



PLANNING COMMISSION MINUTES

04 FEBRUARY 2016

| <u>Item</u> | <u>Page</u> |
|---|-------------|
| 1. Wild Bunch Kennel Conditional Use Permit | 2 |
| 2. Nautica Subdivision..... | 7 |

1 Minutes for 04 February 2016

2
3 **Present:** Jacob Adams, Chris Harrild, Josh Runhaar, Jason Watterson, Brady Christensen,
4 Phillip Olsen, Chris Sands, Lane Parker, Lee Edwards, Megan Izatt

5
6 **Start Time: 05:38:00**

7
8 **Watterson** welcomed and **Sands** gave opening remarks

9
10 **05:41:00**

11
12 **Agenda**

13
14 Approved and adopted with no changes.

15
16 **Minutes**

17
18 Approved and adopted with no changes.

19
20 **05:43:000**

21
22 **Regular Action Items**

23
24 **#1 Wild Bunch Kennel (John Mullin)**

25
26 **Harrild** reviewed Mr. John Mullin's request for approval for a conditional use permit to allow a
27 boarding and breeding kennel located on 1.14 acres of property at 5670 North Highway 23,
28 Cache Junction (Agricultural, A10 Zone). This item was continued from the January 7, 2016
29 meeting. This request is coming back from District Court to the Planning Commission and the
30 Commission has been directed to only review impacts related to noise and odor. Some
31 amendments have been made to the previous conditions. The Bear River Health Department
32 (BRHD) previously submitted a letter that no animal waste is allowed to enter the septic system.
33 Condition #3c has been amended to reflect the BRHD's concerns. Condition #4 has been
34 amended to reflect the need of documentation of the ambient noise level and Condition #5 states
35 that a certified/licensed professional using a calibrated noise dosimeter will conduct the noise
36 study; the study would also have to be applied to the outside fenced area for the dogs. Condition
37 #8 has been removed; as long as the applicant is meeting the conditions placed on noise the
38 number of dogs outside does not matter. Condition #11 has been amended to state that minor
39 modifications to the facility that are necessary in order to meet the minimum standards of the
40 USDA may not require additional approval, but must be reviewed with the Development
41 Services Department prior to implementation to determine if additional review and approval is
42 required.

43
44 **Staff and Commission** discussed the conditions. There were questions regarding the number of
45 dogs and who monitors that the applicant sticks to the 42 dogs. Planning staff is the one to
46 monitor that the applicant complies with the submitted documentation and the conditions. The
47 concerns with noise were discussed. If the dogs are brought to the property, and the applicant

1 fails to meet the noise requirements with the dogs there, the applicant will have to figure out a
2 way to comply with the condition. Concerns regarding odor were raised. Because the BRHD
3 does not allow animal waste in the septic system there are concerns that the containment system
4 could cause problems with odor. The applicant is responsible for meeting with the BRHD to find
5 out what method would be acceptable for storage of animal waste. There were concerns
6 regarding the 24/7 use of the site for dogs and the need for the dogs to be allowed outside during
7 the night. There is no nuisance ordinance for the county, but staff can review evidence submitted
8 by others to see if there is a problem with the applicant and noise. The condition is written as a
9 performance standard, which means that there are different levels of ambient noise at different
10 times during the day or night. Night time ambient noise levels will be much quieter than day time
11 levels, and the applicant is not allowed to be more than 10 decibels over ambient sound no matter
12 the time of day or night. The proposed condition can also be amended to have the wording
13 “regardless of time of day or night” written to help with that distinction.
14

15 **Mr. Joe Chambers** I am here representing the Mullins. This matter has been pending for about
16 14 months and it has been before you, went to the Board of Adjustments, back to this
17 commission, back to the Board of Adjustments, and then to District Court, which remanded it
18 back to the Planning Commission. The Court indicated that you are not to consider the standards
19 of any revised, updated or passed ordinance subsequent to the original application date of July
20 2014, and that the only two issues to be considered are odor and noise. As legal counsel can
21 advise you, this matter does not go back to the Board of Adjustments but back to District Court.
22 Let me address the conditions. We talked to the BRHD and they had concerns about the waste
23 going into the septic system and informed us we need to check with the state on that. That
24 condition needs to be worked with the BRHD.
25

26 **Watterson** as far as the condition, I don’t believe that precludes that, correct?
27

28 **Mr. Chambers** the use of the word septic system can have a couple of definitions. I understand
29 that the proponents intend to put it into a septic tank and having it pumped out, not a drainage
30 system. We were using the term to be a septic tank type system, not a drainage field septic
31 system.
32

33 **Sands** separate from the home septic system?
34

35 **Mr. Chambers** yes, completely separate. We will have to verify that with the BRHD. I have a
36 concern that this is an agricultural activity in an agricultural area. You are proposing more
37 conditions for dogs than you would a dairy operation, and you would not place these kinds of
38 conditions on a dairy operation. I find it somewhat interesting that you are imposing these
39 conditions for an agricultural activity in an agricultural zone. When I say this, it is my concern
40 and a philosophical concern; you have to focus on that in what is going on with this application
41 and the number of conditions that you are requiring. There has been a significant amount of
42 public clamor on this, and the last meeting was very hard. Most of the comments received had
43 nothing to do with smell or odor. The reservations I have for conditions 4 and 5 is that they
44 reflect the new ordinance, which according to the District Court is not allowed. The kennel has
45 2’x6’ construction with plenty of insulation, walls, and wood. The metal and that insulation are
46 going to cut down on 90% of the sound inside so it is not getting out. I think conditions 4 and 5
47 are outside of the judge’s order that you not consider the new ordinance. We want to be

1 cooperative and run an operation that gets along with the community. If there are concerns that
2 come up, they can be dealt with. When you talk about the dogs going out at 2 o'clock in the
3 morning, I smile at that; my clients are older and Mrs. Mullin is fighting cancer and they are not
4 going to be getting up at that hour to let dogs out. I know you have to anticipate problems and
5 that's your job, but I don't think it's your job to impose perfect conditions for everything; rather,
6 it is to impose reasonable conditions.

7
8 **Edwards** do you have any proposed language for conditions 4 and 5 that is different from what
9 staff has provided?

10
11 **Mr. Chambers** that is a loaded question, but we don't. Our position is that proposing reasonable
12 conditions is not just our job and that the county has to work with us to impose conditions. I
13 think the Ombudsman's office made it clear that it is a dual process, not just the proponents job.
14 The judge's condition is that you can't consider the new ordinance. We have taken care of the
15 noise in the building and the noise outside; it's an agricultural area, and I don't see it as being a
16 problem. The sound study, we looked into that and that is not inexpensive. The problem, and
17 you've identified it, is "what is the base line?" Is it an hour period at 6 am or is it a week long
18 period that you take an average from?

19
20 **Sands** that is why you have a professional. They are the ones that know the process.

21
22 **Mr. Chambers** true, but the County doesn't have standards for that professional. You say "do a
23 baseline" but that is why the county legislative body needs to adopt a specific criterion so that
24 the professional knows what he needs to do. I cut you off and I did that intentionally because
25 that's the problem.

26
27 **Sands** I disagree; when you measure ambient sound there is a protocol to follow.

28
29 **Mr. Chambers** there are several protocols, and we have looked in to that. They keep asking
30 what protocol the county wants. Because we can't tell them what protocol to follow, they can't
31 tell us what they need to do.

32
33 **Christensen** this is partially also, why the ordinance and such have been made since. We are
34 both in the same position at the time this application was submitted.

35
36 **Mr. Chambers** if I've offended anyone I apologize; that's not my intent. As they say, I'm not
37 intended to be a plant and sit there and not do anything. I apologize if I have come off too
38 strong.

39
40 **Runhaar** one of the things we look at when we deal with technical sets of data—engineering,
41 sound whatever it is—we rely on professionals. I don't have in-house professionals, so we rely
42 on an engineering firm to do that work. When we tried to give and take on conditions, when our
43 attorney asks- do you have proposals for the conditions? -, that would be a good time for you to
44 come and say "there are these three classifications for sound. Our professional is saying if we do
45 it at this level is it is going to cost X" and we can look at that and say yea or nay. We are much
46 the same as you. We are trying to propose but we are not experts on sound either. When we
47 looked at this, we've seen sound studies range into several thousand dollars, but we've also seen

1 some that also are only a couple of hundred dollars. If they are just doing sample readings and
2 not a projection, that should be cheaper. If you can bring us a sample of the criteria you are going
3 to use and take a snapshot before and snapshot after and will provide that to us, I think that is
4 what our condition is saying. If you can present the option that you want to use and why you
5 chose that one, then that is a reasonable talking point.
6

7 **Mr. Chambers** I understand that. In fairness to us, condition number 4 just showed up tonight.
8 So we need time for this dialogue.
9

10 **Harrild** but the other one has been there for over a month. This is not new information.
11 Typically what they are going to measure is a Loudness Equivalent (L_{eq}) measure. So there will
12 be an equivalent over time and then you will have the sound over time to establish the ambient
13 sound. The timeline may be able to be adjusted, but again we are not the professional on that. I
14 think this is flexible. The sound studies you've looked at before are on a much larger scale than
15 what this is requiring. It is still going to take a level of review and that will have a cost associated
16 with it. If you have a better option, then let us know, but this is the best we can presently
17 identify.
18

19 **Edwards** just for clarification for the record: the new ordinance requires a sound study, but these
20 standards just require a baseline to determine whether a future reading meets a condition that is
21 imposed in addition to that baseline, is that right?
22

23 **Harrild** you could argue that is a sound study also, but what we are talking about is whether the
24 planning commission has a right to identify impacts and ways to address those impacts under the
25 old ordinance. If we have to focus on noise and odor, how do you focus on noise if you can't
26 measure it? Reducing noise impacts is still within the old code's requirements and the county has
27 the ability to say that noise is an impact and how to mitigate it reasonably. I think that is the
28 discussion we are having now, what is reasonable? Is L_{eq} a reasonable measure or is there a
29 better option? How else do you measure sound other than dBA or an equivalent measure over
30 time?
31

32 **Sands** right, how do you measure an impact if you don't have a baseline to work from?
33

34 **Harrild** I don't know what that baseline is. The best we have been able to identify, even under
35 the old code, is to identify the impact and what a reasonable mitigation measure is. The structure
36 may do that, but the dogs are also going to be outside.
37

38 **Watterson** this protects both entities because it is a performance based standard that your clients
39 can use as a protection if people complain. I think that is the intention that staff has had going
40 into this, and really it gives us something we can base that on.
41

42 **Sands** Mr. Chambers, your comment about this being considered an agricultural practice by the
43 state—you are saying that under the current state statute is that the breeding of animals for non-
44 consumption purposes is protected by law?
45

1 **Mr. Chambers** it's a husbandry activity. It's actually taught at the 4-H level. You go to colleges
2 that have husbandry activities, we've located them across the mid-west, and it is a common
3 practice. It's not any different than raising sheep, horses, cattle, or anything else.

4
5 **Sands** typically those animals, there is some form of consumption whether it is wool, or meat, or
6 milk. You know the law better than I do, but that argument is not in any of the written
7 documentation that has been submitted so far.

8
9 **Mr. Chambers** no, but I did mention it last time.

10
11 **Sands** yes, but it's not in any of the written documentation that has been submitted to the county
12 thus far.

13
14 **Harrild** it is in there, but it's not in anything that went to the court. It's new to this body and
15 hasn't been heard by the court. The Ombudsman's office didn't comment on it. So there isn't any
16 direction from the District Court about that issue. But, like Mr. Chambers said, that that may be
17 an issue but he said that he is not representing his clients on this issue.

18
19 **Sands** haven't you been before us for a mink farm?

20
21 **Mr. Chambers** I was here against the mink farm.

22
23 **Sands** if I'm not mistaken, we've had a mink farm come before us previously as a CUP, and that
24 process got sidetracked because of this. It's an approved use according to the state and there is
25 nothing we can do about it, so it went away.

26
27 **Harrild** mink are identified as a husbandry animal by the state. With dogs, the state definition is
28 less clear. We've bounced around the code trying to piece it together. We've had a disagreement
29 with Mr. Chambers there, where Mr. Chambers believes it is agriculture and we say it is not. But
30 even if it is, it doesn't preclude us from providing a more strict requirement.

31
32 **Sands** there have been items that have come before us that that was an argument but it didn't
33 need to come before us because it was already covered under state law and it went away.

34
35 **Mr. Chambers** we have tried to present it and preserve it as an issue and is why we've raised it.
36 There are no Utah cases on this because the Utah Statute includes it. There are cases in
37 Massachusetts and Vermont that dog breeding does fall within husbandry definitions.

38
39 **Sands** but in this instance neither the Ombudsman nor the district court have commented that the
40 county's authority goes away because of state statute.

41
42 **Edwards** I think counsel has preserved the issue. But, even if that falls under an agricultural use,
43 because the county has established a CUP process for this type of use the County is within its
44 right to impose conditions to mitigate the impacts on the surrounding properties.

1 **Runhaar** staff and the Planning Commission are limited in our roles, which is to enforce the
2 law. If there is an issue brought to us, we would review it. We don't have an exact answer but
3 we are applying the law as it is written and would consult with the county attorney as necessary.
4

5 **Edwards** it was presented in the mediation process and the Ombudsman did not address that
6 issue.
7

8 **Sands** which I would read as maybe the definition of dog breeding as agriculture doesn't apply,
9 because if it did it seems like the Ombudsman would say "no, this supersedes everything else
10 and the noise doesn't matter."
11

12 **Mr. Chambers** let me debate that with you; I think it means he didn't address it. I wanted to say
13 that you serve a very important function and your service to the community is valuable. We
14 appreciate it and we may come up here and disagree with what is presented but understand that I
15 appreciate your role and everything that you and the planning office do and I just want to thank
16 you.
17

18 **Staff and Commission** discussed the conditions. If the conditions proposed are what are
19 approved, the proponent has to meet all those conditions and the conditions are strict. There is
20 some give and take with the sound study. The details will be worked out with the staff to meet
21 those conditions. The thing to take note of is the conditional use permit runs with the land. If
22 someone else wanted to move in and do the exact same operation, they could. If the Mullins
23 were to move next door or operate out of different house, they would have to reapply. The other
24 thing to note is that the conditional use permit is abandoned if the use lapses for a period of 12
25 months.
26

27 **Staff** read over the changes to the conditions and the changes discussed earlier. The condition
28 regarding the septic system will need to be worked through with the BRHD.
29

30 **Brett Chambers** I would like to add the proponent must provide documentation from the BRHD
31 that the approved waste removal/containment system is allowed.
32

33 ***Parker** motioned to approve the Wild Bunch Kennel Conditional Use Permit with the findings
34 and fact and with the edited and additional conditions of approval; **Olsen** seconded; **Passed 5, 0.***
35

36 **06:36:00**
37

38 **#2 Nautica Subdivision (Bob Wright)** 39

40 **Harrild** reviewed Mr. Bob Wright's request for a recommendation of approval to the County
41 Council for an 11-lot subdivision and agricultural remainder on 129 acres of property located at
42 1550 West 6700 South near Hyrum in the Agricultural (A10) Zone. There have been previous
43 request to develop this property, the most recent occurring at the end of 2013 with a request to
44 rezone the property from the A10 Zone to the RU5 Zone. That request was denied because the
45 proposed zone was not consistent with the surrounding properties and there were not adequate
46 public service provisions. Access from the north must cross the Hyrum Dam spillway on South
47 1700 West. At this location, 1700 west is a ~16' wide paved surface. This width is inadequate

1 and widening of the roadway in this location is financially impractical. Access from the west is
2 from county roads 6600 South, 1800 West, 6400 South, and 1600 West. The paved portion of
3 1600 West meets the minimum county standard. At this location, 1600 West averages a 22'
4 paved width with 1' to 3' wide gravel shoulders and currently serves more than 3 dwellings and
5 provides agriculture access. The unimproved portion of 1600 West that is south of 6500 South
6 does not meet the minimum county standard. There is a problem in that the applicant is willing to
7 make the road improvements, but the County Council is unwilling/unable to extend services. In
8 order for the applicant to take over service provisions, the County Council would have to
9 abandon the right of way and they are not willing to do that at this time.

10
11 **Staff and Commission** discussed the road issues. The county is reducing the number of road
12 miles maintained, and if the county is going to add new miles then miles from somewhere else
13 need to be subtracted. Because the County Council is unwilling to vacate the right-of-way of
14 1600 West, which is a road-by-use, and as an expansion of services by the County is not feasible,
15 no other mechanisms for providing service can suitably mitigate the risk or guarantee services.

16
17 **Gary Otterstrom** I have a company that I would like to move a company here; essentially this is
18 a side show to moving our business here. We needed to find some places to live and we have
19 several people who want to live together. We started a year and a half ago looking for property to
20 buy, whether already improved or just land for sale. We came across this property. It is bank
21 owned so I don't have any association with any of the prior approvals or applicants. We like this
22 one and we are pursuing heavy due diligence for doing the development. Chris has been very
23 helpful with this process. We made a decision to do a contract with the bank and to proceed with
24 the due diligence of getting it approved. In the process of doing that, we learned about the
25 previous failures, and we are trying to follow all the procedures and requirements and everything
26 that needs to be done. We've spent a lot of money on engineering fees and research on the area
27 to make this work. As we moved forward, the road resolution was not in place. We had paid all
28 the fees and done all the due diligence, and I think we even had a date to come before this body.
29 We then received information from Chris about the new requirements for the roads that came
30 down from the County Council so we backed off to see what was going to happen. We talked to
31 Craig Buttars and talked to every council member, more than once, so looking at it we felt that
32 our only option was to go forward. We feel like this is a matter of fairness because we have done
33 everything we were told to for approval, and then the new requirements came out. We like this
34 area so we decided to go ahead and move our application forward. There is about 2000 feet of
35 road that we are going to put in and we have discussed other options, such as privatization of the
36 road, and running a private road alongside the county agricultural road and let that road stay as it
37 is—we would parallel the road and put in a t-intersection. PUDs are legally binding; the money
38 is escrowed and it's controlled. We felt like that shouldn't be an issue. There has been discussion
39 back and forth with the council about privatizing the roads and so forth. So here we are, we
40 would like to still move forward. We are asking for a recommendation from you to consider
41 heavily that we did everything we were told to do and then this resolution came after the fact.
42 We are looking for a positive recommendation from you in light of the circumstances to
43 recommend approval to the County Council for us.

44
45 **Sands** you've got a pretty good attitude about this. This project has been denied before, so to
46 have it come back under the current zoning and everything and to see the road blocks is very
47 frustrating for you.

1
2 **Otterstrom** we want to really understand this and the culture of the area. I failed to mention that
3 one of the reasons we want to relocate here is because of the university and specifically the
4 mechanical engineering department and because of the high quality machine shops in the valley.
5 This area is a really great fit for our needs and the reason we backed off was so that we could
6 discuss everything and see what could be done. One of the resolutions, I was told by a council
7 member, is that on January 1 that there would be a gasoline tax passed and would raise \$600,000
8 in annual revenue and the road department would receive some of those funds.

9
10 **Runhaar** it will be about \$250,000 and that is just shy of what our annual deficit was. The thing
11 to note is that that is not maintaining what we currently have, that is cutting back 18 miles of
12 paved road.

13
14 **Otterstrom** so that is a true story about the gas tax?

15
16 **Runhaar** yes, they added about a 5 cent increase. So we will receive roughly \$250,000. That
17 goes completely into road structure; that's the only way we could balance the budget this year
18 with the reduced amount of roads.

19
20 **Otterstrom** ok, so the other reason for backing off was to look at things like that and see what
21 other resolutions could come. I wasn't sure how long this was going to take, so I kind of
22 flippantly asked Chris what the county would do if they wanted to build a road.

23
24 **Runhaar** I don't have the money to.

25
26 **Otterstrom** if the applicant meets all the requirements I don't think that that is a sound argument
27 to deny it. Anyways, we are asking for a later date in March or April to discuss things with the
28 Council to come to a resolution on the road.

29
30 **Sands** regardless of our decision, it is going to Council and you will still have an opportunity to
31 bring it in front of them. I think it's frustrating that you do meet all the requirements and now
32 you are being denied because our elected officials aren't funding basic infrastructure here. So,
33 the issue is with the Council not with us.

34
35 **Otterstrom** that's why I ask that whether you deny it or approve it, but I would ask that you at
36 least make a statement in your recommendation that we did meet all the requirements and we
37 were all ready to go when the resolution came down.

38
39 **Edwards** the concern that I have are that there are some requirements regarding access that are
40 not met as defined in our code.

41
42 **Otterstrom** what would that be?

43
44 **Edwards** access under fire code requires that the fire department be able to get there all weather
45 conditions and if there is not snow removal, there would not be access.

46
47 **Otterstrom** wouldn't that have to be provided before the resolution?

1
2 **Edwards** it's not the resolution but the existing code that requires access and approval from the
3 road department for access issues. That is the existing law, not a function of this road resolution.

4
5 **Otterstrom** if this passes, you provide the service?

6
7 **Runhaar** but that is what the County Council is saying. They are not going to expand the
8 service because that means we would have to reduce it elsewhere or as Mr. Sands pointed out
9 they would have to fund both and we do not have the budget for that.

10
11 **Otterstrom** but again, that was done after our application.

12
13 **Watterson** I believe we have denied similar projects prior to the resolution.

14
15 **Runhaar** you are arguing a policy on how they are going to expand services and budgets, and
16 we are saying if they don't expand the budget and the services then you can't meet the code. The
17 policy can change tomorrow but the code remains the same. The problem is, when they cut the
18 budgets back we no longer expand those services, we no longer have the services we used to
19 have and we can't meet the code. There is no case where we can show that development for
20 residents can force a county or city to expand services.

21
22 **Otterstrom** well then there is privatization, and it's done all the time.

23
24 **Runhaar** we brought that to council and they had some definitive statements on that and we
25 suggested a service tax. We've run the rounds on this too. I have not found a solution for this.

26
27 **Otterstrom** with the gas tax, is that months out or years out?

28
29 **Runhaar** the next taxing solution would be 2017.

30
31 **Edwards** today there was a potential tax that passed the legislature out of committee that would
32 allow a local sales tax that would allow funding for roads. The existing law has a public
33 transportation component and the new law lowers the threshold for public transportation that
34 could be considered by the County Council and ultimately the citizens that would provide an
35 additional source of funding for roads. That is assuming it passes the legislature; it passed out of
36 committee today.

37
38 **Otterstrom** what do you have against private roads?

39
40 **Runhaar** they typically fail.

41
42 **Otterstrom** there are legally binding ways to make PUDS for private roads. The money is
43 escrowed and taxed.

44
45 **Runhaar** you can argue those issues but we have looked at it.

46
47 **Otterstrom** every city in this county does that.

1
2 **Runhaar** no, many cities have rejected private roads. Logan City no long accepts private roads,
3 they have some, but they are not doing any more. Smithfield used to do private infrastructure
4 throughout but the sewer and water lines failed and they are now cutting back.

5
6 **Otterstrom** ok, I may have been wrong on that. But many have private roads, and they are
7 functioning and legally covered under PUDs.

8
9 **Runhaar** some are and some aren't.

10
11 **Otterstrom** doesn't the applicant have that option?

12
13 **Runhaar** you can request that. There is a process and a design exception that you can request
14 that and we do have code for that. That is what we brought to County Council and have talked to
15 them about and that is going to be an uphill battle because the view on private roads has soured
16 in the last 30 years. We wind up getting calls every year of people asking us to take their private
17 roads back. It's going to be different for each location.

18
19 **Otterstrom** I would ask for two things then, let us have a private road and let us go forward
20 because no one warned us about this. We had a date to come before you and it we were told that
21 we probably wanted to think about backing off. Those are the two things that I would ask and
22 that seems fair.

23
24 **Bob Wright** the reason we lost the first approval is because when we originally came in they
25 didn't recognize it as a legal lot. So we had to back track and take that lot and do it correctly.
26 That was an oversight and there were two parcel numbers given and it was our understanding
27 they were two separate pieces and when we did our homework it didn't. So we lost a potential
28 buyer that was going to do the same concept that we are doing here. It was all approved ready to
29 go. The only difference is that they wanted one 20 acre lot with 10 acre lots around it. That was
30 going to set the precedence and they were going to do a nursery and do a great thing but the
31 delay lost the buyer and as a result we had to wait. Now we have a predicament here; he wants to
32 build this and maintain it and be the president of the HOA. It's his intent not to build starter
33 homes but upper end luxury homes. They want to maintain it. That's the information we have
34 and how we understand things. The timing was a week off and had we not waited for all the well
35 rights and water that we needed for this application we wouldn't be here. That money for the
36 water is sitting in an escrow account and we are just waiting for this approval. Those are the
37 hurdles that we had to work through to comply 100% and that is why we are frustrated.

38
39 **Staff and Commission** discussed the timeline of the resolution. This application was submitted
40 before the resolution was passed but the resolution is not code, it is policy. This is a change of
41 policy not a change of ordinance. Private roads were discussed. The design exception for a
42 private road and the vacating of the right of way are up to the County Council. Previously, in
43 another application, the County Council has denied those types of requests. Everything else for
44 this application does conform, but the road is a hurdle that Staff has not been able to find a way
45 around. The vacating of the road is a political issue. The Council has been fighting to maintain
46 the rights-of-way and to keep roads open for public access. Several members of the Commission

1 expressed frustration with liking the development but having their hands tied due to the issue
2 with the road resolution.

3

4 **Lane** motioned to recommend denial to the County Council for the Nautica Subdivision with the
5 stated conditions and findings of fact; **Christensen** seconded; **Passed 4, 1 (Olsen Opposed)**.

6

7 **Staff and Commission** discussed the County Council's resolution on roads.

8

9 **07:36:00**

10

11 **Adjourned**

DRAFT