

Minutes taken at the Town of Apple Valley, Regular Planning Commission meeting that was held on the 9th day of June, 2011 at 7:00 pm at the Smithsonian Fire Department Building, 1777 N. Meadowlark Drive, Apple Valley, Utah 84737.

1. The meeting was called to order at 7:00 pm.
2. The Pledge of Allegiance was led by Dick Naylor.
3. Roll Call: Roger Ashmore, Todd Stratton, Dick Naylor, and Kevin Sair were present. Mike Cooke and Dale Beddo were excused. Gary Kuhlmann, legal counsel, was present. Nathan Bronemann, Town Clerk, took minutes.
4. Declarations of conflict of interests.

None Stated.

5. Planning Commission Training provided by Town Attorney, Gary Kuhlmann.

Gary Kuhlman discussed Open Meetings and Procedure. (See Attached.)

Gary Kuhlman also added that in order for a motion to be debated, it must first be seconded. If an item is to be tabled, it should be tabled until a specific date. If there is no date, that item remains in existence until that item is taken from the table by a passed motion. If an item is tabled for too long a period, the Town Council can address the issue and make a decision without the consent of the Planning Commission.

Gary Kuhlman explained that if there is a conflict of interest, or a personal benefit or detriment (direct or indirect) that it must be disclosed publicly in a meeting and annually in writing. Although State law does not prohibit discussing and voting on items with which a person has a conflict of interest, it is highly recommended not to do so, as this may violate the State ethics act.

6. Consider approval of minutes:
 - a. May 12, 2011 Regular Meeting Minutes.
Motion made by Roger Ashmore to approve the minutes. Todd Stratton seconded the motion. Vote: Roger Ashmore-yes, Todd Stratton-yes, Dick Naylor-yes. Motion passed 3/0.

Roger Ashmore mentioned that he had some information explaining PUDs, and distributed that information to the other Commissioners. (See Attached Zoning Ordinance.)

7. Adjournment.

Motion made by Todd Stratton to adjourn the meeting. Roger Ashmore seconded the motion. Vote: Roger Ashmore-yes, Todd Stratton-yes, Dick Naylor-yes. Motion passed 3/0.

Meeting adjourned at 8:09 pm.

ATTEST BY: _____
Nathan Bronemann

Dick Naylor
Planning Commission Chairman

OPEN MEETINGS AND PROCEDURE

I. OPEN MEETINGS.

A. Purpose of Open Meetings

“It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
(a) take their actions openly; and (b) conduct their deliberations openly.”

B. Definitions:

"Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

"Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.

"Meeting" does not mean: (i) a chance meeting; (ii) a social meeting;

"Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

"Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

C. Meetings Open

“A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.”

D. Notice of Meetings.

Not less than 24 hours public notice of each meeting including the meeting:

- (a) agenda;
- (b) date;
- (c) time; and
- (d) place.

A public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule. The public notice shall specify the date, time, and place of the scheduled meetings.

Public notice is satisfied by:

- (i) posting written notice:
 - (A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and
 - (B) on the Utah Public Notice Website; and
- (ii) providing notice to:
 - (A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or
 - (B) a local media correspondent.

The notice requirement may be disregarded if:

- (i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
- (ii) the public body gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and
 - (B) the topics to be considered at the emergency meeting.

An emergency meeting of a public body may not be held unless:

- (i) an attempt has been made to notify all the members of the public body; and
- (ii) a majority of the members of the public body approve the meeting.

A public notice that is required to include an agenda shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

At the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

Except for emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

- (i) listed under an agenda item; and
- (ii) included with the advance public notice required by this section.

E. Minutes and Recordings.

Written minutes and a recording shall be kept of all open meetings.

F. Closed Meetings.

A closed meeting may be held if:

- (i) a quorum is present;
- (ii) the meeting is an open meeting for which notice has been given; and
- (iii) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205. An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

- (a) the reason or reasons for holding the closed meeting;
- (b) the location where the closed meeting will be held; and
- (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

Nothing in the open meetings provisions shall be construed to require any meeting to be closed to the public.

A closed meeting may only be held for:

- (a) discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
 - (i) disclose the appraisal or estimated value of the property under consideration; or
 - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
 - (i) public discussion of the transaction would:
 - (A) disclose the appraisal or estimated value of the property under consideration; or
 - (B) prevent the public body from completing the transaction on the best possible terms;
 - (ii) the public body previously gave public notice that the property would be offered for sale; and
 - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct; . . .

If a public body closes a meeting, the public body:

- (a) shall make a recording of the closed portion of the meeting; and
- (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

Do not need to keep recording or minutes of a closed meeting if only discussing (a) the character, professional competence, or physical or mental health of an individual; or (b) deployment of security personnel, devices, or systems.

G. Chance or Social Meetings.

“This chapter does not apply to any chance meeting or a social meeting.”

“A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.”

H. Electronic Messages.

“Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.”

I. Criminal Liability.

“In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.”

II. Planning Commission Procedure.

A. State Law .

Each municipality shall enact an ordinance establishing a planning commission. The ordinance shall define:

....
....

(v) subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting;

(c) Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

B. Town Ordinance.

Section 10:02: 6 Governance of Land Use Authority:

The regular members of the planning commission shall elect one of their members as chair of the planning commission, whose term shall be for one year. The planning commission may create and fill such other offices as it may determine. The planning commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable, The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commission. These policies and procedures shall be submitted to Town council, and shall be adopted by the Town Council before taking effect.

Zoning Ordinance

Sec. 15-1-47. P.U.D. Zone, Planned Unit Development Zoning

- (A) *Purpose.* The purpose of a Planned Unit Development (P.U.D.) zoning district is to provide greater flexibility in the development of land involving various types and combinations of residential and nonresidential uses. A P.U.D. is also intended to encourage a more creative approach in the development of land that will result in a more efficient, aesthetic and desirable use of open area. A P.U.D. may be designed and utilized in the following manner:
- (1) For large-scale projects which are able to function as an individual community or neighborhood.
 - (2) For small-scale projects which require flexibility because of unique circumstances or design characteristics.
 - (3) For a transitional or buffer area between dissimilar land uses.
 - (4) For a conservation area to preserve and protect streams, rivers, lakes and other natural resources.
- (B) *Objectives.*
- (1) To accommodate variations in building design, lot arrangements and land uses.
 - (2) To provide for a compatibly arranged variety of land uses through innovative site planning.
 - (3) To provide a maximum choice in the types of environments for residential, commercial, industrial uses and facilities.
 - (4) To encourage economy in the construction and maintenance of off-site improvements such as water and sewer utilities and roadways.
 - (5) To encourage the provisions of usable open space and the protection of natural watercourses.
 - (6) To ensure adequate provision of community facilities and services necessary to accommodate the needs of the present and future residents of the City.
 - (7) To assist in the fulfillment of the goals, objectives and policies of the Show Low General Plan and any amendments thereto.
- (C) *Permitted uses.* All uses permitted within the P.U.D. Zone are determined by the approved development plan for the site.
- (1) Residential:
 - (a) Single-family.
 - (b) Multifamily, duplexes, and single-family attached dwelling units, R.V. parks, mobile home park.
 - (c) Public and private parks, community centers, recreational facilities, schools, etc.
 - (d) Common public and private open spaces.
 - (e) Hiking and riding trails.
 - (f) Private clubs such as golf, swimming, tennis, guest ranches.
 - (g) Accessory structures and uses.
 - (2) Commercial and industrial uses: Commercial and industrial uses shall be determined by the compatibility of such uses with each other and with surrounding land uses.
- (D) *Intensity of land use.* Densities and commercial intensity permitted in the P.U.D. Zone shall be determined by either the City Council, or Planning and Zoning Commission in compliance with the Show Low General Plan.
- (E) *Construction.* No building permit shall be issued for any use in the P.U.D. Zone prior to approval of the final development plan as prescribed herein.

- (F) *Preliminary development plan.* A preliminary development plan for the P.U.D. is required. The approval of such plan may be handled in the following way:
- (1) In the case of large-scale multi-phased developments, such approval may be given in stages. The initial submittal with the application may be a conceptual plan with sufficient description and documentation to identify nature, mix, general arrangements, density, proposed setbacks, usable open space, community facilities, and quality of the project. Such conceptual plan may then be approved conditionally, with the preliminary development plan(s) to be submitted to the planning and zoning commission and the city council within the time period(s) established at the time of rezoning. If no time period is established, the Preliminary Development Plan must be submitted within eighteen (18) months of the effective date of the zone change.
 - (2) In the case of specific or small-scale, single-phase projects, the preliminary plan as described in subsection (G) shall be filed as part of the application and approved prior to and in conjunction with Planning and Zoning Commission and City Council consideration of the application.
- (G) *Description of preliminary development plan.* The preliminary development plan shall be submitted to the Planning and Zoning Director and shall include:
- (1) A tentative plat as described in the subdivision code acceptable to the Planning and Zoning Director for consistency with Show Low codes, policies and plans.
 - (2) An area map showing adjacent property owners, together with the location of all buildings and existing uses within three hundred (300) feet of the parcel.
 - (3) A legal description of the metes and bounds of the parcel.
 - (4) Drawings and descriptions clearly showing the following:
 - (a) The existing topographical features of the site.
 - (b) A statement of intended design philosophy and environmental quality. This statement may include graphic and photographic materials.
 - (c) Where portions of the site are subject to flooding, the map and supporting data shall indicate the extent, frequency, and location of detention/retention areas.
 - (d) Where areas lie in aircraft approach and holding patterns, such areas shall be indicated.
 - (e) The location and nature of the various uses and their areas in acres.
 - (f) The proposed circulation system and traffic analysis, including any improvements needed to accommodate additional traffic, indicating whether they are public or private.
 - (g) Delineation of the various land use areas indicating for each such area its general extent, size, total number of dwelling units and approximate percentage allocation by dwelling type, building arrangement, architectural style and exterior building materials and colors.
 - (h) The interior open space system.
 - (i) General statement as to how common open space is to be owned and maintained.
 - (j) A calculation of the residential density in dwelling units per gross acre including interior roadways.
 - (k) Proposed minimum setback distances for planned development including the following:
 - (1) Side yard distances (including corner lots);
 - (2) Building separation distances if common ownership;
 - (3) Front yard setback distances from roads (private and/or public);
 - (4) Rear yard distances (identifying whether sites are privately or commonly owned); and

- (5) Buffer or no build distances from properties situated adjacent to proposed development.
 - (l) Perimeter treatment and relationship of the project to surrounding land uses.
 - (m) Principal ties to the community at large with respect to transportation, water supply and sewage disposal, indicating whether they are public or private.
 - (n) General description of the availability of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by this proposal.
 - (o) Evidence that the proposal is compatible with the goals of the city's general plan.
 - (p) If the development is to be phased, a general indication of how the phasing is to proceed. Whether or not the development is to be phased, the plan shall show the intended total project.
 - (q) The Planning and Zoning Director may waive, in writing, any of the above required information when, in his opinion, they are not applicable. The Planning and Zoning Director may also require additional information when needed to adequately describe or clarify the project or its impact.
- (H) *Review of preliminary development plan.*
- (1) The preliminary development plan shall be reviewed by city staff and any other agencies deemed appropriate by the staff. The plan shall then be submitted to the Planning and Zoning Commission and the City Council for approval.
- (I) *Final development plan approval.*
- (1) It is the intent of this section that subdivision review, where applicable, under the city subdivision regulations, be carried out simultaneously as an integral part of the P.U.D. review. The plans required under this section must be submitted in a form that substantially satisfies the requirements of the subdivision regulations for final plat approval. Final plan approval under the P.U.D. shall constitute final plat approval under the city subdivision regulations and the P.U.D. final development plan shall be recorded in the same manner as the final plat.
 - (2) The applicant shall submit eight (8) copies of the final development plan to the Planning and Zoning Director. The plan shall contain the following information:
 - (a) All information required on the preliminary development plan.
 - (b) Complete plans showing location and type of all improvements.
 - (c) Plans and elevations of all building types, building materials, and colors.
 - (d) Schematic grading plans including proposed treatment of sloped and retention areas.
 - (e) All applicable standards of design and construction required by all pertinent city codes and policies.
 - (3) If approval of the preliminary development plan has been given in phases, approval of the final development plan may also be given in phases. The final development plan must be in substantial conformance with the approved preliminary development plan. Any deviations from the approved preliminary plan which are deemed by the Planning and Zoning Director not to be in substantial compliance with the approved development plan shall require approval by the City Council.

(Ord. No. 382, §§ 1 – 3, 12-20-94; Ord. No. 522, §§ 1 – 4, 1-7-03)

Editor's note—Sections 1 – 3 of Ord. No. 382, adopted Dec. 20, 1994, amended §§ 15-1-47 – 15-1-57 in their entirety.

Editor's note—Sections 1 – 4 of Ord. No. 522, adopted Jan. 7, 2003, amended §§ 15-1-47, 15-1-50, 15-1-51.1, 15-1-52 – 15-1-54, and 15-1-56 – 15-1-62 in their entirety.