



PLANNING COMMISSION MINUTES

03 OCTOBER 2013

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Present: Leslie Larson, Rob Smith, Jason Watterson, Clair Ellis, Chris Sands, Phil Olsen, Josh Runhaar, Chris Harrild, Stephanie Nelson, Megan Izatt, Denise Ciebien, Mike Metters (legal counsel)

Start Time: 5:33:00

Larson welcomed and **Smith** gave opening remarks/pledge.

5:34:00

Agenda

Passed with no changes

Minutes

The minutes from September 5, 2013 were passed with no changes.

05:36:00

Consent Agenda Items

#1 Clarkston East Subdivision (Haley Jensen)

Harrild reviewed Ms. Haley Jensen's request for a recommendation of approval to the County Council for a 1-lot subdivision on 6.11 acres of property located in the Agricultural (A10) Zone at approximately 10485 North 8100 West, Clarkston.

#2 AT&T Providence Tower Conditional Use Permit Expansion (Glenn Bernard)

Harrild reviewed Mr. Glenn Bernard's request for an approval for a conditional use permit (CUP) expansion to add a microwave dish to an existing telecommunications tower located on 1,500 SF leased portion of an approximately 2.08 acre parcel in the Agricultural (A10) Zone and Public Infrastructure Overlay Zone at approximately 310 East 2100 South, Providence.

Smith motioned to approve the consent agenda, *Watterson* seconded; **Passed 5, 1-Ellis.**

5:38:00

Regular Action Items:

#3 Discussion – Buena Vista Developmental Proposal

Harrild reviewed a request for an increase in the developable acreage of property that is within a steep slope (sensitive area) and located in the Forest Recreation Zone, south of Scare Canyon. Currently the proposed project area is about 1300 acres in size and anything with a slope 30% or greater is not counted toward the development potential. The applicant has requested that an exception to this standard be considered to allow for more developable acreage. The ordinance currently allows approximately 7 buildable lots on 280.2 acres of the proposed area that is less than 30% slope. This is in the recreation area so would not be year round occupancy.

Staff and commission discussed the 30% slope sensitive area. This is the first time an issue of this capacity has been brought before the commission. Anything built on a slope greater than 20% would have to be specially engineered for that type of slope. If this project was to be developed as 1 unit per 40 acres, the property would have the potential for 35 lots; the applicant is asking for 18 buildable lots. Clustering of development was discussed. At one time the commission was discussing a cluster ordinance but it has not progressed recently. A cluster ordinance might be brought before the commission at some time but is not likely to happen in the near future. This is not an approval of a subdivision plat so this is more a discussion of if the exception makes sense. This project is using all the density they are allowed in this one area on the land. The building lots are 5 to 6 acres in size or less. Notices have not been sent out for this application because it is not a land use decision at this point. If this does go to the County Council the 300 foot notice to surrounding landowners will be sent out. Findings regarding this request should be included so that there is some justification for the exception.

Lew Swain I am representing one of the potential owners of this property. The reference to phase one is in fact if other surrounding land is added to it. I think the consideration that we are requesting of the commission is simply related to this 1,365 acres and that it is a standalone request. Our desire in requesting this adjustment is purely that we have 18 different interests that we are trying to address because we didn't know the overlay with the slope restriction applied. But we are trying to find a way to do this and we had a desire to create what might have been compliance with a cluster ordinance in the layout. But insofar as this consideration is made this is purely 1,360 acres. Mr. Swan's father initiated this and he has adjacent ground. It is far flatter and if any development of that were to happen in the future it would come back by virtue of the standards the county has in place. This is only the 1,360 based upon the slopes that exist and the number of dealings that we are faced with.

Watterson are you aware of what those additional phases would be? Is it directly adjacent?

Mr. Swain it is adjacent but it could be years and years until that happens. This is currently a cattle ranch and is intended to be used as a cattle ranch in the future. If it can be added to this ground in the future that is up to the family to decide.

Ellis there is another option of acquiring flatter property.

Mr. Swain we have looked at that option but have not been able to come up with a resolution for that. Initially Judge Swan gave people a stake for their working the land. It's not a traditional development that is to be sold at great profit. We've minimized the size of these parcels and we aren't aware of one residence that will be built on this now or in the next 50 years, but we do need to be able to provide a title in the future to the recognized parties.

Ellis so these have been sold but not platted?

Mr. Swain some have been sold to second generation holders, but there is a transfer of title that has not happened. It's an interest in a trust at this point.

Larson so they are all undivided interests.

Mr. Swain yes.

Larson so if you were denied the exception you could satisfy those interests by selling the land and splitting the proceeds.

Mr. Swain yes.

Ike Swan my dad was the one that got involved in this. We traded the state some property that was inside our boundaries but then we ended up purchasing this section of property and another. One of the ways we could afford this other section was by getting a few people we knew personally involved and we created the 1/18th interest; we own seven of those interests. When my dad did this he was under; he thought that he could eventually deed over those pieces to those people. We wanted to make it feel like it's still a ranch or part of the ranch. I still intend to run cattle on it and we wanted to continue to make it look like part of the ranch. Now it's kind of evolved into this and it's about time we give these people their entitlement on the property and we've tried to figure out a way to make this look good and still kind of keep the ranch feel. Right now there are no plans with the family to develop more of the property. I'm not going to say way down in the future that won't be a possibility. I can show you where, you can see here the property edge right here and we own this section 12. What's in the blue is state leased property and the rest of this is all our property as ranch property. We do run cattle all the way through it. Over here is the Bruce Peterson property and this is the state trust lands property.

Ellis the green property has common ownership?

Mr. Swan this property is all owned by us.

Harrild this is the main piece up here with the 18 shares.

Ellis so there is a separate ownership owned by the trust?

Mr. Swan it's owned by the trust right now. All of this is owned by the trust but there is an agreement that there are 18 investors that would eventually get a buildable lot.

Ellis is the piece at the top in the trust?

Mr. Swan no, all the land right now is in the TK Swan land. But there is a trust that hasn't been recorded, that is a separate agreement, for those 18 owners.

Ellis there is an option then that other land can be brought in to satisfy those claims?

Mr. Swan no, originally the intent was the money that we ended up asking for was just for this 1,300 acres. We've let it go a long time, this was done in the early 80's and the way Lew explained too, we continue to think how we want to do this and we've had discussions on the clustering with Josh a couple of years ago and talked about those possibilities and stuff and brought up this clustering format. And then when we were ready again and came in the ordinance had changed and so that is how this has gone. But there has been a lot of thought in these lots or whatever you know because we are going to have rules because we want to still run

cattle in the area and keep as much area open as we could. We didn't want it divided up so that everyone has their 40 acres and a bunch of fences up there. So even when my dad created this, he also thought that we would create a cluster subdivision and leave the rest as open as we could.

Olsen I think it's very well done. I know Scare Canyon is 40 acre parcels but they have done everything to keep the cattle out and it's become a fire hazard. So where you are planning on running cattle you can control some of that so I think this is very well planned.

Mr. Swan there are a lot of developments up there that are broken up like that. I really think this is the best way to develop most of the property up there. I think it's something that probably has to be addressed here in a clustering type proposal.

Sands I think a bigger picture of how this fits in would be helpful. I'm particularly interested in access to this area.

Mr. Swan to get to this property you come through our property and it's a decent road.

Staff and commission discussed that access to the property is currently adequate. It's accessed off of Ant Flat Road which is in good repair. Tonight's decision will set a precedent this type of project in the future. This is a way that the commission can set some parameters to send to council about these types of exceptions. This particular project seems to make sense and be reasonable, but the next one may not. This needs to be done on a case by case basis for these types of projects. The commission needs to qualify why this project is reasonable so that when the next one comes along and doesn't seem reasonable there is a justification as to why.

Mr. Swain the 1,360 acres may now be held by the Swan Family but with a legal obligation to transfer to those interest holders that we referred to. These 1,360 acres should be considered as a total separate legal entity than any other adjacent property. This property is surrounded by the Swan Ranch, the Peterson Ranch, and state property. This really needs to be looked at as if it has a separate ownership identity other than the Swan ranch holders because they will have no interest or relationship with the Swan family.

Ellis I think you said the Swan family owns 7 of the 18.

6:27:00

Ciebien leaves.

Metters arrives

Mr. Swain they have an interest in the 1,300 acres, correct. If in fact they are able to secure a way to proceed there will be limited liability in which they have an interest but it will be a separate legal entity from the Swan ranch property. The language for findings of approval that staff and commission discussed is as follows:

- A. The proposal is in substantial compliance with the spirit of the Cache County Ordinance.
- B. The density of the subject property will remain at nearly half the standard density of the Forest Recreation (FR40) Zone.

- C. Development can occur within the buildable areas on the site without the need for variances or other special exceptions.
- D. The layout of the subject property is conducive to the preservation of potentially 90% of the site for open ranching while allowing for limited development in appropriate locations.

If a road can't be brought to this area then there is no project. If the applicant gets so far into subdivision design and the fire district comes back with problems the applicant is still going to have to meet the requirements of the fire district. Staff doesn't think there will be problems building this out with the number of units that have been requested. This is an approval for an exception to increase the consideration of developable acreage. The plat is still going to have to come back to the commission for approval and if at that point the commission doesn't like the plat they can make that known. This application is requesting substantially less than what they may be eligible for without removing the sensitive areas.

Ellis moved to recommend approval of the requested exception to Title 17.18.020 to the County Council based on the noted findings of fact, Olsen seconded; Passed 6, 0.

06:47:00

Staff and commission discussed road standards for FR40 property. There is no requirement for a paved road in the FR40 area. The main factor for the road is access for emergency services up to the property. The road leading to this particular parcel is private and currently a very good road, there might be some sections where improvements might be required but right now the road should be adequate. If it is a 12 foot wide road, pullouts would be required every few hundred feet. Typically fire tenders are not going to be sent to this area to fight a fire. Fire sprinklers will be a recommendation and as this section is in the Wildland-Urban Interface Area there are additional requirements for building.

06:53:00

#4 Amendments to Title 12 Manual of Roadway Design and Construction Standards, Title 16, and Title 17

Runhaar Currently the county has no policy regarding maintaining signage, so section 6.0 regarding that has been added to help lower the county's liability. The following were also discussed:

Title 12

12.02 Roadway Standards

- Violations of standard addressed
- Table 12.02.010 Typical Roadway Sections updated

Manual of Roadway Design and Construction Standards

- The term "County Engineer" was replaced with "County" throughout
- Section 6.0 Signage and Roadside Hazards added
- Section 1.8 amended to address authority and enforcement
- Table 2.2 amended
- Section 2.4 Improvements to County Roadways amended to address the applicability of the road standard policy as approved by the County Executive and Attorney.

- Table 5.2 Cache County Driveway Standards amended to address minimum material depths

Staff and commission discussed the clear zone for roads. Power poles and mail boxes might have to be moved back to meet the clear zone requirements. Also, staff would prefer that farming not happen in that seven foot wide clear zone because it makes it harder to maintain a safe roadway. Trees in that clear zone are not safe and might have to be removed as well. There are always design exceptions that can be granted to clear zone requirements and can be granted where needed. Some commission members were uncomfortable with the clear zone requirement for private roads, rural roads, and mountain roads and the clear zone distance on private roads was changed to reflect '0 feet'.

Smith moved to recommend approval of Title 12.02 and the Manual of Roadway Design and Construction Standards, not including Table 2.2 to the County Council; **Sands** seconded; **Passed 6, 0.**

Ellis moved to modify Table 2.2 and it's equivalent in section 12 except the shoulder for private roads will remain at 0 feet, and that the clear zone for private roads, rural roads, and mountain roads will remain at 0 feet; **Smith** seconded; **Failed 3, 3 (Watterson, Sands, Larson - nay)**

7:23:00

Larson leaves.

Watterson motioned to modify Table 2.2 and it's equivalent to modify the private road clear zone to 0 feet for the shoulder and the clear zone; **Olsen** seconded; **Passed 4, 1 (Ellis - nay).**

7:30:00

Smith leaves.

Staff and commission discussed Title 16 as follows:

Title 16 Subdivision Ordinance

16.01 General Provisions and Administration

- Now points to definitions found in Title 17
- The word "subdivider" removed and the word "developer" added throughout
- 16.01.090 Effective Period of a Subdivision Plat removed. Effective periods of approvals moved to Title 17.02.070

16.02 Type and Process

- Language regarding legal parcels updated
- Added 16.02.080 Single Lot Subdivisions

16.03 Requirements

- No substantive revision; capitalization and grammar corrections, and code reference updates only

16.04 General Requirements for All Subdivisions

- The word "subdivider" removed and the word "developer" added throughout

- 16.04.110 Completion of Subdivision Improvements amended to Completion of Development Improvements and section largely revised
- 16.04.120 Improvement Security amended to Financial Surety and section largely revised

The deletions made in 16.04.040 should have been deleted three years ago when the roadway standards were adopted. Also, some of the information is picked back up in Title 17.07 in the definitions.

16.04.050 Protection Strips was discussed. New language regarding the definition of protection strip was discussed; it now will read “A protection strip is any piece of ground created to inhibit access to a road, right-of-way, or easement as determined by the land use authority”.

Alternatives sewage treatments were discussed. In source water protection areas 1 and 2 septic systems are not allowed so alternative sewage treatments are required.

Sections 16.04.110 and 16.04.120 were discussed. The changes made are the clean up for how development agreements are currently handled by staff. The biggest complaint received is people don't want to put up a bond or a cash assurity. If more developers start to come in and do road improvements on county roads this might need to change.

Olsen motioned to approve the amendments to Title 16; Watterson seconded; Passed 4, 0.

07:50:00

Staff Report

The surveyor's office has been closed and the part time County road engineer has also been laid off. The County is currently seeking contract work for the needed reviews. The surveyor's office is going to moving under the Development Services Department.

8:00:00

Adjourned