

## Cache County Planning Commission (CCPC)

Minutes for 07 October, 2010

**Present:** Josh Runhaar, Chris Sands, Don Nebeker, Clair Ellis, Leslie Larson, Curtis Dent, Lamont Godfrey, Jon White, David Erickson, Megan Izatt

**Start Time: 5:32:00** (Video time not shown on DVD)

**Ellis** welcomed; **White** gave opening remarks.

**5:33:00**

### Agenda

*Passed*

### Minutes

*September 02, 2010 – Passed.*

### Black Ridge Farms Conditional Use Permit Expansion (Lynn & Tama Mathews)

**Ellis** this item was continued from July 8<sup>th</sup>'s meeting due to questions if a conditional use was required, if mink is an agricultural use, the uses occurring on the property, questions concerning the setback, and the item was continued up to 90 days.

**Runhaar** we have received a survey in regard to the setbacks and building placement on the property and we are still trying to get a final accounting of what occurs on the property. I talked briefly to the Mathew's attorney and he submitted some information that we are going to go through but we still do not have an exact accounting of what goes on, on the property, in regard to if there are any business activities occurring on the property. We are still doing some fact finding and staff's recommendation is to continue the item again until we have a survey in regard to the setback and have a detailed account of activities occurring on the property.

**Ellis** any questions from commissioners? We'll move to hear from the applicant.

**R. Scott Rawlings** I am an attorney from SLC representing the Mathew's. People in the mink and farm industry use farming cooperatives and this is allowed by congress. There are two types of cooperatives allowed to help with feed and supply and a marketing coop. Neither activities are handled by the individual farmers themselves and the Mathew's belong to both cooperatives. I represent the feed and supply cooperative that the Mathew's belong to. The issue, I understand this evening is the Conditional Use Permit. I did have the opportunity to talk with Mr. Linton and will work with him as I can. As I understand how things stand now, the Mathew's should not be required to continue to have a Conditional Use Permit. Back in the 1970s when the Mathew's started mink ranching, a Conditional Use Permit was required; however, in the early 1990s the statute in the state of Utah changed to include mink as an accepted agricultural use. I also looked at your County ordinances to see if there were violations and the first thing I looked

at was if mink were a permitted use in the A-10 zone. According to my understanding, the Mathew's do not need to have a Conditional Use Permit. Also, I understand that there are issues with the setback and the Mathew's have done a survey with the Hansen firm out of Brigham City and I understand the neighbor's have had a similar survey done as well. I don't think this belongs before this body because a business license is not needed for this operation. I see the point Mr. Runhaar has made that when an operation begins to exceed the definition of Agriculture, that a license may be required. I can see that some information is required to make that determination. All I can represent at this point is hearsay based on what I have been told. It is my understanding that the Mathew's skin their mink and deliver it to their marketing cooperative for tanning, sorting, and braiding. The Mathew's on any given year may hold some 45,000 mink pelts, plus or minus. They might do an additional 5-6,000 more mink pelts for neighbors who cannot do the pelting themselves; for that they receive nominal compensation. Pelting is only one process in raising mink and that is the only thing that the Mathew's do for other ranchers.

Mr. Rawlings also provided some nationwide examples of approaches to agricultural business and processing and indicated that Mr. Mathews had communicated to him that only 1% of the pelting was for mink not from his farm.

**Ellis** the reason this is in front of the planning commission is because there is a request for the expansion of a Conditional Use Permit. Are you asking for that application to be withdrawn?

**Mr. Rawlings** yes and that the Conditional Use Permit be done away with. According to Utah statute mink ranching is an accepted agricultural commodity. I also believe that Mr. Runhaar question is valid concerning what activities are occurring on the property.

**Runhaar** we want to get the information in writing and confer with Mr. Linton. If it is not an issue of a Conditional Use Permit then it needs to be expunged. At this point we are still recommending a continuation so that we can find out what all is going on exactly on the property and if it comes back that we need to permit part of the operation then we can do it at that time.

**Ellis** so the only question is whether or not we are willing to expunge the old Conditional Use Permit.

**Runhaar** I recommend that we continue it so that if it comes back they need a Conditional Use Permit they don't have to go through the whole process of applying again.

**Ellis** would it be fine with your client if we continue this item?

**Mr. Rawlings** I think so.

**Dent** I think he is dead on. There isn't a farmer in this valley that doesn't custom hire and I don't know if the ratio is 80/20 or not but I don't see why they are even here.

*Dent motioned to continue the Black Ridge Farms Conditional Use Permit Expansion request for up to 90 days; Nebeker seconded; Passed 7, 0.*

**Mr. Rawlings** can I ask a question, I think there are questions regarding setbacks and property lines?

**Runhaar** that will go to a different body.

**5:57:00**

**#2 Blacksmith Fork River Estates (Rick Egan)**

**Runhaar** this item was continued from last month's meeting. This parcel does have a natural barrier through the property that has been addressed by the Board of Adjustment. This is not a typical request and it is a unique situation due to how this property has been handled during the last 20 years there is a need to make this accommodation to get property ownership sorted out. Mr. Linton's concern, as I understand it, is that somebody is going to come into our offices in 5 years and want to build a cabin on the Forest Recreation Parcels; Under the current ordinance, no. There are multiple owners in on this and we have a couple other parcels up other canyons that are in similar situations and there is nothing that we can do about it. Two lots have already been created by the Board of Adjustments. All the applicant is doing is self-restricting to the two building lots and they will not build on any other plot.

**Ellis** is it fair to say then that based on the attorney's opinion that it is legal to make the remainder parcels?

**Dent** I think it's bending the rules because of the problem down the road. I can't see the basis of legality in the ordinance, but I'm not an attorney either.

**Larson** I haven't had a chance to read this whole thing, but reading the ordinance section I think we can do this but not detach the lots. Once it goes into separate ownership, I think there are problems. I think they need to stay as whole lots. That's my initial reaction, but I guess I can still be persuaded.

**Ellis** in all fairness, we just received the attorney's letter tonight. This item was previously continued on approval of the attorney's letter.

***Nebeker** motioned to recommend approval to the County Council for the Blacksmith Fork River Estates with the stated conditions and findings of facts; **Motion** fails due to lack of a second.*

***Dent** motioned to forward the Blacksmith Fork River Estates to the County Council with the recommendation to deny the application because it does not meet the ordinance; **Larson** seconded; **Passed 6, 1. (Nebeker voted nay).***

**Findings of Fact:**

1. The Blacksmith Fork River Estates Subdivision and Boundary Line Adjustment 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 Blacksmith Fork River Estates Subdivision and Boundary Line Adjustment 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 Blacksmith Fork River Estates Subdivision and Boundary Line Adjustment conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.

4. The Blacksmith Fork River Estates Subdivision and Boundary Line Adjustment is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

**Runhaar** can I ask for clarification as to findings for the denial? That the Cache County Code 16.04.030 (A)(F) does not allow it?

**Larson** yes

Planning Commission and Staff discussed whether or not the subdivision met the ordinance requirements. The Board of Adjustment has already declared the natural barrier which creates two lots. The lot size was questioned and discussed. A lot is supposed to have 40 acres, but the Board of Adjustments waived that requirement and granted a variance. A conservation easement or labeling the remainders as open space was discussed. Staff is trying to be as stringent as possible with the remainder parcels as they can be with the current labeling for the FR-40 parcels not eligible development. The distinction between lots and parcels is that lots are developable land and parcels are not. One of the main reasons Council decided to recommend denial is due to the ability of dividing the land again when it already doesn't meet the lot size requirement.

**White** why did you deny it?

**Ellis** the density requirement of 40 acres was not met and the Board of Adjustment did not address the further division of the property

**Runhaar** staff will draft reasons for denial and send it to the Chair for his confirmation and signature.

**6:21:00**

#### **#4 UT 1 DT Logan Rezone (Doug Kofford)**

**Runhaar** reviewed Mr. Kofford's request for a rezone from Agricultural Zone to Agricultural Utility Corridor Overlay Zone (UCO), of a 50' X 59'6" leased area of 10 acre parcel in the Agricultural Zone located at approximately 1300 West 1400 North, west of Logan. It needs to be noted that the whole piece of property is not being rezoned, just the leased portion.

**Ellis** the height of the tower will not be changed?

**Runhaar** if the applicant were to add height or want to add structures they would have to come back to this body.

**Sands** (to applicant) are you going to make changes going forward?

**Kofford** that depends. As of right now we have no plans to change the height of the tower or added structures, we just want to switch out some equipment.

**Ellis** are the height requirements any different in the UCO zone as opposed to the Ag zone?

**Runhaar** the UCO zone reflects the requirements of the underlying zone. We have no height restrictions really for this type of structure unless if were restriction through the Airport Overlay.

**Sands** is this in the airport overlay zone?

**Kofford** I have no idea.

*Nebeker* motioned to recommend approval to the County Council for the UT 1 DT Logan Rezone with the stated conditions and findings of facts; **Erickson** seconded; **Passed 7, 0.**

**Findings of Fact:**

1. The locations of the subject properties are compatible with the purpose of the proposed Utility Corridor Overlay zoning district.
2. The subject properties are suitable for development within the Utility Corridor Overlay Zone district without increasing the need for variances or special exceptions within this zone or the underlying Agricultural Zone.
3. The subject properties are suitable as a location for all permitted uses within the proposed Utility Corridor Overlay Zone.
4. The subject properties when used for the permitted uses in the Utility Corridor Overlay Zone would be compatible with the adjoining land uses.

**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 the commencement of any site development activities on this site, a Conditional Use Permit shall be approved in conformance with Title 17 the Cache County Code.
2. Current and future property owners must be aware that they will be subject to the sights, sounds, and smells associated with agricultural activities which are permitted uses in this agricultural zone.
3. The applicant must abide by the site plan and construction specifications as submitted to the Cache County Zoning Office.

**6:26:00**

**#4 Cache Valley View Estates Rezone (Doug Bassett)**

**Runhaar** reviewed Mr. Doug Bassett's request. Mr. Bassett is requesting a rezone from Agricultural Zone to RU-2 Zone of 16.58 acres of property in the Agricultural Zone located at approximately 1450 West 6500 South, Hyrum. The potential, if this is rezoned, is 8 lots. You can see that there are a number of building lots sighted to the north of this and surrounding areas that are of similar size. If you look at the rezone in context of the surrounding, and if you look at the property surrounding this in about 1 mile without Hyrum Dam is 20 acres. The red dots are built residences now and the lots that they are located on now the size averages out to almost 8 acres of lots. These 8 acres are subdivided off a 100 acre piece of land. While there are other lots in this area they are off large agricultural parcels. There are only two accesses into this property; you probably can't expect 2400 west to be the primary route. The other way has the spillway from the dam which is approximately 16 feet wide. Much of this area has been

proposed for annexation under Hyrum numerous times in the past decade and each time it has come to a halt or failed due to access. At this point staff cannot recommend approval; we recommend denial for the rezone based on 4 findings of facts. We have had responses from the public and according to my secretary none of the comments have been positive. You do have a letter in front of you from a resident.

Staff and Planning Commission discussed the road issues regarding the Hyrum Dam spillway. While it has been talked about, nothing has ever been done. Also discussed was this is a 1970 parcel. The area being rezoned is about 16 ½ acres. The other lots in the area were also original divided off of this piece of property.

**Ellis** other concerns from the Commission?

**Nebeker** has there ever been any discussion of Hyrum requesting an extension of it's boundaries?

**Runhaar** I think there have been three formal attempts at annexation.

**Sands** I think the challenge has been getting infrastructure in place to support development.

**Larson** I'm not entirely persuaded by the crossing the dam issue, the other issues are more persuasive.

**Ellis** let's hear from the applicant then.

**Doug Bassett** this thing has been a cause of a lot of difficulty. There is adjacent to this property 129 acres that was also considered for the rezone. I'm just a lender and this is what I have been given as collateral. We're not trying to make an eye sore or high density area. The high density was a previous application that I wasn't involved with. I would also be ok with 5 acre lots. That would provide 3, 5+ acre lots.

**Nebeker** what was the problem with annexation with Hyrum?

**Mr. Bassett** I'm not sure what the issues exactly are. I know there were exorbitant prices for the land and I'm not sure they could make it all work to get the utilities and things over there.

**Ellis** I found myself wishing that this was a request for an R-5 zone.

**Mr. Bassett** speaking to Brent Parker there seems to be a demand for flat 5 acre lots and that seems to make more sense.

Notification and public hearings were discussed. Public hearings generally are done at the County Council due to meeting schedules and everyone within 300 feet was noticed.

**Dent** you realize that there has to be water with this to develop?

**Mr. Bassett** yes, I've talked to Brent Parker and he is willing to sell me the water rights.

**Dent** is there secondary water for the large parcels?

**Mr. Bassett** no; it's my understanding the owners would need to drill wells.

**Ellis** are there other people that would like to speak to this?

**Richard Miller** I own property east and north of this. Those red dots were put there primarily by me. They were my lots. For further clarification, in that area there was 3, 1970 parcels and the first 3 three lots came out of one parcel and the next 5 lots came out of a different parcel. The lower two dots are from another parcel.

**Ellis** do you know how big those lots were originally?

**Mr. Miller** I do, this land was homesteaded by my great-grandfather. The original acreage was 160 acres. The Hyrum dam took some of it and some of it was sold off. There have been multiple bids into Hyrum to annex this and at one time they did basically have everything in place and it died. The other time was the development was going to be like a Park City development and it was proving rather costly and died. There are a couple things to consider here. Number 1, the property up there is dry farm and not really productive. I will state that the spillway access tends to be an issue. I know most people, probably not everyone, but most people would like to keep it rural. As Cache Valley continues to grow, someday something will happen there.

**Nebeker** what is the availability of secondary water in that area?

**Mr. Miller** it's pretty remote. Hyrum City has done some things. That road that goes up there on the east of the dam, they have put a large culinary well there with at some point maybe the intention of bringing it down. Water is available to buy there. My whole purpose is that we are at a stage where we can influence what happens out there. Someday someone with money is going to come and want to do a Park City development there due to the view.

**White** you own the road out there, right?

**Mr. Miller** I put the road in, but the landowners are responsible for the upkeep. I think the road should be taken over by the county at some point.

**Jim Vanderbeek** I live on the east corner of this. I like the proposal for the larger lot size. We are downhill from this and want to make sure that septic tanks are not going to be an issue and the aquifer can support more use. Our well is currently 350 feet deep already and this piece is just a little bit higher than us.

Staff and Commission discussed which zoning option would be best for the area and how to best proceed in addressing the proposed rezone. RU-2 is what has been applied for, but RU-5 and A-10 was discussed. RU-5 seems to be a better fit for the area where the parcel is located.

**Nebeker** is there any interest on the part of your neighbors to join in, in terms of a rezone?

**Mr. Bassett** there has not been to this point. I'm in a predicament that I did not choose, but hopefully if we work together in a group we could make it better for the people who live there and could live there in the future. There has been a higher density proposed with Hyrum City, but it has not come to fruition.

**Nebeker** I have a problem with spot zoning and I would like it better if we had a larger area. That would avoid spot zoning and could take care of most of the downstream issues.

**Dent** from here on is private road, is that correct? If this is private, how does he get access to this property? If we did RU-2 he could have up to 8 lots.

**Ellis** any other comments? Our options are to continue it or to forward it with recommendation.

**Larson** I believe we need to address the request before us for the RU-2 Zone.

**Dent** How much frontage is required for RU-2?

**Runhaar** we don't have frontage requirements for the RU-2 Zone. The main thing we have an issue with here is finding water.

**Dent** if we deny the 2 acre request are you comfortable to come back with a 5 acre request?

**Mr. Bassett** yes. I would like to work with the neighbors and do what is right for the area.

**Larson** procedurally what is more efficient for the applicant, for us to continue it or forward it with recommendation to County Council?

**Runhaar** what's most efficient for them if they are going to amend their request is to continue it. If they want to amend their request it would better for a continuance because they stay on the same schedule with the County Council and they aren't rolling over into the new year.

***Sands** motioned to recommend denial based on the findings of fact provided by staff for the Cache Valley View Estates Rezone; **Erickson** seconded; **Passed 7, 0.***

**Findings of Fact:**

1. Access to the area will require traffic to cross the spillway of the Hyrum Reservoir. Access across the spillway is inadequate and cannot be improved. Increasing the amount of traffic across the narrow spillway will place the health, safety, and welfare of those crossing it at risk.
2. The proposed rezone is in an area that does not have an approved water source per the 2009 International Fire Code 507.1 and 507.2.
3. The higher density of the Rural-2 (RU-2) Zone is inappropriate in consideration of the existing density of the surrounding area.
4. This area is not appropriately served by suitable public roads, there is not appropriate access to necessary water and utilities, and there is not adequate public service provision to accommodate the proposed density requirements for the Rural 2 (RU-2) Zone.



**7:13:00**

Ellis I recommend the applicant work with staff to amend the application

**10 minute recess**

**7:21:00**

**#5 Discussion – Titles 12, 16, 17.02**

**Section 1**

Staff and Council discussed the requirement for assurance of work, a bond, to be done for infrastructure if the development is recorded before the improvements are done. Design exceptions were discussed also. The purpose of the design exceptions is to show that changes need to be done and to make sure to document why the changes were needed to protect the county. The traffic impact studies (TIS) was added because UDOT's TIS standards aren't always conducive for the county's needs.

**7:54:00**

*Nebeker* motioned to reconsider item #4, the Cache Valley View Estates Rezone; *Godfrey* seconded; **Failed 0, 6.**

Staff and Council discussed continuing the grid system. The county does try to encourage the grid system, but it doesn't always work and the county is not required to force someone to follow the grid system. There are six classifications of road, which are: Arterial, Collector, Local, Rural, Mountain, and Unimproved. This helps the county plan for the future. The Commission and staff discussed the name for forest access roads.

*Larson* motioned to consider sections 2.1 and 2.2 until 8:15; *Erickson* seconded; **Passed 7, 0.**

2.2 is in two sections. The state now owns 10<sup>th</sup> west and part of Airport road. Section A is to make county roads that run through cities meet the city standards for that section of road. Also, for roads on the fringe of cities this helps the county decide how to handle those roads; it adds additional requirements for those building on those roads.

**8:16:00**

**Adjourned**