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DEVELOPMENT SERVICES DEPARTMENT**

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**Planning Commission Minutes**

**01 November 2012**

<b>Item</b>	<b>Page</b>
1. Michael Allen Rezone, continued from the October 4, 2012 meeting .....	2
2. Jackson Ridge Subdivision, continued from the October 4, 2012 meeting .....	4
3. Planning Commission Meeting Dates and Application Deadlines .....	6
4. Amendments to Title 17; §17.07 Definitions; §17.09 Schedule of Zoning Uses; 17.21 Small Business Standards in the Agricultural Zone. ....	7

**Cache County Planning Commission**

Minutes for 01 November 2012

**Present:** Chris Harrild, Josh Runhaar, Phillip Olsen, Leslie Larson, Chris Allen, Jason Watterson, Chris Sands, Jon White, Megan Izatt

**Start Time: 5:31:00**

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

**5:33:00**

**Agenda**

*Passed*

**Minutes**

*Passed*

**5:34:00**

**Regular Action Items:**

**#1 Michael Allen Rezone: Continued from October 4, 2012 meeting (Michael Allen)**

**Allen** excused himself due to a conflict of interest.

**Harrild** reviewed Mr. Michael Allen's request for a recommendation of approval to the County Council for a rezone of 31.58 acres of property from the Agricultural (A-10) Zone to the Rural 5 (RU-5) Zone located at approximately 12851 North High Creek Road, Cove. Harrild reviewed the ordinance language regarding the RU-5 zone. This potential rezone would allow for up to 6 new homes. However, there are two houses on the property and it is the stated intent of the applicant to add two additional houses.

**Staff and the Commission** discussed the illegally divided parcels. In this situation one of the homes was sold with some of the land but did not come before the commission for the division of land so it was divided illegally. The bigger parcel is legal, but the smaller parcel with the home is illegal. The applicant desires to remove the restriction from the illegal parcel. This will be addressed during the subdivision process not the rezone. Also, the sensitive land that is restricted for building due to the slopes was discussed. This undevelopable land affects the number of building lots allowed as they do not count towards the total developable acreage. It would appear that the applicant is eligible for a total of two lots. Staff had suggested the owner have the property surveyed to determine the developable acreage of the property.

**Michael Allen** my goal is just to build another house. I sold a piece of my ground to one of my friends with a house on it that created an illegal lot and I would like to take care of that so there are no restrictions on them. Also, my boundary line isn't where I want it to be so I want to also take care of that. One of my sons has also expressed some interest in building a house out there. I have had it surveyed and there are about 9 acres out of 30 that are steep slope and river bottoms. So that leaves just over 20 acres for development. This is enough for a third house on that 31 acres and I need to go through this development to get this one more house. We didn't seem to have a lot of visual support for this so I wrote this (petition) up and went up and down High Creek Road and they have expressed support for this. I didn't have every one sign it, but all of them but the Peterson's have signed this because they are in Alaska. I think they would give the same positive response to this. Let me explain a little more about High Creek Canyon. There are 17 homes along High Creek Canyon. About a mile up the canyon is a lot of acreage that is undevelopable. Of those 17 houses, 3 of us have over 20 acres. Skabelunds and Walkers are the only landowners up there that own a sizeable piece of land that can be farmed. The Jensen's own 10 acres and then they're surrounded by farmland. None of the people who live up there have any objections to me building a couple of homes up there.

**Staff and Commission** members discussed the directives given in deciding where the RU-5 zone is to be located. Many members feel that there is not a great way to implement this zone. The Commission has been good to look at each applicant and take RU-5 rezone applications on a case by case basis. The Commissioners felt that this wasn't a large change to the area and that this application might be a good fit for this area. However, staff's review identifies that the average parcel size for parcels with homes on them within one mile of the proposed rezone is 9.5 acres. The current request reflects a five acre density, nearly double the existing context of the area as regards density. The Commissioners also felt that the land along the road in this area doesn't seem very suitable for agriculture and would maybe be prime development land and would help keep the larger sections that aren't as close to the road open for agriculture. The Commissioners felt that maybe a couple of projects similar to this one would be okay up in this area, but to develop along on the road probably wouldn't be appropriate, but many Commissioners are inclined to support this proposal.

**Vern Fielding** I'm working with Mike as his real estate agent and am his neighbor. I think part of Mike's due diligence was contacting his neighbors and finding out their support for his proposal.

**Olsen** are there neighbors that do not support this?

**Mr. Allen** I've lived here a long time and have a good rapport with everyone. It's almost an unfair advantage because of that. I mean I would do anything for them and they would do anything for me. Chris withdrew himself because we've known each other our whole lives. He mentioned that he would go against me if it meant that many homes there and the neighbors were against it, but he came back and rethought that and he said what difference is it going to make if they can put 1 house on 10 acres up there. Water and slopes are going to limit development already because they aren't easy to get up there. There is no one in High Creek that we have any animosity towards or them towards us.

**Larson** it's helpful to know how the community feels about it. The problem we are still stuck with is that we will get requests from all over the county that will be similar and while your community might be entirely in favor of it another community might be entirely opposed to it. So we need to be able to anticipate future requests, and previous requests, as an idea of what our decision is going to be.

**Mr. Allen** you do have the big open fields in our community and we have farm ground that is in the open area and we would rather see the houses higher up off that open ground.

**Larson** and that seems to be our agenda.

**Mr. Allen** on this sheet it also mentions the FR-40 zone. The dirt road goes through for three miles past my property and it is private land on both sides and then is shut down from November to March.

The planning commission discussed who was supportive of the project and who wasn't. Of those voting on this project all expressed a favorable leaning for this particular project. The commission does look at each of the RU-5 rezone applications on a case by case basis and the scale of this application was favorably supported.

***Watterson** motioned to recommend approval to the County Council for the Michael Allen Rezone from the A-10 to the RU-5 Zone with the finding of fact that the project is consistent with scale of rural development in the High Creek area; **Olsen** seconded; **Passed 4, 0.***

**6:22:00**

### **#2 Jackson Ridge Subdivision: Continued from October 4, 2012 Meeting (Lynn Hulme)**

**Harrild** reviewed Mr. Lynn Hulme's request for a recommendation of approval to the County Council for a 7-lot subdivision and agricultural remainder on 80.33 acres of property in the Agricultural Zone located at approximately 10600 South 1000 East, Avon. Lots 1-4 will be located on 10600 South, and lots 5-7 will be located on a private road identified as 10800 South that will be accessed from county road 10600 South and the private road Jackson Ditch Road. Staff has concerns regarding the access. The average width of 800 East and 10600 South is 18 feet and lacks the required surfacing to meet County Standards. The County Engineer would need to determine the extent of the improvements needed to bring the roads up to the County standard. The private roads are 22 feet wide with a gravel surface and meet the standard. However, the private roads were built over an existing primitive access across 30% plus slopes without approval and in spite of staff's notifications that title 17.18 restricts any development from occurring on slopes that are 30% or greater. This has led to areas of destabilization on the existing slope. The applicant has provided a letter stating that they intend to make the needed improvements to the county roadways 800 East and 10600 South to meet the County Standards. In regards to water and septic, water rights have been submitted to the Development Services Office and the Bear River Health Department (BRHD) has determined the lots to be feasible for septic tanks. However, sewage for lots 5-7 must be piped to the agricultural parcel where a minimum of one acre area shall be set aside for a wastewater drain field. Also, due to the

undevelopable acreage on the parcel, they lack the needed acreage for an 8<sup>th</sup> building lot. Staff has no additional concerns regarding service provisions.

**Mr. Lynn Hulme** I'll explain a couple of things. The house on the far left and at the top, in order for that house to be approved the County previously required the whole road up to their home be brought up to County Standards. At that time it was a lot easier to allow everyone to do the improvement on my side of the road. So it was my understanding that it was an approved road by the County. That part I didn't know.

**Harrild** the average width of 800 East is 18 feet, so it very well may be 20 feet until the turn off for the private road and likely met the county standard that was in place at the time.

**Mr. Hulme** the other part of that when I started on this those new standards went into effect so when we put the private road in, I had LeGrande Johnson do that and I said they needed to stay away from the 30% slope. So they did some extra work with the CAT towards the top to try and get rid of that. And on the lower slope where it's darker, more shaded in. It's 30% but it's got to be back at least 30 feet. I don't think there should be any problems with that.

**Harrild** this is what is identified on the plat. What's in red is actually the road area and this darker portion is the 30% plus slope area. There is a portion that crosses and then is parallel to the road.

**Mr. Hulme** I did send Foresight Engineering a drawing of the plat with the new septic system. On the north side of the road it would come straight down off the hill. I did dig two test holes for them down off that hill. So go to the south side of that house and go straight east to the fence line, and we dug two test holes there for the County. It's interesting, when we did the 8 original lots up top, the first four going this way, which include the first 3 now passed the perk test and when we redid it the east ones passed the west ones didn't. The last thing we want is to have anyone complaining that there are any issues up there.

**Olsen** I know the water company up there had a concern about this and I know that isn't really a concern here. But I'm really concerned that these lots will have enough water to take care of their needs. The owners need to understand how much water they have and how they can use that and they need to realize this is storage water only. I know it's been a surprise to homeowners when they find out the High Line canal is being shut off in August.

**Mr. Hulme** all the water for these 7 lots has been addressed through the well system.

**Olsen** there won't be any water certificates from the High Line?

**Sands** is it all dry farm?

**Mr. Hulme** originally where the 8 lots on top were located, it is. But where the four lots are below, it is irrigated.

**Sands** I see on the plat there are existing utility easements from the existing homes, does staff know what those are?

**Harrild** Those are utility easements.

**Mr. Hulme** that's a fire lane. There is a fire hydrant between lots 4 and 5. They both come off the water tank that's up there. You can't get a water right for fire suppression. So the water right is for irrigation and there is an easement for fire suppression. The one will also be for the fire system and it was just to serve my son's house. When the Porcupine High Line Canal didn't get started early enough or when it cut off early in the fall we could use that line for irrigation.

**Sands** that takes off of your lot? It's not on this particular parcel that they are talking about?

**Mr. Hulme** right.

**Larson** was there anything else that you wanted to say?

**Mr. Hulme** no.

**Sands** I do like it when applicants bring in subdivisions where they put the homes on small lots and leave a lot of agriculture around.

**Allen** so the private road is going to remain private?

**Runhaar** correct and we'll make sure that the CC&Rs will be in place and taken care of.

*Olsen motioned to recommend approval to the County Council for the Jackson Ridge Subdivision based on the findings of fact and conditions of approval; Allen seconded; Passed 5, 0.*

**6:49:00**

### **#3 Planning Commission Meeting Dates and Application Deadlines**

*Sands motioned to approved; Watterson seconded; Passed 5, 0.*

**6:52:00**

Staff and Commission discussed Edge Excavation and the DD Auto and Salvage yard. Edge Excavation hasn't completed everything but is once again working towards a resolution. The Salvage yard has until February then their permit will expire and the County Attorney will start processing various enforcement issues. Staff did have an enforcement issue with the Pinders. They had opened their access to 150 feet from 30 feet and staff notified them to reduce the access width to reflect the allowed 30 foot width.

**6:54:00**

**#4 Amendments to Title 17**

**Runhaar** reviewed the use chart. Home based businesses were discussed. All home based businesses are acceptable as long as they meet the requirements of a home based business. If a contractor is storing all his equipment and having all his workers meeting there, it isn't a home based business anymore it's a contractor's yard and that isn't permitted. Allowing business in the Industrial Zone was discussed. The county doesn't have a distinction between light industrial and heavy industrial so to allow businesses to locate in the industrial zone means you could have business offices next to gravel pits. Some members were okay with that, others were not.

Transient lodging was discussed. Transient lodging includes bed and breakfasts, etc. Many members were in favor of transient lodging staying as a conditioned approval in the Agricultural zone, but hotels/motels being moved to the Commercial zone only. Resort and Recreation uses were discussed. Making Resorts a separate entity and putting activities like Beaver Creek Lodge and Cherry Peak into recreational facilities instead of grouping them together. That would allow recreation facilities to be allowed in the A-10, FR40, Commercial, and RR zones and resorts and things like that would be allowed in the RR.

Utilities were discussed; utilities are broken up in service, distribution, and transmission, categories and more information is given in the definitions sections. The one caveat to utilities is that the county has no control over public entities, such as school districts, and cannot control where they decided to place things. Energy plants were discussed and hydro plants will be added back into that section.

On concentrated animal feeding operations (CAFO) the county refers back to the USDA.

Kennels were discussed. Under state law people can have three dogs and then at four dogs they become a kennel; the commission decided to stay with the same requirements as state law that consider four or more dogs a kennel. Forestry activities will be conditional in the FR-40.

Mineral extraction was discussed. Extraction operations that are less than 5 acres are currently a conditional use across all zones except for in the Public Infrastructure zone. Gravel pits and mines are allowed only in the mineral extraction zone. Temporary extraction and its associated uses will be allowed as a conditional use across all zones except for in the Public Infrastructure overlay. Top soil extraction is currently not in the ordinance but staff is seeing the same level of impacts as other extraction projects on roads, etc. It will be conditionally permitted in the A-10 and Mineral Extraction zones. But staff needs to discuss a quantities limit. Oil and oil shale could potentially come before the county and will need to be researched and added into the ordinance as well. Staff will clean up the amendments to Title 17 and bring it back before the Commission at the next meeting.

**8:12:00**

**Adjourned.**