began.

1. He argued a public street within a PUD can be developed to 50' unless it becomes a through road. Then it must be a 66' ROW. Mark denied that and said it must "align" to an existing city street. Dan said he sees that view, but said "continuous" means something else in state code and thus requires a 66' ROW.
2. Before making a land-use decision, a path for appeals must be given. He noted the flow chart does not note an Appeals Authority.
3. Some of the conditions have not been met. They could be, but not yet.
4. General Plan incompatibility, setback requirements and mitigating impacts were some of the reasons this Conditional Use should not be approved.

He was confident PZ members were interested in doing what is best. This is not a "NIMBY" (Not In My Back Yard) issue. He argued this proposal "has serious issues not yet addressed". If this is approved, they request a hearing before City Council.

Reed said these PUD ordinances have been written and approved by City Council. His proposal meets all the requirements of the existing ordinance, including setbacks and adjoining properties. "I think you are addressing things that have already been handled in the ordinance. If you want to address it, look at it carefully. You are just trying to delay the process."

Mayor Flint interjected we do have an appeals process and an Appeal Authority, Brent Kelly.

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Derek feels all has been covered appropriately. This is still 'preliminary'. If it fits our code as we understand it, we must approve it. Mark Lynne feels PZ should not make a decision tonight. He said the city can approach the Ombudsman, if needed.

Reed questioned why it would not be approved, as is, tonight - per the ordinance.

Tiffany asked the Mayor if she had direction. She did not have anything specific to ask. She believes we should check with our attorney first. Reed asked what part was being questioned.

Rachel took notes of what was spoken and all issues concerned. The one thing she questioned we may need to further consider is possibly the impact of the pheasants. She agrees with Mark that maybe the decision should be put off until next meeting. Reed said this meets ordinance. He has served on City Council and the Planning Commission. Daniel stated his goal is not to be contentious, just to reduce the potential impact to surrounding landowners. He said, "We can address it now, or we can address it later" via other forums (ie. Appeal Authority).

Derek said he does not see how it could negatively affect neighboring landowners. It does not change anything. We are supposed to look at the ordinance as it sits. The things you (Daniel Ditto) brought up are your interpretation. Derek does not see any violation. He made a motion to approve the Pine Meadows Retirement Community Revised Preliminary Plat. Rachel seconded the motion. Derek, Tiffany and Rachel voted in favor. Mark Lynne and Trent voted against. The Plat passed 3/2.

Mayor Flint will send this to our attorney for advice. All agreed to stay in contact.

CONSIDER AMENDMENTS FOR 12.250 AND 12.260 PUDs (Legislative)

Mark Lynne's list of amendments:

1. In order to clarify setbacks on corner lots in both PUDs, Mark suggested using the same ratio as in a standard subdivision (30' front, 20' side/front). For the 18' setback, it would be 12' side/front yard on corner lots in PUDs. Add it to the table Melinda created on page 3.
2. Mark also suggests dropping the 3-sided lots/"Double frontage lots" and adjusting the wording.
3. In 12.250.040, drop "and Public Transportation"
Rachel asked what the original intent was of "Public Transportation". Mark believes it goes back to an old copy/paste from another city's ordinance, but it causes more distress than it is worth. City Council has made a mission of spreading PUDs throughout the city, not just in one area of town. Brandon noted when we went through it this past year, we meant for it to address Senior Citizen buses or Assisted Living help. Mayor Flint remembers that now, too.
4. Clarify "Public Streets": In section J. "that front on an existing" and strike yellow portion.
5. Mark suggests additions to the fencing (section N). They should fence all, even if it borders the road.
6. He suggests removing the "CUP" (Conditional Use Permit).
Mayor said it should be a "zoning overlay" per our attorney. Reed said a PUD is technically an overlay. That's why it stands on its own. Mark said they are allowed in all zones, so he agreed it is an overlay. Tiffany wondered how to appropriately word it. Possibly in 12.250.030, refer to it as a permitted overlay use.

The Mayor brought up City Council discussion regarding HOAs. When lots are sold, money should be put into a fund. That should be included in the PUD ordinance. Reed said CCRs must be presented to City for review. The developer must charge something up front to get the HOA going. Section 12.250.050 should

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also include expectations, with a fund. Someone suggested HOAs need their own section in the PUD ordinance. For 12.250.050, Mark suggests bullet points. Derek agreed that makes the most sense.

Mayor Flint referenced section 4 from Reed's CCRs where they levy money for the HOA at the time of sale. Tiffany noted from experience it helps to establish the HOA at the very beginning. The Mayor wants the city to regularly (annually) review HOA financials, as a watchdog, not as a mandate. She believes it gives the HOA more 'teeth' to residents when they know they have to present their financial records to the city. Reed indicated the records already exist; it would be easy to send to them to the city.

Mark suggests checking with other cities. Tiffany will check with others. Rachel will check with her brother in Hyrum, who also on serves on PZ there.

Mark will also look at the 50' street requirement since it was unclear to the attorney tonight.

Reed suggests defining "common space" vs. "limited common space". He also suggests the regular PUD may not need an HOA. Mark said there is still the fence and secondary water. Reed said water can be handled other ways. Fencing may be turned over to each owner to maintain own. For younger people, it does not make sense for someone else to mow their lawn. Derek said the HOA can be defined as whatever you want it to be. Mark worries without an HOA they will become rental units, not maintained as well.

Tiffany said HOAs may include 'neighborhood' guidelines - like keeping weeds down. Reed said that's good - unless the HOA does not keep it up, then it is useless.

Trent asked about existing home. The road is public. That owner can choose if they want to be a part of the HOA or not. Rachel is a lot more comfortable with the road design and existing home now.

This agenda item was continued.

Tiffany asked Mark about responding back to the neighbors about issues from the prior meeting. Now we have a new group of concerns. Melinda will request permission from the Mayor.

****Note:** PZ members did not have the new attorney's comments until after tonight's meeting began.

Meeting adjourned at 9:10 P.M.

Melinda Lee, Secretary