

Minutes of the Western Weber County Planning Commission held July 10, 2012, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Doug Hansen, Chair; Wayne Andreotti; Brenda Meibos; Jannette Borklund; Ryan Judkins; Andrew Favero

Excused/Absent: John Parke

Staff Present: Jim Gentry, Asst. Planning Director; Ben Hatfield, Planner; Sean Wilkinson, Planner; Scott Mendoza, Planner; Chad Meyerhoffer, Engineering; Jeff Thomson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

1. **Minutes:** Approval of the June 12, 2012 meeting minutes

MOTION: Chair Hansen declared the meeting minutes approved with the noted corrections.

2. **Consent Agenda:**

- 2.1. **LVM042512:** Consideration and action on a request for final approval of the Maryann Estates Subdivision 1st Amendment (3 Lots) and a recommendation for the vacation of lot 6 of the Maryann Estates Subdivision within the Agricultural A-1 Zone located at approximately 497 S 4450 W and a recommendation of a deferral of curb, gutter, and sidewalk (Phil Hancock, Applicant)
- 2.4. **LVS060712:** Consideration and action on a request for preliminary and final approval of the Salt Creek Estates Subdivision (3 Lots) within the Agricultural A-2 Zone located at approximately 6436 W 1950 N including a deferral of curb, gutter, and sidewalk (Jeff W. Hales, Applicant)
- 2.5. **LVL053012:** Consideration and action for final approval of the Larkin Place Subdivision (3 Lots) within the Agricultural A-1 Zone located at approximately 5517 W 1150 S including a deferral of curb, gutter and sidewalk improvements (Rod Herrick, Applicant)
- 2.6. **LVT061912:** Consideration and action for final approval of the Taylor's Place Subdivision (1 Lot) within the Agricultural A-2 Zone located at approximately 1639 S 7500 W including a deferral of curb, gutter, and sidewalk improvements (Jared Taylor, Applicant)

MOTION: Commissioner Borklund moved to recommend that the County Commission approve consent agenda items LVM042512, LVS060712, LVL053012, and LVT061912, subject to staff recommendations based on the findings that they meet all the criteria of the ordinance and the general plan. Commissioner Meibos seconded the motion. Chair Hansen said the motion carried with all members present voting aye. Motion Carried (6-0)

Chair Hansen declared a conflict of interest on the following items LVF061210 and LVL061210 in that he has worked with the applicant and has had ex parte communication with others. He excused himself from the Commission Chambers and turned it over to Vice Chair Borklund.

- 2.2. **LVF061210:** Consideration and action on a request for final approval of the Fenster Farm Subdivision Phase 1 (4 Lots) within the Agricultural A-2 Zone located at approximately 500 N 5500 W to include a deferral of curb, gutter, and sidewalk (Allan Karras, Applicant)
- 2.3. **LVL061210:** Consideration and action on a request for final approval of the Lisa Estates Subdivision Phases 1 & 2 (5 Lots) within the Agricultural A-2 Zone located at approximately 350 N 5500 W including a deferral of curb, gutter, and sidewalk (Allan Karras, Applicant)

Bill Ewell, resident of Warren, asked what the county is going to do about the flooding, will homes be built higher, and how high, and if septic tanks will be installed above the flood level? Chad Meyerhoffer, County Engineer, replied there is better data available, and he has been working with good hydraulic data that gives elevations to determine if this area would be flooded the berm that may be along there would be completely removed. As for the septic tanks, that is Health Department issue.

Mr. Ewell expressed concerns with what will happen when it floods, and if there are problems with the tanks, who will be responsible. Jim Gentry, Planning Division, replied that this is a Health Department issue and encouraged Mr. Ewell to approach them.

Vice Chair Borklund noted that the Planning Commission needs to determine if this item meets the subdivision ordinance and the general plan. Those other conditions need to be complied with the Health Department and the Engineering Department before the item can be recorded. Ben Hatfield, Planning Division, concurred. The County Planning Division has a letter from the Health Department from 2010 stating that these lots can have a septic tank.

Mr. Ewell said that letter is from April 2010, before the flooding, and is obsolete. Before this goes any further, it needs to be verified. Vice Chair Borklund replied that they might be able to request them to look at that under current conditions to see if they have changed.

Mr. Hatfield said that this item will be reviewed by the Health Department, prior to development and septic system installation.

Larry Hansen, resident of Warren, expressed concern with this septic system and how it was going to work. He has a close neighbor with this new system and his costs have risen 300% to install and it still doesn't work. He asked if the county has made any provisions for the extra water drainage from storm sewers that go into this drain ditch on the west of the property during flooding. Vice Chair Borklund replied that the County Engineering Department requirements need to be met before this is recorded.

Mr. Hansen asked if the county would be installing security fences around this new subdivision that is surrounded by hazardous waterways. Mr. Gentry replied that fencing is installed if there is a requirement for high non-climbable fence and if the ditch carries greater than 5 CFS of water and it depends on distance. Mr. Hansen said that in this case, he has three easements that fall under those criteria of the subdivision.

Mr. Hatfield asked for clarification on which subdivision was being addressed and Mr. Hansen replied that it is both. Mr. Gentry believes that easement is more than 500 feet from these two lots. Mr. Hansen said that there is an irrigation ditch that runs through the middle of the subdivision, the Weber River run on the east, and the aqua duct runs on the north. Mr. Hansen said that the flooding near his property has eroded part of the river bank and has been for 14 months. The county has done nothing to replace it along this section and there are multiple areas that need to be repaired. He asked if the county has made provisions to do that before these homes are constructed.

Commissioner Andreotti asked for clarification of the fences indicated by Mr. Hansen that were behind the Weber River and by the spillway. Mr. Hansen replied that the irrigation ditch runs right through the property. Mr. Hansen asked if the contractor, builder, or developer have plans to bury the irrigation ditch, if the developer has plans to change the course of the ditch, if the county plans to ensure that the water on this ditch has adequate flow after changes are made. Mr. Meyerhoffer responded that there will be an irrigation ditch installed in this area that will resolve many of these overflow issues which the ordinance state if that development is over 3 lots or within 500 feet of the homes, fencing or piping is not required. Currently Phases 1 and 2 are being addressed (4 lots). If in future phasing there is a fencing requirement, a letter from the irrigation company is needed to ensure that it is done with their specifications. Currently the Emergency Water Shed Protection (EWSP) has a project going through there which will provide some bank stabilization and debris removal at the river. Mr. Meyerhoffer indicated that he does not know if the area Mr. Hansen referred to will be repair but EWPS is working on the whole river and the consultants are reviewing the most critical areas trying to determine which needs immediate attention.

Commissioner Judkins expressed concern that the Little Weber River will be carrying a significant amount of water during most of the year. He asked if the irrigation ditch going through the property is a prescribed right of way. Mr. Meyerhoffer replied that if the developer will continue through there and if there are other users on the ditch, they have access and right of way to that water and easements, and will have to meet the proper requirements at the time of development. The applicant is proposing a pressurized irrigation and they will have their own pressurized easement for this subdivision.

Mr. Hansen asked if there would be fencing around the ditches and Mr. Gentry replied the ordinance states that park areas, including streams or bodies of water shall remain unfenced but ditches that carry 5 CFS on a subdivision fewer than four lots do not require fencing. Distances greater than 600 feet from a home, do not require fencing.

Mr. Hansen asked when the families move in here, they should address the fencing somehow whether they are going to fence that in or pipe that in. Vice Chair Borklund addressed Mr. Hansen's question's stating that all ordinance

requirements will be met prior to the subdivision being recorded, before it goes to the County Commission, and this Planning Commission is just the recommending body for the County Commission.

Allan Karras, Applicant, residing in Roy, addressed the issues that they are going to raise the houses up above the flood level according to the information from FEMA and they will have the septic systems in the houses where they will not be in harm's way. Their plan is to contour the acre lots to the back of the lot, and it will be lower than the front of the lot. The septic systems are usually closer to the house, between 30-40 feet from the home. Fencing around the ditches are more than 600 feet to the ditch and they will conform to what the ordinances states and they will do their best to protect the people.

Commissioner Andreotti referred to the drainage ditch, assuming you start building, there is going to be some runoff water, will there be a management system for that. Mr. Karras replied an easement will be installed on the back of those lots so that trailing of water flows across the back. That's their plan and the easement would restrict anybody from putting their barn back there or anything substantial to prevent blockage. They will indicate in the restrictive covenants that they can't change that grade or bring in fill to build it up. He takes great pride in his subdivisions to make sure they put in drains and whatever is needed to make sure it is done right.

Mr. Ewell referred to the overflow channel Mr. Meyerhoffer talked about, that it is 85 feet wide; the water that flows from that river is a discharge from seven reservoirs. Your engineer stated they planned to fix this river bank, but they have heard those plans for 50-60 years with no improvements to this river bank or any substantial part to fix that bank. As an Eden resident, they have not heard any plans and when this area and other areas do flood, with the banks gone; it no longer exists, when the county is planning to fix the banks.

Jim Gentry said Mr. Ewell needs to talk to the county engineer and address those questions with him. Vice Chair Borklund said that it probably needs to be out of the forum, because they really don't have any jurisdiction over that, this is something that Mr. Ewell should contact the county staff and discuss with them to get his questions answered.

Commissioner Andreotti said that the technical requirements for approval come from the County Engineering, County Surveyors, Weber County Health Department, and the Fire District, so all of those agencies would have to be satisfied before it can be recorded. They have a chapter in the book that talks about zoning issues that's what this Planning Commission does. There are always concerns and issues like this, but if it meets the zoning criteria, and it's approved by these agencies, then the applicant would be able to pursue his development.

MOTION: Commissioner Meibos moved to recommend to the County Commission to approve consent agenda items LVF061210 and LVL061210 subject to staff recommendations and requirements. Commissioner Judkins seconded the motion. Vice Chair Borklund said the motion carried with all members present voting aye. Motion Carried (5-0)

Chair Hansen returned to the Commission Chambers and said that concluded all the consent agenda items.

3. Petitions, Applications and Public Hearings:

New Business:

- 3.1. ZTA-2012-06:** Consideration and action on a request to amend the Weber County Zoning Ordinance Chapter 32 (Signs) by creating new regulations for business signs in the RE-15 and RE-20 Zones (Washington Heights Church, Applicant)

Sean Wilkinson, Planning staff, reviewed the staff report. In considering the proposed amendment, there are three questions that need to be answered. First, are the proposed amendments to the numbers and sizes of signs reasonable considering the proposed area frontage requirements? Second, should the proposed amendments be applied to other zones outside of RE15 and RE20? Third, are there any detrimental effects that may come from approving this amendment? Staff is recommending approval of these amendments, and the exact language that staff is proposing is in Exhibit B. Your decision should be made as a recommendation to the County Commission whether for or against.

Commissioner Judkins asked staff to clarify that an applicant is required to have 20 acre parcel with 500 feet of frontage on that highway, and that 20 acres has to be contiguous, not split with one acre here and the rest in another area. Mr. Wilkinson replied that is correct it has to be one contiguous parcel.

Commissioner Borklund inquired if this addressed LED signs or are they any signs. Mr. Wilkinson replied the signs are already listed in Exhibit B, the type of signs that are allowed are in the first column under type of sign. We are not proposing to amend all of that would stay the same; they are just proposing the exception indicated on the staff report.

Commissioner Borklund asked does the church own all of the property in the back or is there property that is not under their ownership, and would any frontage they would have not affect any other residential properties because of the location. Mr. Wilkinson replied there is some property to the south that is owned by others but they own the majority of it and that is correct, if this was amended, they would come back to us for a conditional use permit that amendment would require this to be a conditional use, so the proposal would come back to the Planning Commission to show exactly what the signage is that is being proposed and you would approve the signage plan.

Chair Hansen asked if that 400 sq ft was adequate or reasonable for that kind of area. Mr. Wilkinson replied that is reasonable, a commercial zone there would be much more than allowed, but for a large church, that 400 sq ft is adequate with a 150 sq ft maximum per sign. That would be 10x15 sign to adequately portray what is needed for advertizing or anything else.

Commissioner Favero asked if there is a neighboring property that didn't have access to frontage would they want to piggyback a sign along the highway along with what the church is proposing to do. Mr. Wilkinson replied that might be a problem because the ordinance prohibits off premise signs and that would have to be addressed at that time if they chose to pursue that.

Sam Barber, Executive Director of Washington Heights, commented that the reason for the sign change was that they put up a new children center and because they own a large parcel, about 100,000 sq ft of facility with this new addition. When the parents pull in, they don't know where which center to take their children to, and it becomes confusing for families to know where to take children there. What they are requesting is one 8x18 that would be on both sides of the building, not for advertising purposes but for directions on where to bring the children. One sign would be facing Hwy 89 and the other faces Hill Air Force Base, so that's the purpose of the signs.

Chair Hansen said so you anticipate these to be directional signs to help the members you don't anticipate for these to be advertisement signs. Mr. Barber said no they are a static sign, it would be one backlit panel that says Kids Crossing, the name of the new building. Beyond the building it will say Kids Crossing on one side and Kids Crossing on the other side.

MOTION: Commissioner Andreotti moved to recommend approval to the County Commission ZPA2012-06 as proposed in the amendments of Exhibit B. Commissioner Judkins seconded the motion.

DISCUSSION: Commissioner Favero said that his concern was they are changing the ordinance not just an exception. Given the specific criteria for this applicant, it works fine here but going forward in other areas in the county. You may remember the great North Ogden Sign that's been happening the last three or four years with various signage. Commissioner Borklund said what gives her comfort is that this is a conditional use and if it has any impact on the neighbors they can say no, though it may be hard to say no but that's the flip side of it. Commissioner Judkins said that moving forward with things and if there are people in the future that have a big enough lot and do meet the criteria that need these signs, this is a done deal for us now and not necessarily would be revisited. Commissioner Hansen said the opportunity now as a conditional use they can have up to 400 for the signage and that would be in place for future entities.

VOTE: A vote was taken and Chair Hansen said the motion carried with all members present voting aye. Motion Carried (6-0)

4. **Public Comments:** No public comments.
5. **Planning Commissioner's Remarks:** No planning commissioner's remarks.
6. **Staff Communications:**
- 6.1. **Planning Director's Report:** No Planning Director's report.
- 6.2. **Legal Counsel's Remarks:** Jeff Thomson said that the issues were handled effectively at this meeting.

Adjourn: **Adjourn to the County Commission Chambers for a Work Session**

7. Work Session Agenda Items:

WS.1. Update & Information: Agri-Tourism Ordinance

Scott Mendoza, Planning Staff, said this is the definition that exists in Chapter 1 of the zoning ordinance. What we do as a Planning Staff when someone comes in for any type of development whether it's a home, a property with a home already on it and they want a 8X10 shed, they would issue a land use permit, and they go through a checklist to see if it a legal lot. Sometimes lots are divided, or subdivided, and sometimes these lots could be part of lot one. According to the rules they can't have part of a lot, they have to have a full lot at the time it is approved. There are other things that go into to making a Lot of Record, a legal lot, or a lawfully submitted lot. In thinking about Agri-Tourism, and when someone brings in an application with some level of development they will have to issue a land use permit and eventually a building permit. On their checklist, they will have to check off that it is a legal lot, and what they have seen are some agricultural fields that have been divided in past years and they may not be a legal lot.

Mr. Mendoza said someone builds a structure, especially a small café, or some other Agri-Tourism type use, so these are the ways that a parcel becomes a lot of record. That may not apply to a parcel that has Agri-Tourism operation on it, and they need to do is make it possible for the farmer/owner to become the lot of record a legal lot. One way to do that is through the subdivision process and there would be four ways to accomplish this. One option would be to get a building permit for this B&B Retreat and staff would check off that it is a legal lot. This being a policy question, staff could tell the farmer to get a surveyor to survey his farm, prepare a subdivision plat, give it a lot number, and go through the process. Make this a lot an agricultural parcel into a building lot, proceed to the County Commission, record it and becomes lot one of their subdivision. In previous discussions it has decided not making it too difficult for the landowners. Tonight's question would be what we can do to make his or her parcel of lot of record. The choices are do a subdivision; time would be a factor, knowing that the Planning Commission's concerns not to make it too complicated for those that would be interested to pursue something like this.

Mr. Mendoza said another option is going through a process and approve them as lots but exempt them from the plat requirement. State code offers counties the opportunity to approve a certain number of lots, the state allows up to ten lots, and we could approve them as lots without plats as record descriptions, and that seems to be better and easier. The best idea would be and he has been working with the attorney's office trying to understand the state code that defines what a subdivision is. In the State Code it not only describes what it is but also what it is not. Under the County Land Use and Development Section 1727a-103 under definitions; it says, "A *bonafide division or partition of land by a deed or other instrument with a land use authority expressly approves in writing the division in anticipation of further land use approval that's on a parcel.*" He went to our attorney's office, and asked Jeff Thomson, who did the research, and put together some information that helped us on this question. In definitions 27a1727-103; it says, "*The land use authority can expressly allow the division of a parcel of land for a specific use and exempt the plat from plat requirements by deed or writing of the division in anticipation of further land use approvals. This under the section of code that by definition they make it not a subdivision therefore it would be exempt from plat requirements. In the ordinance the land use authority (the Planning Commission and County Commission) can expressly override the plat requirement with an ordinance they have expressly approved Agri-Tourism in writing.*"

Mr. Mendoza said a couple of suggestions would be to redefine the Law of Record, and look at the parcels as they are today. He anticipates parcels that have been subdivided in the last few years, they are still large parcels, they want to do something on 20 acres, but technically they couldn't issue a land use permit for some of those Agri-Tourism uses. If we say that division is not a subdivision; due to the fact that state code authorizes us to override the plat requirements, we'll call that division a Lot of Record. This parcel is subject to a land division, that Weber County has expressly approved the division, in anticipation to further land use approval conditioned upon and authorized by the Weber County Zoning Ordinance. We would find that authorization in our written approval which is in Agri-Tourism Ordinance. There is a portion in the ordinance that has General Site Building Design Layout where they have to have up to 20% developed and 80% of the farm has to remain agricultural.

Mr. Mendoza said within this section, he proposes to add one more subsection: In Number 2 is a new standard; that would apply to all Agri-Tourism Operation and with a Lot of Record. Notwithstanding, Title 26 of the Weber County Ordinance-Code otherwise known as the Weber County Subdivision Ordinance, a landowner who meets the standards, set forth by this chapter, may develop an Agri-Tourism Operation and its associated uses. This excludes a single family dwelling, a B&B Dwelling, a B&B Farm Dwelling, B&B Farm Retreat and they can develop an Agri-Tourism operation as a Lot of Record. The policy questions here are; do we make them subdivide or not, and do we call it a subdivision, as long it conforms to the chapter. They would be twice the as large as the requirement placed in the zone. So in answer to this question, we don't want to make it complicated so it drives them away, we are looking for a means for a Lot of Record for Agri-Tourism. We are going to have all Agri-Tourism operations that are going to be subject to recording a development agreement on them, and that is going to act as a warning to

everybody that we don't want this parcel subdivided, because there is Agri-Tourism on that. My plans are drafting that agreement too, so that once we have this ordinance in place, we are going to have an agreement that is ready to go.

WS.2. Adjourn: The meeting was adjourned at 7:10 p.m.

Respectfully Submitted,



Kary Serrano, Secretary
Weber County Planning