

County Planning Commission (CCPC)

Minutes for 03 February, 2011

Present: Josh Runhaar, Chris Harrild, Chris Sands, Clair Ellis, Leslie Larson, Phillip Olsen, Chris Allen, David Erickson, Lamont Godfrey, Jon White, Denise Ciebien, Megan Izatt

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

Larson welcomed and **Erickson** gave opening remarks.

5:32:00

Agenda

Agenda approved.

5:33:00

Minutes

January 6, 2011 – Passed with noted change to pg 3.

05:34:00

Consent Agenda

#1 Fluckiger Subdivision (Travis & Lorinda Fluckiger)

Travis and Lorinda Fluckiger are requesting a recommendation of approval for a 2-lot subdivision on 217.26 acres of property in the Agricultural Zone located at approximately 7639 West Highway 30, North of Mendon

FINDINGS OF FACT

1. The Fluckiger 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 Fluckiger 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 Fluckiger Subdivision conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.
4. The Fluckiger Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

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 the proponent shall meet all applicable standards of the Cache County Ordinance.
2. Prior to final plat recordation adequate, approved, domestic water rights shall be in place for all building lots within the Fluckiger Subdivision.

3. All lots shall provide sufficient space for placement of refuse and recycle containers so they do not interfere with traffic.
4. The driveway shall meet all applicable requirements of the 2009 International Fire Code and any other applicable codes as adopted by Cache County. If longer than 150', the driveway shall be a 20' drivable surface and a Fire District approved turnaround shall be constructed at the end of the driveway.
5. The Applicant shall reaffirm the County's 33' right-of-way for the County road, 1900 North, across the entire frontage of the proposed subdivision.
6. Fire protection for all buildable lots shall be provided for in accordance with the 2009 International Fire Code and as approved by the Cache County Fire Chief.

#2 Phillips Subdivision (Rebecca Phillips)

Rebecca Phillips is requesting a recommendation of approval for a 2-lot subdivision on 24.77 acres of property in the Agricultural Zone located at approximately 11455 South 1300 East, in Avon.

FINDINGS OF FACT

1. The Phillips 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 Phillips 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 Phillips Subdivision conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.
4. The Phillips Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

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 the proponent shall meet all applicable standards of the Cache County Ordinance.
2. Prior to final plat recordation adequate, approved, domestic water rights shall be in place for all building lots within the Phillips Subdivision.
3. All lots shall provide sufficient space for placement of refuse and recycle containers so they do not interfere with traffic.
4. The driveway shall meet all applicable requirements of the 2009 International Fire Code and any other applicable codes as adopted by Cache County. If longer than 150', the driveway shall be a 20' drivable surface and an approved turnaround shall be constructed at the end of the driveway.
5. Fire protection for all buildable lots shall be provided for in accordance with the 2009 International Fire Code and as approved by the Cache County Fire Chief.

Erickson motioned to approve consent agenda; Godfrey seconded; Passed 6, 0.

5:36:00

#3 Wyatt Christensen Subdivision (Wyatt Christensen)

Harrild reviewed Mr. Wyatt Christensen's request for a 2-lot subdivision on 32.8 acres of property in the Agricultural Zone located at approximately 11900 North 800 East in Cove. The access to the subdivision is currently inadequate. Staff recommends requiring the applicant to improve the subdivision frontage along 800 East to the county standard of a 20 foot wide gravel surface with one foot shoulders.

Mr. Christensen since we are accessing the property from 11900 North, what does widening the frontage mean?

Harrild the county felt it would be fairer to have you widen 800 East rather than the other access option of widening the length of 11900 North.

Mr. Christensen so we just need to widen from the Robertson subdivision down?

Runhaar right.

Cannon Thornley I live directly north of this property, does this require Mr. Christensen to remove all the trees along this property for the widening?

Harrild only if they infringe on the area that needs to be widened.

Mr. Thornley okay because in general coming down from 11900 North the road is the same width and then narrows.

Sands moved to recommend approval to the County Council for the Wyatt Christensen 2-lot Subdivision with the stated conditions and findings of fact; Erickson seconded; Passed 6, 0.

FINDINGS OF FACT

1. The Wyatt Christensen 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 Wyatt Christensen 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 Wyatt Christensen Subdivision conforms to the preliminary and final plat requirements of §16.03.030 and §16.03.040 of the Cache County Subdivision Ordinance.
4. The Wyatt Christensen Subdivision is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining or area properties.

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 the proponent shall meet all applicable standards of the Cache County Ordinance.
2. Prior to final plat recordation adequate, approved, domestic water rights shall be in place for all building lots within the Wyatt Christensen Subdivision.
3. The applicant shall widen the portion of 800 East along the length of the subdivision frontage to a gravel surface width of 20 feet with one foot shoulders. An encroachment permit must be obtained for any work within the county right of way. All lots shall provide sufficient space for placement of refuse and recycle containers along 800 East so they do not interfere with traffic.
4. The driveway shall meet all applicable requirements of the 2009 International Fire Code and any other applicable codes as adopted by Cache County. If longer than 150', the driveway shall be a 20' drivable surface and an approved turnaround shall be constructed at the end of the driveway.
5. The Applicant shall reaffirm the County's 33' right-of-way for the County road, 800 East, across the entire frontage of the proposed subdivision.
6. Fire protection for all buildable lots shall be provided for in accordance with the 2009 International Fire Code and as approved by the Cache County Fire Chief.

5:43:00

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

Harrild Lynn & Tama Mathews are requesting approval for the expansion of an existing Conditional Use Permit (CUP) to allow the construction of additional buildings on 22.90 acres of property in the Agricultural Zone located at approximately 200 East 6400 South of Hyrum; this item was continued from the January 6, 2011 meeting. We have been reviewing this proposal about how mink ranching is classified and we have determined that mink are included in the agricultural definition. There are some other issues, regarding possible infractions, involved with this and they will be addressed outside of this board. Because mink are included in the definition of Agriculture, staff is recommending that the existing CUP be annulled and that the processing of off-premise mink cease.

Scott Rawlins I am the Black Ridge Farms legal counsel. Although I practice in SLC, my background is in agricultural law. What my position is has been stated here, and that is originally mink were not included in the original statutes, but those statutes were later amended and furbearing animals were included in the original statute that defined agriculture. My initial feeling about this issue was to do away with the CUP, but there are other things tied into this. My hesitation in having the CUP annulled was there are concerns in regards to an activity being performed upon the Mathews Ranch. They do provide service to neighboring or nearby mink ranchers in regards to pelting the mink. Essentially the Mathews and Black Ridge farms earns less than 1% of their gross income from pelting other rancher's mink. While this income isn't essential to the Mathews, this service of processing other rancher's mink is essential for the other ranchers. However, it is not in the Mathews financial interests to seek a business permit due to this pelting. So, if this body requires that they seek a business permit, it could be detrimental to these other ranchers because buying the equipment is cost prohibitive. The mink are transported to the Mathews ranch for this processing and as such could be subject to taxing. There is a very specific term or definition that should apply in this situation and that is temporary use. Pelting is temporary and done seasonally and is completed in a 1 ½ to 2 month period of the year. For the remaining 10-10 ½ months of the year this equipment is stored and not used. The final issue I have has to do with zoning and setbacks. Obviously the Mathews have a primary building where they do their business and conduct transactions. They have a restroom, storage space for their equipment, and the mink sheds as well. There should be a 5 foot setback and their closest building is setback 20 feet from the rear of the property. That means they have met the ordinance and are in excess of the ordinance. In defense of the administrators of this planning commission they have been concerned with information in regards to the Mathews activities on their ranch. One issue regarding feed was brought up and the Mathews do buy their feed. However, how many feed trucks entering their property the Mathews do not wish to disclose due to eco-terrorists.

Ellis arrives.

Larson thank you.

Ellis there were some legal issues raised, is this the appropriate time?

Ciebien this is the first time we have seen this documentation and we need time to review it.

Runhaar staff has asked for information several times throughout this process and this is the first time that we have received this as well.

Mr. Rawlins due to concerns with activists and eco-terrorists the Mathews have been hesitant to release any information due to the public nature of these meetings.

Larson I suspect the issue with our administrators is that they need more information to help the planning commission make the best decision. I don't see the problem with submitting the information that has been requested and asking that it be kept confidential.

Runhaar what you have submitted is appropriate. Back in October we heard two different figures for what percentage of their income was from pelting other rancher's mink.

Mr. Rawlins indicated that he understood that there was confusion regarding the number and noted that the off-premise pelting was incidental to the raising of mink and only comprised less than 1% of the operation.

Larson so your two issues are that 1) is pelting incidental to the raising of the mink and 2) is pelting for others permitted.

Ellis is the 1% based on the approximate revenue of that operation only?

Mr. Rawlins yes.

Ellis do they own other operations?

Mr. Rawlins no.

Bruce Baird I am legal counsel for the Nielsen's. There are three issues to address. First, it is clear the raising of furbearing animals is a permitted use, however, pelting is not. The raising of the animals is considered agriculture; the pelting is not considered agriculture. Agriculture does not include the processing of animals and thus is not a permitted use. Second, according to the last page of your ordinance zoning chart, Agricultural Processing, according to this chart, is a small business. You define exactly what is acceptable in the Agricultural Zone and processing of animals is not allowed unless permitted. We have no problem with the Mathews processing their mink as long as it is done correctly with a CUP. Also, this pelting of mink is not a temporary use. Third issue is the setback. Mr. Rawlins said the mink sheds are an accessory use to this piece of property. The primary use of the property is the mink operation since the mink are housed and raised in those buildings.

Larson I would like to note that the setback issue keeps weaving through this and the planning commission will not be deciding that issue. Staff and Board of Adjustments will be taking that on.

Ms. McCormick when we prepared this document we looked at the pelting of the mink as a Agricultural Sale or Service.

Harrild I appreciate all the information that has come forward. It is important that staff have the information requested in order to make an appropriate recommendation. The information that had been provided previous to today indicated that the activities happening on the site were best defined as agricultural sales and service.

Runhaar one of the things we need to take a look at is how we view dairy and neighbors hiring out a combine, etc. Mr. Baird is correct, this is not a temporary use.

Staff and Planning Commission discussed the nature of raising and harvesting mink. Many members felt that the Mathews tumbling other ranchers mink was similar to a farmer letting a neighbor borrow a combine.

Erickson This county is built on agriculture and many times farmers lend each other equipment or render services for a small fee to help each other out.

Larson I don't look at this in terms of financial impact, but in terms of the impact to the environs and I think that is what the commission should be considering.

Brett Hansen in response to the impact on the environment, there is none. The product we bring has all been skinned. They flesh the mink. All that Cody receives is the grease from the mink. He does not get the carcass, we have that after the mink has been skinned and we take care of the carcass ourselves. I think your opening a Pandora's Box with this. The box that you open up if you do this will have lasting impact on other areas of agriculture. Also if I don't have Cody to take my pelts to, it could run me out of business because I would have to go out and spend all kinds of money on equipment for a ten day a year process.

Larson I don't see how this could run you out of business.

Mr. Hansen if he has to pay for the CUP he's going to have to charge us more money. If this makes it so he can't do this for us, we have to go out and do it for ourselves.

Harrild the fees for the CUP were paid for with the application.

Runhaar a CUP has no affect on whether or not the clerk's office considers this to need a business license. The state determines how this is taxed, not the county.

Larson So a conditional use and a business license have nothing to do with each other?

Runhaar they are independent of each other.

Mr. Baird your definition of agriculture already discusses harvestable crops. By definition, those Pandora box issues are specifically addressed in the ordinance. There is a difference in the ordinance between furbearing animals and milk.

Mr. Rawlins the recommendation from this body was that this process be ceased by the Mathews. However, this process of pelting is part of the "harvesting" of raising mink.

Larson Did we exhaust the public comment? Okay, it seems to me that we could take on the issue of the original CUP and that may resolve a good chunk of it. I think the Legislature has already taken this on.

Runhaar if I may, it seems like the pelting is similar to milking dairy cows, bailing hay, or finishing production of other agricultural commodities.

Larson let's deal with the CUP first.

White how bout we say raising and tumbling? The Mathews don't pelt the mink of these other ranchers, the ranchers do that themselves. What the ranchers bring is a fur that the Mathews tumble.

Ellis can you explain, please, what service you render to the other ranchers?

Cody Mathews what he is saying is the ranchers skin the mink and bring me the pelt. We then flesh it and run it through a tumbler to collect the grease from the pelt which is then processed and sold to make perfumes and such.

Ellis as far as the CUP goes; do you need more space for equipment?

Cody Mathews all the equipment is housed in that one shed.

Larson the expansion is for raising more mink, correct? Not for more equipment.

Mr. Mathews the expansion is for more mink sheds.

Staff and commission discussed the processing of mink. Also, legal counsel was contacted extensively regarding this issue and it is their opinion that mink ranching, and everything that goes with it, is within the definitions of agriculture and therefore does not require a CUP.

Erickson** motioned to annul the original Conditional Use Permit; **Allen** seconded; **Passed 7, 0.

Ellis this does two things: it annuls the CUP and says tumbling is allowable.

Larson what we are voting on is a mink farm operation, just the global definition.

Erickson we are annulling the CUP and not telling them that they cannot process their mink.

Ciebien it is however, the attorney's office opinion that this does comply and the whole process is agricultural.

Ellis if that is the opinion of the attorney's office, it satisfies me.

Motioned passed.

Ellis now that we have dealt with the CUP, the planning commission doesn't have any application to deal with.

Erickson with the CUP gone, there is nothing pending now.

Runhaar Correct. Staff and the Board of Adjustments will have to deal with setbacks, etc. We'll take a deeper look at the tumbling.

7:15:00

Recess

7:26:00

#5 DD Auto & Salvage (David Grange)

Harrild reviewed Mr. David Grange's request for a recommendation to the County Council for a CUP to allow the expansion of an existing CUP including construction of additional buildings, fencing, storm drainage system, and truck scale located partially in the Industrial Manufacturing and Commercial Zones at approximately 1976 West 200 North, west of Logan; this item was continued from Dec. 2, 2010's meeting. This does fall under urban development and that requires that response is requested from Logan City concerning the proposed development and that their feedback regarding the proposal is considered and provided a response. As required by the state, the final decision concerning the approval will be made by the County Council due to it being urban development. A master plan has been submitted and given to you for review. Currently the existing CUP has been in violation since 2007. It was brought into

compliance, but is again in violation of the existing CUP. There were specific conditions provided regarding setbacks around the slough and the storage of salvage vehicles has expanded onto two other parcels that are not included in the existing CUP. Also, an issue that has been on the CUP since 1997 and has never been addressed, is that only one parcel is legal; all other parcels are illegally subdivided. In addition, no wetland delineation has been completed and UDOT has requested a level II traffic impact study and that also has not been completed. Due to this, staff recommends denial for the CUP.

Staff and Planning Commission discussed why the CUP is coming before the Planning Commission even though County Council has the final approval or denial. It is the Council's opinion that because the Planning Commission has seen this issue before they look over it and see if it meets all the requirements and areas that CUP's are supposed to meet and give their opinion to the council.

Larson it sounds like the reason for denial is due to the lack of conformance. However, it seems to me all the violations cited come with this type of business.

Runhaar right, but when they start to violate the original conditions and they keep violating those conditions, the county has to step in at some point. This denial has nothing to do with the violations. We've been working for three years to try and bring this into conformance and get a master plan for expansion. We have a proposed master plan now, but we still recommend denial because they haven't provided all the information needed to answer some very important questions.

Larson is there an enforcement component to this? Have they been fined, etc?

Runhaar We haven't leveled any fines because we have been working with them to bring the business into compliance, but they haven't submitted the information we need to complete the permit and we can't let this continue to go in violation of the existing CUP.

Larson so if we deny this, do they keep on running the way they currently are?

Runhaar no. Then we have to start enforcement procedures. We have no problem with this type of business and it is needed in the valley, but it needs to conform and the process needs to be done appropriately.

Ellis can we hear from the applicant?

Lance Anderson I represent Mr. Grange, I am from Cache Landmark. We totally agree with the conditions that are being asked for. Mr. Grange asked us to do one of two things and then we recommend that we do a master plan. We completed that master plan in December and we went back and forth several times with staff as to what was needed for this permit. We do disagree with staff on some things. We are willing to do the wetlands delineation, making the parcels legal, and the traffic studies. But we think that it should be done after approval of the expansion. We didn't want to apply for all the permits and do the traffic study unless it was going to be approved. We looked at this a little differently than staff and feel that everything that has been suggested be done, but after approval. The demand that has been put on this business is significant enough that they need to expand to meet that demand.

Ellis would you like to respond to Logan City's requests?

Mr. Anderson Logan City doesn't even allow this use and views it as non-conforming. The applicant will never apply for annexation unless it is forced through other means. Also the landscaping and the

architecture that they would like to see, I don't think it would be reasonable. As far as expansion is concerned, the applicant would like to get the things that are nonconforming done.

Ellis I think he was asking why the things that are deficient couldn't be conditional.

Harrild the items noted under the findings of fact are required in providing information concerning key areas of this proposal and must be reviewed prior to approval. Also, I have a concern that the existing CUP has been in place for some time and the conditions belonging to that CUP have been violated. It makes sense to ask that these requirements are met up front and not as a condition.

Runhaar there is a point for this being a CUP. It means to review the need items and make an educated decision. If we hold all of that information to an administrative review after approval, what is it that the Planning Commission is doing? Why has this as a CUP and not just an administrative review?

Ellis I think if we are recommending denial and the Council denies it, I think the way the CUP ordinance is written the applicant needs to be given areas that need to be mitigated.

David Grange I am the owner of this project. I am not asking for a rubber stamp here. There are some checks and balances that need to be met and I know there are some stipulations that will have to be met. We just need to get on with this so we can expand in an orderly manner. When we applied for the rezone, it seemed like this commission was completely on board as well as the county council. We need to expand to meet the current demands.

Olsen it seems to me that you are looking for a guarantee.

Mr. Grange in essence, yes we are. This is going to cost a lot of money and I don't want to spend that money and then for whatever reason have it denied.

8:05:00

Olsen** motioned to continue the meeting until 8:15; **Larson** seconded; **Passed 7, 0.

Mr. Anderson we got the recommendation for denial on Monday and we haven't been able to respond back. I understand where Josh is coming from. We are willing to get all this information and the traffic study and access is important.

Larson if they are willing to get all the information together, I don't want to kill it. I would be fine to continue it.

Larson** motioned to continue the item for up to 90 days; **Allen** seconded; **Passed 7, 0.

Ellis does the council want us to do that?

White I don't think there is enough information for us to do anything.

Ellis well, council doesn't have to wait for us.

White we don't have to, but I'm sure we will.

Sands my only concern is that I don't think you will get a wetlands delineation done and approved in 90 days.

Mr. Anderson right, we have made contact with somebody regarding the delineation and as soon as he is back in town can start working on that.

Ellis could staff explain why the wetlands delineation be done before the CUP?

Erickson are the violations set aside for 90 days as well?

Runhaar as long as they are actively working on the site, then we have agreed not to actively pursue enforcement.

Sands I think it's important to have the delineation done.

Mr. Grange we want to be good neighbors. It's a good business, it's a needed business.

Original motion passed.

8:17:00

#6 Discussion – Titles 12, 16, 17.02, and County Road Standards

Staff and Planning Commission discussed where the commission is with the road standards discussion. Josh did inform the County Council as to where the commission is on the road standards and Council has decided to take action on the road standards at their May meeting. Staff will try to have a draft of final language completed for next meeting for the commission to review.

8:23:00