

**Town of Hideout
Planning Commission Meeting Minutes
10860 North Hideout Trail
Hideout, Utah
March 25, 2019**

Present: Jerry Dwinell, Chair
Sara Goldkind
Kurt Shadle
Bruce Woelfle

Others: Ryan Taylor, Town Engineer

Absent: Vytas Rupinkas
Ralph Severini
Tony Matyszczyk

WORK SESSION

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Planning Commission Chair, Jerry Dwinell, called the Planning Commission Meeting to order at 4:27 p.m. and led the Pledge of Allegiance.

2. ROLL CALL

All members of the Town Council were present with the exception of Vytas Rupinkas, Ralph Severini, and Tony Matyszczyk, who were absent.

2. ADMINISTRATION: Introduction of Ryan Taylor, TO Engineers as the New Town Engineer and Discussion of Action Items.

Chair Dwinell introduced New Town Engineer, Ryan Taylor, and oriented him on the Town's engineering and administration procedures. He described the repository and explained that there are various options for how it can be structured. His preference was to create channels for each subdivision. Each channel provides for a conversation and a place to locate files. The procedure for calling into meetings was also described.

Chair Dwinell stressed that the top priority for the Planning Commission is the subdivision application process and making sure that the process is streamlined. He asked Mr. Taylor to use his expertise to analyze what should happen in concept and in reality. They want to make sure that when someone makes application that it matches the Town Code. It should be a two-stage process. It was noted that the first priority of the Planning Commission is the subdivision application process. The first step was to streamline it and then improve the process. The intent was to ensure that when an application is submitted, that the process is clear.

There was discussion about who will be handling the application process. Chair Dwinell stated that presently there is a lot of administrative frustration that they are trying to work through. The preference was to have developers interface with Mr. Taylor.

Ways to streamline the process were discussed. It was suggested that TO Engineers be appointed to serve as the Town's Zoning Administrator. Another option was to remove references to the Zoning Administrator and rewrite the entire process. Mr. Taylor met with Town Administrator, Jan McCosh who provided him with a list of things to be done. He commented that he likes the flexibility of the process. It was better for him to work from his office and have the paperwork in his possession.

Chair Dwinell explained that the Town needs help establishing a clean process to guide the Town through the subdivision application process. Until 90 days ago, the Town had never dealt with a zoning change or a conditional use permit. He wanted to make sure that both processes are clean and to be able to address applications as they are submitted. Chair Dwinell complimented Vytas Rupinskas for revamping the current forms to match the Code. He wanted to continue in that vein. They also want to require the right submittals at the right time. He did not want the process to become unnecessarily burdensome.

Mr. Taylor described how applications are reviewed. For conceptual approvals, they first identify significant items. They do not look at water and sewer beyond whether there is capacity. The preliminary review is much more in depth. Mr. Taylor suggested there be a concept phase. As a design engineer, he does not want to spend \$100,000 designing every detail of a development to then not have the support of the Planning Commission. It is helpful for developers to get feedback from the Planning Commission.

Mr. Taylor explained how billing from his firm will be done. With some municipalities he has a general account. They are not required to pay dues but simply have a general fee. At the end of the year, they look at all of the development fees received in addition to the general fees and determine whether it reflects the general fee. They then determine whether they balance out or if fees have to be increased. Another option would be to create an out-of-pocket account that would be funded at the time application is made. He questioned the commitment of a developer who is not willing to set up an out-of-pocket account. If someone is unwilling to deposit a few thousand dollars in an out-of-pocket account, they likely will not pursue the project and purchase and develop ground.

Mr. Taylor suggested the process be formalized. Mr. Taylor wanted to avoid situations where applicants write checks to him. Instead, they should make checks out to the Town who then issues a check to Mr. Taylor. Although burdensome, it is the proper way to do it. He stressed that the Town needs to formalize the process. Mr. Taylor commented that an applicant putting down \$2,500 or \$5,000 lets him know they are serious. At that point, an account would be established.

Procedural issues were discussed, and the preliminary and final approval processes were described. Chair Dwinell preferred to have Mr. Taylor present at Planning Commission Meetings when requests are presented and be able to give feedback. Mr. Taylor would present the request during

the meeting and describe the proposal. The applicant will then have an opportunity to comment. Mr. Taylor will then identify potential issues and concerns with the request as well as the highlights and his recommendation. The developer will then give his point of view and potentially rebut Mr. Taylor's recommendation. In terms of what applicants should submit, he recommended they be conceptual. Submittals at that stage should be light on detail so that applicants are not forced to spend large amounts of money on design work that is fundamentally lost. They should, however, make sure they are in compliance with Code.

Mr. Taylor suggested that preliminary approval remain at a very high level and have final approval serve as a second opportunity to review the request. The bar has been raised to where preliminary approval is similar to final. Concern was expressed that final approval should not be a rubberstamp. Mr. Taylor explained that at the preliminary stage they are still looking at the details of the overall plan. Final approval will be done one phase at a time. If preliminary and final approval are kept at very high levels, final will serve as a second opportunity for review.

Zone change applications were discussed. Chair Dwinell considered that process to be the best defined in the current Code in that there is a lot of flexibility given to the Planning Commission. One objective was to ensure that it furthers the goals of the General Plan. Ways to clarify the language were identified and rules to be followed were described. Mr. Taylor explained with zone changes there are rules that need to be followed. He works for several jurisdictions that make sure that they never have a unanimous vote. This tells a judge that the matter was reasonably debated. During meetings, it was suggested that there be discussion to ensure that a request is reasonably debated. Every effort should be made to avoid being "arbitrary and capricious". The desire was to have standards in place but allow enough flexibility that the Planning Commission can reasonably weigh the issues before them. Mr. Taylor commented that with respect to zone changes, the Planning Commission is the land use authority. The decision to change the zoning is at the discretion of the Planning Commission. It was suggested that with respect to plat amendments, that they go directly to the Planning Commission.

Conditional use permit issues were discussed in detail. It was suggested that any uses that are not desired be removed from the list. Conditions should be imposed to mitigate negative impacts created by a use. The issue of moratoriums was addressed. Mr. Taylor questioned why single-family housing is listed as a conditional use if the Planning Commission is never going to be opposed to it. Chair Dwinell explained that the issue with the Mountain Zone is that there is one area with significant setback restrictions. The intent is to allow a greater ERU density or to relax some of the setbacks because perhaps a lot is odd-shaped. That sounded more like a variance to Mr. Taylor than a condition. To him a conditional use is one where conditions are imposed to mitigate negative impacts. A lot that is odd-shaped involves a variance or an exception and not a condition.

A variance can be addressed with the Board of Adjustment. An applicant would submit an application and if it does not comply with Code, Mr. Taylor would recommend that the Planning Commission deny the request because they have to follow the Code. At that point, the applicant would appeal the decision to the Board of Adjustment. If they meet certain criteria they would be granted a variance. Mr. Taylor indicated that in Midway the Board of Adjustment consists of one person. His opinion is that one person should not have that much control.

Developers will likely want to receive variance approval before getting too far through the process. For the Town, however, it is a two-step process. Mr. Taylor commented that an applicant would prefer to get an answer early on in the process. It was suggested that the Town Attorney be contacted to determine whether the Planning Commission can grant variances. They can certainly hear the request and make a recommendation to the Town Council who can choose to follow the recommendation or not. Mr. Taylor stated that in his experience, the Board of Adjustment has been comprised of one person up to a board that does not overlap. His experience was that the Town can do what they want but deferred to the Town Attorney.

Procedures for allowing public comment during meetings was addressed. Comments can be limited in duration. Developers want to feel as though they have been heard. When the Planning Commission is leaning toward recommending approval, a developer should not comment. It was suggested that the Town have a process in place that will be adhered to. If someone is requesting a building permit, any issues with the HOA would have to be resolved. There are setback and building permits and staff would look at all aspects of the project prior to issuing a building permit. Alternatively, if a setback is violated, a building permit would not be issued. Instances warranting approval and denial were described. Mr. Taylor commented that if a request meets all of the rules, it will be approved. If it does not meet the rules, one person should not get a say in that. A process should be in place addressing how to handle various situations.

A question was raised as to why a conditional use permit is needed for an electric utility that already exists. Mr. Taylor explained that often with public facilities such as a water treatment plant, water storage, and electrical utilities, the Town will ultimately give itself permission to build. Utilities that are not owned by the Town may require the imposition of conditions. With electrical transmission lines, Mr. Taylor stated that they are usually small. If, however a major transmission line is proposed through the Town, there will need to be significant review. He recommended that the Town limit the number of conditional uses to as few as possible but doubted that all could be eliminated.

Mr. Taylor stated that if the desire was to eliminate them all, they should look closely and make sure that the list is comprehensive. The comment was made that if a conditional use is on the list and an applicant wants it, they are going to get. It was suggested that as much of that power be taken away as possible.

It was noted that the Town has already approved the list of conditional uses in the Mountain Zone. Once they eliminate the others, a use would become legal non-conforming. Mr. Taylor stated that the intent would be to have the Town's Code be as perfect as possible with the understanding that it is a work in progress. Every jurisdiction he has ever worked with has the current code and a list of future changes. He indicated that it will always be a work in progress. He wanted to keep expectations in check and stated that they will never get it completely right.

With respect to MDAs (Master Development Agreements), they need a better document showing what each MDA requires. It was estimated that the Town has a handful of MDAs, which would warrant a list.

Fee review issues were next addressed. Chair Dwinell stated that a determination should be made as to whether the Town is charging enough. Currently, there is no fee for conceptual review and there was some question as to whether they should be. It was suggested that there be further review of the fees that are charged. Mr. Taylor suggested charging for time and expense. He explained that it takes time and money for the Council to meet and expenses are incurred. Anytime a matter is brought to the Commission there should be a fee associated with it. Ways to make the processing of applications flow more smoothly were described.

Commissioner Goldkind recognized that the to-do list is lengthy but wondered if they should get the application fees in order first to avoid losing money as they go forward. Mr. Taylor agreed and stated that setting up an out-of-pocket procedure would be the first step to making sure they are collecting and that development is paying its way. Other entities he works for frequently prepare a consolidated fee schedule, which is reviewed and modified on an annual basis. Commissioner Goldkind liked that idea.

It was noted that the MDAs could drop but that is not likely to happen. All of the unclaimed land has been claimed at this point. It was suggested that Title 10 be reviewed, revised, or replaced and remove overlaps. Mr. Taylor stated that there is a lot of redundancy in Title 11. It was suggested that both be replaced. He pointed out that some items do not pertain to zoning and are in the wrong place. Mr. Taylor stressed the need to make meaningful progress in the short-term, which may require multiple attempts.

Chair Dwinell stated that the existing Code lists the RSPA as a sibling of all of the other zones. The debate is that the RSPA is actually the parent zone with overlays. That is not what the Code says but the Town Attorney considers that to be a valid interpretation. Chair Dwinell saw no reason for zoning if everything is RSPA and 1.5. He did not know how that can be done without rezoning the entire Town.

Annexation issues were discussed as well as limitations that exist. Because they cannot go back, the best they can do is address it now. With regard to the annexation process, it has only been done a few times that Chair Dwinell was aware of. He learned within the past few weeks that the annexation is done by granting a conditional use permit with conditions, which did not make sense to him. He did not see anything in Title 10 or 11 that addresses it and questioned whether there was some process they ought to be following when considering an annexation including a financial impact analysis. Mr. Taylor stated that the Town should determine whether they have the financial means to pursue an annexation. He noted that Heber City is going through a study where they hired a consultant to determine whether they can take on service in an annexation area. In the case of the Town of Hideout, there are a few parcels that want to annex in but they need to first understand the implications.

Mr. Taylor recommended that with respect to annexations and zone and code changes, the Planning Commission initiates the process. Outside of that, these types of issues should be heard once per year at which time a public hearing is conducted. The Town has no real interest either way and they have the right to file an application if they wish to. The exception is that the Town Council and the Planning Commission can do what they choose. If at any time, the Council or Commission want to hear a request immediately, they can expedite the public hearing process.

The annexation petition process was described. It would involve the applicant or property owner filing a petition with the Town, who would have a very narrow timeframe to accept or deny the request. They do not have to accept or approve but have to acknowledge receipt. Once an application is accepted, the Planning Commission will review it and schedule a public hearing. They also need to perform a financial analysis. Mr. Taylor suggested they identify the next available meeting over the next 30 days at which time they would accept or reject the application. Mr. Taylor was asked to provide solid examples and options going forward. The list referred to was believed to be a good starting point. From a priority standpoint, Chair Dwinell suggested that they allow Mr. Taylor to report back.

As discussed earlier, Commissioner Goldkind suggested that they focus on the application fees and increase them to a proper level. Mr. Taylor stated that he has reviewed Deer Springs Phase 1 against the Town Code. He stated that there is a fine line between him helping design a project. If he doesn't cross that line they get stuck. At the same time, his job is to review requests and make sure that the Code is complied with but not to redesign a project. Based on what has been discussed, Mr. Taylor expected all developers to be unhappy and push back. He agreed to provide more detail and be more descriptive in terms of what is desired. That may involve the Planning Commission receiving complaints. There were a few items included that he did not think developers can be required to comply with such as a 30-foot road easement. He thought it was inadequate and should be greater. He suggested a total of 50 feet with 35 feet for the road including asphalt, curb, and gutter, four to five feet of snow storage, and a sidewalk. Beneath it will be the water and sewer lines and storm drain and dry utilities. At that point he will have six or seven trenches in the road right off the bat. A secondary water line is another utility. Sometimes there are trunk lines as well and two sewers or two waters so there could easily be 10 pipes in the ground. There was some question as to whether there is adequate capacity.

A question was raised about telecommunications. It was noted that in the Town Council section, one of the items addressed Telecommunication Franchise Agreements and specified what needs to be there. The second involved the engineering review of the grading construction on applications. In response to a question raised, Mr. Taylor explained that the road standards identify where the utilities should be located.

Mr. Taylor stated that it is difficult for developers to deal with franchise fees. Dominion Energy specifically will not provide developers with a plan and will not work with them. They typically wait until the subdivision is in and then come up with a plan at which time they file for their own permits. The comment was made that if the Town has a vested interest UTOPIA being successful, there should be standards in place. The comment was made that there is no commitment from All West to do anything beyond what is necessary. There was some question as to whether the Town can require them to show conduit they are going to use. Mr. Taylor stated that that can be accomplished by contacting UTOPIA's engineer, providing him with the Town's standards, and then encompassing that into the Town's standards and specify the type and size of conduit that is acceptable in any given location. If the standards are not specified, they will never be met. Mr. Taylor suggested the Commission check with the Town Attorney to make sure that the standards are not overly specific.

Ways to write the standards to accomplish what is desired were described. Mr. Taylor commented that having specific standards in place will make his job much easier but warned against being too specific and favoring one product over another. It was suggested that developers be asked to install conduit as part of the process. It was noted that every developer has to put conduit into the specifications of the Town. If there are shortfalls, the Town must guarantee UTOPIA that shortfall amount. He suggested the standards not be one-sided. Chair Dwinell asked if the developer can be asked to install conduit as part of the process. Mr. Taylor saw no reason that could not happen and suggested they look into it further.

Mr. Taylor stated that the next step will be to establish a budget for his services. Chair Dwinell explained that they are currently beginning the budget process. The fees set will need to cover the administrative costs incurred by the Town. Mr. Taylor stated that the fees will be development based.

The next meeting was scheduled for Thursday, April 4 at 6:00 p.m.

Commissioner Shadle moved to adjourn. Commissioner Goldkind seconded the motion. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at 6:23 p.m.