



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a variance to the Weber County Subdivision Ordinance to allow a second additional time extension of final approval for The Retreat at Wolf Creek Utah Subdivision Phase 1

Agenda Date: Tuesday, April 30, 2013

Applicant: John Lewis for Capon Capital, LLC

File Number: UVR 030209

Property Information

Approximate Address: 5334 East Elkhorn Drive

Project Area: 13.65 Acres

Zoning: Residential Estates Zone (RE-20)

Existing Land Use: Vacant

Proposed Land Use: Residential Subdivision

Parcel ID: 22-016-0014

Township, Range, Section: T7N, R1E, Section 22

Adjacent Land Use

North:	Vacant	South:	Residential
East:	Residential	West:	Open Space

Staff Information

Report Presenter: Sean Wilkinson
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801-399-8765

Report Reviewer: RS

Applicable Ordinances

- Weber County Subdivision Ordinance

Background

This request was first presented to the County Commission on July 26, 2011. After hearing from the Planning Division and Wolf Creek Properties (who was the owner at the time), the Commission directed the two parties to work together to come up with appropriate progress standards for a two year time extension ending in March 2013. The Planning Division and Wolf Creek Properties met with the Weber County Engineering Division to discuss a progress timeline. Based on this discussion it was determined that the most practical progress checkpoint would be October 31, 2012, which would give Wolf Creek Properties the remainder of the summer (2011) and all of the 2012 construction season to complete subdivision improvements. By October 31, 2012, Wolf Creek Properties was to have all of the underground improvements, e.g., sewer, water, and storm drain systems completed and road improvements up to and including road base and rolled curb completed. The only improvement remaining after this date was to be laying asphalt on the road. If these improvements were not completed by October 31, 2012, the subdivision would expire and become void.

Since the approval of this first time extension, Wolf Creek Properties has gone into bankruptcy and no longer has an interest in the subdivision. As of November 6, 2012, when the second time extension was requested, clear title to the property had not been established due to a dispute over lien priority between Capon Capital, LLC and Randy Marriott Construction. Two quitclaim deeds for the property were held in escrow until the title issues were resolved and clear ownership of the property was established. The other quitclaim deed would then be destroyed. Due to this unusual ownership circumstance, the applicant (John Lewis for Capon Capital, LLC) requested an additional two year time extension with the same progress checkpoints. After discussing this issue with legal counsel it was recommended that a time extension be granted for the subdivision until the ownership issue was resolved, rather than acting on a specific request from only one of the potential owners. Once the title issues were resolved and the new owner had clear title to the property, that owner could be given a specific timeframe in which to formally request a new time-specific extension from the County Commission.

Updated Extension Request

On November 6, 2012, the County Commission approved a variance to the Weber County Subdivision Ordinance, allowing Capon Capital, LLC nine months (until August 6, 2013) to work out the title dispute with Randy Marriott Construction. As of April 16, 2013 the title dispute has been resolved and Capon will be the owner of The Retreat at Wolf Creek Utah Subdivision Phase 1. Due to the early title dispute resolution (five months), Capon wants to begin construction on the subdivision improvements very soon. It is anticipated that

most of the improvements will be completed in 2013, but due to the amount of work remaining and potential unforeseen problems, Capon is requesting a time extension through October 31, 2014 to complete the improvements and record the subdivision. The extension request is appropriate for the following reasons:

- It allows for two full construction seasons in which the improvements can be completed.
- It provides adequate time if weather or other problems arise.
- It allows Capon to use the time (four months) saved in resolving the title dispute early without penalty.

Summary of County Commission Considerations

Capon is requesting an extension of final subdivision approval through October 31, 2014 without further progress checkpoints. The previous extension had a progress checkpoint for certain improvements to be completed and the County Commission should consider if one is appropriate for this extension request. The previous request was for a two year time extension with a progress check after approximately 18 months (March 2011 to October 2012). This extension request is for approximately 14 months (not including the four months saved by resolving the title dispute early). Capon believes that it can complete underground improvements, e.g., sewer, water, and storm drain systems, and road improvements up to and including road base and rolled curb by October 31, 2013. However, the request extends for an additional year (to October 31, 2014) to allow another summer construction season if unforeseen issues arise.

Staff Recommendation

The Planning Division recommends approval of a variance to the Weber County Subdivision Ordinance extending final approval of The Retreat at Wolf Creek Utah Subdivision Phase 1 through October 31, 2014. The recommendation is based on the following findings:

- Capon Capital, LLC has adequately resolved the title dispute with Marriott Construction.
- The extension allows for two full construction seasons in which the improvements can be completed.
- The extension provides adequate time if weather or other problems arise.
- The extension allows Capon to use the time (four months) saved in resolving the title dispute early without penalty.
- The extension request is for approximately 14 months (not including the four months saved by resolving the title dispute early), which is four less than the progress checkpoint agreed to in the previous extension approval.
- Capon Capital, LLC has entered into a construction agreement with Randy Marriott Construction to complete the improvements.

Exhibits

- A. John Lewis Extension Request
- B. November 6, 2012 County Commission Minutes
- C. Settlement and Construction Agreements between Capon Capital, LLC and Randy Marriott Construction

Exhibits

