

PLANNING COMMISSION MEETING
Tuesday, January 25, 2022 – 6:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: John Dredge, Presiding
Commissioner Jared Anderson
Commissioner Tyler Dahl (arrived at 6:08 p.m.)
Commissioner Donald Dolenc
Commissioner Jeff Dodge
Commissioner Steve Thomas

Absent/Excused: Commissioner Kathryn Newman
Commissioner Lori Anne Spear

Staff: Chandler Goodwin, City Manager
Jenny Peay, Planning Associate
Colleen Mulvey, City Recorder

PLANNING COMMISSION MEETING

1. Call to Order.

Chair Jeff Dodge called the meeting to order at 6:00 p.m.

2. Appointment of Chair and Vice-Chair.

Chair Dodge invited nominations or motions for Chair and Vice-Chair.

MOTION: Commissioner Dodge moved to nominate John Dredge to serve as Chair for the coming year. The motion was seconded by Commissioner Anderson. The motion passed with the unanimous consent of the Commission. Commissioner Dahl did not participate in the vote.

MOTION: Commissioner Dredge moved to nominate Steve Thomas to serve as Vice-Chair. The motion was seconded by Commissioner Dolenc. The motion passed with the unanimous consent of the Commission. Commissioner Dahl did not participate in the vote.

Newly elected Chair, John Dredge assumed the Chair.

3. Public Comment.

There were no public comments.

SCHEDULED ITEMS AND PUBLIC HEARINGS

4. Approval of the Minutes from the November 23, 2021, Planning Commission Meeting.

MOTION: Commissioner Anderson moved to approve the minutes of the November 23, 2021, Planning Commission Meeting, as written. The motion was seconded by Commissioner Thomas. The motion passed with the unanimous consent of the Commission. Commissioner Dahl did not participate in the vote.

Commissioner Dahl joined the meeting.

5. Review/Recommendation and Public Hearing on the Preliminary Plan for The Cedars Townhomes Plat E Phase 5 Located in the H-1 Hillside Residential Zone.

City Manager, Chandler Goodwin, presented the staff report and provided information on the proposed Cedars Townhomes. It is a 12-lot development known as Phase 5, Plat E-5, and is a portion of the Cedars Development that was developed 20 years ago. There are 725 entitlements included in the subdivision. Plat E-5 consists of the townhomes and although it was never recorded, the entitlements were given 20 years ago in the initial development phase.

Phase 5 had proven to be the most difficult phase to develop due to the topography. It was noted that the homes sit lower in that area. The sewer system is the main problem because of the gravity flow. The issue was addressed years ago and has been planned for. The developer will be required to provide an access road to clean out the storm drain and maintain the sewer lines as needed. Mr. Goodwin showed the new proposed layout of the utility systems and the surrounding homes based on current realignments.

The major issue with the subdivision is with the Geotechnical Report. In 2005, there was an extreme amount of rainfall and there was a landslide. Dakota Homes is a completely different developer from the original one and is coming in to complete the project. The 2003 Geotechnical Report shows seven to eight test pits throughout the project. Since the initial homes were built, there has been settling and many of the homes have had to be retrofitted with pylons for support. Given what is known about the hillside, when approached by Dakota Homes, Staff requested a new Geotechnical Report with a test pit at each building location. They have complied with the request which follows best industry practices and includes relevant data for what is being proposed. Three additional public hearings will be held regarding the development and plenty of opportunity for public comment.

The Geotechnical Report was reviewed by the City Engineer who identified some deficiencies. The proposed homes have basements, which are typically 10 feet below grade. The test pits were only five to 6.5 feet deep, so the developer will have to address that. The report shows the maximum cut and fill depths can have up to eight feet, but it appears that based on the topography of the parcel, it will be common to have cut and fill that is greater than eight feet. Additionally, there is concern with the grade of the slopes. If a Slope Stability Analysis shows that they are in a Slope Failure Zone, they will have to identify it on the plat. Mr. Goodwin indicated that he

would send the City Engineer's Report to the developer to address the issues before moving forward.

Commissioner Dodge commented that throughout his career as a builder, he never relied on a Soils Report that did not extend well below the lowest point of the building.

Commissioner Anderson asked for clarification regarding the prior approvals for the project and how they relate to the new developer. He also asked if the development rights are vested. Mr. Goodwin explained that the original agreement granted the development 725 units. For Plat E they were granted 201 townhomes. Phases 1 through 4 took 189 of those townhomes. The remaining 12 units are included in Phase 5 and the development rights do not expire. They were vested when the City entered into the Development Agreement. The development rights transfer to a buyer when the property is sold. The City has already agreed to the fact that there will be 12 units in the parcel. The question is not *if* they will be there, but *how* they will be there, and they must be built correctly. It was noted that there will not be another public hearing on the matter if it is tabled to the next meeting.

Commissioner Anderson mentioned there is a belief among residents that the City can deny the request at this point. He thought it was worth describing to the public what the ramifications would be. Mr. Goodwin explained that the developer has 12 units on their property. If the City denies them the right to build them, it would be considered a taking, which would leave the City open to a lawsuit.

Commissioner Anderson explained it is likely that the purchaser of the property relied on the fact that entitlements were in place, so to tell them they cannot build is not an option. Mr. Goodwin agreed and stated that it is a question of *how* to build it to address the concerns identified in the Geotechnical Report and the soil conditions. He commented that anytime there is construction on a hillside, there are risks involved.

Commissioner Thomas mentioned that, while it may cost more money, there is always an engineering solution that will meet Code. Mr. Goodwin said it would be nice to see cross-sections of the proposed buildings based on where the foundations meet the native soil or engineered fill material.

Commissioner Dolenc asked if there was specific information regarding the buildings and if they will have basements. Mr. Goodwin said the assumption was that the units will have basements.

Street lighting was to be installed at various intersections and on cul-de-sacs. No speed limit signs were proposed or required.

Chair Dredge opened the public hearing.

Robbin Herlocker gave her address as 10363 North Morgan Boulevard and identified herself as the HOA President of the Cedar Townhomes. She was speaking on behalf of the community. As mentioned by Mr. Goodwin, Phase 5 has been ongoing for the last 20 years. She would like to see the soil and ground testing results for Phase 5 as the townhomes will eventually become part of

the existing HOA. A special fund will need to be set up to address potential shifting and movement of the homes due to the instability of the ground. She was also concerned with construction debris, noise, and dust pollution that the project will create. Clean streets were a major concern. Ms. Herlocker reported that after the previous construction phases, the construction debris was dumped into the back ravine and the HOA spent thousands of dollars to have it cleaned up. She also requested a four-way stop at Morgan Boulevard and Sage Vista Lane to alleviate traffic speeds. There was concern with guest parking as it is already an issue in Cedar Hills. Finally, Ms. Herlocker requested that the builder/developer secure a \$1 million bond to cover the cost of repairing the townhomes for 10 years with the new homeowners paying \$8,000 per month until the \$1 million is paid in full or add that amount to the price of the home. She suggested that a park and family areas be built instead as there is already a community established.

Tina Adams gave her address as 10357 North Morgan Boulevard and stated that she lives above the proposed development. Her primary concerns were speeding, noise and traffic coming in off of Morgan into the development. Cracks are forming in the foundations of the existing homes from the developer compacting the soil. She asked about the drainage issue on the cul-de-sac and mentioned the debris that has been left behind in the past. It has been an attractive nuisance for children as they play there. Ms. Adams commented that the cul-de-sac looks large to her, and she asked if they plan to develop homes there.

Lyle Nielsen, who resides at 10318 North Avondale Drive, reported that he has lived in the home since before the project began. One of his biggest concerns was the water runoff. The new road that was cut for the development directed the water into his yard and ultimately into his basement. He spent several hours digging a trench to divert it away from his home. Mr. Nielsen was also concerned about people looking into his yard.

Mario Loor gave his address as 10448 North Sage Vista Lane. He stated that he has issues with water pressure and is concerned that an additional 12 units on the same water line will exacerbate the situation.

Kelsey Flake, who resides at 10298 North Morgan Boulevard, stated that she is a realtor and has helped many people buy and sell homes in the area. She confirmed that the water pressure is an issue and at times, it is so low that it cannot be read by inspectors. She would like to ensure that there a fund is set up for future issues with the new homes as there are continued issues with the existing homes, including cracked foundations. The builder should be held responsible for foundation issues moving forward and the HOA should have a say in what is developed. Piers were identified as a possible solution to the foundation problems.

Evan Maw gave his address as 10403 North Morgan Boulevard and emphasized that the builder should be responsible for issues with the foundations. His home has 19 piers, and his neighbor has 16. If the builder is not held responsible, the HOA will likely get stuck with the repair costs. In addition, moving dirt with heavy machinery could potentially damage the nearby existing homes because of the vibration.

Daniel Decoopman, who resides at 10453 North Morgan Boulevard, addressed concerns regarding traffic and speeding. He asked about the Traffic Control Plan for the project and if water was

found in the Geotechnical Report. It was noted that there was no water found at nine feet. Mr. Decoopman did not feel that due diligence had been done. He was concerned about what the units will look like as no elevation plans have been shown. He also asked that the water pressure issue be addressed. He stated that third-party vibration assessments should be conducted before and after dirt compaction to ensure that no damage is done. Mr. Decoopman inquired about fire truck access on the cul-de-sac as well.

Lauren Hemelstrand gave her address as 10466 North Sage Vista Lane and addressed past mitigation issues. She stated that the HOA has spent \$1 million to fix some of the problems that the previous builders left behind. There have been many problems that the HOA has had to deal with that have come at a significant cost to the residents.

Ms. Loor gave her address as 10448 North Sage Lane and clarified that the units will be built regardless and explained that the water pressure is very poor. There are a lot of children in the neighborhood and traffic is heavy. She stated that the trash and debris should be removed daily to ensure the safety of residents.

Mr. Goodwin addressed the issues raised by the residents. He offered to sit down with Ms. Herlocker and the HOA and discuss their concerns further. With regard to the special fund for Phase 5, Mr. Goodwin stated that he would have to conduct some research to determine if it is something the City or the HOA can require of the builder.

Commissioner Dredge asked if the new homes are required to be included in the HOA. Mr. Goodwin explained that they would be included in the HOA. It is addressed in the original declaration and runs with the land. There was discussion regarding the legalities of changing the Covenants, Codes, and Restrictions (“CC&Rs”) that were submitted the previous day. It was determined that it would be a civil matter and legal advice would be necessary to answer any additional questions.

Mr. Goodwin addressed the issue of staging materials on the road and stated that during construction, the road is private property, and the developer can do whatever he needs to there until it is turned over to the City. The City cannot require the developer to sweep the streets every night, but they can require cleanup upon completion of the project.

The City may not be able to require the developer to construct a four-way stop at Morgan Boulevard and Sage Vista Lane. Mr. Goodwin explained that while there is a lot of talk about speeding, the majority of speeders are likely residents of the neighborhood. The City does not recommend placing speed bumps on hills, especially in potentially icy situations. The City has looked at installing solar-powered radar signs to help mitigate speeding on Morgan Boulevard. He explained that it is possible to request that the builder include a cut-out on the cul-de-sac to include parking spaces for guests, similar to what exists at the end of Morgan Boulevard.

It was noted that construction noise is regulated by Code. On weekdays, construction can commence at 7:00 a.m. and 9:00 a.m. on weekends.

Mr. Goodwin reported there are two storm systems in play on the subject property. The hard surface drainage collects the stormwater that hits the roads and cul-de-sac. It is collected in the culverts and drains into the City's storm drain system. It then goes into retention basins that are located throughout the community. The retention basins downstream were designed with this project in mind, so no modifications are necessary. For the surface drainage on the properties below, there is a surface drainage swale that collects the surface drainage. The project will have to maintain that ditch.

Commissioner Dodge asked if the storm system will capture the runoff from rooftops. Mr. Goodwin explained that like every lot in the City if rain falls on a property, it percolates there. The main issue is where the water runs off the hill, which is where the swale will be needed. Commissioner Dodge commented that areas with less impervious surface will require additional drainage. It was noted that the swale may need to be expanded. Commissioner Thomas suggested that an easement be placed on the drainage swale.

Mr. Goodwin addressed the issue of lack of privacy raised by several residents. Commissioner Dredge mentioned that the new subdivision build in his neighborhood has eliminated the mountain views. He was forced to deal with construction noise and was sympathetic to the concerns expressed. Mr. Goodwin explained that views are not protected by law and the maximum height of neighboring homes is clearly defined as up to 35 feet. The size of the cul-de-sac is called out by City standards. It must have a 100-foot radius so there is room for emergency vehicles to turn around. The proposed cul-de-sac will not accommodate a large ladder truck, so a brush truck will service the area.

It was noted that dust and water issues are part of the Storm Water Pollutant Protection Plan ("SWPPP"), which requires the developer to control the dust. Doing so may require the use of a water truck.

Water pressure issues have been an ongoing problem and the City is aware of them. The City Engineer has been consulted to help address them. The City has two water tanks, one for culinary water and the other for irrigation. Pumping water is expensive but due to the location of the tanks in relation to the well, it is necessary to pump the water uphill. The water is then released to the homes downhill. It is important to regulate the water coming down into the homes because otherwise there is too much pressure at the low end and the water could blow out all of the fixtures and pipes. The water goes through a Pressure Reduction Valve ("PRV"). Currently, there are two pressure zones. The City is attempting to relocate the zones so that the pressure is consistent. The City was actively addressing the problem.

Commissioner Anderson asked if the additional construction will negatively impact the water pressure situation. Mr. Goodwin was not qualified to answer the question and deferred to the City Engineer. Mr. Goodwin was willing to facilitate meetings between the builder and the residents to answer additional questions or concerns. They did not encounter water in the Geotechnical Report but because there are deficiencies in the report, the City will request that they dig deeper test pits that are more relevant to the project.

Commissioner Thomas asked about the slope of the road. Mr. Goodwin reported that it is less than 12%. There are options for mitigating speeds, but they will need to be discussed and agreed upon.

Ms. Herlocker again commented on speeding. Mr. Goodwin stated that he would talk to American Fork City officials regarding enforcement there but mentioned that there are issues with call volume and staffing in the Public Safety Department. Ms. Adams commented that streetlights may be a good way to slow down traffic.

Commissioner Dodge liked the idea of a four-way stop. Mr. Goodwin commented that many of the current problems exist without the project and are outside the purview of the Planning Commission.

Ms. Herlocker asked about the cul-de-sac retaining wall. There was discussion regarding engineered walls and the importance of keeping the water off the wall. Commissioner Dodge stated he walked the area and reported that the previous builder dumped concrete in the area. Mr. Goodwin stated that all construction debris will have to be removed before the road is built. Commissioner Dodge requested a meeting with the developer to discuss some of these issues. Mr. Goodwin agreed to facilitate a meeting.

Commissioner Dolenc asked about the storm drainage and specifically the runoff from the roofs. He stated if there had been any requirements for rain gutters, that water would run directly to the swale. There was discussion regarding the water issues and the potential need for a retaining wall. It was noted that there is a maintenance road off of Avondale Drive along the back property line with storm drain and sewer cleanouts. It was clarified that the maintenance road is not accessible from the cul-de-sac.

Commissioner Dodge was concerned that the Geotechnical Report did not meet the requirement from two years ago.

MOTION: Commissioner Thomas moved to table agenda item number four, the Preliminary Plan for the Cedars Townhomes Plat E, Phase 5, until a revised Geotechnical Report is completed. The motion was seconded by Commissioner Dodge. Vote on motion: Commissioner Anderson-Aye, Commissioner Dredge-Aye, Commissioner Dahl-Aye, Commissioner Thomas-Aye, Commissioner Dolenc-Aye, Commissioner Dodge-Aye. The motion passed unanimously.

6. Review/Recommendation and Public Hearing on the Preliminary Plan for Avanyu Acres Plat E in the H-1 Hillside Residential Zone.

Planning Associate, Jenny Peay stated that the Preliminary Plan originated from a building application for a swimming pool. The applicant, Mr. Haney, lives at 9531 North Aztec Drive and originally purchased property at 9560 North Canyon Road at the rear of his property from Douglas VanZant. It has since been recorded with the Utah County Recorder's Office. The applicant is proposing to build a swimming pool that would cross a Public Utility Easement ("PUE") on the west property line, adjacent to the newly acquired parcel. This would restrict and prohibit the use

for future public utilities. The City suggested that where Mr. Haney owns both parcels, creating Avanyu Acres Plat E to combine the original parcel with the strip and relocate the 10-foot PUE at the rear of the property. Staff recommended that a rear PUE be maintained for future utility use. There was discussion regarding clarification of the easements, locations, and the impact on other properties. It was also clarified that no non-conforming lots will be created from the proposed realignment. There is currently a fence around the applicant's property.

Chair Dredge opened the public hearing.

Dewey Garner gave his address as 9536 North Aztec Drive and stated that the subject property the applicant purchased had been overgrown with weeds. The applicant has done a nice job of cleaning it up. Mr. Garner confirmed that the property is completely fenced. He also said that Blue Stakes located the existing utilities before construction began. He did not object to the request.

Ms. Peay reported that Mr. Haney received HOA approval for the proposal.

MOTION: Commissioner Thomas moved to recommend approval to the City Council of the Preliminary and Final Plans for Avanyu Acres Plat E. The motion was seconded by Commissioner Dahl. Vote on motion: Commissioner Anderson-Aye, Commissioner Dahl-Aye, Commissioner Dolenc-Aye, Commissioner Dodge-Aye, Chair Dredge-Aye, Commissioner Thomas-Aye. The motion passed unanimously.

7. Review/Recommendation and Public Hearing on Amendments to City Code Title 10 Chapter 5 Related to Accessory Dwelling Units.

Ms. Peay presented the proposed amendment to include language that would be more consistent with the Utah State Legislature's House Bill 82. On May 11, 2021, Staff proposed amendments pertaining to regulations of Accessory Dwelling Units ("ADU"). Staff presented several verbiage changes including language specifying that an HOA may not prohibit an ADU within a residential zone where it was allowed as a conditional use. The term 'dwelling apartment' was also changed to 'dwelling unit' to comply with City Code. Language was also included to require compliance with all Building, Health, and Fire Codes. ADUs are prohibited in dwellings with a failing septic tank in response to HB-82. Another proposed change was to reduce the number of required parking spaces from two to one. Failure to comply may result in a lien against the property.

Staff identified the zones where ADUs are allowed. Ms. Peay reported the only zone that does not allow a conditional use ADU is the David Weekly Cedar Canyon subdivision. Staff would like to include language that would prohibit ADUs on lots smaller than 6,000 square feet in size, including townhomes.

Commissioner Thomas asked if they were taking away any existing rights. Ms. Peay addressed the bill and indicated where municipalities have jurisdiction to restrict ADUs on lots smaller than 6,000 square feet. This would help with parking and other issues on smaller lots.

This language can be added to the City Code; however, Staff would like to add it to prevent potential future issues.

Commissioner Thomas asked if there are existing ADUs in the townhomes. Ms. Peay stated that if there are any they would be grandfathered in. The City does not actively look for them. Mr. Goodwin stated that if they exist and are not registered, they would not be grandfathered in.

Mr. Goodwin brought up concerns about ADUs that are being rented for less than 30 days shall not be advertised as short-term rentals. HB-82 includes language prohibiting ADUs from being rented for less than 30 consecutive days. This was of concern since they do not want to restrict that, however, currently the Business Licensing Section of City Code there is a Short-Term Rental License. It requires an application for a Conditional Use Permit and a valid Business License. The City needs to come up with language that does not prohibit an ADU from being a Short-Term Rental (“STR”) but includes language to indicate that they must have a Conditional Use Permit and a valid Business License. It was confirmed that a Conditional Use Permit requires administrative approval.

Ms. Peay reported that another area of concern is separate utilities in the ADU. Language was included in HB-82 and Staff recommended including it in the City Code.

Commissioner Dahl asked for clarification regarding the separate utilities. Mr. Goodwin explained that it is best to not have separate utilities because it would incur additional impact fees. The State is encouraging cities to not charge impact fees for ADUs, and Cedar Hills has chosen not to, however, with separate utilities there is a separate impact, so the fees are unavoidable. Having one meter keeps the owner responsible for paying the utilities and makes it easier for the City and the homeowner to regulate.

Commissioner Anderson asked about the off-street parking requirement being decreased from two stalls to one and asked if that was included in the Bill. Mr. Goodwin confirmed that it was included

Ms. Peay reviewed the proposed language pertaining to short-term rentals and welcomed feedback from the Commission.

Commissioner Dolenc asked if the homeowner could be flexible with the ADU and how they can use it. Ms. Peay stated that it is possible, but they would need to obtain a Business License and Conditional Use Permit to meet the requirements. Commissioner Dolenc asked for clarification of the Conditional Use Permit and if the owner would have to apply twice for the use. Ms. Peay explained there are two conditional uses, so separate permits would be required. Discussion ensued on whether the process could be consolidated. Ms. Peay stated there is no requirement for a Business License with an ADU, but the STR requires one. Registration Fees also need to be paid.

Commissioner Anderson commented that separate permits would be better and have separate conditions. That way, the ability to revoke one or the other would exist. Ms. Peay stated that with the pending codification, the City has conditions and restrictions with respect to the ability to revoke if there is a violation.

Mr. Goodwin reported that as a City they have chosen to allow ADUs that can be used as an STR. If they are, a Business License is required since hotel taxes are involved. If there is a Code Amendment, the City can move forward with language for the 6,000 square-foot lot limit and pause the amended STR language until the end of the Legislative Session.

Chair Dredge opened the public hearing.

Mike Morgan gave his address as 9103 North Renaissance Drive and asked for clarification on where ADUs are permitted. It was confirmed that they are permitted in Renaissance subdivision. He was not opposed to ADUs but objected to the 6,000 square-foot lot limit. He asked for reconsideration of the 6,000 square-foot limit. Mr. Morgan stated that he plans to remain in his home for the rest of his life and may need someone to move in and take care of him.

Mr. Goodwin stated that there are options other than ADUs including single-room rentals. There may not be problems with ADUs on some lots less than 6,000 square feet and a line needs to be drawn.

Mr. Morgan asked why lot size determines whether an ADU is allowed. Commissioner Anderson explained that if the lot is smaller, the impact on the neighbors is greater because they are closer in proximity. He stated that it is a public policy issue. Mr. Morgan stated there are 20 feet between the homes in his neighborhood. Discussion ensued on this issue and Mr. Morgan's particular neighborhood. Commissioner Dolenc understood Mr. Morgan's desire to live in his home for the rest of his life and explained that the Code would not prohibit him from having a live-in caretaker. It would just not be an ADU. Commissioner Thomas stated there has been mention of density and the desire to preserve the character of the neighborhoods. The City is trying to mitigate that and looking at future impacts.

Mr. Goodwin reported there is no restriction on the number of ADUs and STRs allowed. He recommended taking time to conduct more research before making a final decision. Ms. Peay stated that according to the State Legislation, these restrictions are not required but the City is allowed to have them.

Commissioner Thomas agreed that because there is legislation in process regarding Short-Term Rentals, it would be beneficial to revisit the issue at a later date.

MOTION: Commissioner Anderson moved to table the proposed amendments to Cedar Hills City Code 10-5-32 related to Accessory Dwelling Units. The motion was seconded by Commissioner Thomas. Vote on motion: Commissioner Anderson-Aye, Commissioner Dahl-Aye, Commissioner Dolenc-Aye, Commissioner Dodge-Aye, Chair Dredge-Aye, Commissioner Thomas-Aye. The motion passed unanimously.

8. Discussion on the City's General Plan Land Use Element.

Mr. Goodwin shared the General Plan Draft Land Use Element and stated he would create a shared document that Commission Members could add comments to and bring that document back at the next meeting for discussion.

ADJOURNMENT

9. Adjourn.

MOTION: Commissioner Anderson moved to adjourn. Commissioner Thomas seconded the motion. The motion passed with the unanimous consent of the Commission.

This meeting adjourned at 8:24 p.m.

Approved:
February 22, 2022

/s/ Colleen A. Mulvey, MMC
City Recorder