

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
August 1, 2012 - 5:00 p.m.**

In Attendance were:

John Jorgensen, Planning Commission – Chairperson
Randy Mair, Planning Commission
Kent Olsen, Planning Commission
Ken Moon, Planning Commission
Kathy Giles, Planning Commission
Allen Lindsay, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Neil C Wilkerson	Wells-appeal
Stephanie Rose	Wells-appeal
Brynn Tinker	Wells-appeal
Brad Wells	Wells-appeal
Jason and Monica Wells	Wells-appeal
Paul and Jone Wells	Wells-appeal
Debi Tracy-Uintah Basin Standard	
Jason McKenna	August Meadows
Marea Doherty-Duchesne County Attorney	

Chairperson Jorgensen opened the meeting at 5:00 p.m. and welcomed Allen Lindsay to the planning and zoning board. He has replaced Dean Burton who resigned a couple of months ago.

Commissioner Ron Winterton invited Dean Burton to the podium and presented him with a plaque thanking him for his dedicated service to Duchesne County and the Planning and Zoning Commission. Commissioner Winterton also thanked the Planning Commission and Mr. Hyde for their efforts in keeping the county balanced and making the County Commissioners job a little easier.

Chairperson Jorgensen asked if any of the Planning Commission had any ex-parte contacts associated with either item on the agenda. Commissioner Mair has been contacted by some surrounding property owners and will recuse himself from the Wells appeal. Commissioner Olsen has had some conversation regarding the appeal hearing, but does not feel it will effect any decision made at the hearing.

PUBLIC HEARINGS:

A. Request by A&R Development for final plat approval of the August Meadows Subdivision located on the east side of 3000 West at 2340 North, in the Roosevelt area.

Mr. Hyde stated the applicants are proposing a residential subdivision, consisting of 16 lots, averaging about 2.7 acres in size on 47.8 acres of land located on the east side of 3000 West at 2340 North in the Roosevelt area. The Planning Commission approved the preliminary plat on August 4, 2010 subject to conditions including protective covenants, any easements disclosed on a title report, a storm water permit from the DEQ, acceptance from the Duchesne County road department with road signs installed at all intersections and approval of the drinking water system. Mr. Hyde stated the developer has two years for final plat approval which is on August 6th.

Mr. Hyde's recommends that the Planning Commission recommend to the County Commission the adoption of the Findings of Fact and Conclusions set forth in this report and approval of the final plat of the August Meadows Subdivision, subject to the following conditions:

1. The final plat shall not be signed and recorded until the following items are submitted to the Community Development Director:
 - a. Title Report. (Any easements listed on the title report and not showing on the final plat must be added).
 - b. Public Offering Statement.
 - c. Protective Covenants.
 - d. Operating Permit for the water system from the Utah Division of Drinking Water.
 - e. Letter from the Road Department accepting the roads for county maintenance.
 - f. Documents associated with the relocation of the irrigation line and the entity that will operate the irrigation system.

Mr. Hyde asked if there were any questions of the staff report. There were none so the hearing was opened and the applicant was invited to speak.

Jason McKenna, an A & R Development representative, stated they are satisfied with the conditions stated in the staff report and asked the commission if they had any questions.

Commissioner Mair asked Mr. McKenna where they were on their permits. He replied they are waiting on the water approval, the title report is completed, Glen Murphy with Duchesne County needs to review their progress on the roads and Mr. Chapman is working on the public offering statement and covenants.

There was some discussion about the water system and the relationship between the Cedarview-Montwell District and Roosevelt City and who will service the subdivision and the need for these issues to be cleared up.

Commissioner Jorgensen asked if there were any other questions or comments. There were none, so the public hearing was closed.

Commissioner Moon motioned to recommend to the County Commissioners the approval of the final plat of the August Meadows Subdivision, subject to condition 1a

thru f as outlined in the staff report. Commissioner Mair seconded the motion and it passed unanimously.

B. Appeal by Neil Wilkerson of a Hearings Officer decision to grant approval of a minor subdivision/plat amendment requested by Paul Wells to divide Lot 4 of the Gardenbrook Subdivision into three one-acre lots.

At this time, Commissioner Mair excused himself and Mr. Hyde asked Commissioner Olsen if he could remain objective due to his prehearing contacts. Commissioner Olsen stated he could, Mr. Hyde asked if there were any objections to Commissioner Olsen remaining at the hearing. There were none so the hearing continued.

Mr. Hyde stated Paul Wells is proposing to divide a 3-acre parcel (Lot 4 of the Gardenbrook Subdivision) into three one-acre parcels. All three parcels are proposed building lots. The minor subdivision request was approved by the hearings officer after an administrative hearing on July 10, 2012. This decision has been appealed by Neil Wilkerson to the Planning Commission. Mr. Hyde reviewed the history of events.

Mr. Hyde explained a "Minor Subdivision" means the division of land into nine or fewer parcels provided that:

- 1. A minor subdivision survey is prepared by a professional land surveyor for review and a decision by the land use authority after the required public hearing.***

Mr. Hyde stated a survey was prepared by Dan Knowlden Jr., Outlaw Engineering, Inc. Section 9-3-3 of the Subdivision Ordinance specifies that a public hearing is required only on appeal of a hearings officer decision to the Planning Commission or an appeal of a Planning Commission decision to the County Commissioners).

- 2. The minimum lot size and other land use standards are met (or a variance granted).**

Mr. Hyde stated the zoning in this area is A-2.5, Agricultural-Residential, which has a 2.5 acre minimum lot size. However, parcels down to one acre in size are allowed with a Roosevelt city water connection. Roosevelt City has verified the availability of water. All three proposed parcels meet the minimum lot size requirement of one acre as stated on the survey. A concern was expressed at the administrative hearing that the proposed parcels are approximately .993 acre in size rather than a full acre. Rounding up to the nearest tenth of an acre is not prohibited by the county subdivision ordinance. Rounding to the nearest hundredth of an acre is common on surveys and such practice is accepted by the county. The TriCounty Health Department has confirmed that .007 of an acre (about 300 square feet) would not cause them to withdraw or revise their approval as it is predominately based on soil capabilities.

- 3. Written approval has been received from the sanitary sewer authority.**

Mr. Hyde explained there were concerns expressed at the administrative hearing that six dwelling units on three acres would create significant wastewater and that existing private water wells could be adversely impacted. The sanitary sewer authority in Duchesne, Daggett and Uintah Counties is the Tri-County Health Department. The health department approved the minor subdivision by letter dated June 19, 2012. The approval is subject to the applicant keeping any portion of the wastewater system serving proposed Lot 4A at least 100 feet away from the private well on the Wilkerson property to the south. A private well on the Alexander property is located more than 100 feet south of the Gardenbrook Subdivision and was not required by the health department to have a protection zone extending into the Gardenbrook Subdivision. The extension of Roosevelt City water into this area will provide an alternative water source to property owners in this area should their private wells cease to provide adequate quantity or quality of water in the future. As stated at the administrative hearing, a study is underway to determine the feasibility of forming a sanitary sewer district in the Hancock Cove area. If such a district were formed, owners could connect to a piped sewer system and the minimum lot size would drop to one half acre.

4. All parcels have public right of way access and no additional right of way is required to be dedicated pursuant to the Official Map or county standards.

Mr. Hyde stated the proposed parcels have legal access to county roads known as 2250 West and 1125 North. Concerns were expressed at the administrative hearing that 2250 West is not a legal county road; however, the road is designated as a Class B Road on the official county road map and it has been improved with 24 feet of pavement. 1125 North is a County Class D Road, which provides legal access along the north side of Lot 4. Both 2250 West and 1125 North have 66 foot wide rights of way according to the Gardenbrook Subdivision plat, which meets county standards. No additional right of way along this property frontage is needed. The fact that 2250 West may have less than 66 feet of right of way south of the Gardenbrook Subdivision does not affect this request as Mr. Wells has no control over that property.

5. Has a water source, approved in writing by the culinary water authority.

Mr. Hyde stated the proposed home sites will receive culinary water from Roosevelt City as stated in the health department approval letter. The water lines were under construction and nearing completion as of July 10, 2012. Roosevelt City will need to receive an operating permit from the Utah Division of Drinking Water before this new water line can be placed into use).

6. No further division by minor subdivision shall be allowed within one (1) year. Further division within one (1) year shall be accomplished by the standard subdivision process.

Mr. Hyde stated there can be no further minor subdivisions on this property until July 3, 2013 unless by amendment of this minor subdivision. Also, no further division could occur unless a piped sanitary sewer system is provided in this area since one acre is the minimum lot size allowed with culinary water and private wastewater disposal).

7. Divisions requiring the construction of public roads, public water lines or public sewer lines are not eligible for the minor subdivision process.

As stated, no public road or public sewer line construction is required in this case. However, Roosevelt City has recently extended a water line to the area as part of a project that loops the city water system in the Hancock Cove area to enhance water service and fire protection. This Roosevelt City water line project was going to occur with or without this minor subdivision, so there is no need to require this proposal to proceed through the standard subdivision process. However, to meet this criterion, the minor subdivision and associated deeds should not be recorded until an operating permit for the water line project is granted by the Utah Division of Drinking Water).

Mr. Hyde stated that after the water line project receives an operating permit from the Utah Division of Drinking Water, the survey map will need to be recorded at the County Recorder's Office along with the associated deeds, establishing ownership of the newly-described parcels.

Other comments and concerns were expressed at the administrative hearing and by petition regarding duplexes and rental units being allowed on the proposed parcels, which could decrease property values. Mr. Hyde stated the County's zoning ordinance allows a single-family dwelling, duplex, triplex and fourplex on approved lots. The county does not control whether such units are owner-occupied or rented. According to statements made at the administrative hearing, several single family homes in the neighborhood are already rented. The applicants have stated that they intend to have a family member own and occupy each proposed duplex while renting the other half of the building. This will help ensure "pride of ownership" and upkeep of the units and landscaping.

Mr. Hyde stated the request complies with the requirements of the Duchesne County Subdivision Code; except for the fact that the public waterline extension must be approved for use before the minor subdivision can be recorded. The proposed parcels meet the 1.0 acre minimum lot size, the road rights of way are 66 feet abutting the subject property, which meets county road right of way standards. Staff recommendation is that the hearings officer's decision be upheld and the minor subdivision approved, provided that the minor subdivision survey and associated deeds not be recorded until after Roosevelt City has obtained an Operating Permit from the Utah Division of Drinking Water for the water line recently extended to serve this area.

Mr. Hyde asked if there are any questions or comments of the staff report.

Commissioner Olsen asked Mr. Hyde about the 66 foot wide right of way towards the North Cove road. Mr. Hyde stated there are some issues with the lower part but there is 33 feet adjoining lot 4 of Gardenbrook on the north and west sides which meets the requirements for their half of the right of way.

There were no other questions so the hearing proceeded.

Neil Wilkerson, appellant and adjoining property owner, stated his concerns about the road and right of way issues, showing the commissioners the original plat of the Gardenbrook subdivision. The county failed to acknowledge several years ago the lack of a 66 foot right of way off the North Cove Road, forcing him to sell 13 feet to even make the access road wide enough for 2 way traffic. This was a private drive until the subdivision was platted.

Mr. Wilkerson feels the county will have a lawsuit if they approve this minor subdivision just over the road issues. Tri County Health should require Mr. Wells drainfields to be 200 feet from Mr. Wilkerson's well; not the 100 feet they stated in their approval letter. The concerns Mr. Wilkerson has as far as the rental issues, he stated he is ok with one or two homes on the 3 acre lot but not with double the residents that will go along with the duplex situation. Mr. Wilkerson replied to the statement that he rents his home by stating there are people staying in his home and are just helping him out by taking care of him since his wife left.

There was some discussion between the commissioners and Mr. Wilkerson about the narrow road, the nine or ten homes that already use that access, the addition of multi family homes and the increased population.

Mr. Wilkerson stated his son is an engineer for Summit County and feels the Wells are trying to squeeze thru a loophole. With all the problems that exist and the added population in this area nothing good can come from the approval of this minor subdivision.

Commissioner Jorgensen asked if there are any questions or comments. There were none and with no one else in opposition to speak, Commissioner Jorgensen asked if anyone in favor would like to speak.

Jone Wells, a Wells family representative in favor of the subdivision approval, stated they feel they are in total compliance by dividing the 3 acre parcel in 3-1 acre lots. They do not want to change zoning or ask for a variance. They are following the minor subdivision rules and have the right to divide and build the duplexes as long as they have TriCounty Health approval and approval from the Minor Subdivision process. The petition stated the neighbors do not want duplexes in the neighborhood because of the renter situation. Mrs. Wells stated the neighborhood is already full of renters including Mr. Wilkerson whether he charges them to live there or not he does have extra persons living with him. Ms. Alexander has rented her home for the last 5 or so years and many homes in the Royal Stewart Subdivision have apartments in their basements. In the petition, they state most lots are 5 acres in reality most are between 1 and 2.5 acres. The petition states the duplexes will devalue the neighborhood. Comparing what the Wells are proposing to some of the properties in the area it can do nothing but add value, not decrease the value.

Mrs. Wells stated Roosevelt City ran a water line that they will hook up to not only to have good water and pressure but now they can fight fires in the area if need be. TriCounty Health has approved their septic system with the 100 foot barrier from Mr.

Wilkerson's and Ms. Alexander's well and lot split so all the standards and conditions for approval have been met. Mrs. Wells stated the neighbors could purchase the lot for their cost and they would go elsewhere but the only way to make that happen she stated is 1-buy the lot or 2- have protective covenants in place. Mr. Wilkerson's road issues are his problem they have not done anything illegal or jumped through any loopholes to get our way. Mrs. Wells does not feel that this will turn into a high density population area or devalue the land and urges the Planning Commission to follow Mr. Hyde's recommendation for approval of the Paul Wells Minor Subdivision.

Commissioner Jorgensen asked if there was any one else in favor to speak. There were none, so Mr. Wilkerson was invited to speak in rebuttal.

Mr. Wilkerson stated the property has been for sale for years and Mr. and Mr. Wells paid too much for the land so no one can afford to purchase it from them. He is okay with a new home on the lot, he just does not want duplexes in his neighborhood.

Commissioner Jorgensen asked if there were any other questions or comments. There were none so the hearing was closed.

There was some discussion with the commission about the road and right of way issues and the improvements needed for future development and TriCounty approval whether or not the septic systems can sustain the use of the duplexes the Wells are proposing.

Commissioner Olsen motioned that the hearings officer's decision be upheld and the minor subdivision approved subject to the conditions stated in the staff report. Commissioner Moon seconded the motion and it passed unanimously.

Mr. Hyde reminded the audience that the decision could be appealed to the County Commissioners within ten days of the date the decision is mailed.

Commissioner Mair returned to the meeting.

NEW BUSINESS:

None

Minutes: Approval of July 10, 2012

Commissioner Olsen moved to approve the minutes of July 10, 2012.

Commissioner Moon seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde stated there are already three applications for the September 5th meeting. There was some discussion on the zoning ordinance text amendment and the decisions the County Commissioners made and the reasons for their decisions including there cannot be a "one size fits all approach" for the control of the number of animals. It is the commissioners feeling that it might be easier to enforce the nuisance ordinance rather than amend the zoning ordinance. The commissioners do not want the Planning Commission to be offended because of the changes that were made and they do value

the decisions the Planning Commission makes. There were some comments on the John Swasey letter to the editor concerning animals, feed lots, farmers and ranchers and what applied to each of them.

Mr. Hyde welcomed Allen Lindsay and thanked him for his willingness to serve on the Planning Commission.

Adjournment:

Meeting adjourned at 6:10p.m.