

**ALPINE CITY PLANNING COMMISSION MEETING at
Alpine City Hall, 20 North Main, Alpine, Utah
Oct 07, 2014**

I. GENERAL BUSINESS

A. Welcome and Roll Call: The meeting was called to order at 7:05pm by Chairman Jason Thelin. The following commission members were present and constituted a quorum.

Chairman: Jason Thelin

Commission Members: Bryce Higbee, David Fotheringham, Jason Thelin, Chuck Castleton, Steve Swanson, Judi Pickell

Commission Members Not Present: Steve Cospier

Staff: Jason Bond, Marla Fox, Jed Muhlestein, Shane Sorensen, David Church

Others: Will Jones, Roger Bennett, Annette Scott, Mary Jo Matthews, Kevin Matthews, Scott Blackburn, Maxine Blackburn, JaNae Parker, Bruce Parker, Darwin Beck, Martha Beck, Aaron Russ

B. Prayer/Opening Comments: Chuck Castleton

The Planning Commission welcomes David Fotheringham as the newest member.

II. PUBLIC COMMENT

Will Jones said he would like the Planning Commission to give some input on street parking. He said we are getting complaints on this all over town and it needs to be addressed. Jason Thelin said residents are parking trailers and other recreational vehicles on the street for long periods as well. David Church said this is a traffic issue in the Municipal Code. It states that a car can't be parked longer than 48 hours. The Planning Commission said they would like to see this code enforced. Bryce Higbee suggested talking to neighbors and asking them to move their vehicles. He said we should send a notice out in the newsletter reminding residents that this will be enforced. Judi Pickell asked what the process was. Jason Bond said he sends a letter and if the vehicle is not removed, he calls the police and asks them to go out and take care of the issue. Jason Bond said this applies to construction vehicles as well and they should know the rules.

III. ACTION ITEMS

A. Olde Moyle Mound Final Plat B

The proposed Olde Moyle Mound Plat B subdivision consists of 3 lots on 1.92 acres. This is phase 2 of the Olde Moyle Mound subdivision which improvements have been built, bonded, and approved. The developer is requesting to record the next phase of the development which requires no construction as all the infrastructure exists. The 3 lots range in size from 20,070 to 20,150 square feet. The lots are located on the north side of Quail Ridge. There are two remaining lots in the development which will be part of the final phase to record when the developer is ready. The proposed development is an approved PRD in the CR-40,000 zone.

Jed Muhlestein said this is a subdivision that has already been approved and built and all of the infrastructure is there. The developer has decided to record the phasing of lots.. There are already three or four lots developed and recorded and this is phase two where the developer is recording three more lots in the overall development. He said because this is a PRD, we have to make sure the open space is correct and it is. Jed Muhlestein said the developer has provided 27 percent open space when 25 percent was required. He said these lots all meet the square footage and frontage requirements.

Steve Swanson said we are to preserve open space to meet the recreational, scenic and public service needs. He said he didn't think this PRD fit the needs of the city. He said we need to address PRDs in the future and not just approve them Helter Skelter. Jason Bond said it is at the city's sole discretion if they want a PRD. Jason Bond said private versus public open space needs to be discussed and it is on his list of things to do in an upcoming meeting.

Jed Muhlestein said the redlines have been addressed and the water policy still needs to be met. He said that is something Charmayne Warnock checks before it is recorded.

MOTION: Bryce Higbee moved to recommend final approval of the proposed Olde Moyle Mound Final Plat B with the following condition:

1. Water policy be met.

Judi Pickell seconded the motion. The motion passed with 6 Ayes and 0 Nays. Bryce Higbee, David Fotheringham, Jason Thelin, Chuck Castleton, Steve Swanson and Judi Pickell all voted Aye.

B. Ilangeni Estates Plat A Amendment

Jason Bond said this is an ongoing, recorded and approved development but the developer is here for an amendment on the plat and proceed forward with a new plan.

The proposed Three Falls Ranch development consists of 54 lots on 725 acres. The lots range in size from 1.37 to 6.96 acres. The development is located at the north end of Fort Canyon in the CE-5 zone. This proposal is to amend the existing Ilangeni Estates plat with the submitted Three Falls Ranch preliminary plat. The developer wishes to phase the project and obtain Final Approval for each phase of construction with its associated plat as they progress.

The first phase would include 5 lots, improvements to Fort Canyon Road, a water tank, infrastructure to support the development, and 2.5 acres of developed open space which includes a parking area and trailhead.

Development of this property has been in the works since 1984. Much work and effort from both the developer and the City has taken place over the years. From recent discussions, there are three remaining obstacles to overcome, which are:

1. Fort Canyon Road Improvements.
2. The Beck properties and whether or not they should be part of the development.
3. What to do with Sliding Rock

David Church said this subdivision has been a problem for a long time and needs to be resolved. He said in 1984, the City, at the request of the land owners, who are no longer involved with this property, petitioned the City to annex this property and do a development called Ilangeni Estates. He said it went through a fairly long process with a lot of public involvement and eventually it ended up with approval of a plat which was recorded. The City at that time had very similar subdivision ordinances to what they have now and a letter of credit was posted with the City with Citizens Bank to ensure the completion of the improvements.

David Church said the plat had 37 lots at that time and all the open space was platted as private open space to be held in common by the lot owners. Soon after it was platted, the economy crashed and the original developers ran into difficult times and went bankrupt. This happened after the plat was filed and after some significant work was done on the road. He said there are water lines in the ground, there's the start of a water system. Unfortunately for the City, at that time, Citizen's Bank went under and the letter of credit was no good and there was no guarantee left when the developers went broke. This left the City with no money to make the improvements that were needed. This property went into a long history of bankruptcy which the City was involved. There are stacks and stacks of legal filings with claims made in bankruptcy court, claims made with the FDIC about the letter of credit. In the end, there was nobody left to develop the subdivision and no pot of money for the City to finish the subdivision. After it all went through the bankruptcy process, banks foreclosed, and people began to buy at auction, we ended up with a whole new set of property owners. So instead of starting with one, we end up with a bunch of people who consider themselves not the original developers or purchasers of this property.

David Church said there are now eleven property owners who have approached the City, and did approach the City almost fourteen years ago and asked what they could do about the property. David Church said at the time, people who had bought a lot were calling saying the City had to give them a building permit and the City said no. The City met with some lawyers and gave the owners three choices. He told the people the City was not issuing building permits on those lots. He said there's no water system, there's no sewer system, and there's an inadequate road

system. He said the choice was they could vacate the plat and start over under our current ordinances. Or, he said the City will recognize what we've done and you can complete the plat and continue just the way we approved it. Or, there's a middle ground which is to attempt to amend the plat if you think it will be more palatable to you.

David Church said in 1997, the property owners were not all together. He said there were too many issues and no one could come forward with a plan. The City refused to give any building permits because there was no road system and no water system. He said what was left undone in 1985 and 1986 is they built part of the road but the road never connected to the public road in Fort Canyon. He said there was a gap in the road because of a piece of property owned by the Broadbent family. The Broadbent's were in a fight with the developers and the City signed some contracts that said the developers needed to work together to develop the road. The owners of the property where the proposed road was to go through, has changed hands several times and now has buildings on it and there is no way to connect the two sections of public road the way it was originally platted. He said we ended with a public right of way up Fort Canyon ending well short of the public right of way of Ilangeni Estates.

David Church said some fourteen years ago the owners got together and came to the City and said it won't pay for us to build Ilangeni Estates. They said they will not vacate the plat because they didn't trust the City to approve a development under the existing ordinances. They also said they did not believe under the existing ordinances the City will approve a development because there is only one way in and one way out. The current ordinance will require a second access road and there were also density issues with vacating, would they get a PRD approval, would they get their private open space and who would improve Fort Canyon Road to get to the plat and at what level.

David Church said at that time he told the developers that the City would run them through a process to see if they could come to an agreement with an amended plat and with what would be acceptable to the City and acceptable to the developers. David Church said it has taken ten years of going through the Planning Commission and the City Council to come up with an acceptable plan to make this subdivision go through. David Church said the City requires the developers to do the geological and hazardous studies as if it were a new development, the City required the developers to design the road up Fort Canyon, and they were required to acquire the right of way necessary. David Church said the developers had to come up with a solution for a second exit. He said at the end of ten years we have come close to an agreement.

David Church said what the City thought was an agreement among all the parties blew up because the City was assuming that the Beck interest, which is a private piece of property not included in the original Ilangeni Estates, was cooperating with these developers and the plat that was being amended was going to include the Beck property. He said that in 1985, the developers landlocked the Beck property and it was dispute back then. The Beck family came to the City and said they wanted a road, the old developers said the Beck's had no right to access from their property because they had another right of access from an old road. In 1985, Ilangeni Estates was allowed to be platted without granting access to the Beck property.

David Church said as part of this ten year process, he urged the developers to resolve the access issue. He said the City thought it was going to be resolved with them cooperating. At the end of that process, it turned out that they were not in agreement and the Beck interest said the developers could not include their property in the plat. The appeals and legal processes started and then the economy collapsed and the land owners backed off and said this no longer works for us. Another issue was the cost of the offsite road which was required. The bid amount was very high and the property owners said considering the dispute with the Beck's they decided to not spend the money and back off.

David Church said the developers are back again without the Beck's, and with the eleven owners of Ilangeni Estates. They have approached the City with a petition to amend the plat. David Church said the developers have a proposed amendment that is very similar to what the City was close to agreeing to before with a couple of changes to that. They would like to make it a PRD. The developers said they understand that amending the plat is in large part discretionary with the City and the decision making body on amending the plat is the City Council, but they need a recommendation from the Planning Commission. The developers said they will resolve some of the issues the City has with Ilangeni Estates, they will give the City some money to improve Fort Canyon Road, they will resolve the issue as to how to connect the existing Fort Canyon Road to the existing Ilangeni Estates road. They said they will not provide the City with a full road to exit the property, but they will improve the access to Fort Canyon by

creating an emergency access road. The developers indicated that they would resolve an ongoing political issue by dedicating to the City a significant amount of the open space that was all going to be private. In exchange for resolving all of those issues, they would like the City to amend the plat to give them the lots that they think they could get if they filed under our current PRD. The developers think they have filed an amendment that complies with the current ordinance.

As to the Beck issue, the developers said they will improve the situation but not resolve it. The developers said they would provide a right of way corridor where the Beck interest could build their own road to get to their property so they won't be land locked, but they refuse to build a road for them. If the Becks want to have a road, water and sewer, they will have build it and pay for it themselves.

David Church said the City is being sued for not providing this access and the lot owners have a cross suit saying that it's a takings claim. In the past the City has been threatened with a claim saying that owners have a right to build in Hlangeni but without any input of money to improve Fort Canyon Road. They said Fort Canyon is the City's problem and not their problem and the City needs to fix it. David Church said he sees the benefit of getting money out of the developers for Fort Canyon Road. He also said it was a benefit for the city to get an emergency fire access out of Fort Canyon even though it is not a full road.

David Church said the City has to pick a side on the Beck issue and make a decision in order for this issue to be resolved. He said the City has to say they will approve the amended plat with the preserved right of way, or yes, we will approve the amended plat but only if you build a full blown road for the Beck property. He said once this decision is made, the other side will have the right to appeal that decision and take it to District Court. He said there is no way the City can resolve this issue if the two parties can't resolve it between the two of them. He said the City has to pick a side; there is no compromise; there will be a winner in this.

David Church said the City needs to come to an agreement with the developers as to how many lots meet the PRD ordinance, configuration of lots that the City thinks meets the current PRD ordinance knowing that the developers are not asking the City to apply the PRD ordinance, the developers are just asking to amend their existing plat. David Church said he did not think there was a resolution where this old plat is vacated and we start over because the developers will not take the risk of giving up their vested rights to the current lots guessing what the City will do with a new application. He said the developers think they are starting from an approved plat, with an argument over who has to pay for the water system and who has to pay to build the road system because they think it is the City's fault that the water and road are not there. The City is taking the position that this new group is the successor to the developer and the City has no obligation to do it and if the City does have an obligation to do it, it's only to do it in our own good time. David Church said the City is not ready to build the Fort Canyon Road and the water system yet. He said if the developers want to wait until the City is ready, they can.

David Church said the developers said they will build the water system and will give the city some money to build the offsite road because they don't want to be in the road building business. The developers would like more lots and they are willing to throw in more open space that the public seems to want. David Church said this issue is on a tight timeline because it has to have a public hearing within 45 days and two weeks have already passed. This is the reason they are petitioning for an amendment instead of just saying put us through the process again for another five or six years.

Steve Swanson asked about the requirements for the Fort Canyon Road. David Church said our current standard road design would cost in excess of six million dollars. And Will Jones said that is just for the road and not for the retaining walls. David Church said the developers are offering 1.5 million dollars for this project. They have already acquired the right of way and dedicated this property to the City for the road. They want the City to make decisions about the road, the retaining walls and the sidewalks.

Jason Thelin said this debate has already taken place and he said he thought we had agreed on it. David Church said the Beck people appealed this decision and filed a claim in District Court challenging that decision. The Three Falls developers said the road is going to cost too and the economy went bad and both parties pulled out because attorney fees were too high and a decision wasn't made.

David Church said the principles in Three Falls have changed. They said the Fort Canyon Road is not on their property. It is an existing, offsite public road that is already there and said this is an exaction because we can't require from them more than we would any other developer.

David Church said the law on exactions is the City can take sufficient land and money of what their burden is by their development. It has to be proportionate to their burden of the development. David Church said he will guess that the developer's lawyer will say that Fort Canyon Road as it sits is a deficient road and whether they develop or not, it is a substandard road which does not meet the City's current codes. The developer's putting 57 homes up there does not change that fact and the burden these homes would put on the road already exists because it is an existing deficiency.

David Church said the City's response will be that the developer is adding more traffic and adding more houses and there will be an additional burden placed on this road by the addition of 57 houses and the developers will need to help pay their portion to fix the road. The developers will say that they are not responsible to repair 100% of the road but they will pay their portion and they feel that amount is 1.5 million dollars. The Planning Commission said the building of 57 homes will make the road more deficient than is currently is. Will Jones said the bid to repair the road was three million and they are prepared to pay half of that and the City can pay the other half or build less than the City standard.

Judi Pickell asked about the Beck property and the stub street to their property. David Church said the ordinance was changed after all of this came about with Three Falls. David Church said the City needs to decide the level of improvements to Fort Canyon Road. What other options are there other than the full width 20 foot road with retaining walls. He said any improvement will be a plus, and the City needs to get with the engineer and see what can be done. He said this in an opportunity to finally resolve this.

Bryce Higbee asked about the emergency secondary access. David Church said the route was decided, the connection was made, and the engineering studies were done, but has not been approved. Will Jones said there are about three spots that need some grading. Bryce Higbee asked about the private open space and wanted to know why it wasn't public open space.

Will Jones said some of the trails come close to the backs of some of the homes and it is on a hill and easy to look down into backyards. He said the plan was to keep the public away from private homes. Will Jones said they will put in a fence to define the open space from the private areas. David Church said this is something he asked for to provide a definite line so everyone knows what belongs to the lot owners and where the public can go.

Will Jones said over 400 people came to Sliding Rock on Labor Day. He said they are providing a parking lot but not for 400 people. He said they do not want this amenity and is not sure what to do with it. He said they had 7 accidents last year and 5 this year with 2 life flighted. He said the development does not want that liability and will not take it. The Planning Commission said those who come onto the property are trespassing. David Church said the City would have to be very careful and put up signs and make this a walk in site and not a drive in site. No parking, picnic tables or anything to encourage people to come.

Bryce Higbee said this would be just like the American Fork River because it is a natural feature. People go there at their own risk. Will Jones said people are already parking all over the streets up there to go to Sliding Rock and the Police are constantly being called even though there are no parking signs all up Fort Canyon Road.

Judi Pickell asked Will Jones how the road connection from Fort Canyon to their subdivision was going to be resolved. Will Jones said they have purchased an easement right away of 54 feet all the way up Fort Canyon Road for 1 million dollars. He said his proposal to the City is curb and gutter on each side of the road, 10 foot of travel lanes, one in each direction, and a four foot walkway. He said there would also be minimal retaining walls by Broadbent's and Hudson's on both sides. This is what he is will to pay for and he said if the City wants more improvements then they will need to come up with the additional money for the improvements. Will Jones said there are 320 acres in Draper City that does not touch the easement.

Jason Thelin said we have already seen and approved this 4 years ago and he said it seems like the developer is bring it back now and a benefit to them because they can spend less.

Will Jones said they have spent over a million dollars for an easement and they spent money to acquire land for a second access at their expense and it will be a benefit for the whole city and not just for them. He said they have done soil tests and earthquake and fault line studies as well. The amendment is also because they are reducing the number of homes because the Beck family pulled out.

Judi Pickell said we changed our ordinance for PRD so the lot lines could be better. She wanted to know if the new ordinance would apply to these lots to improve the irregular lot lines. Will Jones said the new ordinance has not been used on these lots. Judi Pickell asked if lots were going through the stream conservation area. Will Jones said they are not running through the stream conservation area, but run next to the conservation easement with 12 feet on each side. Jason Thelin said he had a problem with no sidewalks being built. Will Jones said they want to provide a way for the snowplow to get through. He said they do not need a sidewalk right now because there are no homes there. He also said any widening of the road will create retaining walls and raising of the road. He said the developers are improving the city by over 2 million dollars when they feel like that is not fully their responsibility.

David Church said there were two main issues raised by the attorneys and one was the lack of providing the access to the Beck property and the other one was a question of can an amended plat add property to the plat. It's clear that people can amend plats to add lots. The question is could you add property that wasn't originally in the plat. David Church said the developers could build Ilangeni right now today because it has been approved and if there was water and sewer, and the road connected in Fort Canyon, we could not tell an individual lot owner they could not have a building permit.

Jason Bond said the Planning Commission is recommending Preliminary approval to the City Council. He said the Planning Commission can discuss the Public and Private open space. David Church said the City Council has to hold a Public Hearing within 45 days from submittal which was about 2 weeks ago. Will Jones said there is less private open space in this proposal than there was in the last proposal. Jason Thelin said he has a problem with the developer knocking millions off from previous agreements of sidewalks and a wider road. Will Jones said they are happy to listen to any better plans and willing to take a look at it. He said they are not trying to play hard ball, they just want to move forward with the development.

Will Jones also said they have added the second access road with will come out at the Cove. He said the grade is less than 12 percent. Steve Swanson asked if this road will have a crash gate or be open to the public. Will Jones said it is open right now to bikers and hikers but it is private property. Jed Muhlestein said there are 396 acres of public open space, and 23 acres of developed open space and 99 acres of private open space.

Bruce Parker said he was asked to represent the Beck Family in this issue. He said there are a number of complicated issues from the Fort Canyon, Road, Sliding Rock, and open space. David Church said residents asked to vacate a dirt road leading up to the Beck Property. He said this issue was put on hold for now.

Bruce Parker said in 2009 there was a complete breakdown in communication and the Beck family didn't know that their property was being considered to be included in the Ilangeni Subdivision. It was just assumed by the City that the Beck's knew and by the time they did know, it was too late. Bruce Parker said he disagrees that there has to be a winner and a loser, but instead, he said they see the value is transferring 7 lots to the Three Falls subdivision and would like to figure out a way to make their property included into the subdivision. He said there could be a resolution. Bruce Parker said the Three Falls developer has an obligation to provide access to the Beck property. He said the road proposed to access their property seems like an afterthought. He said this road is straight up a mountainside and he said the City would not allow that road to be built. Bruce Parker said a better place for the road would be along the north trail border. He said this would not even be needed if the Three Falls subdivision would include the Beck property as was once proposed. He said this would be a win/win for everyone.

Bruce Parker said there are 3 owners of the Beck property and he said Will Jones communicated with only one owner and not the other 2 owners. David Church said this could be a good solution to add the Beck property and it could possibly give the Beck's 5 to 7 lots if the slope and density works out. Bruce Parker said he is confident that the Becks could get 7 lots. David Church said you would have to add the Becks 81 acres and then do a new calculation and that comes to 5 lots. David Church said as a city, we cannot make that deal, legally; the developer and the Becks have to work this out. Judi Pickell said there has to be a winner and a loser or this will go on forever. Bruce Parker said they have not been the ones to hold this up; they have come to every meeting.

Steve Swanson said the developer's job is to stub a street up to the border of his property as to not land lock the Beck property. David Church said the problem is who pays for the road, water and sewer to go through the open space to get to the Beck property. Shane Sorensen said to get a water line to the Beck property, the Three Falls Subdivision would have to pay for a water line through their property at no benefit to them at all because their lots would be served off a completely different line.

Bruce Parker said the Becks suggest Ilangeni Estates vacate instead of amending because they are eliminating public roads. David Church said Three Falls is not eliminating any roads, they are adding a road. Bruce Parker said the entire layout is being changed. David Church said this is what was done 14 years ago and the City thought the Becks were on board. Will Jones said there was a trustee for the Beck Family and they were interested. Will Jones said there were two different options; bring five lots into the subdivision or a buyout. Will Jones said Bruce Parker bought out the trustee for the same price that we had offered. Will Jones said Mr. Parker could have looked at the plans and how the lots were placed. He said he has one million dollars in engineering of this site because of the geological reports that had to be done.

Will Jones said his investors have said no. 14 years is long enough for this process. The studies have been done and the work has been done. He also said if 5 homes are built on the Beck property, where is there second access going to be, what about the water tanks and who is going to pay for it. Judi Pickell asked if the two parties worked something out, could they come back with a new plan. David Church said yes, we will respond to the new application whatever it is. The only requirement is to not bring anything that requires a zone change or an amendment to our ordinances.

Bruce Parker asked if the City could sign a development agreement. David Church said the City will not sign anything that violates the zoning ordinances. He said the maximum number of lots that can be put on this property is less than what both the Becks and Mr. Jones need to satisfy you both. David Church said we can only get 59 lots with the calculations and not 61 lots.

Will Jones said if Bruce Parker could bring him a good plan he would be willing to take it to his investors to see if it would work. Judi Pickell said it doesn't make sense for the Beck's to try and go alone with their own development but their best opportunity would be to try and work something out with Three Falls. She said it would cost a lot of money to put in a road, water, sewer, and retaining walls. Bruce Parker said he wanted to take the owners on a field trip to see their property and show them the value and the amenities of the Beck's 81 acres.

Bryce Higbee asked when the road has to be built. David Church said that is a decision that has to be made. He said if we are consistent with what we have done in other developments we would reserve the right of way in case the other owner wanted to go faster than they did. David Church said a condition could be made to have the road done with phase one and not wait until all the phases are done.

Steve Swanson asked if we table this issue, could Will Jones and Bruce Parker work something out in two weeks. Will Jones said it depends on how many lots the Beck's want.

Jason Thelin asked if the trails in this subdivision would connect to the trails in Lambert Park. Will Jones said there is a piece of land that he doesn't own, it belongs to the County. He said if they could acquire that piece of property, they could connect it. He said the trails will have bridges and go over streams and will be awesome. He said there are other trails that will connect with trails downtown. Aaron Russ said they want to compromise with the City, but the public tends to leave trash and they don't want them encroaching on private residences.

MOTION: Steve Swanson moved to delay the Ilangeni Estates Plat Amendment for 2 weeks.

Chuck Castleton seconded the motion. The motion passed with 4 Ayes and 2 Nay. David Fotheringham, Jason Thelin, Chuck Castleton, Steve Swanson all voted Aye. Bryce Higbee and Judi Pickell voted Nay.

David Church said he will not be at the next Planning Commission meeting.

IV. COMMUNICATIONS

V. APPROVAL OF PLANNING COMMISSION MINUTES OF: Sept 16, 2014

MOTION: Chuck Castleton moved to approve the Planning Commission Minutes for Sept 16, 2014 subject to changes.

Steve Swanson seconded the motion. The motion passed unanimously with 6 Ayes and 0 Nays. Bryce Higbee, David Fotheringham, Jason Thelin, Chuck Castleton, Steve Swanson and Judi Pickell all voted Aye.

Jason Thelin stated that the Planning Commission had covered all of the items on the agenda and adjourned the meeting at 9:25pm.