



PLANNING COMMISSION MINUTES

07 AUGUST 2014

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| 1. Rose Hill Subdivision First Amendment | 2 |
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Present: Chris Harrild, Josh Runhaar, Jason Watterson, Lane Parker, Chris Sands, Leslie Larson, Tony Baird, Megan Izatt

Start Time: 05:45:00

Sands welcomed and **Watterson** gave opening remarks

05:47:00

Agenda

With the changes to item #6 the agenda was adopted.

Minutes

The minutes were adopted with no noted changes.

05:48:000

Consent Agenda

#1 Rose Hill Subdivision Amended (Stephen Eliason)

#2 Bunnell Subdivision (Paul Bunnell)

Scott Parkinson I'm Mr. Bunnell's immediate neighbor to the north. There have been rumors about there being an event center or reception center in the future for one of the lots and was wondering if that was what was planned.

Runhaar that is not part of this process; tonight is simply for the division of the property.

Sands that would also require them to come back for a conditional use permit.

Watterson** motioned to recommend approval of the consent agenda items to the County Council with the stated conditions and findings of fact; **Larson** seconded; **Passed 4, 0.

05:51:00

Regular Action Items

#3 Wild Bunch Kennel (John and Caryn Mullin)

Harrild reviewed John and Caryn Mullin's request for a conditional use permit (CUP) to allow a boarding and breeding kennel for 42 adult dogs on 1.14 acres of property in the Agricultural (A10) Zone located at approximately 5670 North Highway 23, Cache Junction. The proposed use will be located on the northern parcel. There is an existing home on the northern parcel and the noted structures are the proposed kennels. The proposed sign must be moved back onto the subject property. The location of the proposed privacy fence has not been specified. That adult

dog count does not include any litters of puppies (6 months of age and older). The total estimated count for the dogs including puppies would be about 100 to 120. Most of the sales of the dogs are done online and the dogs are flown out through Salt Lake airport. There are not many visitors to the site; in fact visitors are discouraged. The only employees are the residents of the property and the hours of business would be 7:00 am to 10:00 pm. Staff noted that the present layout of the buildings impacts the setbacks and that the site plan must be revised with respect to those setbacks. Access to the property is from Highway 23, a UDOT facility. UDOT approval is required. There have been three recent requests for dog kennels and/or breeding facilities one was approved, one was withdrawn, and one was denied. Staff has received numerous comments regarding this application. The related comments reflect the concern that this is a puppy mill and that the welfare of the animals is in jeopardy. However, no comment has been received at this time from adjacent landowners.

5:55:00

Rob Smith arrived.

John Mullin Right now we have a kennel and run 42 dogs and they are in our home. Our dogs are our children and we are not a puppy mill. Puppy mills wait until their dogs are 6 months old and then breed them every time they are in heat. We don't. We don't breed our dogs until one and a half years and after six litters of puppies we fix the dog. We also don't breed our dogs every time they are in heat. We originally started the kennel to supplement our income for when I retired and I did last year. We only let our dogs out at 15 minutes at time and only 6 dogs go out. We don't leave the dogs out for long periods. We discourage people coming to visit because it is our home. We do almost all our sales through the internet and texting. Our puppies are given their first two rounds of shots, de-wormed, and inoculated against kennel cough, and are micro-chipped. We take care of our dogs. They are in our home now. Our kennels are clean and each dog is given a clean place to sleep and kept well fed and watered. There will be a privacy fence. There should not be any nuisance and there shouldn't be much noise where the dogs are only allowed out for 15 minutes. We are putting up the fences to keep them on our property. As the dogs get older and pass on we won't be increasing our kennel; it will decrease.

Sands you said you have an existing kennel in Casper Wyoming?

Mr. Mullin correct. We are in the county up there and we aren't required to have a permit. Animal control does do welfare checks up there and we are given no notice for those checks. We have passed every check.

Sands do we do welfare checks down here?

Runhaar not that I am aware of.

Sands how long have you been in this business?

Mr. Mullin 7 years.

Sands so there isn't a lot of noise because it is an insulated building?

Mr. Mullin correct. It will be fully insulated and it will have a washable floor. There are walls separating the kennels. We use soap and water and will use a shop vacuum to clean up all the water. No waste from the dogs will go in the septic or the ground. We will take it to the landfill and dispose of it properly.

Sands did you understand the part of Chris's report when he was discussing the structure placements and the setbacks and those sorts of things?

Mr. Mullin yes.

Smith but what is going on right now on the property in regards to dogs?

Runhaar nothing.

Mr. Mullin I don't have any dogs located on the property currently. We are traveling back and forth right now and until we have the building they will be in our home.

Parker as far as selling the puppies, is that done through the website?

Mr. Mullin yes, that is done through our website. We are the top hit on Google for pugs.

Parker so this is one specific type of dog that you breed?

Mr. Mullin correct, we only do pugs. We do have a 9 year old Border collie and occasionally we will breed him but not often. I'm open to discussing any concerns with the neighbors or the commission that you might have.

Watterson in your current location have there been any complaints or problems with neighbors?

Mr. Mullin no, the only time that they bark is occasionally when the dogs are out when children are riding their bikes.

Watterson how would you say your current location compares to this as far as the density of homes and the character of the area?

Mr. Mullin we are in the same type of area. We are on a little over an acre of property and we do have neighbors. I have never have had any major problems with my neighbors. We had one issue with a neighbor letting their dog run wild but we talked to them and they put a fence up and that solved the problem.

Larson are you south of the reservoir?

Mr. Mullin I am.

Sands at this time we do invited the public to speak and we would ask that you please try to keep your comments to 2 to 3 minutes.

Roland Bringhurst I am the director of the Cache Humane Society. The Board of Directors of the Cache Humane Society is against breeding of any kind in the valley. There are plenty of dogs that need a home. I take a little offense that the county and commission do not care for the welfare of animals in our county. Animal control officers are already stretched to the limits and it is their responsibility to do welfare checks. Putting in any type of breeding facility is contrary to Utah's goal to be a no kill state in 5 years. This type of facility negatively impacts that goal. With this type of a facility, a red flag is raised when they discourage people from coming to their facility. What are they trying to hide? 42 dogs in a kennel is cruelty.

Eli Klesh I don't know if you have been out to Cache Junction, but you can hear one dog bark all around the town. With 42 dogs coming and the trains coming in and out of there it will be loud. As far as the fence, that's a little off setting as well for such a big operation out there and I'm not okay with the breeding with animals as well. The noise factor is a concern. Things echo out there, and noise out there is amplified by the mountain face.

Smith how close do you live to the facility?

Mr. Klesh I don't live there currently but I did grow up there. But my grandmother does live very close to this. Also, I don't know if there is a railroad out near his operation now, but the train will set them to barking and you can hear it very clearly out there.

Dan White I am the neighbor directly to the south of this. You can hear a dog barking very clearly out there. I am a former breeder and owned a kennel in the Salt Lake area. I never raised my dogs in my house, they were in kennels. We only had 6 adult dogs on our premises and we averaged about 3 to 6 puppies per litter and we would show the dogs. Whether the dogs are enclosed in kennels or the house I will hear them. I don't put anybody past having pets, we own three dogs ourselves, but if you have that many dogs in heat you will attract dogs from everywhere. My biggest concern is my property value and my property value will go down by 15% because of a kennel located next to me. I can't image what 42 dogs would be like in a house but it is going to be a mess. You can sanitize all you want, but once carpets get soiled by dog waste, they are ruined. You could very well have up to 100 dogs at a time on this property with puppies so that is my concern.

Brittany McCrabe I live out in Cache Junction. When the dogs go into heat there are going to be coyotes out there and it doesn't matter what type of fence you have coyotes will get through.

Lamar Clements my house is about 70 feet from the property line. Mr. Mullin has agreed not to do this project on my property line. I've talked to Mr. Mullin about this. I have had no experience with a kennel like this in my life. I have always been advocate for pro-property rights as long as the use doesn't adversely affect others. Is there a mechanism that would allow this to be reviewed in a year?

Runhaar in theory you could put a condition in that it can be reviewed as a nuisance standard. The difficulty would be that after approval you would have to meet a higher threshold for declaring this as a nuisance. Once you approve a CUP it is harder to revoke it and even if they

move out and someone new moves in the CUP is still there. You could do a review but you would be limited to add mitigation rather than going back and trying to deny a use.

Mr. Clements even if he is correct and it isn't adverse but if it is, how do we correct that problem? That is my biggest concern. I don't know how you deal with that and I don't know how we deal with that. I'm sure if you pass it you could reduce the number of animals. 42 isn't set in stone, you can lower that number.

Diana White we don't begrudge anyone making a retirement for themselves, but this home is in a neighborhood. It's the only neighborhood in Cache Junction. There are more isolated homes out there but this isn't. I'm concerned about our property values. I hope you guys realize how much this will affect us. I know that at the bottom of their website it states that most of the dogs are new arrivals. He hasn't had 42 dogs all that time so I don't know if he really does know how much care 42 dogs are going to take and that is a lot of dogs for a small place.

Lisa Shaw I run Four Paws rescue and I have spent the last 20 years trying to get all the dogs in the valley spayed or neutered. I do have a question for the proponent, are you able to place all your puppies? Because I know in the shelter, when we have a litter of puppies we seem to have 2 to 3 dogs that we hang on to and struggle to place. I do appreciate that you give two shots and microchip your dogs and I think that is commendable. But I am against breeding and always have been.

Mr. Mullin as far as the humane society and the rescue place is concerned, we have an agreement signed with the owner that if they can't take care of the dog or don't want the dog anymore they send the dog back to us and we replace the dog. As far as the privacy fence, I don't want people seeing my dogs and taking them from my yard. People are more than welcome to come and see the facility and see the dogs but the fence is there to protect the dogs and our investment. As far as letting them out 3 times a day, I let them out more than that but that is our standard. I also do spend a lot of time with my dogs and I play with them and talk to them. We sell most of our dogs outside of the state. We are not in a puppy mill business. We aren't in this to have 200 dogs to sell per year. As far as dogs being around our yard when our dogs are in heat, I'm sure there is a leash law in this county. As far as the noise, we will try and work very hard to keep the noise down. Our building is going to be insulated and sheet rocked and everything. We try to control them by letting 6 to 8 at a time and that is a low enough number that we can watch. We go out with them and play with them and exercise them. We do try to keep the noise down to a minimum or none. If this approved and there are problems, we would like for our neighbors to talk to us and let us know so we can be good neighbors. I have adopted pets from the humane society in the past and have loved them and I appreciate the job they do. Anyone can come and check out our facility.

Sands how did you come up with 42 adult dogs?

Mr. Mullin that is how many dogs we currently have. If you were to look at our website, most of the adult dogs have passed away and we just haven't removed them. We have 50 people on our waiting list for puppies. We don't keep puppies long. We are finally to the point when we are making a profit. These dogs are our children and it is hard when they pass away.

Janet Nielson when he talks about the leash law, that doesn't always work. We live in an area where people come out and abandon dogs. I have had neighbors who have had dogs that jump the fence and get into our yard and I don't blame him but hopefully a peaceable solution can be met.

Staff and Commissioners discussed the nuisance ordinance. Some commissioners expressed concern with the size of the operation and the location. In the past the commission has approved a kennel but it was up to 15 dogs and it seemed to be in a more dog friendly area compared to this location. Nuisance is somewhat of a grey area because what is a problem to one is not an issue to another and dogs tend to fall in to this area.

Mr. Bringhurst when I first saw this and read through the application the first thought I had was that he is not in the right zone for this. When the humane society wanted to make a change to our CUP, we had to go through a rezone and it doesn't make sense that a humane society shelter is treated different between a boarding/breeding facility.

Runhaar that is really because there are several types of boarding facilities.

Sands are the dogs at the humane society inside?

Mr. Bringhurst during the day they are outside, starting about 7 am. But at night they are brought in.

Larson can you hear them at night?

Sands in the evening, weather dependent.

Staff and Commissioners discussed commercial breeders. When considering if it is a commercial breeder, the conditions of the roads and access to the facility need to be considered.

Ms. White I don't know if it was mentioned or not, but coyotes are attracted to dogs in heat and this facility will bring those coyotes in and that will affect our dogs, chickens, and other animals.

Commission discussed a determination and findings for denial. These include:

It is the determination of the Cache County Planning Commission that the request for a conditional use permit for the Wild Bunch Kennel, located in the Agricultural (A10) Zone at approximately 5670 North Highway 23 with parcel number 13-048-0046 is not in conformance with the Cache County Ordinance and should be denied. This determination is based on the following finding of fact:

1. The standards of §17.06.070 of the Cache County Ordinance, Standards and Criteria for Conditional Use, cannot be met:
 - a. The proposed use is not compatible with the character of the site, adjacent properties and other existing and proposed development.
 - b. The use will be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

Smith motioned to deny the Wild Bunch Kennel CUP request based on the noted finding of fact; *Watterson* seconded; **Passed 4, 0.**

Commissioners expressed concern that mitigation is possible with the right building materials and with a reduced number of dogs. Some commissioners felt that more information was needed before a decision could be made. A concern was raised that while the applicant is currently doing small dogs, that doesn't mean that they couldn't change breeds and do larger dogs and at 42 dogs that, could be very overwhelming.

07:06:00

Staff recommended that item #6 be moved up the agenda before items 4 and 5.

#6 Discussion – Autonomous Solutions, Inc.

Runhaar this is a discussion item but staff has started some enforcement issues. Rather than staff trying to make a decision on how to proceed we brought it back to the Planning Commission. You do have the authority to oversee CUP's that are in violation or not in line with what the Planning Commission has adopted. There has been expansion beyond what the Commission approved.

Harrild reviewed the issues that led the review of Autonomous Solutions, Inc.'s conditional use permit (CUP). The violations relate to the expansion of the permitted use. The original CUP was for a 160'X160' building, a 52 space parking area, no more than 45 employees (38.5 FTE), operating hours: 8:00 am-6:00 pm, Monday-Friday, ingress and egress routing from the north, via Highway 30 and 8000 west, with snow removal and maintenance of said access route to be handled by the proponent. The permit also included the following conditions or approval: Any expansion of the approved conditional use shall require review and approval by the County Planning Commission prior to expansion, any present or future commercial buildings and parking lots shall be at least 100 feet away from the property line, no more than 20% of the land can be used for buildings, parking lots, and other development. 20 % of the then 81.46 acre parcel was equal to ~16.3 acres. Staff's main concern is with access. At the time of the CUP, Autonomous Solutions agreed to use only the north access. However, many employees are using the south access. The road from the south varies in width from 20 feet at the southeast end to 14 feet at the northwest end, with narrow points (11 feet and 15 feet) in between, is roughly graveled, and runs through a large drainage area. Also staff has inquired of the state and the developer, if a state permit for storm water was in place. It was confirmed by both that a permit was not in place. A state storm water permit and a Storm Water Pollution Prevention Plan (SWPPP) for the disturbed area are required. The developer is now in the process of providing a SWPPP and obtaining the necessary state permit. Also, there is an issue with conduit placement for utilities for Autonomous Solutions. Currently the conduit has been placed in the right-of-way and in the actual roadway of 8000 West and Veibell Road without a permit. Since the approval of this CUP the Cache County Ordinance has been amended and the specific use type and definition for the previously approved use "Private Agricultural Experiment and/or Field Station" no longer exist within the current code.

Having been notified by Staff of the noncompliant nature of their expansion and operation, Autonomous Solutions, Inc. is seeking direction regarding the noted violations and the proposed and/or future expansion. This includes the following: 120 space concrete parking area, additional acreage for test tracks. This would increase the use area to ~25 acres or 30% of 81.46 acres, and 28% of the existing 88.51 acres, no more than 150 employees (150 FTE) by 2018. At this time, a solution for the violation regarding ingress and egress has not been identified by Autonomous Solutions, Inc. However, Autonomous Solutions has approached the County on multiple occasions seeking additional maintenance and improvements to these roadways. The county has declined the requested improvements as they are not within the Capital Improvement Plan and the maintenance of the roadways were clearly the responsibility of Autonomous Solutions as was present by the applicant in the 2005 permit application process.

James Jenkins This is basically a research and development operation. Autonomous has developed technology for robotic operations of agricultural equipment, and the acreage out there is used primarily to test and operate models and gain information. The company has increased its business recently. So, Mr. Chairman to answer your first question, they do have deliveries, typical business operation. We recognize all of the issues raised by staff and we would like to cooperate and make this work. There are true benefits not just to my client but the county also. We've only been dealing with this a short period of time but I am somewhat familiar with the issues and the operation out there. The county last year changed its ordinance. One of the things that we need to examine is if the CUP that was granted was grandfathered in when the ordinance was changed. One of the conditions in there, was that the company would seek approval for changes for expansion but was I think was implied in there also was that there was an element of permissiveness. I don't think that it is legal or even fair to grant a permit and allow for future permissive expansion and then pass a law and say you can't do anything anymore. So one issue that needs to be tackled is that some kind of expansion can be contemplated and a request made and in the right circumstance the request granted. We also have the zoning changes and of course probably not a very palatable approach but we could retrench and use the property in the confines of the permit. My understanding is that the storm drainage issue is primarily due to State requirements and that State permit is about to be issued and should resolve that. With regards to the conduit, we look at that as a problem with the contractor that we dealt with and the installation contractor claims he has a permit. We haven't had time to find that but will follow up on it.

Runhaar just to be clear, we aren't pinning the conduit on Autonomous. That is a contractor issue.

Mr. Jenkins right, we just want to express that Autonomous wants to resolve this and work with the county on a solution that would be agreeable to everyone. My understanding at this point is that much of the access to the site is county road. Apparently the use by Autonomous is the primary road use, but there are other uses on that road. I would like to see what studies have been done and what pricing has been looked at and to explore that issue. Access is and has been a problem. If the business needs to expand the number of employees then access has to be addressed and we don't question that. I like the idea that was suggested that the commission go out and look at the property and the road. I would like us to come up with ideas that will work.

Sands we are all small business owners up here and so we know what it means to run businesses and have employees and dealing with growth pains and dealing with regulations. We are excited

for you and only wish the best for you. However, speaking personally, I have a really hard time with people not following the permits so I liked hearing that you are willing to work with us and fix the problems. I know the biggest issue is going to be access and the county has very little funds to help with that. So when development comes into an area we expect the developer and the people coming into the area to help deal with that.

Mr. Jenkins I did want to point out in discussing this with the company, we are not aware of any accidents on that road. We have had a couple of employees slide off the road during the winter but that has been weather related. It hasn't been a serious problem at this point, but it is an issue that needs to be dealt with.

Sands right, but we do require developers or other entities that come into an area to help deal with the roads and improvements that are needed. I think this is a unique situation due to the extent of the improvements that are needed. It wouldn't be fair to others in the valleys that have had to meet the road requirements if we didn't try to rectify the issue.

Commission discussed the roads. The roads are in poor condition and the applicant has expressed interest in trying to come up with solutions for that.

Mr. Jenkins so where do we go from here? We are obviously going to be working with staff to help resolve the problems, but what is the next step? I'm not sure any of you know the next procedural step here. The only recommendation I can make here is that my client continues to meet with staff so that a more specific proposal or proposals can be made to solve these issues. But if you have some direction, whether it is tonight or later, that would be helpful.

Sands I would like to see the specifics of where they are out of compliance and would like to see steps taken to rectify those issues first. I will say I know that it's got to be frustrating as property owner and business owner when you are permitted to do something and the ordinance is changed and when you want to expand or do something and you run into road blocks.

Larson what troubles me is that the original application didn't fit and whoever was on the commission then tried to squeeze and fit it in. People want to use the land they own to develop their businesses and people don't want to have to go buy property in the commercial or industrial zone because that is going to cost more. But people who comply with the general plan and ordinances do that. But we are a small business owner and would have loved to put it on property we owned but couldn't. So we bought property in the commercial zone and put the business there. When it is in a place that is less compatible you are going to see trouble when you expand and I hate to say this but you might have to sell the property and buy property elsewhere where you can expand to a 200 employee business. But it's hard to see that it would be there and so, I'm in favor of people putting what they have into a business and employing people. But it's difficult when some people have the foresight to put their business where they can do that and then you have some people don't do that. But you have to treat people equally under the law.

Runhaar I came in right as this was approved and my signature is actually on the permit. But at that time I argued there were several potential problems. Over time things morph and change and sometimes uses become a non-conforming use. At the time that this was approved they

wanted seclusion to run their equipment without prying eyes. But now the problem is that they are starting to pave areas and they are increasing the number of employees. As this continues to grow and employ more people, is it safe to have 200 engineers out in this location? It might need a second location. We can't shoe horn things into areas because of perceived holes in the ordinance and code. If we are looking at this like a commercial zone you could be looking at 1,000 employees here in 20 years and maybe in 20 years that would fit. But driving this area now this is a big concern. I agree we are open to looking at multiple options but the stated permissiveness of the permit for expansion does not mean that the expansion will be automatically approved. However, a step has been missed here and we have asked them to stop improving. We need to go back and fix it. They can't comply with the old permit conditions and we are not going to ask them to fire 30 employees and undo improvements. We have asked them to stop improvements. If you go through the list of things that have been brought to staff's attention you have noncompliance with every single piece of the CUP. We brought this back because I can't in good conscience issue a new CUP with these types of problems.

Watterson if Autonomous was not there, if we had a proposal for a commercial rezone would we allow that there?

Larson not without road improvements.

Runhaar if we did have money and fixed all those roads the question still stands, is this the right location for a commercial entity? This is the debate and question I have regarding this area. We've talked about doing a special improvement area for this area but the issue is that the surrounding property owners get a vote in that. If 25% of the surrounding land owners say no, it doesn't happen. We've done some rough numbers and to maintain the type of road improvements needed it would increase taxes by 300-400%. It is enormously expensive to maintain the roads. We currently have an agreement to blade the road annually and we can't maintain that agreement.

Staff and Commission discussed visiting the site.

8:00:00

Watterson motioned to extend the meeting 10 minutes; Smith seconded; Passed 4, 0.

Sands have you employed somebody, like an engineer, to help you with the expansion of your site?

Mr. Jenkins yes, we have a civil engineer on site that helps with that.

Sands I asked just so they can also look at this and make some suggestions.

8:02:00

Items 4 and 5 were not discussed due to lack of time.

Staff discussed the storm water plan and that it would be run through the County Council. The second step for that is to change the ordinance to meet the requirements of storm water permitting needs. Kennels have become more of an issue for the county. Staff feels it is time to bifurcate kennels into commercial and non-commercial. The distinction between boarding and breeding also needs to be established. Staff will bring some suggestions back before the commission to help with kennels.

08:06:00

Adjourned