

MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE TOWN OF CLARKDALE HELD ON MONDAY, APRIL 19TH, IN THE MEN'S LOUNGE, CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, ARIZONA.

A regular meeting of the Planning Commission of the Town of Clarkdale was held on Monday, April 19, 2004, at 6:00 p.m. in the Men's Lounge of the Clark Memorial Clubhouse.

Planning Commission:

Chairperson	Gary Hansen	Present
Vice Chairperson	Susan Sammarco	Present
Commissioners	Lew Dodendorf	Absent
	Robyn Prud'homme-Bauer	Present
	Dewey Reiersen	Absent

Staff:

Planning Director	Steven Brown
Planner II	Beth Escobar
Admin. Assistant	Linda Noland

Others In Attendance: Victor Sammarco, Audrey L. Roth, Mary Ann Minnick, Judy Heath, Pat Williams, Tom Pender, Alex Thorleifson.

1. CALL TO ORDER: The meeting was called to order at 6:03 p.m. A quorum was present.

2. MINUTES: Commissioner Prud'homme-Bauer: made a motion to approve the minutes of March 15th with the correction of the spelling of "Monday" to be made. The minutes of March 1, and March 8, 2004 will be approved at the next regular meeting since they were not included in the packets and the members did not have time to read them over.

3. REPORTS:

Chairperson's Report: None

Planning Director's Report: Planning Director Steven Brown reported that at the May meeting he would have information for the Commission and would like to schedule a workshop to begin work on the Commercial Zoning. The General Plan

states there is to be two levels of commercial zoning, Highway Commercial and Neighborhood Commercial. When a Commercial project comes along, the process will be smoother.

Planning Director Steven Brown read his Staff Report, which follows:

Background:

Pender Engineering, representing Mingus Associates, is requesting approval for a replat of an approximately 2.78 acre parcel, which is a portion of Mingus Shadows Unit III. The parcel to be replated was originally, and through at least two replats of Mingus Shadows Unit III, been intended to be "Granted" to the Town of Clarkdale for a Park, although no transfer of property was completed.

In September of 2003, Pender Engineering first approached the Planning Department with the proposal to replat this Park parcel into 8 new parcels of approximately 15,000 sq. ft. lots. At that time, staff researched the matter and determined that the area that was being proposed to be subdivided was to be "Granted" to the Town for a Park. Staff took the position that in order for the park to be subdivided and the lots marketed, the Town would have to relinquish its entitlement to the dedication of this property as a Park. Mingus Associates took exception to this position by staff, and a legal opinion was sought from the Town Attorney. Our attorney agreed with staff's position, and stated in conclusion:

"There is no evidence in the records that the dedication of Tract O as a park site has ever been waived or rejected by the Town of Clarkdale. To the contrary, the records indicate that Tract O has always been represented by the sub divider to be a park site, and each time the Town of Clarkdale has approved the plat or the re-plat, the Town of Clarkdale has done so upon the reliance of the representation on the plat that Tract O is a park site."

In a more recent letter dated April 6, 2004, to the Planning Director for the Town of Clarkdale, subsequent to the submittal of the application for Preliminary Plat approval by Mingus Associates, Town Attorney, Rob Pecharich reiterated the Town's position, and concluded:

"Based upon the above information and the attachments enclosed, my opinion and legal advice to the town remains the same, i.e. that Tract O, as shown on the original recorded and approved subdivision plat is a park site. Further, the Town of Clarkdale is without authority to replat the subdivision, and reduce the size and location of Tract O, without written consent signed by all of the owners of Mingus Shadows Unit 3, who have purchased their lots in reliance upon the original subdivision plat as recorded."

Staff Recommendation:

Town Attorney has advised that he town does not have the authority to approve a replat without the written consent of all of the owners of Mingus Shadows Unit 3, however:

Section 12-3-4-F of the Town of Clarkdale Subdivision Regulations stipulates that:

“Recommendations for approval by the Commission shall be based on the following findings which should be included in any motion to approve:

- A. That the proposed subdivision conforms to the adopted goals, objectives and policies of the Town.
- B. That the proposed subdivision, as reviewed and approved, will not be detrimental to the public health, safety and general welfare.
- C. That environmental concerns conform with adopted standards.
- D. That the design of the proposed subdivision is sensitive to the physical characteristics of the site.
- E. That the proposed subdivision is consistent with provisions and intents of Zoning Code requirements applicable to the property.
- F. That the proposed subdivision conforms with the improvement standards and design standards set forth in these Regulations and other applicable Town, County, State and Federal regulations.”

Commissioner Prud’homme-Bauer asked Planning Director Steven Brown to give an overview of the comments made by Yavapai County Development Services.

Planning Director Steven Brown stated the report from Yavapai County Development Services was received today. The Planning Director stated the county has some concerns as to how the grading and filling on this property will be accomplished and suggests that based on the size of proposed on-site grading (greater than one acre), a Notice of Intent (NOI) must be submitted to the Arizona Department of Environmental Quality (ADEQ) for this project. A copy of the NOI must also be submitted to the Yavapai County Flood Control District. Additionally, a Storm Water pollution Prevention Plan (SWPPP) must be included with the final construction plans. Planning Director Steven Brown stated Yavapai County has several concerns outlined in their memo, which need to be addressed at the time the subdivision is considered.

Applicant-Tom Pender, 1010 North Main Street, Cottonwood, AZ. Mr. Pender is the engineer on the project and the agent for the applicant, Mr. Vargas. Mr. Pender stated they are trying to get “closer on this piece of property.” Asking that a decision be made tonight based on the information that has been provided. Asking for a recommendation for or opposed so the applicant can move on to the Council.

Mr. Pender stated he spoke with the Town Attorney today in regard to the adopted CC&R’s and the documents that are first put forth when developing a

subdivision. The adopted CC&R's for this particular subdivision indicate that Tract "O" can be residential lots. Mr. Pender stated, secondly, they also inquired with a number of title companies in regard to insuring the "rights of the property" and stated they have a title company that has agreed to insure these properties if they are developed as properties. Mr. Pender stated that what they have made in the past and what they continue to make to the town is the offer of the acquisition of the property. Mr. Pender stated there was discussion of dedication earlier and he cautioned the planning commission in regard to "dedication." Mr. Pender stated there was never any dedication of this property. Stating, "dedication involves the recording and the dedicating on a plat. This was never dedicated to anybody, it was designated, clearly designated Tract "O" Park."

Mr. Pender stated they are prepared to develop a park and dedicate that park at this point, not designate it, clearly dedicate it.

Planning Director Steven Brown stated that he spoke with the Town Attorney this afternoon before the meeting. The attorney has reviewed the CC&R's and finds nothing in there to substantiate the claim that Tract "O" could be subdivided and requests that if there is such a thing that it be pointed out specifically in the CC&R's so that we can review that.

Mr. Pender stated he felt they have not been given "due process" and would like a decision tonight and this be a part of the public record.

Commissioner Prud'homme-Bauer: made a motion to open the meeting to public hearing. Vice Chairperson Sammarco: seconded the motion. The motion passed unanimously.

Alex Thorleifson, 360 Lincoln Drive, Clarkdale, AZ. Ms. Thorleifson stated she has no objection to neighbors. Her concern is strictly one of drainage.

Audrey Roth, 501 Lincoln Drive, Clarkdale, AZ. Mrs. Roth stated she has no objection to new development and would also like to see a park. Her main concern was drainage.

Pat Williams, 1130 Sunrise Drive, Clarkdale, AZ. Ms. Williams stated she has no objections to the new development. Ms. Williams stated not everyone gets a copy of the CC&R's when they move in. Ms. Williams stated Mr. Vargas told her he was re-drafting the CC&R's.

Mary Ann Minnick, 491 Lincoln Drive, Clarkdale, AZ. Ms. Minnick stated her concern also was drainage and that she thought the park would be wonderful.

Commissioner Prud'homme-Bauer: made a motion to close the meeting to public hearing. Vice Chairperson Sammarco: seconded the motion. The motion passed unanimously.

Commissioner Prud'homme-Bauer asked Mr. Pender if it would be possible to get written signatures from all residents in Mingus Shadows III. Mr. Pender stated they have received some signatures and that there are a few residents opposed and they are unable to get their signatures.

Mr. Pender stated what they really want at this time is to take the issue to Council A "no" vote from the Commission is okay. Since the Town Attorney has advised against approval, then that is what the Commission should do. Let it go on to the Council.

Commissioner Prud'homme-Bauer: made a motion to deny this application. Vice Chair Sammarco: seconded the motion. The motion passed unanimously.

ADJOURNMENT: with no further business to discuss the meeting adjourned at 7:10 p.m.

APPROVED BY:

SUBMITTED BY:

Gary Hansen
Chairperson

Linda Noland
Administrative Assistant