

Minutes of the Western Weber Planning Commission meeting of November 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; Gregory Bell, Bren Edwards, Jannette Borklund, John Parke, Andrew Favero

Members Excused:

Staff Present: Rick Grover, Planning Director; Felix Lleverino, Planner II; Chris Crockett, Legal Counsel; Kary Serrano, Secretary

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

1. Presentation: Mark Whaley

Chair Hancock gave a presentation and a clock to Mark Whaley his time and service. Mr. Whaley thanked everyone present.

2. Approval of minutes for October 9, 2018

Chair Hancock asked staff to add more details especially on the Sunset Equestrian. Commissioner Bell asked for more details on the ZMA 2018-07 rezone for Dennis Costesso on the denial.

Chair Hancock asked the Planning Commission if anyone had any ex parte communication or conflict of interest to declare. There was no response.

Petitions, Applications, and Public Hearings

3. Administrative items

a. New Business:

3.1 LVT100118: Consideration and action on a request for preliminary approval of Terakee Meadow Subdivision consisting of 12 Lots, in the Agricultural (A-1) Zone, located at 900 S 4300 W. (Brad Blanch, Applicant)

Director Grover said this is an administrative item and you can choose to take public comment but you don't have to. Public if you do make comments on this item, just try to keep it quick and concise a possible and typically 3 minutes is what we look at.

Steve Burton said I did have a presentation but there seems to be some difficulties. Here is the layout of the proposed subdivision. The application brought before you a request for preliminary approval of Terakee Meadows Subdivision, consisting of 12 Lots, with a minimum lot size of 40,000 sq. ft. with 150 ft. of frontage, and is located in the A-1 Zone. I will have the applicant give is presentation and then I will come back and give you my recommendation.

Brad Blanch, 736 S 8700 W, West Weber, said subdivision is a standard subdivision, one acre lots, with a request for preliminary approval. We just finished with the survey work today, just did the survey work today, and there are a couple of things that need to be worked through. On this map where it shows Lots 6 and 7, there is a slew that cuts through there. We have done some preliminary work with the Army Corp of Engineers on the possibility of placing that along the borderline of the property. If the slew can't be moved on Lots 5 and 6 and Lots 7 and 8; would be combined into one for a home to be there, and leave for the existing slew that is there. At this point, I am not even sure where the filtration or the drainage comes from; not sure if it's blocked, but that is something that we are working through. In this area there is a Hooper Irrigation Canal that cuts through this project; that services property owners to the south. You have to go through the site approximately where Lot 10 and Lot 3 on the right side; where we've done a topography on that. You can see the slew area where on the east side of the property and it works its way further south. Our plan would be to not pipe that ditch and make it an easement between two property lines to make sure that full water will actually improve to the property to the south.

Commissioner Favero asked is the public canal; where is it at in relationship to the Hooper Canal. Mr. Blanch replied the Hooper Canal is the north branch the Hooper Irrigation Company just north above this project site. The canal itself is a little bit to the north and it runs east west. It's a race canal covered and the water that irrigates this area comes from that ditch.

Commissioner Bell would you want pressurized secondary? Have you been spending time with Hooper Irrigation Company? Mr. Blanch replied that part of another project that we're working on in this area. In theory agreed that we would cooperate together to bring a pressurized secondary waterline. In their master plan it was already and their plan is to bring the secondary 16-inch line from approximate 1800 South, straight down 4300 West. They've had that plan for quite some time and have completed engineering work on that; and it's been sitting waiting for the opportunity to do it. For us that secondary line would go down 4300 to the corner; then we would push to the west down 900 South to help facilitate Terakee Village. This would all be serviced by the secondary pressurized system.

Commissioner Borklund asked which plan are you requesting approval for? Are you also going to install curb and gutter? Mr. Blanch replied for the 12 lots, and we've done a lot of the engineering work, trying to come up with the best possible solution. It may turn out to go with smaller lots because the lots on this proposal are 42,000 sq. ft.; the goal if we're not able to move that slew to make it bigger, that would save us on some development costs by having the cul-de-sac not so deep. I would prefer not to have curb, gutter, and sidewalks; and have proposed to have the standard rural.

Commissioner Bell said sidewalks are required because of the schools.

Steve Burton said staff recommends preliminary approval Terakee Meadow Subdivision consisting of 12 Lots. This recommendation is subject to all review agency requirements on the following conditions: Sidewalk, or a walking path, is required to be installed and escrow for, along the other required improvements, prior to the recording of the final Mylar as outlined in the LUC. That recommendation is based on the findings listed in the staff report; and one finding not listed. The subdivision ordinance requires a block width is sufficient to allow two tiers of based on the staff report and he listed that findings of the staff report and one not sub or block width sufficient on two tiers of lot. It does allow the Planning Commission to vary that standard based on unique circumstances recommendation; given the distance of the property line to the property to 900 south seek is a variance as far as block width goes.

Commissioner Borklund asked in reference to the curb and gutter, is it the County Commission that approves that? Mr. Burton replied the plan for curb and gutter, whether or not to have a deferral; usually is done by our Engineering Division, and if they feel to have a requirement for curb and gutter at this point, they will make a requirement prior to signing for final approval.

Commissioner Edwards asked what is our current right-of-way width and is this a private or a county road? Mr. Burton replied for the County ROW it would be 60 feet, but in this case it would be 50 feet as a private ROW not to be dedicated. Mr. Blanch added the proposal we have since we have other roads within Terakee Village site, are designed to be private, so we've asked for a private right-of-way.

Commissioner Borklund asked would you have a Homeowner's Association or how would you maintain that road? Mr. Blanch replied we have a large section of open space; which will be owned and operated by a private company. The company owns and operates which will take care of the snow removal. When this site and the other site when the lots are sold will be an agricultural preservation fee that goes into pool that goes for ongoing maintenance. So there is not going to be a Homeowner's Association.

Commissioner Bell asked what is the county's viewpoint without a HOA or anyone in our private entity owning basically a public access road. Director Grover replied typically when we've dealt with private roads; we have an HOA and that's how they are maintained. If Mr. Blanch is proposing something different; we can look at that, and that would be addressed at final on how that is going to be handled.

Chair Hancock opened for public comment.

Blaine Cutler, 971 S 4100 W, said he has two main concerns. The first being I can't see the depth of that lot; to have an intersection on top of an intersection. The second being when the sewer comes down 900; there's an elementary here; there is only two accesses, so how are you going to get buses in and out of there.

Deon McFarland, 971 S 4100 W, said he has two concerns. The first being the irrigation ditch. There is not much fault on my property line. Even when I keep those ditches in perfect condition because it's now on my property; but the property Surges place there's enough water that it goes right up to the front of the ditch. There's not much fault and a couple of other flaws

with it and one being when they moved the ditch on 7500 West; the other when the county added a culvert on 900 South with four 90 degree turns with a culver that is too high and the pipes are too small. If they straightened those 90 degree out and added a big enough culvert and lowered it down further that might help.

Chris Crockett said I do have a comment in reference to Commissioner Edward's question. Maintenance of private street as proposed is going to be done by a private company as opposed to a Homeowner's Association. So in Section 106-7-1 as far as subdivision dedication for private streets access and right-of-ways. He read the provision and said so the actual ownership has to be tied to those who own the land.

Commissioner Borklund asked are there any means that we require it to be a public right-of-way; or do they choose what they want to do. Director Grover replied typically with our private street; we've had public utility right-of-way through there for utilities and maintenance, but the street is actually a private street and typically we have an HOA there.

Chair Hancock closed for public comment.

There was a discussion with Planning Commission, applicant, and staff with concerns with build out plan for cul-de-sacs, ways for connectivity, tying hands of future development, economic feasibility to add more street connection, having economically feasible for property owners, and issues with the slew and if changes can be made to it.

MOTION: Commissioner Bell that we recommend preliminary approval of Terakee Meadow Subdivision consisting of 12 Lots, and this recommendation is subject to all review agency requirements and the following conditions: Sidewalk, or a walking path is required to be installed and escrow for, along with the other required improvements prior to the recording of the final Mylar as outlined in LUC 106-4-3. The recommendation is based on the following findings listed in the staff report; as well as a waiver for the block lift for two lots. Commissioner Willener seconded. A vote was taken with Commissioners Willener, Heslop, Bell, Favero, Borklund and Chair Hancock voting aye. Commissioner Parke voting nay. Motion Carried (6-1)

5. **Public Comment for Items not on the Agenda:** None
6. **Remarks from Planning Commissioners:** None
7. **Planning Director Report:** Director Grover welcomed the new Planning Commissioner Andrew Favero. As far as a Planning Commission dinner; typically, we have it in January, and if you just think about it and talk about it in your December meeting.
8. **Remarks from Legal Counsel:** None

Meeting Adjourned for the Planning Commission Training

4. **Training: Planning Commission Training – Chris Crockett**

Chris Crockett said Director Grover asked us to provide some training to both Ogden Valley and Western Weber Planning Commissions. There are three topics: The duties and roles of the Planning Commission regarding General Plan Amendment, Rezones, and Due Process.

- **General Plans Amendments:**
 - Purposes of General Plan –Title 17, Chapter 27a, Utah Code
 - Accomplish the purposes of Charter (CLUDMA)
 - Purposes of CLUDMA
 - General Plan Requirement, Options, and Procedure
 - Plan Preparation or Comprehensive Amendment: Section 17-27a-403
 - Planning Commission Public Hearing, Section 17-27a-404
 - Effect of General Plan: Section 17-27a-405 and 406
- **Rezones (Utah Code Ann. Title 17, Chapter 27a Part 5 Weber County Code Title 102, Chapter 5**
 - Statue Governing
 - Planning Commission Role: Section 17-027a-503
 - Planning Commission Process: Section 17-27a-502
 - Rezone Requirements County Code Chapter 102-5
 - Chapter 102-5-1
 - Chapter 102-5-2
 - Chapter 102-5-3
 - Chapter 102-5-4
 - Chapter 102-5-5
 - Rezone Limitations

- Not many
- If an ordinance could promote the general welfare, then courts will play typically uphold it
- A rezone decision
- Fair House Act
- A rezone that violates due process
- **Due Process US Constitution**
 - 5th Amendment
 - 14th Amendment
 - What is Due Process?
 - Procedural Due Process
 - Substantive Due Process
 - Due Process – Real Example (Green Hill HOA v. Weber County and Timothy Charlwood)
- **Lessons:**
 - Make sure decision have a rational basis
 - State finding upon which decisions are based on
 - Follow requirements found in statutes and ordinances
 - Avoid Conflicts of interest or anything else that could lead to impartiality

9. **Adjournment:** The meeting was adjourned at 6:00 p.m.

Respectfully Submitted,
Kary Serrano, Secretary;
Weber County Planning Commission