

**Minutes of the Western Weber Planning Commission meeting of December 12, 2017 held in the Weber County Commission Chambers, 2380 Washington Blvd. Floor 1, Ogden UT at 5:00 p.m.**

**Members Present:** Roger Heslop – Acting Chair  
Blake Hancock  
John Parke  
Jennifer Willener  
Wayne Andreotti

**Member Excused:** Jannette Borklund  
Mark Whaley

**Staff Present:** Charles Ewert, Assist Planning Director; Ronda Kippen, Principal Planner, Steve Burton, Planner II; Felix Lleverino, Planner I; Chris Crockett, Legal Counsel; Marta Borchert, Secretary; Kary Serrano, Secretary

- Pledge of Allegiance
- Roll Call

**Minutes: Approval of the meeting minutes: November 21, 2017.**

Commissioner Heslop asks to make the following corrections to the 11-21-2017 draft minutes. Commissioner Whaley was the chair that conducted the meeting. Any portion that includes Commissioner Heslop name should be changed to Commissioner Whaley and vice versa. A change requested on page 3 and 4 where CC&R was noted as ZCNR. Commissioner Heslop makes a motion to approve minutes with noted corrections. Motion carries (5-0) minutes stand approved with noted corrections.

**1. Administrative Items**

- 1.1** LVS080717: Consideration and action on a request for approval of a revision to the preliminary Subdivision Plan of Sunset Equestrian Cluster Subdivision. Presenter: Steve Burton, Planner

Chris Crockett reads the decision made by the County Commission stating that it is “remanded back to the Western Weber Planning Commission for consideration of the revised plan preliminary plan. The decision is based on the finding that the Planning Commission erred in its interpretation and application of applicable ordinances including lot size and requirements stated in the Weber County Code.” There are no questions from the Planning Commission. Mr. Ewert added that they didn't reverse certain decisions that have already been made. He states that the bonus density and, the layout of the subdivision, have not been remanded. What has been remanded are just the elements that don't comply with the law.

Steve Burton gives a brief explanation of the changes that were made. The planning staff recommends approval. The recommended approval is subject to all review agency requirements and is based on conditions and recommendations as listed on page 3 & 4 of the staff report.

Chair Heslop asks who is responsible for the maintenance of the trail systems. Concerning the trail system is crossing & intersecting, how will the trail be scored with regard to agriculture protection? Who is responsible for the agriculture protection.

Chris Artell answers that the HOA would handle the cleanup and get the police involved with regards to vandalism. The HOA will handle the agriculture protection. Regarding livestock, it's up to the homeowner.

Commissioner Willener points out that in section 1C of the proposal it's not clear on whether homeowners can have poultry for their own use. Mr. Artell answers that he is fine with poultry as long as they are not for commercial use; he understands that some clarification is needed.

Dave Nettle, 1731 S 4300 W, Taylor, asks Mr. Burton to point out the orientations of the first phase and other phases. Mr. Burton and commissioner Heslop explain the orientation of the map.

Doug Dickons, 4362 Waymant Way, Mr. Dickons asks if the HOA is required to remain in place permanently. When they got the pressurized water system, nobody wanted to be a part of the HOA. There was no money to hire an attorney. The president failed to submit the annual registration. His biggest concern what is backing up the HOA, and who is going to run it, if the strength declines? Mr. Crockett states that in the subcode 108. 3-9 there is no provision in the code that states the HOA needs be in place permanently. There are requirements that need to be met being in existence and registered by the state. There are provisions in the code that address the perpetual nature of easements where it doesn't just belong to the HOA and the public has a vested interest that protects it. Mr. Dickon's asks if the protected land is only protected as long as the HOA decides. Commissioner Heslop states that the agriculture protection lots will be individually owned by private owners who will be responsible for maintaining and following the CC&R regulations. It must remain agriculture protection property. It cannot be developed into something else. It must maintain its rural quality. Mr. Ewert points that under the cluster subdivision code they are required to submit an open space plan. The open space plan is required to have an HOA but the HOA is not required to have an open space preservation plan. When you look at HOA open space versus individually owned open space, you have to look at what keeps it open space? The county requires that a perpetual conservation easement or open space easement be recorded then the county has a stake. This means that the County some ability to come back on the plan. Long term if the HOA falls apart it threatens the approval so 20 years down the road the individual owners can come back and work it out. Each owner is responsible for the HOA. Mr. Dickon's states that he appreciates the input but 20 years is a long time and he might not be around in 20 years. He comments that he moved away from Fruit Height for the 1 acre and to get away from all of that and now he's back in the same dilemma.

Greg Bell, 4023 W 2100 S, Taylor, states that he made it a point to clarify during the appeal and get a definition of what it meant if the appeal is upheld. He says that Mr. Erikson stated it goes back to the Western Weber Planning Commission as if the decision had never been made. It appears that is not the case. He would also like to thank Commissioner Willener for asking for clarification on the section regarding livestock. His other concern is that there is no mention in the covenant on the size of homes. He states that there needs to be a preliminary approval hearing and public comment on bonus density needs to be taken. He circulated a petition that bonus density be reduced; it has been signed by 390 members in Taylor. We are reviewing a revision and not preliminary approval. Commissioner Heslop states that it was his understanding that the County Commission had approved certain portions and that the Planning Commission is to review the portions not approved. Mr. Crockett states that the County Commission did not approve any portions and that he will read the 4 statements." The Appeal is granted the Sept 12, 2017, decision made by the Western Weber Planning Commission granting preliminary plan approval of the Sunset Equestrian Cluster Subdivision is reversed. The subdivision application is referred back to the Western Weber Planning Commission for additional discussion and action if requested by the subdivision applicant. This decision is based on the finding that the Planning Commission erred in its interpretation application of applicable ordinance including lot size requirements stated in the Weber County Code, while subsequent proposed revisions may or may not have corrected those errors the planning commission decision and appeal were based on the original application and the planning commission has not had a chance to make a decision on the proposed revisions. " Commissioner Heslop states that the interpretation from legal is that the Planning Commission is responsible to look at those requirements that were just stated such as lot size.

Mr. Crockett states that the only thing that is applicable to the Planning Commission at this meeting is the difference between the original plan and the revised plan. That the Planning Commission is responsible to make a decision based on what is different.

Mr. Bell states that it's clear in what Mr. Crockett stated that the decision made by the Western Weber Planning Commission has been reversed and that afterward the explanation is given as to why it was reversed. It is very clear to him that it is as if the decision was never made and it needs to go back through preliminary approval. He wants it to be on record the County Commission reversed the entire plan not just a portion of the plan and they didn't approve anything. They simply upheld the appeal. Mr. Crockett states that the Planning Commission is informed of legal opinion on what is before them at this meeting.

Commissioner Heslop asks if there is any further comment or questions from the public.

Member of the public who did not state his name, says he has a question regarding agriculture protection and what materials are allowed.

Applicant states they have a very specific list in the CC&R's which include brick, stone veneer, along with other finishes.

Commissioner Heslop asks if there are any further questions or comments: there are none.

Commissioner closes the hearing to public comment.

Commissioner Heslop asks if there are any questions or comment from the commission.

Commissioner Willener points out that based on what was said, there seems to be concern regarding lot sizes equivalent to 1 acre with an agriculture preservation plan. What is being achieved by this subdivision is that some properties exceed 1 acre because you have residential lots with agriculture protection lots together. There are sections of the cluster where there is not a full acre of agriculture land available. Mr. Ewert states that with regard to agriculture uses and the keeping of animals, subdivisions that are located in an agriculture preservation zone shall have the following statement "Agriculture is the preferred use in agriculture zone a-1. All agriculture operations as specified in the land use code are for particular zones are permitted at any time including the operation of any farm machinery and no allowed agriculture use should be subject to restriction on the bases that it answers with the activities of the future residents if the subdivision" Hopefully this will help alleviate some of the concerns in that nature.

Commissioner Heslop points out that in the previous meeting there was property owners adjacent to the development, who had concerns regarding any easements were noted as far as them able to get the water out of the canal which runs to the southeast corner. Does engineering have any notations with regards to the adequate flow of water to be delivered to those adjacent to the property?

Mr. Ewert states that when it comes to secondary water we are limited on what can be done, but we can talk to engineering and surveying with regard to easements that can be added that haven't been added. The lines can probably be run by the utility company.

Commissioner Park asks if there has been any other occasion where the county reversed a decision. Mr. Crockett answers that to his knowledge it has not. He states that the bases for his opinion are what the reasons for the appeal are. What were the criteria set forth by the appellant? The appeal was heard based on the alleged errors. The County Commission didn't deal with anything outside of that. There was mention that the new proposed plan resolved those errors. The County Commission decided that it's not up to them it's up to the Planning Commission to address that. If something has been decided it could be vested in the developer as a legal right. In order to reconsider something, there has to be some type of mistake or new evidence that was not available to use when that decision was made. Nothing that was brought up on that scope of what you were able to do with this is based on the errors that were alleged in the appeal. What was heard by the County Commission?

What was sent back was to look at a revised plan compared to the original in that limited narrow scope.

Mr. Ewert states that he spoke to the state officeman. Who basically stated that if the code was written correctly it won't matter if it is reheard or not the decision will be the same because it complies with the law.

MOTION: Commissioner Hancock moves to approve the revision for the preliminary subdivision of The Sunset Equestrian Subdivision LVS080717 based on the revision of the original plan and other parts of the plan being approved. At the requests of our legal, and the conditions and recommendations from the staff as outlined on page 4 of the staff report. Conditions: The applicant will be required to establish covenants, conditions, and restrictions prior to recording a final plat of the cluster subdivision, as stated in LUC §108-3-9. A guarantee of improvements will be required, as outlined in LUC §106-4-3. A note describing the applicable ownership standard for individually owned agricultural parcels shall be placed on the final recorded plat, as outlined in LUC §108-3-5(2) The following recommendations: The proposed subdivision conforms to the Western Weber General Plan. The recommendations: the proposed subdivision complies with applicable County ordinances. The proposed revisions are considered small amendments and not directly related to the previously granted bonus density. With the addition of the approval of land use and agriculture protection plan and additional of clarification regarding fencing and residential use versus the commercial use of livestock. Commissioner Andreotti seconded Motion Passed 5-0

- 1.2**     LVS080717: Consideration and action on a request for final approval of Sunset Equestrian Cluster Subdivision Phase 1, consisting of 20 building lots and 14 agriculture preservation parcels. Presenter: Steve Burton, Planner

Steve Burton gives an overview of the proposal as listed in the staff report. The Planning Staff recommends approval. The recommended approval is subject to all review agency requirement and is based on conditions and recommendations as listed on page 3 of the staff report.

Commissioner Willener asks what the intent of the developer is over the course of the phases for the development and maintenance. Is it in phases? Mr. Burton responds that it is his understanding that it is. There are trail easements at the back of the parcels and it is his understanding it will be done as they develop each phase.

MOTION: Commissioner Hancock moves to approve LVS080717 Phase 1, consisting of 20 building lots and 14 agriculture preservation parcels based on staff recommendations and conditions as listed on page 3 of the staff report. Conditions: The applicant will be required to establish a declaration of covenants, conditions, and restrictions prior to recording the final plat of the cluster subdivision, as stated in LUC §108-3-9. A guarantee of improvements will be required, as outlined in LUC§106-4-3. Recommendations: the proposed subdivision conforms to Western Weber General Plan. With the recommended conditions, the proposed subdivision complies with applicable County ordinances. 10 percent bonus density was granted for meeting the purpose and intent of the cluster subdivision. 20 percent bonus density was granted based on providing and implementing an approved roadway landscape and design plan. 5 percent bonus density was granted based on providing common area that offers easily accessible amenities including trails. 10.2 percent bonus density was granted based on preserving more than 20 acres but fewer than 30 acres of agricultural parcels through an agricultural preservation plan and easement. Commissioner Parker seconded. Motion Passed 5-0

- 1.3**     LVC 101217: Consideration and action on a request for preliminary approval of Cameron Cove Cluster subdivision, consisting of 27 lots. Presenter: Felix Lleverino, Planner

Mr. Lleverino said we have a cluster subdivision Cameron Cove Cluster Subdivision consisting of 27 Lots. And he gave the address.

Doug Hamblin, Applicant the project adjacent to Cameron Cove transition to this cluster. There is some open space. There will be a combination of park and detention basin. Parcel B will contain a small park. Consists of 27 Lots, developed to the south Mallard Springs, and this will be consistent with the same CC&R's. There is some space in the back that can be used for animals or community gardens.

Commissioner Heslop asks will back space will it be used for agriculture protection or will it be at the HOA's discretion? Mr. Hamblin responds that as of right now it will be under the HOA unless otherwise directed by the county.

Commissioner Heslop asks if there are any further questions or comments from the commission. There are none.

Commissioner Heslop asks if there are any questions or comments from the public. There are none. The hearing is closed for public comment.

Mr. Lleverino states that the proposal in compliance with the subdivision land cluster code. The purpose of the A-1 Zone is to preserve land for agriculture and there are standards for what animals are allowed. This meets the standards of the subdivision requirements and the cluster subdivisions requirements. The bonus density standards are met. The Planning Staff recommends approval. The recommended approval is subject to all review agency requirement and is based on conditions and recommendations as listed on page 3 of the staff report.

Commissioner Willener concerned about agriculture preservation on the homeowner's association.

MOTION: Commissioner Andreotti moved to approve the preliminary approval for Cameron Cove Cluster subdivision, consisting of 27 lots LVC101217 based on conditions and recommendation as listed in the staff report. Conditions: as part of the final subdivision requirement, the Owners Dedication shall contain language that grants and conveys easements to appropriate parties, including showing all stormwater easements leading to the stormwater retention basin. These entry numbers for the easement will be required to be filled in the final plan prior to recording the Mylar. As a part of the final subdivision requirements, the applicant shall establish a Home Owner's Association under the direction of the LUC §108-3-9 and provide the County a copy to review and approve. The recommendations: The proposed subdivision conforms to the Western Weber General Plan. With the recommended conditions, the proposed subdivision complies with the applicable ordinances. Up to 10 percent bonus density may be granted for meeting the purpose and intent of the cluster subdivision. Due to the subdivision boundary shape, existing detention basin, and the existing irrigation easement, it has been found that an allowance for additional two lots within a cluster area is justifiable. With the addition of agriculture protection as part of the 12% for the Park Area. Commissioner Hancock seconded. Motion Carried 5-0

Charlie Ewert states that there will not be any time for the work session related to cluster subdivision. Chair Heslop asks if there is anyone present for the work session. There is none. Work Session is canceled from the agenda.

**1.4**     LVT101917: Consideration and action for preliminary plan approval of Terakee Village Phase 1, a PRUD Subdivision, consisting 36 residential lots. Presenter: Ronda Kippen

Ronda Kippen gives a brief overview regarding changes made to the proposal of Terakee Village PRUD.

Brad Blanch, 1060 E 3400 N, North Ogden. Mr. Blanch states that this subdivision proposal has been through the commissions several times. They received a lot of feedback. There were 20 conditions.

They had to do traffic analysis, geo-tech study and to state where the Hooper irrigation pipe was going to go. He spent all spring, summer, and fall meeting all the conditions. He states that there is some discrepancy in how the commission approves proposals. It was very difficult for him to see subdivision proposals with none of these requirements getting approved. With regard to the Hooper irrigation Canal, the piping had to be designed and was approved by the Hooper Irrigation. The property is a bit different in the clusters. The open space is 30 acres and 15 maintained as permanent open space. He took the time last time to explain the subdivision was modeled after Agritopia. 30 acres will be privately owned and will be managed by a not for profit. There is no anticipated HOA fee, the not for profit will take care of the streets and the open space.

Ronda Kippen states that this the most complete preliminary plan she has seen. She gives an overview of the changes made to the plan. The planning staff recommends approval. The recommended approval is subject to all review agency requirement and is based on conditions and recommendations as listed on page 3 of the staff report.

Commissioner Heslop opens the hearing to public comment.

Brett Harper, 4215 W 400 S. He would like to know what kind of protection there is if for the walking path from the public, with regards to fencing. Concerning item #3 in the engineering review, it was his understanding that there was going to be a public right of way to the east and to the north that had all the utilities to the property line. He would like some clarification because it appears that those roads are going to be private.

Brad Blanch the trails won't be fenced off, it just planned to be a walking trail, and the public will still have access road next to it. The goal is to keep a rural environment and have utility access to north and the east. The county wanted the snow plows to have 60 ft. right of ways. They decided that they could service it better. Private roads allow them to have 50 ft. right of ways. There is an easement that allows for property owners to the north or the east to access to utilities.

Ronda Kippen explains that the walking trail is something they got bonus density for. She states that with no irrigation and public driving through they have decided more resilient vegetation. She also states the 50 ft. private roads allow for a better sense of community, the street lights, and greenery that was originally planned.

Commission Willener asks if the private roads will be nonprofit. Who will be responsible for the roadways? Mr. Harper states that when the lots are sold there will an agriculture fee. It will be a one-time fee that will be put into a fiduciary account to be used to maintain roadways and greenery.

Commissioner Heslop asks if there are any further questions or comments: there are none.

Commissioner closes the hearing to public comment.

Commissioner Heslop asks if there are any questions or comment from the commission.

**MOTION:** Commissioner Willener moved approve the proposal for the preliminary approval Terakee Village Phase 1, based on staff recommendations and the conditions as listed in the staff report. Conditions: By adding easement language to the final subdivision plat, the applicant will not be required to file an easement vacation along with the future preliminary phasing subdivision plan. Prior to recording, a note will be added to the final subdivision Mylar to provide notice that the geotechnical report is on file with Weber County Planning Division. Wetland mitigation measures will be finalized during the final subdivision process as the engineering division continues to work with the applicant and the State of Utah to ensure that these areas are conserved in their natural state as much as possible. A capacity assessment from the local culinary provider will be required to be submitted with the final submittal application and a construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water must be submitted to the Weber County Planning Division prior to forwarding for final subdivision approval by the County Commission. A cost estimate for the improvements and a draft copy of the agriculture al plan and open space preservation plan must be submitted for review prior to the final subdivision being forwarded to the

Western Weber Planning Commission and Weber County Commission. The recommendations the proposed subdivision conforms to the Western Weber General plan. With the recommended conditions, the proposed subdivision complies with applicable County ordinances. The applicant during CUP for PRUD was granted an overall bonus density of 32 percent for the entire project for an overall density of 84 dwelling units. Commissioner Andreotti seconded. Motion Carried (5-0)

## **2. Legislative: Public Hearings**

- 2.1**     ZTA 2017-13: Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Conditional uses (§104-22-3, §104-23-3, §104-24-3, §104-25-3) to define Outdoor Storage and to include it as a conditional use in the M-1, MV-1, M-and M-3 zones. Presenter: Steve Burton, Planner

Mr. Burton gives an overview of amendments made as listed in the staff report.

- 2.2**     ZTA 2017-16: Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Additions and enlargements (§108-12-3), Subdivision plat requirements for nonconforming lots; exemptions (§108-12-11), and Enlarging nonconforming lots (§108-12-12). The proposed amendment will allow parcels created prior to July 1, 1992, containing a permitted single family dwelling to be considered a Lot of Record. Presenter: Steve Burton, Planner

Mr. Burton gives an overview of amendments made as listed in the staff report.

### **Planning Commission discussion for ZTA 2017-13 and discussion for ZTA 2017-16.**

#### **Western Weber Planning Commission action for ZTA 2017-13 and ZTA 2017-16:**

MOTION: Commissioner Willener moved to approve ZTA 2017-13 and discussion for ZTA 2017-16 as listed in the staff report. The changes cause no adverse effect on the intent of the general plans. The changes will provide for more efficient administration of Land Use Code. The changes will enhance the general welfare of the county residents Commissioner Park seconded. Motion Carried 5-0

**Western Weber Planning Commission:** No public so it was closed for public hearing.

- 3. Remarks from Planning Commissioners.** There were none.
- 4. Planning Director Report:** Mr. Ewert would like to bring up the intersection of 4700 W and 12<sup>th</sup> it is currently being used for agricultural uses. There is an individual wanting to develop there. He would like the commissioners to look over conceptual ideas because they are working on getting it on a rezone hearing. He would like the commission to get a preview so that they may provide their input at a future hearing.
- 5. Remarks from Legal Counsel:** No remarks from Legal counsel.
- 6. Work session (time pending):** Canceled, to be rescheduled.
- 6.1. Discussion on a proposal to amend the following sections of Weber County Code:**
- (a) The Cluster Subdivision (§108-3) code to modify the minimum area for an individually owned agricultural parcel and to provide administrative edits.

- (b) The definition of height (§101-1-7) and related height regulations to amend the method of measuring height.

Presenter: Charles Ewert, Principal Planner

Meeting Adjourned at 7:10.

Respectfully Submitted

Marta Borchert

Kary Serrano