

Minutes
Town of Hideout
Planning Commission Public Hearing and Regular Meeting
February 18, 2021

The Planning Commission of Hideout, Wasatch County, Utah met in Regular Meeting on February 18, 2021 at 6:00 PM electronically via Zoom meeting due to the ongoing COVID-19 pandemic.

Public Hearing and Regular Meeting

I. Call to Order and Reading of Chair Matyszczyk's No Anchor Site Determination Letter

Chair Matyszczyk called the meeting to order at 6:04 PM and read the no anchor site determination letter in its entirety. All attendees were present electronically.

II. Roll Call

PRESENT: Chair Tony Matyszczyk
Commissioner Ryan Sapp
Commissioner Glynnis Tihansky
Commissioner Donna Turner
Commissioner Bruce Woelfle
Commissioner Rachel Cooper (alternate)

STAFF PRESENT: Thomas Eddington, Town Planner
Polly McLean, Town Attorney
Ryan Taylor, Town Engineer
Alicia Fairbourne, Town Clerk
Kathleen Hopkins, Deputy Town Clerk

OTHERS IN ATTENDANCE: Mary Freeman, Robert Green, Jeffrey Skovronsky, Grant Petersen, Sheri Jacobs, Kathy McGlaughlin, Keith Marmer, Kurt Shadle, Frank Pizz, Tom Sly, Dale Aychman, Larry Goldkind, Amy Cribbs, Brett Rutter, Greg Faulconer, Glen Gabler, Carol Haselton, Brian Cooper, John Leone and others who may not have signed in using proper names via Zoom.

III. Public Hearings

1. Public Hearing for Shoreline Phase 3 Subdivision (continued to March 18, 2021 Planning Commission Meeting)

Chair Matyszczyk stated the public hearing would be continued to the March 18, 2021 Planning Commission meeting when the developer would make its presentation, but he invited any members of the public in attendance to either comment at this time or attend the March meeting which would also be open for public comment.

Mr. Kurt Shadle stated the approval of Shoreline Phase III was the first chance an impartial town leadership would be asked to approve any part of this development. Prior approvals of Phases I and II of the development had been made by the previous conflicted town administration which led to the approval of a very dense and poorly planned project. He noted while the interiors of the homes were nice, the exteriors and unit layout violated good planning concepts.

Mr. Shadle detailed his concerns with density and crowding and a lack of open space in the proposed Phase III development. He requested the Planning Commission carefully evaluate how the developer arrived at the proposed density calculations and request a complete redesign of the dwelling units to address these issues. He noted maximizing the developer's profits was not in the best interest of the town or its residents. He further noted the extensive unresolved complaints of homeowners in Shoreline Phases I and II and requested the Planning Commission consider tabling any approvals of Phase III until it was satisfied that these construction deficiencies were resolved and would not be replicated in the new phase.

Mr. Shadle read a statement from Town Council Member Bob Nadelberg who was unable to attend the hearing. Council Member Nadelberg's statement reflected his concerns as both a Hideout resident and Town Council member regarding the proposed plans for Shoreline future development. He stated the housing density would adversely impact the community in terms of the area's natural beauty, infrastructure, property values and safety. Had he been on the Town Council or Planning Commission at the time the Shoreline project was in the approval stages he would have voted against it. He stated when he bought property in Hideout five years ago, the community was represented to him by the developer as having open spaces with gorgeous views and a good mix of housing options. After he moved in, the developer and Town Council conducted a meeting which could effectively be described as clandestine and changed the zoning to allow more high-density multi-family housing thus altering forever the original design of Hideout. He added this approval occurred at a holiday time and with short notice provided so that it was not made known to residents until it was too late. He felt this was unethical and was part of his motivation to volunteer to join the Town Council. He stated he would like to see a better mix of housing options to include more single-family homes of which he believed there was a shortage. Furthermore, and on a related note, he would like to see Shoreline developer GCD do a better job of honoring the warranty work on existing homes before embarking on any new endeavors.

Mr. Brian Cooper (Shoreline homeowner and member of the town's Infrastructure Committee) read a letter from Shoreline homeowner Mr. Kip Freeman to the Town Council and Planning Commission (which was subsequently entered into the record). Mr. Freeman's letter requested a 30-day moratorium be placed on approval of any new developments or construction in the town to provide time for the town engineer and committees to review the current processes for approval of construction, performing intermediary inspections and issuing occupancy permits. He shared a list of deficiencies within his neighborhood (Shoreline Phase I) which suggest a widespread problem in the town's processes that warranted a standdown to review the process and institute corrective actions and mitigations. The letter went on to detail at least four homes with sewer backups, flooding basements or filling bathtubs on the lower levels. Some findings had suggested material failure of the pipes or valves, and others were still under investigation. He suggested the

town should investigate whether it approved original plans that were deficient in design or material requirements, if items were missed during inspections or if there was some other cause that appeared to be non-random but a systematic issue.

Mr. Freeman's letter also noted certain utilities were not installed per the plans approved by the town. There were manholes and distribution boxes installed in areas originally designated as parking pads in the neighborhood, and irrigation lines were not installed consistent with the approved plans. He suggested the town should review its approval processes to ensure developers follow plans as approved or properly updated prior to making any deviations from the plans. He also noted concerns regarding low water pressure in certain areas around town and the convoluted sewer line system currently in place. He stated his home was issued a certificate of occupancy (CO) with an inappropriately mounted electrical power box and with wires behind a vanity left hanging behind the wall rather than being properly installed in an electrical box. These issues remained unresolved after two years. He suggested that either a CO should not have been issued, or a temporary CO should have been issued with a sufficient bond posted to cover the costs if the issues were not remedied prior to the expiration of the temporary CO. He suggested the town should review and enhance its approval processes prior to moving forward with any annexation. He added if during this review, the town identified any specific developers who were the cause of such problems, the town should consider placing a 30-day moratorium on any further project approvals for these individual developers to provide time for these developers to provide corrective action plans to address their deficiencies.

Mr. Cooper shared feedback on the Infrastructure Committee's work with the town engineer to provide independent inspections of certain Shoreline homes, and noted all homes (including his own) had similar problems with the wiring behind vanities which did not meet the electrical code. He added the town engineer would write up the findings of the independent inspections. He stated GCD had reported it performed video inspections of all the lateral and main sewer lines of the Shoreline Phase I units, but to date had not shared the results or copies of the actual videos. Mr. Cooper suggested the town request copies of these videos and have an independent assessment of the results as he did not trust GCD to evaluate them properly.

Mr. Cooper added he agreed with Mr. Freeman's suggestions for the need to improve the approval process and added he would like to have the builder required to remedy the outstanding homeowner issues. He noted it was within the town's rights to require additional inspections and noted the need for electrical and sewer work to be inspected more thoroughly and frequently.

Commissioner Cooper noted a house with a complete basement flood in the last week which damaged most of the lower level. Mr. Cooper suggested the problems stemmed from either a poor design, improper installations or possibly both, and noted the importance in understanding existing problems to avoid similar problems occurring in future developments.

Commissioner Tihansky noted she was not aware of similar issues with her neighbors in Shoreline Phase II. She shared her concerns regarding the lack of off-street parking in the proposed Phase III plan as well as the narrow streets and asked if Phase III would fall under

current or old town code. Town Planner, Thomas Eddington responded Phase III would fall under old code for zoning district and setbacks; Town Attorney Polly McLean concurred.

Commissioner Tihansky agreed the town should hold GCD's feet to the fire to the extent possible regarding these fixes before approving any additional development.

Ms. McLean stated she understood these frustrations but noted from a legal perspective, once certain legal entitlements were granted or vested, they were very difficult to rescind. She noted the current town administration was working to ensure the developer would comply with current code to the extent possible but noted certain aspects of the plan were vested with the original approvals. Mr. Eddington added he was reviewing the overall Master Homeowners Association (HOA) agreement regarding density counts.

Mr. Shadle asked if, given the structural problems in Shoreline Phases I and II, could consideration of Phase III be stopped given health and safety issues associated with the developer's existing work. Ms. McLean noted these issues were somewhat independent of each other. The new development would be required to meet current health and safety standards and town code, but unfortunately the builder was still entitled to move forward based on the original approvals granted regardless of the issues noted regarding the existing development. She noted the town could set bonding requirements based on prior experience.

Mr. Cooper asked if rules for completion bonds could be changed based on prior experience and cited evidence of the sewer problems discussed. Ms. McLean responded everyone must be treated the same, and the town cannot single out this developer. She stressed the current town administration would be seeking to ensure adherence to the building code to a higher degree than it appeared was done previously.

Town Engineer, Mr. Ryan Taylor added while it would not be possible to arbitrarily treat this subdivision differently than others, the current inspection and bonding program was more robust than under the previous town administration. He expected to see larger and more bonding requirements moving forward.

Mr. Cooper noted the Infrastructure Committee and town engineer were working with an independent geo-tech engineer to review the issues with slope erosion and raveling issues along Shoreline Drive and Shoreline Court and would provide options and cost estimates for remediation to be presented to GCD. Mr. Taylor noted Phase III did not have the same slope issues as Phases I and II.

Mr. Dale Aychman, (Shoreline Phase I homeowner) shared his experiences with sewer backups, roof leaks with resulting mold remediation and water infiltration from his garage to the bonus room, all of which he attributed to a combination of poor design and workmanship. He stated his concerns with the plan for Phase III to be built on fill dirt and asked whether it would be stable, as well as how the stability of the fill would be evaluated. He noted a neighbor had experienced problems with sinking. Mr. Aychman also shared his concerns regarding density, open space and parking within the proposed plan. He added the developer GCD had not been responsive in addressing a host of issues including ongoing sewage odor in his home and suggested the town would not want new residents of Phase III to have similar problems in the future. He stated it seemed that GCD was more interested selling additional units than in addressing problems of existing customers.

Ms. Mary Freeman reiterated the comments shared in Mr. Kip Freeman's letter and suggested the town look inward at its policies and procedures to learn from past mistakes. Mr. Taylor responded his firm assumed responsibility for engineering review between construction of Phases I and II and noted significant improvements and more involvement in conducting inspections than was done previously. He noted the Phase III plans were the first his team was involved in reviewing and noted the report prepared for the Planning Commission which included their comments and concerns. He stated in the past it seemed that changes were made in the field and accepted after the fact, but this was no longer the process. He added his team would be on-site throughout the construction process and would monitor any changes to the approved plans and escalate them to the Planning Commission for approval as necessary. Mr. Eddington added since Phase I was approved, the town had re-written the entire zoning code and building standards which would be in effect for Phase III construction. He noted the zoning and setbacks were grandfathered in based on prior approvals, but the new building and development standards would be applied to this phase.

Ms. Freeman asked for assurances that proper staffing would be in place to monitor all aspects of the new development to insure adherence to the approved plans. Mr. Taylor stated there was regular on-site monitoring and inspection for all construction.

Mr. Shadle asked if the builder had the right to build on the soil currently moved onsite for Phase III. Mr. Taylor responded a permit was granted for mass excavation and he was involved in reviewing the reports on the status of the work. He added the issuance of excavation permits was an administrative matter that did not require Planning Commission review. Mr. Shadle suggested the Planning Commission take a role in approval of such permits.

Mr. Cooper asked if two years was sufficient time for proper settlement of fill. Mr. Taylor responded it depended on various factors including soil type, moisture content and compaction and added this would be evaluated by his firm's geo-tech engineer as part of the approval process.

Mr. Bret Rutter stated he understood the issues with grandfathered approvals and suggested future buyers should be warned regarding potential deficiencies such as narrow streets, parking, compacted soils and other problems under discussion. He suggested the town should be an advocate to future potential residents, and hopefully this would put pressure on the builder to address existing issues and design a better development.

Town Council Member Carol Haselton noted the town was working to improve its reputation and hoped GCD would take the appropriate steps to address these issues to improve its reputation as well. In addition to all the items already discussed, she added there were ongoing health and safety issues associated with water heater and furnace installations resulting in gas and odor problems within some homes. She stressed GCD's reputation was at stake as well as the town's.

Mr. Tom Sly noted his familiarity with the GCD issues discussed and shared his frustrations with the design review approval process which could also negatively impact the town's reputation. He shared his experience building in Hideout and noted design approval took five months in Hideout versus 4-6 weeks in other towns. He noted this had resulted in falling lot prices and could cause potential residents to question whether it was worth building in Hideout. He suggested the community should address this problem. Mr.

Eddington noted the design review committee (DRC) fell under the town's Master HOA and Chair Matyszczyk added unfortunately there was no representation of the town council, planning commission or homeowners on DRC. Commissioner Woelfle added future developments would be created with DRC's with representatives of the town, and input from the town planner.

Mr. Sly also shared his experience building in Longview and the incorrect water/sewer plans the town provided which resulted in extensive additional excavation costs. He asked the Planning Commission to consider obtaining all such plans so future homeowners did not experience the problems he did. Mr. Taylor noted the town was working to locate all "as-built" plans for existing properties, and currently required them for new development.

Mr. Larry Goldkind stated he was a five-year resident of Hideout and was happy in town even with the frustrations discussed. He asked what potential legal options the town had regarding Phase III, given the constraints discussed that might form a legal basis to prohibit it's moving forward. He noted this discussion was futile if in fact the town had no recourse to stop the project as proposed. Ms. McLean responded most of the issues discussed regarding problems with Phase I and II were between the homeowners and the developer; the town had taken steps to ensure that prior inspections were done properly. However, the town did issue CO's to these homes and at this point she did not see evidence that would give the town any cause of action against the developer, although homeowners and the HOA possibly did and should consult their attorneys. Chair Matyszczyk added the HOA was still controlled by the developer and would not be transferred until all problems were fixed.

Commissioner Cooper asked if Phase II homeowners had been surveyed to determine whether they had experienced similar issues. Mr. Taylor responded his firm was not involved in any 90-day inspections but was involved in building code inspections where they were catching problems and issuing fails where problems were found. He noted they could not catch everything but felt the current inspection program was as good as that of any municipality. He also stated inspections were made to the international building code standard, not necessarily to the highest "well built" standards.

In response to a question from Commissioner Turner, Mr. Taylor responded his firm did not conduct the inspections on most of Phase I. His firm assumed responsibility midway through construction but did have copies of the previous inspections.

Commissioner Tihansky noted her experience with the developer where she had an approximately ten item punch list from the 90-day inspection. She stated all but two items were minor and properly fixed, and the remaining items outstanding could not be addressed until the spring.

Commissioner Turner asked about a legal process for having warranties addressed and noted her personal experience with multiple leaks and outstanding cosmetic issues. She asked if there was basis for a class action lawsuit. Mr. Shadle commented these issues were related to inspections more so than for the Planning Commission's consideration. He urged the Planning Commission, when GCD appeared next month, to use all the issues discussed here to come up with a solution to force GCD to re-design Phase III to be less dense, provide more open space and to improve the quality of the town and neighborhood. He suggested if the development of Phase III was significantly slowed down with potential legal action, bad publicity, and loss of new construction, perhaps the developer would take these comments

on the proposed development into consideration and fix the historical problems in order to move forward.

Commissioner Woelfle thanked the commenters for their input and agreed to take their comments into consideration.

There being no further comments, the public hearing was closed at 7:09 PM.

IV. Approval of Meeting Minutes

January 21, 2021 Planning Commission Minutes

There were no comments on the minutes.

Motion: Commissioner Tihansky made the motion to approve the January 21, 2021 Planning Commission Minutes. Commissioner Turner made the second. Voting Aye: Commissioners Matyszczyk, Sapp, Tihansky, Turner and Woelfle. Voting Nay: None. The motion carried.

V. Agenda Items

1. Recommendation of Dark Skies Ordinance for Town Council

Commissioner Woelfle led the review of the updated draft of the Dark Skies ordinance. He discussed the process for potential Dark Skies certification including on-going education requirements. Commissioner Sapp stated it would be worthwhile to attempt meeting the certification standards

Commissioner Tihansky asked who owned and operated the golf course. Commissioner Woelfle responded it was the Master Developer, not the town. Commissioner Woelfle noted the certification process was 1-3 years and would start with adoption of the ordinance. Other steps would be completed over time. He added if the annexation was completed, perhaps the town could partner with a future school on the ongoing education component. Mr. Eddington suggested the University of Utah might also be a good potential partner for this.

The commissioners discussed various items within the draft ordinance. Ms. McLean noted town ordinances were meant to be living documents and could be amended in the future to accommodate changing needs of the town.

The Planning Commission accepted questions and comments from members of the public:

Ms. Kathy McGlaughlin noted the HOA's controlled the outside lights in certain communities and shared her thoughts on the proposed enforcement terms.

Mr. John Leone asked if the existing lights in Shoreline Phases I and II would be in violation if continued to be on all night.

Mr. Rutter agreed with the desire to promote dark skies but asked how to practically balance the proposed penalties and enforcements for inadvertent, one-time violations versus for repeat offenses. He noted with proper community education, any issuance of fines should be a last resort. Ms. McLean noted the enforcement procedures could be revised in the future if necessary.

Mr. Sly noted he had lived in communities with Dark Skies ordinances and stated good communication was a key to success. He agreed some level of friendly neighbor support would be beneficial in getting the program established. He volunteered to help with the community education program when the time comes. Ms. McGlaughlin also volunteered to help with this initiative.

Mr. Leone suggested the consideration of dimmers to lower the HOA controlled lighting after a certain hour. He asked about any potential safety tradeoffs if minimizing certain security lighting and whether potential liability risk was being considered. Commissioner Woelfle noted the suggestions for dimmers, timers and motion sensors would provide sufficient security lighting while adhering to the dark skies objectives. Ms. McLean stated she did not have liability concerns regarding the proposed ordinance. Mr. Cooper volunteered to identify the existing Shoreline light sensor locations and research potential dimmer and motion sensor options.

Commissioner Tihansky left the meeting at approximately 8:30 PM and Commissioner Cooper assumed a voting role.

Motion: Commissioner Turner made the motion to forward a positive recommendation to the Town Council of the proposed Dark Skies ordinance to include the amendments as discussed. Commissioner Woelfle made the second. Voting Aye: Commissioners Cooper, Matyszczyk, Sapp, Turner and Woelfle. Voting Nay: None. The motion carried.

2. General Planning Updates

There was no discussion on this topic


VI. Meeting Adjournment

There being no further business, Chair Matyszczyk asked for the meeting to be adjourned.

Motion: Commissioner Woelfle made the motion to adjourn the meeting. Commissioner Turner made the second. Voting Aye: Commissioners Cooper, Matyszczyk, Turner, Sapp, and Woelfle. Voting Nay: None. The motion carried.

The meeting adjourned at 8:39 PM.




Kathleen Hopkins, Deputy Town Clerk