



**Planning Commission Minutes**

**9 July 2020**

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**Present:** Chris Harrild, Angie Zetterquist, Lane Parker, Nolan Gunnell, Chris Sands, Jason Watterson, John Luthy

**Start Time: 05:31:00**

**Gunnell** called the meeting to order and **Parker** gave the opening remarks.

**05:33:00**

**Agenda**

No changes

**05:34:00**

**Minutes**

***Parker** motioned to approved the minutes from June 4, 2020; **Sands** seconded; Passed 4, 0.*

**05:34:00**

**Consent Agenda**

**1. Rogers Lot Split Subdivision 1<sup>st</sup> Amendment**

**2. Cherry Creek Ridge Subdivision – Lot 3 Amendment**

***Sands** motioned to approve the Consent Agenda; **Watterson** seconded; Passed 4, 0.*

**05:35:00**

**Regular Action Items**

**3. Cache County Humane Society Subdivision 1<sup>st</sup> Amendment**

**Zetterquist** reviewed the staff report for the Cache County Humane Society Subdivision 1<sup>st</sup> Amendment.

**John Drew** commented on the swapping of land between the Humane Society and Logan City.

**Sands** asked about the name.

**Mr. Drew** stated the name is Cache Humane Society and operates entirely as a non-profit and on donations. There are plans to expand the operations in the future and a zoning change will have to be applied for at that time.

***Watterson** motioned to approve the Cache County Humane Society Subdivision 1<sup>st</sup> Amendment based on the findings of fact with the stated conditions and conclusions; **Parker** seconded; Passed 4, 0.*

**05:40:00**

#### **4. West Canyon Ranch Processing Conditional Use Permit – continued**

**Zetterquist** reviewed the staff report for the West Canyon Ranch Processing Conditional Use Permit.

**Staff** and **Commission** discussed possibly combining the two conditional use permits (CUPs) into one permit or to continue with two different CUPs.

**Staff** and **Commission** discussed CUPs becoming the primary use of the parcel and how two CUPs affect that.

**Jason Summers** stated he would like to have the two CUPs remain separate.

**Sands** asked if the recreational CUP is seasonal.

**Mr. Summers** stated yes.

**Gunnell** asked if the months stated in the CUP, August-December, are the correct months for the recreational CUP.

**Mr. Summers** stated there is some spring hunting with turkeys. Ranching is still the primary use of the property.

**Luthy** stated that for the Agritourism label to be applied to the property the primary use has to be agricultural. If a CUP automatically becomes a primary use, then the recreational CUP cannot be used for Agritourism.

**Mr. Summers** asked where in the code it states the CUP becomes the primary use.

**Harrild** stated in the general definitions, 17.07.040.

**Staff** and **Commission** discussed the primary use of the parcels being Agriculture and not the recreational CUP. Because the agricultural use of the parcels is the primary use, Agritourism is allowed.

***Watterson** motioned to approve the West Canyon Ranch based on the findings of fact with the stated conditions and conclusions; **Parker** seconded; **Passed 4, 0.***

**05:51:00**

#### **5. Shawn Cronquist Conditional Use Permit**

**Zetterquist** reviewed the staff report for the Shawn Cronquist Conditional Use Permit.

**Luthy** informed the Commission there are some legal questions regarding this application on whether this is a minor temporary operation or a long term commercial operation and reviewed the definitions of each use in the County Code.

**Staff** and **Commission** discussed the possibility of continuing the item while the legal questions regarding this item being a commercial use or temporary use are discussed.

**Brad Bearnson** commented on behalf of the applicant and commented on the applicant's intent to level his property and use the excess material in his landscaping business. This is not a long term, continuous business for the applicant and does not meet the definition of a commercial extraction operation.

**Watterson** asked if the operation would continue for approximately 15-20 years and if that is inaccurate.

**Mr. Bearnson** responded about the accuracy of the application and continuous improvements being needed on the land.

**Luthy** stated there may be some misunderstanding because the application does not read as Mr. Bearnson describes and it is not fair to put the blame on the County for misinterpreting the application.

**Mr. Bearnson** responded he agrees with Mr. Luthy but it does not read as Mr. Luthy describes either.

**Luthy** responded that there needs to be further discussion and clarification from the applicant or have the applicant apply for a shorter time frame with smaller acreage.

**Mr. Bearnson** commented on having to come back every 2 years for a new application.

**Luthy** responded the County would like to have the accountability these types of projects require.

**Mr. Bearnson** commented running cattle is the main use of the land and this is secondary.

**Luthy** stated it sounds like there is more discussion that needs to happen before a decision can be made.

**Staff** and **Commission** discussed the amount of material expected to be extracted and the possible timeline for the first 5 acre phase of excavation and how that information will be useful for a determination as to the type of use under the Code.

*Sands motioned to continue the Shawn Cronquist Conditional Use Permit until the next meeting; Watterson seconded; Passed 4, 0.*

**Harrild** stated this is not a public hearing but a public meeting. That means it is at the discretion of the Commission to hear public comment during this meeting.

**06:20:00**

## **6. Whisper Ridge Conditional Use Permit Revocation Review Update**

**Dayson Johnson** informed the Commission that BioWest came out and reviewed the project. Their opinion is that the work done fell under the agricultural exemption. The plan now is to reseed and stabilize the area and place a pipe.

**Gunnell** asked if the disturbance was originally done for an agricultural need.

**Mr. Johnson** stated that the original work fell under the agricultural exemption but no further work can be done without a wetlands delineation according to BioWest.

**Gunnell** asked about Staff's opinion.

**Harrild** stated he has not read the BioWest report and would need to have another engineer review BioWest's findings to confirm them but there is significant impact at the site.

**Gunnell** asked about what the main use is and why the dam was originally done.

**Sands** commented that if the dam is setup to utilize existing water rights for agricultural use it is exempt.

**Staff** and **Commission** discussed the original intent of the work and if it is a dam.

**Mr. Johnson** stated this is not a dam but what is being seen is the inlet comes in at the top and goes out. This was created for an irrigation purpose and the road was being flooded out.

**Gunnell** asked if the inlet still flows through the containment or if it is spring fed.

**Mr. Johnson** stated it's a spring.

**Gunnell** asked if the stream was part of the containment at all.

**Mr. Johnson** stated no.

**Luthy** commented that the pond is not fully fed by the spring; there is a stream that comes in at the top and out at the top.

**Mr. Johnson** stated the spring is a little up and to the left and does flow down to the containment.

**Luthy** there is a stream that comes into that pond and leaves that pond. The pond is fed by a stream.

**Mr. Johnson** responded yes.

**Luthy** stated that the stream comes in at the top of the pond and exits at the top of the pond.

**Mr. Johnson** commented yes but the containment was done to help with the road and falls under the agricultural exemption. Further work cannot be done without a wetlands delineation.

**Harrild** asked if Mr. Johnson has contacted the Army Corp of Engineers.

**Mr. Johnson** responded no but can do so if directed to.

**Harrild** commented that the report at one point recommends contacting the Army Corp of Engineers.

**Mr. Johnson** responded that he has an email stating that from BioWest that can be forwarded on that says it's not needed.

**Harrild** stated he would need to see an updated report instead of an email stating that.

**Mr. Johnson** commented he will get the report updated to reflect that.

**Gunnell** stated he still would like to see more clarification of if the containment was done for an agricultural use to begin with because he doesn't feel it was.

**Mr. Johnson** stated he is happy to arrange for the Commission to visit the site if needed or wanted.

**Sands** commented that BioWest is representing the applicant and it is their professional opinion. As stated in the report the only people who can make a final determination is the agencies listed. If the commission is uncomfortable one of the options would be to receive approval from the agencies stating it falls under the exemption.

**Gunnell** commented that this came to the Commission because of major disruption and bike paths that were done as recreation but now it's being described as agriculture.

**Mr. Johnson** stated the pond was never for recreation. The bike trails have stopped being used as public recreation also.

**Gunnell** asked if the reason for doing the pond was because of the roads washing out.

**Mr. Johnson** responded yes, for roads and an agricultural feed lot further down the canyon.

**Gunnell** asked how many cattle are there.

**Mr. Johnson** stated he didn't know but can come back with that number.

**Luthy** asked if there were fish in the pond.

**Mr. Johnson** stated there is Bonneville Cut Throat.

**Luthy** asked if there is fishing that will go on.

**Mr. Johnson** responded they do fish the rivers there but that was not the intent of the containment.

**Gunnell** stated this has answered most of his questions but raised another one regarding the original intent of the containment.

**Sands** commented this was one of the last remaining items to deal with.

**Mr. Johnson** stated yes, this took longer due to weather.

**Sands** commented that he has to recuse himself from voting but asked what the final step is for this process.

**Harrild** commented that a decision would need to be made to revoke the permit or not. When the commission feels they are ready a motion will need to be made.

**Staff** and **Commission** discussed requiring clarification from the Army Corp of Engineers regarding the containment being an agricultural exemption.

**Mr. Johnson** stated he does not know what the timeline would be to receive that letter from the Army Corp of Engineers.

**Staff** and **Commission** discussed the timeline of continuing the item to receive the information from the Army Corp of Engineers.

**Mr. Johnson** stated he can contact the Army Corp of Engineers and let staff know when he hears back.

**Sands** commented that it would be good for Mr. Johnson to submit the re-vegetation plan.

**Mr. Johnson** stated he can do that.

***Parker** motioned to continue the Whisper Ridge Conditional Use Permit Revocation up to 90 days to allow time to hear back from the Army Corp of Engineers and State Division of Water Rights; **Watterson** seconded; **Passed 3, 0 (Sands abstained).***

**Harrild** stated he has no reason to disagree with BioWest on their recommendation but wants to check the history of the application to see how the original intent of the containment was described.

**Staff** and **Commission** discussed how item number 5 was noticed and the definition of a temporary extraction. How gravel pits have been designated around the County as temporary or commercial was also discussed.

**Staff** and **Commission** discussed roads, road improvements, how to pay for improvements, and road maintenance.

**Adjourned**