

Erda Planning Commission Minutes

4/11/2023 – 7:00 pm

Erda City Office - Fire Station

Call to Order 7:00 PM

1. Roll Call

- a. Diane Sagers, Kathleen Mallis, Jerry Hansen, Mark Gull, Russ Brimley, Cory Warnick
- b. Jennifer Poole-City Recorder, John Brems- City Attorney

2. Pledge and Prayer

- a. Cory led the pledge of allegiance
- b. Diane led the prayer

3. Approve Minutes from 3-28-23

- a. Cory-I have a correction that needs to be made, there is a section where it should say "did not want". I would like to postpone or approve with those changes pending.
- b. Jerry- Motioned to approved the minutes with the amendments Cory mentioned, Cory seconded the motion
- c. Voting unanimous to approve the minutes with the amendment
- d. **Amended meeting minutes from 3-28-23 APPROVED**

4. Administrative Items- No public input

- a. Erda Estates is seeking extensions under the following requirements
Chapter 9 Planned Unit Development (Tooele County)
Preliminary Plan Extension per code 9-6(7) Subject to an extension of time granted by the planning commission,
- b. **CUP Extension** code 9-7(5) However, upon written request of the applicant, the one year period may be extended by the planning commission for such time as it shall determine for good cause shown, without further hearing.
- c. John-Last time I was here I introduced you to the concept of tolling, or the idea that it stops the clock. The ordinance they are vested in gives them 1 year to submit a preliminary plan from concept plan approval. Today we had a meeting with a panel of ombudsman and they did suggest that there

was a tolling. I also spoke with 3 members of the City Council and it is the City's official position that there was a tolling that had taken place.

- d. Derald- I appreciate John's comments, he gave a good synopsis of the ombudsman panel today. I also agree with John. I did a quick calculator and 210 days of the 1 year have passed. So that leaves us 5 months left to submit a preliminary plan. I've been very consistent in letting you know that that is not enough time to have input from the city. Or very little time. What I think I heard from the City Council and the Ombudsman is that we do have those 5 months. I would like more time to make those changes and adjustments. I am not sure who would answer these, we have asked a number of questions that are outstanding. There is another 1 year time limit on the Conditional Use Permit issue. When does that year start and when would it end? We have a concept plan approved. I apologize I did a presentation for the concept plan approval, basic scope of project, land use, set the density, the Planning Commission of Tooele County imposed 5 conditions. So the question is when I submit a preliminary plan, is there the option to make adjustments from concept plan to preliminary plan? I need to know what occurred at the approval of the concept plan. I need to know how closely does the preliminary plan need to match the concept plan. But those need to be answered so we can move forward. Our original request is for 1 year, and I would like to have that, but I am open to other options.
- e. Jerry- If we give you an extension for a year for the preliminary plan, then is the CUP not in that time frame?
- f. Derald- In Chap 9 the concept of a CUP does not come up until the section of the approval of the preliminary plan. When you are applying or submitting your preliminary plan you have to address the requirements that are contained in Chap 7-4. To me if in the preliminary plan I'm being asked to meet the CUP requirements that is the process of issuing the CUP and the beginning of that window.
- g. Jerry-So approval of the preliminary plan would start the CUP window and time limit.
- h. Derald-So there are some issues with the Tooele County Code Chapter 7-4. There is nothing in their code for that anymore. I think when they updated their code it was removed.
- i. Cory-What's the benefit to the City for extending?
- j. Derald-It gives you guys more specifically the option to say this is how we would like the subdivision to look. What the city gets directly is the ability to have input. I submitted to Erda City an updated concept plan with some changes to it. I've "potentially" included some more commercial land for

you guys. There is going to be a frontage road, and it makes more sense to me to have commercial use on both sides. Another change was there was 13 acres of open space agricultural preservation. I updated it to 18, there were 100 townhomes, and updated it to 80. That did create more cottage lots $\frac{1}{5}$ acre lots. So smaller lots but I think people want more single family homes. We did also flip the location of the townhomes to closer to Hwy 36 instead of Cochrane.

- k. Kathleen- We talked about reviewing these in our last meeting. That is correct, they moved the townhomes from Cochrane to the Highway side. There are now 20 buildings and 80 units; the old plan had 25 buildings and 100 units. The lots on Cimmaron are smaller and ended up with a total with 348 units instead of the 325.
- l. Derald- What the engineers were told to draw was 328 units, that would be an engineering issue. I am not asking for more density. There is no request beyond that. If it's drawn wrong I apologize.
- m. Kathleen- I do wonder at making those lots smaller on the back of Cimmaron.
- n. Derald- The reason for making those lots smaller is water. It's a significant difference. I did tell Kael that we would look at that and work that area over.
- o. Diane- So do we give them the extension and work with them on it?
- p. Cory- We could give them the extension and he could still not work with us.
- q. Derald- I have come multiple times to Erda City to ask for your input on this project. I hope I've demonstrated that, that is what we want. There will be give and take and a discussion. I will listen to anybody's desires and suggestions. But I obviously can't give over control of the project.
- r. Kathleen- I don't see much room for discussion in this concept plan. Without removing lots I don't see how we can change much.
- s. Derald-Maybe we've made some of those significant improvements that can be made.
- t. Diane- If you look at this 9.8 and it says that there is some room to make some changes.
- u. Derald- I have a question in my mind if 9.8 is what we are talking about. In Chap 9 it's 3 steps you submit a concept plan, a preliminary, and a final plan. There is wording on how to make changes from concept to preliminary, and how to make changes from preliminary to final, or after the final.
- v. Russ- What is the purpose of the 18 acres? Is it because there is no water for it and it's going to be left a weed patch? Can it even be farmed? I'd

rather have bigger lots and not have the weed patch there. I know it takes more water to water a field than a home.

- w. Derald- That is there because that is what the County Commission wanted. There was a lot of pressure to have these ag preservation parcels as part of the development. I don't have any intentions of it being a weed patch. One of the stipulations placed on this when it was approved was that it needed to be actively farmed. We have started discussion with an entity to lease some water to irrigate that. I do not have 80 acres of water to irrigate that. My option to have it irrigated is to lease the water to do so. Hopefully we can get the water to do that, that is my plan.
- x. John-One of the conditions of the approval is that all of the trails and open spaces must be maintained by an HOA or a similar entity, and that the ag preservation must be actively farmed. There is nothing that I can think of that you could make the extension conditional. I don't think there is a way to do that.
- y. Cory-He can come back multiple times if he wants to ask for more extensions if he wants?
- z. John-It's up to the applicant but they can.
- aa. Jerry-I feel that Derald has done his best to be upfront with us and try to engage us. I think at some point we need to start to develop some trust with those we are working with. To me he has shown that he is trying.
- bb. Diane-If we give the extension, we still have to approve the preliminary plan.
- cc. Derald- So what happens if we don't agree? I don't know the answer to that. This is approved as a conditional use permit. When we enter the area of a CUP, it's a different mechanism. The land owner under a CUP has some significant rights. I don't think that it would be wise for either side to think they can stonewall. I'm not giving up my rights either in the process.
- dd. John- If you didn't approve the preliminary he would appeal it to the appeal authority, then the district court. Basically what already happened here.
- ee. Mark- I appreciate John's input and giving us the information on the Ombudsman's option on where we sit. This tolling thing is real. To me it solidifies me to allow for an extension for some period of time. We may not get to a point where we agree on anything. Kathy brought up some good points. If this is what the development is going to look like. I'd like a little more say on how things are organized. It would give us time to really look into this, have some input and I would like to see things changed for the better. I don't like the small lots or frontage on Cimmaron. But if we extend this it gives us time for discussion and even include the community on

- what is going to be there. I don't see any negatives on granting the extension.
- ff. Cory- I observed that meeting today with the ombudsman, and I had always felt that the tolling did not occur and I have changed my opinion on that. That the tolling did occur. I've spent a lot of time on this. It comes down to trust. We didn't want Oquirrh Point, we didn't want Erda Estates and I feel that our trust was violated. It has become tough for me.
 - gg. Jerry-I've dealt with that a lot. There comes a point where they lose trust and how do you repair that? I think it can be rebuilt. It is an ongoing thing.
 - hh. Kathleen-It's a lot like forgiveness.
 - ii. Diane-It's a two way street, and there is nothing wrong with a little healthy skepticism.
 - jj. Kathleen- For me, I want to cover a couple of things. The people of Erda and their desires. I can't begin to say what everybody wants. I struggle with the density. I see the changes that were made and they are better. It's just a belief that I have that people want larger lots and more space. Trust is very important to me and I want to have that trust. I think a lot of developers want to come in and want very high density. Trust goes both ways. If their desire is density that's their desire, mine is more openness and farm life.
 - kk. Cory- Derald has said that he could go down tomorrow and get that preliminary plan drawn up.
 - ll. Mark-I think an extension is inherent to revision. I think Derald as an individual has a vested interest in our community. I think he wants to do more here, and if he doesn't earn our trust now it will make it harder to keep working with us here. If I have to have something next door to me, and I can have a little say in it, that adds value. We didn't even have a shot before we became a city. Now we have a shot to do better and to move forward making our city what we want it to look like.
 - mm. Cory-Derald If you had a concept plan that everyone was happy with, how long does it take to submit to the engineers to be able to submit a preliminary plan?
 - nn. Derald-It's a hard question to answer. If you were to ask me this 15 days ago I would have told you 3-4 months. 2 weeks ago when we left this meeting I didn't have a warm feeling and I called Jake Clegg the next day and asked how long it would take. Jake said 2 months, now I don't believe that. Very few times do we ever get our items in the time we initially set.
 - oo. Russ-Taking my emotion out of it, after legal council and the ability to work with Derald. It was a bad thing that Tooele County did to us. Working forward I think it's up to us to make sure that doesn't happen again moving

forward. This is kind of out of our control, if I take myself out of it, after hearing legal counsel and understanding what we have to do moving forward then perhaps it would be wise to give him the time.

pp. Derald-The request is for a year from tonight or the initial request.

qq. Cory- I was just thinking about giving him till the end of the calendar year. But I don't think I'm married to that idea. I don't think it makes sense, we either trust him or we don't.

rr. Diane- What if we granted a year and you finished up sooner than that? Then it would start on the next phase of the process.

ss. Derald- I believe the approval of the preliminary plan would start the one year clock of the CUP. But I'll let Erda City make that determination.

tt. Cory-Derald how do you feel about me sharing what you said about sacred cows.

uu. Derald-Cory and I talked on the phone for an hour and a half. He reminded me that a long time ago I was in a Planning Commission meeting and I said that I want to work with you but I am not adjusting density. I was told that was a little offensive. He asked if that was still our stance. I am willing to take a journey and if it makes sense I am willing to move. You are looking at just one person and I answer to others. If we have 80 or 100 townhomes it would be hard to even tell the difference between the two. I did the townhomes that are in Stansbury Park, could any of you tell me how many townhomes there are, 50 or 70? There are 64 but no one could even tell. It's very easy to say slash 30 or 50 units. That's a big difference and not easily done. I don't want to beg to work with Erda City. I will honor and do the best I can. But I can't turn the project over and see what comes out on the other end.

vv. Diane moved to grant the extension for the PUD timeline of concept plan to preliminary plan of 1 year from tonight, Mark seconded the motion

ww. Craig-Just for clarification are you granting the extension for the plan and the CUP?

xx. Jerry-Amended the motion to move to approve the extension of the concept plan to preliminary plan and the CUP for 1 year from today, Mark seconded the motion

yy. ROLL CALL VOTE: Mark -Yes, Kathleen - No, Diane-Yes, Jerry-Yes, Cory-Yes, Russ-Yes

zz. VOTE 5-1 Motion PASSED

aaa. Extension of PUD timeline for concept plan to preliminary plan and CUP granted for 1 year from today.

5. Comments from Commissioners

- a. Jerry-Some things I got from the land use meeting was to start with trust. And we need to spend more time moving forward going over ordinances and codes to make sure to fill those holes.

6. Adjournment

- a. Diane moved to adjourn the meeting, Russ seconded the motion
- b. Voting was unanimous to adjourn the meeting.
- c. **Meeting adjourned**

7. Commencement of WORK MEETING after adjournment of regular Planning Commission Meeting.

- a. Discussion of Erda City Code Title 16 Subdivision Code, roads and trails requirements.
- b. **Diane Proposed to switch item a and b**
- c. Discussion of Land Use Training Conference and Updates
- d. Diane-This is a check list of changes that have been updated through the states. The truth is Utah is one of the only states that has as much freedom as we do. And people aren't using it wisely so they are adding more rules. We do have to update some ordinances and they've given us till Dec 2024 to do so.
- e. Jerry- Give us till our next work meeting to get our thoughts on this and come with items to discuss.
- f. Diane-I don't think we are prepared to talk about this. There have been a bunch of items coming out about this. We should look into these new items and bring this into what we want to do. The Federal Government is mandating medium price housing.

- g. Cory- I've looked into this extensively and there are a few items that we are required to do and we are already doing some of them.
- h. **Jerry moved to close the work meeting, Cory seconded the motion**
- i. **Voting was unanimous to adjourn the meeting**
- j. **Work Meeting adjourned.**

Pursuant to the Americans with Disabilities Act, Individuals needing special accommodations should contact Jerry Hansen @ 435-830-1244

Note: these minutes represent a summary of the meeting and are not intended to be verbatim.

Prepared by: Jennifer Poole, Erda City Recorder

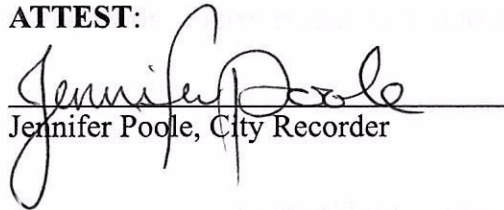
PASSED AND APPROVED by the Planning Commission this 25th day of April, 2023.

ERDA



Diane Sagers, Planning Commission Chair

ATTEST:


Jennifer Poole, City Recorder