

**MINUTES OF THE  
WASATCH COUNTY PLANNING COMMISSION  
MAY 11, 2023**

PRESENT: Chair Chuck Zuercher, Kimberly Cook, Doug Grandquis, Wendell Rigby, Scott Brubaker, Mark Hendricks  
EXCUSED: Commissioner Doug Hronek  
STAFF: Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner (*via Zoom*); Jon Woodard, Assistant Wasatch County Attorney; Nathan Rosvall, Assistant Wasatch County Planner (*via Zoom*); Alex Stoedter, Assistant Wasatch County Attorney.  
PRAYER: Commissioner Wendell Rigby  
PLEDGE OF ALLEGIANCE: Led by Commissioner Kimberly Cook and repeated by everyone.

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. on Thursday, May 11, 2023 and welcomed any public who was in attendance electronically or in person. All the Planning Commission members are present except Commissioner Doug Hronek who is excused. The record should also reflect that the Wasatch County Planning Commission is meeting in the Wasatch County Council Chambers located in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032.

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.”

Chair Chuck Zuercher then called the first agenda item.

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**APPROVAL OF THE MINUTES FROM THE MARCH 30, 2023 MEETING**

**Motion**

**Commissioner Doug Grandquis made a motion that we approve the minutes for the March 30, 2023 meeting as written.**

**Commissioner Kimberly Cook seconded the motion.**

**The motion carries as follows:**

**AYE: Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Wendell Rigby, Doug Grandquis.**

**NAY: None.**

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**APPROVAL OF THE MINUTES FROM THE APRIL 13, 2023 MEETING**

**Motion**

Commissioner Wendell Rigby made a motion to approve the minutes for the April 13, 2023 meeting as written.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Doug Grandquis, Wendell Rigby, Scott Brubaker, Kimberly Cook, Mark Hendricks.

NAY: None.

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**CONSENT AGENDA**

Chair Chuck Zuercher indicated that all matters listed here are considered routine by the Planning Commission and will be enacted by one motion with no separate discussion of the items unless any member of the Commission, after a public comment period, requests the item to be moved to the public hearing agenda for discussion. There is one item on the consent agenda this evening and is anyone here wanting to comment regarding this one item.

**ITEM 1            CRAIG E CARROLL REQUESTS A MINOR PLAT AMENDMENT TO TIMBER LAKES PLAT NO. 12 AMENDED IN ORDER TO COMBINE LOTS 1279 AND 1280 INTO ONE LOT LOCATED AT 1640 RIDGELINE DRIVE IN THE MOUNTAIN (M) ZONE. (DEV-7467; NATHAN ROSVALL)**

Doug Smith, the Wasatch County Planner, indicated that we received a letter from the Timber Lakes HOA that there was some concerns about some of the PUEs that they showed on the plat. If we could include as one of the conditions that there is an allowance for easement discussion as long as it is complying with the County code. What they are saying is that the Timber Lakes HOA wants a twenty foot easement and they are disagreeing with that. As long as it meets our code which is ten feet we are fine but if they need to hash that out that is great. All I am saying is that if we have the ability to do something that is possibly different than what is on the plat you are seeing as long as it is one that complies with the code.

Commissioner Mark Hendricks indicated that without getting involved in whatever the HOA wants to do as our condition they need a resolution of that matter. Doug Smith replied that is what I am saying is that as long as it complies with our code. Commissioner Mark Hendricks indicated that he would make the condition that they come to a resolution with the HOA. Doug Smith replied as long as it complies with County code.

Jon Woodard, Assistant Wasatch County Attorney, indicated that we are all thinking the same thing but not saying it the same, but I don't think that we can require them to meet the HOA requirements. What we can do is say that if you can work this out with the HOA in a manner that complies with County Code we are going to allow you to change the plat without coming back to this body.

**Motion**

**Commissioner Mark Hendricks made a motion that we approve this Item no. 1 in light of the findings and subject to the conditions outlined by staff with the modification or the clarification for Condition No. 3 that the applicant resolve the question of the PUE, (Public Utility Easement) consistent with county requirements.** Jon Woodard indicated that he thinks that works and we can't require them to work with the HOA to resolve the issue and allow them to change the proposal to do what the HOA recommends as long as it meets county code without coming back to you for approval. Commissioner Mark Hendricks indicated that lets start over with three. This is a question they have to allow for a public utility easement right? Doug Smith replied that our code says ten feet on all sides. Commissioner Mark Hendricks indicated that the HOA wants twenty feet. Doug Smith replied that the application says ten feet. The plat you are approving says ten feet. I just want the parties to work it out and if it is twenty feet fine just so it is in compliance with the Wasatch County Code. **Commissioner Mark Hendricks indicated that lets say for Condition No. 3 that the applicant provide for a public utility easement fully compliant with county requirements.**

**Commissioner Doug Grandquis seconded that motion and condition.**

**The motion carries with the following vote:**

**AYE:** Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Wendell Rigby, Doug Grandquis.

**NAY:** None.

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**ITEM 2 BRAD GERRARD, REPRESENTING ULA LLC, REQUESTS A CONDITIONAL USE PERMIT FOR CASCADE ACADEMY, A PROPOSAL TO CONVERT A SINGLE FAMILY RESIDENTIAL HOME TO AN EIGHT BED RESIDENTIAL FACILITY FOR PERSONS WITH DISABILITIES, LOCATED AT 1374 RED FILLY ROAD IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. (DEV-6850; DOUG SMITH).**

**Staff**

Doug Smith, the Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that this item was in front of this Commission last month and then gave a brief recap concerning what this matter is about. It is a residential facility for handicapped person which would allow up to eight girls that are thirteen to eighteen years old with severe anxiety. They are considered a protective class. The proposal to be in an existing plat 5,454 square foot home on one acre in an RA -1 Zone. Code requires parking that is nine feet wide by eighteen feet deep. Doug Smith then went through some paragraphs taken from his staff report that he made last time which will help you understand this proposal more. The County has already determined this use is treated as a residential use. County Council has determined this use is appropriate in residential areas and allowed it as a conditional use in the RA-1 Zone and may be allowed with conditions to mitigate negative effects. Girls living at the proposed facility are a protected class. Reasonable accommodations is not being requested with this application. Reasonable accommodation is not necessary since there is already a built in accommodation in Wasatch County Code. Allows for eight people. A ramp needs to be built in the front set back. Asking for more occupants than the eight that is allowed by code. This home must be treated the same as any other residential home. Staff do not believe that four parking stalls proposed by the applicant is adequate but would ask for ten stalls. The applicant has agreed to that. Ten parking stalls need to be provided for the employees. A solid fence has been discussed which would block headlights, etc. No dumpster. CCR's were brought up. Code refers to a residential facility for a handicap persons.

Doug Smith indicated that there are twelve criteria and then went through those twelve criteria for a residential facility for persons with disabilities (RFPD). A residential facility for persons with disabilities shall be consistent with all applicable federal and state laws, and the existing zoning of the desired location, and shall:

1. Be occupied on a twenty four hour per day basis by eight or fewer persons with disabilities;
2. Conform to all applicable standards and requirements of the Department of Human Services;
3. Be operated by or operated under contract with that department;
4. Meet all county building, safety and health ordinances applicable to similar dwellings;
5. Provide assurances that the residents of the facility will be properly supervised on a twenty four hour basis;
6. Establish a county advisory committee through which all complaints and concerns of neighbors may be addressed;
7. Provide adequate off street parking space, as required under this title. See section 16.33.13, "Parking Computation", parking computation matrix, of this title;
8. Be capable of use as a residential facility for persons with disabilities without structural or landscaping alterations that would change the structure's residential character;
9. Not be established or maintained within one mile of another residential facility for the elderly or persons with disabilities;
10. Not allow treatment for alcoholism or drug abuse to be performed on the premises of a residential facility for persons with disabilities. This shall not preclude the residence from being used for temporary housing for persons who are being treated for such disabilities on an outpatient basis at an approved facility for such treatment;
11. Not allow a person who is violent to be placed in a residential facility for persons with disabilities; and
12. Require that placement in a residential facility for persons with disabilities be on a strictly voluntary basis.

Doug Smith then indicated that the County shall not issue a conditional use permit unless the issuing department or commission finds the following:

- A. The application complies with all requirements of this title;
- B. The business shall maintain a business license, if required;
- C. The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;

- D. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions;
- E. The use is consistent with the Wasatch County General Plan;
- F. The effects of any future expansion in use or scale can be and will be mitigated through conditions;
- G. All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations have been adequately mitigated through conditions;
- H. The use will not place an unreasonable financial burden on the county or place significant impacts on the county or surrounding properties, without adequate mitigation of those impacts;
- I. The use will not adversely affect the health, safety or welfare of the residents and visitors of Wasatch County; and
- J. Any land uses requiring a building permit shall conform to the international uniform building code standards.

Doug Smith then went through the DRC report and all departments have signed off on it:

ENGINEERING comments:

- My biggest concern would be on site parking based on the narrative submitted for daily use. It would be difficult to utilize only on site parking say during a shift change. The goal is to keep cars off the street especially during winter months hampering snow plowing activity. My recommendation is to use the property to the north if possible for added parking.

Doug Smith then went through the proposed findings:

1. The proposal is providing housing for a protected class as defined by the ADA and the FHA.
2. The County code allows uses for protected classes.
3. The girls living at the facility are a protected class because they meet the definition of “handicapped” under the Fair Housing Act.
4. The WCC provides for “Residential Facilities for persons with disabilities” in section 16.21.17.
5. By the stated use names of “Residential Facility for Handicapped Persons” (16.08.03) and “Residential Facilities for Persons with Disabilities” (16.21.17) and land use number 1292 under the larger heading of “Living Areas” the County Council has already determined that this use is a residential use allowed in residential areas.
6. Land use 1292 is considered a conditional use in the RA-1 zone. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii). *--The code, adopted by the legislative body, has already made a determination that a Residential Facility for Handicapped Persons is allowed in the RA-1 zone but may require conditions to mitigate negative effects.*
7. The proposal is for 8 or fewer residents in the home in compliance with the code and does not require a reasonable accommodation.
8. Due to Federal Legislation, from a zoning standpoint, except for the express requirements in Wasatch County Code Section 16.21.17, this home must be treated the same as any other residential home, otherwise it would be illegal discrimination.
9. The proposal, in staff’s opinion, is in compliance with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses as long as the conditions stated are required.
10. Notice has been sent to neighboring property owners within 500 feet of the property.
11. There have been a large number of concerns regarding this application and these concerns have been stated in a public meeting.
12. The proposal, in staff’s opinion, is in compliance with Section 16.21.17 of the Wasatch County Code regarding persons with disabilities.
13. Under the Fair Housing Act from the Department of Housing and Urban Development individuals with disabilities have the right to live independently in the community with any supports they need, such as health care services, a care-giver or live in aide, or other short or long-term services or supports.
14. The Development Review Committee has reviewed the project and has provided a favorable recommendation of approval.

Doug Smith then went through the proposed conditions:

1. A total of 10 parking stalls including 3 in the garage. Stalls must be a minimum of 9 feet by 18 feet if the front of the car can pull over landscaping otherwise parking must be nine feet by twenty feet. Required parking must be behind the front facade of the home. The stall closest to the road must be removed so that all stalls are behind the front facade.

2. A solid fence/wall that starts behind the facade of the home to buffer the parking stalls from the neighboring property must be installed.
3. All issues raised by the DRC, as noted in the DRC report dated March 29, 2023, shall be resolved to the satisfaction of the applicable review department.
4. The applicant shall, at all times, only operate a “Recovery residence for girls with anxiety with emphasis on OCD” within the meaning of Utah Code Ann. Section 62A-2-101(33). No other programs or services shall be delivered or occur at the Property, including those licensed under the Utah Human Services Code.
5. Pursuant to 42 U.S.C. Section 3604(f)(9), the Applicant shall not allow any registered sex offenders or any resident convicted of a violent crime or sex offense to reside at the Property and shall otherwise ensure that no resident imposes a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others within the meaning of 42.U.S.C. Section 3604(f)(9).
6. The applicant shall, at all times, comply with all applicable rules and regulations for recovery residences, including, but not limited to, regulations promulgated under the authority of Utah Code Ann. Section 62A-2-108.2 and set forth in Utah Admin. Code R501, including the Core Rules contained in Rule 501.2.
7. The applicant shall promptly notify the County of any material change in the information required by Utah Code Ann. Section 62A-2-108.2, any change or material departure from the description of its program, and any suspension, alteration, or revocation of its licensure under the Utah Human Services Code.
8. Any suspension, alteration, or revocation of the applicant’s licensure under the Utah Human Services Code shall be grounds for terminating the conditional use and business license.
9. The applicant shall comply with all other applicable provisions of the Wasatch County Code, including, without limitation, its zoning regulations and all applicable fire, safety and building codes.
10. Not allow a person who is violent to be placed in a residential facility for persons with disabilities.

Alex Stoedter, Assistant Wasatch County Attorney, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that the State Code allows the County to provide standards in an ordinance that would mitigate some of the concerns of a conditional use. There is a difference between handicap and disability. The State Code defines handicap but does not define those with disabilities. The County Code has to be consistent with Federal Law. The people using this facility do meet that definition. The Council does allow for a facility like this and allow a facility for eight or less people. From the Council’s ruling, the Wasatch County Attorney’s Office is recommending that this application be approved based on everything that has been presented today.

Melanie Clark, representing the applicant, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that she represents the applicant. This is protected under the Fair Housing Act and need to go under the federal definition. The definition under the FHA indicates that it is unlawful to discriminate in the sale or rental. FHA does prohibit state and local land use law from discriminating based on the characteristic that is protected. A county ordinance can’t discriminate based on disability in this instance. Prohibits from land use laws from imposing restrictions on group homes that are not imposed on family or other groups of unrelated individuals. The conditions that could be imposed here on this home it can’t be related to the girls have a disability and related to something else. Also the ADA is a totally different thing. The Wasatch County Council has determined that the use is appropriate in this zone in residential neighborhoods as long as the conditions are met. You are confined by the Wasatch County Code here. The burden is on the land use authority to put forth the evidence and there has to be substantial evidence presented here that the code requirements have been met. Not by public clamor but supported by evidence. These are teenage girls and should be treated like any other teenage girl. The conditional use should be approved if reasonable conditions can be imposed to mitigate any detrimental effect.

### **Commission Comments**

Commissioner Mark Hendricks wanted to clarify some things and there is a large body of Federal Law and a lot of body of Utah State Law and a large body of Wasatch County Law regulations that all contemplate the notion that there has to be a path to having group homes in the residential areas. Melanie replied that is correct. Commissioner Mark Hendricks indicated that is the environment that we are working in. A licensed medical professional has documented conditions that for any of these patients that would fall under CFR which is the Code of Federal Regulation for all these patients that they would meet this definition the impairment of major life activities outlined in that code section.

Jon Woodard, Assistant Wasatch County Attorney, asked, how do you know that these girls fall under the protected class under the Fair Housing Act? Melanie replied that they look at their diagnosis history and working with their prior to therapists and providers. Jon Woodard asked if all of them have been diagnosed. Melanie replied yes.

Chair Chuck Zuercher indicated that we are not going to have any public comment this evening. Also you have heard what has been presented tonight. We basically have to approve this facility or else we get into some lawsuits. Doug Smith indicated that they have to renew their business license every year and if there are problems we will have to take those into account.

Commissioner Mark Hendricks agreed that the County does not typically have sufficient resources to monitor and enforce every regulation and/or every condition upon which a Conditional Use Permit is granted. However, if there are violations of the conditions either discovered, or brought to the attention of the Planning Department, enforcement, including revocation of the Conditional Use Permit is possible. In addition, there are other governmental entities that have granted certain authority to operate this facility. For example, the County's business licensing department, or the State's licensing authorities. Those three layers of government oversight are all there to assure the operation of this facility in compliance with the law. Neither me personally, nor the Planning Commission, nor the Planning Department want this facility to create problems in the community. At the same time, there are no reasons given tonight or earlier in this process that would justify denial of this application. While there are concerns about potential problems, we have had no problems yet, and if and when there are, they can be addressed, which may include revocation of any Conditional Use Permit.

### Motion

**Commissioner Mark Hendricks made a motion to approve in light of the findings and in light of the public input and subject to all of the conditions outlined. That we approve Item No. 2 the application by ULA L.L.C. for a conditional use permit for Cascade Academy in light of the findings and consideration of the public concern and subject to all of the conditions outlined in the staff report in order to address those concerns as best we can at this time.**

**Commissioner Kimberly Cook seconded the motion.**

**The motion carries with the following vote;**

**AYE: Scott Brubaker, Kimberly Cook, Mark Hendricks, Chuck Zuercher, Wendell Rigby**

**NAY: Doug Grandquis.**

- **Doug Grandquis indicated that I voted no because the original Fair Housing Act was dealt with long term residential housing. This is a medical treatment facility and I think that the federal government has extended its authority beyond what is reasonable. I also am highly concerned in this state and in the nation about the property rights of individual neighborhoods and communities and are being superseded by local, state and federal governments particularly with HOA, CC&R's that they are basically saying that those are no rights that are recognized by those various governmental authorities. For that reason that on principal I am voting NAY.**

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**ITEM 3      BRIAN BALLS, REPRESENTING COLEMAN MT FAMILY TRUST AND CMC READY MIX, REQUESTS A CONDITIONAL USE PERMIT FOR A CONCRETE BATCH PLANT (LAND USE 3263) LOCATED AT 2375 S. 390 W. ON PARCELS 09-6060 AND 20-4134 IN THE INDUSTRIAL (I) ZONE. (DEV-7495; NATHAN ROSVALL)**

### Staff

Nathan Rosvall, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that this item should be continued because a staff report was not prepared when the applicant's engineer didn't provide some promised information in time. The code says that for a matter to go forward there has to be a staff report prepared. After a discussion with the applicant the Wasatch County Planning Commission agreed to have a special hearing for this matter which was set for May 18, 2023 at 6:00 p.m.

### Motion

**Commissioner Mark Hendricks made a motion that we continue this matter for the Special Meeting to be held on May 18, 2023 at 6:00 p.m.**

**Commissioner Wendell Rigby seconded the motion.**

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Mark Hendricks, Scott Brubaker, Kimberly Cook, Wendell Rigby, Doug Grandquis.

NAY: None.

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**ITEM 4      GEORGE P HOLMES REQUESTS THE CREATION OF AN AGRICULTURAL PROTECTION AREA FOR THIRTEEN (13) PARCELS TOTALING 105.25 ACRES. PARCELS 08-0080, 08-0098, 08-0106, AND 08-0148 ARE LOCATED OFF NORTH FIELD ROAD BETWEEN 500 NORTH AND 1200 NORTH AND WEST OF MUIRFIELD PARK 2 AND MUIRFIELD PARK 3 SUBDIVISION. PARCELS 07-9512, 07-9504, AND 07-9496 ARE LOCATED OFF 1800 NORTH BETWEEN NORTH FIELD ROAD AND 1130 WEST. PARCELS 07-9769, 07-9751, 07-8928, 07-9728, 07-9710, AND 07-8985 ARE LOCATED EAST OF NORTH FIELD ROAD AND WEST OF US HWY 40 IN THE NORTHEAST OF THE NORTH FIELDS. ALL PARCELS ARE IN THE AGRICULTURE 20 (A-20) ZONE. *\*IF FORWARDED, THE RECOMMENDATIONS BY THE PLANNING COMMISSION AND THE AGRICULTURE PROTECTION AREA ADVISORY BOARD ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON MAY 17, 2023. (AGPRO-7738; NATHAN ROSVALL)***

### Staff

Nathan Rosvall, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that George P. Holmes is requesting an Agriculture Protection Area for properties located in the Agriculture 20 (A-20) zone of Wasatch County. There are a total of thirteen parcels with 105.25 combined acres. The proposed Agriculture Protection Areas are operated as irrigated grazing for agricultural purposes. The applicant has requested thirteen parcels be considered for an Agriculture Protection Area. There are four parcels that are ineligible for Agriculture Protection status totaling 18.95 acres. There are a total of nine parcels equaling 86.30 acres that are eligible for an Agriculture Protection Area. The intent of these codes is to protect agricultural areas from encroachment of urban development and the impacts that come with it including nuisance complaints, future road expansion, changes in zoning regulations, eminent domain, etc. The process for obtaining the designation of an Agricultural Protection Area includes review and recommendation by the Agriculture Advisory Board and the Planning Commission prior to the consideration for approval or denial by the County Council. Wasatch County Code Section 16.29.06 requires that the Planning Commission and the Agriculture Advisory Board shall report their analysis to the County Council which is:

1. Analyze and evaluate the effects of the creation of the proposed area on the County's planning policies and objectives.
2. Analyze and evaluate the proposal by applying the criteria contained in Section 16.29.08
3. Recommend any modifications to the land be included in the proposed Agriculture Protection Area.
4. Analyze and evaluate any objections to the proposal.
5. Include a recommendation to the County legislative body either to accept, accept and modify, or reject the proposal.

At the time of this report, no objections have been received in response to the notices sent. We did receive a letter from UDOT stating the exact same thing they honor what we are doing and they respect it, however, they don't think that it will impact what they will be doing in the future.

Nathan Rosvall then went through the findings:

1. The request is to create an Agriculture Protection Area to maintain the agricultural use and the rural environment.
2. The subject properties are located in the Agricultural (A-20) zone of Wasatch County (North Fields).
3. The combined acreage of the proposed Agricultural Protection Area is 105.25 acres.
4. There are four properties that will be affected by Wasatch County Code Section 16.29.02(F)(1), which eliminates these parcels as being eligible for an Agriculture Protection Area. Land in an area described as north of SR-113 and west of Heber City's boundary and bordered on the north and west sides by the existing transmission line. These parcels total 18.95 acres of ineligible Agriculture Protection Area.

5. Total acreage of properties eligible for Agriculture Protection Area is 86.30 acres. Parcels 07-9512, 07-9504, 07-9496, 07-9769, 07-9751, 07-8928, 07-9728, 07-9710, and 07-8985 are eligible for Agriculture Protection Area. Nine total parcels eligible.
6. The current use of the property proposed for protection status is greater than 50 percent of the land is devoted to agriculture, including irrigation grazing.
7. The proposed area includes one existing corral on parcel 07-9512.
8. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.
9. Commonly found soils in the North Fields are: Fluventic Haploborol, this soil is common for tall grasses; Kovich, this soil occurs on broad valley floors and is a slow permeable soil; Logan, this soil is common for meadow hay and pasture.
10. Wasatch County Code Section 16.29.08 outlines the evaluation criteria for granting the Agriculture Protection Area, and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.
11. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
12. No objections have been received in response to the notices sent or signs posted on the property.
13. If the Agricultural Protection Area is approved, the approval will be in effect until its 20<sup>th</sup> calendar review year.

Nathan Rosvall then went through the modifications.

1. As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal to ensure downstream flows.
2. As a modification of the proposal and recommendation to the County Council staff recommends that according to Section 16.29.02(F)(1), land not eligible to be included in the Agriculture Protection Area based on their condition as of November 1, 2022 which land would be, land in an area described as north of SR-113 and west of Heber City's boundary and bordered on the north and west sides by the existing transmission line, but not excluding the rectangular area 270 feet to the south and 520 feet to the east of the transmission line adjacent to the northwest corner of the previously described area. Also, there are four parcels: 08-0080, 08-0098, 08-0106 and 08-0148 that will be affected by Wasatch County Code Section 16.29.02(F)(1). These parcels total 18.95 acres of ineligible Agriculture Protection Area. These parcels will need to be eliminated from the Agriculture Protection Area. Also, the total number of eligible parcels is nine at 86.30 acres. These include parcels 07-9512, 07-9504, 07-9496, 07-9769, 07-9751, 07-8928, 07-9728, 07-9710 and 07-8985.

Jon Woodard asked if he is understanding him right that those complete four parcels are in an area that is not eligible and there won't be any portion of those that are eligible. Nathan Rosvall replied that is correct.

Commissioner Scott Brubaker asked that as a County we are trying to save that corridor is that correct by using these power lines as a delineation. Nathan Rosvall replied that is my understanding, correct. Commissioner Scott Brubaker asked, do we know which of the plans that we are trying to maintain based on those power lines? Doug Smith replied that anything on the east side of the transmission line the north/south layer is ineligible. Everything from south side of the east-west transmission line is ineligible. There through there is the location of our by-pass route which has been in our General Plan for twenty some odd years. Wherever it goes in there I don't think the Council cares but they want to preserve that.

### **Applicant**

George Holmes, the applicant, addressed the Wasatch County Planning Commission and indicated that this is for my family. The part that is not eligible it would have saved us a lot of money and a lot of time if we had known that earlier. We are all just learning about this but probably eighty percent of the letters that were necessary to be sent out was because of that parcel. It is not eligible so that is fine. We really want to have the 85 or whatever that is eligible included. Commissioner Kimberly Cook asked if, after they get this done, can they go back after they got the by-pass road can they go back and say that we want to put this in there to? Jon Woodard indicated that the County would have to do an ordinance that enacts the state provisions that allow for the Agricultural Protection Area. The Council would have to amend those codes in order to allow that to happen. If they did that would be possible.

### **Public Comment**

Chair Chuck Zuercher then opened the hearing for public comment and there was none so the public comment period was closed.

## Motion

Commissioner Doug Grandquis made a motion that we recommend that this would go to the Council for approval in light of the findings and subject to the conditions and recommending modifications for Agricultural Protection Area of 86.3 acres in the North Fields, George P. Holmes.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Kimberly Cook, Scott Brubaker, Mark Hendricks, Doug Grandquis, Wendell Rigby.

NAY: None.

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**ITEM 5**      **RON CARLILE REQUESTS THE CREATION OF AN AGRICULTURE PROTECTION AREA OF 10.77 ACRES IN THE NORTH FIELDS ENCOMPASSING PARCELS 07-8209 (3.85 ACRES) AND 07-8183 (6.92 ACRES). THESE PARCELS ARE LOCATED OFF NORTH FIELDS ROAD, BETWEEN 2400 NORTH AND WEST POTTER LANE IN THE AGRICULTURE 20 (A-20) ZONE. *\*IF FORWARDED, THE RECOMMENDATIONS BY THE PLANNING COMMISSION AND THE AGRICULTURE PROTECTION AREA ADVISORY BOARD ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON MAY 17, 2023. (AGPRO-7737; NATHAN ROSVALL)***

## Staff

Nathan Rosvall, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that this applicant is requesting an Agriculture Protection Area for properties located in the Agriculture 20, A-20 zone, of Wasatch County. There are a total of two properties with 10.77 combined acres. The proposed Agriculture Protection Area is operated as an integrated whole for agricultural purposes. This land is devoted to agriculture, including livestock grazing. The owners anticipate maintaining the existing agricultural operation. Wasatch County Code Section 16.29.04 requires the following noticing methods, sending notice to all property owners within 1000 feet of the requested Agricultural Protection Area posting notices on the Utah Public Notice website and posting notice at five places within or near the proposed Agriculture Protection Area. The process for obtaining the designation of an Agricultural Protection Area includes review and recommendation by the Agriculture Advisory Board and the Planning Commission prior to the consideration of approval or denial by the County Council. Wasatch County Code Section 16.29.06 requires that the Planning Commission and the Agriculture Advisory Board shall report their analysis to the County Council which are:

1. Analyze and evaluate the effects of the creation of the proposed area on the County's planning policies and objectives.
2. Analyze and evaluate the proposal by applying the criteria contained in Section 16.29.08.
3. Recommend any modifications to the land be included in the proposed Agriculture Protection Area.
4. Analyze and evaluate any objections to the proposal.
5. Include a recommendation to the County Legislative Body to either accept, accept and modify or reject the proposal.

At the time of this report, no objections have been received in response to the notices sent except as mentioned before a letter from UDOT.

Nathan Rosvall went through the proposed findings:

1. The request is to create an Agriculture Protection Area to maintain the agricultural use and the rural environment.
2. The subject properties are located in the Agricultural (A-20) zone of Wasatch County (North Fields).
3. The combined acreage of the Agricultural Protection Area is 10.77 acres.
4. The current use of the property proposed for protection status is greater than 50 percent of the land is devoted to agriculture, including livestock grazing.
5. The proposed areas do not have structures located on the parcels.
6. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.

7. Commonly found soils in the North Fields are: Fluventic Haploborol, this soil is common for tall grasses; Kovich, this soil occurs on broad valley floors and is a slow permeable soil; Logan, this soil is common for meadow hay and pasture.
8. Wasatch County Code Section 16.29.08 outlines the evaluation criteria for granting the Agriculture Protection Area, and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.
9. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
10. No objections have been received in response to the notices sent or signs posted on the property.
11. If the Agricultural Protection Area is approved, the approval will be in effect until its 20<sup>th</sup> calendar review year.

Nathan Rosvall then went through the modifications:

1. As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal to ensure downstream flows.

**Public Comment**

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

**Motion**

**Commissioner Doug Grandquis made a motion that we recommend to the Wasatch County Council approval of this matter in light of the findings and subject to the conditions and also the modifications as listed for the Agricultural Protection Area of 10.77 Acres in the North Fields, Ron Carlile.**

**Commissioner Mark Hendricks seconded the motion.**

**The motion carries with the following vote:**

**AYE: Mark Hendricks, Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Scott Brubaker, Wendell Rigby, Doug Grandquis.**

**NAY: None.**

**ITEM 6 CORT LOCKWOOD, REPRESENTING TREVOR MILTON, REQUESTS A PLAT AMENDMENT TO BOTH DIAMOND BAR X RANCH, NO. 6 THIRD AMENDED SUBDIVISION AND TO THE MILTON DIAMOND BAR X RANCH SUBDIVISION IN ORDER TO VACATE LOT 5A AND THE PORTION OF DEER KNOLL DRIVE FROM DIAMOND BAR X RANCH SUBDIVISION AND THEN TO SUBSEQUENTLY COMBINE THE VACATED LOT 5A AND ITS ASSOCIATED BUILDABLE AREA INTO THE EXISTING LOT 1 OF THE MILTON DIAMOND BAR X RANCH SUBDIVISION AND TO ADD THE DEER KNOLL DRIVE ROAD AS A PRIVATE ROAD IN THE SUBDIVISION LOCATED IN THE PRESERVATION (P-160) ZONE. *\*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 MAY 17, 2023. (DEV-7004; AUSTIN CORRY)***

**Staff**

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and then indicated that this applicant is seeking to vacate a portion of Deer Knoll Drive from the Diamond Bar X Ranch No. 6 subdivision. We have been working with the applicant on some of those zoning violations they had and you will notice in your staff report it was updated. The individual that had submitted the objection has now submitted a letter withdrawing the objection. One of the main concerns that they had was that the plat amendment request involves a street vacate. As such they had an easement that they suggested that relied on that being a public street in order to maintain the access rights through. After they have analyzed that they determined that they don't think it actually does affect their easement rights. The proposal is a little bit different than what they had originally done in January. Primarily what they are asking to do that is different from what you saw previously is that instead of vacating a lot and a street out of an old subdivision, out of one subdivision and putting into a new subdivision, they are still making the same

request but instead the lot will be absorbed into one of the existing lots that is there and not remain as a lot. That lot 5A that you see highlighted there is what is being requested to be pulled out of the Diamond Bar Number 6 subdivision and the portion of Deer Knoll Drive just north of that. That is what is coming out of this subdivision and placing it into Milton and Diamond Bar X which exists right now. One of the things with that request and the new proposed plat. There is a little bit of an adjustment to Deer Knoll Drive and that is to move the road to where the actual physical road got built. The critical part being that Deer Knoll Drive changes from a public road to a private road. Milton Bar X has building areas on the lots. So the lots range from ten to eighteen acres right now and they have one to two buildable areas on the lots. What the applicant is asking for as part of this is because they are getting rid of Lot 5 they are asking to use what would have been the buildable area for Lot 5 and still be able to keep that.

Austin Corry indicated that the DRC has reviewed this and forwarded on. There is a condition of approval from the surveyor primarily to resolve some lot closure issues that they don't believe would affect what you as a Planning Commission really see but certainly something that needs to get resolved before a Mylar is ever printed.

Austin Corry then went through the proposed findings;

1. Good cause for the street vacate exists because:
  - a. No properties owned by a party other than the applicant are currently accessed using the portion of the street being vacated. One property is adjacent to the road, but has indicated no objection to the vacate.
  - b. There is no known public interest in the portion of the street being vacated.
  - c. No person is anticipated to be materially injured by the vacation.
  - d. The vacate will place the entirety of Deer Knoll Drive as private status.
2. Utah Code 17-27a-609.5 allows the County, by plat or ordinance, to vacate a public street.
3. This proposed revision conforms to the Wasatch County development standards under the non-conforming subdivision regulations.
4. The Development Review Committee has reviewed the project and provided comments.
5. The proposal includes a combination of Lot 5a (0.83 acres) from the Diamond Bar X No. 6 plat and Lot 1 (18.181 acres) from the Milton Diamond Bar X.
6. Lot 1 currently has a two acre buildable area allowance which totals 11 percent of the lot.
7. The proposal requests to increase the buildable area allowance on Lot 1 by using the same eleven percent allocation and applying it to the new, larger acreage of the combined lot. The result is the addition of 3,969 square feet of buildable area, total of 2.09 acres, for the amended Lot 1 (19.011 acres).
8. Lot combinations are commonly found to meet the good cause requirement as a positive benefit in non-conforming subdivisions as they bring projects into closer conformity with current regulations and result in fewer septic drain fields.

Austin Corry then went through the proposed conditions:

1. Plat Note 10 shall be modified to strike "Per current county zoning," and instead simply state that no further subdivision is permitted.
2. Potential access improvements to be verified by the Fire District prior to plat recording.
3. The applicant will need to obtain written consent to the vacation from Diamond Bar X Ranch Inc. as the owner of parcel 08-3985 in accordance with UCA Section 17-27a-609.5(2)(c) prior to plat recording.
4. Technical issues listed on the DRC report shall be resolved to the satisfaction of the applicable review departments.

Austin Corry then went through the DRC Report.

FIRE SSD comments:

- Verification of capacity of bridge accessing development must be provided by an engineer.
- Roadway improvements may be needed at permit to bring access to compliance.

PLANNING comments:

- The title of the plat should include the note about the road vacate as well unless the recorder is comfortable state law is complied with using note 1 alone.

SURVEYOR comments:

- 1. Road width is not shown. I realize the west end is wider. Please call out the width in several places.
- 2. Do both cul-de-sacs carry the same name?
- 3. The common line between Lot 1 and Lot 4 have different values in the lot closure sheets than the plat face.

4. Same comment for the west line of Lot 4.
5. Same comment for the west line of Lot 3.
6. You have two wells shown. Ownership of each could be helpful. The well in the south cul-de-sac needs some protection if it will be used by some party.
7. Since the road is private, please give us an area of such.

### Applicant

The applicant was not present.

### Motion

**Commissioner Scott Brubaker made a motion that we recommend Item No. 6, the Milton Diamond Bar X Ranch plat amendment, subject to the four conditions noted on the staff report starting with “Plat Note 10 shall be modified...” and ending with “...the applicable review departments” and insert the word written consent in condition no. 3 and in light of the findings and recommend the item to the Wasatch County Council for approval.**

**Commissioner Mark Hendricks seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Wendell Rigby, Doug Grandquis.**

**NAY: None.**

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**ITEM 7 LINDZI BISHOP, REPRESENTING SIGNATURE DEVELOPERS, REQUESTS PRELIMINARY SUBDIVISION APPROVAL FOR MEADOW VIEWS, A PROPOSED RESIDENTIAL SUBDIVISION CONSISTING OF 21 LOTS ON 28.28 ACRES LOCATED IN SECTION 11, TOWNSHIP 4 SOUTH, RANGE 5 EAST 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 MAY 17, 2023. (DEV-7595; AUSTIN CORRY)***

### Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that this is a proposed residential subdivision in the Center Creek area of the County north of Center Creek road and between 3600 East and the yet-to-be-built 4200 East. Two recent subdivisions border the property. Center Creek Meadows on the west boundary and Sahale on the east boundary. Both of those subdivisions are currently under construction. This subdivision would continue the road and trail system between each of the other subdivision, resulting in a connected system between all three. This is a standard RA-1 subdivision and are providing water and sewer through Center Creek Irrigation and Water Company. There are two open space parcels that is on the west. Those will be landscaped and making entry monuments into the development. There is a trail connection on the northwest corner which runs through their open space area and anticipated will become a public road at some stage so the trail connection in order to meet our trail code would need to occur.

Austin Corry then went through the DRC report.

ENVIRONMENTAL QUALITY comments:

- Provide an erosion and sediment control plan for review. Callout necessary erosion control practices, BMP details, and maintenance/installation notes.

JORDANELLE SSD comments:

- Coordinate with district engineer for plan review and approval of construction drawings.

ENGINEERING comments:

- Condition of Approval: The drainage report still discusses only 6" of freeboard. At final, increase freeboard level of basins to 1' minimum from WC16.40.01(D)(4). Show on plans and in the drainage report.
- Condition of Approval: At final, show that the east dead-end of 2140 South ties in with the pavement and trail elevations and locations of Sahale, Phase 1. Your drainage plans must adequately manage runoff due to this tie-in. Sahale Phase 1 recently (after final approval) changed that section of 2140 South in their plan set to match the Major Local with swales to tie in to your trail plan. Ensure that you are using their most recent drawing.

GIS comments:

- I have sent you an email with the correct address. Please put it on the plat. Thanks.

PLANNING comments:

- The public trail easement in the NW corner is likely to need to be 20' per 16.38.03 unless the regional trail planner sees the connection differently. The 90 degree corner is likely not going to work either. The final plat will need to resolve this.
- The DA will need to be worked through with the attorney's office.

SURVEYOR comments:

- The plat dimensions do not agree with the written plat description.  
The April submittal has not addressed the above comment.  
The April submittal shows the "FOUND" SW section corner of section 11.  
This corner has been removed by construction efforts in the intersection.  
Until the monument is replaced it cannot be used for Basis of Bearing.

Austin Corry went through the proposed findings:

1. The subject property is 28.28 acres located between the recent Center Creek Meadows and Sahale Subdivisions.
2. The proposal is to develop 21 lots resulting in a density of 1.35 acres per unit.
3. The RA-1 zone is a 5 acre minimum lot size zone unless public water and sewer infrastructure is provided by the development.
4. The property will be serviced by Center Creek Water and Irrigation Company and Twin Creeks SSD.
5. The density being proposed is consistent Wasatch County Code 16.08.04(C)
6. The Development Review Committee has reviewed the project and has indicated the proposal can comply with applicable codes and laws if certain conditions are met.

Austin Corry then went through the proposed conditions:

1. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review department prior to final approval or as otherwise applicable.
2. The final application shall include a cost estimate for removal of the temporary cul-de-sacs and reconstruction of landscaping, sidewalks, etc. to be used as an escrow at such time as the roads continue into other developments.

**Applicant**

Dave Mitton, with Signature Developers, indicated that Austin Corry did a good job of explaining the matter. The one thing we have struggled with the most is getting a will serve letter out of Center Creek and we have now got that.

Lindsay Bishop, the civil engineer representing Signature Developers on the project, indicated that Austin Corry did a great job presenting our project.

**Public Comment**

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

## Motion

Commissioner Scott Brubaker made a motion that we recommend Item No. 7, Meadow Views Preliminary Subdivision, to the County Council subject to the conditions listed by staff and in light of the findings.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Doug Grandquis, Wendell Rigby.

NAY: None.

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**ITEM 8 CONSIDERATION AND POSSIBLE RECOMMENDATION OF ORDINANCE 23-05 TO AMEND WASATCH COUNTY CODE CHAPTER 16.41, JORDANELLE SPECIALLY PLANNED AREA, TO CONSOLIDATE ROOF PITCH REQUIREMENTS FROM INDIVIDUAL LAND USE CATEGORIES INTO ONE SECTION UNDER JSPA ARCHITECTURAL PRINCIPLES. *\*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 MAY 17, 2023. (AUSTIN CORRY)***

## Staff

Austin Corry presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that the code was revised in 2020 to change roof pitch for single family land uses and staff is now proposing that the other land use categories such as hospitality casita, resort villages, and common space also be updated to reflect the same roof pitch standards for other land use categories that were adopted in December 2020. Austin Corry indicated that in Chapter 16.41 the individual land use areas in the JSPA have had different roof standards, roof slope requirements. Three years ago it was amended but it was only amended for the residential areas and nothing was touched for any of the land use sections that would have been your commercial and the slope roof requirement in the open space category and this proposed amendment actually is just to go in and unify the roof slope requirement across the board regardless of the land use type. In an effort to reduce conflicts and eliminate redundancy within the code, the proposals to strike the roof pitch requirements from each land use category individually and instead place the roof pitch requirement worded the same as the adopted language in December 2020 into an overall architectural guideline section so that the requirement only need be stated one time in one place.

On April 20, 2023, the JSPA Planning Commission heard this item and moved to recommend approval to the County Council with an adjustment to the language for a maximum roof pitch for aesthetic reasons. The attached ordinance reflects the language they have recommended. Also part of the JSPA recommendation was that no more than a 7/12 slope shall be used. That was part of the JSPA Planning Commission's recommendation because they still wanted to encourage Mountain Style architecture and once you went higher than that 7/12 pitch that you would start branching into other types of architectural styles that they did not feel were appropriate for the JSPA. The proposal before you is found in Exhibit A.

Commissioner Mark Hendricks indicated that he has been a fan of this for cleaning this up for nine years so I am in favor of this.

Austin Corry then went through the proposed findings:

1. The proposed amendment is consistent with the policy established by the approval of ordinance 20-22.
2. The proposed amendment removes multiple references to roof pitch requirements that read the same and instead uses one section to note the roof pitch requirement for all structures in the JSPA, regardless of use.
3. Positive impact of the proposed changes are reduced confusion and potential conflict in the code that could make enforcement of the code difficult.

## Public Comment

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

**Motion**

Commissioner Mark Hendricks made a motion that this Planning Commission give a positive recommendation to the County Council for Item No. 8, which is a clarification and simplification of the County's roof slope code, in light of the findings that have been outlined in the staff report and the information presented to us.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Kimberly Cook, Scott Brubaker, Mark Hendricks, Wendell Rigby, Doug Grandquis.

NAY: None.

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**ADJOURNMENT**

**Motion**

Commissioner Wendell Rigby made a motion to adjourn.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Kimberly Cook, Scott Brubaker, Mark Hendricks, Doug Grandquis, Wendell Rigby.

NAY: None.

Meeting adjourned at 9:00 p.m.

  
CHUCK ZUERCHER/CHAIRMAN

