

CEDAR CITY PLANNING COMMISSION
MINUTES

November 1, 2016

The Cedar City Planning Commission held a Meeting on Tuesday, November 1, 2016 at 5:15 p.m., in the Cedar City Council Chambers, 10 North Main, Cedar City, Utah.

Members in attendance: Rich Gillette-Chair, Jennie Hendricks, Mary Pearson, and Ray Gardner

Members absent: Jill Peterson Craig Isom, Hunter Shaheen

Staff in attendance: Kit Wareham, Drew Jackson, Tyler Romeril, Paul Bittmenn and Michal Adams

Others in attendance: Heath Oveson, Brent Drew, George Jett, John Stavros, Rick Perry, Lori Perry, Dixie Tienken, Eric Turnquist, JoAnn Turnquist, Bill Garrett, Manon Corry, John Corry, David Smith, Dale Hepworth, Shannon Poulsen, Burt Poulsen, Karen Marchant, Chris Marchant, Mark Wilcock, Brian Nichols, Frank Nichols

The meeting was called to order at 5:15 p.m.

**ITEM/
REQUESTED MOTION**

LOCATION/PROJECT

**APPLICANT/
PRESENTER**

I. Regular Items

**1- Approval of Minutes October 18, 2016
(Approval)**

Mary moved to approve the minutes of October 18, 2016, seconded by Jennie and the vote was unanimous.

**2- Zone Change (MPD – R-1) Fiddlers Canyn. Rd.
(Recommendation)**

Nichols/GO Civil

Heath O. presented and talked about the surrounding area. The Fiddlers elementary is on the west, this goes up into the canyon, he pointed out Ashdown Forest on the north. He said the zone of MPD no longer exists so the Master Plan calls for this all to be the R-1 zone. They are changing this from the MPD to the R-1 zone. This has been looked at before. They will overly the RDO over this area. Nothing has changed with that plan from what they saw before. The next step is to do the zone change.

George Jett who lives in Ashdown Forest stated some concerns; there was a notice sent out on October 26th and he did not receive that until Saturday. Some people in the affected area have not received their yet. He felt that was not a reasonable time for notification. This does boarder Ashdown Forest. He feels the time frame should be a 30-day notice of these meetings. They received a notice back in February that all the Mountain tops would be changed to Cedar City or open space.

George was told that this was a recommending body only, he would need to state his case with the City Council and that will be presented to them in about 2 weeks or more.

Heath stated that the City Ordinance has them give notices within a certain amount of time. That is according to City Ordinance and he followed that. The discussion back in February with the open space is not a part of this zone change.

When the Planning Commission sends along a positive or negative recommendation to the City Council then all the preliminary work is met, and they can follow this item along with Council meeting.

Burt Poulsen received a notice back in February but that meeting was postponed and they were told they would be notified again when that was discussed. They did not have the chance to see what was going on. Heath can go over the overlay with them and answer any questions they may have. This item is to change the zone from a non-existent zone to the R-1 zone.

The RDO or the overlay was approved by the City Council. This does not change that. What you do is take the whole area, find out how many units could be in that area, and cluster them in the areas that are buildable. Many parts of this area are too steep to build on.

Rich stated this was not a public hearing, they are only here to talk about the zone change.

Bert was given the notice of this meeting and invited to come. If not to give his input, then why be invited. Rich said the City Council meeting is where they can give some input and those affected should be given notification of that meeting.

Actually, no additional notices will be sent, they are invited to follow this item along in the approval process on their own. All City Council meetings are posted a couple of days prior to each meeting.

Lori Perry wondered about this MPD and why it no longer exists. She was told that in 2012 when the General Land Use was updated, that was removed.

Mary stated that is the purpose of this zone change, to take it out of non-existent zone and give them a zone that they can do something in.

Dixie Tienken said if they only have to be given a 48-hour notice of these meetings, that needs to change. Who made up this law and how do they get it changed. She was out of town and did not get this letter until today- the day of the meeting. She was upset that the meeting was today and felt that was not enough time to be notified. Other neighbors have not gotten a notice at all. She was told it was a State law and to bring it up on the state level.

Heath would like to give them as much time as possible. He is just following the law. They can call his office and he would be happy to answer any questions they may have.

Jennie made a motion to give the City Council a positive recommendation of this zone change, seconded by Ray and the vote was unanimous.

**3- Zone Change (R-2 to R-3-M) 284 S 200 E Leavitt/3 Peaks Eng.
(Recommendation)**

Brent Drew said they are looking for a recommendation to change the zone on a corner parcel at 200 E and 200 South from R-2 to R-3-M. He pointed out the corner on the map that is currently zoned R-2 and they are interested in putting something there with a little more density. They will still be restricted with setbacks and parking requirements. Brent said that their engineer, Ron, had surgery so they have no specific plans of what they might put there yet.

Dixie Tienken lives on 200 South. She bought property with a single home and that is what they want. There is already one large duplex across the street from this and about 1 year ago this same piece came in and wanted to build a duplex there. They protested at that time. If they did not want a duplex in the area, why would they want something more than that.

Eric Turnquist has the property adjacent to the west of this piece. After assessing this, he feels there is really no room to put high density on that small parcel.

Rich said they do have to have the required parking and that will limit what they can put there. Without seeing any plans, Eric said they are opposed to making this R-3. He was able to talk with many of his neighbors and there are 10 who are also opposed to this change. He had a sheet with their names. (see attached.)

Rich can understand their concern. The land owner is requesting this change, it is in compliance with the General Lane Use and if they deny it, the presenter will still go before the City Council and proceed. They need to talk with the City Council as they will make the final decision.

Dixie wondered, then, why they would make such a recommendation when there are people opposing it. She was told that they are required to give the land owner his request if it meets all the City criteria. The beef they have will be with the City Council, not the planning Commission. She felt if this changes, they get more and more changes in this area, would that change the tax base for all the existing residents? Rich said they would need to check with the County on that.

One concern was if they put in apartments, that will affect their privacy in the rear yards. Would that be something that they would consider here, or do they need to take that to City Council also. He was told they are not talking a development at this time, only the zone change.

Mary felt there was some misunderstanding. The Planning Commission cannot change any zone. They only recommend things to the City Council. The City Council will make that final decision. She was asked then, what was the purpose of this meeting? They were told that the Planning Commission would look at an item, see if it meets all current City Ordinances, and if it is within the City General Plan and then give a recommendation to the City Council.

Another question, then, is the City Planning Commission looking to change other zones at this time. They only look at what a land owner brings in. They never start the process of zone changes. When will this be at City Council then – as soon as 2 weeks from tomorrow.

Ray thought in looking at this, it will make an island of R-3. He was told that you look at the entire General Land Use plan, you start with one area, and eventually the entire area changes to meet that plan. Kit brought up the General Land Use map showing the block to be R-3 and then go into the R-2 with the commercial along Main Street.

Eric Turnquist was still a little confused. If the master plan calls the entire block to be R-3 and someone wants to come in and do that, then they have to let them.

Jennie made a motion to give the City Council a positive recommendation on this zone change, seconded by Mary and the vote was unanimous.

**4- Subd.- Vicinity
(Recommendation)**

**2200 N 1000 E
Ashdown Forest PUD Phase 9**

Smith/ GO Civil

Heath O. presented; he pointed out the area, the flood channel, Ashdown Forest and Canyon Gate subdivision. There is SITLA property and also BLM property surrounding this area. This particular phase was proposed back in 2006. They went in and started grading, putting in roads, and actually put in all the improvements but sidewalk. It has sat there since then, the developer would like to make this all a part of the Ashdown Forest and this will be Phase 9. Bridgewater Road was pointed out to the south and they can also connect eventually to a road to the north where utilities have already been installed.

John Stavros who is on the board of the Ashdown Forest HOA said it seems like they are adding to Ashdown Forest Homeowner's Association and increasing the size so it would have been nice of them to come and talk to them about this. They are not in favor of enlarging the PUD and they are all against this. It does not seem like something they talk to with the City because they are a PUD and they do not get anything from the City. They are a PUD and they accept that that they get nothing from the City. They don't feel they can just increase the size of their PUD without the developer coming in and talking with the PUD people. Heath said they have looked at this many times and there are no staff issues. Kit said this is the vicinity plan. Once the Vicinity Plan is approved, it goes to City Council then the Final Plat will also go to City Council.

Lori Perry who is the president of the HOA said she is trying to understand the process. This body makes a recommendation to City Council. Then you talk about Vicinity. What is that. Kit said they will come through the engineering process, then they will have the Final Plat and that will be taken to Council. She said they understood that PUD's would no longer be allowed in the City. It was brought up that the change was made to allow no additional single-family home PUD's but other PUD's are still allowed. This one was built back in 2006 and is all according to the PUD standards.

Kit said this was actually included in the description in the beginning of the entire Ashdown Forest PUD and this was going to be included at that time. If they change owners, it still holds. According to the City Council, when it is approved, it just tells the developer that all is well with them.

Were they not required to notify all residents? By law they are required to notify all those within 300' of this property. Heath said he also sent a certified letter either to the HOA or the management company per the City request. It is all zoned R-1. If the City Council decides that this should be part of the Ashdown Forest HOA they can as it was already approved with the master plan as part of that PUD.

Lori ask, then, when the next meeting would take place. As soon as two weeks from tomorrow.

Lori said they have a gate there. They were told earlier that they don't want them as part of Ashdown Forest so they put up a gate. If the City decides to put that in there as part of Ashdown Forest PUD, the gate is on their property and it blocks off the access on Bridgewater Road.

Now they are talking about right-of-way. That sounds like a legal battle between this developer and the Ashdown Forest HOA.

Lori feels that it could be pushed on them and they won't have much say. She felt that is they are

allowed to do this, then the City is going to take care of all their issues. All these things are already in. She was talking about maintenance of all this extra development. She was told that all HOA's have to show how they will collect dues, etc. They are just planning to use Bridgewater Road to access thru them.

Clyde Spitsy who is a member of the board said back in 2006 they had a law suit which made the owner change the map which terminated before that property line. The judgment made the developer change that back to what it was originally. There is an easement for utilities in there but not a right-of-way for the property to access.

Rick Perry a resident of Ashdown Forest would recommend that this not move forward.

Rich said they will move it forward either with a positive or a negative recommendation.

Rick P. stated there are issues and he would like to see this delayed until those issues can be addressed. It is not fair to just say to them, here are your new members, etc. you are now responsible for all this other area. He recommends that they do not move forward with this. There is too much disagreement. Until they can work out all things with the homeowners.

Rich said as lots come in they will pay their own way.

Heath stated as representing his client, he kept encouraging them to have dialog. The owner is here today, and he went to the Ashdown HOA. In their minutes, he was at their meeting. This was not sneaking in around the back. They need to understand when he wanted to approach them he was just told no. They would not talk, they told him no- period. The decision was made so that is why they are just coming thru the process. He tried to talk with them and was just told NO. you are not being told the entire story here when they say there was no attempt made to communicate with them.

Heath also understands their concerns. Anytime you continue to grow, there is more to maintain, there is more to take care of. Each of the new owners would also pay their share of those costs and be part of the dues being paid. It was pointed out that they need to maintain roads even to the very top of the hill, where there is only 1 house. That owner also pays his dues, so everyone pays into the maintenance of every road and utility. They can set this up how they want. That is to be worked out by all the owners, and is not an issue here.

They felt that some dialog and some other potential options would be good.

Lori Perry said if they are forced on us, it all takes time to sell them all. Who would pay all the dues? The owner of each lot even if that were the developer for some time.

This is not the place to answer all their legal questions. This is phase 9, it has been included for a long time and has existed for a long time. There was a boundary of land that would all be included in Phases of Ashdown Forest PUD. They wanted to see where that was. It would be in their Declaration or the CC&R's for Ashdown Forest. They wondered where they can get a copy and were told they are on file in the Iron County Recorder's office.

Mary said, so this was already a part of the master plan for Ashdown Forest.

Kit said there never was any master plan, per say, the CC&R's included a boundary of the whole area. The recorded CC&R's tell them how much land is in it. It does not tell you everything, just the land that would be in Ashdown Forest. Over the years the developers came in with just one

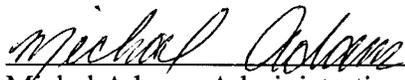
phase at a time. When they had Phase 1 mostly sold, they would open up phase 2. And so on. Phases 8 & 9 have not been recorded at the County yet.

Jennie moved to give a positive recommendation to City Council for Ashdown Forest Phase 9, seconded by Ray and the vote was unanimous.

Lori asked what that means. Rich said that the property has lots. It is the vicinity plan. They have met all the City standards and have presented that to us, so we give a recommendation to City Council and the City Council will look at that.

Lori said they have two roads to get to this property and one of them is theirs. They have not gotten over that hump yet. They can take it up with the City Council.

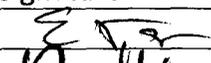
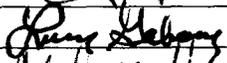
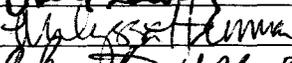
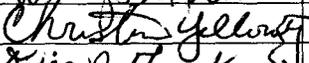
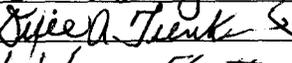
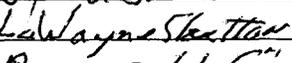
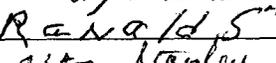
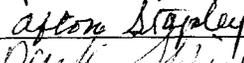
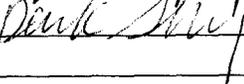
The meeting adjourned at 6:15 p.m.



Michal Adams, Administrative Assistant

Petition for denial of R3

I am against the proposed zoning change from R2 to R3. I understand that the zone change will mean an apartment complex greater than 3 units. This location with an apartment will reduce the value of my property and will change the neighborhood negatively with more noise, traffic, parking and trash pollution.

Printed name	Signature	Address	Phone #
Eric Turquist		161 E. 200 S	217-779-2856
Larry Gaboury		165 S 200 E	435-267-2630
Melissa Hamner		164 S. 200 E.	435-531-9168
Christine Yellowitz		169 So 200 E.	435-531-4111
Dixie Tienken		211 E 200 S	435-867-1234
Calhoun State		131 S 200 E	524-9737
ALS ^{BT}		180 S 200 E	592 062000
Apton Stapley		142 E 101 So	586-6666
Derek Shirley		129 E 200 S.	691-2589