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April 3, 2006

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Dear Council Members:

Craig Peterson asked that I consider and present any viable alternative available to the Council short of imposing a moratorium on subdivision approval. My Office drafted the proposed moratorium ordinance at your request and we are always available to assist individual council members in presenting such alternatives. I believe a viable alternative exists; use an incremental process further defining standards as each question is presented for decision. An incremental process has some advantages as it would allow the development of standards on a case by case approach to actual issues. Additionally, such an approach would avoid the shut down of all subdivision approvals. The disadvantage of this process is that it would require some patience as subdivisions are discussed and standards are evolved. The current subdivision ordinance and particularly the amended subdivision ordinance, now pending, do allow legally for such an incremental development.

If the Council desires my opinion as to which process would be more effective I am prepared to give that opinion. At this point my office is simply describing an alternative process. The Planning Commission did not request a moratorium. The Commissioners understood that such an alternative was available. What the Commission requested was a discussion and elucidation of appropriate standards for subdivision approval. As a part of that request, staff provided the Council with a list of topics for that discussion. Many of these related to specific subdivisions before the Commission.

We all agree that the County needs to develop additional standards for subdivision approval and that the Commission needs further instructions from the Council. The question is whether the best method is to respond with a moratorium or to do what the Commission asked, i.e. provide answers to their questions. Essentially, this discussion is focused on whether an incremental approach developing and enhancing standards is the better alternative.

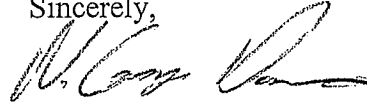
For example, the Council could respond to the question about roads and other issues by providing the following responses:

- 1) The Commission is directed to require appropriate engineering studies of road design with a presumption that an engineer representing the county will review the design and review as built construction to confirm construction compliance.
- 2) The Commission is directed to determine the initial costs and long-term maintenance costs of alternative road surfaces. To the extent these studies require professional engineering consultation, those costs should be included as costs to developers.
- 3) The County experience is that homeowner associations (HOAs) are not effective. The Council is highly skeptical that HOAs will appropriately provide maintenance, sinking capital funds for needed upgrades, replacements, etc., of roads. The Council will not absolutely prohibit the utilization of HOAs for roads but requests that, in each instance, financial *pro formas* be required showing the amount of required assessments for maintenance, sinking funds, upgrades, management, etc.
- 4) The Commission is directed to determine impacts and loads on existing roads, bridges, access points, etc.
- 5) The Commission is directed to determine whether existing infrastructure will absorb the additional projected use? Incremental burdens which add incremental costs should be considered as development costs even if such improvements lie outside of subdivision perimeters.
- 6) The Commission is directed to require developers to pay the full costs of development. Consequential costs of road development should also be considered. For example, paved roads will generate additional storm water issues. The Commission is directed to consider all such consequential costs.
- 7) The County's position as to residential subdivisions in the agricultural zone is to discourage the same. The County believes residential subdivisions are best sited in municipalities. To this end, the Commission is directed to significantly limit subdivision development that threatens or impedes reasonable agricultural practices. To this end, the Commission is directed to consider whether the particular residential development will create conflicts with agricultural operations as to smells, sights, sounds, hours of operation, etc. To this end, the commission is also requested to consider the development of an agricultural/estate subdivision zone where the dominant use is or is intended to be residential development as opposed to agricultural uses.
- 8) If a subdivision borders an existing municipality, the Commission is directed to consult with the impacted municipality as to the subdivision and its standards. A written report as to that consultation and its results should be obtained. The Commission does not desire to approve subdivisions that adjoin municipalities and, if it does so, such subdivisions should meet the adjoining municipality's standards.

These proposed answers are sufficiently definitive to allow the Commission to proceed with its work in considering the subdivisions before it. As these standards are elucidated some may appropriately be added to the subdivision ordinance.

The Council should understand that the case by case development of such standards is a viable and practical alternative to attempting to redraft standards by a new ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "N. George Daines". The signature is fluid and cursive, with a long horizontal stroke at the end.

N. George Daines
Cache County Attorney

Cache County Council

April 3, 2006

What is Cache County's development policy for subdivisions?

- Minor vs. Major Subdivisions
- Roads (Surfacing, Width, Access Management)
- Water (Culinary and Secondary Water)
- Fire Protection (Hydrants and Residential Sprinklers)
- Drainage and Flood Control
- Phasing, Development Agreements, and Bonding
- Infrastructure Review
- Site Maintenance
- Clustering and Preservation

What needs to be Accomplished?

- Update the Comprehensive Plan (Visioning, Dev. Policies and Principles)
- Fire and Building Code Updates (Title 15)
- Road Infrastructure (Title 16 & 17)
- Drainage/Floodplain/Sensitive Lands (Title 16 & 17)
- Minor/Major Subdivision Eliminated (Title 16)
- Residential Development Policy (Title 17)
 - Density
 - Lot Size Minimums
 - Open Space Requirements
 - Maximum number of Lots (Urban vs. Rural Development)
- Site Maintenance (Secondary water, CC&R's, Interface with Agriculture)
- Infrastructure Review (Title 16 & 17, Need to provide engineered review)
- Phasing and Development Agreements (Title 16 & 17)
- Possibly Redefine the Policy and Ordinance for:
 - Culinary Water & Septic/Sewage
 - Residential Fire Sprinklers
 - Commercial/Industrial Development
 - Allowed Uses in the Agricultural Zone
- Clustering Ordinance (Title 16)
- Carrot vs. Stick within the Ordinances

Options for the County Council

- 1) Temp. Land Use Ord. with Goals
- 2) Incremental Update

Temporary Land Use Ordinance

PROS:

- Provides a work period
- Less complicated in the application of changing standards
- Allows the County to determine what our standards will be independent of development

CONS:

- Extreme measure
- Possible Financial Loss to Developers and the County

Incremental Update

PROS:

- Does not limit current development
- Standards developed from actual issues

CONS:

- Approval time for Subdivisions may increase
- Artificial crisis may result in a rush of applications

Principles to Consider:

- Residential, Commercial, and Industrial growth should be located within incorporated areas.
- Development within the County should not result in any additional costs to the County or its tax payers. Development should pay its own costs.
- Infrastructure within developments should be reviewed by an appropriately licensed professional. The cost of this should not be a burden on the County.
- Infrastructure within developments should meet a high standard, and only be reduced as special exceptions.
- Development should provide for the perpetual care and maintenance of the land being developed, not just the building sites.
- A subdivision of land should not be classified based on the number of lots, but rather on the ability for that subdivision to be serviced and the appropriateness of the area to be developed.
- Property rights/stewardship and responsibility of/for the land
- Agricultural Preservation

CACHE COUNTY
ORDINANCE NO. 2006-02

AN ORDINANCE AMENDING THE CACHE COUNTY ZONING ORDINANCE,
CHAPTER 17, CACHE COUNTY CODE.

The County Council of Cache County, Utah, in special meeting, lawful notice of which has been given, hereby amends the Cache County Zoning Ordinance by adopting a Temporary Zoning Ordinance Amendment as follows:

Whereas, the Cache County Council finds that the current Cache County Zoning and Subdivision Ordinances are in the process of being redrafted to develop new and more effective standards for development activities; and,

Whereas, the Cache County Planning Commission has been and is developing a series of recommendations to revise the existing Subdivision Ordinance and also considering complementary modifications to the existing Zoning Ordinance to more effectively implement the goals of the existing Comprehensive Plan; and,

Whereas, there is significant discussion and disagreement about what standards should be applied for minor subdivisions and/or major subdivisions and the practical distinctions between these categories; and,

Whereas, the pendency of these changes makes it difficult to fairly and appropriately respond simultaneously to existing, pending and future applications for subdivision approvals; and,

Whereas, the Cache County Council recognizes the need to determine, clarify and implement additional ordinances and standards to avoid health and safety issues by providing standards for adequate roads for subdivisions as well as appropriate culinary and secondary water planning, fire protection, drainage, flood control and site maintenance for new subdivisions; and

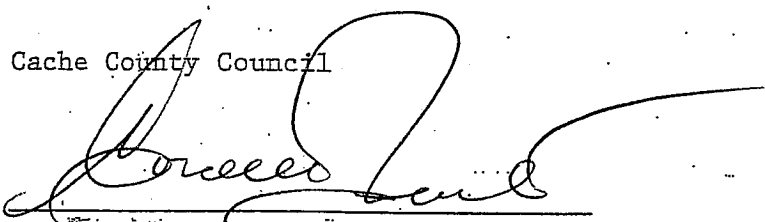
Whereas, the Cache County Council believes that it will be able to accomplish these tasks within a six month period and that it is neither prudent nor appropriate to continue to process applications while the standards are being changed and that to do so would result in confusion and error; and,

Whereas, the Council does recognize the legal doctrine of vested rights as to presently pending applications and will request appropriate determinations from the County Attorney as to extent and nature of any such vested rights.

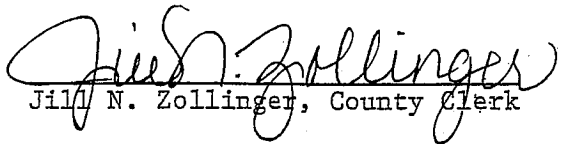
NOW THEREFORE, the Cache County Council hereby establishes a temporary land use regulation for Cache County prohibiting all agricultural subdivision approvals, pursuant to the authority given pursuant to Utah Code Ann. § 17-27a-504, for a period of six months from the enactment of this statute. This time period is given to allow the Cache County Council time to make necessary amendments to the comprehensive plan, the agricultural land use ordinance and subdivision land use ordinance contained in the Cache County Ordinances. If these tasks can be accomplished in a lesser time period the time period of this ordinance will be modified and/or reduced by subsequent further legislation. This Ordinance is effective immediately.

This Ordinance was adopted by the County Council, Cache County, Utah, on the 3rd day of April, upon the following vote:

	Voting in Favor	Voting Against	Abstaining	Excused/Absent
H. Craig Petersen		X		
Brian Chambers	X			
Darrel E. Gibbons	X			
John H. Hansen	X			
Kathy Robison	X			
Cory Yeates	X			
Gordon Zilles	X			

Cache County Council

 Cory Yeates, Chairman

ATTEST:


 Jill N. Zollinger, County Clerk

Publication Date: April 06, 2006