

**MINUTES OF THE
WASATCH COUNTY PLANNING COMMISSION
JUNE 13, 2024**

PRESENT: Chair Chuck Zuercher, Mark Hendricks, Doug Grandquis, Scott Brubaker, David Thacker,
Doug Hronek, Daniel Lyman
EXCUSED: Commissioner Kimberly Cook
STAFF: Doug Smith, Wasatch County Planner; Jon Woodard, Assistant Wasatch County Attorney;
Rick Tatton, Court Reporter (*via Zoom*)
PRAYER: Commissioner Mark Hendricks
PLEDGE OF ALLEGIANCE: Led by Commissioner Doug Hronek and repeated by everyone

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. on Thursday June 13, 2024, and indicated that all the Commissioners are present except Commissioner Kimberly Cook, who is excused. The record should also show that the Wasatch County Planning Commission is meeting in the Wasatch County Council Chambers in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032. Chair Chuck Zuercher then called the first agenda item.

APPROVAL OF THE MINUTES FOR THE MAY 9, 2024 MEETING

Motion

Commissioner Scott Brubaker made a motion to approve the minutes for the May 9, 2024 meeting as written.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Scott Brubaker, Daniel Lyman, David Thacker, Doug Grandquis, Doug Hronek, Mark Hendricks.

NAY: None.

Chair Chuck Zuercher then read the following:

“As indicated on the screen, a required public hearing will be held for certain agenda items prior to Planning Commission action. After each such item has been presented, time to comment will be provided for all those who wish to speak. Public hearings and citizen comments are a legitimate source of information for the County to consider in making legislative decisions.

For items that do not require a public hearing, public comment may still be taken following presentation of the item, however, please keep in mind the following if public comment is accepted during these items: When making land use decisions, the Planning Commission can only rely on substantial evidence on the record, which is that amount and quality of evidence relevant to proving or disproving a specific requirement of the applicable law.

During any public comment period, each speaker will generally be limited to three minutes. Additional time may be given to individuals specifically invited to speak by the Planning Commission.”

REGULAR AGENDA

Chair Chuck Zuercher then called the first item on the agenda.

ITEM 1 THE CROSSINGS AT LAKE CREEK I, LLC REQUESTS A PLAT AMENDMENT TO THE CROSSINGS AT LAKE CREEK PHASE NO. 1, IN ORDER TO AMEND THE BOUNDARIES OF LOT C, A DESIGNATED OPEN SPACE LOT, THAT WOULD ADJUST THE LOCATION OF THE PARCEL BUT MAINTAIN THE SAME SIZE FOR THE PARCEL AND TO INCLUDE THE REQUIRED TRAIL IMPROVEMENTS THAT HAVE NOT YET BEEN COMPLETED. THE PARCEL IS LOCATED AT APPROXIMATELY 340 S LINDSAY HILL ROAD IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LAND USE AUTHORITY, AT A PUBLIC HEARING ON JUNE 26, 2024. (DEV-8218; AUSTIN CORRY)*

Staff

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the determination issue is whether or not the proposed amendment meets the standards for good cause as required by Utah Code Annotated 17-27a-609 and other applicable ordinances governing the land use in Wasatch County. This determination is an administrative decision to be made by the Wasatch County Council.

Doug Smith also indicated that the applicant is in the process of seeking final approval to develop phase 11 of The Crossings at Lake Creek master planned development. In the course of making application, the DRC identified that the applicant was attempting to plat new lots over area that is currently recorded as open space. The open space is Lot C in The Crossings at Lake Creek Phase 1 that was recorded by plat in March 2005. The project has a lengthy history of multiple phases, development agreements, and a settlement agreement. Relevant to this particular request would be the requirements for open space and recreational amenity improvements recorded in the development agreement. The applicant is seeking to amend Lot C of the plat in order to adjust the boundaries in a way that removes the portion of the lot where the proposed Phase 11 overlaps and to add to Lot C areas of un-platted ground shown for a future unbuilt phase of the project. The result would be an open space lot that is the same acreage as the current lot, but in a slightly different configuration.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. Wasatch County Code 16.01.05 identifies who the land use authority is depending on the scope of the proposed amendment. Since the proposal does not qualify as a Minor Plat Amendment under the definitions specified in Wasatch County Code, the request is required to be heard by the County Council. At the time the staff report was written, no objections had been received in response to the notices sent.

Doug Smith then went through the key issues to consider:

- Compliance with zoning requirements, including supplementary development standards.
- Compliance with recorded development agreements.
- Compliance with UCA 17-27a-609, and including WCC 16.04.02 definition of good cause.

Good Cause under UCA 17-27a-609 allows the County to approve a plat amendment if the County finds that (a) there is good cause for the vacation, alteration, or amendment and (b) no public street, right-of-way or easement has been vacated or altered. Wasatch County Code 16.04.02 has defined good cause as follows: Good Cause: providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.

Doug Smith indicated that the proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards and codes. A report of this review has been attached in the exhibits. The Committee has forwarded the item for Planning Commission review and recommendation.

PLANNING comments:

- Bonding and construction of the trail in accordance with the trail plan will be required.

- The final estimate will need to include revegetation of the disturbed areas from grading activities.
- Trail will need to include the weed barrier underneath per WCC standard detail.
- I don't see any details about the culvert and how the trail relates. The grading plan fails to show finish grade at the culvert area. The engineering permit will need to validate compliance.

ASSESSOR comments:

- Assessor recommends the lot be designated as common area instead of an open space lot to avoid the risk of a potential tax sale later down the road.

ENGINEERING comments:

- The trail plans need to be presented for DRC review. After review and approval, and before the Mylar can be signed, a subdivision construction permit will need to be obtained and bonding put in place for the trail construction. The subdivision construction permit and bonding from the previous comment will be required prior to engineering's signature.
- Engineer's Estimate will be reviewed further at submittal for construction permit.

Doug Smith then went through the proposed findings:

1. The subject property is a 7.54 acre open space lot part of The Crossings at Lake Creek master development.
2. The development agreement requires that the applicant provide 20 percent open space for the project.
3. The proposed boundary adjustment reconfigures the 7.54 acre open space lot, but maintains the same acreage.
4. The application includes a portion of the trail plan consistent with the development agreement for a public trail connecting throughout the master development.
5. Good cause for the amendment exists to resolve the completion of the trail committed to in 2005 with no other significant alteration to the open space acreage currently provided.
6. No public or private roads are being vacated as part of this plat amendment.
7. The Development Review Committee has reviewed the technical requirements of the proposed project and determined the project is ready for decision by the Land Use Authority.
8. The proposal is consistent with Utah Code 17-27a-609.

Doug Smith then went through the proposed conditions:

1. The trail improvements shall be completed or bonded for prior to plat recording. If bonded, the construction of the trail shall be completed in accordance with the bond agreement timelines.
2. The trail plans presented for the engineering construction permit shall include all areas of the trail, including the crossing of the stream, in compliance with County code.
3. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review department in accordance with applicable standards.

Additional conditions added by the Planning Commission:

4. **There be no interference with the creek and riparian areas unless approval from the proper jurisdiction is obtained.**
5. **The declarant covenants to either complete the trail or file a performance bond prior to Dec. 31, 2024.**
6. **Open space parcel C will be transferred on or before December 31, 2024.**

Doug Smith then indicated that recommendation of the Wasatch County Planning Department is that based on the analysis in the staff report, it appears that the proposal can be compliant with applicable laws. Therefore, it is recommended that the Planning Commission recommend approval of the proposed Plat Amendment based on the findings and subject to the conditions as presented in the staff report.

Applicant

Logan Cannon, via Zoom, addressed the Wasatch County Planning Commission and indicated that Lot C is the only lot that we have not deeded over to the HOA. We have always had this purpose and plan to realign the boundary of lot C. After we have completed our trail and the improvements then we will actually deed the parcel over to the HOA as our agreement is with all the other open space parcels. One reason for this reconfiguration is not only to align with the phase 11 to the left or the west but also there is a detention basin that was not part of the original design of phase 1 when the plat lines were drawn but it was part of the infrastructure requirements as we got into it and tried to include more and more of that detention basin as much as we could. Other

than that, we are not changing the use and not changing anything besides the boundary. The water allocations, everything stays the same. We will put that trail in and are excited to do that and it will connect to phase 11 initially and as the phase three goes it, it will bridge the Lake Creek Channel over to the clubhouse and this was always part of the original plan of open space as well.

Public Comment

Chair Chuck Zuercher then opened the meeting up for public comment.

Norm Henderson, I live just to the east of the parcel that we are talking about here. This land should have been transferred over to the HOA and we have heard what the HOA's opinion of it is from the chair of the HOA Jason Haddock. The issue is the creek because it is a pretty important feature of Lot C. The stream has been altered and a new channel made and filled in the original stream channel. I would suggest as part of the approval process that they finally develop that plan and incorporate the trail system in there and the trail described. Doug Smith indicated that there is a master trail plan for the whole development. Norm Henderson also indicated that a stream alteration permit should be secured for the moving of that stream. Logan Cannon clarified that the stream issue I agree with Norm Henderson to keep that stream in the bounds of Lot C and is one hundred percent in Lot C still and the trail to utilize the creek is important. Also, the stream alteration permit is new to me and we will obtain that permit.

Kenneth Acklin, I live in one of the lots that is affected by this proposal. One of the things I don't understand is the reason for good cause seems to be so they could facilitate the walking path. I am concerned about the width being proposed of the walking trail. Good cause was noted that the expansion needs to happen so the walking path could go in and was part of the original plan? Is there a time stamp that goes on the bond for how long it takes? Doug Smith indicated that any bond that is applied for has a certain amount of time it has to be done. Kenneth Acklin asked that the path go in prior and be completed and not bonded. We have been waiting for twelve years for these amenities to go in. That would be my concern, is that the walking path is completed prior to allowing expansion.

Jodi Rimi, resident in the Crossings, addressed the Wasatch County Planning Commission and indicated that there has been a lot of dumping into the open space of gravel and rocks. Also, there is a dirt road there that is being used by construction companies and I would like to see that road is landscaped before they are approved with the new plat. I would like to see that the trail be put in like has been promised for twenty years ago. There are a lot of animals that live in this open space which is a big environmental impact. The open space should be conveyed to the HOA and I wonder why Lot C was not conveyed to the HOA as well. Whatever the developer is proposing we would like to see that in writing and not just a promise that is going to be done. Doug Smith indicated that the open space is turned over to the HOA at some point and that point is usually when the improvements are in and the HOA agrees to take over maintenance and accept those improvements. In a perfect world the trail would be put in, the landscaping would be done as per what the applicant and the HOA wants to maintain, etc. and then it is accepted by the HOA and turned over to them. Logan Cannon replied that we have given the HOA a lot of control that is outside of our control as declarant and right now we are working on doing all the amenities. We need to have a building permit to actually put the trail in. When that permit is granted and get the final approval we can go to bid and get my contractors to put that trail in.

Jon Woodard, Assistant Wasatch County Attorney, indicated that Wasatch County was not the cause of years of delay on the property being transferred to the HOA. In this case the HOA said that we sign off on that and won't hold the County responsible for those things.

Commissioner Mark Hendricks indicated that he has a concern if there are expectations about doing certain things such as cleaning up piles of gravel or dirt roads. It should be noted in the agreement that these various items will be taken care of before the HOA takes over. Jon Woodard indicated that it is a fairly complex arrangement because we had a settlement agreement from litigation back twenty years ago or more and it is not as easy to look up these things as it is in the normal development agreement because of this history of litigation and don't know the answer to that. Mark Hendricks noted that the HOA needs to know what your rights are or lack of rights to determine the condition of this before you get it. The HOA might demand that it be in a certain condition according to a contract or some settlement agreement or something or just say this is the way it is and does the HOA want it or not. The HOA needs to understand what their rights are.

Jason Haddock, from the HOA, replied that there is an agreement between the declarant and the HOA in May of 2021 that is in the staff report that addresses these points. The HOA's position is that we would like to see Lot C transferred to the HOA and would ask that be a condition of approval for any future phases. This has been platted as open space and planned to be open space for the HOA since 2005 which is nineteen years and a couple of months have gone by, we think it is time that it be transferred to the HOA. Our primary concern is that Lot C has never been transferred to the HOA. Also, that is the owners' primary concern as well. We would like to see the application that is before the Planning Commission and would like to see that go forward and would like

to see the amenities completed and transferred and these other issues really need to cause any concern or create opposition for the declarant and I am representing the HOA.

Bo Landin, resident in the Crossings, addressed the Wasatch County Planning Commission and indicated that one of my concerns is what happened to the creek. There are regulations with tampering with natural streams and wetlands. Also concerned about the retention pond for the storm water and is not managed either and looks awful. We want natural vegetation and a trail to walk on and we don't need a ten-foot trail to come into this area. I strongly oppose changing the boundaries of this area. I want to see a permit regarding the moving of the creek. Also, the trail that is being talked about when put in will be dead ended. All the trails that have been decided in the past need to be put in before any continued platting is done in any phase in the Crossings.

Chair Chuck Zuercher then closed the public comment.

Commission Comments

Chair Chuck Zuercher indicated that the County approved a plan and evidently it has not been followed. There has been a changing of the creek. There is a condition of the retention pond and is in the document somewhere or it is not. Like to see the HOA get more involved in holding the declarant's feet to the fire as best you can.

Commissioner David Thacker indicated that one of the things I am struggling with right now is finding good cause based on the definition of good cause. Some of the amenities need to be taken care of and having a hard time putting good cause to the change when some of the promises haven't been upheld and wondering if there is a way that if we continue to work through this that we look at the possibility of requiring or suggesting that some of these items be taken care of ahead of this replat and then come back to the Planning Commission to discuss these items once some of those amenities have taken place. That seems like it makes sense to me and after those things are done then come back to the Planning Commission for the re-platting when good cause has taken place.

Commissioner Doug Grandquis indicated that he would agree with what has just been said because I think there are issues with good cause because not only this trail which is part of this development specifically, but it is part of the open space plan for the County as well. In other words, citizens from throughout the County will be utilizing it and I agree that those points I think need to be resolved so I would move at some point consider continuing this item until at least some of those issues can be looked and perhaps resolved. I know it is terrible for homeowners to have to live with these HOA's that are never given the authority, because a developer keeps going on about it. I live in one and been there three years until the developer sells all of the forty-five lots we have no authority. Right now, we have a management company that is making all the decisions on the HOA, so I sympathize in that point. I think there are legitimate questions that were brought up that need to be looked at. So rather than outright negative on the idea I would suggest that we continue the matter.

Commissioner Mark Hendricks indicated that he agrees with the earlier comments. It is not good cause to get somebody to do what they have been obligated to do under a contract. That is not a new good cause. I started to try and make a list of good cause. We like to work with people and nobody seemed to be terribly opposed to it and open space behind the homes, great. It would expedite in getting it deeded over to the HOA and a few other things. I think the balance is tipped as we have talked about this, in my mind, and I am having a really difficult time saying and that the motivation is clearly to reallocate land from one area to another area because it helps this other phase and that is the motivation and there is nothing wrong with that. That is perfectly legal and smart development, great. But that alone is not good cause. When you look at these other things and quite frankly Mr. Landin makes a great point, why would the HOA want to trade mature green riparian land for a detention basin. I don't know, I haven't been out there recently, and I am looking at an aerial that I can get and it looks pretty desolate in the retention basin area and it looks beautiful along the creek. That doesn't seem to mitigate in favor of good cause. It helps the developer with the plan, but it doesn't seem like it is fair to the homeowners. And, in light of the fact that the declarant still controls the HOA, there is sort of unequal bargaining power. I guess Doug Smith has said it well a moment ago and if there is a way to continue this so that we can try to move something forward that is great. I think the applicant understands what the concerns are. I have a hard time believing a reasonably sophisticated developer thinks they can divert a creek. I don't know enough about the area but that just seems odd to me, it is kind of the first thing that people worry about, ancient burial grounds and wetlands and creeks right. That is what we worry about. I think that there are some issues that make me slightly unable to force my way into finding good cause here. I would like to work it out if we can.

Jon Woodard indicated that in my time with the County probably the most threats of litigation that I have received are from this applicant. One of the constant refrains is this sort of thing that you have heard today where it is all the County's fault that we were holding off on transferring, signing off on the transfer of open space property and at the same time we don't have the trails built

and things like that. One of their chief concerns they raise again and again is we are delaying and so I am not trying to turn you away from continuing it if that is what you feel is right, but I would encourage you to look closely at the good cause and tie the decision to continue it to what good cause entails so that this is as legally defensible as it can be.

Commissioner Mark Hendricks indicated that I know I am saying and I think my two colleagues have already said, is that good cause isn't here yet and maybe it could be but other than saying no, go away. Maybe it can be reduced to a simple answer to this question. Is having the trail paved and installed a condition to transferring it to the HOA, because if it is they haven't done it. Does that impact our decision about whether to realign and change the plat? Well for me it does. That is not the County delay, and you haven't done what you were supposed to have done. I don't know if there is a documentary connection between those two things.

Jon Woodard indicated that I haven't researched that enough to know. I know this is an unusual situation because of that HOA kind of sign off letter that removes the County from a process that normally we would be involved in. Look at what the good cause definition is saying and make sure the reasons that you give for continuing it are tied to that so that we have good legal ground for not moving forward. Also, understand that you are recommending to the Council on this, so you can continue it, but once you had a recommendation one way or the other it would go to the Council.

Doug Smith indicated to the chairman that you have the applicant and Jason Haddock that would like to speak online. I know you have closed public comment.

Chair Chuck Zuercher then reopened the public comment period.

Jason Haddock indicated that I respect all those things that you have brought up because they are interesting and valid points. I would maybe draw your attention under the definition of good cause to providing public amenities and benefits. Currently the HOA has all of the downsides associated with Lot C. Under the 2021 agreement that is in the staff report, the HOA is required to maintain and ensure and regulate that property, but we have no ownership. From my perspective if we move forward and that can be transferred to the HOA that gives the HOA the upside of ownership and as that trail is completed then we can provide public amenities and benefits in the form of that trail and that open space, so again the HOA does not oppose this and we would like to see it go forward so the HOA can take possession of that property which was contemplated now for nineteen years.

Commissioner Hendricks, are you saying that the only change that happens from the obligations of the HOA, which I assume also has rights, is just title? You are saying that the HOA has the duty today? Jason Haddock replied that the HOA does have the duty today under that 2021 agreement. We are paying for the landscape maintenance on that right now, we ensure it right now that is our obligation under the 2021 agreement that is in the staff report. Commissioner Hendricks indicated that the HOA doesn't have the obligation to build the trail, right? Jason Haddock replied, yes that is correct. Commissioner Hendricks, so the only thing that changes is just a document recorded in a County office that says who has title. Jason Haddock replied, that is correct. The property is not owned by the HOA. Doug Smith replied, is it fair to assume that you wouldn't take ownership of that property until the trail was built and those improvements were completed? Jason Haddock replied that our preference would be sooner than later so if it could be bonded and then transferred, we would be in support of that, we would like sooner rather than later because it has been nineteen years.

Jon Woodard indicated that 17-27a-609 on plat amendments gives, well for most approvals if they meet the requirements of the code we have to approve it, but for plat amendments we do not. It has been heavily litigated. This phrase "good cause" the definition that we use is almost directly verbatim what that heavily litigated case used as part of the basis for upholding the denial of a plat amendment. So, you do have more discretion here than you do in almost any other land use application as opposed to a legislative action of anything else that you will have come in front of you. So, I would again recommend that if you don't want to recommend approval it is very beneficial to tie it to the good cause elements, but know that in as much as you have leverage by approving or disapproving this plat amendment, you do have some leverage here that you normally don't have. Everybody's goal is to move this project forward and I am not sure that holding off on approving it unless you have some very specific and reasonable things that you are looking for is going to help in the overall goal of getting this project built.

Commissioner Scott Brubaker indicated that as I review what the definition here is of good cause it is pretty clear that it says "the basis to include such things as providing public amenities and benefits and resolving existing issues in non-conformities". Now "existing issues" is a big term. You would have to have somebody tell you what that is. I sense there are some issues here tonight and it would be nice to resolve those issues as part of approving this particular action of changing the boundaries for the lot amendments. Personally, I am talking here myself, I don't see that we have solved those issues. I don't think that we talked about amenities. Why change this plat. It is complicated because we are hearing people from the homeowners and then we are hearing from the Homeowner's Association, which seems a little different. As a greedy ex-developer myself, I find it really bizarre that the homeowner's association would be so anxious to take the liability of this property as it is right now when you have leverage until it

gets resolved. That is just me talking out loud. But, as far as a member of the Planning Commission I fail to see that the request for this application fulfills the requirements of meeting good cause. I don't see enough positive benefits and mitigating negative impacts by changing this. It gives the developer, and I have been there, and I know. You can get higher density or you can get more marketable lots, or if you run it down to the stream, maybe a stream side lot. I see lots of that, but as far as cause for the public I don't see that it is there yet.

Commissioner Mark Hendricks, again I agree here, and I have no interest in sort of stopping a developer from moving forward with their rights under the law. I think that maybe we can do this exercise and we'll go through the elements here and if anybody can develop a case for good cause please pipe up. Remember, this application is to move property lines. This isn't an application about trails and things that they did in the past and this is should we move these lines around? By moving these lines does it provide public amenity and benefit?

Commissioner Doug Grandquis replied, no, not in the condition that the property has been described. A retention basin and the spraying of pesticides and we need to consider you know how that property is being used for the public interest. Wildlife is there and other amenities that come with that and not just a concrete or asphalt pathway that people can use. Whether that area is protected from other uses like vehicles, etc.

Commissioner Mark Hendricks replied, moving these lines, does it resolve existing issues and non-conformities? Commissioner Doug Grandquis replied, no. Commissioner Mark Hendricks replied, does moving these lines address, or changing the plat to be more accurate, address issues related to density? No. Doug Grandquis replied, we haven't seen what the addition of that new area to be developed and whether that increases the density of that development. Commissioner Mark Hendricks replied right, and without that application and details we can't consider it tonight. The current application and I don't think impacts density one way or the other. It is acreage for acreage and if that is all you are looking at in your density calculation. The quality of the acreage is different but that is really not a density issue. Does it promote excellent and sustainable design to approve this plat change? You might argue that it undermines it if you care about green mature riparian land versus other land. Does approving this plat amendment utilize best planning and design practices? Commissioner Doug Grandquis said we haven't seen that. Commissioner Mark Hendricks replied that we don't know. It is really driven by something that is going to happen next door and we don't have any idea about.

Commissioner Mark Hendricks asked, does it preserve the character of the neighborhood and of Wasatch County by furthering health, safety and welfare of Wasatch County if we allow this plat to be amended as applied for? Commissioner Doug Grandquis replied that there are issues of water quality with the streams and whether they are being degraded by moving the stream bed, wildlife passage through those trail areas and whether they will be affected. I don't see how even that can comply with good cause.

Commissioner Mark Hendricks indicated that this is not an exhaustive list. There may be other things that we can consider for good cause. Can anybody come up with good cause. There are other things that should be considered and weighed as good cause for us to recommend approval of this plat amendment. I can't think of anything. On that basis, I can't come up with good cause. You could say that it is neutral because it is square foot per square foot but that is mitigated negatively by the type of land. I am not getting hung up on anything related to what may have been done with gravel and dirt roads. The ten foot asphalt and that is the agreement and I think you stick with that. I think you can limit access with things put in the trail if you don't want other people without authority to use it. I don't think it is unreasonable to expect a periodic maintenance vehicle to drive on that. Those are all things, frankly, that the HOA apparently were told already is obligated to be managing. Whether the HOA has title to it or not to me is irrelevant. In fact, I intend to agree with Commissioner Scott Brubaker and I have done development as well and I don't want title right now. Anyway, that is my view on this.

Chair Chuck Zuercher replied, let's now hear from Logan Cannon.

Logan Cannon indicated that he appreciates the concerns. I feel like we are getting lost in the sideline issues. Really what the spray was, for example, that was for weeds, the weed control which is a County mandated noxious weed spray and as you said the thistles, that's very important. Also, I want to be clear, and it was spoken about taking away the riparian land and exchanging it for the detention basin. That is very not true. All of the stream and all of the riparian areas and all of the growth is still within and will always be within Lot C. The boundary pulled off the middle of the mountain. It was the middle of a steep thirty to fifty percent slope is where that line used to be in the middle of this mountain and we pulled it down to kind of a natural geological line near the base of the mountain, but it is still well off the creek. There is no exchange of good land and bad land. In fact, if anything it is more usable because it is not on this fifty percent sloped side of the mountain. Any of the creek treatments that we have done, it is irrelevant to the shape of this lot. All the water and all of the flow and everything always and will always be within Lot C. Our only obligation for this parcel is to put a trail in. It was part of the original plat that had a trail on it. It was originally intended to be

a pasture. It was just going to be a pasture for everybody but at the last minute added a trail and it is actually drawn in with a marker on the original plat. The road that we talked about it degrading, and I have no problem removing that road that is going through there. That is not supposed to be there and that has been used for construction access as they built those homes because it was much easier for everybody that backs onto those homes it was much easier and cheaper for them to utilize that road for deliveries and stuff. I one hundred percent agree that that road should not be used. That has always been the plan. As far as what we are trying to do here is and the mechanism that this creates I think the HOA and Jason Haddock, I appreciate his words and support, is that we want to make this happen. The parties involved here want to make this happen. This gives us the ability and now we have an approved plan to build the trail to. We have the ability to go get a building permit with this approval. We can move forward and actually put this amenity into this phase as part of this approval.

Logan Cannon indicated that, just to help everybody understand the normal process that we go by here is typically we will get the final approval from you. We will go get a building permit and we will install the facility or the improvements and then we will record at that point so that we are not double paying and if we have to bond it means that we are basically fronting all the money that it would cost us and then we have to go and pay it on the side. It is cheaper for us just to build it first, and record second, and then we record the new plat and then we go to the HOA and ask them if this is acceptable and we come to the agreement and deed the land over to them. That is our normal process. I know that there were the comments on that 2021 agreement in an as is condition and that was for parcels A through L, which is everything for phase one, four, thirteen, fourteen everything up and to the point of that agreement which included Lot C and it was accepted by the HOA. Everything going forward we actually improved and handed it off to them in a functioning state and where with this specific lot the only thing that is really required for us is to put the trail in.

And going back to the good cause argument, this does utilize the planning practices and goes inline better with that detention basin has always been outside of the boundary. It is on private property that is not owned by the HOA and maintained by the HOA or anything. It is owned privately and we have always wanted to include it in there into phase one or in phase 4 and as we talked about this that it would go a lot faster. This is where we are. I think by continuing this isn't going to necessarily going to fix anything but just slow us down and we have already been into this about a year trying to get to this point. This has a domino effect with the neighboring phase with the club house phase. They are all interconnected and we can't move forward on anyone without this one moving forward. This really does have a domino effect. I know that the Planning Staff has supported this, and the HOA has supported this and we are asking and committing to put that trail in and all the parties are here and we really could use the support in finalizing this and being able to actually deliver this.

Commissioner Mark Hendricks asked Logan Cannon a question. If we don't approve this plat amendment how does that prevent you from doing what you need to do to affect a transfer of Lot C to the HOA? Logan Cannon replied that it has a drastic impact on our phase 11 which also has an impact on our club house, and it would take a monumental amount of rework and it wouldn't happen any time soon. In fact, it would be a significant delay for everybody. Commissioner Mark Hendricks replied describe that impact and what is the problem? Logan Cannon indicated the western boundary of the new Lot C is the eastern boundary of phase 11. Then phase 11 connects to the club house phase and keeping our density our ratios and everything and actually even we have some other agreements in place to have a perpetual open space reservation agreement I think it is how it is phrased. I can't remember the exact legal term. We have reserved other open space in that area for future open space so that we can maintain our twenty percent. So all of this is interconnected, and it goes along with the utilizing best planning and designing practices of the good cause. We have worked with the Planning Staff to find agreements and put legal documents in place to where we maintain our twenty percent open space. Our legal descriptions are aligned where phase 11 to the east and then Lot C and then to the south there is phase 3 and phase 9 that have open space commitments included in those which also goes down to phase 6A which is the club house phase.

Commissioner Mark Hendricks replied that here is the problem. We don't have that. You have got an application that says can I trade, whatever it is, 1.56 acres for 1.56 acres right? And I am sure that you have a super rational good reason for doing it as a developer. But I don't know, is it good cause enough for us to say that the developer will have a better plan for their adjacent phases, is that good cause, it's not typically good cause. Logan Cannon indicated it is part of utilizing best planning and design practices. It is an excellent use. Commissioner Mark Hendricks said my point is this is a narrow application. Again, I am sure that you have a reason for asking for it otherwise you wouldn't waste your time and you would carry on right? We have a duty to comply with the law and the law requires us to find good cause and you have heard from seven commissioners sitting up here and we went through what the typical definition of good cause is and we are struggling and maybe we wouldn't struggle if you could give us the ammo under the best planning and design practices to show that, for one I am willing to believe you, but it would have been helpful to have a really more detailed like layover of an aerial photograph so that we would understand that the line is moving down that hillside which I can see on my aerial and I can see that it is a ledge and I can see where the green starts which is the part that is getting all the water right. I can see that, but I don't know how that lines up. If we had that exhibit that may help us to

understand best practices or at least non-problem. When you say well the detention pond is good land and let's ignore the good land for bad land trade off and I am willing, because we don't know because we are not there and we are not geologists and riparian experts necessarily, but you have already indicated that the detention basin which you are offering now is going to be open space anyway in another phase. Logan Cannon replied that the adjacent spaces are there. Just to resolving existing issues, to us there are existing issues. From the County perspective, you may not see it this way, but we have got public utilities and the HOA is responsible to maintain that detention basin that is on private land. It should be on the HOA's land and that land needs to be conveyed to the HOA. Commissioner Mark Hendricks replied that the point is that it doesn't change. All those obligations which I am assuming are a function of written contract. It doesn't change whether we approve or disapprove, if they are under obligation they are under obligation. You are not changing anything by approving or disapproving this application. I am trying to help coach you and we are struggling, and you need to give us information and you have heard all this discussion and if I was the developer I would pull up a transcript later to make sure that I caught all the points. If you can give us more ammunition and more basis for good cause then nobody would have a problem with this. But we are having a problem because it is really will you move these lines around. I am open to being persuaded otherwise.

Commissioner Scott Brubaker replied that there is nothing holding you up from getting a permit. It is not a requisite from the County's point of view that this property will be changed. Logan Cannon indicated this still goes back to the same problem would you change my lot lines if I had that trail in right now. Commissioner Scott Brubaker replied that you just said that the County was holding you up to get a permit to build that trail. You said that you could get a permit if we made this change. You can get a permit tomorrow without this change. Logan Cannon replied that he doesn't see any value in doing it right now.

Commissioner Doug Grandquis replied that you are already committed to making this trail under the previous development agreement.

Commissioner Scott Brubaker replied that we are trying to solve problems and we are not here to just hold anybody up. We want everybody to be as happy as we can and live by the law. The law says here that you can include things such as providing amenities even if you haven't agreed to provide them in the past. You have, I guess. We are saying give a reason. I think that Commissioner Mark Hendricks is saying that look at that line and come back and throw us a bone or two that might help everybody feel better about this. Logan Cannon replied that the clarity of whether or not I have the trail doesn't seem to make a difference. The location of the border doesn't seem to make a difference. Commissioner Brubaker: I think the location of the border could make a difference. We have had lots of expressions tonight about riparian rights and riparian areas. We don't know where your property line is going to end up in relationship to the aerial photograph that shows us you have a fairly steep hill coming down and then at the base of that hill you hit the green space. Is that line above or still on the hill. Logan Cannon replied that the line is still on the hill. Commissioner Scott Brubaker asked is that in the area with a couple of cedar trees? Logan Cannon replied that it is lower on the hill we have moved it down. Right now, it is like halfway up the hill and there are some cedar trees but it is a pasture for cows. Commissioner Scott Brubaker replied that what I am saying is that would help us to understand.

Commissioner Daniel Lyman indicated my big question is what happens west of the new lines and how it relates to what is being proposed beyond, because if we start swapping it and page two of the staff report show the existing condition up the hill, the existing trees that are part of Lot C and I would tend to agree that if some of the existing concerns were already resolved there would be better cause if the trail was already in. The HOA agreement from 2021 I think you are right that some of those items are out of our hands and just trying to resolve whether there is good cause for the swap. Without additional information it is hard for me, I agree, whether additional good cause information or additional information as related to what is happening outside of just this little narrow strip and it is too narrow of an application it seems.

Doug Smith replied that good cause could be determined or helped to be determined if for example the applicant went out and staked the back of those property lines along the new alignment of Lot C? Commissioner Mark Hendricks replied that he doesn't know how long the chairman wants to take on this but, Logan, can you in very brief terms, bullet points, summarize what you believe is good cause for changing the plat? Please give us why we should recommend to the County Council that the plat should be changed. So, you are going to summarize for us, and we have talked through all the issues, so just summarize for us what we could rely on to say that we have found good cause.

Logan Cannon replied that from my perspective it is providing positive benefit and mitigating the negative impacts of having the fifty percent slope in the open space fence lines.

Commissioner Mark Hendricks replied that I am going to summarize and make my list. You are saying less fifty percent slope and less slope in Parcel C right? Logan Cannon replied yes.

Commissioner Mark Hendricks, what is next? Logan Cannon replied that we have got the boundary lines more closely aligned with the creek, so you are not criss-crossing and not having kids criss-cross the creek.

Commissioner Mark Hendricks replied, how does moving this line do that? Does the property line cross the creek anywhere? Logan Cannon replied that it had a chunk of land, a bigger chunk of land on the west of the creek. Commissioner Mark Hendricks, this is the fifty percent hillside that you are talking about. Logan Cannon said that do you see where it really kind of elbows out on the bottom left quarter of that red. Commissioner Mark Hendricks replied, yes. Logan Cannon replied that half of that is pretty steep slope. Everything north of that black dot in the red is about fifty percent slope up until the very top of that where it gets more flat up at that top. Most of that skinny part is all fifty percent slope. We pulled that boundary down and still on the hillside but only up on the hillside enough that it is kind of a buffer between private property and the HOA land and the creek.

Commissioner Mark Hendricks replied that so that is all understood now. What is the benefit? What is the good cause? Logan Cannon replied that the benefit is that it is useable land that we are trading functional land for and I guess I need to clarify, beneficial to the general public or beneficial to the HOA who is impacted by this because it is their land? Commissioner Mark Hendricks replied that I am looking to fill the basket with any good news about this. Logan Cannon replied that would be good news for me. It also aligns the property boundary with the creek primarily. There is a buffer, in fact you can see kind of behind this yellow, that there is a buffer. The creek is one hundred percent in Lot C but there is a buffer of anywhere from five to twenty feet or more between the creek and the boundary. So, it just kind of follows the creek down closer.

Commissioner Mark Hendricks replied, and the benefit of following the creek closer on a property line is what? Logan Cannon replied, the maintenance. I mean you don't have to cross the creek with equipment. I mean it is maintenance. They are all inside the boundary. Commissioner Mark Hendricks replied that so that realigned creek went east and so it is still within that parcel. Logan Cannon replied that very much within it yes. More so in it actually. That is where we have to bridge it because we have to connect it, you can actually see the cul-de-sac for the neighboring phase right there in the bottom left. There is a trail that comes out of that cul-de-sac and connects into the trail that we are building. We just build that all at once.

Commissioner Mark Hendricks replied, that is interesting but again I want a list of good causes. Logan Cannon replied, the other part is that detention basin will be removed from private property and given to the HOA and they are responsible to maintain or part of it, won't get the whole thing but will get a better part of it. Commissioner Mark Hendricks replied, are they responsible now for maintenance of the detention basin? Logan Cannon replied that yes and the County is too. Commissioner Mark Hendricks replied, does moving the property line change any of those obligations and I think the answer is no, is that right? Logan Cannon replied that it clarifies the ownerships so there are less litigation possibilities. Taking ownership does simplify and clarify responsible parties and liabilities whereas both of us will get pulled into any litigation versus the HOA owns it, operates it and does everything for it.

Commissioner Mark Hendricks replied that your cause is, by moving this property line and are you conditioning your transfer on our approval of this plat change? Logan Cannon replied, yes that is actually part of our 2021 agreement is that they will get title once we realign this.

Commissioner Mark Hendricks replied that no, no wait. Now listen really, really carefully to my question. Commissioner Mark Hendricks asked, are you as the developer conditioning your transfer of the property Lot C to the HOA on the County's approval of your plat amendment? In other words, if we don't approve it, you are not going to transfer this property? Logan Cannon replied, that is part of our agreement, yes. To the extent that it was always intended that this would get realigned, and Doug Smith has been a part of this conversation for probably fifteen years, but we always have had the intent of realigning this property.

Commissioner Mark Hendricks replied, but if that is your agreement and it is in writing all you would have to do is lay that agreement down in front of us and we have good cause. Logan Cannon replied that it is, and you have it. It is part of that. Commissioner Mark Hendricks replied that well okay, direct us to where it says if you change my plat I will then transfer the property. Logan Cannon replied that okay, go to and I don't know exactly what page it is in the staff report but it is that 2021 agreement.

Commissioner Mark Hendricks said this is either really going to be helpful or not. Logan Cannon replied that I am hoping that it is really helpful. Commissioner Hendricks, it should say something about we are going to change the plat and then we are going to transfer it once the plat has been changed. Logan Cannon added that it is, and it is in number eight. Commissioner Mark Hendricks replied that we have got it and this is really helpful. That is what the agreement seems to say. It says, and I am going to read it for the record, "Prior to recordation of the declarant and the HOA will work together to finalize the updated legal description for Lot C of the open space to include more of the detention pond without changing the total existing acreage." This should have been

mentioned in the first five minutes of this discussion and we would not have wasted all this time. This for me now, to simplify Mr. Chairman to move us on., good cause exists for approving this in order to comply with an agreement between the Crossings and the HOA.

Commissioner Scott Brubaker replied, is the transfer of these open lots, were they not part of the master plan to begin with? Doug Smith replied, at some point all of this should be transferred. Commissioner Scott Brubaker replied that at some point it is required to be transferred regardless.

Commissioner Mark Hendricks replied that this is an updated clarification subsequent to those original and it is very standard. We will do open space and then we will transfer it over to the HOA under whatever set of conditions.

Commissioner Scott Brubaker, but this is between the declarant and the HOA and not between Wasatch County and the declarant right, so the original master plan is a Wasatch County approval, and this is between the HOA so are we waiving our right? Commissioner Mark Hendricks, we are already out of it. Commissioner Scott Brubaker replied, if this is the HOA's decision and they signed this in 2021. Commissioner Mark Hendricks replied that they have already agreed to this. Logan, you have solved the problem. It wasn't working before, but you have your magic bullet in this one in my opinion. I will be quiet now.

Chair Chuck Zuercher asked for a motion.

Motion

Commissioner Mark Hendricks made a motion that we forward Item No. 1, the application for plat amendment, to the County Council with our recommendation to approve subject to the findings and conditions in the staff report with the addition that we are finding good cause exists for this plat amendment in furtherance of the contractual agreement between the declarant and the HOA dated the sixth day of May 2021, so good cause exists because it was contemplated and agreed to by parties in interest and this furthers that objective and would like to add that as a finding.

Jon Woodard asked Doug Smith to pull up the request of the HOA. Also, addressed to the Planning Commission, and the other thing and just want to make sure that you are not forgetting it if you want to add it, but there had been discussions of making sure proper permits for altering the stream have been and were being handled. Commissioner Mark Hendricks, yes. Jon Woodard replied that because so much of what seemed to have changed your decision was based on this agreement that talks about collaboration between the developer and the HOA and wanted to make sure that you are considering what the HOA was asking for, does that make sense? Commissioner Mark Hendricks replied that yes, I would like to **add a condition and I think it is in there the bonding and/or completion of the trail and another condition that says there will be no interference with the creek bed or adjacent wetlands, the riparian area, without approval of proper permitting from any authority with jurisdiction.**

Chair Chuck Zuercher asked Doug Smith to read it back to us.

Doug Smith replied that Commissioner Mark Hendricks made a motion to forward the item to the County Council with a recommendation to approve subject to the findings and conditions in the staff report with the condition that good cause is the furtherance of the 2021 agreement between the declarant and the HOA dated May 6, 2021. And an added condition that there will be no interference with the creek and the riparian areas unless approval from the proper jurisdiction.

Chair Chuck Zuercher replied that sounds good.

Commissioner Daniel Lyman asked, can we shorten the bond or is that the Wasatch County Code mandated time? Doug Smith replied that I think you could set a condition to stipulate timing.

Jon Woodard replied that we are in a loose area because we are trying to establish good cause in an area where you are struggling to find it. But we also have and normally the code requires either the infrastructure and improvements to be built before the plat is recorded or bond for it before it is recorded. This case is very unique because we have got such an old plat and obligations that haven't been met in so many years. I leave it up to you and I am nervous about departing from our normal practice acknowledging that we are way off from where a developer normally would have built a trail on a plat that was recorded so many years ago anyway.

Commissioner Mark Hendricks replied that Logan can you hear me? Could you be helpful here and make a commitment about a time frame for finishing this trail or do you want us to come up with one on our own? Logan Cannon replied that assuming that we can get this through and get this approved, I will take this out to bid even in the next couple of weeks here and see if I can get a bid. Let's just say that we bond for it if we don't build it by the end of the year.

Commissioner Mark Hendricks replied that is more aggressive than I was going to do. I was going to give you twelve months. Logan Cannon replied that I want to get this done. Commissioner Mark Hendricks replied that by December 31, 2024, let's add that time frame. Logan Cannon replied and then just say I'll bond for it if I have not finished it, a performance bond. Doug Smith replied that he will have to bond for it before that plat is recorded regardless. Commissioner Daniel Lyman indicated that, to Jon Woodard's point, usually they are finished before the plat is recorded. Doug Smith indicated that it is either way. Commissioner Daniel Lyman, then the bond has got to be in place before it is recorded anyway. The bond can sit there for years before the trail is done.

Commissioner Mark Hendricks replied, but not if he commits to get it done by the end of the year then bingo you go to the bond and get it done. Doug Smith replied, that means that we are revoking the bond and doing it ourselves in taking his bond. Usually, the bond does not cover what the cost estimate that they provided was and you have got inflation in the meantime too.

Logan Cannon: to clarify really quick our typical practice internally is that we don't typically do performance bonds because we build prior to recordation and do full improvements before recordation so that we don't have to performance bond. We do warranty bonds, but we don't do the performance bond for that very reason, for the reason of cash flow. In this case what I am committing to is that we will self-perform and will not bond for it until after December 31, 2024, and if we don't build it by December 31, 2024 we will performance bond for it, but I am committing that we will be done and we will have no need for a performance bond.

Commissioner Scott Brubaker replied that it makes sense to record the lot change when you get one or the other done. Commissioner Daniel Lyman asked, isn't that standard practice Jon, either one has to be done first. Jon Woodard replied, right, I guess what I hear differently is he is committing regardless of the status of recording the plat, he is going to either have the trail built or file the bond by December 31, 2024.

Commissioner Scott Brubaker replied that the question is when do we propose to the County Council that they allow this transfer and the lot recording to take place? Jon Woodard replied that we have code driving when a plat can be recorded and we don't want to alter that. Commissioner Scott Brubaker replied that I understand that, but do we have prior agreements that override? Jon Woodard replied that I am not aware of anything, but I would have to double check the agreements, but I am not aware of anything.

Logan Cannon replied that I think you are right as far as the standard code process that we follow is that we have to performance bond for anything that is not complete at recordation and so I can't record the plat amendment until that trail is complete. Doug Smith replied, which means you can't submit phase 11 either until that is complete. Logan Cannon replied that I can't record phase 11 I guess until that is done. Doug Smith replied that we wouldn't entertain it unless the boundaries align.

Commissioner Daniel Lyman replied that is standard practice and as a developer I have had to do the exact same thing and I think it should be required to be either in place or a bond in place before it is recorded which will hold up other stuff, but if it had been done earlier this wouldn't be holding it up. Commissioner Mark Hendricks replied that this gives him incentive and Logan Cannon is on board with this and get it done, before the snow flies. Logan Cannon replied that I want to get it done in the next couple of months honestly and we have got phase 11 in for approval right now.

Commissioner Mark Hendricks replied that we are going to **add a condition that the declarant covenants to either complete the trail or put a performance bond in place on or prior to December 31, 2024.** Jon Woodard replied that the reason that I had Doug Smith bring this up is because of the last sentence and I just wanted to make sure that you didn't forget what Jason Haddock for the HOA asked for. It currently is not part of the motion. It says that as a condition of approval of any future phases including phase 11 the HOA hereby requests that the County and declarant agree that Lot C will be transferred to the HOA within thirty days of final approval of this plat amendment by Wasatch County. I am reluctant to create conditions on future phases outside of the development agreement. I am less reluctant, let me show you what I am thinking. Commissioner Mark Hendricks replied that I don't think we can do that. Jon Woodard replied that No. 7 of the agreement that Logan Cannon referenced said that the declarant and HOA will work together to finalize the recordation of the deeds in collaboration with Wasatch County. What I see Jason

asking for here, and I am very uncomfortable with the way that he has asked for it here, but I am not uncomfortable with putting some kind of a time frame in as a condition of this amendment, if you want to do it.

Commissioner Mark Hendricks replied, let's go back to Logan Cannon and what time frame can you commit to transferring? Logan Cannon replied that he likes to hand off the finished product. This has to be recorded and I don't like doing performance bonds and paying for the stuff. I would again say that the commitment to hand off would be the end of the year. Ideally, I would like to do that sooner because I am interested in getting this recorded. Commissioner Mark Hendricks replied, do you want to commit to not later than December 31, 2024? Logan Cannon replied, sure. Commissioner Mark Hendricks replied, great, we are going to **add a condition, Doug, the declarant covenants to transfer Lot C to the HOA on or prior to December 31, 2024** including the trail improvements and you don't need to add that last part. Doug Smith replied that I have that the recommended approval also stipulates that the declarant covenants to either complete the trail or file a performance bond prior to December 31, 2024, also the property will be transferred by December 31, 2024 on or prior to that date.

Commissioner Scott Brubaker seconded the motion.

And the motion carries with the following vote:

AYE: Daniel Lyman, David Thacker, Doug Hronek, Chair Chuck Zuercher, Mark Hendricks, Scott Brubaker.

NAY: Doug Grandquis

Commissioner Doug Grandquis replied that what bothers me is I am still not satisfied that we are doing it for good cause. Also, I am remembering we had discussions way back when we had other issues about HOAs and we said that we would not get involved in issues with HOAs and it certainly seems like we got involved in one tonight.

ITEM 2 DISCUSSION AND POSSIBLE RECOMMENDATION OF ORDINANCE 24-04, A REQUEST BY RHETT RIDING FOR AN AMENDMENT TO WASATCH COUNTY CODE §16.21.28(C)(3)(2) IN ORDER TO REDUCE THE SETBACK DISTANCE OF CELLULAR TOWERS FROM RESIDENTIAL OR COMMERCIAL PROPERTIES FROM 1,000 FEET TO 100 FEET IN THE MOUNTAIN (M) ZONE AS WELL AS OTHER CODE CHANGES AND UPDATES PROPOSED TO BE INCLUDED IN THIS CODE AMENDMENT. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JUNE 26, 2024. (DEV-9172; DOUG SMITH)*

Staff

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the applicant has proposed to amend the regulations of 16.21.28 entitled Telecommunication. The code was originally adopted in 2003 and has had a few amendments since that time. The intent of the code is to locate cell towers and antenna facilities as discreetly as possible. To do this the code has a hierarchy of location priorities.

Doug Smith then went through key issues to consider:

- Is it appropriate to allow cell towers closer than 1,000 feet to a residential property line?
- The code is contradictory and requires 1,000 feet from a residential area in several sections and a setback of 115 percent of the height of the tower to a residential property line in another.
- Should lesser setbacks be allowed so that cell tower locations are more flexible?
- Is the premise of the code to have a hierarchy of locations and options still appropriate?
- None of the codes in the neighboring areas require a setback of 1,000 feet to residential areas. The next closest is 200 feet or 300 percent of tower height.
- Can the updates be considered to be a benefit to the health, safety and welfare of residents and visitors?

Doug Smith then went through the DRC review comment:

PLANNING comments:

- Many codes do not allow them in residential zones, however admittedly that is in cities that are much more compact than Wasatch County. One allows location in a residential zone only after a technical necessity exception and conditional use.

Doug Smith then went through the proposed findings:

1. The proposed amendment eliminates the conflicts in the code between the different setback requirements for monopoles and distances from residential property lines and areas.
2. The code continues with the intent to establish a hierarchy of location priorities.
3. The intent of the code is to allow telecommunication facilities to be located as unobtrusively as possible.
4. The proposed code better clarifies the zones where specific telecommunication sites can be located.
5. The proposed amendment is consistent with the purpose and objectives statement for telecommunications outlined in Section 16.21.28(A,1).
6. The proposal does allow more flexibility with the location of antenna structures by allowing them to be closer to residential property lines.
7. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Doug indicated that the determination issue is whether or not code section 16.21.28, Telecommunication code, should be amended with a number of changes made including updated language and requirements and clarifying language that cellular towers can be located closer to residential areas with requirements.

Doug Smith then indicated that the recommendation of the Wasatch County Planning Staff is that, based on the analysis and findings in the staff report, the Planning Staff is of the opinion that the code should be amended. Also, if the requested code text amendment is approved, the applicant could proceed with a conditional use application for the proposed cell tower.

Applicant

Rhett Riding indicated that I first looked into this because in Tuhaye the cell service up there is just brutal and there are places where there is no cell service. There is a safety concern and so I asked Doug Smith to look into the matter. We found out that you can't build a cell tower unless you do a code amendment. Also, the present code was written twenty plus years ago. Doug Smith indicated that let's put fake pine trees in there then and just like a fake pine tree or in a building. We don't want to have another antenna pipe up like is right behind Chick's café. I have done different studies and we have put together a plan that will work for everybody concerned.

Public Comment

Chair Chuck Zuercher then opened the matter up for public comment, and there was none so the public comment was closed.

Commissioner Comments

The Wasatch County Planning Commission indicated that this is great to redo this old code.

Motion

Commissioner Doug Grandquis made a motion to recommend to the Wasatch County Council approval of amendments to Wasatch County Code Section 16.21.28(C)(3)(2) consistent with staff's findings and subject to the conditions and recommended modifications.

Commissioner David Thacker seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Mark Hendricks, Doug Grandquis, Doug Hronek, Daniel Lyman, David Thacker

NAY: None.

ITEM 3 BRADLEY GYGI, REPRESENTING THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, REQUESTS AN AMENDMENT TO A 2001 MASTER PLAN AND DENSITY DETERMINATION FOR

THE HEBER VALLEY YOUTH CAMP IN ORDER TO MODIFY THE USES AND DENSITY ALLOCATIONS ORIGINALLY APPROVED. THE MODIFICATIONS ARE PRIMARILY TO REMOVE FOUR LODGES AND DINING HALLS AND REPLACE THE DENSITY WITH ADDITIONAL CABINS, RV HOOKUPS, AND CARETAKER DWELLINGS. THE PROJECT IS LOCATED AT APPROXIMATELY 6401 EAST 1200 SOUTH IN THE MOUNTAIN (M) ZONE. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LAND USE AUTHORITY, AT A PUBLIC HEARING ON JUNE 26, 2024. (DEV-8823; DOUG SMITH)*

Staff

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that this proposal is for an amendment to the Master Plan and Development Agreement referred to as a density determination in 2001, for the LDS Youth Camp. The camp was granted a rezone, master plan, density determination, preliminary approvals and final site plan approvals in and around 2000-2001. The camp is located south of the Timber Lakes Development. Individual camps are accessed from an asphalt road that starts at the east end of 1200 South and runs up the mountain. The camp is in the M (Mountain) zone and contains 5,703 acres. The density determination is recorded as entry #235213. The approval process that the project went through was somewhat vague. It appears that after master plan and density approval an overall preliminary was granted that seemed to be more centered on infrastructure. After the preliminary infrastructure plan was approved there were final site plans approved for the first phase which included 8 camps as well as administration buildings and cabins for service missionaries.

Doug Smith indicated that in going forward, assuming that the master plan amendment and density determination is granted, the project would need to get final site plan approvals for each specific camp or multiple camps, with a one time site plan approval from the Planning Commission. The applicant is requesting 16 camps as part of this amendment. All the considerations for traffic, sewer water capacities and other impacts were considered with the overall master plan that was approved and the density determination recorded in 2001.

Doug Smith then went through the key issues to consider:

- The density remains the same as what was initially approved and recorded in the 2002 density determination.
- The amendment proposes changing some of the uses and re-arranging some of the densities to better fit actual needs after over 20 years of operation and experience.
- The development agreement amendment proposes 16 camps not 13 that is stated in the existing development agreement.
- Is the new mix of density proposed i.e., more RV hookups, caretaker cabins and deletion of the dining halls and lodges acceptable?
- The traffic volumes and sewer/water capacities remain the same.

Doug Smith then went through the DRC Review.

PLANNING comments:

- Condition of approval: I have searched the archived boxes of items submitted. It appears that a Master Plan was approved and preliminary and finals were granted but the preliminary and finals, as far as I can tell, were only review of infrastructure. I cannot find anything as far as a site plan approval for placement of buildings in a “super camp” site or any other development area.
 - The process moving forward, assuming the master plan addendum is approved, is a site plan for the expansion of the RV area and future camps. This would be a final site plan approved by the Planning Commission only however constraints, setbacks, access and all items required on the site plan application would need to be shown and reviewed. This would also apply to future buildings/camps that would need to be done prior to building permits.
 - If there are portions of the master plan that have not had a preliminary and final for roads and infrastructure that would have to be done before a site plan could be approved in those areas. I am referring to the southwest portion (in pink) of the land use intensity map.
- I have looked through the updated land use intensity map and understand the proposed areas of development, however I thought one of the biggest needs was the RV camp for missionaries. I do not see that on the land use intensity map along with RV pad sites. Are those included in the super-camp areas?

- Condition of approval: There is language in the amended density determination that gives staff the ability to make administrative changes to the densities as long as the total density is maintained and a few other criteria. While I agree with allowing for flexibility this will need to be reviewed further with the County Attorney. Where the master plan and amended DA is a legislative decision by the County Council the major aspects of the approval should be maintained and not modified by staff.
- Condition of approval: Constraints have not been submitted with this application. Final site plan will need to address and constraints at the individual development sites.

HEALTH comments:

- Based on the percolation tests and site assessments, it doesn't appear that the proposed wastewater disposal area will meet setback requirements to a spring - specifically Zone 2 and Zone 4.

ENGINEERING comments:

- Condition of approval: Upon application for site plan approvals for new improvements/construction, respond to the geotechnical review comments from AGEK in their January 22, 2024 letter.

Doug Smith went through the proposed findings:

1. The proposal was granted a master plan and density determination in 2001.
2. The density determination is recorded as entry #235213.
3. Approvals for infrastructure and the first phase of camps were approved in 2001.
4. The subject property is 5,703 acres in the Mountain Zone.
5. The acreage remains the same.
6. The approved master plan and density determination allows for 7,609 weekly campers at build out.
7. The density remains the same with this proposal.
8. After over 20 years of operation, the Church has realized that there needs to be changes to the master plan and density determination to better suit the realities of the camp.
9. Staff believes these changes comply with the original intent of the master plan.

Doug Smith then went through the proposed conditions:

1. The proposed language in the development agreement that allows for staff approved changes will need to be reviewed by the attorney's office.
2. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review departments in accordance with applicable standards.

Doug Smith then indicated that the determination issue is whether the LDS Church master plan for the youth camp and the development agreement, referred to as a density determination, should be amended to allow for a different mix of uses while maintaining the same density.

Doug Smith then indicated that the recommendation is based on the analysis in the staff report, it appears that the proposal can be compliant with applicable laws. It is recommended that the Planning Commission forward a positive recommendation for the updates to the master plan and development agreement based on the findings and subject to the conditions included in the staff report.

Applicant

Brad Gygi, architect for the applicant, addressed the Wasatch County Planning Commission and indicated that Doug Smith has done a great job explaining what is taking place with this request. I have nothing further to add and is just reallocating some of the density from the weekly camper and adjust the master plan and proposing two additional camps. We understand the conditions and findings and agree to them as part of the approval. I want to mention that we are working on the second access.

Jon Woodard, the assistant Wasatch County Attorney, indicated that there are huge amounts of time being taken in getting emergency access on the back side of this put in and working on it now. It looks like it is on a path forward so that is going to work out. I'd hate to see it not in the plan, so I wonder if we could include, as a condition, that the fire access road as is currently planned is included here. There is nothing in the DRC report regarding that. Jon Woodard indicated that we have had safety concerns over the years, and we wanted to put that in and we have worked with the Church and with Timber Lakes and with all of

the property owners up there. The road is mostly built actually, the last segment is in the camp and they are actively working on that now and I just want to make sure that emergency road access that was in the original approvals is still in these because it doesn't sound like the DRC review is looking out for that issue. The emergency access plan needs to show on that.

Public Comment

Chair Chuck Zuercher then opened the matter up for public comment.

Dave Richards, the Heber Valley Camp Mission Presidency, addressed the Wasatch County Planning Commission and indicated that we have quite a few more participants that come and there is a huge demand. You see an RV going up there and then later on in the fall you will see them going down so there is a minimal impact regarding traffic. We are working on a second fire access out of the youth camp. We had an emergency occur and we opened up our emergency access and everyone from Timber Lakes came through our property to get out. We are not opposed to having that emergency access to be used by the Timber Lakes residents.

Motion

Commissioner Scott Brubaker made a motion that we recommend for approval of Item No. 3 on the agenda tonight, project DEV-8823 LDS Youth Camp Amendment, in light of the findings and subject to the conditions as written in the staff report. Also, including in the conditions would be the condition that the new emergency access to Lake Creek be included in the emergency access plan.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Mark Hendricks, Doug Grandquis, Doug Hronek, Daniel Lyman, David Thacker, Scott Brubaker.

NAY: None.

ADJOURNMENT

Motion

Commissioner Doug Grandquis made a motion to adjourn.

Commissioner David Thacker seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Mark Hendricks, David Thacker, Daniel Lyman, Scott Brubaker, Doug Grandquis, Doug Hronek.

NAY: None.

Meeting adjourned at 9:00 p.m.


CHUCK ZUERCHER/CHAIRMAN