

Minutes of the January 14, 2014 Western Weber County Township Planning Commission, held in the Weber County Commission Chambers, 2380 Washington Blvd., 1<sup>st</sup> Floor, Ogden, UT

Members Present: Andrew Favero  
Doug Hansen  
Ryan Judkins  
Mark Whaley  
Wayne Andreotti  
John Parke  
Jannette Borklund

Staff: Sean Wilkinson, Planning Director; Ben Hatfield, Planner; Sean Scott Mendoza, Planner; Monette Hurtado, Legal Counsel; Sherri Sillitoe, Secretary

- Pledge
- Roll Call

Chair Favero called the meeting to order; he led those in attendance with the pledge of allegiance and conducted the roll call.

#### 1. Minutes

##### 1.1. Approval of the December 10, 2013 minutes

Chair Favero declared the December 10, 2013 meeting minutes approved as written.

Director Wilkinson read the Opening Meeting Statement.

Chair Favero asked if the members had any conflicts of interest or ex parte communications they wished to declare for any items on today's agenda and no conflicts of interest or ex parte communications were reported.

#### Petitions, Applications and Public Hearings

#### 2. Administrative Items

##### 2.1. New Business

- a. Discussion and or action on Final approval of Pas De' Calais Subdivision, 3 lots in conjunction with the vacation of Lot 1R Calais Subdivision including a recommendation for a deferral of curb, gutter, and sidewalk on Melanie Lane

Ben Hatfield presented a report and indicated that the applicant is requesting final approval of Pas de Calais Subdivision consisting of three lots located at approximately 2927 E Melanie Lane in the RE-20 Zone. The subdivision meets the area and lot width requirements of this zone. The 2.594 acre parcel was previously divided into Lot 1R of Calais Subdivision. One home has been built on the lot which has access on Melanie Lane. The owner is requesting to divide the property for two additional lots. These two new lots are proposed to have access from 2900 East by a private right of way.

Part of this property was formerly the location of Bybee Pond. In 2002, the berm that held water for the pond was determined to be a dam that could no longer meet the requirements for dam safety from the Utah Division of Water Rights. The pond was drained and the area has been vacant since. Adjacent to the property on Melanie Lane and 2900 East are two parcels owned by Weber County and the Uintah Highlands Improvement District. An area on the Weber County property is used as a retention pond for storm water runoff. A water storage tank and facilities are on the Uintah Highlands Improvement District (U.H.I.D.) property. As access from Melanie Lane is difficult due to steep slopes, U.H.I.D. has a small access to the water tank from the intersection and across the Weber County property. As this access creates a 5<sup>th</sup> point of access at the intersection, an unsafe condition has occurred. Therefore, a different access location with a safe distance from the intersection is preferred.

A separate issue is that some of the retention pond structure is located on Lot 1R. Weber County would like to have these public structures completely on Weber County property. As a result of the proposed subdivision and vacation of Lot 1R, Weber County would receive approximately 4,555 square feet of additional area.

The 30 foot wide access for the two new lots runs along the southwest portion of the retention pond. An area appropriate for emergency vehicles to turn around will be located at the end of the access. The applicant has applied and been approved for access at this location which was approved administratively by the Planning Director on August 9, 2013. An administrative approval hearing was held on December 27, 2013 and due to the amount of public comment received, the Planning Director determined this issue should be heard by the Planning Commission.

Staff recommends final approval of Pas De Calais Subdivision subject to staff and other agency requirements and recommendations based upon its compliance with the Weber County Land Use Code. Staff recommends that a deferral is given for curb, gutter and sidewalk. Staff also recommends the vacation of Lot 1R of Calais Subdivision.

Commissioner Borklund asked who approves the access, and Ben Hatfield stated that the County Commission would approve granting of the easement. As far as the zoning requirement and granting access, that has been approved by staff. Commissioner Borklund asked if it would be perpetually deeded as their access, and Mr. Hatfield indicated that it would be a private lane owned by the property owners. Sean Wilkinson stated that it would be recorded as an easement but the county would retain ownership of the property. There would be a right to access that property granted.

Commissioner Hansen asked if it is common that the county would allow access across their property for private access, and Ben Hatfield replied that the County granted access to U.H.I.D. for their tank at a different location; however, the County would like to look for another location for that access. The applicant is proposing to have an asphalt access. Mr. Hatfield indicated that he believed the U.H.I.D. no longer uses that water tank.

Matt Rasmussen, applicant, indicated that he has spent many years as a carpenter and is a quasi-land developer. He believes this is a garden variety development and he has tried to develop this subdivision with all parties in mind. One lot will be set aside for his daughter who is not of age at this time. On the southwesterly edge he has preserved a 70 ft. green space upon which nothing can be built. The utility companies have agreed to serve him all utilities needed for the single family dwellings. He has given the County between 4-5,000 sq. ft. which will allow them to maintain the integrity of their dyke and the overall retention pond. He is sensitive to his neighbor's concerns and did not want to increase the density and opted rather to have larger parcels. He acquired the property in 1976.

Chair Favero asked the County Engineer to give a clear explanation of the engineering requirements to give an overall picture for the audience. Jared Andersen explained that Mr. Rasmussen asked for access to his property. It was relayed to Mr. Rasmussen that Weber County won't grant access across their property. Mr. Rasmussen indicated that he would build that access in another location approximately 30 ft. outside of the grove of trees. Mr. Rasmussen understands that the pond would have to maintain the same area that exists today to retain the water. The property would need to have a geotechnical report and Mr. Rasmussen would need to follow any geotechnical report recommendations.

Commissioner Borklund expressed the project would need to ensure that the any new homes built would be safe but it would also have to ensure that safety of the existing homes. Jared Andersen indicated that they could see if the geotechnical report could address existing home safety but usually it is just for the study area involved.

Dr. Carol Browning, 6182 S 2885 E, stated that she is very concerned about the geotechnical issues. In the late 1960's they had a mudslide and it was several feet from her house. They had geologists come and make a report. She would like to look at that report and would like the Planning Commissioners to also consider that

report. The geologist stated that the entire upper area was filled with honeycomb springs. She has a video of the mudslide. She believes it is apparent that the survey done is incorrect. After that survey was done, her husband made an agreement that her neighbor share their water supply. She requests that a private company do a survey and a water report.

Kent Rich, 6068 S 2900 E, presented some photographs and stated that those in their neighborhood purchased their lots with the understanding that they would be on Bybee Pond; however, as a neighborhood they lost that expectation. Regarding the easement, it appears that this is an easement of convenience, not necessity. The developer has other options to access his property that wouldn't rely on the County giving access across their property. The property that is adjacent to that easement shown was bought by the land owner 40 plus years ago. As a land owner the property went to the county and asked if the county would sell him that slice of property, but at that time the county was not inclined to do so to a private owner but told him that he could beautify and maintain that slice of property for the community's benefit. On the County property there is a grove of Oak and Maple trees that is a defining feature of their neighborhood. He recommends that the Planning Commission doesn't grant approval of the easement of convenience across the county land that would benefit one property owner at the expense of the neighboring properties. If approved he would ask that the easement be approved on the north side of the existing retention basin where the existing roadway already exists.

Sean Wilkinson indicated that the Planning Commission's recommendation is a recommendation to the County Commission. Chair Favero stated that the Planning Commission will also not make a decision on the easement; it will be a separate County Commission decision.

O.C. Hope, 5925 Spring Canyon Rd., stated that this property used to be the bottom of the pond. It is the lowest point of the area. He asked the County Engineer what studies were done as to potential flooding or drainage of this property. He indicated that the drawing shown was not accurate. The developer has stated he would build the homes on the east side of the properties but the access would be on the west side of the properties which does not make sense to him. They now have a beautiful green space instead of the pond. He would hate to lose that space. More water would be used due to this development. How will garbage be collected? Dr. Browning brought up the issue of the springs in the neighborhood. He has seen these springs pop up all over the neighborhood. He urged the Planning Commission not to recommend approval of this proposal.

Gary Bursell, 6138 S. 2900 E, concurred with Mr. Hope's comments. He cannot understand why Mr. Rasmussen wants to develop his property and place an access behind his home. He believes Mr. Rasmussen has been reckless in his prior development in the area. Mr. Rasmussen put a 20 ft. berm on the back of Mr. Bursell's property and another neighbor's property. He believes the access needs to be relooked at.

Faith Rich, 6068 S. 2900 E, stated that the property proposed for development was purchased by Mr. Rasmussen knowing that it was landlocked. There are two lots for sale right now. This is a matter of convenience for Mr. Rasmussen not a necessity as there is other property that could be purchased for the access. Approximately 20 years ago the property was built up and another property owner had to put in an underground pipeline going down to eliminate some of the water. She is against this proposal even though she knows Mr. Rasmussen has property rights. If the county approves the easement it would be for one property owner's benefit at the expense of other taxpayers.

John Reeve, 6172 S 2025 E, is the Chairman of Uintah Highland Water and Sewer District. He indicated that the Water District surplussed the water tank property approximately five years ago and it is presently for sale.

George Pappas, 6106 S 2900 E, asked staff where the utilities would run. Ben Hatfield indicated that Mr. Rasmussen is currently working on a location for the utilities. Mr. Pappas stated his concern about further subdividing property after an initial subdivision was recorded.

Ruth Kendricks, 6169 S. 2900 E, stated that granting a right of way across public property is a concern because it is only benefitting one property owner and no other taxpayers. She would be concerned about losing any retention there as she has seen the pond full. There is other property for sale that is a straight shot to his property where the applicant could run utilities.

Ralph Vanderheide, 2873 E 6200 S., indicated that he doesn't believe this has been studied appropriately. He is also concerned about water in the area from the many springs.

Reed Browning, 6182 S. 2125 E., indicated that he has no issues with Mr. Rasmussen. As an Engineer, the dyke behind their property, engineers deemed it unsafe so they drained the pond. There is a clay layer and a fault line that goes directly through the property. When you build a structure on top of something unstable, it changes the dynamics of the geophysics. He believes there have not been enough geotechnical studies done on the property to determine the stability of the hillside. He would like to see the impact across both properties studied before any further approvals are granted.

Commissioner Borklund asked if they should table this issue until they know the location of any access granted.

Matt Rasmussen stated that the largest concern from the residents is the geotechnical report. The dykes and pond was manmade and condemned. The homes built above went through several geotechnical studies. The soil down below has had fill come in. He allowed the fill to come in although it did not benefit him. Any home built there would have to be built on native soils. The County gave approval to access the demolition of the reservoir and a building lot. No building was done, but the access is still there. He just finished a geotechnical report and they found that the soil is good and any building would have to follow the geologist's conclusions. The survey is correct; this will be the third survey done and will ensure everyone that the property corners are correct. He wants to retain the green space for the Rich's. The likelihood of a flood is near impossible. He believes it is a good project that is good for the County.

Commissioner Borklund indicated that he has access on the east side. Mr. Rasmussen indicated that he has looked at that and believes it makes a bad traffic situation. He will have a gate.

John Reeve stated that Mr. Rasmussen came to the Uintah Highlands Water Improvement District to ask for easement across their property and at that time they replied no. They went through the proper channels to get easement there. Mr. Rasmussen is welcome to purchase the property now to obtain the needed access.

**MOTION:** Commissioner Judkins moved to recommend approval of 2.1.a subject to staff and agency comments and the deferral of curb and gutter. Commissioner Andreotti seconded the motion.

**DISCUSSION:** Commissioner Hansen indicated that if the County Commission does not recommend approval of the access and what they do tonight would be invalid. Any approvals tonight would be contingent upon all agency review recommendations. He wonders whether it would be better to have the information before they recommend approval. Commissioner Borklund agreed.

Commissioner Parke indicated that all comments made tonight are all covered under the conditions of approval that have been recommended by the Planning Department. Commissioner Andreotti agreed with Commissioner Parke. Chair Favero indicated that he agrees with Commissioner Parke's comments that the conditions are covered under the conditions of approval.

**AMENDMENT:** Commissioner Hansen indicated that they need to add the vacating of Lot 1R in the motion. Commissioner Andreotti seconded the amendment. The motion carried by a unanimous vote.

b. Election of Chair and Vice Chair for 2014

Commissioner Judkins moved to nominate Commissioner Whaley as Chair for 2014. Commissioner Hansen moved to nominate Commissioner Borklund as Chair for 2014. Commissioner Judkins moved that nominations cease. A vote was taken and Chair Favero declared Commissioner Borklund Chair for 2014 by a 6-1 vote.

Vice Chair

Commissioner Andreotti moved to nominate Commissioner Whaley as Vice Chair. Commissioner Judkins moved that nomination cease. A vote was taken and Chair Favero declared Commissioner Whaley as Vice Chair for 2014 by a unanimous vote.

Commissioner Judkins was excused at 6:28 p.m.

c. Communication Policy

Sean Wilkinson indicated that this item will be heard at the next meeting.

2. Public Comment for Items not on the Agenda

O.C. Hope asked that the Planning Commission look at putting a bike path and signage along the road. Commissioner Borklund asked that this issue be passed along to the Weber County Pathways.

4. Remarks from Planning Commissioners

Commissioner Hansen thanked Commissioner Favero for his service as Chair for 2013.

5. Planning Director Report

Director Wilkinson stated that the National APA Conference will be held in April 26-30<sup>th</sup> in Atlanta. Chair Favero declined as well as Commissioner Andreotti. Commissioner Whaley indicated that he has interest in attending if he is able to tie up some family issues by then. Sean Wilkinson indicated that he will work with Commissioner Whaley.

6. Adjourn to a Work Session

The meeting was adjourned to convene a work session.

WS1. Cluster Subdivision Ordinance Discussion

Scott Mendoza gave an overview of the current Cluster Subdivision Ordinance and indicated that after his overview, he would like to have an open discussion with the invited guests participating in the discussion if they choose to.

The current cluster requires that 30% of the overall cluster area be open space and up to a 50% bonus density can be given.

- Commissioner Hansen indicated that he is looking for ideas from others regarding bonus densities.
- Commissioner Borklund expressed her concern that some of the bonus densities are subjective and open to interpretation. She believes that the first bonus density could be done away with because the subdivision should meet the intent of the ordinance in the first place.
- Mel Petersen indicated that number one was placed in the ordinance as a baseline.
- Phil Hancock indicated that the words "up to" demands that every petitioner will challenge the Planning Commission's decision for more density.
- Deone Smith believes that you need to have pre-determined levels.
- Commissioner Hansen indicated that they want to incentivize the developers to develop in a creative or innovative manner.

- Commissioner Andreotti indicated that the landscaping set the ideal cluster subdivisions in the Ogden Valley apart from other cluster developments.
- Deone Smith indicated that she believes the developers should have a detailed list of what is expected of them when developing.
- Commissioner Favero believed that they need to focus on the general idea of what makes sense for the developer and doesn't create acres and acres of cookie cutter subdivisions.
- Kurt Alder commented that he likes the idea of having variety offered.
- Larry Dailey stated that flexible zoning and varying lot sizes are also attractive features.
- Deone Smith indicated that there are different types of buyers for property in the western part of the county versus the upper valley.
- Mr. Dailey indicated that you would get a nice finished product but the development costs will be higher than traditional subdivisions due to the increased infrastructure.
- Mel Petersen indicated that he believes that the 20-acre parcel in Wally's Acre Cluster Subdivision was too small. He believes 25 acres would have worked better.
- Deone Smith indicated that she has found that more buyers are not wanting to participate or purchase property if there is a home owners association. Another option is to create a tax instead of participation in an HOA.
- Mel Petersen stated that they do not have a socio-economic base to take care of the open spaces in western Weber County.
- Mr. indicated that West Haven just adopted an Acre Density ordinance. He stated that once a developer sells the lots, they do not have any control of whether the new owner would maintain the landscaping.
- Commissioner Favero indicated that a bonus for xeriscaping would be a good thing.
- Mel Petersen indicated that 10% of the lot or homes set aside for Affordable Housing bonus density is a flaw because it would kill a developer's lot sales.

Scott Mendoza presented possible changes that interest the Western Weber County Planning Commission at this point.

- Commissioner Whaley indicated that he expressed interest in requiring a sketch plan versus requiring a preliminary plan a couple of months ago.
- Mr. Dailey indicated that as a developer they would rather be allowed to present a sketch plan early on versus being required to submit a preliminary plan.
- Mel Petersen indicated that if lots are sewerred, a developer should be allowed to have smaller lot sizes such as 15,000 sq. ft. lots. Also, agriculture does not work on one acre.
- Commissioner Whaley stated that in looking at the bonus densities, did he review the bonus density list and find what worked and what did not work. Mel Petersen indicated that he had the Planning staff help him with the process. He struggled getting the bonus densities to work; however, he received the full bonus densities allowed and was able to get 26 lots on 10 acres.
- Mr. Dailey believed that stub roads are expensive and it is a good tool to receive a bonus density for providing stub roads. A streamlined process would be a good incentive to develop cluster subdivisions. Also, having good transitions are a good idea.
- Phil Hancock stated that everybody wants open space, but nobody wants to pay for it. Even though he is in development, he has always worked on a consultant contractor basis. He believes that they should keep it simple. The bonus densities should be made simple and shortened down. The "up tos" should be eliminated. You increase the ROI by decreasing the time spent in processing subdivisions. Defining what you want will streamline the process and will entice developers.

It was felt that the present ordinance should be tweaked first rather than a complete overall being done.

The meeting was adjourned at 8:13 P.M.

Respectfully Submitted, Sherri Sillitoe, Secretary,  
Weber County Planning Division