

**ELK RIDGE PLANNING COMMISSION MEETING – PUBLIC HEARINGS**  
**May 3, 2007**

**TIME AND PLACE OF PLANNING COMMISSION MEETING ROLL CALL**      A regular meeting of the Elk Ridge Planning Commission was held on Thursday, May 3, 2007, 7:05 p.m., at 80 East Park Drive, Elk Ridge, Utah.

*Commissioners:* Russell Adamson, Shawn Eliot (arrived 7:25 p.m.), Kelly Liddiard, Scot Bell, Dayna Hughes  
*Absent:* Kevin Hansbrow, Sean Roylance, Paul Squires  
*Others:* Ken Young, City Planner  
Margaret Leckie, Planning Commission Coordinator  
Clifford Ammons, Ray Day, Susan Meyer, Elliot Smith, Jason Smith, Lilakee Branam, Loy Jolley, Kendall Jolley, Vint Jolley, Alvin Harward, Jerrold N. Patterson, Julie Patterson, Travis Russell, Brooke Russell

**OPENING REMARKS & PLEDGE OF ALLEGIANCE**      Chairman, Russell Adamson, welcomed the commissioners and guests. Opening remarks were given by Scot Bell followed by the Pledge of Allegiance.

**APPROVAL OF AGENDA**      The agenda order and content were reviewed. The one correction to the agenda was in Item 7. “Concept” Plat should be changed to “Preliminary” Plat for Horizon View Farms

**A MOTION WAS MADE BY RUSS ADAMSON AND SECONDED BY SCOT BELL, TO APPROVE THE AGENDA FOR THE PLANNING COMMISSION MEETING FOR MAY 5, 2007 WITH THE ONE CORRECTION LISTED ABOVE. VOTE: YES-ALL (4), NO-NONE (0), LATE (1) SHAWN ELIOT, ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**1. PUBLIC HEARING ON PLAT VACATION OF SALEM HILLS, PLAT B, BLOCK 5, LOT 3 AND PRELIMINARY AND FINAL PLAT, BURTON SUBDIVISION, PLAT A (BURTON LOT SPLIT)**

Chairman Adamson opened the public hearing at 7:10 p.m. and read from the memo in tonight’s packet written by Ken Young, City Planner:

The applicants (Burton’s) have requested to split the lot as shown on the attached plat. Lot 1 will have access on Park Drive with a circular driveway. Lot 2, with the existing Burton home, will maintain access on Autumn Circle. The proposed two new lots meet the minimum square footage and lot frontage requirements of the R-1 15,000 zone. The Technical Review Committee has reviewed this application and has found no further concerns. Curb and gutter are not recommended since the area is mostly developed and none exist nor are anticipated to be installed in the area in the future. It is recommended that the Planning Commission recommend approval of this simultaneous submission of a preliminary and final plat for the Burton Subdivision, Plat A.

Chairman Adamson opened the floor for public comment and commissioners comments. The following comments were made:

1. Lila Branum, neighbor, wondered what the lot size was now. She thought that the Burton’s had tried to split the lot 10 years ago and the lot was too small. City Planner, Ken Young, read from the plat that the lots are both over 15,000 sq. ft., which is the minimum required in that zone. He also found in the old code that the minimum lot size was 11,000 sq. ft. at one time.
2. Russ Adamson questioned why the lot fronted the busier street when there were two frontage options. It was stated that the frontage requirements could not be met on Autumn Circle.
3. Scot Bell expressed concern about having a back fence for the lot with the Park Drive frontage on Autumn Drive. Having the back of a lot next to the front of a lot is not good. There was some discussion about the front of the lot being along the busier street when the lot did have access on a less busy street, Autumn Circle. The circular driveway does meet the requirement for a lot with access on a major collector. When the commissioners got in a discussion about how to design the lot to be more aesthetically pleasing, Councilman Harward reminded them that as long as the design meets the code, it is improper for them to get involved in the design.
4. Shawn Eliot read from Section 10-12-13  
*E. Double Frontage Lots: On double frontage lots, a sight obscuring fence, wall or hedge or similarly enclosing planting or structure may be placed along the rear property line provided that the placement will not result in the establishment of a hazardous condition to adjacent properties, as determined by the zoning administrator.*

The zoning administrator, Ken Young, thus, will be responsible for determining the appropriate

fencing on the rear of the lot.

5. Scot Bell also questioned whether the lot facing Autumn Circle (cul-de-sac) met the minimum frontage requirement for the R-1-15,000 zone. Planner, Ken Young, explained that the cul-de-sac frontage requirements are different than normal lots. The frontage is measured 30 feet back on a line drawn perpendicular to the tangent line drawn from the cul-de-sac.
6. There was concern mentioned by Vint Jolley that the large lots are hard to maintain, are unsightly, fire hazards and prevent realistic use of land as more people occupy the state. Also, some of these larger lots were bought with the intent that dividing them in later life and selling a portion would help provide for retirement.

**A MOTION WAS MADE BY DAYNA HUGHES AND SECONDED BY KELLY LIDDIARD, TO RECOMMEND APPROVAL OF THE PROPOSED PLAT VACATION OF SALEM HILLS, PLAT B, BLOCK 5, LOT 3 AND PRELIMINARY AND FINAL PLAT OF THE BURTON SUBDIVISION, PLAT A. VOTE: YES (4), NO (1) SCOT BELL, ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**2. PUBLIC HEARING ON PLAT VACATION OF SALEM HILLS SUBDIVISION, PLAT C, LOT 9 AND PRELIMINARY AND FINAL PLAT OF SALEM HILLS SUBDIVISION, PLAT K (JOLLEY LOT SPLIT)**

Chairman Adamson opened the public hearing at 7:25 p.m. and read from the City Planner’s memo which contained the following information:

The Jolley’s have requested to split their lot as shown on the plat in tonight’s packet. A portion of the lot in the southeast corner has been sold to the adjoining property owner to the south, Brad Turner. The proposed two new lots meet the minimum square footage and lot frontage requirements of the R-1 20,000 zone. The Technical Review Committee has reviewed this application and found no concerns. Curb and gutter are not recommended sine the area is mostly developed and none exist nor are anticipated to be installed in the area in the future. It is recommended that the Planning Commission recommend approval of this simultaneous submission of a preliminary and final plat for Salem Hills Subdivision, Plat K.

Chairman Adamson opened the floor for public comment and commissioners comments. The following comments were made:

1. There were no public comments. Commissioner Dayna Hughes had questions about the Turner portion of the Jolley lot and how that would end up after the plat vacation and final plat. Planner, Ken Young, explained that the original intention was for the Jolley’s and Turner’s to vacate and form a new subdivision but that did not work out. This portion would now be an unplatted piece of land after the vacation and when the Turner’s do their lot split (plat vacation and new plat), they will include this portion of land in their new plat.
2. It was noted by the planner that the frontage, though looks substandard at 98.95 feet, includes a 10 foot easement which meets the minimum frontage requirement.

The public hearing was closed at 7:30 p.m.

**A MOTION WAS MADE BY DAYNA HUGHES AND SECONDED BY RUSS ADAMSON, TO RECOMMEND APPROVAL OF THE PROPOSED PLAT VACATION OF SALEM HILLS, PLAT C, LOT 9 AND PRELIMINARY AND FINAL PLAT, OF THE SALEM HILLS SUBDIVISION, PLAT K. VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**3. PUBLIC HEARING ON PLAT VACATION OF SALEM HILLS SUBDIVISION, PLAT A, BLOCK 9, LOT 6; PRELIMINARY AND FINAL OF BEAN SUBDIVISION, PLAT A**

Chairman Adamson opened the public hearing at 7:30 p.m. and read from the City Planner’s memo which contained the following information:

The applicants, the Beans, have requested to split the lot into 3 new lots as shown on the attached plat. Lot 1 will have access on Canyon View Drive, while Lots 2 and 3 will have access on Alpine Drive. The proposed three new lots meet the minimum square footage and lot frontage requirements of the R-1 15,000 zone. Corrected rear yard setbacks have been requested showing 30’ setbacks on all lots. The Technical Review Committee has reviewed this application and has found no further concerns. Curb and gutter are not recommended since the area is mostly developed and none exist nor are anticipated to be installed in the area in the future. It is recommended that the Planning Commission recommend approval of this simultaneous submission of a preliminary and final plat for the Bean Subdivision.

Chairman Adamson opened the floor for public comment and commissioners comments. The following comments were made:

1. It was requested that prior to the City Council meeting where this project is reviewed, a new plat be submitting containing the correct setbacks.. If the County is amenable to having the current plat marked with the correct setbacks that was acceptable by the Planning Commission.
2. Susan Meyer, a neighbor, spoke up. She had no objections but wanted to know the time line as she is doing some work on her property and was using the Bean property for access.
3. Scot Bell questioned whether the frontage on the plat of one of the lots was under the required footage. The Beans pointed out that the frontage included the easement shown next to the lot so the actual frontage was a sum of the two figures on the plat.

The public hearing was closed at 7:40 p.m. There was no further public comment .

**A MOTION WAS MADE BY SCOT BELL AND SECONDED BY RUSS ADAMSON, TO RECOMMEND APPROVAL OF THE PROPOSED PLAT VACATION OF SALEM HILLS, PLAT B, BLOCK 9. LOT 5 AND PRELIMINARY AND FINAL PLAT, OF THE BEAN SUBDIVISION, PLAT A; WITH THE CONDITION THAT THE 30-FOOT CORRECTED REAR SETBACKS BE SHOWN. VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**4. PUBLIC HEARING  
ON CLOWARD  
ESTATES  
SUBDIVISION, PLAT B**

Chairman Adamson opened the public hearing at 7:40 p.m. and read from the City Planner’s memo which contained the following information:

The preliminary plat of the Cloward subdivision was reviewed and approved by the City Council and the applicant now desires approval of the final plat for this 39 -lot subdivision. The Planning Commission review the final submittal on 3/15/07 and found four corrections needed:

1. Show City development standard profile for detail on sumps.
2. Dot Drive needs to be shown to be constructed at a 56’ ROW, not 47’.
3. The General Plan calls for a 10’ trail along Dot Drive – either east or west side.
4. Correction of road name needed on profile sheet for Dot Drive (change Rocky Mountain Way to Goosenest Drive.)

These corrections have been submitted. It is recommended that the Planning Commission approve the plat based on the corrections made.

Chairman Adamson opened the floor for public comment and commissioners comments. The following comments were made:

1. Ken Young mentioned that there is a problem with water rights for the Cloward Estates Subdivision, Plat B. The developer is in the process of transferring water rights but this could take some time. The City Council is considering granting final approval with the condition that there be a waiver of entitlement (similar to a lien) on each lot stating that building permits will not be issued until water rights are provided for that lot.
2. Shawn Eliot pointed out on the final plat page, Dot Drive was not showing a 56’ ROW. Ken Young mentioned that the detail in the upper corner shows it correctly with a 10’ trail on the west side of the street.
3. Russ Adamson questioned why City code was not invoked which prohibits lots fronting on two streets. Elk Ridge City code, section 10-15-F3 reads:  
 10-15F-3: LOTS ABUT ON PUBLIC STREET; DOUBLE FRONTAGE LOTS PROHIBITED, EXCEPTIONS:  
 Each lot in a subdivision shall abut on a street dedicated to the city by the subdivision plat or an existing public street, either dedicated or which has become public by right of use, and is more than fifty six feet (56’) wide. Interior lots having frontage on two (2) streets are prohibited except in instances where topographic conditions make such design desirable. (Ord. 97-7-8-8, 7-8-1997)  
 City Planner, Ken Young, stated that this was overlooked in the review but the plat design would be grandfathered as it has already received approval. Ken Young will write a memo to City Council explaining this situation in case they want to look at this issue.

The public hearing was closed at 7:45 p.m. There was no further public comment.

**A MOTION WAS MADE BY SCOT BELL AND SECONDED BY DAYNA HUGHES, TO RECOMMEND APPROVAL OF THE FINAL PLAT OF THE CLOWARD ESTATES SUBDIVISION, PLAT B SUBDIVISION, WITH THE CONDITION THAT MR. CLOWARD SIGN WAIVERS OF ENTITLEMENT FOR EACH LOT STATING THAT BUILDING**

**PERMITS WILL NOT BE ISSUED UNTIL WATER RIGHTS ARE PROVIDED FOR EACH LOT. VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

The public hearing was closed at 7:45 p.m. There was no further public comment.

**5. PUBLIC HEARING ON ELK RIDGE CITY CODE AMENDMENT REGARDING DURABILITY RETAINERS**

Chairman Adamson opened the public hearing at 7:45 p.m.

Ken Young explained in his memo that concerns have arisen regarding the requirements for the posting of durability bonds. It is felt there should be more flexibility in the form of the bond. The Mayor asked that a public hearing be held to consider amending the portion of the Elk Ridge City code which deals with this issue.

The proposed amendment allows a tiered amount for the 6% portion of the bond for Engineering inspection from 6% to 3% depending on the estimated cost of improvements, and graduated amounts for the Bond Fee and Administration Fee depending on estimated cost of improvements (see table on memo for tonight's meeting in packet).

There was no comment during the public hearing. The public hearing was closed at 7:55.

**A MOTION WAS MADE BY RUSS ADAMSON AND SECONDED BY KELLY LIDDIARD, TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE PROPOSED AMENDMENT TO THE ELK RIDGE CITY CODE REGARDING DURABILITY RETAINERS . VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**6. AMEND ELK RIDGE DEVELOPMENT AND CONSTRUCTION STANDARDS RE: PUD RIGHT-OF-WAY – HORIZON VIEW FARMS – ELK RIDGE MEADOWS PUD, PHASE 4**

Ken Young read from his memo in tonight's packet explaining this request from the developers of Horizon View Farms (purchasers of Phase 4 of Elk Ridge Meadows PUD).

In review of a concept plan for the proposed development, which plans for 75 town homes, a need was determined by the applicant to request a revised version of the City's minimum 56' right-of-way requirement. The proposed concept layout of the town home units shows sidewalks at the "front" of the unit, and driveways at the "rear".

The requested new PUD right-of-way maintains the same amount of actual roadway, with two 17-foot drive lanes with type "B" curb, but alters the sidewalk and easement area outside of the roadway. (An example of the new PUD right-of-way cross section is shown on sheet 3 of the Horizon View Farms concept plan in tonight's packet). Utility easements are still maintained within the right-of-way, but the sidewalks are moved to the other side, or "front" of the units. This will better serve the needs of the design for the town home community, and will meet the City's needs for sufficient road width. The proposed layout of the town homes development will present a nice, front-door appearance from the surrounding City streets.

This is the first such development in Elk Ridge, and our code has not yet addressed the various development needs and possible options for multiple family projects. This is a reasonable request for this type of development.

RECOMMENDATION: (from memo) It is recommended that the Planning Commission move to recommend to the City Council that the Development and Construction Standards be amended to allow the proposed PUD 56' right-of-way.

The following discussion from the public and commissioners ensued:

1. Eliot Smith, purchaser of Phase 4 Elk Ridge Meadows (now called Horizon View Farms) stated there are two approaches. 1) to amend the Elk Ridge City Development and Construction Standards as explained above; or 2) ask for an exception to be made to the standards. Ken Young stated it may be difficult to get an exception from the City Council as you must find that standard unnecessary for the subdivision or that it would cause unreasonable hardship.
2. Eliot stated that they have formed a joint partnership with a builder who will build the town homes and they are in the project for the duration. He stated that for these type of developments you usually get 12-13 units per acre. Their proposed development is much less, it is closer to 7 units per acre. There is a significant amount of open space. They have take care to make sure that

there will be a nice front view from all the major streets abutting the development. Street view will be the front rather than the backs of the homes.

3. They have redone their original concept plan which had a 24' road and now have included in their concept the standard right-of-way, which is 56', with one modification. The amount of asphalt is the same, the curb and gutter is the same and there are 18' long and 19' wide driveways, which will allow for one and possibly two extra spaces per unit (a 20' driveway is what the standard is for two cars parking side-by-side). The only thing not on their design which is in the standard, is the sidewalk along the street. They will dedicate 8 feet on either side of the street to the City but the actual sidewalks will be at the front of the town home unit in the open space. Shawn Eliot stated that all the City would have to do to amend the Development and Construction standards is state:

*Within PUDs sidewalks can be moved from alongside the road to within the development.*

4. Ken Young felt the whether they achieve this via an exception, or an amendment to the Development and Construction Standards, the Planning Commission can recommend approval and let the City Council decide which process they want to use.
5. Chairman Adamson questioned what the developer's intentions were for the open space? Sod? Xeri-scape? Eliot Smith explained that the interior of the development will be sod, and the exterior will be a combination of sod and xeri-scape. The development contains about 70% open space. There are plans for a retention basin in the northwest corner of the project.
6. Eliot Smith stated that one of the projects their builder has done are the Salsbury Homes in Spanish Fork. They mentioned this when Russ Adamson asked if they had done any alley-load developments.
7. A Home Owner's Association would be formed or hired to maintain the grounds. Ken Young mentioned that this development contains significantly more open space than is usually the case for this type of development.
8. Shawn Eliot mentioned that the wider street allows for off-street parking but there is no where to do that near the units as the driveways are so close together. Eliot Smith mentioned their original concept had some off-street visitor stalls but when they were asked to do the wider roads, th is was the exchange they made. He again mentioned there is room in the driveway for two cars to park. He did not feel it was necessary to have both options available. The streets will be dedicated to the City.
9. This particular design is not conducive to hav ing individual patios for each unit.
10. The sidewalks are figured in as part of the calculation of open space.

The following discussion ensued regarding the exterior streets, Cotton Tail Lane and Sky Hawk Way:

11. Chairman Adamson summarized the original concern was that the developers wanted to do half-plus-nine roads. In meeting with the Mayor it was reiterated that Elk Ridge only allows full-width roads. Eliot Smith clarified that this issue is really between the City and Development Associates (Bob Peavley and Dave Milheim). The purchase of Elk Ridge Phase 4 was with the understanding that Development Associates would install Cotton Tail Lane and Sky Hawk Way. It was originally presented as half-width and that was missed in the early City reviews. When Pangea Development purchased the property it was with the understanding there would be half plus-nine roads installed. He understands why half-width roads are not allowed. He does not care how the issue gets resolved but when asked for another 34' on his property for the new full width road that was not planned on, it pinches into his property. Thus, putting in the full -width road would double the cost for Development Associates and Horizon View Farms would lose property they had purchased from DAI which they would have to purchase back for the road.

Being faced with coming up with alternatives, they met with the Mayor on Monday and had a follow-up meeting with David Church (City Attorney) on Wednesday. The four options discussed with David Church were:

- a. Eminent Domain – where the City comes in and condemns Lyle Smart's property (owner adjacent to Horizon View Farms on the west). There was not much interest in this option. The other side of the half-plus-nine originally shown road would be on his property and built by him when he develops his property, which is not in the foreseeable future.

- b. Shift all the road onto Horizon View Farms property. Horizon View Farms is not interested in this option, nor is DAI.
- c. Go thru a findings process and get into the legalities of how the project was approved in the first place. Development Associates can then get an exception from the ordinance and build a half-plus-nine road. David Church and the Mayor did not like this option.
- d. Horizon View Farms (Eliot Smith and Jason Smith) came up with a suggestion to do an alternative layout which was presented to the Planning Commission. (See added handout in tonight's packet). They would still give up property but the ROW would shift back and forth, but down south the alignment would remain the same for the other connecting subdivisions and proposed round-about. It was mentioned earlier this evening that one possibility was to do away with the road (portion of Cotton Tail Lane between 11200 S. and Sky Hawk Way). This option does not do away with the road but provides an alternative layout. They would dedicate to the City the area of right-of-way in the southern portion (but not build it) and DIA would develop the northern portion of the road (full -width) to the Sunset Lane entrance and stub at the other side of Sunset Lane. DIA would give the City cash to build their portion of the remaining right-of-way once the Lyle Smart property is developed. That way Horizon View Farms gets their access from 11200 South on the north and from Sky Hawk Way on the South.

Though this is not their issue (Horizon View Farms), it is to their advantage to get this issue resolved in a timely manner. Because of the shift, Horizon View Loop shifted to the east side of the east units. This puts all the fronts of the units facing the center of the project, which gives more of a courtyard feel. Dayna Hughes felt this was a better plan because as the kids played in the interior play area (tot lot and sports court), they would be visible from the front of the units.

- 12. Eliot Smith mentioned that the open space percentages and amenities would remain the same, but based on what was decided with the roads, the layout could change.
- 13. Ken Young had an even different suggestion. He did state that the portion of Cotton Tail Lane that would not be developed under Eliot's proposal does not have a significant need. It's only need was for the Phase 4 development. The new proposal addresses all the access issues.
- 14. Ken Young showed another possibility he discussed with the Mayor today. That was to reconfigure the project so that the accesses would be from 11200 South and Sky Hawk and the whole portion of Cotton Tail Lane adjoining Lyle Smart's property be eliminated. Eliot Smith stated they are open to that option.

Chairman Adamson summarized what was needed by the Planning Commission in this topic tonight.

- 15. The memo stated that the Planning Commission needed to decide whether to recommend, in regards to the interior road, Horizon View Loop, and exception be granted or the Development and Construction Standards regarding the 56- ROW be amended.
- 16. Shawn Eliot did bring up another code issue regarding off -street parking and the number of cars that would be parked per unit. Eliot Smith stated they would put very strict verbiage in the CC&Rs regarding a rental cap on the units. Kelly Liddiard mentioned this effects property value and ability to sell units also. Eliot mentioned they want this to be not affordable housing, but less expensive housing where the end product is more affordable for retirees and newlyweds. Putting this rental cap in the CC&Rs helps the integrity of the community.
- 17. Shawn Eliot read from the code regarding the number of spaces for off -street parking required. Ken Young mentioned we do not have code for multiple family dwellings. Eliot Smith mentioned that his project, even though it was multiple family dwelling, did meet the parking space standard read by Shawn Eliot.
- 18. Ken Young responded to a question by Chairman Adamson that it would be a good idea to make a recommendation to the City Council regarding the Cotton Tail Lane Issue, as well as the motion on the ROW code amendment or exception.
- 19. City Planner, Ken Young, felt that there were enough issues regarding Cotton Tail Lane which can have a big impact on the design of the development, that his recommendation would be to first resolve the road issue and have the developer then come back with a preliminary design based on what the City Council decides to do with the road. He felt it was premature to make any

decision now on the Preliminary Plat (Agenda Item No. 7).

**A MOTION WAS MADE BY RUSS ADAMSON AND SECONDED BY DAYNA HUGHES TO RECOMMEND TO THE CITY COUNCIL, REGARDING THE INTERIOR ROAD, HORIZON VIEW LOOP, IN HORIZON VIEW FARMS (ELK RIDGE MEADOWS, PHASE 4) THAT EITHER AN EXCEPTION BE MADE OR AN AMENDMENT BE MADE TO AMMEND THE ELK RIDGE CITY DESIGN AND CONSTRUCTION STANDARDS TO ALLOW THE LOCATION OF SIDEWALKS ON THE 56’ RIGHT-OF-WAY STREETS IN PUD’S TO NOT HAVE TO BE ALONGSIDE THE STREET. VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**7. HORIZON VIEW FARMS (ELK RIDGE MEADOWS, PHASE 4), PRELIMINARY PLAT**

Ken Young stated that since he wrote the memo included in tonight’s packet the road issue has come up and the memo no longer applies. He felt we need to set aside a recommendation on the preliminary plat and just give a recommendation on the road, Cotton Tail Lane.

The Agenda mistakenly listed this project as a concept stage when in reality, it is in preliminary stage. He stated that the design issues will be steered by the roads when commissioners started discussing which way the units might face.

Ken Young mentioned, concerning Eliot Smiths alternate plan presented tonight, that he has concern about putting money into escrow for a future road (the southern portion of Cotton Tail Lane) causes financial problems for the City as the cost of roads goes up that this escrow amount may not cover the future cost of the road. The Mayor was not in favor of this idea. Eliot Smith stated that an interest bearing account would help counteract this road construction cost increase. Also the City could approach this with DAI, that if the funds were short they could make up the difference between what is in escrow and what the actual cost turns out to be. Ken Young stated this is an issue that will have to be ironed out between the City and DAI (Development Associates).

**A MOTION WAS MADE BY RUSS ADAMSON AND SECONDED BY KELLY LIDDIARD TO**

- 1) TABLE THE DECISION ON THE PRELIMINARY PLAT OF HORIZON VIEW FARMS, AND**
- 2) TO RECOMMEND TO CITY COUNCIL THAT THE COTTON TAIL LANE NOT BE ABANDONED, AND THAT**
- 3) A WAY BE WORKED OUT TO KEEP COTTON TAIL LANE. THAT THE CITY WORK OUT SOMETHING WITH THE DEVELOPER THAT THE CITY WILL NOT BE LEFT SHORT-HANDED FUNDS-WISE TO PAY FOR THEIR PORTION OF COTTON TAIL LANE WHEN IT IS DEVELOPED.**

**VOTE: YES-ALL (5), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES.**

**8. APPROVAL OF MINUTES OF PREVIOUS PLANNING COMMISSION MEETING – APRIL 19, 2007**

The following corrections were made to the minutes.  
 P.1, last sentence, add “s” to “read”  
 P.3, Item 6, change “life to “live”

**A MOTION WAS MADE BY DAYNA HUGHES AND SECONDED BY RUSS ADAMSON TO APPROVE THE MINUTES OF THE APRIL 19, 2007 PLANNING COMMISSION MEETING WITH THE ABOVE CORRECTIONS. VOTE: YES-ALL (4), NO-NONE (0), ABSENT (3) SEAN ROYLANCE, KEVIN HANSBROW AND PAUL SQUIRES, ABSTAIN (1) SCOT BELL.**

Scot Bell abstained as he was not in attendance at the April 19, 2007 Planning Commission meeting.

**9. PLANNING COMMISSION BUSINESS**

In the minutes, Shawn Eliot suggested scheduling a work session with the City Council on the CE -1 zone. Russ Adamson asked Margaret to make sure we rescheduled another work session if the scheduled one on Tuesday, May 8, does not take care of the concerns.

Included in tonight’s packets were some memos from the Mayor. The following discussion took place regarding the memos:

**ROAD IMPACT FEE MEMO**

1. Chairman Adamson read from the Mayor’s memo requesting that the Planning Commission do a comprehensive and complete study as to:

- Do the roads being considered in the impact fee fill the intent and purpose of the impact fee ?
- Is the list complete?
- Are we comfortable with the list?
- Can we take action with the list?
- Are there additional concerns re: the Road Impact Fee Study?

Let the City Council know ASAP. The City Engineer is available for clarification of study.

2. The commissioners discussed the memo as follows:
  - a. Ken Young mentioned that in his discussion with the Mayor, the commissioners, in using the engineer, are not to direct any further reviews but to use him to ask questions and clarify. If the Planning Commission feels more research on the part of the engineer is necessary, they need to get that approved by the City Council.
  - b. Russ Adamson commented that this was discussed during the last joint work session with the City Council. Alvin Harward suggested (Russ was not sure if this was approved in the City Council meeting in the form of a motion) that they drop the High Sierra widening off the list and drop the Hillside connection to Elk Ridge Drive off the list and let the developers pay for these. Dayna Hughes felt the discussion was a little ambiguous. It was stated that this is the list, but it can all change.
  - c. Ken Young stated that the Mayor and City Council would like recommendations from the Planning Commissions as soon as possible. They have asked him to write a resolution adopting the portions of the impact fee analysis that relate to the culinary water system and waste-water collection system, but not including the roads. They hope to adopt the rest as soon as possible.
  - d. Chairman Adamson said that we will put it on our next agenda and asked Ken if that were soon enough. Ken Young felt that would be good. Most of the commissioners felt that they had already discussed most of this and just needed to get it in writing. Shawn Eliot mentioned that if the list is changed, it will require some further analysis.
  - e. All the commissioners have in their possession a copy of the Road Impact Fee section of the Impact Fee Study to review for the next meeting.

#### **ELK RIDGE MEADOWS PHASE 4 MEMO:**

This memo item has already been discussed in Agenda Items 6 and 7 regarding Horizon View Farms (Elk Ridge Meadows Phase 4).

#### **ELK HAVEN MEMO:**

This memo discussed the fact that the parties of the project have contacted our City Attorney, David Church, and are meeting with him today. A balance of fairness and legal position is needed between these developers and the City. We are now at a different level in the communications.

The Commissioners discussed the memo:

- a. Chairman Adamson referred to the memo in tonight's packet from Ken Young, City Planner, which he wrote in response to a recent memo from 4 members of the Planning Commission that was given to the City Council requesting that Plats A and B of Elk Haven come back to the planning commission. He felt that his comments and actions had not been fairly represented in these memos. He posed 5 issues which need to be resolved. They were discussed by the Planning Commission as follows:
  1. **Do or should the Elk Haven applicants have any vested rights in previous ordinance requirements?**
    - a. This is the main and key issue. Russ Adamson stated that the attorney is trying to figure this out and we cannot answer this. Dayna Hughes stated she felt this is the only issue. Dayna Hughes felt the answer to this question was "yes", as in the November 28, 2006 minutes, Ken Young made a comment that they were vested to a degree and they agreed to keep their slopes under 10%. A few days later, on December 12, the code was changed to 8%. Shawn Eliot read from the state code that an applicant is vested when a complete application is done and all fees have been paid. An application for land use approval is considered complete when the

application is provided in a form that complies with the requirements of the applicable zoning ordinances. We have nothing in our zoning ordinances that talks about the concept other than in the PUD code. The other issue is the statement that “if the land use authority, on the record, finds that a completing, countervailing public interest would be jeopardized by approving the application;...” the applicant is not entitled to approval of their application.

- b. Shawn Eliot stated that when the Elk Haven developers came to the planning commission in November with 15% slopes, it was denied, it was at that point that the planning commission initiated working with the City and Council and the developers in coming up with code that would protect the safety of our citizens. We went to our engineer, fire chief and other cities codes to come up with that code. All of these things point to the fact that the Planning Commission initiated a process because our ordinance didn't work.
- c. Ken Young stated that was maybe in your minds but was not made clear with a motion. Again, we don't have in our code a process for concept to be approved legislatively, but it was a recommendation that was recommended by Planning Commission and approved by City Council so even though it may not be officially titled as preliminary plan, in essence, it could be legally categorized as such. That is my opinion. I have no agenda with these developers, my whole approach is let's do what is good for the community while fairly dealing with the applicants. There needs to be some fairness in how we deal with their proposal.
- d. Dayna Hughes stated that the big issue is we don't know when preliminary plat was approved because City Council said that vesting occurs at preliminary plat approval. Ken Young said that was not approved to be City code until January of this year.
- e. Ken Young stated that when the Planning Commission passed their recommendation onto City Council for that concept plan, it really put things into motion as to how that road was going to be aligned, and to do other types of slopes, other than what was proposed on that concept plan would totally mess up the alignment and the proposal. We need to funnel this down into the determination of vested rights. Regardless of what was said, and what the intentions were, there's no point in these discussions until we are clear on when the vesting occurred.

**2. Does the grading site plan need to be approved by the Planning Commission before recommendations on the preliminary plat can be forwarded to City Council ?**

- a. Dayna Hughes stated “yes”. She referred to the minutes of April 5<sup>th</sup>, 2007, Shawn Eliot stated “remember, the code states that the complete grading plan must be submitted in conjunction with the preliminary plan”. Ken Young said regarding the memo that went to City Council, that he did not say we should go ahead and do the preliminary plat without the grading site plan. His question was “can we go forward with the preliminary plat with the understanding that this will come in and be approved”. He said he acknowledged that there was an error in the way it was brought forward.

Shawn Eliot's concern was that with RL's project (Mahogany extension) they did not require the vegetation plan, but asked him to tread lightly and keep some of the vegetation, The vegetation is all gone now. Many residents are upset about this.

- b. Dayna Hughes stated she is almost as concerned about the grading site plan as she is with the development. Can we change the code to require this plan be submitted before preliminary is approved or simultaneously?
- c. Ken Young stated that the concept that was approved by City Council for Elk Haven was very specific. It had the contours, the road grades etc. It was called a concept plan but otherwise fits in the mold of a preliminary plat. Even though it is not required to take a concept plan through Planning Commission and City Council, because of the requirements of the CE-1 Zone, all the concerns, and because the road was a steering mechanism to the entire development ; we felt it necessary to bring that forward for review and approval, just as we did with the Randy Young development. Shawn Eliot mentioned that in the Randy Young Development the

code did require a concept plan but for this development it did not. Ken Young said: “Regardless, it was a good effort to bring information forward so they could prepare their preliminary plat”.

- d. Dayna Hughes asked when we will hold the public hearing, as we are at preliminary plat stage and have not had any public hearings? Ken Young replied “at preliminary, but we won’t be ready until the road issue and vesting issue is resolved. Let me make this clear, the question of vested rights can drastically alter the proposal so there is no reason to even consider when the preliminary plats are coming back to us”.
- e. Shawn Eliot stated that the road grade code that we most recently adopted still allows up to 10%, it’s just that they have to prove that if they did 8% it would be detrimental. So when you look at their current road plan, there are places where the road is 9% or 10% grades and there are no cuts whatsoever. You would think that we would tell them that if they could keep it at 8% is that going to be a 2’ cut or what? There are other places where there are significant cuts.
- f. Scot Bell stated that the plat that came in should have come in with a drawing of the driveways and they did not. That is a minimum requirement not met on their preliminary plat.
- g. Shawn Eliot mentioned Code Section 10-9A-10 which states:
 

*... The grading plan shall be submitted prior to or in conjunction with the preliminary plan and shall include:...*
- h. Russ Adamson asked whether the developers knew they were to bring a site grading plan in with preliminary. Ken Young responded that they did not submit everything they needed to; but were put on the agenda assuming they were going to have that submitted to us. Perhaps on our end we did not make sure that everything was in the packet prior to it coming to you at the Planning Commission. So perhaps there was some staff error in making sure that all that information was brought forward. The intention was there. It was acknowledged that it was not complete and the grading site plan was not there.
- i. Russ Adamson stated we need to be stricter with the applicants. Shawn Eliot stated that this would be a situation where a complete application was not turned in as not all the submission requirements were met.
- j. Ken Young mentioned there are two separate actions, 1) The recommendation on the preliminary plat; and 2) the approval of the grading site plan. Two separate things. Does it mean you can’t go forward on one if the other is not done? That is my question. I felt I was misquoted when I acknowledged it was not a complete application.

**3. The Fairway Heights proposal seems to better meet the CE -1 code requirements, but may not meet the intent of the code. How can we help the applicant to understand the Planning Commission’s interpretation of the intent of the CE -1 code?**

- a. Dayna Hughes said that we need to let applicants know not to push the slope and grade envelopes. We do have to go by the code. Ken Young, yes we do that, but it is difficult when you have applicants who say “yes, I have met all the requirements” and there is a lot of subjective language in the CE -1 code and they feel they are meeting it, then they get stopped at Planning Commission. Dayna Hughes mentioned that on one of the Elk Haven plats over half the lots were over the building envelope slope requirement.
- b. Ken Young’s recommendation: We have a great ordinance in place. I think it needs to be refined. The subjective language needs to be specified or removed. It would be beneficial for all if we had a specific checklist that brings out everything the applicant needs to look at. Maybe there could be some intent language at the top, but the rest has to be more specific.

**4. Should a comprehensive checklist of all the requirements and intents of the complex CE-1 zone code be prepared to assist applicants, engineers, staff, Planning Commission and City Council to better understand and review CE -1 zone developments?**

- a. Dayna Hughes felt that a checklist would be great. When she attended her training for Certified Planners there were checklists passed out. She gave a copy to Margaret Leckie. Russ Adamson stated there are major problems with the CE -1 code. We should have put a “moratorium” out on CE-1 development until the code work was finished. We tried to work with these developers as we tried to develop the code and now it is coming back to bite everybody. Ken Young said we cannot make that move, but the City Council can.
- b. It was decided to wait on that recommendation till after the joint City Council meeting on Tuesday.

**5. Should a special review committee be established to review and recommend on all CE-1 zone developments prior to plats being presented to the Planning Commission.**

- a. Dayna Hughes said “no”. That would just muddy the water. The Planning Commission should be the review body. Ken Young added that this would especially not be needed if Item 4 (checklist) were done correctly.
- b. The commissioners discussed the possibility of calling a 180 day stop on CE-1 development until we have worked out the problems in the code. Ken Young said that anything that is already applied for would have to continue and be done with, including Elk Haven and Fairway Heights, Plat C. Shawn Eliot questioned whether the Fairway Heights, Plat C application would be considered complete? He felt since there is no grading plan it is not complete. It was decided to wait until Tuesday’s meeting to consider this.

**10. FOLLOW-UP ASSIGNMENTS / MISC. DISCUSSION**

- 1. The Planning Commission will meet early for our next meeting (6:30 p.m) and spend an hour going through the questionnaire for the General Plan public survey prior to the Planning Commission meeting on the 17<sup>th</sup> of May. The Planning Commission meeting will start at 7:30 and the work session will be from 6:30 p.m. to 7:30 p.m. .
- 2. The CE-1 changes will be reviewed at the next meeting.
- 3. The Road Impact Fee recommendations will be discussed.

Dayna Hughes mentioned concern that when make a motion that is going for ward to City Council, and it is on their agenda for the following Tuesday, there is no way for the Council members to get our minutes and know of our discussion and concerns . It feels like we are wasting our time. It feels like we should have that two week break so they can get our motion and discussion. Russ Adamson asked how this can be done. Ken Young mentioned that this was discussed by staff and it was decided we would have this two week gap in between. There are exceptions that are made, but in general that is the procedure.

**11. ADJOURNMENT**

Russ Adamson adjourned the meeting at 9:45 p.m.

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Planning Commission Coordinator