



Agenda -Development Review Committee

DATE: Wednesday, December 1, 2021

TIME: 3:00 P.M.

ADDRESS: 30 West 100 South Salem, Utah 84653 (Council Chambers)

3:00 p.m. DRC – Work Session (No Official Business Performed)

- DRC Training – Legal Counsel
- Final Plat – Legacy Hills Plat B PZ2021-108 (1280 south Woodland Hills Drive)

3:30 p.m. DRC – Agenda

- Approval of the November 17, 2021 DRC Minutes
- Final Plat – Legacy Hills Plat B PZ2021-108 (1280 south Woodland Hills Drive)

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25 **DRC Voting Member Attendance:** Bruce Ward, Steve Cox, Vaughn Pickell, Chief Brad James, Ted
26 Barnett, Mayor Kurt Christensen, Matt Marziale

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29 **City Staff Attendance:** Ryan Selee, John Bowcut, Dale Carter, Cody Young, Greg Gurney

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32 **Public Attendance:** Earl Davis (Applicant of Legacy Hills B), Gavin West (Atlas Engineering)

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35 **DRC – Work Session (No Official Business Performed)**

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38 **DRC Training – Legal Counsel**

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40 Vaughn Pickell presented the “Utah Open and Public Meetings Act” and “Powers and Duties of
41 DRC and Planning & Zoning Commission” trainings.

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43 **Utah Open and Public Meetings Act**

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45 **Public Body**

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47 A “public body,” as defined by the Act, is “any administrative, advisory, executive, or legislative
48 body . . . that: is created by the Utah Constitution, statute, rule, ordinance, or resolution; consists of two
49 or more persons; expends, disburses, or is supported in whole or in part by tax revenue; and is vested
50 with the authority to make decisions regarding the public's business.

51 **Meetings**

52 A “meeting,” as defined by the Act, is the convening of a quorum of members to discuss or act
53 on a matter over which the public body has control. This includes workshop/executive sessions.
54 Unintentional, random, or chance meetings do not violate the Act, BUT social meetings and electronic
55 communications between members should be kept to a minimum and may not be used to circumvent the
56 purposes of the Act.

57 **Meeting Notice/Agenda**

58 24-Hour advance notice required for all meetings. Post at public body’s principal office or, if no
59 such office exists, at the building where the meeting will be held. Post on the Utah Public Notice
60 Website. Deliver to a local newspaper or media correspondent. Meeting Notice must include an agenda
61 of discussion/action items. State the date, time and place of the meeting.

62 **Electronic Meetings**

63 A meeting can be electronic, such as a phone call or internet web conference. Electronic
64 meetings may only be held if first authorized by resolution, rule or ordinance of the public body. The
65 requirements of the Act apply equally to electronic meetings, plus the public body must provide a
66 physical site, and 24-hour notice at that site, where members of the public can attend in person.

67 No anchor location needed if Chair

68 Makes written determination that an anchor location “presents a substantial risk to the health and
69 safety of those who may be present at the anchor location”. States facts upon which the determination is
70 based. Includes statement in public notice and reads at beginning of the meeting, and includes directions
71 to the public on how to view or make comments. Governor’s order suspending OPMA rescinded.

72 Open Meeting Minutes

73 Written minutes and audio recording required for all open meetings. Audio Recording Exception:
74 Audio recording NOT required for site visits, traveling tours, or other similar events as long as no vote
75 or other official action is taken.

76 Open Meeting Minutes

77 Minutes and audio recording must include: The date, time and place, members present/absent,
78 substance of matters proposed, discussed or decided, Voting record, the name of each person who
79 provided comments and a brief summary of those comments, other information requested by a member
80 of the meeting, written minutes are the official record of meetings. Public body must establish a
81 procedure for approval of the written minutes of each meeting (best to approve at the next meeting).
82 Written minutes must be available to public within a reasonable time. An audio recording must be made
83 available to the public within three business days.

84 Closed Meetings

85 Quorum of members must be present at a properly-noticed open meeting. Two-thirds of the
86 members present must vote to approve closing the meeting. The open meeting minutes must specify: the
87 reason for the closed meeting. The location of the closed meeting. A record of votes for or against
88 holding the closed meeting. Can only be held to discuss (no official action allowed) any of the
89 following: A person’s character/professional competence/health, collective bargaining strategies,
90 pending or imminent litigation, strategies regarding real property, security issues, investigation of
91 allegations of criminal misconduct.

92 Closed Meeting Minutes

93 Audio recording required, unless closed exclusively for discussion of: Character, professional
94 competence, or physical or mental health of an individual, or security personnel, devices, or systems.
95 Minutes are optional, but not required.

96 Violations

97 Court can void any actions taken at an illegal meeting. Members who knowingly or intentionally
98 violate the closed meeting provisions of the Act may be found guilty of a Class B Misdemeanor.

99 Duties and Role of DRC & Planning Commission

100 State law requires a planning commission to review and recommend general plan and land use
101 regulations. Act as Land Use Authority for certain administrative applications, conditional use permits,
102 site plans and subdivisions.

103 Public Hearings

104 Required for: General plan adoption or amendment. Land Use Regulation adoption or
105 amendment. Land Use Regulation: zoning ordinance, zoning map, standards and annexation ordinance.

106 Recommendations

107 May be adopted, modified, or rejected by City Council, because City Council is the elected
108 legislative body. Planning & Zoning Commission is an advisory body only for legislative decisions.

109 Development Review Committee

110 Not required by State law. Most cities have them. They may be formal or informal groupings of
111 staff. A public body if it makes formal decisions. If a formal public body, then they comply with OPMA

112 DRC Members

113 Public Works Director (Chair), City Engineer, Building Official, Electric Department
114 Supervisor, Public Safety Director, City Attorney and Mayor or Councilmember (may not vote on items
115 that come before Council)

116 DRC

117 Recommendations: zone changes, zoning text amendments, general plan amendments and
118 preliminary plats

119 **Powers and Duties of DRC and Planning and Zoning Commission**

120 Public Clamor

121 Clamor: “A loud and confused noise, especially that of people shouting vehemently.” Public
122 comment ≠ public clamor. “Public hearing” means a hearing at which members of the public are
123 provided a reasonable opportunity to comment on the subject of the hearing. Utah Code Ann. § 10-9a-

124 103(53). To be considered, reasons offered by public must have factual basis in the record. Davis
125 County v. Clearfield City, 756 P.2d 704, 712 (Utah Ct. App. 1988).

126 Public Clamor: Administrative

127 “The decision to deny an application for a conditional use permit may not be based solely on
128 adverse public comment.” Wadsworth v. West Jordan City, 2000 UT App 49, ¶ 17, citing Davis County
129 v. Clearfield City, 756 P.2d 704, 711-12 (Utah Ct. App. 1988). Inquiry is limited to whether the land use
130 application complies with adopted law and regulations. A personal opinion of a staff member, planning
131 commissioner, or city council member is not relevant to whether the land use application complies with
132 the law. The opinions voiced by the public at a public hearing are only relevant to the extent they relate
133 to whether the land use application complies with the law. Review for correctness.

134 Public Clamor: Legislative

135 All viewpoints encouraged. Goal is to determine policy, many voices needed. “Public clamor
136 doctrine has no application when a legislative body acts in a legislative capacity.” Harmon City, Inc. v.
137 Draper City, 2000 UT App 31, ¶ 27, 997 P.2d 321, 328. Review for reasonably debatable rational basis.

138 Schools (public, including school district and charter schools)

139 Charter schools are permitted uses in all zones schools are subject to local land use ordinances
140 except: landscaping, fencing, aesthetics, construction methods or materials, building inspections, city
141 building codes, building use, placement of temporary facilities (relocatables), No participation in cost of
142 road or sidewalk (with a few exceptions), Fees, except impact fees, regulations on location (except
143 unreasonable risks to health and safety) City may regulate (only to the extent the City has these
144 regulations): height, bulk and mass (i.e., lot coverage), off-site parking, curb cuts, traffic circulation and
145 construction staging. Standards must be objective, not subjective. Must be adopted in ordinance

146 Group Homes

147 Utah statutes have changed: “A municipality may only regulate a residential facility for persons
148 with a disability to the extent allowed by . . . the Fair Housing Amendments Act of 1988 . . . and
149 applicable jurisprudence . . .” Utah Code Ann. § 10-9a-516 (2013). Furthermore, “The responsibility to
150 license programs or entities that operate facilities for persons with a disability, as well as to require and
151 monitor the provision of adequate services to persons residing in those facilities, shall rest with . . . the
152 Department of Human Services.” Utah Code Ann. § 10-9a-520 (2013). The Act requires a “reasonable
153 accommodation” from otherwise applicable local regulations: Definition of family as a number of
154 unrelated individuals. Operating a business in a residential zone. These are administrative decisions
155 made by the City staff because residential facilities for persons with a disability is a “permitted use” in
156 all zones where dwellings are allowed.

157 Development Review Committee

158 Not required by State law. Most cities have them. They may be formal or informal groupings of
159 staff. If it makes formal decisions, it is a “public body”. If a formal public body, then the DRC must
160 comply with OPMA

161 DRC Members

162 Public Works Director (Chair, SCMC § 2-15-040), City Engineer, Building Official, Electric
163 Department Supervisor, Public Safety Director, City Attorney and Mayor or Councilmember (may not
164 vote on items that come before Council) SCMC § 2-15-020.

165 Future DRC Members

166 City Manager, Fiber Department Director, City Planner, Public Works Director (Chair), City
167 Engineer, Building Official, Electric Department Supervisor, Public Safety Director, City Attorney and
168 Mayor or Councilmember (may not vote on items that come before Council) SCMC § 2-15-020.

169 DRC

170 Recommendations: zone changes, zoning text amendments, general plan amendments,
171 preliminary plats and capital facilities plans. Land use authority: final plats, minor final plats, site plans,
172 SCMC § 2-15-010(B) and adequacy of public facilities, SCMC § 13-2-030(D).

173 Duties and Role a Planning Commission

174 State law (UCA § 10-9a-302) requires a planning commission to: review and recommend, general
175 plan, UCA § 10-9a-404, land use regulations, UCA § 10-9a-502, subdivision ordinance and
176 amendments, UCA § 10-9a-602. May act as Land Use Authority for certain administrative applications:
177 conditional use permits, UCA § 10-9a-507, site plans, UCA § 10-9a-103(29) - (31) and subdivisions,
178 UCA § 10-9a-103(29) - (31).

179 Duties and Role of Salem Planning and Zoning Commission

180 Salem ordinance requires a planning commission to: review and recommend (legislative) general
181 plan (state law), land use regulations (state law). Review and recommend (administrative), preliminary
182 plats, SCMC § 13-2-030(G). Act as Land Use Authority for certain administrative applications,
183 conditional use permits, clear for gravel pits (SCMC § 14-24-050), but unclear otherwise

184 Public Hearings

185 Required for: general plan adoption or amendment, UCA § 10-9a-404, land Use Regulation
186 adoption or amendment, UCA § 10-9a-502 and land Use Regulation, UCA § 10-9a-103(33): zoning
187 ordinance, zoning map, standards and annexation ordinance.

188 Recommendations of Legislative Actions

189 May be adopted, modified, or rejected by City Council because City Council is the elected
190 legislative body. Planning & Zoning Commission is an advisory body only for legislative decisions.
191 Utah Code Ann. § 10-9a-302(1). “The Planning and Zoning Commission of Salem City shall be an
192 advisory body to the City Council, which is not bound by the Commission's recommendations.” SCMC
193 § 14-2-030.

194 Areas outside planning and zoning review

195 Budgets - City Council legislative decision, Utah Code Ann. § 10-6-118, staffing - Mayor, City
196 Council, and City Manager administrative decisions, SCMC §§ 2-3-010, 2-3a-040, public safety -
197 Mayor/Council, SCMC § 2-6-010, utilities - City Council, SCMC, Title 11, adequacy of public facilities
198 - DRC, SCMC § 13-2-030(D) and appeals - City Council, SCMC § 14-1-210

199 Recommendation

200 Adopt table specifying recommending body and land use authority. Refer to table in sections
201 dealing with that type of land use application

202

203 **Final Plat – Legacy Hills Plat B PZ2021-108 (1280 south Woodland Hills Drive)**

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205 No comment was made during work session.

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207 **DRC – Agenda**

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210 **Approval of the November 17, 2021 DRC Minutes**

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213 Chief Brad James made a motion to approve the DRC minutes from November 17, 2021. Steve
214 Cox seconded the motion. All members of the committee voted in favor. 8-0

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216

217 **Final Plat – Legacy Hills Plat B PZ2021-108 (1280 south Woodland Hills Drive)**

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219

220 Legacy Hills Plat B is located at Woodland Hills Dr. 1280 South. Ryan Selee stated that the
221 Legacy Hills Plat B improvements will consist of the furthest east cul de sac and a half plus twelve on
222 the furthest east road in the Legacy Hills subdivision. Ryan also mentioned that the Legacy Hills B
223 subdivision will be composed of sixteen lots and is located in the R-15 zone. Chief Brad James asked

224 Earl Davis (developer) if the road improvements of 1280 South will encroach on the gravel pits
225 property. Earl Davis stated that the 1280 South improvements have been adjusted to avoid the gravel
226 pit's property. Bruce Ward stated that lot thirty-eight is an unbuildable lot until the temporary
227 turnaround is removed. Matt Marziale asked if there was any new information about potential property
228 easements from the Butler property. Earl Davis stated that he would get everything straightened out with
229 the Butler family in regards to property easements. Bruce Ward stated that the DRC approval conditions
230 made for Legacy Hills Plat A will need to be completed before Legacy Hills Plat B is constructed. Earl
231 Davis stated that he intends to build Legacy Hills Plat A and B at the same time.

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234 Vaughn Pickell made a motion to approve the Legacy Hills Plat B final plat subdivision on
235 condition to comply with Salem City standards and ordinances. Comply with DRC approval conditions
236 for Legacy Hills Plat A final plat. Mayor Kurt Christensen seconded the motion. All members of the
237 committee voted in favor. 8-0

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240 Matt Marziale made a motion to adjourn. Mayor Kurt Christensen seconded the motion. All
241 members of the committee voted in favor. 8-0
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