

**Adopted Minutes
Spanish Fork City Planning Commission Meeting
March 7, 2012**

Commission Members Present: Chairman Michael Christianson, Rick Evans, George Gull, Dave Stroud.

Staff Present: Dave Anderson, Community Development Director; Shelley Hendrickson, Planning Secretary; Trapper Burdick, Assistant City Engineer; Jason Sant, Assistant City Attorney.

Citizens Present:

Chairman Christianson welcomed everyone to the meeting at 6:32 p.m.

PRELIMINARY ACTIVITIES

Pledge

Scout Bryson Lunceford led in the pledge of allegiance.

MINUTES

January 4, 2012

Commissioner Evans **moved** to **approve** the minutes of January 4, 2012, with the noted correction. Commissioner Stroud **seconded** and the motion **passed** all in favor.

PRELIMINARY PLATS

White Rail

Applicant: Lewis Bankhead
General Plan: High Density Residential
Zoning: R-1-6
Location: State Road 51 and 800 North

Mr. Anderson handed the Commissioners copies of the proposed plat and the notes from the neighborhood meeting that the applicant had held.

Mr. Anderson explained that there had been several different submissions for development on this property. The proposal before the Commission tonight is consistent with the General Plan and zoning. A Master Planned Development was previously approved for this property and is still valid. Staff recommends that the proposal be approved subject to a few conditions. Mr. Anderson went over the conditions.

Chairman Christianson asked Mr. Anderson to refresh his memory regarding the original approval and Zone Change of the proposal as his recollection was that the Zone Change

was approved contingent with the Master Planned Development. He expressed his frustration with the City not getting concessions when it comes to development.

Commissioner Evans expressed that it was unfortunate that concessions would not be met from a previous approval but that it is what it is and the Master Planned Development is irrelevant.

Commissioner Stroud asked if there was a development agreement when the property was re-zoned. Mr. Anderson said no. Commissioner Stroud said if there was not a development agreement and the R-1-6 zone is there than there is not anything binding with regard to concessions for this parcel.

Chairman Christianson asked if conditions of approval carry any legal weight.

Mr. Sant said yes.

Mr. Anderson said that by right today the applicant can request development approvals in accordance with the zoning that is in place. He further explained that he had heard more than one opinion with regard to whether or not cities could impose conditions with a Zone Change. Because a Zone Change is a legislative action and that we do not attach conditions to their approval. That is why Zone Changes are a big deal. Once the rights are assigned to a specific property, property owners are allowed to exercise those rights.

Commissioner Evans asked Mr. Sant if a Zone Change could be granted conditionally. Mr. Sant said no.

Chairman Christianson asked if there was a way for the City to learn from this situation so that the City would stop getting duped. He said he had been on the Commission for six years and had heard continual promises for concessions and then they don't get built or the developer changes their mind and change the plats. He said that he felt commitments were two sided and that it keeps coming back that the City doesn't get any of the promised amenities.

Mr. Anderson said that he shared the same concern. His recollection was that typically it was with Master Planned Developments.

Chairman Christianson asked if the City needed to approve a Master Planned Development with every approval then.

Mr. Anderson said that the City had not had a situation where an applicant was going from a Master Planned Development to a standard subdivision. This is a case where the applicant is foregoing whatever consideration, whatever bonus they were awarded by the City.

Chairman Christianson said that they had lower density to start with when the project was originally approved. The Commission approved it with the idea that the commitments would be met.

Mr. Anderson said that he understood what Chairman Christianson was saying but that he felt this property should be zoned R-1-6 and that the City should be comfortable with a development that conforms to the standards of the R-1-6 zone.

Commissioner Evans expressed that, regardless of the history, if someone came to the City requesting that this property be zoned R-1-6 that the City would change it. Mr. Anderson agreed.

Mr. Anderson said that concessions in his mind were a function of Master Planned Developments. He said that if the Commission was comfortable approving a Master Planned Development for this property, then in his opinion, we should be very comfortable approving this proposal.

Commissioner Stroud asked what the previous number of units was (over 100).

Lewis Bankhead

Mr. Bankhead expressed that one thing they were very careful to do was to renew the current entitlement that exists with 100 lots. They feel this new proposal is an enhancement from the current approval of 100 lots with 40-foot frontages and five-foot setbacks and as they have worked through the economic challenges of this property and have driven around asking what will this really look like they felt like it wouldn't be an enhancement to the neighborhood to proceed with the Master Planned Development.

Commissioner Evans expressed that he felt the proposal was quite appropriate.

Chairman Christianson asked Mr. Burdick how many lots they could construct before a second access would need to be constructed. Mr. Burdick said it was 50 homes.

Commissioner Evans asked if the extension of Expressway Lane was indeed going to be a dead end.

Mr. Burdick said that the master Transportation Element shows the road north of the project.

Mr. Anderson said it was a crossing that the City would like to have relocated.

Mr. Bankhead said his basic feeling was that to go from 40-foot wide lots up to 50, five-foot side yard setbacks to ten and 100 lots to 87 is an enhancement.

Discussion was held regarding the removal of the extension of Expressway Lane through this project.

Chairman Christianson invited public comment.

Stuart Tanner

Mr. Tanner said that the Commission was talking about allowing 50 lots subject to conditions. He asked who would be enforcing them because no one enforced the conditions on the first approval. He said that the City was not enforcing it and that planning and zoning was a joke.

Mr. Anderson told Mr. Tanner that he was welcome to come in and talk to him anytime. He then explained that should this proposal get approved tonight, per the proposed design, that at any point of the life of the project, unless the City Council changes their approval of the project, you can look at any of the plats and they will match the approved design perfectly; however, if the City Council decides to change any part of how the project has been approved then staff will check to make sure that things will be constructed according to the changed plan.

Mr. Tanner expressed that he felt the Commission should not be approving a Master Planned Development because they could not enforce any of the stipulations.

Mr. Tanner asked how the Commission was going to enforce things in the future because people could let there time burn out and then come back to the City for another approval.

Commissioner Evans said, in terms of a Zone Change, that Mr. Tanner was correct, but not in terms of a Master Planned Development.

Mr. Anderson explained that zoning is zoning. It is the law and people are expected to follow it. There is not a mechanism whereby something can automatically revert without another legislative action being taken.

Discussion was held regarding access and the railroad crossing.

Commissioner Evans asked Mr. Sant if he could help the Commission understand, in the future, if they could set conditions on Zone Changes. Mr. Sant said that he could look into it.

Commissioner Evans **moved** to recommend **approval** of the White Rail Preliminary Plat subject to the following conditions:

Conditions

1. That the design for State Road 51 cross-section be changed to include a 10-foot park strip, 5-foot walk, and a 5-foot planter.
2. That UDOT's approval for accesses onto State Road 51 be obtained before any Final Plats are approved.
3. That the applicant meet the Power Department's requirements including any requirements related to the phasing of the development.
4. That the applicant meet all City development standards.

Commissioner Stroud **seconded** and the motion **passed** all in favor by a roll call vote.

Hawk Landing

Applicant: Gordon Dawe

General Plan: Medium Density Residential

Zoning: R-1-8

Location: 2292 East Canyon Road

Mr. Anderson explained that this proposal had been approved in the past but had lost its vesting. This proposal is very similar to what was proposed in the past with lots that conform to the City's standards in the R-1-8 zone. The proposed lots meet the zoning requirements. There are two issues that do warrant some additional discussion. The first is access onto 2300 East. The City adopted a Transportation Element, which is an advisory document that does not recommend driveways be permitted onto collector roads. In order to mitigate the driveway concern, staff recommends two things be required of the developer. Require the developer to limit the accesses to 2300 East. Six lots should share driveways and be designed so that the vehicle can conceptually turn around on the lot. The applicant is willing to meet the conditions.

Commissioner Stroud said as an advisory document he does not see a problem with the conditions.

Commissioner Evans explained that he lives on the next collector street which is 1700 East and that there are several driveways on it and as undesirable as this situation is you cannot take the development rights away from the landowners.

Chairman Christianson asked that if the lots are sold off individually then something needs to be recorded on the plat, that driveways are shared.

Discussion was held regarding the need to address documents being filed with the plat and reasonable solutions for the land to be developed.

Mr. Anderson said that there is a difference in accidents between 1700 East and 2300 East. It is an issue. Animal rights are another concern. The larger lots are adjacent lots that will have homes that are closer than 100 feet to the rear lot line. The concern is that we require a certain buffer from where the animals are kept to neighboring dwellings.

Commissioner Evans explained that as long as you exercise your animal rights you get to keep them but if you do not, for the period of one year, than you lose your rights.

Mr. Anderson explained that the City's vesting of animal rights in this situation would be different. The City's code currently allows animals on any lot in Spanish Fork that is ½ an acre or greater and that you do not lose those rights because of non use; however, you do have to meet the buffer requirement. Where the animals on the parcel are housed must be a certain distance from neighboring dwellings. The City is suggesting we recognize that the lots to the west will maintain their right to put animals any place on there lot where today it is legal to keep that animal. That will remain perpetual until something happens to the lot such as a subdivision.

Commissioner Evans asked what is different with these seven lots from any other lot in town. How is it appropriate considering the precedent it is setting?

Mr. Anderson said that he did not feel this was the best approach that it would be better to change our Zoning Ordinance. He explained that there was concern relative to drainage and how it would impact the homes to the west. The City will be requiring the developer to provide a detailed grading plan.

Gordon Dawe

Mr. Dawe addressed the Commission. He said that he agreed to limit the access. He said that he would be building all of the homes in succession and that he would be responsible for the shared driveways in the project. He said that in the previous applications of this plat the lots had direct access onto 2300 East. He said that he was designing side entry garages with t-shaped driveways.

Gerald Seely

Mr. Seely asked, in relation to the animal rights, that he did not currently have animals but when he purchased the lot that the price of the lot included animals.

Mr. Evans recommended that Mr. Seely get the provision in writing.

Mr. Seely asked if the double driveways go in who would be paying for the driveway.

Chairman Christianson said that the developer was proposing to build the driveways concurrently with the structures.

Kevin Butler

Mr. Butler asked, regarding the animal rights, that it was the recommendation from the City staff to request recording a note on the plat. Is that the appropriate location or was there another place? If a note is recorded will the note record that the animal rights will be to the property line?

Mr. Anderson said it was common practice to use the plat as a medium to advise people of specific circumstances. He said the note on the plat would only put lot owners on notice that adjacent animals and the right to keep animals next door existed prior to the construction of their homes. He said that the City could record some other type of notice with the properties themselves but the most visible way to get it there is with a note on the plat.

Chairman Christianson explained that a notice of interest can be recorded.

Mr. Butler asked about the shared driveways being recorded as a recommendation or an advisement.

Stuart Tanner

Mr. Tanner asked about animal rights. He said in his deed it says that he has animal rights even though he does not have animals on his property right now.

Mr. Anderson explained that it was perpetual provided that the property owner doesn't do something to change the property and lose the animal rights.

Diana Butler

Ms. Butler asked if the proposal gets approval but then expires again if the surrounding property owners could request a Zone Change for the proposed property.

Mr. Anderson explained that the developer would be vested and that only a property owner can submit for a Zone Change on their parcel.

John Olsen

Mr. Olsen asked when the zoning that exists on the proposed property was changed to R-1-8. Mr. Anderson said that the first time the subdivision was approved was back in 2002.

Discussion was held regarding parcels of land across Canyon Road and its zoning and when it would change.

Mr. Anderson expressed that the likelihood that the City would initiate a Zone Change was small.

Commissioner Evans asked why the animal rights were being discussed with the proposal and not as a separate issue from the plat approval.

Mr. Anderson said that this was a convenient, public forum to discuss it in.

Commissioner Evans **moved** to recommend that the City Council **approve** the Hawk Landing Preliminary Plat subject to the following conditions:

Conditions

1. That the subdivision will be accessed via 3 shared driveways on 2300 East and one access onto 1200 South.
2. That driveway's accessing 2300 East will be constructed with the homes such that vehicles do not have to back onto 2300 East.
3. That the Canyon Road driveway access be removed
4. That a mass grading plan be submitted with the Final Plat.
5. That a note be included on the recorded plat that states that the adjacent lots have animal rights.

Commissioner Gull George **seconded** and the motion **passed** all in favor by a roll call vote.

Commissioner Evans **moved** to recommend that the adjacent properties be given a variance in perpetuity of the buffer. Commissioner Stroud **seconded** and the motion **passed** all in favor by a roll call vote.

OTHER BUSINESS

Discussion on Planning Commission Work Program

Mr. Anderson gave the Commission a handout on the City's growth. Discussion was held regarding the handout.

ADJOURNMENT

The meeting **adjourned** at 8:47 p.m.

Adopted: April 4, 2012

Shelley Hendrickson, Planning Secretary