

County Planning Commission (CCPC)

Minutes for 02 June 2011

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

Start Time: 5:31:00 (Video time not shown on DVD)

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

5:33:00

Agenda

Agenda approved with the deletion of item 2 from the Consent Agenda and item 1 (one) being moved to the regular agenda.

5:35:00

Minutes

May 5, 2011 – approved with noted changes.

5:38:00

Consent Agenda

#1 Comish Subdivision and Boundary Line Adjustment (Jeff Jackson)

Mr. Jeff Jackson is requesting a recommendation of approval to the County Council for a 2-lot subdivision on 45.84 acres of property in the Agricultural Zone located at approximately 1385 East 13000 North, Cove.

Larson recommended approval for the Comish Subdivision with the stated conditions and findings of facts; Erickson seconded; Passed 6, 0.

FINDINGS OF FACT

1. The Comish 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 Comish 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 Ordinance and the requirements of various departments and agencies.
3. The Comish 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 Comish 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.

CONDITIONS OF APPROVAL

The following conditions must be met for the developments to conform to the Cache 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 Comish Subdivision and Boundary Line Adjustment.
3. All lots shall provide sufficient shoulder space for the residential refuse and recycle containers to sit four feet apart and be out of the travel lane.
4. The Applicant shall reaffirm Cache County's 33' right-of-way for the County road, 13000 North, across the entire frontage of the proposed subdivision and boundary line adjustment.
5. Any driveway that may extend greater than 150' in length shall follow the 2009 International Fire Code requires and shall be a 20 foot wide all-weather surface and an approved turnaround shall be constructed at the end of the driveway.

5:39:00

Regular Items

#2 Darren Cox Subdivision

Harrild reviewed Darren Cox's request for a recommendation of approval to the County Council for a 2-lot subdivision on 44.91 acres of property in the Agricultural Zone located at approximately 793 North 8000 West, Petersboro and continued from the May 5, 2011 meeting. The applicant has requested the item be continued up to 60 days.

Larson motioned to continue the Darren Cox Subdivision up to 60 days; **Erickson** seconded; **Passed 6, 0.**

Rusty Eskelson is he fighting the width of the road?

Harrild he is getting bids for widening the road to determine if it is feasible for him to do the improvements.

5:42:00

#3 Lofthouse Subdivision (Rusty Eskelson)

Harrild reviewed Mr. Rusty Eskelson's request for recommendation of approval to the County Council for an additional 3 lots in an existing 2-lot subdivision formerly called the Wengreen 2-lot Farm Subdivision Amended, on 55.21 acres of property in the Agricultural Zone located at approximately 25 East 10700 South (West Canyon Road), Avon and continued from the Dec. 10, 2010 meeting. Currently the road where this subdivision is located is an average of 16 feet wide and there is a bridge that is 16 ½ feet wide. The county doesn't have this road on the capital improvement plan. The applicant did try to seek a variance from the state fire code for the road. The state does not hear such requests for variance, however the county can. The Cache County Fire District will not permit a variance to the width requirement of the road. The Cache County

Ordinance also states that the road must be 20 feet wide. The applicant has stated that he is not capable of improving the road to the required 20 foot width.

Staff and Commission discussed the road and the bridge leading to the subdivision. The county fire district is willing to allow the bridge to be a single lane bridge, but the rest of the road is not adequate to allow additional development and is currently the only access to this subdivision. The road currently services about 9 or 10 homes and may eventually be on the capital improvements list, but it is not known when that will happen and Staff does not feel they can recommend more development on the road without improvements.

Larson about the distinction between when we put in the requirement for a 20 foot road and then recommend denial or approval, it may make an inconsistent record if we require the 20 feet and recommend approval for one and recommend the 20 feet and denial for another. When we talk about it here we can clarify, but in the future I think that may make a confusing record for those looking at it. We need to be very clear in cases like this where the applicant is refusing to put in the road and make sure that it is clear in the record from the beginning. Doing the hybrid thing makes our decisions look arbitrary. In the project summary you refer to the parcel as not being eligible for development without elaboration, is it not eligible because it is a remainder parcel, greenbelt, or why?

Staff and commission discussed the labeling of the parcel as not eligible for development. Back when this first came to the commission in about 1999, remainder parcels were allowed for development. It is eligible for development as long as everyone owning land in this subdivision agrees and they can amend the plat and take that distinction away. The land will be divided into 3 buildable lots and 1 agricultural parcel not eligible for development. They are self restricting the last parcel so that someone can't build on it, and the assessor's office is requesting that it be labeled as such if the intent is to leave the property with a greenbelt status.

Mr. Rusty Eskelson I'm the guy who wants to build a house on one of those lots. I understand the need for improving the road, but there isn't anyone on the council that has paid for the road in front of their house. I don't feel it is fair to have me pay for the road that the county hasn't kept up to standard already; I am willing to pay for part of the development, but not all of it. I'll pay a portion and I'm willing to put that money in escrow and when the county gets around to this road and use it and do the development then. Adding 3 more lots to that property certainly isn't going to require that road be bigger to handle the few extra cars on it. But the fact is because the road isn't wide enough you limit what I am able to do. I am willing to do all the requirements on the physical piece of property I own. How far back are you going to make me go before you say that's the access road? I hope we can still do the subdivision even if they don't do the road. That allows us to at least move forward with the other things that need to happen.

Ellis we are bound somewhat by the ordinance but it sounds like the applicant is willing to work with the county on the road. I'm wondering if the planning commission wanted to recommend approval subject to the road being improved, do we have adequate conditions in front of us or do we need to continue the petition to the next meeting?

Harrild I would suggest you continue it at that point.

Runhaar the other question is going to be that we hold an approval for 12 months and if the subdivision doesn't meet standards at the 12 month mark the approval is still void because we can't record a plat until we have improvements or financial backing in place. We have done some partnering agreements before because the development was fortunate enough to have the road on the capitol improvements list within a year or two, this road may be 5, 6, or 7 or more years out.

Staff and Commission members discussed the possibility of a development agreement between the applicant and the county where the county will bear a portion of the cost. At this time it isn't a feasible possibility due to not knowing where this road will be on the capitol improvements list. For this subdivision there needs to be at least 1600 feet of improvements and there is a possibility that a curve in the road will need to be realigned but that is yet to be determined by the engineer. The fire code and county ordinance require a 20 foot wide all weather surface. It cannot be a two toned surface. According to the engineer it creates a bigger safety problem when there is chip and seal and gravel for the same road. The gravel needs to be gone back over with chip and seal. While the bridge does not meet the 20 foot standard for the fire code, the fire district is willing to have signage stating it is a single lane bridge and will accept it that way.

Larson is this even a moot point? Is discussion of widening the road even something you are willing to discuss?

Mr. Eskelson we want to make something work. Coming in and replacing the road isn't a possibility but if we can come to an agreement where we put in trust a decided on amount for the improvements, absolutely. We want to move forward.

Sands Mr. Eskelson if I look at the map here, about half the road length borders the property and you would still have to improve half of it.

Mr. Eskelson or a quarter of it depending on how you look at it because we don't own the other half of it.

Sands that's true. But you still have to end up with a 20 foot wide drivable surface. Widening the bridge, I can certainly understand that being unfeasible.

Mr. Eskelson you can throw as much dirt as you want, but it's not going to make much of a difference. Once a man is down he's down. They said the road needs to be widened and at the prices we've estimated it isn't workable.

Mr. Jeff Jackson I try not to speak about things that don't involve me, but this is an issue that comes up all the time. I'm in the planning office a couple times a month talking about road width and different ordinance, and you have good staff but they have to keep hiding behind the ordinance. Ordinance is set by city and county commissions and can be changed and I know as soon as I sit down I'm going to hear the 20 feet is set by the fire code and we can't change that. We sat in here 2 weeks ago where we were being told that fire sprinklers were being mandated by the state and that could be modified. I'm assuming that the 20 feet could be modified by the local jurisdiction. If that road needs to be 20 feet to meet fire code, then that bridge needs to be widened to 20 feet. There shouldn't be an exception made if the bridge needs to be 20 feet, if

there can be an exception made then there should be an exception that could be made in this case also. This road, and many like it the county, have been in place 10 years and there haven't been any problems. You're talking about a corner that there have been accidents on, but those are not this gentleman's fault. If there continues to be problems then the county ought to step up and fix the problem and not put it on his shoulders and I know your probably not talking about putting the whole cost of the curve on him, but to hold his property hostage because the county is not up to speed isn't fair. I think his offer of putting money into escrow is more than fair. When you develop in the city you aren't required to improve the road past your property. If the road isn't adequate then the county needs to make it a priority. Josh has his pecking order of his projects that need to be done and those are set by community needs. At some point this will become a big enough problem that it will rise to the top and need to be addressed. We widened a road out in Petersboro last year. If you go out there now, we put a nice 20 foot wide road in, there are weeds grown up out of the road 4 feet in. We make the effort to put a nice road in and the county doesn't even maintain it, they don't even plow it to the 20 feet in the winter they do 16; they don't maintain the road.

Ciebien I do want to clarify something, the sprinklers fall in another area of the code.

Rusty Lofthouse I am the son of the landowner who is trying to sell the land. My big problem is, with this specific subdivision before when it was Wengreen, when he came in to get it approved, he ran into the same thing but his got approved. How did he get it approved?

Ellis when was that approved?

Mr. Lofthouse 2002 and the house wasn't finished until 2004.

Ellis has the fire code changed?

Runhaar there have been some changes. Looking at the minutes and talking to Mr. Yeates, they did require improvements to the Wengreen Subdivision, but Council removed those road improvements based on the fact that they would get two lots and no more. I've been hearing every which way on this from state representatives to council members, the fact is after you look at all the issues, yes two lots were put down there without the road improvements and that last part was put in as a remainder without eligibility for development because the road wasn't up to standard. Putting in three more lots when the road does not meet the minimum standard isn't allowed by fire code or our ordinance. It doesn't really matter what has happened in the past; to continue to make the same mistakes and breaking our ordinance is a problem.

Mr. Lofthouse which is all great, but 3 years ago another house was approved and built at the end of the road.

Ellis I tell you in general that the trend on the county council is to be stricter about enforcing the ordinance.

Mr. Lofthouse I asked last time when the 20 foot ordinance was put in and no one could tell me.

Harrild 1994.

Mr. Lofthouse 1994, ok, and the bridge has been replaced since 1994. The county came in and replaced the bridge and didn't meet their ordinance?

Runhaar the bridge is a different issue. It was replaced through a federal organization.

Mr. Lofthouse but they come in and do all that work and leave 4 feet off?

Runhaar they did.

Mr. Lofthouse that's what I don't understand.

Ellis in the ordinance changes that have been recommended the county will have to meet the same standards that are required to be met by developers and that had not been in the ordinance in the past.

Mr. Lofthouse my frustration is I keep getting reasons and excuses thrown back at me. There's all these loop holes for the bridge and the house that went in 3 years ago, and for the original development about 10 years ago, and now when we come in there isn't a way to work around this. I don't know if anything has changed since 3 years ago, so I don't understand.

Ellis the one that was done 3 years ago, would that have been a building permit on a single lot and wouldn't have come here?

Runhaar right. I don't know the specifics on it, I would have to go back and look. The home was finished 3 years ago? Even as of 3 and 4 years ago we were told to issue permits on legal lots for single homes on substandard roads.

Larson if we were looking at that case today, and they were looking to do a single lot?

Runhaar the issue is this, if I have an approved subdivision with approved lots where they looked at the road, even if it's decided the road is inadequate, they are vested and I have to issue a permit. If I don't, we get sued and lose. The county should be going road by road and improving them but that isn't the case as of yet, we are working towards that but aren't there yet. I can't speak to the specifics of the home in question without looking at it.

Bruce Nielson I am the owner of lot 2 in the subdivision and I bought the home last November and only recently was aware of this issue. I am not in opposition of what they want to do but I do have some concerns, my driveway is about ¼ mile long across the stream that runs adjacent to West Canyon road. All three lots that are proposed will have to have access along that driveway and right now I am the only one that maintains it and I don't know what they intent is for that drive but it will be over encumbered. My driveway has washed out twice since I've been there and I think there should be some consideration to that issue because that is going to be the access for those additional 3 lots.

Larson what is the benefit of a continuance? Do you prefer continuance?

Mr. Eskelson I would prefer approval.

Larson I would make that recommendation but with the condition on improving the road.

Mr. Eskelson I would like to come to some sort of agreement.

Larson I'm concerned with the perception that we hide behind the ordinance or that there are random exceptions for things. Some situations seem to be comparable, but really aren't. There is a saying from Sir Thomas Moore that says if we cut down all the laws to get to the devil, what protects us when the devil turns on us? Our adherence to the law is not just a sword but a shield for you as well. To treat people fairly, and situations equally, we adhere to the laws. The laws don't own us and we can refine them and we spend a lot of late nights doing that so they are better and we don't have unintended consequences. But at the end of the day, it's about the rule of law and that is your best opportunity for consistent outcomes because people turn over on these commission. Built into the law are situations where you can come up with exceptions, and that is what variance laws are about, but there is a very clear list that we analyze to do that. That is what we are trying to do here and we are trying to make this work and find a way to get done what you want to get done. We can't evaluate whether it's too expensive for you, that's not part of the analysis. I understand the heartburn over it, but it's not part of the considerations. I feel your pain and we are trying to find a way to make this work and with that my inclination would be to recommend approval with the condition that the road is brought up to standard to conform to the ordinance.

Ellis that would not require any particular person to be responsible for the road.

Larson no, if that could be worked out with the county and whoever else is purchasing a lot that's fine. It's your job to be creative to finance it, and we have to follow the law. Where you're seeing the expense for you, there is a whole county full of people who live close to county services, they feel bad about financing people who want to live far out in the county because they don't want to live near cities and then the county pays a disproportionate percentage of its resources to service people who live far out. So there is a flip side to the argument as well.

Staff and Commission members discussed the reasons for a continuance of this item. A continuance would allow for better crafted conditions and findings of fact. The biggest question with this application is rough proportionality in terms of how much of the road needs to be improved. Also, putting money in escrow to help pay for the improvements isn't feasible due to the problems relating to impact fees and how the state handles that. The commission also asked, if it's possible, in the future to have conditions supporting approval besides the findings of fact supporting denial of applications similar to this one.

Larson this gets back to the point that I made originally and that is it looks like a different outcome. Since we are trying to help people do what they want to do and do it in an orderly way, I would rather approach it from the premise that everything is permissible except that which we need to regulate to some degree instead rather than everything is forbidden unless you get our permission and this sort of approaches it that way. I would rather approach it optimistically and deal with it as if you never had a conversation with the applicant because nobody reading the public record will ever see that conversation. So for a more accurate and approachable public record we've got to set up so that we are always making the same conditions in the same situations and if it's different we need to spell it out so it's understood.

Runhaar we can do it, but you don't often see us recommend denial for a subdivision except rare occasions. This one is to try and keep the county legally safe. When you look at the full public record of subdivisions, when we do those that require x, y, and z for approval, looking at the full record you will see their engineering guides for the road and you are correct we should indicate otherwise on this one. I think the problem is clarifying on this one.

Larson it is a public perception problem too because it looks like you aren't giving them the full opportunity to meet those conditions. We haven't had the benefit of those conversations you have off the record.

Ciebien if you set this up the way you are discussing do you find there are compliance problems?

Runhaar no. It's taken us about 3 ½ years to get plats to the point where we don't record them until conditions are met and if they aren't met then they don't get recorded.

Larson motioned to continue item #3 to the July meeting; Olsen seconded; Passed 6, 0.

6:41:00

10 Minute Break

6:50:00

#4 Edge Excavation Conditional Use Permit (Justin Robinson)

Harrild reviewed Mr. Justin Robinson's request for a Conditional Use Permit (CUP) to allow storage of rock, top soil, gravels, and similar materials on 16.64 acres of property in the Agricultural Zone located at approximately 2200 North 1100 West, northwest of Logan. The property was rezoned by the County Council to the Industrial Manufacturing Zone. Just to the east of this property is where they have been storing the materials on their site. The plan is to move their operation over to this piece. The property is within the Urban Service Area of the Logan City annexation policy plan boundaries. They are in the process of completing a wetlands delineation. The other issue is that 2200 North is a substandard road and will need to be improved. To improve the road they will need to work with UDOT to shift that road south and widen it. The other issue that needs to be included for a conditional of approval, I recommend that we state that the applicant be allowed up to 6 months to move their storage from the date of issuance. This allows them to maintain the CUP while moving from their current site to this site and the old site's CUP will be void. Staff does recommend approval due to its location and that in the future it will become part of Logan.

Runhaar Logan has commented on this and has no problems. The other issue is that if you issue an approval tonight it actually won't be valid until June 8th due to the rezoning of the land and the time that is required to complete that process.

Sands I need to disclose a conflict, I have a financial relationship with so I won't participate in this issue.

Runhaar I realize I am staff, but I have used them before for some material that I needed. I don't feel that I have a conflict.

Erickson I need to disclose that I am a relative to one of the owners of Edge Excavation.

Jerry Crosley I am one of the owners of Edge Excavation.

Ellis you've read the conditions and understand?

Mr. Crosley yes, and I don't have anything to discuss. We would just like to move forward if we can.

Jody Brodrero I own property to the north. We have a couple of concerns regarding access. When Edge has been on the east side of 10th west it's basically the same type of road between 6th and 10th which is a single lane farm road. They haven't done anything to maintain that road and it has mushroomed out and impaired our irrigation ditch that runs parallel with the road and we haven't been able to seek any help from Edge, Geneva, or Logan City with that. I'm hoping that if they do the improvements they do it the right way so we don't have the same problem when they move. Also, we have some issues with drainage. Water that has come down through the natural drainage has been diverted and altered from the natural drainage and been deposited in the ditch which isn't meant to handle it. They haven't been the best of neighbors and we are not excited about them being down there. The other issue is where they are going to send their surface drainage off that much of a yard area. We are one of the few people that drive cattle along that road and we would like to see some fencing to be put up in regards to their land on 10th west.

Ellis if they have to build a new road to align with another one

Runhaar what will likely happen will they align the portion that meets up with 10th west. As to drainage we are requiring a drainage plan to be submitted and they will have to contain their drainage.

Mr. Brodrero they will have to contain the overflow from the containment.

Runhaar they are required to submit a drainage plan and explain how they are going to mitigate the changes there.

Mr. Brodrero we got a letter that there is going to be utility improvements along that road and will that impact that?

Runhaar there will be sewer and utility coming along the north end but I haven't seen them.

Ellis how would the ditch be handled with widening?

Runhaar I think they are going to attempt to not touch the ditch and build the road to the south. What existing drainage goes into the ditch shouldn't be increased.

Ellis what about sloughing?

Runhaar the engineers will have to build a road that will handle the traffic.

Erickson the irrigation company, they don't own the ditch but they have rights to pass water through it.

Mr. Brodrero the irrigation company down there is a little different, once water leaves the main canal the ditch becomes the property or responsibility of the water user and we do try to maintain the ditch but we've had additional maintenance due to the sloughing of the road.

Ellis the fencing with the cattle?

Runhaar we are a fenced in county and so cattle are supposed to be fenced by the cattle owner.

Mr. Crosley it is our intent to fence along that entire piece of property.

Kathy Merrill I own the land on the south side of this property. Have you looked at where Edge and Geneva are and seen the mess down there? That is what is coming across the street and how are they going to guarantee that that isn't going to come into me and how is this going to affect my land?

Ellis as far as blown silt and so forth? There won't be offsite drainage, what do we do for wind?

Runhaar dust control, this is agricultural land. There is dust control and a lot of requirements about keeping the land wetted down and if there is too much dust you come into air pollution issues.

Ms. Merrill now with Geneva, along 6th west they had to build a rock wall because of the wind blowing.

Larson how do you use your land?

Ms. Merrill we run animals and store stuff there.

Larson was Geneva there when you got the land?

Ms Merrill no, my dad sold Geneva the land.

Mr. Crosley it has never been our intent to infringe on people's land or anything along that, so I apologize about that. The little road we don't usually use and we may have to do something to alleviate the current situation. We will have to build a good road for the trucks to use. Our intent is not to infringe on the north side of the road and we do intend to fence the property. There could be some issues with dust because we do have piles of sand and stuff and we are required to alleviate the air situation that arises and is something that we are willing to address.

Erickson how far down the road are you going to go for access?

Mr. Crosley I'm not sure at this point, that does come down to some of the wetlands delineation. If we can, we will build down to the end of the property.

Larson why are you moving?

Mr. Crosley we are leasing our current property and we have the opportunity to buy the piece that we want to move to.

Erickson I was hoping that there would be a condition about irrigation stating that there is no change in the irrigation or impact to those down the ditch.

Runhaar there shouldn't be any impact to the irrigation where all the widening is to be down to the south.

Erickson what about wetlands?

Runhaar the delineation is still being done.

Sands staff may want to add language regarding permits from the Corps if needed to all applications like this.

Larson I assume that the fence is a requirement for the type of business?

Mr. Crosley I don't know if it is a requirement, but we will have some type of fence for insurance and liability issues.

Larson is any of the ground around this in agricultural protection?

Mr. Brodrero no, we do harvest hay, but as far as any Ag protection I'm not aware of any.

Runhaar if you are going to do a fence I ask that you state project site, or frontage.

Larson I'm just asking for a justification if needed for the fence.

Ellis my feelings are that the only reason for the fence is to keep cattle off it, and that is the cattle owner's responsibility.

Godfrey the fence, I don't know if that's the landowners or cattle owners, but liability wise the landowner would be smart to put a fence up. I don't think the fence needs to be a requirement. I'm more worried about dust control and how they are going to handle that.

Ellis with those concerns, do you favor approval or denial?

Godfrey if those concerns are taken care of, I would approve.

Larson it states they don't have enough water for fire suppression which isn't an issue due to it being rock and dirt and such. But then do they have a enough water for dust suppression?

Mr. Crosley we would have to buy water to bring in.

Ellis I'm inclined to approve this with the noted issues being addressed.

Erickson I would just expect them to be neighborly. Most places like this have a fence for their own protection. The irrigation issue needs to be addressed

Olsen I think you can work with the land owners and listen to them and address their concerns. You've mentioned you are building a fence for security already. There is a concern with irrigation water and that can be addressed and met. I don't have any objection as long as the landowner's concerns are addressed.

Erickson** motioned for approval for the CUP with the stated conditions and findings of facts with the addition of all permits required on condition # 7; **Godfrey** seconded; **Passed 6, 0.

FINDINGS OF FACT

1. The Edge Excavation Conditional Use Permit 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 Edge Excavation Conditional Use Permit 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 Edge Excavation Conditional Use Permit is issued in conformance with the standards and criteria for a conditional use permit within Title 17 of the Cache County Code.

CONDITIONS OF APPROVAL

The following conditions must be met for the development to conform to the Cache County Ordinance, the requirements of county service providers, and for the protection of the public interest and adjacent properties.

1. The applicant must abide by the letter of intent as submitted to the Cache County Zoning Office.
2. Any expansion of the approved conditional use or alteration of the conditional use permit shall require review and approval by the appropriate land use authority prior to the expansion.
3. The applicant shall widen the portion of 2200 North along the length of the subdivision frontage to an all-weather surface width of 20 feet with one foot shoulders. An encroachment permit must be obtained for any work within the county right of way.
4. The applicant shall reaffirm the County's right-of-way of 33' from the centerline across the entire frontage of the property.
5. The applicant shall work with and obtain any necessary permits from UDOT in the widening of 2200 North at the intersection of 2200 North and State Route 252.
6. A site grading and drainage plan, provided by the appropriate licensed professional, shall be submitted to the Cache County Engineer for review and approval.
7. A full, wetland delineation for parcel ID# 04-076-0001 shall be completed by the appropriate licensed professional and the applicant shall obtain all permits as required by the U.S. Army

Corps of Engineers. A copy of any required permits shall be submitted to the Cache County Zoning Office.

8. The applicant shall provide a hazardous fluids containment plan that addresses the storage and clean-up of hazardous fluids kept on the property.
9. The applicant shall obtain a County Business License for the proposed use to operate at this location.
10. The applicant shall be allowed up to 6 months from the date of issuance of the conditional use permit in the transfer of the existing storage. At the completion of the 6 months, the conditional use permit for the existing site (ID#'s 04-076-0008, and 04-076-0009) shall then be voided.

07:30

#5 High Country Estates Rezone

Harrild reviewed Steven and Justin Taylor's request for a rezone of 70.07 acres of property from the Agricultural Zone to the RU2 Zone located at approximately 14015 North 8000 West, Beaver Dam. The rezone change will allow subdivision of the property at a density of one (1) unit per two (2) acres. Currently they are allowed seven building lots and the rezone would allow up to thirty-five lots. There is a High Country Estates in Box Elder County owned by the same developer and the lots there range from 0.5 to 1.75 acres. Access to the area is from 8000 West and is adequate and the water supply is sufficient for fire suppression. Staff recommends denial due to rezoning single parcels in the midst of larger agricultural areas degrades the effectiveness and purpose of the Agricultural Zone. Spot zoning is not an appropriate method of clustering development, and instead this may encourage continued development at an increased density in agricultural areas rather than encouraging growth in and adjacent to cities.

Ellis what would happen if we approved this, Ms. Ciebien?

Ciebien I would prefer to look at it, but I would stand behind staff on this one. I will look in to it though.

Runhaar you can recommend approval for this. However, the Council does like to have development in and around cities. There is no legal issue regarding this, it is a legislative decision.

Staff and Commission discussed the location of the rezone. The land is currently dry farm and is not high yielding dry farm and the applicant and some commission members feel it is a prime area for a rezone. Also, even though it shouldn't affect the commission's decision, Box Elder County has rezoned the land right next to this in their county.

Justin Taylor I am an agent for the owner and have been involved with the development in that area. In your minds if you think about this as phase 2 of High Country Estates ... I thank you for taking the time to listen. It is a rezone and part of the infrastructure for this services an existing subdivision. The main point of the ordinance that we find fits this area is that the land meets the service provisions and has good access. The 70 acres does not currently reside within annexation plans of any surrounding municipalities, so that is why we are coming to the county. There is

adequate road access to this area and it meets the county standards and in some areas exceeds county standards. There is a 250,000 gallon water storage tank with fire suppression with a current capacity for 54 homes and the Willow Creek water Company is developing additional water sources for the company which includes a future connection plan with the Bear River Conservancy District. Power is provided by Rocky Mountain Power, telephone by Frontier Services, trash is handled by County service and there is an Inter-Local Agreement with Box Elder County for snow removal. There also is more than adequate access for emergency services. We feel all the infrastructure is in place that warrants this type of rezone for a subdivision.

Olsen motioned to extend the meeting until 8:15; **Larson** seconded; **Passed 6, 0.**

Mr. Taylor the development will be an L-shape. There will still be open space and trails. This is dry farm and is not high yield.

Larson where is the water for landscaping coming from?

Mr. Taylor with each connection the Willow Creek Water Company allows a quarter of an acre. There are fire hydrants and Bear River Health Department has indicated that septic tanks are feasible. Some concerns that have been raised are that approval will open the floodgates for rezoning applications and we feel that is false. High Country Estates has met significantly higher standards and more costly developments for residential lots in a rural area and if others are held to the same standard that alone will deter a number of applications. Preserving agricultural grounds has been a concern. These 70 acres are not high yielding agricultural land; this is non-irrigated dry farm and some surrounding land hasn't been farmed in over 30 years. There are homes that have been built in this area and I feel there is a desire for these lots. Since 2009, in the slow economy, we have sold 19 out of 27 lots. This is a spot zone for Cache County but there is development adjacent in other counties. The current development in the area is significant, whether it is in Cache Valley or Box Elder, there are also plans for more development. We do hold true to the County plan to conserve high yielding agricultural land and we do meet the current ordinance standard.

Steve Taylor we have had the good fortune of working with the land owners for the few past years. This project has been in the dreaming and developing stages for over 30 years. The water company is investing over \$200,000 for water infrastructure for this area. People have been upset with people drilling water and taping current water sources, we are bringing in a water source from an outlying area. The RU2 zone in this environment makes perfect sense and maybe in this area you need to hold RU2 areas to a higher standard. I think the Council is trying to bring development closer to municipalities due to the water source and the water source there is as credentialed as Logan City's.

Ellis if it were an RU2 zone you could still have ½ acre lots and open space.

Mr. S Taylor yes. The owner has a desire to open a large area for a church for part of the infrastructure of the community and then to make smaller lots with lots of open space and trails, etc.

Sands I have realized through the course of the discussion I cannot participate in this decision.

Larson I find it compelling that it meets our standards, so of the things that we've committed to ordinance I think they've meet all of those. From a policy perspective I don't see any reason that we could deny it.

Godfrey** motioned to continue meeting for 5 minutes; **Larson** seconded; **Passed 6, 0.

Larson I'm looking at the bullet points on this and I think the findings of fact may already be done.

Staff and commission discussed findings of fact for approving the rezone for High Country Estates and deleting the current finding of fact.

Larson** motioned for recommendation of approval to the County Council for the High Country Estates with the following findings of fact; **Godfrey** seconded; **Passed 5, 0. (Sands Abstained)

FINDINGS OF FACT

1. As required by Cache County Ordinance §17.08.030[C][3], the proposed High Country Estates rezone is appropriately served by suitable public roads, has access to necessary water and utilities, and has adequate public service provision including adequate fire protection.
2. The proposed High Country Estates rezone is consistent with the existing development in the area.
3. The proposed High Country Estates rezone preserves high value agricultural land.

Larson** motioned to extend the meeting to 8:30; **Sands** seconded; **Passed 6, 0.

08:24

#6 Amendments to Cache County Planning Commission By-laws

Runhaar reviewed the changes to the Commission By-laws.

Sands** recommend approval to the County Council for approval for the amendments to the Commission Bylaws; **Erickson** seconded; **Passed 6, 0.

#7 Discussion: Sections 17.07, 17.09

Continued until next meeting

Adjourned

8:32:00