

CITY COUNCIL MEETING

Tuesday, September 22, 2015 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Mayor Gary Gygi
Council Members: Trent Augustus, Rob Crawley Mike Geddes, Jenney Rees, Daniel Zappala
David Bunker, City Manager
Chandler Goodwin, Assistant City Manager
Jeff Maag, Public Works Official
Charl Louw, Finance Director
David Shaw, City Counsel
Courtney Hammond, Transcriptionist
Others: Lt. Sam Liddiard, Cory Shupe, Doug Young, Russ Fotheringham, Paul Sorenson, David Driggs, Russ Smart, Candice Smart, Daren Lowder, Melissa Willie, Lorne Smart, Brian Miller, Ben Bailey, Julie Sessions, Marshall Shore, Jason Harr, Nanette Stevenson, Deborah Gibbons, Tom Cantrell, Bobby Seegmiller

COUNCIL MEETING

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:04 p.m. by Mayor Gygi.

Invocation given by C. Geddes

Pledge of Allegiance led by C. Crawley

2. Approval of Meeting’s Agenda

MOTION: C. Rees—To approve the agenda as is. Seconded by C. Augustus.

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

3. Public Comment

Julie Sessions: Ms. Sessions read Angela Johnson’s comments. Ms. Johnson does not support having high density units within the commercial zone. The general plan and commercial guidelines state that area is for commercial development. She would like to preserve the small town atmosphere. The proposed development does not meet the intent of the code. Ms. Sessions asked the council to visit the Sandy development, which is half the size of what is proposed in Cedar Hills, but still feels too huge.

Russ Fotheringham: Mr. Fotheringham and his wife are opposed to the Rosegate development. The zoning ordinance, design guidelines and general plan don’t allow for such a development.

That area should be a grouping of retail stores, providing retail goods and office space. Rosegate does not meet those guidelines. The 300 unit apartments do not preserve the small town atmosphere. It has been a long time since Walmart came in. There have been great efforts to bring in other commercial uses. Commercial uses will draw others. The city should be patient, and not approve anything that doesn't meet the General Plan, zoning or Design Guidelines.

Marshall Shore: Mr. Shore stated that water has been a hot topic for the last few years. Water is a precious resource. The easy water is gone. These resources need to be stretched. The city cannot afford to waste them.

Darin Lowder: Mr. Lowder has a wonderful relationship with the Smarts. He appreciates the foresight of those that put together the general plan. There is subjective language in there about high use and small town atmosphere. Rosegate is primarily residential with 300 units. That language gives the council the opportunity to deny the proposal.

Jason Harr: Mr. Harr is concerned about the number of golf balls on the lot where he is building a home. It is a safety concern.

Russ Smart: Mr. Smart has been working on this project for 2 ½ years. Previously the problem was with the height of the building. There have been several meetings with residents. Attempts were made to trade property with the city, but the city wasn't willing to trade or buy the property. He has done everything that the Planning Commission or City Council has asked.

Nannette Stevenson: Ms. Stevenson is concerned that the city has already changed the condos by Deerfield. Originally in was a 55+ community, and now it has changed. She worries the 55+ requirement is a bait and switch tactic, and they will later allow and will later need to rezone.

PUBLIC HEARING

4. Preliminary Plans for Rosegate at Cedar Hills Development, located at approximately 4600 West and Cedar Hills Drive in the SC-1 Commercial Zone

Daniel Zappala read public comments that were sent to him:

Amber Bonner: I think that there are a couple of problems with the size of the building that are in the city guidelines. First of all, the guidelines say that "two stories are preferred"- this building is entirely three stories high, which is too high. Three are allowed, but I would rather see mostly a 2-story building, with maybe sections that are three. Secondly, the zoning for this parcel has a couple of restrictions that I don't think allow this type of building. First, the piece is supposed to have a "less intensive" use than the next-door commercially zoned area. I think the density/size of this building is more intense usage than any of the surrounding properties, residential or commercial. Also, the zoning calls for residential usage in this zone to be ancillary to commercial usage, and they have this backwards. This project proposes residential as the main purpose of the building with a small amount of commercial usage. In my reading, this is backwards of what should be allowed. I also have traffic concerns. I think they have not allocated nearly enough parking for the building. If this is truly for active adults, I can't imagine that most units won't have two vehicles. Especially because there is virtually no public transportation in the area.

Kim Groneman: I want the city to ensure that such a development meets every condition and requirement our zoning and any other regulation that would apply requires. I personally don't want to see it built but that's neither here nor there. I don't want the city to make any exceptions to the rules in allowing it. Thanks for listening.

Sean Lorscheider: Our design guidelines state that development in the commercial zone "shall be characterized by a harmonious grouping of commercial stores and shops and essential ancillary uses architecturally designed and functioning as an integrated unit". This is a high density senior apartment complex, not a grouping of commercial stores and shops, so it does not fit the intent of the zone.

Mark Bennett: For a residential building, footnote 4 of the Permitted and Conditional Uses table in our zoning code, pertaining to residential uses in the office/retail zone, states these uses are permitted only "when ancillary to a retail or office use (ancillary = subordinate, subordinate is less than 50% of any given structure) Residential is permitted only on the second level of the structures." It is debatable whether or not the residential use of this building will be less than 50% of the given structure. The comparable development in Sandy City from the same developer would fail this test. The code states that only the second level of the structure may be used for residential, any apartments on the ground level would not be permitted. Also—and this may be an oversight on the part of whoever drafted the original code—the code, as written, would not permit any apartments on the third level of the structure, either, as only the second level is listed as permissible. I sincerely doubt that the developer would be satisfied with a development with only a single level of apartments. If the developer is willing to only have apartments on the second level, and have the first and third levels be retail or office space, then I feel this development would fall within code, as it would only be used as 33% residential and would only have apartments on the second level. Otherwise, the building would fail to meet the zoning requirements. For the building to qualify as congregate care, deemed to be substantially similar to assisted living and a valid conditional use for the office/retail zone, a complete list of services and amenities that will be provided, both on-site and available off-site, must be produced by the developer prior to zoning approval to differentiate it from a typical apartment complex. The developer's Sandy development is billed as senior apartment living and contains meager amenities: a lobby, clubhouse, craft room, exercise room, theater room and library. If only these amenities are provided, the development must be considered residential as the developer themselves currently claim such for the community in Sandy. To approve a building without this comprehensive list would be irresponsible, and for the developer to not provide this list, or to deviate in any way from it during development or operation thereafter, should nullify any zoning approval.

Ben Ellsworth: The proposed development does not clearly meet the vision statement of the Design Guidelines: "The Cedar Hills Commercial City Center will develop as an integrated, architecturally harmonious mixed-use development. Particular emphasis shall be placed on creating a pedestrian-friendly atmosphere where residents will desire to shop and gather. Design elements including architecture, landscaping, signage and lighting shall create a commercial district that is of higher quality and value than the typical suburban "strip" mall. Land development shall be sensitive to adjacent single-family housing." This is not a structure where

residents will want to gather. It is not pedestrian friendly. It is not sensitive to the single-family housing to the south due to its massive scale, and does not keep the small-town feel the design guidelines encourage. Additionally the Design Guidelines state in section 4.4.2: “One and two story buildings are permitted although two-story buildings are encouraged in order to more fully convey the desired architectural theme. Buildings within the Office Development may be erected to a maximum height of thirty (30) feet. An additional height bonus of one (1) foot per additional two (2) foot increase from the required setback may be granted, up to a maximum height of forty (40) feet.” It is important to ensure the buildings stay within these height limits to preserve the value of the residential to the south. Personally I think this type of development would provide good benefits to the city. I would encourage the developer to look at reducing the height and footprint and complying more completely with the original zoning of the land, including decreasing residential, and designing this structure to match the vision of the design guide.

CONSENT AGENDA

5. Appointment of Steve Thomas as an Alternate Member of the Planning Commission
6. Minutes from the August 25, 2015 City Council Meeting

MOTION: C. Rees—To approve the consent agenda. Seconded by C. Geddes.

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

CITY REPORTS AND BUSINESS

7. City Manager

Timpanogos Special Service District is considering a user rate change that would decrease rates. Studies are ongoing to see if it is possible.

8. Mayor and Council

C. Rees: The Planning Commission denied Fred Levine’s subdivision. His next step is to go to the Board of Adjustment. The Planning Commission also worked on the Design Guidelines. There will be a Cultural Arts Date and Dance on Friday.

C. Augustus: North Pointe Solid Waste is working on the budget. It will be approved in December. There is a chance that there will be a slight rate increase. Golf Course Finance Committee is discussing the issues facing the golf course. They meet on Thursdays at 8:00 p.m.

C. Crawley: The Golf Course Finance Committee is putting out a statement of facts and FAQs about the golf course. The Utah League of Cities and Towns conference was this week. Many council members attended.

SCHEDULED ITEMS

9. Review/Action on Preliminary Plans for Rosegate at Cedar Hills Development, located at approximately 4600 West and Cedar Hills Drive in the SC-1 Commercial Zone

Public Comments:

Deborah Gibbons: Ms. Gibbons stated that she circulated a petition opposing Rosegate. She got 350 people to sign it in one day. This is not a personal attack against the Smart family. She feels passionately about the commercial design guidelines. She is not concerned that there is no clamor at this moment for commercial. The people in the area do not want the development.

Tom Cantrell: Mr. Cantrell stated that he is not in favor of the Rosegate development. One of his biggest concerns is the impact of having 300 cars on Cedar Hills Drive and 4600 West. An apartment complex of that size is too big. The city should wait and be patient for something that is more suitable for the city.

Bobby Seegmiller: Mr. Seegmiller stated that he is pro development. The Rosegate facility in Sandy is beautiful. He is frustrated that this proposal is here tonight and feels it was an oversight by Planning Commission. The proposal goes against the spirit and intent of the general plan. He suggested that the Planning Commission review the Land Use book to avoid conflicts of interest. The plan calls for 294 parking stalls, which is not sufficient for the residents. He understands that the commercial portion will be sold and that the commercial parking will no longer be available to Rosegate. American Fork turned down two developments because the parking was under 2 stalls per unit.

Candice Smart: Ms. Smart stated that if she wanted to build an obnoxious pink house, she can, because she owns the land. The building has to be within the laws, but it doesn't matter if other people don't like it. This building is within the law. She thinks the Planning Commission did a great job of looking at every aspect of the proposal and the code. Commercial is not coming to this land. The Smarts have been patient. They have owned the property for 30 years. There are other commercial facilities in the area that don't bring in sales tax revenue. Rosegate will bring more revenue. The city does not want the Smarts property because it is D-grade. Some people have said they want it to remain a field. If they want a field, then they should buy the land and keep it as a field.

Mayor Gygi read the resident petition aloud:

On September 22, 2015, the city of Cedar Hills will be holding a public hearing on the Preliminary Plans for the Rosegate at Cedar Hills Development. We the signers of this petition ask that the council reject this development proposal for the following reasons:

1. This development does not fit with the general plan and zoning ordinances of our city. The development is primarily an apartment complex for senior citizens, whereas the general plan states that the commercial zone is intended primarily for commercial uses. Past councils have focused intently on bringing commercial development to our commercial zone. The only previously approved assisted living facility in this zone, the Charleston, was part of a larger Lexington Heights development, comprising less than 50% of a plan that was overall a commercial development. This plan is nearly 100% residential.

2. The size of the building is not in keeping with our development guidelines. The Charleston assisted living facility is only 65 beds, whereas this apartment complex is 291 units, each with

potentially two residents. That represents a size that is nearly 9 times that of the Charleston. The sheer size and scale of the building will overwhelm the nearby single-family homes. Our development guidelines state that “smaller, individual buildings that tend to break up parking areas and create visual interest are required.”

3. The developer is claiming that this apartment building is a congregate care facility. However, in our experience these facilities offer onsite dining, nursing care, transportation, and other services that help senior citizens to live comfortably during their active senior years. The developer has indicated he will not provide those services on site, meaning this is an apartment complex, and not a congregate care facility. It is certainly not “substantially similar” to an assisted living facility as the development guidelines require.

4. A high density apartment complex will impose significant impact on the surrounding neighborhoods that can only be limited by significantly reducing the size and scale of the apartment building. Impacts include increased traffic and increased noise from the large parking lot surrounding the facility. A large apartment complex is not compatible with single-family homes and our small town atmosphere.

We feel particularly misled by this developer, because he initially came to the city proposing a major commercial development, including theaters, shops, restaurants, a splash pad and park space, with a senior living facility comprising only a smaller portion of the development. Over time, he gradually removed most of the commercial elements of his plan, converting the plan into a single, very large apartment complex with just a few retail pads. At one point Mr. Shupe, a representative of the developer exclaimed that even if he gave a restaurant owner a million dollars that nobody would build a restaurant in Cedar Hills. He does not even intend to build the retail pads initially, and may never come through with any commercial development. That kind of about-face indicates that the developer truly intended to only build residential from the beginning and was using excitement about commercial development to try to slip a primarily residential project into a commercial zone. We plead with the council to preserve our commercial zone for commercial development.

MOTION: C. Zappala—Based on advice from the city attorney, to table this item to a subsequent meeting. Seconded by C. Rees.

Yes	-	C. Geddes	
		C. Rees	
		C. Zappala	
No	-	C. Augustus	
		C. Crawley	Motion passes.

Break taken at 7:47 p.m.

Reconvened at 7:53 p.m.

10. Review/Action on Resolution Indicating the Intent of the City of Cedar Hills to Adjust the Common Boundary with Pleasant Grove City (Davies, Eagar, Taylor, Erickson and Meinzer Properties)

Chandler Goodwin stated that there are certain notifications required as part of the process to boundary adjust into Cedar Hills. There are 5 properties that are requesting to boundary adjustment from Pleasant Grove into Cedar Hills. The next step is to adopt the resolution indicating the intent to boundary adjust. Pleasant Grove had this item as a discussion item two weeks ago and will be an action item on their next meeting.

MOTION: C. Rees—To approve Resolution 09-22-2015A, a resolution indicating the Intent of the City Council of the City of Cedar Hills, Utah, to Adjust the Common Boundary with Pleasant Grove City, Utah for Davies, Eagar, Taylor, Erickson and Meinzer properties; authorizing a Public Hearing thereon and Providing for Notice of said Hearing. Seconded by C. Zappala. Vote taken by roll call.

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

11. Review/Action on the Execution of the Issuance and Sale of Excise Tax Revenue Refunding Bonds

Jonathan Ward of Zions Bank stated that JP Morgan has given the city a firm bid. The interest rate for a non-callable bond produced \$229,000 in savings. The callable option drops the savings by about \$20,000. Approving the resolution (Resolution 09-08-2015A) would authorize Zions Bank to lock in the rates. Refinancing is a good option when savings is at least 3%; the savings merits the fees; and when the effects of negative arbitrage are minimized. Based on these factors, he recommended refinancing. He would recommend taking the lesser savings and preserving the option of refinancing or prepaying. The city's negative arbitrage is \$24,000 to \$30,000.

Mayor Gygi questioned whether it may be better to wait until the negative arbitrage is gone.

MOTION: C. Augustus—To approve Execution of the Issuance and Sale of approximately \$1.7 million of Excise Tax Revenue Refunding Bonds, Series 2015 to refund the Issuer's Outstanding Excise Tax Revenue Refunding Bonds, Series 2006; authorizing a bond purchase contract; authorizing all other actions necessary for the transactions contemplated herein; and related matters. Seconded by C. Geddes.

C. Crawley stated that he would like to specify that the council wanted the 5 year callable option.

David Shaw stated that the council can specify the option tonight, or allow staff and a committee to choose the option based on market conditions.

AMEND MOTION: C. Augustus—To add after “authorizing a bond purchase contract” that the city council selects option B from the proposal. Seconded by C. Geddes.

C. Zappala clarified that these bonds would become callable in 2020.

Vote taken by roll call.

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

12. Discussion on SR-146/Canyon Road

David Bunker stated that the county has grappled with Canyon Road. The county's road development standards are not the same standards of the city. They do not build curb and gutter, bike lanes or shoulders. The county has asked what Cedar Hills would be willing to contribute if the county upgraded the road to a higher standard, which could include a two lane road with a wider shoulder and curb and gutter. The city was asked if it would be willing to snow plow, maintain the storm drain, and street sweep. The city does not have the equipment to snow plow. Cedar Hills has talked with Pleasant Grove about the possibility of reimbursing them for snowplow service. Pleasant Grove would charge \$80/plow trip. That would cost between \$6,500-8,500/year. Sign maintenance would be \$500/year. Storm drain would be around \$4,500/year and general maintenance would be about \$1,000/year. The total maintenance per year would be from \$12,500-\$14,500. Owning the road would be \$100,000/year. The county would do the paving, crack seal, etc.

Mayor Gygi stated that there is about \$7 million available. That won't get the road to the level that the city wants.

C. Rees stated that she would want a solid plan and assurance for the higher standard of road. She would like to see how far the \$7 million would go in improving the road.

C. Crawley stated that he would like to see a limited time agreement based on how long the improvements will last.

C. Zappala stated that he wants to see a maintenance agreement from the county that is up to the city's standards. He wants the county to recognize that urban roads need different standards than rural roads. He would like to see intersection issues addressed in the road rebuild. It may be necessary to build a crosswalk for church access for the new development on Canyon Road.

MOTION C. Augustus—To go in to closed session pursuant to State Code 52-4-204 and 52-4-205 to discuss pending or reasonably imminent litigation to be held here at the Community Recreation Center here in this room. Seconded by C. Crawley.

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

MOTION: C. Augustus—To adjourn Executive Session and reconvene the regular City Council Meeting. Seconded by C. Geddes. (8:51 p.m.)

Yes - C. Augustus
C. Crawley
C. Geddes
C. Rees
C. Zappala Motion passes.

ADJOURNMENT

13. This meeting was adjourned 8:51 p.m. on a motion by C. Augustus, seconded by C. Rees and unanimously approved.

Approved by Council:
October 20, 2015

/s/ Colleen A. Mulvey, MMC
City Recorder