

**TOOELE COUNTY PLANNING COMMISSION
47 SOUTH MAIN STREET, TOOELE, UTAH 84074
(435) 843-3160**

BUSINESS MEETING

April 20, 2005

The Tooele County Planning Commission Meeting was called to order at 7:00p.m. by Chairman George Mattena.

Roll Call / Members in attendance:

Craig Anderson Commissioner Dennis Rockwell Sharon Grgich
Marlene Thomas Bill Bergner George Mattena

Staff:

Nicole Cline Richard Clark Mary Dixon

1. Approval of meeting minutes from April 6, 2005:

Marlene made a motion to approve the meeting minutes from April 6, 2005 with the correction made on page four as mentioned. The motion was seconded by Bill.

2. PUD #0013-02 Ponderosa Estates Phase 2 (Final):

Joe White explained to the commission the outline of his planned unit development. Joe explained where this development was located in the Stansbury Park area. Joe stated that this development project would have four phases and this was phase two. Nicole explained that staff has some problems with the cost estimates so we would like to ask the commission to table this item. Dennis asked when the problems were caught. Nicole stated that it was caught yesterday. Dennis asked why the problems were not caught before it was placed on an agenda. Joe responded to the questions that were brought up. Joe asked is the county could set stipulations for the cost estimates. Nicole explained that staff was not going to place this development on the agenda, however Joe came into the office and met with me and I told him what he had to get done to be placed on this agenda. Joe explained that the plat had been in the engineering office for two weeks. Jim Lawrence explained that he would not sign the plat because there was no geo tech report. Nicole explained that the engineering department had received the geo tech report and Jim did sign the plat. Nicole explained that when she arrived at the meeting tonight Jim Lawrence explained to her that he had a problem with the cost estimate report and would like this item tabled. Bill asked if the commission could approve this if the applicant promises to get his bonding in order. Sharon asked if we do this then are we setting precedence for someone else to do this. Joe explained that he had met with Nicole on Thursday and they went over the check list. Joe explained that he tried to meet the stipulations that were set for him. Jim stated that Joe has agreed to the higher cost. Joe explained that he does not have a problem with abiding with the rules. Jim stated that for now on everything will be done before it is put on the agenda. Nicole explained that there is a check list that staff follows and if it doesn't all check off it is not on the agenda. Richard explained that the county engineer requests the board add the condition that all basements have sump pumps included.

Bill made a motion to recommend approval of PUD #0013-02 Ponderosa Estates Phase 2

(Final). With the stipulation that bonding is approved and that sump pumps are placed in the basements and it is listed on the final plat. The motion was seconded by Marlene.

Verbal Roll Call:

Bill yes Marlene yes Craig yes

Dennis yes Sharon no George yes

3. **CUP #1110-05 Michael & Melissa Murdock-In home preschool:**

Richard explained to the commission where this preschool would be located in the Stansbury area. Richard explained that this is a permitted use in the Stansbury area with a conditional use permit. Richard explained that there are standard requirements for a preschool. Richard explained that staff recommends approval, with the following conditions attached. All pre-school activities shall take place inside the residence. The students shall remain in the home except when arriving at school and leaving the school.

No food shall be prepared and served in the home for consumption by the students. There shall be no more than one adult employed by the pre-school who resides outside of the home. The inside area that is used as the pre-school be made to conform to those standards of the current and any future updates of the building code for such a use. The children shall have constant adult supervision, and never left to be on their own or out of the sight of an adult working in the pre-school. Parents or guardians shall make written permission at the enrollment of the child as to the names of the people who drop off or pick up the child. A person who drops off or picks up a child shall sign their name and time on a form provided by the pre-school. Records of who picks up and drops off the child shall be maintained by the pre-school and kept for no less than seven years.

Insurance shall be maintained for such a use, and a copy of the insurance coverage shall be sent to the department of engineering once annually. The pre-school shall maintain a list of medical insurance information and phone numbers of people appointed by the parent or guardian in the event of an emergency. All adults working at the pre-school shall have current first aid and CPR certification. The pre-school may operate Monday-Friday, with one 2 ½ hour session. The hours of operation must be between 9:00 am and 11:30 am. Any person residing with the dwelling or employed from out of the dwelling shall not have a conviction of child abuse, child sexual abuse or any other crime against a child. Clearances of employees shall be made through the Tooele County Sheriff's office prior to any contact with any children. No more than 8 children shall be allowed at the pre-school at any one time. Dennis asked why someone must keep records seven years. Nicole explained that it was because of the statute of limitation. Melissa asked if her yard was fenced could the children go out and play. Nicole stated that it would not be a problem if the yard was fenced. Craig asked if the sheriff's office had a problem with running a background check. Nicole stated that they don't. Dennis asked if the fence would be view obscuring. Melissa stated that it would be.

Marlene made a motion to approve CUP #1110-05 Michael & Melissa Murdock-In home Preschool with the staff recommendations, with a view obscuring fence and allow for an afternoon session 1:30 pm to 3:30 pm. The motion was seconded by Bill.

Verbal Roll Call:

Craig yes Dennis yes Sharon yes

Bill yes Marlene yes George yes

4. **AMZ #1021-05 Amendment to chapter 15 adding Bed and Breakfast facilities to the use matrix:**

Richard explained the new definition that would be added to the matrix for Bed and Breakfast facilities. “Bed and breakfast” means a private owner occupied residence with no more than three guestrooms and the guest use is subordinate and incidental to the main residential use, and where individual guests are prohibited from staying for more than fourteen days in any twelve month period. The definition does not include a convention facility, hotel, motel, rooming or boarding house or restaurant. Richard also explained the new definition that would be added for the commercial area. “Bed and breakfast Inn” means a private owner occupied residence with no more than ten guestrooms, and where individual guests are prohibited from staying for more than fourteen consecutive days and no more than fourteen days in any three month period. The definition does not include a convention facility, hotel, motel, rooming or boarding house or restaurant. Richard also explained the changes that were made to the matrix for the CN zone. Dennis asked if the property was in a trust how that would be handled. Nicole explained that if the property is in a trust the family usually has someone there until the trust is resolved.

Bill made a motion to recommend approval to the county commission of AMZ #1021-05 Amendment to chapter 15 adding Bed and Breakfast facilities to the use matrix.

The motion was seconded by Marlene.

Verbal Roll Call:

Sharon yes Craig yes Dennis yes

Bill yes Marlene yes George yes

Adjournment:

With no further comments Sharon made a motion to adjourn the business meeting. The motion was seconded by Bill. All members concurred. The business meeting adjourned at 7:55p.m.

APPROVAL: _____

Chairperson, Tooele County Planning Commission

WORK MEETING

1. **PUD #1001-04 Old Mill Phase 2 (Design Phase):**

Richard explained where this phase of the development would be located in the Stansbury area and how it fits into phase 1. Richard explained that the design phase is consistent with the concept phase that was approved last year. Richard explained that there were 35 lots with a duplex on each one. Richard stated that staff had received no complaints in regard to phase 1. Richard explained what the setbacks would be for this phase of the development. Richard explained that all required signatures have been obtained. Craig asked if this development was still low to moderate income. Kurt

Peterson explained that it was and explained the different rent amounts and how they came up with the amounts. Marlene asked if the tenants were taking care of the first phase. Mark explained that they were and that they do inspections and haven't found anything wrong.

Marlene made a motion to move PUD #1001-04 Old Mill Phase 2 (Design Phase) to the next business meeting. The motion was seconded by Bill. All concurred.

2. **PUD #003-99 Leucadia Financial Corp.-Request for fence design change:**

Nicole explained that when this development was approved it was approved with the stipulation that they put up a double pole fence. Nicole explained that Leucadia has come back and asked if they can amend that condition and allow for a view obscuring fence. Bill asked if any corners would be affected by this fence. Nicole stated that there were no corners that would be affected. Nicole explained that this style of fence would like better in the area.

Marlene made a motion to move PUD #003-99 Leucadia Financial Corp.-Request for fence design change to the next business meeting. The motion was seconded by Bill All concurred.

3. **CUP #1115-04 Cory & Aimee Carver-In home preschool Stansbury Park:**

Richard explained that this request was for an in home preschool. Richard explained where this preschool would be located in the Stansbury area. Richard explained that he had called the state and they do not have a standard ratio of staff to children for a preschool. Richard explained that the applicant proposes to operate one session each weekday 9:00 am to 11:30 am. Richard explained that all of the activities will be indoors. No food will be handled or prepared in the home. Richard explained that the children will have constant adult supervision. Richard explained that Mrs. Carver has a CPR and First Aid Certification. Richard explained that the applicant proposes to keep a record of persons dropping off and picking up children and keeping those records on file for seven years. There will be a maximum of eight students in each session. Richard stated that pre-schools are not regulated by the state. The applicant intends to keep the children in her home from the time they are dropped off until they are picked up. Pre-schools that do not serve as care provider, do not have to be licenses as a child day care facility by the state of Utah. Sharon asked if the applicant was aware of the conditions attached to this permit. Richard stated that she does. Dennis asked if morning was ok or did the applicant want an afternoon session. Aimee stated that she only wants one session.

Sharon made a motion to move CUP #1115-04 Cory & Aimee Carver-In home preschool Stansbury Park to the next business meeting. With the correction of eight students per adult. The motion was seconded by Marlene. All concurred.

With no further comments Sharon made a motion to adjourn the work meeting and reopen the business meeting. The motion was Bill. All concurred. The business meeting was reopened at 8:10 p.m.

1. **PUD #1001-04 Old Mill Phase 2 (Design Phase):**

Bill made a motion to approve PUD #1001-04 Old Mill Phase 2 (Design Phase). The motion was seconded by Marlene.

Verbal Roll Call:

Marlene yes Bill yes Sharon yes
Craig yes Dennis yes George yes

Kurt Peterson asked if the commission could hold a special meeting to approve the final plat. The commission asked if they could hold a meeting before the Erda meeting on the 27th. Staff stated that would be fine. The commission scheduled a special meeting for Tooele County Planning Commission at 6:30 p.m. on the 27th. The only item on the agenda will be Old Mill Phase 2 Final Plat.

2. **PUD #003-99 Leucadia Financial Corp.-Request for fence design change:**

Sharon made a motion to approve PUD #003-99 Leucadia Financial Corp.-Request for fence design change. The motion was seconded by Marlene.

Verbal Roll Call:

Dennis yes Craig yes Marlene yes
Bill yes Sharon yes George yes

3. **CUP #1115-04 Cory & Aimee Carver-In home preschool Stansbury Park:**

Sharon made a motion to approve CUP #1115-04 Cory & Aimee Carver-In home preschool Stansbury Park, with 8 students per adult. The motion was seconded by Bill.

Verbal Roll Call:

Dennis yes Marlene yes Craig yes
Sharon yes Bill yes George yes

Sharon made a motion to close the business meeting. The motion was seconded by Bill. All concurred. The business meeting adjourned at 8:25 p.m. and the work meeting was reopened.

4. **Discussion of purposes of open space lots:**

Nicole explained that at the last meeting there were many questions that were brought up in regard to this subject. Nicole went through the questions that were brought up in that meeting. 1. What's the difference between a conservation subdivision and a PUD? 2. Won't conservation subdivisions reduce the property tax base? The property owner's will pay taxes on their lot only, yet many acres are tied up by the subdivision. 3. Homeowner's association's have no teeth, how will they make sure open space is maintained properly and not become weed infested? 4. How do you guarantee that the open space will remain open space? 5. Shouldn't the open space be available for the public to enjoy, not just private land owners? 6. Shouldn't we set a minimum size of property that can be turned into a conservation easement? 7. Won't this hurt people's property rights? She answered the questions as follows: What's the difference between a conservation subdivision and a PUD? A PUD is a method of dividing land. It is a tool that allows the planning commission to modify the land use regulations. As it is defined in our ordinance: Planned unit development (PUD)" means an integrated design for development of residential,

commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements. A conservation subdivision is a method of land development. It is the purpose and intent of conservation subdivisions to preserve open space within residential developments; provide flexibility to allow for creativity in developments; minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures; provide an interconnected network of permanent open space; encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation; enhance the community character; reduce the amount of infrastructure, including paved surfaces and utility lines; encourage street design that controls traffic speeds and creates street inter-connectivity; and promote construction of convenient and accessible walking trails and bike paths both within a subdivision and connected to neighboring communities, businesses and facilities to reduce reliance on automobiles.

2. Won't conservation subdivisions reduce the property tax base? The property owner's will pay taxes on their lot only, yet many acres are tied up by the subdivision. While acres are tied up, they are not necessarily removed from the tax rolls. It would really depend on how we would design the open space ownership. Open space can be, and the preference is to be, owned by a private owner in fee simple. "Conservation easement" means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat or other use or condition consistent with the protection of open land. A conservation easement is an interest in land and runs with the land benefited or burdened by the easement. A conservation easement is valid whether it is appurtenant or in gross.

3. Homeowner's associations have no teeth, how will they make sure open space is maintained properly and not become weed infested? We give the homeowners association teeth: If owned by a homeowners association, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. A deed restriction can be placed on each and every lot that gives a percentage of ownership in the open space. Under the ACE program, if the county has to "clean it up" we can then also assess a fine to each and every lot.

4. How do you guarantee that the open space will remain open space? 57-18-4. Requirements for creation; The instrument that creates a conservation easement shall identify and describe the land subject to the conservation easement by legal description, specify the purpose for which the easement is created, and include a termination date or a statement that the easement continue in perpetuity. 57-18-5. Termination. A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, nonrenewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated.

5. Shouldn't the open space be available for the public to enjoy, not just private land owners? Activities within the open space are restricted in perpetuity through the use of an approved legal instrument. That use can public or private. South Rim – Open space is public space with

public trails. Ponderosa Estates – Open space is private land for agricultural purposes. Types of open space: conservation of natural, archeological or historical resources, meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas walking, equestrian, off highway vehicle or bicycle trails, passive recreation areas, such as open fields, active recreation areas which include 15% or less of the total open space area in impervious surfaces, agriculture, horticulture, and silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts. 6. Shouldn't we set a minimum size of property that can be turned into a conservation easement? Yes, we should and have. The land use regulation has a minimum acreage for conservation subdivisions already in it. The land use ordinance also has the minimum amount of open space that is needed for a conservation subdivision. The land use ordinance rewards developers for dedicating more open space into the development. The proposal is going to be made for the following language: Each conservation subdivision shall provide a minimum of 40% of its total acreage as open space as defined by this ordinance. 7. Won't this hurt people's property rights? No. People will be able to develop their land as they can now. They will have more options available to them, so in effect, this is an enhancement to their existing property rights. With bonus density provisions that are already in the land use regulation, we are compensating the landowner to develop this way. Richard briefed the commission on an issue in Stansbury Park. Richard explained that the Lear's own Lot 16 of Delgada Estates. Richard stated that he has found that people have different ideas of what open space is. Richard stated that he looked the definition up and found this. "Open space" means the area reserved in fields, pastures, parks, courts, schools, playgrounds, golf courses, and other similar open areas. Richard explained that this appears to have a private component only in regard to agriculture. Richard explained that a private resident does not get a private benefit from an open space area. Richard explained that when Delgada Estates was approved by the commission board lot C was dedicated to the Stansbury Service agency as an open space lot. Richard stated that the Stansbury Park Service Agency entered into an agreement with Mr. Lear with a shared maintenance cost agreement and Mr. Lear's lot will have an extended private drive, which forms a large circle on the public space lot. Richard explained that this open space has now been converted into a lot for partial private use. Richard asked if this was how the open spaces in the county are suppose to be used? Dennis asked why the public couldn't use the lot. Richard stated because it was a private drive and other cars aren't allowed on it. Bill asked who was paying the taxes for this lot. Richard explained that the citizens were paying fees to maintain this. Jim Ward explained that all of the open space lots in Delgada Estates were donated by Leucadia to be improved parks. Dennis asked if Leucadia would maintain the parks all the time. Jim Ward stated that they would not. Dennis asked if a county vehicle would travel this road. Nicole stated that they would not. Jim Lear showed the commission how they would like to landscape this lot and also address the access problem. Jim Lear stated that he invited the public to his lot. Jim Lear stated that when he bought the lot Mr. Ward told him that this would be a good way to use the lot and place a water feature on the lot and gardens on the rest of the ground. Jim Lear explained that he met with the Service agency and has those meeting minutes and would like them entered into this meetings minutes. Dennis voiced concerns with having a private drive on the public land and not paying taxes on it. George explained that it was the commission intent for it to be open space with nothing being placed there. Richard

explained that Mr. Lear has an agreement with the service agency and Mr. Lear's development will happen. Dennis stated that he doesn't want this to happen again and we will write it into the resolution. Nicole explained that the resolution will also say what public use can be put in open space lots in Stansbury Park. Mr. Lear stated that he feels like he has a plan that will enhance the community and the area. Mr. Lear stated that this is a gopher lot now. The commission stated that was what they wanted it to be for the wildlife.

Other Business:

Adjournment:

With no further comments Sharon made a motion to adjourn the work meeting. The motion was seconded by Bill. All concurred. The work meeting adjourned at 9:20 p.m.

APPROVAL:

Chairperson, Tooele County Planning Commission