

**IVINS CITY
PLANNING COMMISSION
MINUTES
March 30, 2021
435-628-0606**

1) WELCOME AND CALL TO ORDER

CHAIRMAN AND COMMISSIONERS: The meeting was called to order at 5:30 p.m. All present included Chairman Bryan Pack, Commissioner Lance Anderson, Commissioner Bob Morris, Commissioner Doug Clifford, and Commissioner Jeff Loris.

Commissioner Bob Morris arrived at approximately 6:25 pm.

Staff Attending: Dale Coulam-City Manager/Attorney, Cody Mitchell-Building and Zoning Administrator, Lane Mecham-Director of Finance, and Sharon Allen-Deputy City Recorder.

A. Acknowledgement of Quorum

B. Invocation--Chairman Bryan Pack

C. Disclosures

Commissioner Lance Anderson stated he has a conflict on Mojave Flats Phase 1-A Final Plat. No other conflicts.

2) REPORTS AND PRESENTATIONS -None

3) PUBLIC HEARING AND ACTION ITEMS—None

4) DISCUSSION AND POTENTIAL ACTION ITEMS--

A. Discuss and consider approval of Mojave Flats Phase 1-A Final Plat, located at approximately Mojave Way, Fitness Way and Guy Lane. AnA Enterprises, LLC-Owner. Lance Anderson-Applicant.

Cody Mitchell stated that 4.31 acre parcel segmented over 14 lots, located off Guy Lane and Fitness Way, south of Ryders and Sage Villa Townhomes. When Mojave Flats was approved it was for three zones, R-1.75, R-1-5 and R-1-10. The lots that are up for approval are R-1-10 and in the R-1-7.5 zones. 6 of those 8 lots are in the R-1-10 as soon as you cross the street to the east, the last two are in the R-1-7.5, as well as the six lots located on Fitness Ridge. It is consistent with the Preliminary Plan. **Commissioner Doug Clifford** asked if there were slope issues in that area? **Cody Mitchell** stated nothing that hadn't been addressed at the preliminary stage. The flat starts to climb up on the section on the southwest segment of Mojave Flats and Mesa Mesa starts to accomplish a little increase in grade.

MOTION: Commissioner Jeff Loris moved to approve Mojave Flats Phase 1-A Final Plat, located at approximately Mojave Way, Fitness Way and Guy Lane. AnA Enterprises, LLC-Owner. Lance Anderson-Applicant.

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Bryan Pack	AYE
Commissioner Doug Clifford	AYE
Commissioner Jeff Loris	AYE
Commissioner Lance Anderson	RECUSE
Commissioner Bob Morris	ABSENT

B. Discuss and consider approval of Red Desert Phase 4 Final Plat, located at approximately 548 E Red Desert Trail. Red Earth Development Co.-Owner. Rob Roush-Applicant.

Cody Mitchell stated that this is a single lot parcel .38 acres and is consistent with the Preliminary Plan and the proposed improvements are in compliance with City Ordinance. **Commissioner Jeff Loris** stated the parallelograms that the north and south measurements are off by .018. **Chairman Bryan Pack** stated it is off by .01 because they are not parallel.

MOTION: Commissioner Doug Clifford moved to approve Red Desert Phase 4 Final Plat, located at approximately 548 E Red Desert Trail. Red Earth Development Co.-Owner. Rob Roush-Applicant.

SECOND: Commissioner Jeff Loris

VOTE: The motion carried.

Chairman Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	ABSENT

C. Open Meetings Training.

Dale Coulam stated this is a review that the legislature thought was important enough to write into statute that this should be done every year to refresh ourselves on it. Any action taken must be done openly and with all deliberations conducted openly. A meeting is defined as the convening of a public body and a quorum is present, including work meetings. If you talk about action items before or after a meeting with a quorum present, it can still be considered a meeting. These meetings are to be properly noticed 24 hours in advance, unless there is a public hearing. Land use public hearings are typically 10 days and some require two weeks public notice. You may not discuss a public matter with a quorum present without it constituting a meeting. If no quorum is present, then it is not a meeting, even if it is a public matter. When in doubt, meetings should be open. A social exception like attending church meetings, school functions, parties, etc as long as there is not discussion of public matters in that social setting are okay. Beware of appearances though and that it may appear in bad form if three of you are sitting together chatting during a social event. Closed meetings, there are specific reasons in the statute and it is not typical in Planning Commission, but you start in open meeting and a motion is made for specific grounds to go to closed meeting. There is a majority vote to go to a closed meeting and then there is no formal decision made. You would come back to reconvene the open meeting to take that action. Electronic message transmissions violate the spirit of the law on a common email thread discussing public matters coming up on the agenda. You can't text each other during the meeting. It violates the spirit of what this is trying to accomplish and that all deliberations are in the open. We saw a City nearby where this occurred and it was embarrassing for those involved because the City Attorney ruled that the conversation should have taken place in the public meeting and therefore he made it all be read into the public record. There were some embarrassing things they said privately that they didn't want heard openly. That particular City Attorney agreed it violated the spirit of the law and read it all into the record publicly. They could be requested through GRAMA as well. If you are using your own email and talking about City business, it can be the subject of a GRAMA request. It may not be read into the record per se, but it would probably be front page news. Disclosures, there are two types. Written

disclosures should be updated every year, and if there is any significant change. If you change addresses, disclose it. The statute focuses on financial things, like investments and shares in a business and they should be disclosed in written format. They should also be disclosed verbally if you have a conflict arise with an agenda item. The written disclosures may protect you if you don't realize there is a conflict. There was a case where there was a complaint and an investigation, and the written disclosure saved them. Verbally if there is a conflict on that night's agenda, disclose the conflict at the beginning of the meeting. Our City rules of procedure also state, using Lance Anderson as an example, if Lance Anderson is the applicant he sits down in the audience and is not part of the discussion or the vote. While discussing lighting, some people felt Commissioner Bob Morris had a conflict of interest because he was an electrician, and that Commissioner Lance Anderson had a conflict of interest because he happens to market darker communities. It is safer and easier to disclose that rather than not. It is better to be safe than sorry.

D. Discuss and consider approval of new Planning Commission Chair and Vice-Chair.

Dale Coulam stated that Commissioner Lance Anderson was reappointed at City Council for another term. **Chairman Bryan Pack** has now served two terms. **Commissioner Jeff Loris'** term expires next year. **Dale Coulam** stated that it used to be five year terms and now you can serve three four-year terms.

MOTION: Commissioner Lance Anderson moved to approve Jeff Loris as new Planning Commission Chair and Bryan Pack as Vice-Chair.

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Jeff Loris	AYE
Commissioner Bob Morris	ABSENT

E. Discuss and consider exterior colors.

Cody Mitchell stated that in 16.19.103 Building Design Requirements, in Section 5 of that Title, it addresses exterior building colors and gives us some parameters through LRV (Light Reflective Value) with a range of 7 being the darkest and 38 being the lightest. This is being brought up because we have run into issues a couple times recently. On the diagram it goes from black to an off-white. If you look at those colors and think of our community, what colors would you suggest be prohibited? **Chairman Bryan Pack** stated he doesn't have issue with any of those colors but he doesn't think he is representative of the public in that. **Commissioner Lance Anderson** stated he likes darker, earth tone colors and when S&S did their Parade home, it was a very light and bright from our Indigo Trails subdivision. They changed the color and now it is very complementary. **Commissioner Doug Clifford** inquired where these colors are being applied? **Dale Coulam** stated that even though most people don't want to see bright red houses, that is allowed within our LRV. The irony is the other colors aren't. White is being preferred at the moment in all communities. Pure white is in violation of our code, but in-between we are only given this standard to work with. In code enforcement, we see a color that we don't approve of, but the LRV shows 35 and the ordinance says they can go to 38 so it is okay. **Commissioner Lance Anderson** stated that is just one part of the code. That is a parameter of the code we are trying to accomplish, but there are other parameters you have to meet. The color and exterior surfaces shall blend the proposed building with the natural environment of the City. Color is an

important and effective way to create harmony with the natural landscape and minimize visual impact of structures. Color variation using compatible hues can reduce the apparent scale in building mass. Exterior building colors that respect and enhance the natural tones of the Southern Utah environment shall be used. Under minimizing impact it states that all building materials and colors shall minimize impact to buildings in their natural settings. All building colors shall be earth tones and muted colors that blend and do not contrast with the natural desert colors. All walls and fences shall be the same or similar color and material as the main building. Then another criteria is that light reflective value of materials used on exterior walls shall be between 7, darkest value of shaded vegetation and 38, the approximate value of red sandstone and soil in the City. Generally the more visible the structure, the lower its LRV. should be **Dale Coulam** stated that is really the only objective standard that you just read. The rest is subjective. House Bill (HB) 98, which would have passed except that FEMA objected to this bill because it would have disqualified 226 Utah communities from flood insurance. On that basis alone the Governor vetoed it. But the Governor feels that types or styles of exterior colors, cladding material, style, dimensions or materials of a roof structure, roof pitch, or exterior non-structural ornamentation, the location, design placement or architectural styling of a window, minimum sq ftg of a house, that those are all definitions of a building design element. It states that a municipality may not impose a requirement for a building design element on a one or two-family dwelling, or on a townhome. It would be prohibited to do design guidelines on any of those things listed unless it was in a historical district or pursuant to a development agreement. Regarding these design guidelines, the Governor gave an explanation of his veto that says housing affordability in Utah continues to be a serious concern as housing prices outpace wage and growth at unsustainable rates. He appreciated the legislature seeking to address this issue with multiple pieces of legislation this year, including House Bill 98. The goal of reducing unnecessary construction costs and delays is laudable and needed. He fully expects Utah's cities and counties to participate in these efforts and streamline their policies and procedures to meet this end for the good of their residents, and our state. He supports what the legislature did. Utah League of Cities and Towns was neutral on this bill. Only FEMA came in and got it vetoed because it jeopardized flood insurance. The Governor goes on to say that he is supportive of this bill, and fully anticipates adding it to an upcoming special session once these technical issues are resolved. When presented again, he would sign it. We are looking for some direction. We have people building and moving into homes and recently had one ready to move in and wanted a certificate of occupancy, but their color was not in line with what we read in our ordinance. But it is certainly in line with what the Governor envisions. He wants to prohibit regulation on exterior colors altogether. Do we enforce it, and make them paint their house and when the special session is held and the bill passes, do they repaint it? Do we wait and see when the special session is held? Do we do what the Governor says and go ahead and act now to change our ordinances to what legislature is telling us and open up our design guidelines to streamline these regulations from the City's side? We are looking for direction as to how to proceed on this issue. **Commissioner Lance Anderson** stated that when we first lived in Ivins, there were no regulations. We lived here because it was all we could afford and it was full of trailer houses. Today through our direction with ordinances, lots of clients and customers come here because of the community as a whole and what Ivins has done. Ivins is above and beyond one of the most forward-thinking cities. He believes in the Transportation Master Plan. People can do what they want within their subdivisions, but our Transportation Master Plan allows us to go through them. This ordinance was put in place after approximately 2005 and certain values have been created in

1 Ivins because of this ordinance. Now they want to pull that value away from people and say we
2 are going back to the old Ivins where you do whatever you want. We are not only planning our
3 subdivisions but also how we all get to our subdivisions and what that drive looks like. It is the
4 community as a whole and how Ivins makes you feel as you drive through it. All our ordinances
5 are driven towards that. Based on the Governors statement, we could have mobile homes. We
6 can't control anything architecturally. Why have ordinances then? He is having a hard time
7 throwing it all out the window because the Governor says so. Wait until it becomes legislation
8 and hold on as long as we can to protect what we have been trying to achieve for all these years.
9 **Dale Coulam** stated that is what he was waiting to hear. **Commissioner Doug Clifford** stated it
10 sounds like the Governor is trying to do a stop-gap on the housing issue. As Ivins is growing
11 right now a lot of our subdivisions are subject to HOA and CCRs allowing them to regulate these
12 same issues. We have a great community now and a desire to be more consistent with our
13 environment desert colors. **Commissioner Jeff Loris** stated that he lives in the historic part of
14 town and they chose a lighter stucco style and darker roof, and it will eventually turn red. We are
15 thinking to do a new paint job and do a gray or brown to complement the Ivins area and makes it
16 beautiful. He agrees with Lance Anderson about making them more earth tones and darker style
17 homes, and help with the massing. **Commissioner Lance Anderson** stated we just spent months
18 trying to protect peoples' viewshed and we go with those earth colors to help with the massing.
19 As a city, since this ordinance has passed we have built our city around it. Jay Ence loved white
20 houses and palm trees and the fad came and went over the years. Earth tones last. **Chairman**
21 **Bryan Pack** stated that he doesn't notice, but maybe because that is they are indeed earth-toned
22 that he doesn't notice the color of the houses. He suspects he would possibly notice if they were
23 bright. **Commissioner Bob Morris** stated we need to let people know beforehand, so they don't
24 have to re-stucco their houses. Review that at plan check. **Commissioner Lance**
25 **Anderson** stated that Cody Mitchell is really good about making people fill out a sheet that tells
26 us what color before they get issued a permit. **Dale Coulam** stated that he has been leading this
27 discussion because Cody Mitchell does have to enforce this. How much time have we spent time
28 drafting the regulations we have in place, the design guidelines and defining color as best we
29 could. We have an issue pending right now regarding this. So let's take a color. Could we define
30 it any better or have we done our best define the colors we want to see in Ivins? Should we
31 undertake the process to change that, or should Cody Mitchell enforce what he has been
32 enforcing the past several years? There is a complaint against a house and a young couple
33 approached City Council and asked that this be reconsidered. They were ready to move in and
34 allowed to move in with the understanding that they would have to paint the house if the
35 standard remained the same and there were no changes made by Planning Commission or City
36 Council. We waited to see if House Bill 98 was going to be signed or vetoed. But it is kind of a
37 hybrid. What he is hearing from Planning Commission is to have it stand as long as it possibly
38 can until stricken by statute. **Chairman Bryan Pack** inquired what is an earth tone? It is
39 subjective. White is a color that is abundantly found in nature. **Commissioner Jeff Loris** stated
40 we have salt and white sandstone. We have green in grass and blue in sagebrush. **Commissioner**
41 **Lance Anderson** stated that we don't want lava on the house either. People know what earth
42 tone means and they have been applying it. **Dale Coulam** stated as he looks at the reflective
43 values black is okay, off-white and the tan is prohibited. **Chairman Bryan Pack** stated that it
44 seems to him that Light Reflective Value is not a good measure. **Commissioner Bob**
45 **Morris** stated he agrees. **Commissioner Lance Anderson** stated we are trying to make them
46 subdued, to make the mass go away. Houses are not meant to be "hey look at me." Larger

1 samples make houses seem brighter as well. There is an intent with our ordinance and so far the
2 homes built here have met that intent with no questions. **Commissioner Jeff Loris** inquired if
3 there is a reason that it is hard to enforce. Red is such a hard color to match our earth tones. It
4 just doesn't look quite right. Since it does meet the Light Reflective Value, but doesn't meet other
5 criteria in there, is there a way that the red would be restricted? **Cody Mitchell** stated this was
6 brought into us on a complaint. It opened our eyes because the black and red complies and all
7 other colors shown in this example would be prohibited. We see a lot of those similar center
8 colors shown on this diagram, as recently as Canyon Crossing that was presented and approved.
9 It is subjective and the only true measure we have currently is the Light Reflective Value. We
10 have a form currently that asks what the Light Reflective Value is. If we continue this way, he
11 will ask for samples and keep them on file. People get excited, want the permit and get the
12 shovel in the ground so they will sign anything put in front of them. Asking for color samples
13 will give people an idea of where they need to be. Rocky Vista University presented colors that
14 the Mayor was beside himself, but they sold those colors as being part of the desert landscape.
15 On the student housing they chose orange, green and blue and brought in samples of sage and
16 rocks, and they got those approved. **Chairman Bryan Pack** stated he likes the idea of muted
17 colors, but Light Reflective Value may not be the right measure. Is there something better? The
18 colors that would fit our area are prohibited, and the ones that are black and red are
19 allowed. **Commissioner Lance Anderson** stated that the strength, intensity and brightness of
20 color selected shall be in a range from very weak grays to medium weak neutral earth tones. That
21 part of our ordinance kicks the red out. **Dale Coulam** stated what we want to do is up to the
22 Planning Commission. It starts here. It is a zoning ordinance so either you will recommend to
23 Council that we like it the way it is, no changes. Or you say that we like the definition, but throw
24 out Light Reflective Value and it not a good measure, and say muted earth tone colors but in no
25 event red. You can look at it and tweak it a little bit, have some discussions, then ultimately a
26 Public Hearing before recommending to City Council. **Commissioner Doug Clifford** stated we
27 spent a long time on outside lighting and this is just as important to the overall atmosphere of
28 Ivins. The chart is eye opening. If the earth colors don't fit the Light Reflective Value and there
29 is more depth to this, there isn't any teeth in it. How do you put teeth into something that has no
30 metrics involved? This is worthy of time unless the Governor blows it out of the water. **Dale**
31 **Coulam** stated we don't know if or when that is going to be. **Commissioner Lance**
32 **Anderson** stated we don't want to lose the creativity. Make it less subjective but leave the
33 creativity. He understands the intent of the ordinance but trying to enforce it, staff needs some
34 help because it is so subjective. **Chairman Bryan Pack** inquired can staff research into it and
35 better define it? **Cody Mitchell** stated maybe our next step is looking more at Light Reflective
36 Value and larger samples. With the trends, we are wanting the lower scale to be a little higher.
37 Maybe we can do a demonstration with larger samples and otherwise look at alternatives.
38 Leaving it up to me to decide if it is an earth tone is not a good call. **Chairman Bryan**
39 **Pack** stated maybe if we have an array of tans and go through them. **Commissioner Lance**
40 **Anderson** stated but then it is us that is being subjective. If we use the Light Reflective Value
41 and make another paragraph that is not so subjective. **Dale Coulam** stated since most buildings
42 here are stucco we can get larger samples and a range in colors we can all see here so we are all
43 seeing the same color and that might be helpful. Maybe even take it outside. **Chairman Bryan**
44 **Pack** stated so this item will stay here with us and discuss this further and see where it
45 goes. **Commissioner Jeff Loris** stated the underlying element should be that we are helping staff

1 to make stipulating easier as to what is in the ordinance. We really appreciate what Cody
2 Mitchell does, and we need to do something to make the job easier because it is growing so fast.

F. Discuss and consider approval of the Ivins City Planning Commission Meeting Minutes for March 16, 2021.

MOTION: Commissioner Doug Clifford moved to approve the Ivins City Planning Commission Meeting Minutes for March 16, 2021.

SECOND: Commissioner Bob Morris

VOTE: The motion carried.

Chairman Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Bob Morris	AYE
Commissioner Doug Clifford	AYE
Commissioner Jeff Loris	AYE

5) REPORTS

A. Planning Commission

Chairman Bryan Pack stated he will be gone for our April 13th meeting.

B. Chairman

C. Building and Zoning Administrator, Cody Mitchell

D. City Attorney, Dale Coulam

E. Items to be placed on future agendas

6) ADJOURNMENT

MOTION: Commissioner Lance Anderson moved to approve ADJOURNMENT

SECOND: Commissioner Jeff Loris

VOTE: The motion carried.

Chairman Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Bob Morris	AYE
Commissioner Doug Clifford	AYE
Commissioner Jeff Loris	AYE