

**ELK RIDGE
CITY COUNCIL MEETING
January 8, 2008**

**TIME & PLACE
OF MEETING**

This Special Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, January 8, 2008, at 7:00 PM.** It was preceded by a **City Council Work Session, at 6:00 PM.**
All interested persons were invited to be heard.
The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Special Council Meetings & Public Hearing, was provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on January 3, 2008.

6:00 PM

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; *City Council:* Raymond Brown, Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance; *Planning Commission:* Shawn Eliot; *Public Works:* Kent Haskell; *Finance Director:* Curtis Roberts; *Sheriff:* Deputy Jim Tindall; *Public:* Former Councilmember: Mark Johnson, Eric Allen, Jessica Haskell, Kristin Roylance, Sandy Johnson, Blake Jumper, Dave Holman, Westin Youd, Allison & Alexis Richardson & Scott May; and *City Recorder:* Janice H. Davis

OATH OF OFFICE – NEWLY ELECTED CITY COUNCIL MEMBERS

The City Recorder administered the Oath of Office to the newly elected City Councilmembers: Julie Haskell, Sean Roylance & Derrek Johnson.

Mayor Dunn welcomed the new Council to their offices as public servants. He pointed out some of the aspects of the job that they should expect; both positive and negative. It is the Council's duty to uphold the laws of the City, regardless of personal feelings. He encouraged them not to take the experiences personally and to simply do their best; which is all anyone can expect of them.

The Councilmembers signed their Oaths of Office.

The Mayor reminded the Council that they need to fill out their "Conflict of Interest" Forms and turn them back in to the Recorder. The signatures must be notarized, and then turned back in.

**2006 – 2007 FISCAL
YEAR AUDIT
PRESENTATION**

(The City Finance Director, Mr. Curtis Roberts was present to review the Audit with the Council & those present.)

The Mayor introduced Mr. Roberts and gave a bit of his professional history; he also explained the need for an annual Government Audit for cities and towns.

Curtis Roberts: He explained that the City is considered a "medium-sized business" and began by reviewing the format of the Audit Report.

1. Financial Statements: The City Management generates this part, which includes all of the numbers and all information and disclosures. The Auditors verify the accuracy of all the numbers.

2. Independent Auditor's Report: The Auditor's letter to the Council; it was designed to be written in "lay" terms...to be clearly understood by all. This letter states key and critical information regarding the City and its finances.

**(Mr. Roberts gave the Council his cell phone number and encouraged them to contact him with questions and comments.)*

The City Recorder mentioned that Mr. Roberts will come to Elk Ridge on a Saturday for a training session for Elected Officials, on understanding government finances and budgeting. It is a very useful session.

Separate Letter:

Page 1: Lists the various obligations of the Auditors.

Page 2: This addresses any changes in accounting policies; there were none.

"Significant Estimates": There were no real significant estimates...the Auditors pointed to our "allowance for 'bad debt' for Water & Sewer Accounts Receivable" (people who have not paid their bills)...

Mr. Roberts does not consider this "significant"; but the Auditors felt it was worth mentioning. Mr. Roberts feels the more significant estimate is the "Depreciation" in those same Funds (he said he would address those later in the meeting).

**ELK RIDGE
MEADOWS PUD,
PHASE 3.3 –
PRELIMINARY PLAT
APPROVAL**

(Memo from City Planner to Council, dated 1-8-08)

Read by Mayor Dunn:

"Background:

The first Elk Ridge Meadows 3 final plat was approved by the Planning Commission and recommended to the City Council; where it has remained without final approval, waiting to resolve water issues. The Nebo School District has negotiated purchase of land from the applicant in phase 3 for the purpose of a future elementary school.

- 18 October 2007, the applicant asked the planning commission if the open space PUD code *could* be interpreted to allow for the school recreational park areas to be allowed in place of a portion of the required open space. The commission was in agreement with this allowance. All other open space areas shown at this meeting were shown as in prior renditions.
- 1 November 2007, the applicant again approached the commission showing a new rendition of the plat showing 11 additional lots in the open space area west of Elk Ridge Drive; with the allowed school property open space along with the fewer lots sold to the school, both give a larger open space ratio than required by the Code.
- 13 November 2007, the City Council held a joint work session with the planning commission where the topic of the new City hall was discussed. The issue of the roundabout required of the applicant was discussed. They were all supportive that, with the purchase of the City Hall land, the proper engineering of the roundabout should be achievable.
- 15 November 2007, the planning commission reviewed the preliminary plat that was shown as the concept reviewed by the commission on 1 November. The commission was concerned by the loss of open space in the original approved plats and requested that the applicant remove the lots and recalculate the open space without the school property. The applicant explained to the commission that if he did not receive preliminary plat approval that evening with the school open space counted, he would revert back to the original final plat not including the school. The planning commission decided to pass the preliminary plat and send it with contingencies to the council.
- 28 November 2007, the applicant, representatives of the school district, the Mayor, and David Church met to discuss the issues related to the school property and how it relates to open space. Of concern was the school being held to a percentage of open space if it were to sell the property to a third party in the future. It was agreed at this meeting that only the fields would be counted as open space, 5.5 acres, and if the school were to sell this property this requirement would go with the property.
- 11 December 2007, the applicant met with the City Council during a work session to discuss the open space/school issue. The Council discussed the options of what portion of the school property could be counted as open space; no school open space, using the school's agreed 5.5 acres as open space, or using the applicant's request of just under 8 acres of open space. The majority of the Councilpersons felt comfortable allowing the 5.5 acres. Councilwoman Mary Rugg felt no school land should be used in the open space calculation.

Planning Commission Preliminary Plat Motion

Kelly Liddiard made a motion that was seconded by Sean Roylance to recommend approval of the Elk Ridge Meadows PUD, Phase 3, Preliminary Plat, with the school added, with the following contingencies:

- Demonstration that there is 25% open space
- When the City purchases the Jim Brown property, the Council comes to agreement with Randy on the roundabout and what happens there.
- The comments of the two planners (Ken Young and Shawn Eliot) be addressed and dealt with.

Vote: Yes-all (6), no-none (0), absent (1) Kevin Hansbrow.

Staff Findings

Phase 3.3:

- Elk Ridge Meadows Phase 3.3 preliminary plat conforms to City Code.
- 5.5 acres of school site is used to calculate open space, which allowed the overall layout and amount of lots.
- Recommend that phasing be changed; Phase 3.3 to Phase 3.
- The applicant needs to enter into agreement with the City that he will construct a full width road on portion of Sky Hawk Way adjacent to school property (school district has agreed to reimburse him).

Phases 3.1 and 3.2:

- Recommend that phasing be changed: Phase 3.1 to Phase 6 and 3.2 to Phase 7.
- Changes to plat since the planning commission motion of approval and City Council review, include:
 - o Smaller lots.
 - o 9 additional lots (instead of 11, two additional lots were sold to school district).
 - o Larger open space area west of Elk Ridge Drive.

The following needs to be addressed for Phases 3.1 and 3.2 prior to preliminary plat:

- The roundabout needs to be engineered and the location picked.
 - o Can it be engineered at Elk Ridge Drive/Goosenest to meet proper grading?
 - o Would it work better at the intersection to the north of Goosenest Drive?
 - o If constructed on City owned land, what type of reimbursement for the land will be required?

If this does not work for the City, he understands; but you will still have the same amount of open space...but limited access to its use. He needs the Council to understand that they are not "taking" anything; they just ask that the school district open space be taken into consideration. It is the Council's decision, but they need to know upfront.

Mark Johnson: (Former Councilmember) If the projects reverts back to the original plat with the homes added back in, then it will be a part of the PUD and the open space will be restricted to the residents and members of the homeowners association; whereas the open space with the school district would be accessible to all of the residents.

Sean Roylance: He said that his guess would be that the school district is going to want to build a School somewhere in Elk Ridge; so if this does not work in this location, another location would. The City will get this open space regardless.

Eric Allen: (Real Estate Broker for the School District) He has been working with the school district for some time and this is their "number 1" site; but they have a piece of property outside of Elk Ridge that can work for an elementary school; so if this project does not work, the likelihood of the district building in Elk Ridge anyway is actually a lot smaller than what you are saying. The other property is in "Haskellville" and would be in Payson. It is part of the County presently.

Nelson Abbott: He does not believe there is any other land left in Elk Ridge that would suffice for a school.

Sean Roylance: There are no guarantees that the ball field will be put in.

Eric Allen: No, the School District will not guarantee certain ball fields, but they will be installing whatever will benefit the area and the students...their attorney would not allow them to commit to particular improvements at this point in time.

Sean Roylance: He has a hard time believing that there will actually be ball fields; that happens so rarely.

Another issue: He understands that Haskell's have expressed interest in annexing into Elk Ridge.

Mayor Dunn: That will not happen due to a written contract that Elk Ridge has with Payson City, not to annex any land west of 1600 West. This written agreement has been in place for a number of years...entered into by another Administration. Even though they are part of the County presently, they will eventually become part of Payson.

Blake Jumper: (Addressing Councilmember Roylance) This is the first time in these meetings; and "it seems like you don't want the school; is that what I'm reading?"

Sean Roylance: "It's not that I don't want the school; I don't want to give up open space." He feels that the City is giving up open space with the school as a part of the project. There are other playgrounds at other locations that people can use; but if it is put here, then we lose 5.5 acres of open space that we would have had without the school. With the original plan, there also was not the row of additional 11 homes on the west of Elk Ridge Drive.

Blake Jumper: He thinks Councilmember Roylance is missing the point that the City is getting a huge asset to the City: Public buildings and fields that can be used by the public at no cost to the City. You may not get a ball field; you may get something better. The school district is constantly upgrading these sites.

Mayor Dunn: That open space for the PUD is not City property; it is private. The homeowner's association maintains the open space.

Eric Allen: Over 50% of the school district ground would be for open space.

Sean Roylance: Continued to maintain that the school could go in somewhere else nearby; and the City would not lose the open space associated with the PUD.

Raymond Brown: He agreed with former Councilmember Rugg in that he did not like the addition of eleven houses; but in reviewing the issues, including the opinion survey; there is a desire for more recreational availability for Elk Ridge, and the project including school district would give that to us. He does not know where else in the City to locate fields...perhaps a soccer field by the proposed City Center. Open space in a homeowner's association is not available to all residents. He does not like adding more homes; but there is a trade-off...to have the school fields and gymnasiums.

He also understands the concept of "diminishing returns"; he may not like it...but he understands that there has to be a point of finding a "happy medium". He feels the benefit of allowing the school to go in outweighs the addition of extra lots. Residents are tired of "bussing" their children to other cities for recreation.

Blake Jumper: The Codes and ordinances are met and complied with.

Westin Youd: (Citizen of Elk Ridge and soon to be Planning Commission member)

He lives outside this proposed homeowner's association; therefore this project would present him with 5.5 acres of open space; if this option is refused, then you take away 5.5 acres of open space for me. You say I could go outside of Elk Ridge for this same advantage; are you willing to

ORDINANCES –
ADOPTION

1. Planter Strip Street Tree Ordinance: (Memo from Planner, dated 1-8-08)

“Background

Developers of Elk Ridge Meadows approached the city requesting that the planning commission give their recommendations of what trees should be planted in the planter strip between the gutter and sidewalk. The commission asked Paul Squires to use his expertise in this area to come up with a list of trees that have appropriate root depths for this application, be drought tolerant, and be hardy for the shorter growing season of our location. His recommendation along with the planning commission was to require that trees have at least a 2 inch caliper trunk, be in planters (not burlap balled), and that only one type of tree be allowed per street.

Proposal

After making recommendations to the developers of Elk Ridge Meadows, the planning commission decided to recommend to the city council the need to adjust current code to establish requirements citywide for street trees. The proposed changes are two fold. One requires PUD developments to have similar requirements in type, placement, caliper, and planter as was recommended to the Elk Ridge Meadows developer. The other is for non-PUD developments to require they follow the list of trees allowed within the planter strip.

Staff Finding

- This is an appropriate code to regulate the types of trees allowed in planter strips between the sidewalk and the street.
- It allows for types of trees that are appropriate for the limited growing space that the planter strip affords as well as our environmental conditions.
- It allows stricter requirements for PUDs.

Public Hearing

- The commission held a public hearing, no comments were given.

Planning Commission Recommendation

- A motion was made by Dayna Hughes and seconded by Kelly Liddiard to recommend approval to the city council an amendment to the Elk Ridge city code section 10-12-36 and also in the regular subdivision code, regarding trees in planter strips as written in the memo in tonight's packet. Vote: yes-all (6), no-none (0), absent (1) Kevin Hansbrow.

Staff Recommendation

- The proposed ordinances have been discussed by the commission and have had proper development.
- Staff recommends the following: **City council approval of an amendment to the development code, SECTION 10-12-36 LANDSCAPING REQUIREMENTS, to add requirements regarding street trees in planter strips as shown on the attached ordinance.**

Planning Commission Minutes

- City Planner, Shawn Eliot, explained that a little over a month and a half ago the developers of Elk Ridge Meadows approached the city and explained that as a part of their CC&R's they were requiring owners to plant 2 trees per yard in their planter strips adjacent to the sidewalks. They wanted to know from the city what types of trees they should plant. The planning commission did some research and came up with a list of trees and requirements regarding the planting of these trees in PUD developments.
- The commission came up with a list of about six trees and some requirements including a) only one type of tree be planted per street for continuity, b) the trees be 2" in diameter when purchased and be in pots rather than bundled in burlap.
- It was decided that these requirements would go in the PUD code. For a standard subdivision, they only would be required to plant one of the type trees shown on the list. We would be more
- The ordinance to go to the city council was in the commissioner's packets for tonight. The public hearing tonight was to hear any comments from the citizens on this issue.
- Shawn read from the memo the list of acceptable trees which included:
 - Autumn Blaze Maple
 - Norway Maple
 - Honey Locust
 - Summit Ash
 - Green Spire Linden
 - Autumn Purple Ash
- The reason these trees were chosen is they have a deeper root system so they will not disturb the sidewalk, they are hardy and drought resistant and they are deer resistant.
- Chairman Adamson invited public comment. There was none. He closed the public hearing at 7:15 p.m.
- Paul Squires mentioned making sure the ordinance contained verbiage indicating the trees upon purchase be required to be 2" in diameter and in pots. This recommendation would be added to the subdivision code. In the subdivision code it would be a recommendation and not a requirement."

- Clerical...\$30 (No change) Construction Management...\$75 to 78
- (New Position Descriptions)
- Public Works Inspection...\$55 Code Enforcement Official...\$55
- (SKM, Inc. – Electrical Engineering...Aqua contracts with them)
- Project Manager...\$78 to 85 Senior Program Designer (New)...\$75
- Program Designer (New)...\$65 Junior Designer...\$55 to 65
- (Mileage has changed from 50 cents to 50 1/2 cents/mile)

The point was made that the City is now getting paid for most of the subdivision inspections due to Corbett Stephens working with Aqua Engineering to do field inspections.

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY JULIE HASKELL TO APPROVE THE HOURLY RATE CHANGES FOR SERVICES BY THE CITY ENGINEERING FIRM, AQUA ENGINEERING; AS PROPOSED IN THE LETTER DATED 12-15-07

VOTE: YES (5)

NO (0)

**CHANGE ORDER –
WATER PROJECT
(TANK – WELL
UPGRADE)**

A recent bill came in from Gerber Construction, Inc. that included a “change order” in the amount of \$21,481.20. This amount was not included in the original bid amount. The rest of the bill (\$169,837.19) was paid to Gerber Construction. The change order must be approved by the City Council.

There is a concern that there have been other costs that exceed the original bid amount for the overall project.

This particular change order is due to “removal of ‘collapsible’ soil” from the site.

Description:

“Collapsible Soil was located when inspected by the IGES on the west side of the tank. We had to dig down on the western 1/3 of the tank and outside the footing. It went as deep as 8”. We lowered the tank 1 foot and also excavated the tank another 1 for structural fill.”

(This Change Order was approved by Craig Neeley, Aqua Engineering on 12-14-07)

Mayor Dunn: He spoke to Amy Thatcher (Aqua Engineering) and she explained that some of the costs that exceeded the original bid were for the booster pumps and that those fell under the description of “Applicant Responsibility”. The Mayor Recalled that these issues were discussed with the Council at the time the bids were presented. This seems to be something that was misunderstood. The question came up as to why these items were not included in the engineering bid that was submitted on the project.

Nelson Abbott: Contracts generally are to be held to. He recalls the larger pump; but not the electrical panels nor the booster pump stations. He does not recall a specific price mentioned.

Mayor Dunn: He expressed his concern to Amy (Aqua) that the bond could run out with too many more “surprises”. She responded that she did not think there would be any more “surprises”. Added to this: the City’s Water Impact Fee Study indicates that the City will also need one more tank and one more well before build-out occurs.

Sean Roylance: Whose responsibility was it to detect the issue with the soil before hand? Could it have been detected? If the contractors were responsible to detect this, then he is inclined to agree with the example given by Councilmember Abbott regarding contractors having to make good their contracts.

Mayor Dunn: There were core samples taken when Jeff Budge was still with Aqua. The soil was assessed about a year ago. So the question remains as to whether the subsoil problems were detectable through the core sample.

Sean Roylance: Suggested tabling the Change Order until some of the questions are answered; or perhaps approval with contingencies or a polled vote after more information is provided.

(Explanation that a “polled” vote is not an actual vote taken...the polled votes have to be ratified at the next meeting and the Councilmembers can change their minds when the actual vote is taken.)

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO TABLE ANY ACTION ON THIS PROPOSED CHANGE ORDER UNTIL THE NEXT CITY COUNCIL MEETING

VOTE: YES (5)

NO (0)

**Mayor Dunn is to contact Aqua Engineering for additional information.*

MINUTES

1. Minutes of 11-13-07: (Minutes given to former Councilmembers for any corrections –None-)

Nelson Abbott: Two corrections: Pgs 3, 6 & 10

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO ACCEPT THE CITY COUNCIL MINUTES OF 11-13-07; AS AMENDED

VOTE: YES (5)

NO (0)

NOTICE & AGENDA

Notice is hereby given that the City Council of Elk Ridge will hold a regular **City Council Meeting on Tuesday, January 22, 2008, at 7:15 PM, to be preceded by a Joint City Council - Planning Commission Work Session at 6:00 PM.**

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM JOINT CITY COUNCIL WORK / PLANNING COMMISSION SESSION

1. Proposed Senior Housing Overlay Zone
2. Hillside Residential – 1 Zone

7:15 - PM REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:20 Public Forum:

*Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by the group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Mayor or City Council.

7:25 3. Elk Ridge Meadows PUD, Phase 3 – Final Plat Approval

A. Addendum to Development Agreement for Nebo School District Property

7:45 4. Elk Ridge Meadows PUD, Phases 5 & 6 – Number of Lots/Approval

7:50 5. Fairway Heights, Plats C & D – Preliminary Approval

8:30 6. Ordinances:

A. Amendment of Public Facilities Zone Code, Zoning Map & General Plan Future Land Use Map

B. Amendment to the Snow Removal Code

C. Amendment to the Employee Compensation (New Positions)

9:00 7. Mayor Dennis Dunn:

A. LiquiVision – Tank Cleaning

B. SUVMWA Water Rights Update

9:20 8. Re-Appointment of Planning Commission Member (Russell Adamson)

9:25 9. Approval of Minutes of Previous Meetings

9:30 10. Expenditures:

General:

Adjournment

*Handicap Access, Upon Request. (48 Hours Notice)



The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.
Dated this 18th day of January, 2008.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and hand-delivered to each member of the Governing Body on January 18, 2008.


City Recorder

**ELK RIDGE
CITY COUNCIL MEETING
January 22, 2008**

**TIME & PLACE
OF MEETING**

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6:00 PM

JOINT CITY COUNCIL / PLANNING COMMISSION WORK SESSION

ROLL

Mayor: Dennis A. Dunn; *City Council:* Raymond Brown, Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance; *Planning Commission:* Russell Adamson, Scot Bell, Kevin Hansbrow, John Hoschouer, Westin Youd, Dayna Hughes, Paul Squires; *City Planner:* Shawn Elliot; *Plan Coordinator:* Margaret Leckie; *City Engineer:* Craig Neeley; *Public:* Eric Allen, LeGrand Woolstenhedine, Paula Eppley, Wendy Talley, Michael & Margo Brockbank, Karianne, Carolee, David & Brian Ewell; Ty, Tyson, Tiffani & Debbie Currie; June & Ken Christensen, Rob & Lari Fitzgerald, Blake Jumper; and *City Recorder:* Janice H. Davis

**PROPOSED SENIOR
HOUSING OVERLAY
ZONE**

(Memo from City Planner to City Council, dated 1-22-08)

"Applicant: **Eric Allen**

Regarding: **Proposed Senior Housing Overlay Zone**

Background

Eric Allen presented to the planning commission 18 October 2007 regarding creating a new R-1-8000 PUD code to allow for twin homes to be constructed on two properties the applicant owns. He showed renditions of what the proposed code would allow for his developments.

The planning commission was concerned of what the ramifications could be for creating a zone allowing such high densities in other areas of the city. Another concern was that the city has currently approved over 70 condominium units near 11200 South (for affordable housing as required by the state) and that it was appropriate to allow these units to come online before deciding if future high-density units were needed. Also of concern were the twin homes themselves. The planning commission had just received the results of the citywide survey that they had conducted showing a high percentage of those surveyed did not desire the city to allow condominium (79% against), apartment (94% against), or twin home (75% against) developments.

When polled, the majority of the planning commission stated they would recommend denial of the R-1-8000 PUD code if it were presented to them to go forward in the current form.

There were members of the planning commission that were in favor of allowing some type of senior housing. The survey showed that just over 50% of the respondents did not favor senior housing, but there were many comments in the survey that requested it.

Proposal

The applicant approached city staff and asked what would be appropriate as a next step. After doing some research of what other cities allow for senior housing, staff used the city of Alpine Senior Housing Overlay Zone code as a template to design a code that could work for Elk Ridge. The proposed Senior Housing Overlay Zone accomplishes the following:

- Allows higher density for senior housing
- Allows single and two unit structures
- Requires private lots to conform to the structure or building footprint
- Requires common areas landscaping to be maintained for maintenance free living
- Allows overlay zone to only be approved if found appropriate for the proposed area
- Allows placement of overlay zone only along main roads in city
- Allows for non-senior persons to live with the senior
- Does not allow anyone under 18 years of age
- Requires amenities
- Allows city to have a say and be included in Covenants, Conditions, and Restrictions
- Allows city to have a say in layout and building material and design

Dayna Hughes: She has been against this proposal from the very beginning, based on the survey that went out to Elk Ridge residents. Most of the residents wanted to stay with single family homes; though she did admit that "senior housing" was not really addressed in the survey. She is not in favor of the proposed "Overlay Zone".

Russell Adamson: He feels the Planning Commission, in general, is not in favor of it...all of the proposals have been denied thus far. That is the reason for coming to the Council; to get guidance as to the direction they should go with these proposals.

Question: If the Council does want this type of zoning, what parts of the City would it be in?

Dayna Hughes: That was another concern: do we want this type of zoning as a "gateway" to the City?

Paul Squires: He has also been against this proposed zoning based on the survey that went out; but he feels the "senior" option, with single family dwellings, is preferable.

Mayor Dunn: In his experience with the Planning Commission (in Elk Ridge and in Payson), he has heard discussion from Lee Haskell as well as the Cloward's regarding some type of "assisted living" (Commercial Zone) or senior housing. The Mayor did a personal survey in the area where he lives and found that many of the "pioneers" of Elk Ridge are being forced to move because of taxes on homes and property that has gotten too much for them to handle. We are losing some of these citizens because there are no facilities available to accommodate them. These citizens want to stay in their City, but can't due to lack of opportunity. There is a demand and no supply. The percentages of these elder citizens may not be high, based on the survey; but theirs is a voice that should be considered.

Kevin Hansbrow: There are smaller houses in Elk Ridge that could meet the need the downsizing. Yards and snow removal can be taken care of through various services available.

These homes will not be less expensive and not much smaller. He does not see this as an issue.

Raymond Brown: He is not in favor of allowing twin homes just for the sake of having them; but he agrees that there are citizens that these homes would benefit. These citizens would purchase them upon availability and, in many cases; the reasons would have little to do with lawn mowing and snow removal. Stairs are a problem for many older people; and they simply want to stay in Elk Ridge. He agrees that there is a need for this proposed zone, if done right; and that is what needs to be discussed. The senior housing units across from Mountain View Hospital are very nice and very marketable. They are not for rent; they are for sale only.

Nelson Abbott: He feels there is a "time and a place" for this proposed zone. Earlier, he was against the twin home aspect, but was in favor of smaller, single homes. He disagrees that yard and snow removal is readily available for seniors. The larger number of homes concentrated in one area, with these services provided, could be a good arrangement. The survey may have turned out differently if the older age range had been taken into consideration. He does have issues regarding limiting the age; he does not feel that is the City's business. Design could take care of who moves into the units. He agrees that having an under 18 limitation would not be good for the Community.

Shawn Eliot: The rules for limiting age ranges in housing are pretty stringent, except for elderly housing and handicapped housing. The 18 and under limitation was added on by Alpine.

Nelson Abbott: He is of the opinion that there are two groups of people that this zoning would appeal to:

- ❖ Older people that cannot take care of large households
- ❖ Younger people who would rather do other things with their lives than yard work

(Dayna Hughes sought clarification from Councilmember Abbott as to what he is in favor of.)

He would prefer no common walls.

Raymond Brown: He favors the 62+ option. Playground areas would not be advisable if young children are not encouraged. Picnic tables might be better.

Sean Roylance: Initially, he was not in favor of twin homes, based on the survey's numbers; however, he realized he was looking at this through his younger view point. Twin homes were not as acceptable as retirement communities. He thinks he is in favor of an "Overlay Zone", though he is not in a rush.

Issues:

- ❖ It needs to be in the right part of town. The survey was very consistent that higher density housing would be north of town.
- ❖ He feels that the senior restrictions are preferable.

Julie Haskell: She is in favor of 62 +. The Homeowner's Association would maintain the services. She had no comment on single family dwellings vs. twin homes.

City Recorder: Would there be problems with the 62 + option if a caregiver had to live with an elderly parent?

Discussion:

Scot Bell: This is a PUD, with a different age group associated with it. The City has a PUD Zone that could have an overlay applied to it. Is this a great concept with a bad location or are we going to modify the locations to match the concept?

Raymond Brown: He agrees that the overlay zone could be placed in the current PUD Zone; but what if there were a piece of property where it may fit better, even though it may be elsewhere? If it were beneficial to do so, would the Planning Commission be opposed to doing that?

Example: Park View Corner; it has been a "weed lot" for years and this would beautify the main road in town and it is directly across from the Golf Course; this would locate seniors across the street. Being on a main road would also be accessible for emergency services.

Scot Bell: In his opinion, these maps are based on the current General Plan and the General Plan indicated that the City only wants "this much" of our City designated for PUD's. He is opposed to expanding beyond the current PUD Zone.

Even though Park Drive is easily accessible, the snow load is less father north in the City, and this could also be an advantage.

Raymond Brown: He agrees with Mr. Bell on most points; but he feels the proposed location on Elk Ridge Drive and Park Drive would be a good one for seniors, particularly with the future City Center being located just north of this on Elk Ridge Drive, the Golf Course close by and the Chapel within walking distance.

Scot Bell: If this is the direction that is favored, then as the General Plan is re-written, the maps should be amended. As of today, the overlay does not fit the current zoning.

Shawn Eliot: If the overlay zone were kept on "Arterial Roads" and not the "Major Collectors", then it would still allow the present proposal. When first approached with this project, it was also suggested to change the PUD Code and add this into it; but the problem is that a PUD is considered a "Large-scale Development" requiring 15 acres or more...these projects are not that big.

Eric Allen: Payson City is bringing in very high density just north of the Golf Course; they (Mr. Allen and partners) are trying to bring in something attractive that would appeal to seniors.

Mayor Dunn: Cautions against segregating people off according to various classifications (rich, elderly etc.) In fairness to some of the older portions of the community, he feels rationing "pockets" of these overlay zones throughout the Community would be an asset to the Community.

John Hoschouer: One thing to consider is how this will look in the neighborhood; he feels this will be attractive as people drive by. He feels this type of overlay throughout the Community would be beneficial. Elk Ridge tends to be segregated, and this would be an opportunity to stop that.

(Mr. Allen said he is not in favor of "gated communities.")

Russell Adamson: There is another question on setbacks: The setbacks may be different with twin homes as opposed to single dwellings.

Discussion of setbacks: This has yet to be decided.

Eric Allen: The proposed park areas will also add to the overall open space in the Community.

Russell Adamson: (Question)

❖ Which age preference?

Mayor Dunn: Offered to get information from other senior developments as to the age designations they have and how they are working out.

Discussion on age limits.

**(Also Shawn Eliot suggested contacting the City Attorney regarding the Fair Housing Act, and gets his opinion as to what is legally allowed.)*

HILLSIDE
RESIDENTIAL - 1
ZONE

(The Mayor asked that the following discussion be continued until 7:30 PM, allowing time to fully review the issues.)

There were various handouts to the Planning Commission and to the Council.

Russell Adamson: There were weaknesses in the current CE-1 Zone Code, and a re-write was necessary. A moratorium was declared until March 11, 2008 to allow time to do this re-write without further development in that Zone. They feel they have a good draft of the proposed HR-1 Zone Code; though there are some issues that need to be addressed and Council feedback is needed to finalize the proposed Code. They wanted to go through some of the major changes from the current Code to the proposed Code.

The Planning Commission members had assigned sections to discuss some of the solutions to major issues:

5.Created Hillside Cluster Overlay Zone for smaller lots/open space

(Shawn Eliot)

Define "Overlay Zone": It is a 2-pager because it uses the underlying zone as its requirements, other than what it allows you to do differently.

- Only approved by Council – can be denied. (10.11C.040)
There is no entitlement.
- Half acre lots clustered in flatter areas-reduced setbacks. (10.11C.080-160)
In the Base Zone (HR-1), there is 150' frontage; in the Cluster Zone, there is 110' frontage...in the old code, it was 200' frontage. As Mrs. Hughes pointed out, the 100' frontages result in homes close together. The reduced setbacks were allowed because of flatter areas. In old code an "average of 20%" was allowed; this meant that there was ½ above and ½ below. New code: it has to be 20% or less. There is an allowance for "incidental 20%", but not much.
- Requires 40% open space. (10.11C.170)
Some of the hillside communities go all the way up towards 70% required open space. Another thing decided was that if you do a "clustered" development, it has to be all by itself; it cannot be a mixture 1-acre, 2-acre and 3-acres; with the intent to cluster together and then have open space around it. If you wanted larger lots, you would do a regular acre-lot subdivision. The code does indicate that you can only do between 1/2 acre & an acre in this type of development; and the 40% open space must be met. When one calculates this out; it does work. There have been issues in Woodland Hills with the type of open space they got...like straight-up mountain space.
- Density bonus up to 30% can be awarded for amenities. (10-11C.180.210)
Amenities are listed; taken from Woodland hills and their Thousand Oaks Development.

Next Steps...

The Planning Commission requests:

- Go to public hearing by the 14th of February, 2008. Is another joint meeting necessary? There is the problem of the March 11th deadline for the moratorium.

Comments:

Sean Roylance: He wanted to mention that the understandability, the organization and what he would refer to as the "elegant" layout of this proposed code cannot be underestimated. Shawn Eliot should take credit for this; he has put an amazing amount of work into this.

Mayor Dunn: He wanted to point out the City Engineer's concerns on the proposed code:

(Handout from Craig Neeley – Aqua Engineering)

"Review Comments

Title 10 Development Code Review Comments Chapter 09 Hillside Residential – Zone

10.09.160 - Ridgelines

The verbiage is much too broad. I recommend working with a maximum slope standard such as 'Any ridgeline or portion of a ridgeline with slopes greater than ?? shall be designated as open space.' Eliminate the need for interpretation as much as possible. Try to avoid words like 'average' and 'incidental'.

10.09.190 – Unstable Soils

Shouldn't the safety halo be established by a professional? What if buffers greater than 100' are required?

10.09.200 – Slopes 20% or Greater

Define 'minimal'.

10.09.220 – Cuts & Fills

'Benching or terracing to provide additional or larger building sites is prohibited'. This is not realistic. Recommend letting the basic buildable slope criteria establish whether a site is suitable and then let the owner improve the site as necessary.

10.09.450 – Traversing 10% Slopes (Consider: Slopes 10% and Greater)

'The road design must follow contour lines to preserve the natural character of the land'.

Consider: The road design must conform to the natural topography to the extent possible to preserve the natural character of the land.

10.09.460 – Traversing 30% Slopes (Consider: Slopes 30% or Greater)

Define 'significant adverse visual, environmental, or safety impacts'. I recommend combined height of cuts and fills be limited to 30% at any point in road section. This will automatically restrict 66' ROW to natural slopes of about 33% or less and 56' ROW to 40% slopes or less. Require retaining walls when a 2:1 cut/fill slope exceeds 20' in height and then allow a maximum combined height of cut retaining walls to 15' and fill retaining walls to 15' at any place in the road section.

Should the length of road in steep terrain and the acreage of the target parcel really be limited? What if the road is needed to provide access and alternative routing for emergency services equipment and the general public?

10.09.500 – Cul-de-sacs

I think a cul-de-sac will almost always result in less disturbance than a through-road but I'd recommend avoiding interpretation conflicts any way you can. Consider picking a length and sticking with it. In these more sensitive and steeper zone areas consider a maximum length of 1000'.

Shawn Eliot: His concern with the rock wall referred to on RL Yergensen's development: it was approved at 24' by the Planning Commission; but over time, it has been cut to about 50'. How do we safeguard against the code being exceeded? He does not believe permission was granted for this example of exceeding the code. The Commission is trying to define this; so if it is not right, we need to have the correct information as to what is right.

Raymond Brown: (Hillside clustering – 40% open space)

He was considering 50% and 25% density bonus...

Shawn Eliot: The way this was calculated: a 20-acre development (the minimum acreage): if you got the total 30% density bonus, you would add about 6 additional lots. There comes a point beyond which you don't go...determining that, is the question.

Nelson Abbott: He had considered 50% open space...70% is too much; but at 50%, you end up with a closed 1:1 ratio per every acre and you get the benefit of the open space. He is not necessarily in favor of taking that 20 acre parcel and allowing 26 homes on that same piece of ground. In his opinion, 26 homes are 6 homes more than would have been allowed...and he feels there would actually be less open space. There would be 6 more footprints for those homes.

Russell Adamson: He said that would be considered; he would not want to sway the developer toward more lots.

Sean Roylance: He is in favor of open space; but the City should give incentives for the developer to bring options...like a park or something else that may benefit the community that may be worth the 50%.

**Mayor Dunn will contact David Church regarding some procedural issues, as well as the issues discussed in the meeting.*

Russell Adamson: The two bodies will meet again on Thursday, 1/24. If there are any more comments, let's get them all out on the table and the Planning Commission will come up with the final draft.

The Mayor complimented the Planning Commission on their hard work and the way they are facing some challenges. Their volunteerism is appreciated.

**ELK RIDGE
CITY COUNCIL MEETING
January 22, 2008**

**TIME & PLACE
OF MEETING**

This Special Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, January 22, 2008, at 7:15 PM.** It was preceded by a **Joint City Council/Planning Commission Work Session, at 6:00 PM.**

All interested persons were invited to be heard.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Special Council Meetings & Public Hearing, was provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on January 18, 2008.

8:00 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council*: Raymond Brown, Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance; *Planning Commission*: Russell Adamson, Scot Bell, Kevin Hansbrow, John Hoschouer, Westin Youd, Dayna Hughes, Paul Squires; *City Planner*: Shawn Eliot; *Plan Coordinator*: Margaret Leckie; *City Engineer*: Craig Neeley; *Public*: Eric Allen, LeGrand Woolstenhedine, Paula Eppley, Wendy Talley, Michael & Margo Brockbank, Karianne, Carolee, David & Brian Ewell; Ty, Tyson, Tiffani & Debbie Currie; June & Ken Christensen, Rob & Lari Fitzgerald, Blake Jumper; and *City Recorder*: Janice H. Davis

**REMARKS
& PLEDGE OF
ALLEGIANCE**

An Invocation was offered by Nelson Abbott; and Ty Currie led those present in the Pledge of Allegiance, for those willing to participate.

**AGENDA TIME
FRAME**

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO
APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 8:00 PM
VOTE: YES (5) NO (0)**

Planning Commission Motion

A MOTION WAS MADE BY DAYNA HUGHES AND SECONDED BY KELLY LIDDIARD TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF ELK RIDGE MEADOWS, PHASE 3, PRELIMINARY PLAT, WITH THE FOLLOWING CONTINGENCIES TO BE COMPLETED AND APPROVED BY STAFF BEFORE BEING SENT ON TO CITY COUNCIL:

1. PHASE 3.3 IS RENUMBERED PHASE 3. *(Done)*
2. THE APPLICANT WILL ENTER INTO AN AGREEMENT WITH THE CITY THAT HE WILL CONSTRUCT A FULL WIDTH ROAD ON THE PORTION OF SKY HAWK WAY ADJACENT TO THE PROPERTY.
(Done by Developer Agreement)
3. A 10-FT. TRAIL WILL BE CONSTRUCTED ALONG ON THE WEST SIDE OF COTTON TAIL WAY ADJACENT TO THE PROPERTY IN LIEU OF SIDEWALKS. *(Done – on the Plat)*

VOTE: YES-ALL (7), NO-NONE.

Staff Findings

- Elk Ridge Meadows Phase 3
 - ✓ Elk Ridge Meadows phase 3 final plat conforms to city code.
 - ✓ 5.5 acres of school site is used to calculate open space, which allowed the overall layout and amount of lots (shown on developer agreement).
 - ✓ Water rights need to be conveyed to the city.
 - ✓ Annexation Developer Agreement Addendum No. 1 is correct.
 - ✓ Need to show public utility/drainage easements around the perimeter and future road.

****Additional comments by City Engineer given after memo was written****

- ✓ **Need to show public utility /drainage easements around perimeter and future road.**

Council Discussion

- Has the water rights been secured?
- Have everything been addressed in the developer agreement?

Staff Recommendation for Council Motion

- Motion 1: The city council approves the Addendum No. 1 Annexation Development Agreement and finds that the changes best suit the interests of the city, the developer, and the school district.
- Motion 2: The city council approves Elk Ridge Meadows phase 3 final plat finding that it conforms to the code, is in keeping with the overall concept plan for Elk Ridge Meadows, and that it implements the goals of the general plan.
 - ✓ Decision on water rights needs to be added to motion.
 - ✓ **Need to show public utility and drainage easements around the perimeter and future road.**
 - ✓ **Add address of 999 N. Cotton Tail Lane.**

(Planning Commission Minutes were included with the memo)

(Taken from Memo from Mayor to Council, dated 1-17-08)

Regarding the requirement of the conveyance of water rights prior to final and recording: According to Eric Allen, the School District needs to have the plat recorded to be able to close on the purchase of the land. It would be difficult to convey water rights without knowledge of the building capacity, etc. since the number of acre feet would be based on facts that are not available.

(Taken from the Memo of conversation between David Church and City Recorder (1-17-08)

Mr. Church advised that though the water right conveyance requirement must be met, the City could require a written document affirming the School District's willingness to convey the necessary water rights at the time they actually build the school; this would have to be agreeable to the District and the City and signed by both parties. This could be done via the addendum to the Development Agreement. Mr. Church said the Council has to have some assurance that the transferred water rights will be conveyed to the City prior to building; they cannot ignore this requirement for Final Approval. This is in no way to be considered the norm or setting of precedence for other subdivisions; the School District is a special situation.

Another consideration:

The up-front money for Phase 3 should be divided into 3 parts and is due before the Plats are recorded; whomever brings the Plat to final is responsible for the payment.

Mayor Dunn: It has been determined that Randy Young and Blake Jumper will be the applicants that bring this phase to Final; as such, they will pay the \$53,590.00 in up-front money. This will then be reimbursed to them when the School District obtains a building permit and pays the impact fees that they are responsible for.

Being a concept, no approval or denial was given, but the applicants were given direction that the plan in its current form did not meet the intent nor various parts of the code. Second and third concepts were presented later, both with similar results. Of main concern was the environmentally sensitive areas, numerous throughout the property, that were being encroached in ways that the code did not allow.

In November 2007, Brian Ewell contacted the city and asked what needed to be done to move the project forward. Elements of the last two concepts that worked with the code (smaller clustered lots on the Fitzgerald property, cul-de-sac that conformed to the contours of the west side of the hill) were merged together and presented to the planning commission in November 2007 as new concept. The planning commission was more comfortable that this new design was more in keeping with the intent and regulations of the CE-1 zone.

This new concept split the development into 2 phases and accomplished the following:

Phase 1

- Cluster lot subdivision
- Building lots are on the flatter terrain along the extension of Fairway DR
- Open space (required in the cluster development) preserves the ravine/drainage and adjoining 30% slopes

Phase 2

- Base density 1 acre lot development
- Building lots have steep slopes; building envelopes shall conform to lesser-sloped areas
- 20% and greater slopes outside of the building envelope shall be required to stay in natural state
- Some berming can be done to lessen visual effect of lot 8 being seen by homes below

Planning Commission Motion

A MOTION WAS MADE BY KELLY LIDDIARD AND SECONDED BY KEVIN HANSBROW TO SEND FORWARD TO THE CITY COUNCIL FOR APPROVAL, FAIRWAY HEIGHTS, PLATS C AND D, PRELIMINARY PLAT WITH THE LISTED CONTINGENCIES, WHICH MUST BE MET AND APPROVED BY CITY STAFF BEFORE GOING FORWARD TO THE CITY COUNCIL.

THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT CONFORMS TO THE INTENT AND REGULATIONS OF THE CE-1 ZONE AND THE GOAL OF THE GENERAL PLAN IN STRIKING A BALANCE BETWEEN DEVELOPMENT AND ENVIRONMENTAL PRESERVATION. THE CONTINGENCIES ARE:

1. THE DEVELOPER'S ENGINEER MUST DEMONSTRATE A BUILDABLE AREA ON LOT 24 THAT WILL MEET THE ELK RIDGE CITY CODE. *(The Planner said he would address this later in the meeting)*
2. THE PLANNING COMMISSION RECOMMENDS APPROVAL OF A 20' FRONT SETBACK EXCEPTION FOR ALL LOTS ON EWELL'S LANDING EXCEPT THOSE LOTS WHICH FRONT SALEM HILLS DRIVE.
3. IN ORDER TO MINIMIZE CUTS, THERE WILL BE NO SIDEWALK REQUIRED ON THE WEST SIDE OF EWELL'S LANDING.
4. TO MINIMIZE CUTS, THE TURN-AROUND CIRCLE ON EWELL'S LANDING IS SMALLER THAN CODE ALLOWS (100' VERSE 120'). THE FIRE CHIEF MUST GIVE HIS APPROVAL ON THE SIZE OF THE CUL-DE-SAC BULB ON EWELL'S LANDING. *(Shawn Eliot did contact the Fire Chief, and his concern is for a reason; he has not tried to turn on this size; Kent Haskell said in was the snowplow drivers having a difficult time turning around with the older equipment...the older equipment is no longer an issue and Mr. Haskell is fine with the 100', in an attempt to preserve the amount of cute on the mountainside.)*

Councilmember Johnson raised a conflict that he has been outspoken on this project and he feels he should remove himself from this subject. After hearing that the City Attorney advises that Councilmembers should state their conflict and vote anyway...that they are elected to vote their views, Councilmember Johnson stated that he does have a conflict in that he lives on Hillside Drive, below this proposed development and that the homes above would be over-looking his home.

Nelson Abbott stated that he has similar conflicts.

5. THE OPEN SPACE BE DEEDED TO THE CITY BECAUSE, IF IT BECOMES A PART OF A HOMEOWNER'S ASSOCIATION, ACCESS TO CITY RESIDENTS NOT MEMBERS OF THE ASSOCIATION MAY BE DENIED, AND IT IS FELT THE WHOLE COMMUNITY SHOULD HAVE ACCESS TO THIS OPEN SPACE AND TRAILS WITHIN.
(The trails are in.)
6. THE ACTUAL LOCATION OF THE TRAIL THROUGH THE OPEN SPACE AREA WILL BE DETERMINED USING AERIAL PHOTOS TO HELP MINIMIZE THE AMOUNT OF TREES REMOVED. THIS CAN BE DONE PRIOR TO FINAL PLAT.
7. A TRAIL CONNECTION BETWEEN LOTS 12 AND 13 CONNECTING TO THE GOLF COURSE AND COVE DRIVE NEEDS FURTHER ENGINEERING WORK TO MAKE SURE IT CAN BE CONSTRUCTED. THIS CAN BE DONE PRIOR TO FINAL PLAT.

Nelson Abbott: Why not between 11 & 12?

- Craig Neeley: There is another reason that this road needs to go through: we need a 10" water line and We want this road to connect to Salem Hills Drive...then the water line would continue up to the upper Tank. The booster station at Fairway Tank is to be sized for a 1,000 gpm; it will only get 500 gpm until we get this other line. An alternative would be to find another road, but this is a more reasonable way.
11. THE EXISTING 10" WATER LINE IN SALEM HILLS DRIVE NEEDS TO BE SHOWN. LOTS 17 THROUGH 24 NEED TO CONNECT TO THIS LINE.
 12. AN 8" WATER LINE PROPOSED IN SALEM HILLS DRIVE NEEDS TO CONNECT TO THE NEW CITY WATER TANK WEST OF FAIRWAY DRIVE. THE CITY WILL NEED TO NEGOTIATE AN EASEMENT THROUGH THE PETERSON PROPERTY.
- Nelson Abbott: Why not put a line through a trail? (Issues are access for repairs.)
13. LOTS 5 AND 6 SHOULD BE SHORTENED TO ALLOW THE TRAIL BEHIND THEM TO BE ALL PART OF THE OPEN SPACE. (Done)
 14. DRAINAGE ISSUES AT FAIRWAY DRIVE/HILLSIDE DRIVE INTERSECTION ARE TO BE ENGINEERED PRIOR TO FINAL PLAT
- Shawn Eliot: There is not drain on the east side of the road at that intersection. It is a low point; so the engineering has worked out that drainage will extend to that intersection. Discussion of Mahogany drainage. Proposing some re-engineering to allow drainage to go into the ravine and connect the two together.
- Mayor Dunn: There is some additional engineering on that holding pond designed by Mr. Yergensen and Forrest Darling. The capacity in that pond is there; it is just getting it there.
15. GRADING ON TOP OF THE HILL WAS PROPOSED TO BE APPROVED FOR LOT 21 TO HELP MINIMIZE THE VISUAL IMPACT OF A HOME OVER THE HOMES ON HILLSIDE DRIVE.
- Shawn Eliot: Lot 21 has 30% slopes. As the road comes up it will have to be cut (some of the larger cuts are here and on Salem Hills Drive). One portion was to be cut, placing the driveway over in the corner of the lot; it was suggested to grade down the lot so it is level with the road and then berm it toward the back of the lot. That could help mitigate the visual impact of the homes on top of a ridge line. They would rather see homes away from the ridge line, but Code will dictate location. On one of the maps, the cuts are shown.
- Nelson Abbott: His concern arises from the example set by the same developer on the previous development on the other side of the hill. The hill is completely barren and devoid of any vegetation and probably will be for a period of time. He is unimpressed with developers approaching the City with proposed cuts; and the cuts continue to grow.
- Concerned with the amount of dirt to be removed so a house at the top is not as visual
 - He sees that lot 24 has a great deal of slope at the 30% range. If the road were straightened out, the result would be a larger building envelope.
- He does not see the need to come in and grade all the dirt and vegetation off just to get it down to a grade that is developable. That does not make sense, he feels it is preferable to just build on the top of the hill rather than take off all the dirt; that would change the whole look of the hill. He does not see how any of the vegetation will be saved.
- He does not feel he has had much information on this proposed development and he has a hard time with many of the issues.
- Shawn Eliot: (To the City Engineer) Could the road be moved over further into lot 21 and make lots 23 & 24 have larger buildable areas?
- Todd Trane: To build a road that meets the City standard would still require the same cuts. If the road is moved, lot 21 will still be cut down.
- (Councilmember Abbott: But when a road is cut, it is covered...not so with a lot. He would prefer to see lot 21 left alone, with the road straightened out.)
- When the plan was first submitted, it showed a 3:1 cut; this created a "pyramid" on lot 21. The idea was to cut the pyramid down to build a home, so why not just put the silt fencing up, rake it out the way it needs to be, with the road? That is the direction given at TRC. They could go back to 3:1 cut and just leave the "pyramid".
- To place the road over into lot 21 creates an engineering safety hazard. They tried to follow the contour of the hill to minimize the cut as much as possible. The current design eliminates any fill on the downhill side of lots 23 & 24. So the edge of the road will be right at existing ground.
- Nelson Abbott: Another issue: Consider if the housing market continues to slow and the number of building permits decreases; the lots could sit barren for some time...there is this risk.
- Shawn Eliot: The mistakes of the past are not necessarily what we will deal with in the future. There are re-vegetation requirements that will be enforced.

The Planner (Mr. Eliot) asked to address #1 on this list:

(Referred to Draft Minutes of the Planning Commission; included in packets)

As Shawn Eliot read from the Code (02.32.030-C-2)

"Any area within a subdivision which has a percent slope between 20 and 29 percent may be graded, provided, however, that the grading area shall be less than one half of the area of such slope."

(He has consulted with the City Engineer about this.) Considering lot 24: The idea is that the developer has to provide on this lot an area that could be graded for a home...what would be the size of a home? Half of that area has to be under 20% slope. On lot 24, there isn't any area; the only 20% slope is located in the top corner of the lot (on the map).

8. The city will need to negotiate an easement for an 8 inch culinary line through the Peterson property prior to final.
9. Drainage issues at Fairway DR/Hillside DR intersection are to be engineered prior to final plat.
10. To minimize cuts the turnaround circle on Ewell's Landing is smaller than code allows (100' vs. 120'). The public works director was ok with this due to the limited amount of lots it services. The fire chief's view will be discussed at the council meeting.
11. Grading on top of hill was proposed for lot 21 to help minimize the visual impact of a home over the homes on Hillside DR.

City Council Discussion

The council should decide:

1. If the preliminary plat fits the intent and regulations of the code.
Nelson Abbott: Under which Code are they vested?
Shawn Eliot: Under the current Code, but as mentioned, if there is a part of the Code in the process of change... and the Council is sure of the direction, that particular part can be applied to the development.
2. If the balance between development and preservation is being met.
3. Is the council comfortable with the amount of 20 to 30 percent slopes in the building envelopes on the lots on top of the hill and is lot 24 a buildable lot? (*Clarification needed*)
4. Is a long cul-de-sac better at preserving the unique terrain features vs. the road connecting to Salem Hills Dr. through the ravine/drainage? New CE-1 code would allow this exception.
5. Is allowing 19 lots on a cul-de-sac appropriate (Fairway Dr.)? New CE-1 code would allow this exception.
6. Is the grading on top of the hill on lots 20-22 appropriate?
7. Is the smaller turnaround circle on Ewell's Landing appropriate?
8. Should the open space area be deeded to the city? The planning commission recommends it should, so all citizens can utilize it.

Staff Recommendation

Staff recommends the following:

1. Staff finds that the development does fit the intent and regulations of the code and the goals of the general plan in that it does "tread lightly" and allows the owner to develop his land.
2. Need to decide if lot 24 is buildable, should be part of the open space, or part of another lot. If buildable, council needs to make an exception to the development standards.
3. Add following verbiage to plat map (required on Elk Haven plats)
 - ✓ To preserve drainage and wildlife corridors, no fence shall be constructed on ravines, drainages, open space areas, and slopes of 20% or greater.
 - ✓ Natural vegetation including indigenous hardwood trees can be removed from the portions of the lot to be committed to the dwelling, driveway, retention walls, firebreaks and areas required to be cleared as described within the urban interface area requirements (09-03-9). Once these areas are cleared, 75% of the remaining hardwood trees shall remain on the property. Areas with slopes 20% or greater that are not a part of an approved building envelope, ravines, drainages, and wildlife corridors shall remain in a natural state.
4. Shawn Eliot: Background: The Planning Commission missed this point and he added it onto the list.
Recommend approval of preliminary plat.
Mayor Dunn: Cautioned using Woodland Hills as a model for too many things; they have their own struggles with safety issues.

Proposed Motion (*Listed as part of the minutes, but motion was not made until clarification of Code is obtained.*)

1. The council approves Fairway Heights Plats C and D as recommended by the planning commission findings that the proposed development conforms to the intent and regulations of the CE-1 zone and the goal of the general plan in striking a balance between development and environmental preservation.
2. Add verbiage listed in staff recommendation 3 to plat map.
3. The council needs to decide:
 - ✓ (decision on lot 24, exception to standard?)
 - ✓ (decision on longer cul-de-sacs and allowance of 19 homes on a cul-de-sac based on being approved with new code).
 - ✓ (decision on adding verbiage to plat regarding vegetation preservation and fences).
 - ✓ (decision on allowing 100" diameter cul-de-sac for Ewell's Lookout).

(*Planning Commission Notes on the Public Hearing were included with the memo*)

Mayor Dunn: Is lot 24 buildable?

Craig Neeley: He would need to review the lot specifically to see if it meets Code.

It was decided that this will be discussed further between Craig Neeley and Todd Trane.

Mayor Dunn: As a Council, there needs to be clear understanding; and the Council indicated that there was not clear understanding at that point.

Nelson Abbott: The Planning Commission moved to recommend that the Council grant a 20' setback exception on the lots in Ewell Landing; in his mind, that simply allows 10 more feet of home. (*The back setback moves with it.*)

How many acres in the development?

(Total = 18.97 acres; the hillside itself is 7 acres... lots 17 – 24)

"This is regardless of whether or not the Planning Commission or the public thinks that the application is a good or bad idea.

In addition, if the city or town ordinances are ambiguous, they must be interpreted by the city or town in favor of the landowner. When a Planning Commission ignores the law and approves or denies a land-use application in violation of the city or town ordinances, it creates trouble and unnecessary conflict for the city and town Council. This, no matter how well intentioned, is never in the public interest."

The Code is the Code and the law is the law. It is not "destruction", it is a right that is associated and lies with the land.

Mr. Church continues: "They can listen (meaning the Planning Commission) to the public even if it is just uneducated clamor. When a Planning Commission is acting as a land-use authority, it has little discretion."

The Mayor said that this is why he is so concerned about things that are written into our Code that say 'intent'; "how do you define 'intent', when the Code spells it out in black & white?"

"The landowner's application either complies with ordinances or it does not. An individual Planning Commissioner's opinion of the merits of the proposed land-use application is not relevant to the process. Any individual Commissioner's opinion and any of the public's comments and concerns are relevant only to the extent that they speak to the issue of compliance with existing law."

When we get into the nebulous area of whether or not the "intent" is meant and leaving that decision with the Planning Commission, we are asking them to put aside the Code, listen to public clamor and change the law. This creates issues for the City. The Planning Commission is working very hard; and he (Mayor) tried to make it a bit easier about a year ago; when he called everybody together and asked that they not bring forward anything that was not compliant with CE-1 Code.

Todd Trane: That is what they have tried to do...and all their proposals have met the Code. This has been a long process and he feels the applicants have honestly tried to develop within the Code.

Mayor Dunn:

- The two engineers are to meet to discuss interpretation of the Code, as it applies to the proposed application.
- Mr. Fitzgerald's offer to install the road and be reimbursed through off-site reimbursements is a generous offer and should be followed up on by another approach to Mr. Peterson.
- The Mayor will meet with Mr. Peterson's attorney, as well; in an effort to understand Mr. Peterson's perspective.

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY DERREK JOHNSON TO TABLE FAIRWAY HEIGHTS, PLAT C, APPLICATION FOR PRELIMINARY APPROVAL UNTIL THE NEXT CITY COUNCIL MEETING ON FEBRUARY 12, 2008; IN THAT TIME, TWO KEY ISSUES ARE TO BE ADDRESSED:

- 1. A MEMBER OF THE CITY COUNCIL (PERHAPS THE MAYOR) IS TO APPROACH MR. PETERSON REGARDING THE POSSIBILITY OF THE SALE OF HIS PROPERTY OR THE POSSIBILITY OF MR. FITZGERALD'S OFFER TO INSTALL THE ROAD THROUGH, IN CONJUNCTION WITH THIS PROPOSED SUBDIVISION; THE COSTS WOULD BE SUBJECT TO OFF-SITE REIMBURSEMENTS TO MR. FITZGERALD WHEN THE PETERSON PROPERTY IS DEVELOPED.**
- 2. REGARDING THE ISSUE OF WHETHER LOT 24 IS BUILDABLE: THE CITY ENGINEER WILL MEET WITH TODD TRANE AND THE DEVELOPER TO SEE IF A CONSENSUS CAN BE REACHED.**

Discussion:

Question (Brian Ewell?): Could there be approval with contingencies? When they come back, they do not want to discuss all the other subjects.

Mayor Dunn: The Mayor felt that it would not be wise to go with contingencies and asked that the developers wait 2 weeks.

Shawn Eliot: Numbers 6 & 8 regarding grading on lots 20-22 and the turnaround on Ewell's Landing also need to be addressed; as well as the open space.

AN AMENDED MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY DERREK JOHNSON TO TABLE FAIRWAY HEIGHTS, PLAT C, APPLICATION FOR PRELIMINARY APPROVAL UNTIL THE NEXT CITY COUNCIL MEETING ON FEBRUARY 12, 2008; PENDING FURTHER DISCUSSION

VOTE: YES (5)

NO (0)

**Mayor Dunn will contact Mr. Peterson and his attorney. The Mayor asked for Mr. Fitzgerald's permission to mention his offer.*

Nelson Abbott: With snow along the sides of the roads, it is hard enough to pass through some of the roads...much less having two lanes. It is a hazard.

After discussion, it was decided to adopt proposed Ordinance B, but there were changes in that ordinance as well.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO ADOPT AN ORDINANCE AMENDING THE ELK RIDGE CITY CODE PROVIDING FOR THE REGULATIONS CONCERNED WITH SNOW REMOVAL, CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING AN EFFECTIVE DATE; WITH THE FOLLOWING CHANGES TO PROPOSED CODE:

1. SECTION 6-1-4 (A): LEAVE THE STRIKE OUTS

2. SECTION 6-1-4 (B): STRIKE: "cause to be parked or allowed to be parked, said vehicle" & "or right of way of a city street at any time"

3. STRIKE: "vehicles can only park upon any city street temporarily up to 5 hours when snow removal activities are not required"; AND ADD: after 1 November and 1 March, at any time."

VOTE (POLL): RAYMOND BROWN-AYE, JULIE HASKELL-AYE, DERREK JOHNSON-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE
NO (0)

Passes 5-0

3. Amendment to Employee Compensation Ordinance – New Positions:

New people have been hired for office staff: the Deputy Recorder resigned and was replaced and a new position was created to cross-train with the City Treasurer and to handle Building Permits, among her other duties. Their wages were approved with the Budget, but those wages need to be listed in the Ordinance. Both positions, after the 3-month probation period are at \$12.00 per hour.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO ADOPT AN AMEDMENT TO THE ORDINANCE PROVIDING FOR THE COMPENSATION OF ELECTED AND STATUTORY OFFICERS AND EMPLOYEES OF ELK RIDGE CITY; SETTING THE WAGE FOR THE DEPUTY RECORDER AND THE ASST. TREASURER/CLERK AT \$12.00/HOUR

VOTE (POLL): RAYMOND BROWN-AYE, JULIE HASKELL-AYE, DERREK JOHNSON-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE
NO (0)

Passes 5-0

**TANK CLEANING –
BID APPROVAL**

Mayor Dunn: There is a bid for tank cleaning by a company called LiquiVision. The Mayor explained the cleaning process. It would be done in July. The cost = about \$5,000 for both tanks. The Council wanted to see the bid.

**SUVMWA WATER
RIGHTS – UPDATE**

Mayor Dunn: Some of the municipalities want to be paid for the 399 acre feet of water rights that they agreed could be sold to Elk Ridge City. Tony Fuller is writing up a change order to divert the water to our wells. Former Councilmember Harward counseled not to pay SUVMWA for the water rights until we know we have them to allocate for cash-in-lieu. Mr. Fuller advises that money could be exchanged for allocation now for those rights, as long as the Council is comfortable with the purchase contract, and that it is signed by all parties.

**RE-APPOINT
PLANNING
COMMISSION
MEMBER**

Chairman Russell Adamson's term of office is up and he is willing to continue to serve.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO RE-APPOINT RUSSELL ADAMSON AS A PLANNING COMMISSION MEMBER

VOTE: YES (5)

NO (0)

MINUTES

No Minutes available to approve.

EXPENDITURES

None

ADJOURNMENT

Mayor Dunn adjourned the Meeting at 11:05 PM.




City Recorder

NOTICE & AGENDA

Notice is hereby given that the City Council of Elk Ridge will hold a regular City Council Meeting on Tuesday, February 12, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM.

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 - PM

REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

6:05 Public Forum:

*Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by the group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Mayor or City Council.

6:15 1. Fairway Heights Subdivision, Plat C – Discussion Only

6:45 2. Ridge View Meadows Subdivision, Plat – Concept Approval

7:00 3. Water Project Change Order – Mayor Dunn

7:10 4. ULCT – Letters for Council re: Insurance – Mayor Dunn

7:20 5. Payson – Hole #7 – Value & Offer – Mayor Dunn

7:30 6. LiquiVision (Tank Cleaning Bid) – Mayor Dunn

7:40 7. Re-Appointment of City Recorder and City Treasurer

7:45 8. Appointment of Chairperson of Youth Entertainment Committee – Allison Richardson

7:50 9. Schedule Public Hearing for a Budget Amendment to the 2008/2008 Fiscal Year Budget

7:55 10. Approval of Minutes of Previous Meetings

8:00 11. Expenditures:

General:

A. Purchase of Copier – Mayor Dunn

B. Check Register & Payroll for January, 2008


Adjournment

*Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.


Dated this 8th day of February, 2008.




City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and hand-delivered to each member of the Governing Body on February 8, 2008.


City Recorder

**ELK RIDGE
CITY COUNCIL MEETING
February 12, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, February 12, 2008, at 6:00 PM.**

All interested persons were invited to be heard.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of this Meeting was provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on February 8, 2008.

6:00 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Raymond Brown, Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance; *Public Works:* Kent Haskell; *City Planner:* Shawn Eliot; *Public:* Dennis Jacobson, Dan Ellsworth, Lee Pope, Carolee & Brian Ewell, David Ewell, Mike Ewell; and *City Recorder:* Janice H. Davis

**REMARKS
& PLEDGE OF
ALLEGIANCE**

An Invocation was offered by Raymond Brown and Mayor Dunn led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO
APPROVE THE AGENDA TIME FRAME AS PRESENTED, BEGINNING THE REGULAR
SESSION AT THE SCHEDULED TIME OF 6:00 PM**

VOTE: YES (5)

NO (0)

PUBLIC FORUM

The Mayor explained the difference between a Public Hearing and a Public Forum.
No action can be taken on a topic brought up in a public forum.

Comments:

1. Kent Haskell, introducing Dan Ellsworth (SESD):

There was a meeting held at SESD regarding upcoming impact fees owing SESD for the two City Projects under construction: Upgrade of Cloward Well & the new Fairway Tank installation.

The Mayor, some of the Councilmembers and Kent Haskell were in attendance with members of the Board of Directors from SESD (South Utah Valley Electric District).

Dan Ellsworth, representing SESD, was present to address the Council.

After the meeting, the information gathered was presented at the Board of Director's Meeting; the result of the Board meeting was the topic to be addressed by Mr. Ellsworth.

He felt the discussion was good and resulted in a better understanding.

Dan Ellsworth: Regarding the Impact Fees and the Capital Facilities costs for the power necessary for the Cloward Well Upgrade and the Booster pump for the Fairway Water Tank: The Board of the Directors discussed the City's position and the position of SESD in the above mentioned costs.

A handout was distributed to the Councilmembers.

Capital Facilities costs and the impact fees for both connections equal \$214,914.45.

The SESD Board sent Mr. Ellsworth with an offer to waive all of the costs of the facilities (Materials = \$71,709.00), but would like Elk Ridge City to pay the impact fees upon connection of the load. Example: The Cloward Well will come online May 1, 2008; the impact fees would be due on that project (\$47,906.50) at that time. The same would apply to the Tank coming online. The Service District is willing to absorb \$103,569.15 of the total costs.

SESD would also like for the Council to re-visit a Franchise Agreement with the Electric Service District. He submitted a draft of the Agreement, to be reviewed and adopted at a later date.

He would like to have input on the proposed Agreement.

Brief explanation of a Franchise Agreement.

He feels this is a reasonable offer to the City.

Mr. Haskell would like some latitude regarding when the Tank comes on line. He also feels this is a good offer for both the Service District and the City.

Assuming the term "grading area" is defined by the building envelopes for each lot: If one applies the second interpretation, the upper cul-de-sac street and Lots 23 and 24 are disallowed. In addition, Lots 3, 4, 12, 13, 14, and 15 in the lower cul-de-sac may also be disallowed. If one applies the first interpretation the project as proposed complies with the code. I believe this first interpretation is literal but probably doesn't accurately convey the intent as adopted.

From my perspective, the current code anticipates an "area" as having a critical slope occupying a good portion of its interior. I believe the intent of the code is to leave at least 50% of this interior slope untouched. This protects the natural terrain even though retaining walls and other techniques could be utilized to eliminate the slope in its entirety.

I believe the term "area" refers to an individual lot or parcel and that the term "grading area" refers to the improved area, including constructed slopes and walls, within an individual lot or parcel. I believe roads and streets are controlled by other areas of the code and that the specified cross-sections and allowable maximum values of grade, cut, and fill, offered in other sections of the code further serve to constrain the areas that can be accessed for development and the way they are developed.

Using my interpretation of this section of the code it is my opinion that the proposed project conforms to its intent. Hopefully there are cut, fill, and retaining wall height restrictions that apply to each individual lot which limit the extent to which a larger lot can be developed and ultimately discourage the creation of artificially large lots for the sake of conformance.

Cul-de-sacs

Here are the results of my research into cul-de-sac lengths:

The American Society of Civil Engineers and the National Association of Homebuilders and the Urban Land Institute recommend that the volume of traffic and number of housing units should be the factors that determine cul-de-sac length. Assuming that a cul-de-sac can handle no more than 200 vehicle-trips per day and that each single-family home generates up to 8 to 10 vehicle trips per day, a cul-de-sac should accommodate a maximum of 20 to 25 homes. For 100-foot wide lots, a street of 20 houses would result in a 1,000-foot street.

The Community Builders Handbook standard for single-family housing is 1,000 to 1,200 feet. The Institute of Traffic Engineers gives the same 1,000-foot standard in their book, Subdivision Design Standards.

Fire Department pumper trucks generally carry 1,000 feet of hose and therefore, the maximum length for the cul-de-sac should be no more than 1,000 feet.

I believe a temporary cul-de-sac should be limited to 1,000 feet in length. This ensures that public safety will not be compromised in the event that "temporary" becomes "permanent". I don't have a strong recommendation on the maximum length of planned cul-de-sacs but I think anything less than 1,000' is reasonable and supported by standard safety and design guidelines."

David Ewell: In the City Engineer's opinion, lot #24 conforms to Code; he also gave a recommendation on the long cul-de-sac (temporary turn around). He gave a recommendation of not over a 1,000 ft.

Brian Ewell: It was unknown at that time exactly what the Fitzgerald's are going to do; they need time to decide and to talk to RL Yergensen.

Shawn Eliot: He spoke to the Fitzgerald's and they do want to be able to move forward; but with the market the way it is, they would like to wait.

Mayor Dunn: The portion owned by the Ewell's could be a "stand alone" project; on his part of the project, the issue of lot 24 was one of the reasons to table the project at the last meeting. The City Council needs to fully understand the issues to be able to act on them.

(The City Planner wrote a memo, dated 2-8-08)

To: Elk Ridge City Council

From: Shawn Eliot, City Planner

Re: Interpretation of 02.32.030-02 Grading of Steep Slopes
8 February 2008

In the planning process, there are times when applying code can be difficult, partly because of the complexity of a project, but also code can be read different ways by the approval makers and developers through the development process. A good example of this happened in December 2007. The Elk Ridge Meadows applicant, Randy Young, interpreted a portion of the code regarding what was allowed as open space and concluded that roadways could be included. An interpretation was made that this wasn't the case.

A good explanation of this comes from the book "A Utah Citizen Guide to Land Use Regulation" written by Craig M. Call, Attorney, Private Property Ombudsman of the Utah State Department of Natural Resources. "Every time the land use ordinance is applied (code), someone has to decide what it means and how it should control the proposed application or use.

4. Area of least slope:

- a. In all cases, the building envelope location on a lot should conform to the natural terrain and remain within the areas of least slope while allowing for a minimum buildable area in accordance with the provisions of section 10-8A-8. The area of the design envelope could be considerably smaller than the lot to accomplish this requirement.

This portion of the CE-1 code allows the planning commission to give exceptions to setbacks and adjust the building envelope (building area) to preserve sensitive areas such as steep slopes, conform to the natural terrain and remain in flatter areas. All of which are designed to give the tools needed to make a development safer and preserve the natural environment.

Which of the two interpretations of the steep slope code better fulfill the criteria of CE-1 code 10-9A-5?

CE-1 Code -- 10-9A-6 reads:

- C2. Streets and roads proposed to cross slopes greater than (10%) are allowed, subject to the following:
 - a. Proof that such street and/ or road will be built with minimum environmental damage and within acceptable public safety parameters.
 - b. Such street and road design follows contour lines to preserve the natural character of the land, and are screened with trees or vegetation.

Even when designing roads, anything over 10% slope has requirements to build with the natural terrain for safety and preservation. Though the lots in question are not roads, these requirements demonstrate that conforming to the natural conditions is quite important.

Which of the two interpretations of the steep slope code better fulfill the criteria of CE-1 code 10-9A-6?

CE-1 Code -- 10-9A-10 reads:

B. Review By Planning Commission: The planning commission shall review the site plan, the recommendations of the city engineer and any technical reports submitted in connection with a request for adjustment of the standards or criteria of this development code, and shall approve the application only upon a finding that:

3. The location and arrangement of the buildings, roadways, open areas and other elements of the development duly recognize and accommodate the natural conditions present, and construction of such elements will not result in the creation of an adverse or unsafe condition.
4. The development will accomplish and preserve the intent of the zone.

The city may require changes in the plan in order to more fully accomplish the intent of the zone. Such changes may include, but are not limited to, adjustments in the boundaries of the buildable area and changes in the location of roadways, structures and similar elements.

For approval, a development must recognize and accommodate the natural conditions, not create adverse or unsafe conditions, and accomplish and preserve the intent of the zone.

Which of the two interpretations of the steep slope code better fulfill the criteria of CE-1 code 10-9A-10B?

D. Slopes Greater Than Twenty Percent: All land surface outside of the buildable area delineated a grading plan and site plan, having a slope of twenty percent (20%) or greater shall remain in its natural state and shall not be graded or otherwise disturbed, except for the planting of additional vegetation and/or the addition of sprinkler irrigation systems. If the establishment of firebreaks and/or access easements is required, or when such disturbance is specifically provided for under an approved site plan, these areas will be required to be retained or re-vegetated in a manner that can stabilize the slope while maintaining firebreaks.

E. Removal Of Natural Vegetative Material: Natural vegetative material shall not be removed except for those portions of the site to be committed to the dwelling and attendant yard area (generally thirty (30) feet around dwelling), and required to accommodate roadways, driveways, retention walls, and firebreaks. All areas proposed for removal of vegetative materials shall be shown on the grading and site plan. Any area requiring re-vegetation will be shown on the grading and site plans.

This portion of code is important. It demonstrates that slopes over 20% and natural vegetation are not to be disturbed without approval. This language points out that you cannot remove natural vegetation except for the dwelling and yard area, and roads, driveway, wall, and firebreaks. It is intended to keep clearing and grading to a minimum.

Which of the two interpretations of the steep slope code better fulfill the criteria of CE-1 code 10-9A-10D&E?

Raymond Brown: (Quoted the Engineer's memo) "If one applies the first interpretation the project as proposed complies with the code. I believe this first interpretation is literal but probably doesn't accurately convey the intent as adopted."

Mayor Dunn: So, was he saying that under the "letter of the law", it's legal; and under the "spirit of the law", it's questionable?

Raymond Brown: The developers believe they have complied with the Code; as he (engineer) sees it, he believes the interpretation does not accurately reflect the original intent of the Code.

Shawn Eliot: If he and the City Engineer agreed on the interpretation, the issue would not be before the Council.

Derrek Johnson: This does give the Council the right to interpret this section.

So, what is meant by "tread lightly"? That must be determined.

City Recorder: A developer coming in must comply with the Code, as it is written. It is agreed that there are many vague parts of the current Code; that is why it is being re-written. It would not be possible for a developer to try to outguess a previous Planning Commission and Council in attempting to interpret the intent with which the Code was written; he must be able to rely on the literal application of the law as to whether or not something meets Code. The "spirit of the law" is not easily enforced...it should be considered when writing the law.

Sean Roylance: He said he agrees completely; that is why there is the development process; to gain the clarification necessary to proceed.

Derrek Johnson: "Brian (Mr. Ewell) did not buy this land originally to develop it; he bought it to build a home and have horses."

Mayor Dunn: He felt the Council should stay on target and that the original reason for purchasing the property does not really have any bearing on the situation at hand.

Reminder to Council: The Planning Commission forwarded the issue to the Council.

Raymond Brown: He agrees with the Recorder; but the point is that they are developing in a community and this is a touchy area...this is where the "intent" comes into play...we all want the development to fit in and for everyone to get along.

Comment from public:

Lee Pope: (Asked if he could take a few moments...)

Mr. Pope has lived here in Elk Ridge for a long time; before there were homes and any development. He married one of the Shulers', who owned the area, for the most part. He also owns some of the Shuler property south of town that will be developed. He had the area to himself and has watched development occur and the open spaces disappear. Each new phase brought new people...really good people. Every time that happened, a part of him did not like to see the growth; but he got to know the people and grew to really like them. He got involved with Planning Commissions and the Board of Adjustments and he has seen "waves" of people come into the area. Each "wave" brings the idea that, once they are here, they do not want anyone else to move up here. He understands those feelings. He also realizes that you can only do one of two things: Buy the property and pay taxes on it, or assist in the growth by serving on some of these bodies.

He appreciates all those serving in every capacity; it is not a thankful job.

This is not someone's playground or sledding hill; it is private property. Property rights should be respected and the land should not be destroyed. He needs to know where the Council stands as he approaches future development of his property. He has certain rights and he feels that as long as he tries to develop his property in a reasonable manner, that the City Council and the Planning Commission have an obligation to assist him in this. He wants a beautiful Community; everyone up here does...but "you can't have too many things on the table that are there with maybe an intent to slow or stop any development taking place simply because you can use words like 'health, safety, welfare and intent'."

He had a question: There are rumors that he has heard that he does not want to believe; he said he did not mean to offend anyone; however, he wanted to know "if there are any members of the City Council, at any time, who have had conversations with the Planning Commission or residents of this City...in relation to stopping this development or any development up here; or making it so difficult that nobody could develop...simply by adding on things that sound good...sound reasonable, but collectively have the ultimate effect of stopping everything from happening. Is that anybody's intent up here?"

Mayor Dunn: "Let me take the lead on that. No. He said he was not answering for anyone else; but for himself, No..."it is very illegal for me, as the 'Father of the City' to take that position."

He has been accused of being "pro-development" because he sees people's property rights as being a constitutional issue, and they have a chance to exercise those rights. He sees his five years on the Planning Commissions with two cities as being a mediator that takes Code and says

feelings about this development and has expressed them. He had asked to be recused from this subject matter; but the point was mentioned that according to the City's legal counsel (David Church), he feels an elected official should state the conflict of interest and vote the best way he/she can anyway; that is why they are elected to these positions. He has admitted to strong feelings about the issues being considered; but has said that he will do his best to be a part of the Council's decision.

Derrek Johnson: He added that he has had those feelings since before he was elected.

(The following conversation is an exact transcript of what was said.)

Brian Ewell: Directing a question ("Yes or No") to Councilmember Johnson: "Have you talked amongst yourselves with residents with the intent to stop this development?"

Derrek Johnson: "No, we cannot stop it."

Brian Ewell: (To Councilmember Johnson) "Have you talked about stopping it?"

Derrek Johnson: "No, we can't stop it. I don't have any ____?____ to stop it."

Brian Ewell: "Have you told me in conversations that you plan on starting a litigation to stop this or to postpone..."

Derrek Johnson: "Yes, I have."

Brian Ewell: (Directed to the Council, in general) "I've been threatened by this gentleman, on the telephone, more than once."

Derrek Johnson: "Threatened?"

Brian Ewell: "Threatened...that you was going to start litigation if we proceed with this development."

Derrek Johnson: No, that's not the way it was put...in all fairness, we had a meeting with RL at my home; with the residents...you weren't there. RL was present. So, even before I was on this committee..."

Brian Ewell: "Did you say that you would start litigation if we proceeded with this development?"

Derrek Johnson: It was the residents combined...did state that they would pursue litigation."

Brian Ewell: "And you were part of that?"

Derrek Johnson: "I was part of that...before I was elected here...yes...talk to RL."

Brian Ewell: "On the phone...this was a couple of weeks ago...you called me on the phone, in a panic; and at the end of the conversation, you said..."

Derrek Johnson: "I went over the issues with you; you told me it was going nowhere...and hung up."

Brian Ewell: "...You said, we will put this in litigation; we are all pooling out money together...and this will go to litigation...is this not the truth?"

Derrek Johnson: "I don't remember precisely what I said; but you know there's been pending litigation...yes, Brian."

(There was a comment from someone in the public audience to have this on public record.)

Brian Ewell: "The main concern we have is that the intent of the Code is not used to delay it to the point...just like Lee suggested...that we can't do this...and that personal opinions and feelings do not get in the way of interpretation..."

Derrek Johnson: "And that's why I was willing to step aside, because I, as a Councilmember, knew this was coming about."

Brian Ewell: I appreciate that and I appreciate full honesty, as well."

Mayor Dunn: There is a legal term...and let's close the discussion with this...it's when a decision is made that's unsubstantiated...in other words, there's not enough hard law to sustain it; and you get into a nebulous area where "intent" and "opinion" seems to be a dominating influence. There term I was referring to is "arbitrary" and "capricious"; that is a very strong legal term...and if it's been decided that a decision has been made arbitrarily and capriciously, based on public clamor, or things where there's been a gross misinterpretation of something...it always goes against the City. It goes against that body that made that decision in an arbitrary and capricious manner. You usually find that the seed for that has been either ignorance...not knowing enough of the Code to fit it all together; or to be swayed by some pretty strong opinion that starts to "poke through the membrane of the constitutional issues. That is why I say again, we follow this "black and white"; we're going to be safe...we are going to be good...and it's going to work. We have to trust in this process. It may not be what you, personally, have strong feelings about; "but my advice as Mayor is: let's keep the City out of litigation; let's keep the City's nose clean; let's look at this Code and see what the cleanest, fairest way to do it is...and make a choice based on that."

We have spent a lot of time on this and he feels the discussion has been well-spent. He appreciates everyone that has been here to participate in this.

Mayor Dunn: Both the City Engineer and their engineer agreed with that way of looking at it.

Sean Roylance: He feels the City Engineer said "you can't" on lots 23 & 24.

Brian Ewell: (To Councilmember Roylance) If I go back to the City Engineer, and he comes back and he says that this can be done; a home can be there; it will be safe; it will meet my interpretation of the Code; if he can come back and say that it is a safe, buildable lot, do you value what he says?"

Sean Roylance: "I value it; do I take it as the 'end'? No."

Brian Ewell: "Do you take it as him being the expert, as well as another engineer that's looked at it...?"

Sean Roylance: "I certainly take his opinion...for what it is worth...which is an opinion by someone who has a good idea what he is doing; but, to be honest, I don't think that he's an expert at interpreting Code; I think our Planner is better at that than the Engineer is. To answer your question, no."

Brian Ewell: It sounds like there are differences of opinion in interpreting #1.

Sean Roylance: That is why he read that quote by that attorney; it is the job of the Council to interpret... "that is why we're elected".

Brian Ewell: And there must be a consensus as to what that interpretation is.

Sean Roylance: "And that is why we vote...and if it is 4 to 1, then it is 4 to 1...if it is 3 to 2, then it is 3 to 2."

Shawn Eliot: That is what was asked, for the Council to give an interpretation. On #2, it does say the area to be graded is not the building envelope; the building envelope is the area you usually put your yard. The way he is looking at it is to say, is there a large enough area for a footprint of a home and a driveway...that is the area to be graded. But the interpretation is needed to be able to move forward.

Derrek Johnson: He feels more clarity is needed still.

(More discussion on the various interpretations.)

Nelson Abbott: Referring again to Elk Haven: On every one of the building envelopes, the engineers put down what the square footage of it was...they were outlined to demonstrate that they met the intent of the Code. When he saw that it was doable, he was okay with it. He knows the developers' engineer has the ability to show this on the plat.

Brian Ewell: Repeating what had been said: Take the buildable area...

Mayor Dunn: The building envelope and the buildable area are the same thing...then you have the smaller area, which is the footprint (actual footings of the building)...where is it going to be placed in that envelope or area?

Brian Ewell: And if we can grade that and maintain only grading ½ of the buildable area...then that is a viable option?

City Recorder: The Code does not offer a definition for "building envelope"...it is "building area".

Brian Ewell: The building envelope shown on lot 24 is much bigger than 4,000 sq. ft. If they make that smaller, you would see that the light blue area is a "pretty good chunk of the 4,000 sq. ft. building envelope".

Nelson Abbott: Setbacks must be figured in.

(More discussion...)

Derrek Johnson: (Directed to Brian Ewell) "As hard as it was and as uncomfortable as it was for me, I appreciate your direct questions; because I always believe in direct answers from those who have been elected to serve; so I appreciate it...I really do."

Brian Ewell: "You know, it has felt like... a lot of times...like there has been a personal vendetta or personal agendas; and I will be honest with you, I felt like all I heard from Derrek is, 'I don't want a house behind my house'...and I understand you 100%; but let's try to get rid of the personal issues." He just wants the Code to be interpreted..."when we start talking about 'intent', it scares me...because I feel like we are going by what the Code says as far as the slopes and setbacks and those types of things...and these things are doable from an engineering standpoint."

Mayor Dunn: He hopes that the discussion has been useful. He knows what Mr. Pope expressed about the strong feelings regarding wanting to preserve Elk Ridge...he has felt the same things about the area around his property. He enjoys his view; but one does not buy a "view". He appreciates the dialog.

Nelson Abbott: Wanted to add that he felt to commend the developers for coming in to confront their "accusers" and to express their feelings directly. He feels there is a learning curve in being on the Council. He sees things a bit differently now, with some experience than he did when his term of office began.

The other costs did not qualify as “change orders; they were considered “owner furnished equipment”.

Nelson Abbott: He does feel that the changes were part of the overall project; but these new costs should be part of the Impact Fee Study and Impact Fees should be increased accordingly. Even though the existing residents will benefit from part of the tank project; but most of this should be paid for from impact fees.

Question: If tank experiences any sinking or if there are continued problems; whose liability is it?

Mayor Dunn: It would fall on the bonding for the company performing the work.

Sean Roylance: Is there enough money to keep coming up with extra expenses? Is the extra dirt required to cover the tank factored into the costs? If not, where will that money come from? How much dirt will be required? (*Mayor Dunn thinks it is 8,000 cubic yards.*)

If there are any further changes, there should be detail *before* the work is done.

*City Recorder: David Church should be asked about the legality of paying the electrical impact fee with water impact fees? Where will the payments to SESD be made from?

Another question: The laws seemingly changed some years ago and impact fees are collected at the time of building permit; can they be collected up-front from the developers; the City used to do this until we felt we were mandated not to do so any longer.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE CHANGE ORDER #00001 – FOR THE REPLACEMENT OF STRUCTURAL FILL FOR THE FAIRWAY TANK PROJECT, FOR GERBER CONSTRUCTION, IN THE AMOUNT OF \$21,481.20

Discussion:

Mayor Dunn: He has Corbett Stephens working on gathering up dirt from people digging basements, etc. He does not recall how much the dirt is estimated at; but it should be in the figures used for the cost breakdown for the Project.

Nelson Abbott: There is a great deal of dirt being hauled off from the hospital expansion in Payson; he could ask if that dirt is available.

**He said he would check on it.*

**Mayor Dunn will also check on the cost of the dirt.*

Sean Roylance: If the City is going to fall short in financing this Project, it would be better to know that now and plan for it.

**VOTE ON THE MOTION (POLL): RAYMOND BROWN-AYE, DERREK JOHNSON-AYE, JULIE HASKELL-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE
NAY (0)**

SEAN ROYLANCE: COMMENT ON “AYE VOTE: HE VOTES YES ON THIS BASED ON THE FACT THAT THE WORK IS DONE AND NECESSARY TO PAY; HOWEVER, HE NEEDS TO SEE DETAIL FIRST IF THERE ARE ANY OTHER “ADJUSTMENTS” FINANCIALLY

Passes 5-0

Nelson Abbott: Part of the Water Project will benefit the existing residents in the booster station pumping water to the upper tank; and that will benefit the overall City.

ULGT – LETTERS TO
COUNCIL RE:
LIABILITY
INSURANCE

A survey letter was sent to Mayor Dunn and was conducted over the phone with the Mayor and Mr. Tige Cook, the Loss Prevention Specialist for Utah Local Governments Trust (ULGT).

This is to pinpoint weaknesses and strengths throughout the City. The City scored the following on the various parts of the survey:

70% - Liability survey; 68% - Park survey; 53% - Worker’s Compensation survey

Suggested goals were included in the report provided to the Mayor and Councilmembers:

- Have all city drivers attend defensive driver training on a biannual basis.
- Develop and put in place a program of documented facility and park inspections.
- Implement a program of documented safety meeting and trainings.

The City had no workers compensation claims for the period of 1-1-2007 thru 12-31-2007

0% loss ratio compared to an average of 56.69% for workers compensation. The city had one liability claim totaling \$155.00, giving a 0.74% loss ratio compared to an average of 46.14% for liability. We were congratulated on a great job this last year.

It was mentioned that it is good that the city is moving to a more frequent sewer cleanout schedule and replacing all signs within the city among other items.

Mayor Dunn: He wanted the Council to have copies of the report to review. Mr. Cook brought up several questions that the City really has had no policy for such things as:

- Vehicle management schedules
- Snow removal logs
- Sexual harassment training meetings

SCHEDULE PUBLIC
HEARING FOR
BUDGET
AMENDMENT
FOR 2007-2008

**MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY RAYMOND BROWN TO
SCHEDULE A PUBLIC HEARING FOR MARCH 11, 2008, AT 6:00 PM, TO CONSIDER AN
AMENDMENT TO THE 2007 – 2008 FISCAL YEAR BUDGET**
VOTE: YES (5) NO (0)

Nelson Abbott: Would like to consider something like a "cost or living" adjustment or at least keeping the tax rate high enough to keep the budget for property tax up to the cost of living beyond the previous year's property tax amount..

Raymond Brown: Does not feel the School District should be charging so much; very little of the taxes actually come to the City.

Mayor Dunn: Warned that there could be increased police protection for the high school in Salem.

MINUTES

City Council Minutes of January 8, 2008:

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO
APPROVE THE CITY COUNCIL MINUTES OF 1-8-08, WITH CORRECTION TO PAGE 3**
VOTE: YES (5) NO (0)

EXPENDITURES

General: None

1. *Purchase of new copier for City Hall:*

The copier in the office is at a point where there can be no more maintenance on it due to parts becoming obsolete. The City actually received a letter warning us that the maintenance would not be continuing on this model. The repairs average at least once or twice a month. The bids are close in price; but the Council would like a lease option brought back for consideration.

**This will be on the next Agenda.*

2. *Check Register & Payroll for January, 2008:*


**MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY DERREK JOHNSON TO
APPROVE THE CHECK REGISTER AND PAYROLL FOR JANUARY, 2008**

**VOTE (POLL): RAYMOND BROWN-AYE, DERREK JOHNSON-AYE, JULIE HASKELL-AYE,
NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE NAY (0)**

Passes 5-0

ADJOURNMENT

Mayor Dunn adjourned the Meeting at 9:35 PM.


City Recorder



NOTICE & AGENDA

Notice is hereby given that the City Council of Elk Ridge will hold a regular City Council Meeting on Tuesday, February 26, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM, to include a Field Trip to a proposed Development Site.

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 - PM CITY COUNCIL WORK SESSION

1. FIELD TRIP – Ridge View Meadows Subdivision, Plat B/Dean Ingram
Discussion & Guidance from City Council re: Flag Lot Associated with Proposed Development
2. HR-1 Zone (CE-1 Zone Re-write) Discussion

REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 Public Forum:

*Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by the group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Mayor or City Council.

7:15 3. Report on Proposed Youth Entertainment Committee – Allison Richardson

7:20 4. HR-1 Zone Re-write:

- A. Re-write of the Elk Ridge City Code, Title 10, Chapter 9, Article A – Critical Environment 1 Zone, Removal of Title 10, Chapter 14.2 and 14.A – Planned Residential Development Code
- B. Title 10 Development Code – Chapter 11 other zones – Article C – Hillside Cluster Overlay Zone

8:20 5. Re-Appointment of Planning Commission Member – Scot Bell

8:25 6. City Safety Issues Update– Mayor Dunn

8:30 7. Update & Discussion: Payson City Golf Course Hole #7 – Mayor Dunn

8:35 8. Approval of Minutes of Previous Meetings

8:45 9. Expenditures:

General:

- A. Purchase/Lease of Copier

- B. Fire Dept. – Purchase of new compressor and Request to increase the Credit Card Limit

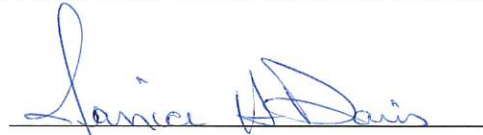
Adjournment

*Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.

Dated this 21st day of February, 2008.

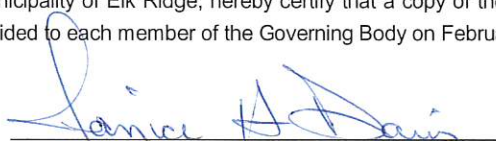




City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and provided to each member of the Governing Body on February 21, 2008.



City Recorder

**ELK RIDGE
CITY COUNCIL MEETING
February 26, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, February 26, 2008, at 7:00 PM**; preceded by a **City Council Work Session**, including a Council Field Trip, at **6:00 PM**

All interested persons were invited to be heard.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of this Meeting was provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on February 21, 2008.

6:00 PM -

CITY COUNCIL WORK SESSION

FIELD TRIP

Field Trip to visit the proposed Ridge View Meadows Subdivision, Plat B:

The Councilmembers met at the City Hall and traveled to the site of the proposed development.

ROLL

Mayor Pro-tempore: Raymond Brown; *City Council:* Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance (Absent: Mayor Dunn); *City Planner:* Shawn Eliot; *Planning Commission:* Dayna Hughes & Scot Bell; *Fire Dept:* Bob Van Parys; *Scouts:* Chase Wilson, Luke Morgan, Ryan Daton, Davin Stephens, Jeffrey Roylance, Kelson Eliot, Tanner Hale & Jeffery Waterman, Bret Allison, Austin Gunnerson & David Bell; *Public:* Alan Hughes, Gayle Evans, Ken Olson, Connie & Robert Strang, Karl & Jed Shuler, Chad Christensen, Joann Bigler, Lee Pope, and Reeta & Max Staheli; and *City Recorder:* Janice H. Davis

Discussion of Field Trip & proposed Flag Lot:

Upon their return to the City Hall and Council Chambers, the Council discussed the potential flag lot associated with this proposed three-lot development.

Raymond Brown: Mentioned that Mr. Dean Ingram said he does not want to try to move forward with his development if the flag lot is not going to be approved.

Comments:

Nelson Abbott: There is a sewer line that is abandoned that the City does not need access to; so the reasoning that the flag lot is necessary for access to this line does not seem valid to him.

Raymond Brown:

Concerns:

- Emergency services getting in and out of the proposed flag lot.
- The long driveway would be the responsibility of the homeowner, not the City; so if the driveway is left unplowed, it would be difficult to access the home and lot.
 - A fire hydrant is planned at the base of the drive; which would be required; it would also be required to have a "hammer-head" drive or a "T" turn around.
- Both the Police and the Fire Dept. said that those addresses (on flag lots) are the most difficult ones to locate.

Sean Roylance: The one argument that the developer has that may carry is that the City does not currently have an access easement; and that putting the access easement in there perhaps creates a bit of an unfair burden that did not exist previously for him. He does not see any real validity to the other reasons he has listed.

Raymond Brown: But, he does recognize the one easement he has...we would not want to cut through the middle of his property. A rational point might be to say that the City does not want to use that existing easement and mess up his property, let's transfer it over to the edge of the property.

Shawn Eliot: All of his proposals fit the Code; the only thing in the Code that could be questioned is that State law has been changed to say that a conditional use must be approved on the basis of a "permitted use" with conditions placed on it. Unusual circumstances can be found as to why it would be denied. The only thing in our Code that could support a denial is the question; could it be developed as a conventional lot? The reason to have flag lots is to access an "infill area" in Elk Ridge; it could be where some of the "green space" parcels are located. In this case, it is not "infill". The Council needs to ask if they feel it could not be developed as a regular subdivision.

The other question is, could we require an access easement when they subdivide that land...however they accomplish that?

Raymond Brown: It was originally stubbed out for two lots by Lee Haskell...this would be an exception to that plan.

Planning Commission Motion

1. Chair Russ Adamson made a motion that the planning commission recommend that the city council approve the Hillside Residential 1 Zone code and the Hillside Cluster Overlay Zone, both of which are a re-write of the Critical Environment 1 Zone code 10.09.A. The commission finds that this change to the code is in line the general plan for the hillside areas, that it supports many of the findings of the general plan survey results, and that by having a well outlined, defined, and clear code these new codes will better aid developers and the city in the development process. Based on public comment, the commission made the following changes to the HR-1 code:

- 10-9-150 ravines and drainages – add words “as determined by city staff and engineer or other firms as required.
- 10-9-210 add “may be required by planning commission after input from a professional.
- 10-9-460 Roads on 30% slopes for 100 feet. Add that planning commission can grant up to 300 with exception if demonstrated there are no other alternatives (*Comment that the wording could be clarified to not lead one to believe that the roads would be on 30% slope; but that the road would be cutting through 30% slope.*)
- 10-9-470 add back in 3% for 50 feet as alternative for intersection grades.
- 10-9-910 remove ramblers as a requirement on ridgelines in last sentence.
- 10-9-1000 change heated driveways from 10% to 12%.

Motion seconded by Kelly Liddiard

Approved by Russ Adamson, Kelly Liddiard, Paul Squires, John Hoschouer

Opposed by Scot Bell

Absent Dayna Hughes, Weston Youd, Kevin Hansbrow

2. Chair Russ Adamson made a second motion that the planning commission recommend that the city council remove from the code 10.14.2 Planned Residential Developments and 10.14.A - Planned Residential Developments. The planning commission finds that these portions of the code were replaced in June 2006 with the changes to the CE-1 zone at that time. These sections of code should have been removed then. The commission also finds that with the Hillside Residential 1 Zone and the Hillside Cluster Overlay Zone, the PRD code is completely obsolete.

Motion seconded by Kelly Liddiard

Approved by Russ Adamson, Kelly Liddiard, Paul Squires, John Hoschouer, Scot Bell

Opposed - None

Absent Dayna Hughes, Weston Youd, Kevin Hansbrow

Staff Recommendation

1. The proposed code will make development on the hillside areas of the city more balanced with the general plan and with much of the feedback for the general plan survey.
2. That the council understands this code will have some parts of it that will need adjusting in the future as development is proposed.
3. Recommend that the city council approve the new code.

Proposed Council Motion

Motion 1: The city council approves the Hillside Residential 1 Zone code as 10.09A and the Hillside Cluster Overlay Zone as 10.11C, both of which are a replacement of the Critical Environment 1 Zone code 10.09.A. The commission finds that this change to the code is in line with the goals of the general plan for the hillside areas, that it supports many of the findings of the general plan survey results, and that by having a well outlined, defined, and clear code these new codes will better aid developers and the city in the development process.

Motion 2: The city council removes from the development code 10.14.2 Planned Residential Developments and 10.14.A - Planned Residential Developments. The council finds that these portions of the code were replaced in June 2006 with the then changes to the CE-1 zone. These sections of code should have been removed then. The commission also finds that with the Hillside Residential 1 Zone and the Hillside Cluster Overlay Zone, the PRD code is completely obsolete.”

(Copies of the draft minutes from the Planning Commission were also included.)

Discussion:

Shawn Eliot: He was in attendance at a meeting with some of the Council and Planning Commission and the City Attorney; the changes suggested in that meeting have been made and he reviewed those with the Council. The changes are located in the side boxes on the copy of the proposed Code the Council had to review.

(Pg 2) Deleted: 10.09.090 – Minimum Requirements: “The requirements hereinafter set forth is considered the minimum required for the accomplishments of the intent of this zone. The planning commission and city council can add additional requirements that further implement the legislative intent of the zone.”

The deletion was recommended by the City Attorney.

(Pg 3) 10.09A.90: - Permitted & Conditional Uses: Deleted “More intense” (*referring to “some uses”*).

10.09A.100: Permitted Uses: Deleted: “Orchards & field crops” (*The Mayor & Attorney: no reason to list*)

REMARKS
& PLEDGE OF
ALLEGIANCE

An Invocation was offered by Derrek Johnson and Scout Jeffrey Roylance led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME
FRAME

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE AGENDA TIME FRAME AS PRESENTED, BEGINNING THE REGULAR SESSION AT THE SCHEDULED TIME OF 7:00 PM

VOTE: YES (5)

NO (0)

ABSENT (1) MAYOR DUNN

PUBLIC FORUM

The Mayor Pro-tempore explained the difference between a Public Hearing and a Public Forum. No action can be taken on a topic brought up in a public forum. Each speaker should take about three minutes.

Comments:

Karl Shuler: He is a land owner and citizen of Elk Ridge; he owns property up in the areas affected by the proposed Hillside code re-write. Concerns:

1. Ridgeline/Ravines, drainage and Wildlife Corridors: These are hard to define; he has a concern that the maps presented do not match the maps they (developers) had done aerially; particularly in the location of the 20% and 30% contours.

The maps presented by Mr. Eliot show some areas that are in 30% in the area that comes up as 20% slope on their maps. Their maps were shot at 2' intervals and he feels their maps are more consistent.

Shawn Eliot: The only data available to him was 10' interval contours; whereas Mr. Shuler's map is at 2' intervals. When you look at the map he presented, it says on it that it is for "reference only"...so, the drainages and ridgelines, etc. are there; it is the slopes that will have to be shown in greater detail when they accompany a development.

Mr. Shuler: But he feels there should be a better match; there are some major inconsistencies. When there is a 100' setback from the 20% slope crest; that is difficult to even locate with the inconsistencies.

2. Referring to the survey that went out to Elk Ridge citizens: It seems that most of the residents want about one-acre lots; they want the environment protected...he feels all are in agreement on these ideas, but getting to that point creates problems. He mentioned using Park City and Woodland Hills as models for much of the Code; he feels that development would not fit in those places with the Code being proposed to the Council.

Raymond Brown: Asked Mr. Shuler to please save his further comments on this subject for the regular session of the Council Meeting, later on the agenda. He reminded him that this is a Public Forum and that he would allow him time to express his concerns later.

Dayna Hughes: As a Planning Commissioner, she has been working on this proposed Code for 6 months; and it is not perfect and will not solve every problem that the developers come up with or that the City finds a need for. However, she does feel it would be a mistake to try and make it meet every conceivable possibility that could come up in the future. She feels it is a good Code; it is "tight"; it has been reviewed for months...by the Planning Commission and the Attorney. She feels the details can be worked out with time, but the Code needs to move forward before the moratorium on the CE-1 Zone development is lifted.

Raymond Brown: The City Attorney did state that this would be a "work in progress"; that it won't be the "end of everything".

Shawn Eliot: Normally, Public Forums allow any topic *not on the agenda*; and the Council can allow comments during the regular agenda items.

YOUTH
ENTERTAINMENT
COMMITTEE –
REPORT

Allison Richardson was contacted to report on the activity of this project; however, she was not present at the Meeting.

HR-1 ZONE
RE-WRITE

Re-write of the Elk Ridge City Code, Title 10, Chapter 9, Article A – Critical Environment 1 Zone. Removal of Title 10, Chapter 14.2 and 14.A – Planned Residential Development Code.

Title 10 Development Code – Chapter 11 other zones – Article C – Hillside Cluster Overlay Zone

Shawn Eliot: Continued the discussion on the proposed code:

(Pg 4) 10.09A.200: There was some clarification that trees may be required to be replanted.

Deleted: "indigenous hardwood tress"; and added: the types of tress removed may be required by the planning commission or from a professional landscaping company...

In another section re-vegetation is required within a year.

Comments:

The Councilmembers present agreed with the proposed changes allowed for City Council action. Raymond Brown: When something goes back to the Planning Commission, he feels that they will work through the issues and re-submit to the Council. The Planning Commission works with a development for months before sending it on to the Council and he feels they are better equipped to address the issues; and there could be additional public hearings required at the Planning Commission level.

Sean Roylance: Suggested that a percentage of the total lots included in a development could be considered rather than listing a number of lots...that the number of lots changes by 10% or 15% or more. If a development were smaller in number, 5 lots could be a significant percentage of the over-all lots. This could be more accurate...he settled on changing by 15%.

Comment from public:

Jed Shuler: He has concerns that most changes require engineering; and perhaps the same percentage basis could be considered for change on open space.

Shawn Eliot: An issue with this suggestion is that there is a sensitive area plan that is required, and a big emphasis is placed on these areas...if it comes to the Council, and there are changes to this plan, it should be reviewed again by the Planning Commission.

Raymond Brown: He agrees, but if there were minor changes (of course...then what are "minor" changes?)

10.09A.760: Final Geotechnical Report: Wording was added to change that the majority of the work is done prior to Final.

(Pg 11) 10.09A.790: City Council Action: Added: Clarification to the City Council action of a final plat (There was a sentence added that referred to geotechnical reports having to be stamped; that sentence should be under the heading of Geotechnical Reports...it should be moved to 10.09A.760.)

10.09A.850: Cuts and Fills: Engineer suggested adding verbiage from development standard about 2:1 slope; and they added that the maximum cut or fill is 15 feet.

(Anything over 4 ft. has to be engineered.)

(Pg 12) 10.90A.890: Deleted: Near ridgelines and other prominent natural features. The Planning Commission can require that only rambler type dwellings be allowed.

(Pg 13) 10.09A.980: Added that up to 15% grade can be allowed, but over 12% must be heated.

The Engineer wanted this to be added. There was concern from some of the land owners that with the 10% grade for roads, that it would be difficult to have a driveway at 12%; that other cities allowed up to 15% grade on a driveway rather than on a road. So the Engineer felt that this could be accomplished by heating any driveway above 12%. That is beyond the current Code.

Raymond Brown: Asked for Any comments on the discussed items, before moving on to other issues:

(Not at this time)

Hillside Cluster Overlay Zone:

Shawn Eliot: (These two proposed ordinances work together.)

The only thing that has changed on the Clustering...on the 1st page they changed lot design requirements.

The Planner referred to the map handed out earlier: This indicates that the City realizes that the slope data is not completely as accurate as being shot at 2' intervals; it is the best they have and that is why more is required later in the process.

For the slopes, they would go with the more detailed maps provided by the developers.

The maps are being used to determine the ridgelines. According to the Attorney, the ridgelines are more subjective and required greater clarification.

Comments:

Nelson Abbott: The map shows a ravine on the east side of Loafer Canyon Rd.; there is a designated drainage ditch on the west side of the road; this should be added.

On Hillside Drive: From Salem Hills Drive south, that hill comes down and that is a natural drainage.

Shawn Eliot: Referring to a single page handout on the Cluster Overlay Zone:

(Pg 2) The only significant change: 10.11C.180: Cul-de-sac Length: On a 1,000 ft. cul-de-sac, the Planning Commission can allow up to 20 lots without a secondary access. The lots would have 110' frontages; with 150' frontages, the maximum number of lots would be 16.

Jed Shuler: Many cities do a "radius chart" showing lots on the "bulb" of a cul-de-sac; so that they have a bit less frontage due to the "pie" shape of the lots. (*Shawn Eliot: That information is located in a different part of the Code.*)

Karl Shuler: Regarding ½ and 1 acre lots: In most of the Code the Zones refers to certain square footage rather than "1/2 acre" or "1 acre"; could this type of description be included in this Zone, or could there be a definition in square footage of ½ acre and 1 acre?

Raymond Brown: A few years ago, development south of the City would not have been considered; he feels the City has come a long way, even though it has been pain-staking at times in trying to do it the right way.

Karl Shuler: If the City is trying to pattern their Code after Park City's, there are discrepancies between "what is on the ground up there" and what Shawn Eliot represents as their Code. Many homes up there are on the ridgeline. (*Shawn Eliot: On certain ridgelines, not all of them.*) The proposed Codes for Elk Ridge would not service the Park City area.

Shawn Eliot: In Park City, on the ridgelines they don't allow you to build on, no homes are allowed that anyone can see from down below...Elk Ridge is not proposing that; we are saying to just keep it from a steeper edge.

Karl Shuler: Some of his property is not as steep as Haley's Lookout. The homes up on Haley's Lookout, Coley's Cove, High Sierra Dr. and Oak Ridge Drive are some of the nicest homes in the City; and those homes could not be built under this proposed Code, if they were in the CE-1 Zone.

Shawn Eliot: He does not agree. The grade is not even 20% between Oak Ridge Drive and the bottom. The only place that could be applied would be Haley's Lookout; and only one side of it. The maps of the ridgelines can be adjusted; this is only the 1st draft.

Karl Shuler: The "home show" homes in Woodland Hills are on very desirable lots; under this proposed Code, He does not believe these homes could have been built.

Raymond Brown: Elk Ridge's Code is taken from various communities; he does not know that Elk Ridge would want to look just like Woodland Hills or Park City...perhaps parts of the City, but not as a whole. They have many problems with their roads.

Scot Bell: (He made some maps on ridgelines and draws off of Aqua Engineering's prints: (He approached the Council table to point out aspects of the maps to the Council.)

He pointed out certain draws in the community; he also reviewed the ridgelines and found that everything west of Loafer Canyon, by definition is a "ridge"; and everything along Canyon View or the roads east of Canyon View, overlooking the canyon, would be out of compliance with the proposed Code. These homes are not in the CE-1 Zone, but they are still on a ridge.

(*Councilmember Roylance commented that it really does not matter since these homes are already built and that ridgelines, as defined in the proposed Code, would not match what Mr. Bell has drawn up.*)

He indicated the hill south of Mahogany Way; by definition, would be a ridge: part of the land surrounding the hill was once in the CE-1 Zone and has been re-zoned to R-1-15,000 Zone. Part of the area has "draws" to deal with. Because much of these lands were converted over to R-1-15,000, he feels that we (the City) are setting ourselves up to set precedence for developers to think they can re-zone areas to R-1-15,000 because there are other examples of this.

Raymond Brown: Reminded Mr. Bell that when they served on the Planning Commission together some years ago, that many past mistakes were admitted and that the Code needed change to correct this type of situation.

Scot Bell: He went on with another example of a ridgeline...currently located in Elk Haven, Plat B. The Planning Commission has directed the developer to find an alternative path to exit the area; then it goes right into another draw, where the developer was told to locate his road. According to Aqua Engineering, this draw is there, regardless of what the County maps are showing.

To avoid cuts and fills in steep slopes, the ridgelines and the draws seem to be the flattest areas to locate roads. We need to take care and review these possible areas where precedent could be used to further develop.

Nelson Abbott: Mr. Shuler mentioned "agricultural" being removed from the uses in the Zone; he would like to see these uses increased to include orchards or possibly animal rights.

(*Horse property is not allowed in that area...though someone might want it up there.*)

With big lots, why not? Could the agricultural use be put back in?

The rest of the Council had no problem with this.)

**The agricultural use will be put back into the Code.*

Shawn Eliot: The reason the Mayor and the Attorney said to take it out was that:

1. It is not suitable for field plants...it is pretty steep and hilly
 2. Most orchards may not do too well so high up...and may not have much of a growing season
- Animal Rights is a whole other issue and the Zone does not allow that right now.

Sean Roylance: Some orchards do well in high, cooler areas...for certain types of plants.

Shawn Eliot: Types of trees would be covered in CC&R's.

There are requirements for the planter strips.

Sean Roylance: (Page 7 of proposed ordinance) Intersection Grade -10.09A.460: He used the white board to demonstrate the proposed 4% grade for 100', or the exception of 3% for 50'.

In the Code it talks of 50' setbacks as opposed to a 30' setback...and then add that much more onto the base of the lot that will be supporting the home. On the other hand, the Code says that if a developer can demonstrate that the cut & fill can be reduced; we would allow them to move that home to have only 20' of setback. We are once again sending too many mixed messages. If we do not want the cuts & fills, have 20' setbacks; if we want to see extensive fills and reverse-slope driveways, insist on moving a home back 50'.

Shawn Eliot: By having the "sensitive area plan" done first by the developer, then they can design their subdivision around that. Many cities do not get as detailed as Elk Ridge, but it is due to the experiences over the last year or two; and the Attorney and Mayor wanting to see more clarification. As long as the Council and the Planning Commission are willing to continue to work through the problems, and keep evolving to a better Code, then we at least have something to start with.

Mayor Pro-tempore Brown asked for the Planner to summarize the proposed changes, as discussed in this meeting.

Shawn Eliot:

CE-1 Re-write of the CE-1 Zone to the Hillside Residential Code:

- 10.09A.100 (Permitted Uses) Add back in the orchards and grazing and/or field crops
- 10.09A.110 (Conditional Uses) Add back in agricultural buildings
- 10.09A.150 (Ridgelines) In back of the buildable area... *Leave it as is*
(The slope analysis would tell the staff where the 20% ends and where the footprint will be. The City Engineer stated that once you get into 20% slopes, it makes the cuts & fills much bigger...to put a house there. That is why you have these big rock walls. It makes it harder to tie back into the natural slope.)

Discussion:

Scot Bell: You may want to reconsider: if you take 20% off of the ridgeline; that means that for every 100' of run (*Could not tell what this word should be*) you have 20' of drop. So the house is pushed off the ridgeline 100' and you have gone down 20' into the ground. If the City allows a street to be placed on the ridge, by the time you have a 60' street on top, you would take 5' off of the top...which now means that the house is 15' below the top of the crown of the road. Now the sewer has to go down 15', which may mean a lift station for any basement in that home.

The house would be forced higher up in order to access the sewer.

These 100' setbacks do nothing to minimize what you refer to as a "reverse slope" driveway.

There is an obligation to get your water from your home back out to the street...and the street is 15' to 20' higher than your home. This will end up forcing homes on both sides of the ridgelines and we would have multiple cuts.

The encouragement is to use the flattest place possible for the building envelopes, and the flattest spots will be on the crown of the ridges or in the bottom of the draws. Slopes are not the flattest parts.

Shawn Eliot: We have an exception in the Code for reverse slope driveways because there are always going to be a downhill side of a road and an uphill side. The only way to fix that would be to have the road on the ridgeline and only have homes on one side. The proposed Code says that once you get out of the 20% slope, we are assuming that the area up there is flatter, so we are keeping you off of those steeper slopes.

- 10.09A.300 (Lot Design Requirements) In the table, change "one acre or greater" to "40,000 square feet of greater"
- 10.09A.720 (City Council Action) After discussion, it was decided to leave it as is for now; and to have the Planning Commission re-visit this.
- 10.09A.790 (City Council Action) Move the underlined sentence regarding the geotechnical report, back to 10.09A.760 (Final Geotechnical Report)

The only other thing that was not discussed was on the road grades: In our current Code we allowed a "local street" could be at 10% grade or that it could go up another 2% to 12%, if approved. This option was removed and the roads were left at 10%; but 12% being granted by exception, if desired, could be added back in later.

The Planning Commission is to take Mr. Bell's concerns into consideration, as well.

RE-APPOINTMENT
OF PLANNING
COMMISSION
MEMBER

It is proposed to re-appoint Scot Bell as a member of the Elk Ridge Planning Commission.

Discussion:

Derrek Johnson: Expressed his concern that Mr. Bell has served the City for a long time and he feels someone else should have a chance.

Nelson Abbott: Agreed with Councilmember Johnson. He believes in terms of office ending to allow the chance to serve to others. He asked how Mr. Bell feels about it.

Scot Bell: He responded that if he had not wanted to continue to serve, he would not have offered.

Sean Roylance: Commented that the Planning Commission has drawn on the extensive experience of Mr. Bell in making many decision. He has been able to bring a perspective of time with the City.

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY JULIE HASKELL TO RE-APPOINT SCOT BELL TO THE ELK RIDGE PLANNING COMMISSIN FOR A FIVE YEAR TERM OF OFFICE

VOTE: YES (3) NO (2) DERREK JOHNSON & NELSON ABBOTT

ABSENT (1) MAYOR DUNN

Passes 3-2

CITY SAFETY
ISSUES

Raymond Brown: The Utah Local Governments Trust carries the City's liability insurance. They occasionally send a representative to check and see how the City measures up with safety issues. The report came out pretty well. There are a few areas of concern that were mentioned.

Nelson Abbott: Still maintains that the City should get a discount based on the City's good record.
**He will contact Tige Cook to see about this discount.*

PAYSON CITY
GOLF COURSE,
HOLE #7

The Mayor included in the packet to the Council an update on the negotiations with Payson City regarding Hole #7. The Mayor informed Mayor Bills (Payson) that the Council had discussed the price and they are of the feeling that the City is not in a position at this time to make another offer to Payson. Mayor Bills stated that there were developers interested in purchasing the land. Mayor Dunn informed him that the current zoning is R-1-15,000. There were no further comments.

MINUTES

City Council Minutes of January 22, 2008:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF 1-22-08, WITH CORRECTIONS:

➤ **PG 21: (LINE 39) CORRECT SPELLING OF "SEE"**

➤ **PG 20: (LINES 40 & 55) LINE 40: CORRECT SPACING; LINE 55: CORRECT SPELLING OF "KENT"**

VOTE: YES (5)

NO (0)

ABSENT (1) MAYOR DUNN

City Council Minutes of February 12, 2008:

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE CITY COUNCIL MINUTES OF 2-12-08, AS PRESENTED

VOTE: YES (5)

NO (0)

ABSENT (1) MAYOR DUNN

EXPENDITURES

General: None

1. *Purchase/Lease of new copier for City Hall:*

The copier in the office is at a point where there can be no more maintenance on it due to parts becoming obsolete. The City received a letter warning us that the maintenance would not be continuing on this model. The repairs average at least once or twice a month. The bids were presented to the Council at the last Council Meeting; but the Council wanted lease options brought back for consideration.

The company that the City had the maintenance agreement with for the current copier did send an adjusted bid, including a trade-in price of \$700 off the original bid. (That is why the other bid being considered was \$600 lower.) They (Digital) also sent a breakdown of the lease options; and after review, the Mayor saw that a lease would end up costing the City about \$1800 to \$1900 more. His recommendation is to just pay for the copier. (The other company did not respond with a lease option.)

Nelson Abbott: Question: What about the service contract for the machine? Will there be a contract outside of this agreement?

City Recorder: The warrantee would cover the fist part of the agreement; then the agreement would come into play. The maintenance agreement is based on the number of copies per year. It is renewed annually.