

Minutes of the Western Weber Planning Commission meeting of March 13, 2018, held in the Weber County Commission Chambers, 2380 Washington Blvd. Floor 1, Ogden UT at 5:00 p.m.

Members Present: Blake Hancock-Chair
Jennifer Willener-Vice Chair
Roger Heslop
John Parke
Wayne Andreotti
Jannette Borklund
Mark Whaley

Staff Present: Rick Grover, Planning Director; Charles Ewert, Principle Planner/Long Term Planner; Felix Lleverino, Planner II; Chris Crockett, Legal Counsel

- *Pledge of Allegiance*
- *Roll Call:*

1. Approval of the 2018 Planning Commission Rules of Order: Mr. Crockett states that he will go over the rules of order in detail through them in the Work Session.

MOTION: Commissioner Hancock motions to table the Rules of Order until next meeting. Commissioner Heslop Second. Motion passes (7-0)

2. Administrative items

a. New Business

2.1 LVB100114: Reconsideration and action on preliminary and final approval of Cameron Crossing Subdivision (Formerly known as Blue Acres Subdivision Phase 4)

Mr. Lleverino goes over the proposal and he recommends approval based on conditions and recommendations as listed in the staff report.

Commissioner Borklund asks if condition number one has been met. Mr. Lleverino states that it has and that condition one can be stricken as a condition of approval since it has been met. Commissioner Parke asks if this item has an open space preservation plan. Mr. Lleverino states that Cameron Crossing does not require one because it is a standard subdivision.

Jason Hamblin 2500 W 900 N Layton states that its phase 4 standard 1-acre lot within the county boundaries.

Commissioner Hancock opens to public comment

Brady White 4043 W 2200 S states that his concern is that when they put the road in it is 2 ft. higher than his backyard. He asks if there is going to be a retention wall put in. Mr. Lleverino states that he is not aware of anything being put in. Mr. Hamblin states that there is no plan to put in a retention wall when they did site plan all the and the topography for the layout of the land. All the storm drains were issued by the engineer and review by the County Engineer. There has never been a discussion about putting in a retention wall or the need to put one in. Commissioner Borklund asks if there is a County Engineering requirement that drainage should not be allowed to the street to adjacent property. Mr. Lleverino states that as part of the design the stormwater is managed within the subdivision which is why they created the two detention basins that are located in Cameron Cove which will manage that. Commissioner Borklund asks if they will make sure that the drainage of the street doesn't go to the adjacent property owner. Director Grover states that it's something that engineering looks at as part their review. He states that the Planning Commission can table the item until this can be addressed or they can add it as conditional approval to make sure it's addressed. Commissioner Andreotti states that he agrees with Commissioner Borklund and states that if it doesn't get addressed and done it will never get addressed and done.

MOTION: Commissioner Borklund makes a motion to table until they can get information from engineering about the drainage from the road and the public right of way on to adjacent right of ways. Commissioner Andreotti seconds. Motion passes (7-0)

2.2 LVC101127: Consideration and action on a request for final approval of Cameron Cove Cluster subdivision, consisting of 27 lots

Mr. Lleverino states that Mr. Hamblin is requesting final approval, he was granted preliminary approval from the Planning Commission on 12-12-2018. He goes over details as listed in the staff report. He states that final subdivision plat requirements have been met as well as conforming to the standards of the Weber County cluster subdivision code. All lots within the proposal contain an area of 15,000 to 20,000 sq. ft. and range in width from 65 to 150 ft. before going to the County Commission for final approval the applicant is required to provide a cost estimate for the remaining subdivision improvements. The cost estimate must be finalized by and approved by the Weber County Engineering Department. The Weber County Planning Division recommends final approval of the Cameron Cove Cluster Subdivision consisting of 27 lots. This recommendation is based on meeting all conditions and recommendations as listed in the staff report. Commissioner Andreotti asks regarding the open space.

Mr. Lleverino states that in this case the open spaces would be owned and managed by the HOA. Director Grover states the HOA is an approved body that can be associated with the open space.

Jason Hamblin 2500 W 900 N Layton states that this is an extension of Cameron Crossing. There will be 27 lots with several parcels incorporated as open space for public use.

Commissioner Borklund asks if the parcel C is going to be landscaped like the other parcels. Mr. Hamblin states the reason why it's not going to be landscaped on that parcel is that it is going to be used as a detention basin. He states that they decided against trees because of flooding possibilities, but there will likely be grass there.

Commissioner Borklund asks regarding detention basin and allowing animals on them. Mr. Hamblin states that there will be fencing to prevent animals from deteriorating the area.

Commissioner Willener asks with regards to the preservation plan do we need to specify the restriction of grazing animals as a line item. Mr. Lleverino states that it is specified.

Commissioner Andreotti asks how much is outside the detention ponds. Mr. Lleverino states that on the subdivision plat each open space parcel shows the combined acreages. He points out that on page 14 of the packet shows the detention basins. Commissioner Borklund states it doesn't show how deep they go or if the animals are or are not allowed. Mr. Lleverino states that the way these detention basins are designed to hold the water and slowly release. Commissioner Borklund states that they can be multipurpose you can have a soccer field in the middle for example. Commissioner Andreotti asks if the agriculture preservation plan allows for the grazing of animals.

Mr. Lleverino states that it does allow for the grazing of animals. Parcel A is landscape grass. The preservation plan describes uses within each parcel. Commissioner Borklund states that there are a lot of questions to be answered regarding the agriculture preservation plan. Commissioner Willener states that based on the landscaping plan what she sees as agriculture is parcel C. All of the other ones looks like they are being groomed for other public uses. Parcels A and B have a landscape plan there are detention basins on both of them. Is it agriculture preservation because it's not presented that way? Mr. Lleverino states that parcel D is included as agriculture type open space as well. Commissioner Borklund asks if its big enough to use for agriculture. Mr. Lleverino states that yes it could be and it could be used to keep animals.

Commissioner Hancock opens to public comment

Greg Bell 4023 W 2100 S Taylor asks if there is going to be a park doesn't it have to be approved by the park committee. He asks if there is a plan for the HOA and what they are required to maintain. Is there supposed to be a plan before final approval is granted? Director Grover states that this a private park so it does require approval from the park committee. Commissioner Borklund asks if it will be open to the public or if it is only for the residents. Director Grover responds that at this point it's for the residents that live in the subdivision, but the public could use it. There are no restrictions. It's not a public park that is being taken care of and dedicated to the county. As far as

the HOA it will need to be addressed as part of the CC&R's when they look at how it's going to be maintained. When a certain number of lots are sold they have to have an HOA set up and they have to maintain the HOA.

Commissioner Borklund states that it was her understanding that part of the reason they were getting the bonus density was the public park, but it's a private park. Are we giving them bonus density for something that's not there?

Director Grover states that as far as the public element it will be discussed in the new ordinance. When the old ordinance was developed there was no park district so we were not able to accept it as a public park. The new ordinance will be looking at that.

Member of the audience that did not state their name asks doesn't it have to have public access to be awarded bonus density. Director Grover points out that access will be granted to the public but it's not a public park. The HOA is responsible for maintaining it. All the CC&R associated with it have to be recorded as part of the final subdivision plat. He states that the subdivision plan is separate from that, it can be included with the CC&R's but typically it's not done because it's part of the cluster subdivision ordinances. He states that there are some confusions as far as the landscape plan versus preservation plan. There are some discrepancies that need to be taken care of. It can be conditioned or have the developer make it consistent.

Commissioner Hancock asks if there are any other comments. There are none.

He asks if there is a motion

Commissioner Willener states that before she makes the motion she wants to make sure to get a clarification from staff. She wants to include that parcel D which isn't addressed in the agriculture preservation plan. It only addresses A-C. She wants to make sure that there is a clear delineation between what's being considered agriculture preservation versus what parts of the parcel are going to be dedicated for park use since the bonus density is dependent on that.

MOTION: Commissioner Willener makes a motion to table the request with the condition that when final approval is requested in the future parcel D that is being asked for inclusion in the agriculture preservation plan be included in the documentation as it not now, and the parcel that will be agriculture preservation be clearly identified and separated from the landscape parcels and the parcels that are going to be part of the park that the bonus density is being requested for. Commissioner Borklund adds that there should be two separate plans for the separate plans of parceling and that it should be clarified that it's a private park. Commissioner Borklund seconds. Motion passes (7-0) Item is tabled until issues are resolved.

3. Public Comment for Items not on the Agenda-none

4. Remarks from Planning Commissioners-none

5. Planning Director Report- Director Grover states that on March 28th at 6:30 at the West Weber Elementary School we are going to be having West Weber Visioning. He states that there is concern about where development is happening. He states that we are getting standard subdivision or cluster that aren't meeting the needs of the residents. He is hoping that this eventually translates to a start of amending the general plan out there. He points out that they are trying to get feedback from the residents and showing them what could happen with standard subdivisions in the area. If we leave it how it is standard quo without doing any major nodes or where development should happen there will be no agriculture land out there. We will be showing them scenarios, if they did 1 acre lots or what standard zoning would allow. He states that this is something they did in the Ogden Valley. Ogden Valley recognized that they need the nodes, and pointed out where they want village areas. These are things that they can consider. We are going to be having a series of meetings until July until there is a formal vision plan of what we want to see happen out there. He states that they are hoping that will translate into starting the process of doing a plan amendment in that area. He states that the Planning Commissioners are invited and to spread the word. He states that they want input on where they would like to see nodes, roads, and development. He states that if we don't plan and make this happen it's going to continue like it is right now. He states that he wants everyone to come together and envision how we want this area to grow. He states that right now it's not part of the general plan but it's something that we hope morphs into getting synergism to amend the actual general plan.

6. Remarks from Legal Counsel-none

7. Adjourn to work session-5:44**WS1. DISCUSSION: Open meetings training and Planning Commission Rules of Order**

Mr. Crockett states that if the Commissioners have a question to bring them up as he goes through it. He states that regarding the appointment of Chair and Vice Chair, it is important to come prepared with a name. He points out that regarding the chair duties there is a list of those duties. Commissioner Borklund points out that Chairs and Vice-chairs need to ask for opposing votes because it makes the record skewed. Mr. Crockett states that it is important for clarity of the minutes but also under the Rules of Order, Commissioners are not allowed to abstain. Commissioner Heslop asks isn't there a rule in case the Commissioners would like to reconsider. Mr. Crockett states that it's toward the back when recording the votes. He states that he will come back to this item. Mr. Crockett adds that other things to keep in mind are when receiving the motions and putting to vote all the questions, to make sure that it is orderly. He points out that all Planning Commissioners have the ability to ask advice of staff or legal, specifically there is a provision that chairs have the authority to ask legal. He reiterates that when in doubt always ask questions. Regarding maintaining order at the meetings there are provisions in the open meetings act that allows the Chair to remove people if there is disorderly conduct. If the meeting is getting bogged down the Chair has the ability to set time limits. If it is required for there to be public comment, then the Chair must by law allow an opportunity for the public to give their opinion. The Chair can set the time limits to allow other members of the public time to speak.

He points out that if a member of the public offers a document, a letter, or a physical item that needs to be considered they need to make a particular note on whether or not it will become part of the record. Commissioner Borklund asks if it needs to be done by motion. Mr. Crockett states that there is always a level of protection when you do it as a motion. He states that if the Chair is unavailable it falls to the Vice Chair. He points out that they can appoint a temporary chair if both are going to be out of town. This particular Planning Commission has been very good about reading the material, coming prepared and having questions prepared. If you can't attend a meeting, make sure to call so that you can be excused. Keep in mind that three unexcused absences are cause for removal. He points out that regarding conflicts of interests near the beginning of meeting the chair will ask whether any member of the Planning Commission has a conflict of interest. A member who knows that he or she has a conflict of interest must state that such a conflict exists. If a member has doubts they should bring it up. A member who believes that he or she or other members of the Commission may have a conflict of the interest on any matter of the agenda they shall explain it to the Commission, the Commission will vote to decide whether an actual apparent or foreseeable conflict of interest exists. He states that his advice is to air on the side of caution. Avoid the appearance of impropriety if you feel there is a potential conflict disclose it, because it might not be a conflict but protects the integrity of the decision and possible subsequent challenges to make sure it's fair to everyone. If you do have a conflict the member shall not participate in the discussion, they should leave during the time the matter in question is being discussed and being voted on, and shall not attempt to influence other Commissioner before or during the meeting except as allowed in the subsection. There are a few narrow exceptions that allow you stay during the comment of that matter where you speaking in your individual capacity as opposed your official capacity as a Planning Commissioner. No member of the Planning Commissioner shall participate in the discussion of an application when any action of the following conditions exists. There is a list, stating familial relations if you have a direct or financial interest. If you feel at any time that you cannot be impartial and render a fair and objective decision recuse yourself and not participate in the matter. Commissioner Borklund asks if this relates to motions or the whole discussion. Mr. Crockett states that there is the exception that allows you to speak in your individual capacity. He points out that even though they are speaking in their own individual capacity their mere presence could influence the vote, so be mindful. Commissioner Willener states that it would be difficult to make comment on something where you haven't heard the whole discussion. Mr. Crockett agrees and states that it would restrict an open discussion if there might be a hesitation because you could hurt somebody's feelings or you don't want to ask some questions because the individual is there. It might cause discomfort. Having the individual leave the room will open up discussion and make sure that the issues are fully vetted.

An ex parte contact is any communication with a party or person outside of the planning commission regarding administrative applications. You really need to distinguish between administrative and legislative action. Legislative items we do encourage contact but there are limits, for example, don't accept bribes. Once the law has been passed and there is an ordinance governing the particular type of application that is before you it is

important to make sure that the process adheres to everybody's due process. It is important they have an equal opportunity to address the Planning Commission, that they know that an applicant has not gone and spoken to an individual Planning Commissioner because it's not fair to the other side. He points out that sometimes it can't be avoided they will call you or sometimes it might be a neighbor asking for a particular application but it might not be an issue but it should be disclosed. Commissioner Borklund states that it's okay to talk about what time it's going to be on the agenda. She states that regarding the other items would it be better in that to say "I'm not going to talk about it." Mr. Crockett states that Commissioners can direct them to the Planning staff. He points out that in an administrative matter a specific provision that contact with Planning staff is not ex parte contact because the Planning staff is not a party they are there to help facilitate the application. They take any information and make recommendations on whether it meets code. Mr. Crockett asks the Planning Commissioners how they feel the pre-meetings are going. He points out that if it is a public meeting, there needs to be a notice sent out on it, and no decisions. The purpose is to review and address the agenda and to have staff answer questions. Commissioner Borklund states that the one thing that she wonders about is when the public comes and they expect that can talk during the meeting. Also if something asked in the pre-meeting and it is addressed in the pre-meeting but it's not brought up during the public meeting, it becomes a concern. It needs to be put on the public record.

Mr. Crockett states that based on Commissioner Heslop's concern regarding the cluster subdivision ordinance there is a statutory expiration of when it has to be done 180 days or it goes back. There are provisions for special meetings. A special meeting may be called by the Chair or by a majority vote by the Commission. The notice shall be given to each Commission member of the time and purpose of any special meeting at any regular meeting at least 24 hours prior to the meeting. Commissioner Borklund asks if they can add email as a form of notification. She points out that it just says it may be given to the Commission personally, by telephone or by U.S. mail. Mr. Crockett agrees that a provision can be added. He points out that part of the reason that email is not included is that the notice and provisions under The Open Meeting Act does not include email. There needs to be a legislative update.

He states that even in a special meeting quorum requirements have to be met. He states that under the length of the meeting if the Commissioners make a motion to adjourn at a certain time it no debatable.

He points out that under the order of business it is general follows the order but they are designed to be flexible. They are more like guidelines. He points that approving the minutes upon hearing from the Commission they are either approved as presented, as amended or postponed until next meeting.

He states that regarding the consent agenda they are items that do not require discussion or debate, when you look at the application it clearly meets the land use code in our opinion if not there is a way to get it removed from the consent agenda, because they are routine items or because it is believed they are noncontroversial and will be unanimously supported. The Planning Director will decide who will be on the consent agenda. The question will be asked if any Commissioner wants any item removed to allow that item to be discussed and voted on separately. If there is a request to remove an item, it has to be taken off the consent agenda because it has to be unanimous or there is no consent. If an item is removed the Chair will make the determination on what time the item will be heard. When there are no more items to be removed the Chair will call for a vote. Commissioner Borklund states that she believes the Commissioners understand it but the public might not. Mr. Crockett asks if having it listed in the Planning Director remarks in the beginning. Commissioner Borklund states that yes or when you identify the consent the agenda to make the public more comfortable. Commissioner Willener adds that often the discussion of the consent agenda happen in the pre-meeting. All of the questions get answered in the pre-meeting and then we move on to the public meeting and it gets a blanket pass. Mr. Crockett states that they are welcome to discuss it during pre-meeting, if it doesn't come up during the pre-meeting there is really no issue, but it's always good to ask whether anybody wants the item removed.

Mr. Crockett states that regarding the special order of business the Commission may suspend the rules as to the order of business, or return to an order already passed, on a motion supported by a majority of the members present.

Mr. Crockett explains the Order and decorum. Commissioner Borklund states that she believes we are mixing up B. and D. She states that sometimes the staff gives the full staff report in the beginning and when they should only be giving an overview and then make the developer sell the project. Commissioner Hancock agrees. Mr. Crockett states that this is one of the flexible standards, because depending on the particular application they may need to

lay a little bit more foundation. He agrees that generally, it should be short on detail and that the responsibility lies on the applicant to prove to the Planning Commission that the application meets the requirements. Commissioner Borklund points out that it comes across to the public that the staff is proposing it. The applicant needs to make their presentation first. It gives the public the wrong idea and makes the County look bad because of the way it's presented. Commissioner Andreotti agrees and states that the initial overview should not have the staff's recommendation for approval it should come later. It should only say to introduce the item and talk about the criteria of the item. Commissioner Willener agrees that they are getting such thorough presentations that the developers are not having to say a whole lot.

Mr. Crockett asks the public if they have any comments regarding the way the items are introduced.

Greg Bell 2100 S 4032 W Taylor agrees with Planning Commission. He states that the impression of the public is that the Planning staff has the responsibility to sell every development that comes across because it appears that they work hard to prove that the subdivisions meet the code, and the developers just sit back and rake in all the money. He states that the Planning staff does it all for them. Mr. Crockett that maybe we need to temper that let the developer sell it and then as questions arise from the Planning Commissioners and direct them to staff. Chair Hancock states they could save the recommendations until the end of the public comment. Mr. Crockett states that perhaps he can bring it up with Director Grover, so that he can include it in his staff meeting, to see how the staff feels and then Director Grover can address any issues. Commissioner Heslop states that as part of the staff initial report it is good if there is a bit of history or background. Mr. Crockett states that this may help protect the Staff from criticism when really it's not their application. Commissioner Borklund states that the staff is limited also because if the application meets the ordinance requirements, the Staff can't say no and the Planning Commission can't say no. Mr. Crockett adds that they need to be cognizant, just because the applications are entitled to approval doesn't mean the staff or Planning commission advocate it. He states that speaking for legal their idea as to whether it's a good idea or not doesn't matter. If it meets the legal requirements, then their opinion ends there. Commissioner Borklund reiterates that the developer needs to sell it and the Staff just tell them what the requirements are and whether it meets them or not. Commissioner Hancock states that staff needs to let the developer know to come prepared instead of just one line it should be 5 to 10 minutes long. Mr. Ewert states that as a former director this was how it was done, for the exact reasons mentioned. He states the staff does tend to get invested in the projects they are working on. He states that they are pretty rigorous with the developers, by the time the project is ready they do around 5 reviews. He states that the advice they give to staff is not to get attached, run the process, and be a professional. Keep the emotional investment out of it and if it is there don't show it.

Mr. Bell states that going back to their earlier comment regarding the pre-meetings. When The Planning Commissioners get their all their questions answered in the pre-meeting when the public comes to the meeting and the Planning Commission doesn't have any comments or questions it looks like it was just rubberstamped. It looks like the Planning staff sold it really well and answered all your question in the presentation. Mr. Crockett states that there is a balance, they have to be careful. Under the law, there is no requirement to take public comment on certain matters. It can be useful because it can help answer questions and concerns. If there is a thorough discussion on a matter that is important to the public, perhaps there will be information that will help resolve some concerns. He states there are times when there is valuable information brought forth by the public. On the other side, one of the problems is that it is an invitation to listen to public clamor. Which is not evidence. If it is found in a record and challenged in court the decision would be found arbitrary. Commissioner Willener states that going back to the last meeting and the concerns of the public, they understood that those items would be addressed down the line but the public might have felt like they weren't being heard. It's difficult for the public to understand.

Mr. Bell states that he understands the process better now, but when he first received notice he felt like his everything was being approved and granted and the public opinion did not matter. He did not understand what was the point of handing out the notices of the meeting for public comment when it seemed like nobody really wanted to hear it.

Mr. Crockett states that if it seems that a lot of people are expressing interest in a certain item it would be good to have some public discussion, but it's important to be mindful of the tools that you have to get a meeting back under control. Commissioner Willener states that there is always going to be cycling new community members with every new project. She points out that you're always starting the education process over and over. Chair Hancock states that this is why item B. is so important. He states that staff rather than give recommendation talks about the criteria and what as a Planning Commission they can do. They can state that the engineering department handles this and it not part of what they are there to discuss or to make a motion about. They can point out the things that we have influence over. He states that if we do every time the public might understand the items that They can take action on and the criteria that they have to measure it by. Mr. Crockett states that they also need to be mindful that the law presumes that the general public is aware of ordinances, statutes, and law, but they have a responsibility as staff members to answers questions from the public. It might not be the appropriate time during the meeting but they need to make ourselves available so that people can contact them and the process can be explained. He states that if he feels that a question needs to be answered he likes to give them his card so that they can sit down and have a discussion.

Commissioner Whaley asks what are the notices that are being received in the mail? Mr. Bell states that they are usually sent out to the public that lives 500 ft. around a new development. The notices say the open public hearing will be held to address this subdivision bring any concerns. Mr. Ewert states that it is very inviting but it doesn't say to come and speak your mind. It should say open public meeting not hearing. Commissioner Whaley states that he disagrees with this. He states that if the Commission puts themselves in that position to explain everything to the public they are going to be there all night it is not their duty. He states that their jobs as Commissioners is to review the applications, the staff, and the developers make the presentation and then the Commissioners make a determination. He states that the public notice has to be addressed. He states that it has to be made clear that these are public meetings, not hearings. He states that the Planning Commission has no responsibility to listen to anything the public has to say. They have to deal with the public because it is a public meeting, that being said it is not unreasonable to allow the public to come out. He states that he would like to see one of those cards. This is something that it needs to be followed up on, it should say that it's a public meeting not hearing and that the public needs to be given enough time. It should say if you have questions comments or concerns about this to see the staff. Mr. Ewert states that it does have the staffs email address and phone number. Mr. Crockett states that it should have two distinctions between what has needs to be done on those notices there is a legal distinction which is by law you are only required 24 hours' notice, as a policy matter you can give more advanced notice if you want.

Mr. Bell states that he has a notice and he reads the notice. The notice states "to the owners within 500 ft. of the property located approximately 4075 W 2200 S the Weber County Planning office has received a request for preliminary approval of Sunset Equestrian Cluster Subdivision consisting of 180 building lot consideration of the application and action on this request will take place during an open and public Weber Planning Commission meeting which will be held in Weber County Commission Chambers 1st floor date time subject to change please call to confirm the new time and schedule." Mr. Bell states that this was the first indication that to the public that this development was happening. He states that it was a shock to hear that 180 homes were being built next to his home, and it was frustrating that he only received a 3 days' notice to go and have a discussion about it. He reiterates that it was a complete shock and when the time came for meeting every one of the public members was passionate and confused. He states that they showed up thinking it was a public meeting, he believed it was meant to be a public forum where they could express their concerns, but it wasn't. Commissioner Whaley asks Mr. Crockett to makes sure all of those notes go out from this point forward. He would like to make it clear to the public that they are invited to attend the meeting but it is not an open hearing. Commissioner Borklund states that it is dangerous to not take public comment. Mr. Crockett states that it is contrary to the training that was received from the state it's important to have a balance. Mr. Bell states that he would like to make a suggestion. He states that it would be good if they can get a notification when a draft comes up so that the public doesn't have to fight preliminary approval. Mr. Ewert states that it important to keep in mind that there is an intricate administration that occurs in the Planning Office. He adds that this is not a bad idea but it is also not new. He states that if notification goes out when an application is received the neighbors come and get worked up before there is enough to even talk about. When you get any type of application in the neighbors wants to come and see what it is but at the point, the application comes in there isn't enough information it might be 180 lot it might be 150 lot. He

states that at that point they haven't checked all the boxes. Once all the boxes are checked they need to verify that it complies with the law. He states that at this point they are ready to talk to the neighbors and send notice. He states that when it comes to due diligence from the applicant's perspective we can do 7 days before the meeting. The further out ahead of that we get the more time it takes to get the applications in. He states the County Commission has given them the responsibility to make it a streamlined process and get things through as fast as possible. He states that it is a balancing act. Commissioner Borklund states that it is tough because you want to make the developer happy but you also want to make the public happy and it hard to be in the middle. She states that she suspects the tonight the developer was not happy. She states there were so many questions that the only action was to table both items. Mr. Crockett states that he believes it is appropriate to sit down with Director Grover and address the concerns of the Planning Commission. He adds that he is more than happy to bring the concerns to Director Grover. Commissioner Andreotti states that nobody likes to do double the work. Now the items need to be brought back and the developer has to wait longer.

Commissioner Whaley reiterates that it is important for the notices to inform the public if they have questions to contact staff. Mr. Ewert agrees and states that perhaps they can change the verbiage to say "contact staff before the meeting if you have questions" and the notices he used to send out said, "you are hereby invited to observe the Planning Commissions deliberations." Mr. Bell states he now understands the Commissioner's point of view. He states that he also has the perspective of someone who didn't feel like they were getting heard. He felt like he didn't have enough time to get his thoughts together.

Mr. Crockett states that when it comes to the notices it's a process that he is happy to work on. He states that he is going to be mindful that in the legal recommendation. He wants to make sure that the Planning Commission and staff don't go outside their statutory responsibilities. The determination of whether there is going to be more notice is going to be a policy decision and could come through an ordinance change. He states that they have to adopt minimum standards established. He points out that until that happens he advises the Planning Commission and the staff to be mindful that the departments do not go out of their statutory responsibilities, because it would then be their responsibilities and you would accept the consequences. He states that they would then need to apply it fairly. He points out that if they give more notice on one application and less on another they are setting themselves up for a big problem. They can look at the language in the notification, there are specifics that are required by statute, but there is some flexibility as far as how those sentences are crafted. He states that this is where they can enhance clarity.

Commissioner Andreotti states that as the Planning Commission they do the best they can based on the information they have. Commissioner Borklund points out that they have to test the ordinance. Commissioner Andreotti adds that the public does have some input before the mail goes out. Mr. Bell states at this point he just wants to know what is in the code. He can't just sit by and allow others to make the decisions without his input.

Commissioner Whaley states regarding the draft application and the preliminary application. If the developer is submitting a draft application and it goes out the public, what's going to happen is we are going to confuse the issues. If notifications go out they should not go out at draft level. Mr. Crockett states that state law establishes certain things that have they need to have notices sent out, there are certain things that don't need to have notices sent out. He points out that the state sets the floor. It is a difficult balance. Mr. Ewert states that this can be addressed in the staff meeting in the morning.

Mr. Crockett states that regarding page 8 consideration of items. *A ruling of the Chair may be challenged by any member of the Planning Commission present at the time of the meeting. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the Chair's decision.*

Mr. Crockett adds that he hasn't seen it happen.

Regarding Procedures and motions, he states that they more like guidelines. He adds that they are very detailed, and when in doubt they can ask legal. The main things to remember is motion, seconded, and have a discussion, make sure the chair states it and call for the vote and ask for the opposed as well. There is a section regarding tie votes and what happens with that. Mr. Crockett states that he has been asked if people can vote by proxy and the answer is no. He also states that you cannot abstain from voting unless there is a conflict of interest.

He states that if there is a question about amending a motion they can refer to page 11 section 5.

Page 12 motion to reconsider proposes no specific change in the decision but simply proposes that the original question is reopened. It required a majority vote and cannot be reconsidered. Commissioner Borklund adds that it has to be in the same meeting. Commissioner Willener states that it requires a majority vote just to reconsider.

Commissioner Borklund states that they have had legal in the past ask them to make the motions and then have

the discussion. Mr. Crockett answers that there is a set forth process on page 9 section F A-E it opens it up for a motion, the chair can outline the possible actions, the motion comes, there are certain things that can happen before a second, once there is a second the chair states the motion and then opens it up for a discussion. Mr. Crockett states that he believes these came from Roberts Rules. Commissioner Borklund states that she doesn't like making the motion and then having the discussion. Mr. Crockett states that you can get a lot of discussion through the questions, and there are provisions as far as the Planning Commission having question among each other. Once the motion has been made and the conditions have been set and requirements. He points out there is nothing that prevents them from discussing or debating the issue before the motion. Commissioner Borklund states that it may be good to ask if there is any discussion on the motion before the vote is taken, to make sure everybody understands the motion.

Commissioner Whaley asks how many changes have been made. He suggests that they should highlight the changes made. Can they be made available to the public on the internet?

Commissioner Willener states that it would be good to make the information available for the public to give them a way to educate themselves before they come to the meetings. It would help address a lot of the concerns that are brought before the Planning Commission.

Mr. Crockett states that he knows that the Planning Commissioners take their jobs seriously by the level of input and the discussions.

WS2. DISCUSSION: Modifications to the Cluster Subdivision ordinance to amend open space requirements and provide clarifications.

Mr. Ewert states that he wants to address some of the questions and highlight some of the changes. Mr. Ewert goes over value comparisons. He states that it's not a huge difference in the numbers and he is surprised that developers are making it look like it's a lot more. They are also talking about how they can't put their product on a 9000 sq. ft. lot. He states that even with 50 percent if you configure it right, you should be able to get 3rd acre lots. This is perfectly configured square broken down into perfectly configured squares, the real world is not like that. It should at least give them room to play between 9000 and a 3rd of an acre to be able to get as many lots as the ordinance allows. Chair Hancock states that there are additional cost savings to them as they cluster. Mr. Ewert states that that is correct and he was going to run that analysis as well and he can run a cost per linear foot of streets with infrastructure sewer and water and look at the difference. He states that what he has found in looking at Weber Counties infrastructure system was we that we are looking at 10 percent less road infrastructure. It wasn't as much they've been sold on. This is because our cluster subdivisions have been saying put these pockets and run a road all the way through them as opposed to have a pocket and run a road through it. Chair Hancock asks if with that savings the 30 percent it would be equal to the standard subdivision. Mr. Ewert asks do we want equal or do we want more, because if it's equal or more then we might lose clusters to standard. Mr. Bell asks with the 50 percent bonus density do you really get 50 percent open space or is it 30 percent with landscaping and trails. Mr. Ewert asks if he means 50 percent agriculture space as opposed to 50 percent in the trail and in parks. Mr. Bell agrees and asks really they only have 30 percent open space, but they get up to 50 percent. Mr. Ewert points out that if they want 50 percent bonus density they have to have 50 percent open space. He states that it is a one for one. One percent bonus and means one percent extra open space.

He states that the math is pretty much the same just a bit more reduced on 50 acres because the lot size stays about standard. Commissioner Heslop asks if his example excludes roads, the right of ways, parking, trees, and landscaping. Mr. Ewert states that it wouldn't exclude the open spaces within the subdivision that has landscaping but it would on the road right of way. Commissioner Heslop asks if there is a 50-acre tract will the average lot acreage remain the same, and where does the landscaping come out of, is it reduced from the number of lots? Mr. Ewert states that with this scenario to keep it as simple as possible, he just pretended that they were dealing with 50 acres without the roads. In this scenario may be the total is 55 acres and 50 acres in developable lot area. He adds that Commissioner Heslop's question emphasizes a few points road configurations is going to cut off access to some lots. They are not going to get perfect configurations, the calculus and the configurations are not going to be perfect in all cases. Commissioner Borklund asks if the topographies are going to matter. Mr. Ewert states yes because no piece of property is equal. He states that fortunately in Western Weber they are not as inhibited as they are in the Ogden Valley. This a way to look at this to see why the developers feel they need the bonus density. Commissioner Willener states that the issue she is having is based on the things they've seen come across. She states that it's great that Mr. Ewert is showing them a 100-acre tract versus a 20-acre tract. She states that they rarely see 100-acre tracts. She points out that they are seeing 10-acre tracts and 20-acre tracts. She states that

they aren't seeing 3rd acre lots, they are seeing quarter acre lots or smaller and this is where her concern lies. The bonus density allows for it but when she speaks to people and this with regards to her as well she moved out to Weber County for a bit of elbow room. The elbow room includes the open space, but it also includes the lot size. She states that she doesn't want to be living on top of her neighbor in a quarter acre lot. A 3rd of an acre is maybe the border. She points out that they moved off of a 3rd acres because they felt it wasn't enough. It's the draw out to Weber County you can say you go out for the agricultural and want the big tracts, but when you start going down to quarter acre lots in order to hit 50 percent bonus density it's too tight. A 3rd acre doesn't tract with what is being approved. Mr. Ewert states that he agrees. Chair Hancock states that it may be what the Planning Commission wants, but it may be what the public wants. It might be a someone coming from an apartment looking for a smaller lot.

Commissioner Willener states that when they throw out these numbers in the public meetings and it is said can they go up to 30 percent bonus density versus 50 percent bonus density, 50 percent sound like a big number and it benefits the developer but the reality of what it lays out in terms of land and layout on the land, and the development itself it contributes to the aesthetic. She states that she just doesn't like the arbitrary nature of them throwing out the number 30 percent and if that doesn't make people happy let's say 40 percent. What does that actually mean? Commissioner Hancock agrees and states that that was his next comment. He asks can't it be more defined? Commissioner Borklund asks why the Ogden Valley doesn't allow any bonus density. Mr. Ewert states that they say their max build-out is already too high. They have already allocated way too many development rights. Ogden Valley right now has 4,500 homes give or take since it has come out it's probably closer to 5,000. They have 5,250 on the Weber County side entitled through Snow Basin and 2800 entitled through Powder Mountain and on the Valley floor they have another 4,000. They have between 15,000 and 18,000 rights for homes, and right now they've only built 4800 of them. They agreed that they aren't going to look anything like they do now if they build out 18,000 homes. Mr. Ewert states that he did the math and without septic, it would be between 18,000 and 20,000. If you put a sewer system, it becomes 20,000 to 24,000. He points out that if you look out west 1 sq. mile can fit about 690 or so homes in the A-1 zone under the existing zoning.

Mr. Ewert states that going back to Commissioner Heslop point earlier they may not be able to exclude the roads, he may need to go back and look at the numbers again. He is going to go back and see how they are actually calculating density right now if the roads aren't excluded and that area has to be incorporated all the numbers are going to drop. Commissioner Willener states that trying to balance the large tracts of land versus the smaller bits of open space does it make sense in any way. She points out that they deal primarily with small developments 10 to 20 acres at a time. Is there any reason or motivation that they would take a development that is like a 100 acres and allow something that large to have a 50 percent bonus density but have a smaller ceiling for a 30 percent bonus density for something like a 20-acre tract? This might encourage a developer to buy area and leave larger tracts of land. If there is a motivation to combine tracts and preserve larger land, larger field, farms, and open space, it might accomplish what 5 acre caps are meant to accomplish with the rewrites of the ordinance. She asks if it's a larger development do they allow higher bonus density and if it is a smaller development would they allow a smaller bonus density? Commissioner Parke asks if they need to set a minimum size for the cluster. Mr. Ewert states that right now the way it fleshes out there is a minimum size and it is about 6 acres. It's not specifically stated, but if you run the math and fit as much as possible with 50 percent bonus density it's about acres under the current code. Commissioner Parke points out that they would need to have 20 acres to get the 6 acres with 30 percent and 6 is cutting it close to not being big enough to farm. Mr. Bell states that according to the math Mr. Ewert presented it still incentivizes the developers to go to 30 percent bonus. They would still be making more than a standard subdivision. Commissioner Parke states that if there is a 20-acre minimum for a cluster we might be preserving a piece that can be utilized. Mr. Ewert states that if we do a minimum cluster size they are automatically excluding some of the other tracts of land from clustering and those just become acre lots if that an okay externality then by all means let's do that. There is a possibility that some opportunities will be missed to grab some significant open spaces. Especially if there is a 15-acre subdivision next to a 15-acre subdivision and combined the contiguous area would be more. He asks what if they go with a graduated scale, the bigger and bigger it get the more density the developer gets to a cap. Commissioner Borklund states that she like that idea, but if the developers get a 100 acres are they going to phase it. They need to make sure that each phase has the amenities. Mr. Ewert states that if there is a phasing plan every phase has to have a proportion amount of open space and amenities, so that if none of the other phases happen it can at least stand on its own. Commissioner Parke asks can it be written so it has to be proportional, and contiguous or they have to get the open space done

first. If they are going to develop 20 percent, then they have to dedicate 20 percent of the open space whether it touches that phase or not. Commissioner Willener states that she has some concerns where small tracts are coming in front of the Planning Commission. She states that they can set aside 5 acres or 10 acres in a larger tract. In terms of farming it's not going to be significant enough. If a developer is going to put an investment in, if they have something like a 100-acre tract being able to give them some incentive to preserve large tracts of farmland, not just small pockets. She states that it gives her the balance between the larger open spaces and the community feeling and still offer the elbow room and room to grow. Commissioner Parke states that if they have 10 acres and they want to cluster it with no density. Then they can have their HOA pockets it can be clustered with no density. Mr. Ewert states that what he is hearing is that they want clusters and 10 acre minimums, if they don't have 10 acres then it's just a standard subdivision. He asks at what threshold they want to start graduating up, do they want to graduate per acres. Commissioner Parke states that if they do 20 acres they ought to get 30 percent, 10 acres shouldn't get any just let them recognize the savings in clusters. Mr. Ewert asks if they would be comfortable to allow it to go up to 50 acres, 50 percent open space and 50 percent bonus density. Commissioner Andreotti states that when farmers come in and comment they usually say they want big tracts of land they don't care if the houses are on top of each other. At the end of the day it's not an agriculture area anymore so when the time comes and the 10 or 40 acres turns into weeds and where do they go from there. He feels that in the end it will be filled with houses. He state regarding the smaller tracts and a house on every acre okay with that. He adds that in order to sustain agriculture operations, there is a need to sustain neighborhoods for people to live there. One of the problems the County has now is CAFO's. They are going to be there until the buildout comes they won't be able to take it anymore. He believes that the biggest tracts of land ought to be reserved. Mr. Ewert agrees and states that agriculture is a dying industry. He adds that the response that he wants to give the public when they bring this up is that it is dead if you take that approach. Its dead if they build everywhere. There might be some vertical agriculture in the future possibly in other areas.

He adds that he does like this concept but it needs to be fleshed out. Commissioner Willener states that another thing to think about with the smaller tracts and have 1 acre to 5 acres it's not going to farmable. Most likely people are going to put animals on it, without the large tracts to farm alfalfa and other animal food sources people won't be able to sustain their animals. If there is a graduated way of encouraging large tracts to preserve more space in as tight of an area as possible or the clustering in as tight of an area as possible. This might leave the larger areas available for large-scale farming. She states that she is not comfortable arbitrarily saying 30 percent sounds good until she can see what it does. Commissioner Parke states that with a 20-acre tract at 30 percent you have 6 acres its big enough to farm, below that it's a waste of time. Above that, it should go 30 to 40 to 50 and cap at 50.

Mr. Ewert states that he will work on something else because the Ogden Valley they are going to put bonus density back in the cluster, the developer has to buy it. The developer would need to go out to an agricultural farmer and the development rights and put it in. Mr. Bell states that in the further west you go you can't have any more agriculture. He adds that if they are going to go out there and buy open space or agricultural land so they can develop the farmable property it's defeating the purpose. Mr. Ewert states that in that case, they could say they need to buy it within a certain amount of miles from the subdivision that they are in so that the people in that community has the benefit of more open spaces. Commissioner Borklund states that what Mr. Bell is trying to say is that we need to make sure that the land that they are trying to preserve is actually able to sustain agriculture. Commissioner Willener states that it is written in with the soil sampling. Mr. Bell added that when you are talking about transfer rights it has to be like for like. Commissioner Parke states that if Commissioner Andreotti is correct and all the agricultural land does go away and does become residential at least we will have those parcels and there will be somewhere to put a grocery store and school, that wouldn't be available if it's not done in this manner. Commissioner Willener states that in the long run if they have larger tract 30 or 40 years in the future it will be easier to look at a large tract and see the potentials.

Mr. Ewert shows the Planning Commissioners some samples from a developer so that they can get a conceptual idea. Mr. Ewert states that the one thing everybody agrees on is the one-acre lots aren't going to work financially and community wise. Mr. Bell adds that if it's turned into something the developer needs it going to become unsustainable. Mr. Ewert sums up that they are going to stick to open space, bonus density and overall acreage in a graduated scale and the one for one. There will be some limitation and it will cap out. Commissioner Willener asks if it is going to cap out at 50 percent bonus density. Mr. Bell states that they won't be able to get much higher with the 9,000 minimum sq. footage. He adds that if you can get 60 percent bonus density with 60 percent open space and still maintain 9,000 sq. ft., why not do it. Mr. Ewert states that the Ogden Valley requires 60 percent

open space they have a larger minimum lot size but the current discussion is a one for one. They are at 60 percent, not 30 percent the open space requirement would need to be bumped up. He adds that he likes the one for one. Commissioner Parke asks where the one for one would start. Mr. Ewert answers that it would start at 10 acres. Commissioner Parke agrees and adds that up to 10 they shouldn't get any density. Commissioner Borkland adds that they could do a cluster with no bonus density.

Mr. Ewert states that he will work on it and bring back at the public hearing if it's not ready at public hearing it can be tabled and brought back another time until a decision can be made. He that it has to be adopted in within the 180 days and there are developers who are chomping at the bit and the way it's looking they may have to accept their applications under the old code and postpone any kind of review because if it is adopted it has to comply.

Mr. Crockett states that they do have to take them in but it's a wait and see period. If these changes go through they are still entitled to receive review under the old code. If the new the changes don't affect their application the review would be under the new code. He adds that they could a land use regulation prohibiting certain types of applications for a six-month period but it would have to be done under the ordinance.

Mr. Ewert gives a quick overview of changes made in the Cluster subdivision code. He states that on page 6 line 281 it refers to open space developments and standards and ownership regulations. There is a small section about the small open space area within a cluster. He points out that the Ogden Valley had a hard time with what was in the previous proposal. He asks the Planning Commissioners to imagine a cluster and the corner is a park or an area of open space for a trail. The bigger those are the less acreage you have to the big open space parcels. To maximize those open space parcels those should be pretty small if they are within a cluster if they meet the requirements of a large open space parcel anything less than what meets the requirements that are inside of a cluster has to meet certain standards. The Ogden Valley wanted to soften that quite a bit, they aren't as focused on agriculture. They are pro-agriculture but they are more focused on open space. They have less growing time than Western Weber. They are pro-agriculture because it maintains the open space. What the new verbiage on line 281 says is if you have more open space parcels inside of your clusters than you are required by the minimum percentage of a whole. He states that regarding line 298-304 he changed some of the languages to make it clearer and more consistent with the language in the code. It basically says that the large open spaces should be contagious unless prime agriculture land would merit it to be noncontagious. 313-316 states that the contagious open space area shall be no less than 450 ft., this in reference to a previous conversation regarding the three turns of the combine. It gives an out to properties that are configured oddly, that have environmental constraints, or topographic features that merit it difficult to run a combine through it.

Mr. Ewert states 328 is regarding the small open space parcels between lots, basically, it says to make it as small as it can possibly be to facilitate efficient and meaningful use.

Mr. Ewert states regarding the estate lot 5 and a ¼ acre 80 percent of that has to be encumbered by an open space easement to be included as open space, and you could build your house on a building envelope that is closer to the other houses. He adds that he had a request from one of the surveyors who asked why not open it up for anything that is 1 or 2 acres. He states that he did 5 and ¼ because its green belt he thought it would be a benefit and it might not have to be regulated if someone wants to do 2 acres and has 80 percent of that in open space. He asks the Planning Commissioners how they would feel about that a larger parcel and a portion of that is considered open space. It has to be contiguous with the big open space area. The Planning Commissioners agree that they want to see a visual. Mr. Ewert draws them a visual. Commissioner Andreotti asks if that changes the green belt. Mr. Ewert answers that they would not get the benefit of green belt.

Regarding line 441 he states what he would like to see is the open space easement in favor of the County. If it is done under the current code is in order to make changes to the easement there would need to be approval from everyone who has interest in that easement this would include everyone who owns a lot in that subdivision, and the county and the HOA. It makes it too complicated for a changing future. Commissioner Willener asks isn't that redundant? If you have to get approval from the lot owners and the HOA. Mr. Ewert states that in most cases, and there might be some carve-outs. Mr. Crockett asks if Mr. Ewert is referring to the vacation statute. Mr. Ewert answers that no, but the county would have to go through vacation. Mr. Crockett adds that there would have to be a public hearing and they can't vacate anybody's separate interest. Mr. Ewert agrees and adds that every individual that still holds an interest in that open space. Mr. Crockett interjects that if there is no other document giving them that interest they don't have the interest. Mr. Ewert agrees and states that this is a good point because the way it's written states that the plat shall create the interest. The plat can only transfer land from private to public, it can't transfer from private to private. He states that he would rather see this be an open space

easement in favor of the county and then have an open space plan that runs separately. It could be amended from time to time. There wouldn't be a need to amend the whole subdivision plat if it doesn't affect the whole subdivision plat. There wouldn't be a need to get approval from a neighbor if it only affects the individual parcel. A negative aspect of this action is that if the subdivision is approved with glamorous open space plan and those open space parcels are sold off and all them come in with a different idea of what they want to do with their property, they wouldn't otherwise be able to change that in the future without some huge hurdles. Commissioner Willener points out there would be hurdles either way. Mr. Ewert agrees and states that this way they only have to change the open space plan as it relates to their property. He added that he does want the neighbors to hold one another over a barrel if there is a neighborhood dispute.

Mr. Ewert states that he has added some changes in format throughout. He adds that next time it will be scheduled for a hearing. There might be a couple of landowners who submit a PRUD application, they will be entitled to the old PRUD. There might be 2 or 3 cluster subdivisions. There might be the need for a special session. He adds that he will have some sort of solution for the next meeting.

WS3. DISCUSSION: Modifications to the Planned Residential Unit Development (PRUD) ordinance to make a decision on a PRUD, a legislative – not administrative – action. -Postponed

WS4. DISCUSSION: Modifications to the definition of “Height of Building” and additional clarification regarding standards and regulations governing the height of a building and Public Utility Substation.

He states that he believes it is ready for public hearing. Regarding cell phone towers, *the disguise shall be designed by a licensed architect and shall replicate natural features found in the natural environment within 1000 ft. such that the average person cannot discern that it is not a natural feature from a distance greater than 200 ft.* Mr. Ewert adds that it was pointed out that this doesn't work with deciduous trees only evergreens.

If it replicates vegetation it shall be located no greater than 20 feet from, and be no greater than ten feet taller than, three other native plants of the same species. Any proposal for new vegetation intended to satisfy this requirement shall: be located no more than 1000 ft. from the same species naturally occurring in the area; Cluster the new planting around the tower in a natural-appearing manner; and demonstrate sufficient availability of soil nutrients and soil moisture necessary for species survival. A planting that dies shall be replaced no later than fall or spring, whichever comes first, with a plant of equal or greater size as the originally proposed planting.

The requirement for the disguise may be waived by the appropriate land use authority in cases where the disguise is inconsistent with existing or future-planned land uses onsite or in the area.

The concern was what happens if one of the fake trees even if it looks real, what if it gets planted in the middle of a farm field. If it doesn't make sense and it's going to be obnoxious and intrusive. He states that this is an attempt to address these issues.

Commissioner Borklund asks if there has been any pushback from the cell phone companies. Mr. Ewert states that they may not be aware it's happening. There have been public hearings about it. There was a lot of action, they are trying to exempt any regulation of them in any public right of way. The FFC has special rules on cellphone towers they are contemplating changing them to exempt any zoning regulations which would invalidate everything that's being worked on here. The cell industry is very active and it takes a county like us to impose a rule that they don't like and they are upgrading fairly frequently. There is an FFC rule that states that if they are going to upgrade and they are not changing the side scope or the height of the building the county or the jurisdiction cannot require them to submit permits, except electrical, but not building.

WS5. (Time pending): Continuation of General Plan Review and Training. -Postponed

Work session Adjourned-8:10 PM

Respectfully Submitted,

Marta Borchert