

Minutes of the Western Weber County Planning Commission held on July 14, 2015, in the Weber County Commission Chambers, 2380 Washington Blvd., Ogden UT

Members Present: Jannette Borklund, Chair
Lance Greenwell
Roger Heslop
John Parke
Michael Slater

Member Excused: Mark Whaley
Wayne Andreotti

Staff Present: Sean Wilkinson, Planning Director; Jim Gentry, Principal Planner; Charles Ewert, Principal Planner; Sherri Sillitoe, Secretary

*Pledge of Allegiance

*Roll Call

Commissioner Borklund welcomed the two new Planning Commissioners; Lance Greenwell and Michael Slater.

No Exparte Communication was expressed.

The Opening Meeting Statement was read at this time.

1. Administrative Items

1.1. Consideration and action on a request for preliminary approval of Henry Flats Cluster Subdivision consisting of 12 lots, located at 300 West 400 South – Travis Wallace for PAANCLLC, Applicant

Jim Gentry presented a report and indicated that the applicant is requesting preliminary approval of Henry Flats Cluster Subdivision located at approximately 4300 West 400 South in Western Weber County. The proposed subdivision will occupy 12.34 acres and will consist of 12 lots, with each lot being 20,000 square feet or larger. The parcel is split between the A-1 and A-2 Zones, which both require 40,000 square feet and 150 feet of frontage; however, Henry Flats is being proposed as a cluster subdivision with lots being at least 20,000 square feet with 100 feet of frontage. This cluster subdivision was submitted prior to the recent changes to the cluster subdivision ordinance and falls under the provisions of the previous code.

The proposed roadway will be dedicated as a public road and will extend northerly from 400 South Street where it will provide one access to an adjacent parcel before extending further north. The Cluster Subdivision Ordinance allows a maximum bonus density of 50%, and the applicant is requesting the following:

- Fifteen percent bonus for meeting the intent of the Cluster Subdivision.
- Ten percent bonus for providing a stub road.

There are 10.32 net developable acres and a 25 percent bonus will give the applicant two additional lots. There will be 3.56 acres of open space (30 percent), with the open space left in a natural state. Culinary water will be provided by Taylor West Weber with the developer creating a pond for irrigation water. A water capacity assessment letter needs to be provided prior to final approval. The applicant has Hooper Irrigation water shares. There is still as question as to where the secondary water pond will be located. The information should be presented to the Planning Commission.

The County Engineer wants the ditch in the front of the property to be piped. If curb, gutter, and sidewalk are deferred, then the grade will need to be brought up to within a foot or less below the edge of asphalt. A note will need to be added to the plat. A Storm Water Construction Activity Permit may be required based on four criteria. Wastewater treatment will be provided by individual septic systems. The original subdivision plat that was submitted had 13 lots. After a year of water monitoring and working with the Health Department, the Health Department has approved the subdivision for 12 lots with the condition that lots 7-12 are approved for a 3 bedroom home. A note on the plat and a covenant that is recorded as part of this subdivision needs to indicate this requirement. The reason for the limitation is because of the irrigation ditch on the rear of the lots. The Weber Fire District has reviewed and approved the fire hydrant location. The applicant is asking for a deferral of curb, gutter, and sidewalk.

Staff recommends preliminary approval of Henry Flats Subdivision with 12 lots, subject to staff and agency requirements, with the requirement for curb, gutter, and sidewalk, as this subdivision is within walking distance to West Weber Elementary School, the lots are smaller than an acre in size, and the students are not eligible for busing.

Commissioner Borklund asked if the detention basin was included in the open space and Jim Gentry replied yes.

Travis Wallace indicated that he spoke with Hooper Irrigation and the details will be worked out. They have more than is necessary shares to meet the requirements of the subdivision.

Commissioner Heslop asked what they would tell the lot buyers of what the frequency would be of the water, how it would work with Hooper Irrigation, etc. Mr. Wallace indicated that they will model the system from a similar subdivision in Taylor. He would like Hooper Irrigation Water to address (at approximately 2550 S 3850 W) whether they have water every 7 ½ days and they rotate. How will the water be received to the subdivision? Mr. Wallace indicated that the idea would be that when there are enough homes in the area, all they would have to do is attach to the system and it would then work. These details will be worked out prior to final approval. They plan to put the detention area in the area where the elevation is lowered by 7-10 feet.

Chair Borklund asked about the maintenance. Mr. Wallace indicated that it will remain the way it is. The family has owned it for approximately 150 years.

In answer to a question by Commissioner Heslop regarding the road stub, Travis Wallace indicated that it would be expensive to bridge the canal in the future. In answer to a comment by Commissioner Slater, Travis Wallace indicated that the County Engineer suggested where to have the road stub. They are putting the open space where it is there to get the bonus density. Jim Gentry indicated that two stub roads are not needed, they look at traffic circulation. Weber Fire District will look at the road stub locations and will determine if they are needed or any additional requirements.

Theo Cox, President of Hooper Irrigation Company, indicated that he came here to bring their attention to the concrete pipeline that has not been mentioned. It is fragile and at its deepest is 18 feet. They have a prescriptive right of way for that pipeline that is over 50 years old. They have a right of way and they are concerned about the lots going over that pipeline. They would like the right of way easement acknowledged and protected. Jim Gentry indicated that the drawings show a 50 ft. easement on the plat.

Rex Hancock, 259 S 4600 W, indicated that when the canal was first put in, there was a fence line on the canal easement. There was an agreement at that time that the fence line would become the property line. It has been in that location for over 100 years. Hooper Irrigation would not allow anyone to put fences along the canal. He owns Lot 7 and it should not be included in this subdivision plan. If the land was developed, the stub roads would not go anywhere or be beneficial.

Gene Atkinson, 4413 W 400 S, indicated that he has the same concern about the canal easement. He believes that the property line should be the east side of the easement. He has an objection to having the property as open space. He would like the development done right. He is concerned about how the twelve septic tanks would be engineered. There is significant drainage to the northeast and he would not want it to become a slough.

Chair Borklund asked what could happen with the density if they put the property line inside of the canal (let the property along the canal be a walking trail or open space). Jim Gentry indicated that he did not know how far down it would take these lots and because they only have an easement from one point to another. It would be a question for the applicant to address as he represented that he owned the property.

Travis Wallace indicated that he has been talking with Gary Hancock regarding the property on Lot 7 and he indicated that he would work out something about purchasing this property. Gary Hancock is Rex Hancock's brother. They didn't know the proposed density at that point.

Chair Borklund asked Mr. Wallace the question about the open space if they move the property line inside of the canal.

Travis Wallace stated that he owns property that goes over the top of the Wilson Canal. He lets his neighbor have access to it. It can be done. He believes the lots are good size lots, they just happen to own the additional areas. He has to rely on the survey that was done.

Chair Borklund asked what would happen if the piece where the Hooper Canal is because on its own, it could not become a legal subdivision lot. Jim Gentry indicated that under the old ordinance, the overall lot size is three acres. He suggested that they table this issue for a redesign. Chair Borklund said if the road stubs have no purpose, then it would not make sense to give bonus density. Sean Wilkinson indicated that they would like the County Engineer to look at the road stubs and see if they could be needed in the future.

Lowell West, 4309 W 400 S, and a property owner across the street, indicated they have lived in the area for over 40 years. His question is where all the sewage will go with this cluster housing. They moved to the area when an acre was required. He is concerned about the increase in traffic and the proposed traffic flow. The section to the northeast, he questions if it will be actually used, because right now it is a swamp.

Travis Wallace indicated that they had an Engineer look at this and reduced their plan from 13 lots to 12. They have worked with Summer Day at the Health Department and to ensure there is enough room for the drain field. This is the reason they have proposed 12 lots instead of 13 lots. Their idea is to have patio homes which hold their value quite well.

Ernie Champagnie, 4435 W 400 S, asked if there was any consideration to having six homes instead of 12 homes. He moved to the area for the quiet. He would be concerned that his property values would be decreased if twelve low cost homes are built there rather than six with open space.

Kent Nielsen, 4463 W 400 S., indicated that he lives across the street and owns other property across the street as well. He indicated that this proposal would also affect his land. He is concerned about the proposed road stubs and the fact that they go nowhere. It would require the property owner at the other side of the road stub to continue the road stub. Chair Borklund indicated that this is why the Planning Director suggested that the County Engineer look at the need for the proposed road stubs. Mr. Nielsen asked that for 12 lots, does there have to be 12 acres? Director Wilkinson indicated that it is complex; it depends on the base number of lots and how much property is there. They have to have at least enough property to meet the 40,000 sq. ft. requirement.

There are regulations for the open space area. Staff has reviewed the proposal and this land meets the requirements of the cluster subdivision ordinance.

Travis Wallace indicated that as far as value, this proposal will be a great thing for other properties in the area. Patio homes are some of the most sought after home types proposed on the market and they hold their value. These homes will be nice homes.

Chair Borklund asked if they require soil reports for each lot, and Jim Gentry indicated that the Health Department has reviewed and studied the property. They have data for each of the lots and that data will be placed on the final mylar at recording for 18 months.

Gene Atkinson asked if there is a covenant for minimum square footage of the homes. Travis Wallace replied yes. Mr. Atkinson indicated that he was on the Planning Commission when the Cluster Subdivision Ordinance was approved. He supports the concept but wanted to make sure that there was a proposed covenant. Chair Borklund indicated that there will also have to be CC&R's to maintain the open space.

Roger Heslop indicated that he would like to see that the issue of the private property is taken care of. If the fence line has been established as the property line, then why does the subdivision over reach that? He would also like to see their secondary water plan. He would move that this is tabled until the next meeting.

MOTION: Commissioner Heslop moved to table preliminary approval of Henry Flats Cluster Subdivision consisting of 12 lots, located at 4300 West 400 South, Travis Wallace for PAANCLLC, Applicant until August 11, 2015 in order to find out the following: property lines, private property, Secondary water, Stub roads, open space maintenance (how will it be taken care of), and if the Hooper canal property stays in the subdivision, how that will be maintained. Commissioner Parke seconded the motion. Motion carried unanimously. Vote: The motion carried with a unanimous vote of all members present.

2. Legislative Item(s):

2.1. Consideration and recommendation on a proposal to amend the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures.

Charles Ewert presented a report and indicated that the onus to approve that someone is in compliant has shifted a little bit from state code. This amendment is meant to fix that.

Exhibit B. (Page 8 of 26) of the staff report. This is a complete rewrite of the Conditional Use chapter.

He rewrote the whole section for clarity and to specifically remove one section 102-4-3 Certificate of Occupancy Required. They wanted to make sure that no building could be issued unless in compliance with the land use code.

Revocation procedure. The goal is to not revoke any permits.

Code enforcement. The writing of this code opens up another administrative procedure for enforcement. He is not sure if it is a good or bad thing at this point.

Decision requirements, in essence, indicate that we shall approve permits unless they cannot be successfully mitigated. There is some flexibility in the last section on Line 382 which is if the applicant can provide something better than what our code states; the Planning Commission has some flexibility to approve the voluntary alternative. The planning commission will look to the experts to determine what standards are applicable to this review.

Director Wilkinson indicated that it was a balancing act to determine what standards needed to be added to the ordinance and if any were to be removed. This ordinance will be the starting point where they will review in the future and determine what has worked or what has not and then they can make adjust in the future when needed.

The Planning Commission shall apply reasonable conditions based on applicable standards.

Chair Borklund asked if the ordinance could be overwhelming for the public now that there are a lot of standards. Charles Ewert indicated that a pre-application meeting will be scheduled with the applicant and staff will ask the needed questions and it will be the project manager's responsibility to walk the applicant through the process and to help fill the application out.

Chair Borklund indicated that she believes that everything they have talked about has been addressed. Commissioner Heslop indicated that he believes that Mr. Ewert and other staff have done a good job.

Commissioner Parke moved to open the public hearing.

The public hearing was closed noting that there was no public in attendance to comment. Commissioner Slater seconded the motion and the motion carried by a unanimous vote.

MOTION: Commissioner Heslop moved to recommend approval to the County Commission of ZTA 2014-07 Consideration and recommendation on a proposal to amend the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures for their consideration. Commissioner Greenwell seconded the motion. A vote was taken and Chair Borklund indicated that a vote was taken and the motion carried with a unanimous vote of those members present.

2.2. Consideration and recommendation on a proposal to amend the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures.

Charles Ewert presented the background of the proposal. Originally, the request came in to change the A-1 Zone, but after staff's review they recommended changes to what has now been presented. This is primarily an applicant driven code change to the Home Occupation code. While changes to the Home Occupation code are necessary, staff would not have prioritized them over other ordinance work without a request for a specific consideration from an applicant. The applicants, Kregg and Kami Thomassen are requesting that the code is changed so that instructional activities are allowed in yard area and in accessory buildings. Upon review of the request, staff determined that the majority of the Home Occupation code should be re-written to provide consistence and clarity, and to remove un-administrable code provisions.

The applicants have a large accessory building with an indoor basketball court. They would like the opportunity to open a business that provides athletic instruction inside the building. Ogden Valley Planning Commission thought that other types of instruction could be allowed outdoors. Exhibit B Item 13 indicated that this chapter also addresses short term vendors, temporary outdoor sales, and farmers markets.

Commissioner Slater asked where the three acre lot size came from and Charles Ewert indicated that three acres was arbitrary because the minimum lot size for most of the Ogden Valley floor was three acres. Commissioner Slater indicated that he looks at his neighbors that have a pool on an acre and he believes that it would not be a problem if lighting was addressed. Commissioner Parke indicated that he could agree.

Commissioner Slater wondered if listing a lot size in this case might handcuff them in the future.

Commissioner Parke and Chair Borklund indicated that he would like them to address the lot size now rather than having to readdress it in the future if they are considering it now.

A brief discussion was held regarding what other lot sizes could be listed.

Chair Borklund asked about commercial sales? With the traditional home occupation, could you sell from your home? Charles Ewert replied that you can sell from inside of your home now. The goal of the ordinance is to make sure that your neighbors do not know that you have a home occupation on your property. This ordinance amendment would change that somewhat, but adds standards as to how the outside home occupation would be regulated.

Commissioner Parke indicated that they need to determine what lot size should be tied to the home occupations operating outside. Charles Ewert indicated that they could tie it to the minimum lot size of the zone, but it could be a problem with the quarter acre lots. When it comes to going outside, other counties have a higher standard of review. Commissioner Parke asked what would happen if they took the acreage requirement out. Charles Ewert indicated that anyone that has a home occupation could have outdoor instruction.

Commissioner Greenwell asked when the Ogden Valley Planning Commission will hear this ordinance amendment. Charles Ewert indicated that the OVPC will hear this ordinance amendment on July 28, 2015.

Commissioner Parke indicated that they could say it would need to meet the minimum acreage of the zone. Commissioner Borklund asked if they could say meeting the minimum acreage of the zone, excluding cluster subdivisions.

Commissioner Heslop moved to open the public hearing.

Kami Thomassen, 2393 S 3900 W, indicated that smaller lots would not have the required off-street parking.

Commissioner Parke moved to close the public hearing. Commissioner Heslop seconded the motion.

MOTION: Commissioner Parke moved to recommend to the County Commission approval of a proposal to amend the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures. Commissioner Heslop seconded the motion. Chair Borklund indicated that the motion carried with a unanimous vote of those members present.

Chair Borklund asked the new members to introduce themselves.

Michael Slater indicated that he is a Captain for the Ogden Fire Department and served 12 years as a paramedic. He wanted to be involved.

Lance Greenwell indicated that he lives on the east half of West Weber. He has worked in the finance and banking field for over 27 years and now he is working on the software side of things. He is excited for this opportunity to participate in this agenda and looks forward to working with the board.

The other members introduced themselves as well.

3. Public Comment for Items not on the Agenda
4. Remarks from Planning Commissioners
5. Planning Director Report
 - Director Wilkinson welcomed the two new members. He has done training for Commissioner Greenwell, and Thursday He will have training for Commissioner Slater.
 - Staff is working on research for the new state requirement of listing all of the county's resources and will hopefully it will lead into a General Plan update in the future.
 - The Utah APA Fall Conference will be in October at Thanksgiving Point.
6. Remarks from Legal Counsel:

Chris Crockett welcomed the two new members and indicated that he looks forward to working with the board.

There being no further business, the meeting was adjourned at 7:00 p.m.

Respectfully Submitted,

Sherri Sillitoe, Secretary
Weber County Planning Commission