

Cache County Planning Commission (CCPC)

Minutes for 7 May 2009

Present: Josh Runhaar, Jay Baker, Chris Sands, Curtis Dent, Lee Nelson, Lamar Clements, Clair Ellis, David Erickson, Donald Linton, Megan Izatt

Start Time: 5:30:00 (Video time not shown on DVD)

Nelson welcomed; **Erickson** gave opening remarks.

Approval of Agenda

Clements moved to approve agenda. Dent seconded; passed 6, 0.

Approval of Minutes

Erickson moved to approve the 02 April 09 minutes with the noted changes. Sands seconded; passed 6, 0.

5:32:00

Consent Agenda

#1 June West Cowley Lot Split Subdivision Amended (Alice Cowley)

FINDINGS OF FACT:

1. The June West Cowley Subdivision Amended has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.
2. The June West Cowley Subdivision Amended has been revised and amended by the conditions of project approval to conform to the requirements of Titles 16 and 17 of the Cache County Code and the requirements of various departments and agencies.
3. The June West Cowley Subdivision Amended conforms to the Preliminary plat requirements of §16.03.030 Cache County Subdivision Ordinance.
4. June West Cowley Subdivision Amended is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.
5. 2600 North, the road that provides access to the subject property, has an adequate capacity, or suitable level of service, for the proposed level of development.

CONDITIONS OF APPROVAL

1. Prior to final plat recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
2. The applicant shall install a gravel pad within the right-of-way of 2600 North and adjacent to Lot 3 to provide space for refuse and recycle containers. The applicant shall obtain an encroachment permit for construction within the County right-of-way.

#2 Harvest Fields Subdivision (Jared Nielson & Steve Edwards)

FINDINGS OF FACT:

1. The Harvest Fields Subdivision has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.
2. The Harvest Fields Subdivision has been revised and amended by the conditions of project approval to conform to the requirements of Titles 16 and 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Harvest Fields Subdivision conforms to the Preliminary plat requirements of §16.03.030 Cache County Subdivision Ordinance.
4. Harvest Fields Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

5. State Route 23, the road that provides access to the subject property, has an adequate capacity, or suitable level of service, for the proposed level of development.

CONDITIONS OF APPROVAL

The following stipulations must be met for the developments to conform to the County Ordinance and the requirements of county service providers.

1. Prior to final plat recordation adequate water rights shall be in place.
2. Prior to final plat recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
3. Prior to final plat recordation the applicant shall provide a variance for access from UDOT to Cache County.
4. The applicant shall construct a gravel pad for placement of refuse and recycle containers, and to provide sufficient space for collection trucks to pull halfway off the road. The applicant shall obtain all appropriate UDOT permits for construction within the UDOT right-of-way.

Clements moved to recommend approval to the County Council of items 1 and 2 on the consent agenda; Dent seconded; passed 6, 0.

5:33:00

#3 Shakespear Subdivision (Lyle Shakespear)

Baker reviewed Mr. Lyly Shakespear's request for a 3-lot subdivision on 5.88 acres of property in the Agricultural Zone located northwest of Smithfield. Stipulations 6 and 7 have been added to the conditions of approval to address the drainage issues discussed last month.

Clements how large will the drainage system need to be?

Baker that will be determined by the engineer.

Runhaar the engineer will set the size it must be, and the applicant can choose to go bigger.

Mr. Lex Shakespear unless we can get a culvert punched through.

Dent have you met with the other property owners?

Mr. Shakespear yes and we are trying to work with them to resolve the issues.

Nelson are you selling the land?

Mr. Shakespear the plan is for me to buy part.

Nelson make sure the other buyers know about the water issues.

Sands maybe reword stipulation #5 from height to depth of the water table.

Sands moved to recommend approval of the Shakespear 3-lot Subdivision to the County Council with the noted changes to Stipulation #5. Clements seconded; passed 6, 0.

FINDINGS OF FACT:

1. The Shakespear Subdivision has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.

2. The Shakespear Subdivision has been revised and amended by the conditions of project approval to conform to the requirements of Titles 16 and 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Shakespear Subdivision conforms to the Preliminary plat requirements of §16.03.030 Cache County Subdivision Ordinance.
4. Shakespear Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.
5. 1000 West, the road that provides access to the subject property, has an adequate capacity, or suitable level of service, for the proposed level of development.

CONDITIONS OF APPROVAL

1. Prior to final plat recordation adequate water rights shall be in place.
2. Prior to final plat recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
3. The proponent shall construct a one-foot wide shoulder and a drainage ditch on 1000 West the entire length of the subdivision.
4. The portion of the existing private drive to be used for Lot 3 shall be widened to 20 feet of drivable surface.
5. Due to the depth of the water table and spring runoff, it is recommended that there be no sub grade construction.
6. All construction on Lot 3 shall be reviewed with regards to drainage and its effects on adjacent properties.
7. The applicant shall construct a storm water detention basin on the front portion of Lot 3 to ensure that no increased level of storm water drainage flows from this subdivision to adjacent properties. The design of the detention basin shall be reviewed by the County Engineer. The cost of such review shall be paid by the proponent.

5:39:00

#4 Eagle Rock Subdivision, Phase 2 (Brian Lyon)

Baker reviewed Mr. Brian Lyon’s request for a 5-lot subdivision on 79.65 acres of property in the Agricultural Zone located in Petersboro. This will be the seconded phase of the Eagle Rock Subdivision.

Clements what about the road?

Baker the private road will continue through from the first phase. The road will be about 1.2 miles long, and will be all private and taken care of by the HOA. The fire department responded that access is acceptable for them. Garbage collection requires that the land owners sign an agreement that any damage done, will be paid by them and also that if the road is not maintained they will not collect garbage.

Nelson are there water problems out here?

Runhaar it is hit-and-miss throughout the area. Also, there is naturally occurring arsenic, which little children cannot handle.

Dent are there any lots being built on in the first phase?

Baker one.

Runhaar the road is private and the county is not liable for snow removal or maintenance. Also, there is not likely chance that the county would ever take this road over.

Ellis why not?

Runhaar it is 1.2 miles of road, not a loop, and only services those homes.

Mr. Brian Lyon there is an easement in place through phase 1 if there ever is a need to make the road a loop road.

Mr. White at what point does that private lane become not good enough?

Runhaar right now it meets fire standards for the lots that are there, and that is what they are required to meet. If more lots go out there, and the fire department comes back and says it does not meet standards for those added lots, then we have to retrofit the road.

Mr. White who pays at that point if it were a County road?

Runhaar we could put a special service agreement in place and tax the property owners.

Linton the agreement isn't hard, but the property owners are not happy when things like that happen.

Mr. Lyon the road is currently 20 ft wide and is designed as a 50 mph road. Also, it is double chip and sealed.

Dent did we require that?

Runhaar County Council did.

Ellis is that a requirement?

Runhaar all roads are double chipped and sealed out there. If they aren't, even if it is a loop road eventually, the county will not take it over.

Dent are there still a lot of farmers who use that other access?

Mr. Lyon there are a lot of farms still out there, but it is not ideal farm land.

Ms. Ona Partington I own land to the north of this subdivision. It is some of the best dry farm in the County. I don't know why they want to build homes on it.

Dent how many more lots do we need?

Clements none, but there could be some really big problems with water out there.

Staff and Planning Commission discussed water issues in the Petersboro area.

Ellis I would like to hear from the applicant.

Mr. Lyon I know all the homes in the Sierra Subdivision have water.

Ellis is there disclosure of the water problems to buyers?

Mr. Lyon it is listed on the plat and there is a sign.

Runhaar the sign basically says that the County has not ascertained the availability of water. We can require owners to dig a well before they are able to obtain a building permit.

Ellis is there precedent for that?

Runhaar not really, but it is in the Planning Commission's power to require that.

Erickson there is one lot being built on in phase 1, are there other lots sold?

Mr. Lyon 3 of the 5 lots are sold.

Erickson you are adding 5 extra lots, do you have the houses positioned far enough back so that if road improvements need to be made it can happen?

Lyon the road is actually shown to be 66 ft wide on the plat map.

Erickson does the water all come from one aquifer?

Mr. Lyon down there it is all different veins of water, not one aquifer.

Linton the first in time rule should apply here and that means if the 1st well is impacted by the second well, the second well has to stop.

Mr. Lyon not finding water is a risk you take and that's why you are discussing drilling a well before allowing building. The developers did a test well before the subdivision was approved.

White why not make the developer prove there is water before selling the lots?

Clements that is a good suggestion but just because there is water one year doesn't mean there will be water every year.

Runhaar it is acceptable to require there be a flowing well before the issuance of a building permit, but not before the sale of lots.

Troy Bingham I like what you are talking about proving wells. Can't you do that on all wells?

Clements you drilled the well and then it started cavitating?

Mr. Bingham my well hasn't started pulling sand, but it is pulling air.

Clements the well isn't recharging. You have water at some parts of the year, and not others. So most likely, the aquifer isn't refreshing itself.

Mr. Bingham if the original person is hurt by another well, they are out \$10,000 to \$15,000 to drill another well.

Dent do you have to file a civil suit to use that first right?

Linton I don't know if there is a hearing or what recourse is exactly used.

Runhaar a well permit is a guaranteed right to water, not a guarantee of water in that well or spring.

Linton that means the law has changed.

Mr. Guy Perkins I live next to Troy. There is potential for 10 more homes near my place, I talked to the state engineer regarding the water. They can write into the well permit that if the 2nd well affects the 1st, then the 2nd well is responsible. But, how do you get that to happen? The water situation isn't going to get any better.

Linton the water regulations are coming from the state and we have to follow the State.

Ellis some of this discussion goes beyond this application and I think we need to make sure water issues are disclosed to buyers.

Planning Commission and staff discussed the disclosure of water issues to the buyer.

Ellis moved for recommendation of approval for the Eagle Rock Subdivision Phase 2 to the County Council; motion died due to lack of a second.

Runhaar you do have the option of requiring the developer to do more studies for suitability, but we would need to decide what they need to do.

Mr. Steven Taylor I respect your comments. 90 lots are available in Petersboro, but not all lots require a well. When these things are brought up, there are 2 wells and somebody isn't going spend a \$100,000+ on a lot that hasn't had a proven well. Also, who pays for the studying of those wells? I think it would be an injustice to the applicant to let this lapse.

Clements the water systems you are talking about areas further to the south and to the west, closer to the Wellsville Mountain drainage. To my knowledge, that doesn't extend this far.

Mr. Taylor you are right. We sold 10 acres to a family and they didn't drill a well until done with building and I was sweating bullets. I just think you should approve this.

Clements do you feel comfortable continuing this item for 60 to 90 days?

Nelson I would. Is the road built?

Mr. Lyon the road to phase 2 is designed, but not built. The primary road, however, is done.

Clements moved to continue item #4, the Eagle Rock Subdivision Phase 2, for up to 6 months to come to a resolution on the water issues. Dent seconded; passed 6, 0.

7:04:00

#5 Cache County Land Use Ordinance

Runhaar reviewed the general format changes for the Cache County Land Use Ordinance.

Dent what happened at the County Council with the three zones?

Runhaar there was no full discussion, but was basically an information session. They like the idea of multiple zones and many members want this process done so they can move on.

Planning Commission and staff discussed minor changes to the ordinance. All applications will start as an A-10 and the applicant may apply to change the A-10 designation to another designation. A zoning map will be adopted.

Sands moved to recommend approval to the County Council of Chapter 17 definitions, 17.08 schedule of zoning uses, 17.09 excluding Sections B and C, 17.10 excluding Section B, 17.13, 17.14, and 17.19. Erickson seconded; passed 5, 0. (Clements Abstained)

8:00:00

#6 Set Public Hearing

Runhaar reviewed the need for a public hearing to amend the Cache County Comprehensive Plan.

Clements moved for a public hearing to amend the General Plan be held on June4, 2009 at 6:00 pm. Erickson seconded; passed 6, 0.

8:09:00

Adjourned.