

**PLANNING COMMISSION MEETING**

Tuesday, November 26, 2019 7:00 p.m.

Community Recreation Center

10640 N Clubhouse Drive, Cedar Hills, Utah

Present: David Driggs, Chair, Presiding  
Commissioners: Jeff Dodge, John Dredge  
Absent/ Excused: Jared Anderson, Eric Schloer, Lori Anne Spear, Steve Thomas  
Chandler Goodwin, City Manager  
Jenny Peay, Planning Associate  
Colleen Mulvey, City Recorder

1. Call to Order

Chair David Driggs called the meeting to order at 7:00 p.m.

2. Public Comment

Chair Driggs opened the floor for public comments. Seeing none, he closed the floor for public comments.

3. Approval of the Minutes of the September 24, 2019 Planning Commission Meeting.

**MOTION: C. Dredge—To approve the minutes of the September 24, 2019 Planning Commission Meeting.** Seconded by C. Dodge.

Yes - C. Dodge  
C. Dredge  
C. Driggs Motion passes.

4. Review/Recommendation and Public Hearing on Amendments to Plat K Canyon Heights at Cedar Hills Subdivision.

Chandler Goodwin said this item should look familiar. Lots thirteen & fourteen were joined, and the amended plat was recorded with the County. A nonstandard front setback line remains which ultimately defeated purpose of joining the two lots. The nonstandard setback line was put into place to mitigate concerns over a steep slope and the potential of the slop to collapse. The property owner is requesting an adjustment to the nonstandard setback line. There is nothing in the City code that would prevent them from adjusting a nonstandard setback. They needed to be sensitive to the hillside bordering the lot. The owner has provided an engineer’s statement pm the stability of the slope in question, however the City engineer wants a test of the soil and building material at the site.

C. Driggs asked if this was adding a nonstandard setback or adjusting. Mr. Goodwin said it was adjusting. C. Driggs asked if this engineering letter was part of original document. Mr. Goodwin it came in after the preliminary work. He wanted to make sure there was coordination between the City engineer and their engineer to discuss how best to adjust the setback. One reason he was

less concerned about this was because they had to build deep, meaning they would be building on native material. The building code said when a person built on a steep hillside, there was a formula where a project had to be built adjacent to a slope, and the closer the builders were to the building material meant the less they would get onto the precipice. The engineers would work with the building department on this.

C. Dredge asked if this would expose the City to liability. Mr. Goodwin said no and even then, the City engineer was simply reviewing it, not installing it. The builders would carry the liability.

C. Dodge noted that approving the change was not saying a person could build. Mr. Goodwin said the change in setback did say they were expanding the building envelope. C. Dodge wondered if the City needed to put a condition on this. Mr. Goodwin said yes this was what he requested, pending City engineer approval.

C. Driggs had a question specific to process. The Council had previously approved this without discussion and he wondered why the letter was added. Mr. Goodwin said the City did have the discussion and had a different engineering letter. This one was drafted after and edited for the non-standard setback.

#### Public Hearing

There were no public comments.

**MOTION: C. Dredge—To recommend to the City Council the vacation of Canyon Heights Plat K and the adoption of the amended Canyon Heights Plat K showing the new non-standard setback line, subject to approval by the city engineer.** Seconded by C. Dodge.

Yes	-	C. Dodge	
		C. Dredge	
		C. Driggs	Motion passes.

#### 5. Discussion on Water Rights Conveyance.

Mr. Goodwin said that regarding the commercial zone with the storage facility and the Taco Bell that are going in, one is a small building that uses a lot of water and the other a large building that uses very little water. According to City Code 10-6-16, there was a formula for commercial, industrial and other similar nonresidential developments which have to convey enough water to cover their needs. In the case of Taco Bell, the City can take utility bills and track their usage over the course of a year to determine costs. With regards to the storage facility, there had never been a code that required a business with property over an acre. Now the storage facility would be required to turn over more water which seemed unfair. Mr. Goodwin requested that the Planning Commission review this issue. He said it should be turning over water to meet the needs of a business.

C. Dodge asked if they would be changing that. Mr. Goodwin said we are seeking amend the code by removing the portion requiring three acre-feet of land in the project.

C. Dredge said the code actually read “the requirement shall not be vested three acres... for planning projects.” Mr. Goodwin said this was correct. The storage facility was an interesting case where there was a large building, but the usage was less than a single-family home. To exact water beyond their needs, he felt, was the type of exaction was not fair.

C. Driggs felt he was not personally educated enough to understand Water Rights and the history behind this water requirement. He needed to understand it as it stood, such as why it was there.

Mr. Goodwin explained if it became a shell of a building, and no one used it for storage, and it went from being a big building with no water usage to a building with lots of water usage, then they would be required to turn over more water to meet their needs. The water they already transferred would be associated with that property, so in this case, for example if they had a turnover based on actual usage of 1.5 units, but instead it was required they report 10 units, then they would be required to turn over 8.5 units. During the approval process they would be required to report.

C. Driggs asked if this was to become a modified code. Mr. Goodwin said they were applying recommendations of professionals to this building. It was easier for him to defend actual usage rather than an arbitrary number they could not confirm. C. Driggs asked if this affected landscaping.

Mr. Goodwin said landscaping required a formula. The City had a formula they used for outdoor landscapes, which depended on region and area of the land.

C. Driggs asked what consequence they had in making the building follow the city’s code. Mr. Goodwin said it could be challenged as an exaction and the City could go to court. Water rights was not something that happened overnight. By the time the City got water rights on this building, the code would be in effect.

C. Dredge asked how much a share was. Mr. Goodwin said the cost was \$6,000 to \$8,000 for one-acre foot of water.

C. Dredge asked Mr. Goodwin if he thought it made sense to include a minimum on the document. Mr. Goodwin explained that without an engineering study to back it up, it would be hard to defend. The most defensible was to turn over what the owner used.

C. Dodge said school districts struggled with this as well. Mr. Goodwin said this was a good point. He did not know if there would ever be a consensus on impact fees and these as long as there was development to be done.

C. Driggs said they should come back to this for more discussion. He was torn on the topic and wanted to learn more about this exaction. Mr. Goodwin said the City was not coming back for this project specifically.

C. Dredge said this would hurt the City in court. C. Driggs said the City’s defense was that they ask the property owners to use the code. Mr. Goodwin agreed with that point. He said just because

the code was codified did not make a solid defense. That was why it was important to keep up with best practices.

C. Driggs appreciated trying to clean up code. He said maybe it could be changed when contested. C. Dredge said they had a good offense, but it was a best defense. Mr. Goodwin concluded that it was best practice to solve the issue up front.

6. Review/Action on Approving the 2020 Planning Commission Schedule.

**MOTION: C. Dodge—To approve the 2020 Planning Commission Schedule with the correction of the meeting in May to be held on the 26th.** Seconded by C. Dredge.

Yes - C. Dodge  
C. Dredge  
C. Driggs Motion passes.

ADJOURNMENT

This meeting was adjourned at 7:34 p.m. on a motion by C. Dredge, seconded by C. Dodge and unanimously approved.

Approved:  
January 28, 2020

/s/ Colleen A. Mulvey, MMC  
City Recorder