

NORTH SALT LAKE CITY  
PLANNING COMMISSION MEETING MINUTES  
MARCH 22, 2011

Commission Chairman Eric Klotz called the meeting to order at 7:02 p.m. and welcomed those present.

PRESENT: Commission Chairman Eric Klotz  
Commissioner Doug Cary  
Commissioner Beth Goodrich  
Commissioner Kim Jensen  
Commissioner Bruce Oblad  
Council Member Brian Horrocks

EXCUSED: Commissioner Jim Allen

STAFF PRESENT: Ken Leetham, Community and Economic Development Director; Paul Ottoson, City Engineer; Ali Avery, City Planner; Linda Horrocks, Minutes Secretary.

OTHERS PRESENT: Sheila Hudson, Mike Haslam, Marty Peterson, Margurets and Norman Petersen, Judy and Jon Bird, Seliva Fennell, Gerald ??, Joan and Fred Libby, Roger Jones, J. Hammond, Wayne Farm, Mac Anderson, Joe and Jeanne Meahin, Alreza Flahati, Peter and Mary VanAlstyne, Laurence Gee, Mont Anderson, Deborah Anderson, Mike and Jan Iftiger, James Keeler, Stan and Barbara Dorius, residents; Steven Israelsen, Scott Kjar, Lawrence Knight, Sky Properties.

1. CONSIDERATION OF A SITE PLAN APPLICATION FOR RED BONE TRUCKING LOCATED AT 501 NORTH 400 WEST, MIKE HASLAM (TOM STUART CONTRUCTION), APPLICANT

Ali Avery reported that the Planning Commission previously approved a conditional use permit for Red Bone Trucking allowing “support activities for road transportation” and “automotive repair and maintenance” at this location. The applicant is now proposing a site plan for the same location. Staff recommends approval for the site plan with conditions that they provide an access easement for the shared driveway and that approval is given for the plat amendment. The conditional use has previously been granted.

**Chairman Klotz moved to grant site plan approval for Red Bone Trucking located at 501 North 400 West with the conditions that they provide an access easement for the shared driveway and that approval is given for the plat amendment. Council Member Horrocks seconded the motion. The motion was approved by Commissioners Cary, Klotz, Goodrich, Oblad and Jensen, and Council Member Horrocks. Commissioner Allen was excused.**

2. **CONSIDERATION OF A PRELIMINARY DESIGN PLAN FOR THE VILLAS AT BELLA VIDA, LOCATED APPROXIMATELY AT 602 SOUTH EDGEWOOD DRIVE, SKY PROPERTIES, APPLICANT**

Ken Leetham reported that the preliminary plan for the Villas at Bella Vida was continued at the March 8, 2011 meeting, and a similar plan went through the City Council. Several issues were raised by the public at the last meeting, and staff made every attempt to put those questions and answers in writing for the Planning Commission.

The first issue was open space: Staff asked Sky Properties to show open space locations, by land use type within the project. They show 45% of the property as open space (not including the small park), which meets City requirements.

The second issue was parking: City code requires two parking spaces for each unit in the condo building and single family dwellings. The condo units require an additional ¼ space, or 54 spaces per building. There are currently 36 spaces under building one, and approximately 30 ground spaces. Code requires one covered parking space for each unit. Single family homes require two side-by-side spaces with a minimum size driveway. The developers appear to have sufficient parking platted; however the City has asked the developer to add visitor parking to the project, not required by code, but beneficial to the development. Mr. Leetham said staff will make sure there are at least 54 parking spaces for each of the large buildings.

The third concern was pedestrian safety between the clubhouse and Building 1: The proposed addition of the loop street creates a through street, and the DRC recommended that there be at least one sidewalk located between the two buildings as well as a pedestrian crossing sign. Additional lighting, or a speed bump could be added, but the DRC felt that this could be addressed between the HOA and developer.

Chairman Klotz allowed the public to comment about this issue.

Jon Bird, retired architect and Bella Vida owner, stated they were given a design showing promised amenities upon their purchase, including a large gazebo, putting green, and many parking spaces adjacent to the park. There should be one underground, and one surface parking space per unit owned meaning 24 underground and 24 surface spaces. They were also told if they wanted additional spaces, they had the option to lease another one. He reported that there have been weddings and other celebrations where parking has been insufficient.

Mr. Bird showed a revised version to the Sky Properties plan showing a second access road. He then stated that they have spoken with the developers who seem willing to work with them.

Jo Meacham, Bella Vida Unit 113, said he was concerned with jeopardizing their mortgage with what is being proposed. However, in talking with people and their title company, they have determined that the CC&Rs in place should prevent a problem. They want to see the success of Sky Properties and the project, and are in favor of the new plan.

Lawrence Knight, 157 South 300 East, and an accountant for Sky Properties, stated that he has worked closely with these residents, and he has tried to stay as neutral as possible; however, in viewing the process, he compared it to a Rubik's Cube puzzle where you have to upset certain rows in the process of solving the complete puzzle. He has been a NSL resident for 18 years, and his kids walk along the street to school where the speed limit is 25. He has watched Sky Properties and their vision of Eagleridge Drive, Eaglepointe and Eaglewood Drive. He stated that they are working to bring the Rubik's cube to completion – upsetting one level to make the whole thing come together.

Wayne Facer, Edgemont Drive, doesn't have a problem with the development but questioned the removal of the 55 year age restriction. There was a comment that the cost of the amenities and association fees would discourage young families from purchasing in this area. Wayne also stated that when the park was finished, the Edgewood HOA entered into an agreement, and one of the points of the agreement was that Bella Vida would provide parking for the park, but he does not see that on the plan. The streets in Edgewood are not very wide, and when cars park on both sides, it is extremely difficult to get by, so he asked for parking to only be allowed on one side.

Sheila Hudson, homeowner at Bella Vida, stated that it is a "Catch 22" situation for the present homeowners as their condo values are based on amenities, and their deeds of trust have provisions with certain requirements. She believes that she will be reducing the value of her home, and that there are documents that were withheld from the owners. The ground lease agreement was not disclosed to any of them while they were purchasing. They are prohibited from entering into any other agreement or easements, and any change by either party is a breach of contract. There is no way they can negotiate with a newly established HOA. She asked this to be tabled until they can clear up the clubhouse and HOA issues prior to further development.

Mary VanAlstyne, a resident living across the street from Bella Vida, addressed the drive approach stating that Sky properties does not have authority to give access to the street to any other people. While most of them want these twin homes to go in, there needs to be an additional access.

Peter VanAlstyne, 601 Edgewood Drive, believes all comments have merit, but as a resident, there are volumes of information not understood, or disclosed to the property owners concerning these issues. The tough questions need to be answered in a manner satisfactory to all parties. He met with Sky Properties representatives, and they failed terribly in communicating with Edgewood and Bella Vida residents. Issues with the street, multiple layers of contracts, HOA agreements, etc. need to be explored so wise decisions can be made. He believes the "cart is before the horse." Sky Properties has assured the Edgewood HOA that minor concerns will be resolved, and Mr. VanAlstyne asked that this be included on record.

Ken Leetham encouraged the Planning Commission to make a distinction between City issues (code requirements and development standards) and private issues between different ownership entities. He believes HOA items, etc, are private issues, not City-related issues. The City would like them resolved, but it is between the homeowners and Sky Properties. City issues include: Is there a situation or trespass issue on roadways at final plat recording? Will it be clear to the City

that the roads are available, no matter who owns them, as people come and go from the development? Free, unrestricted access needs to be shown.

Council Member Horrocks stated that from the City's point of view, density is decreased, the view-obstructing buildings are removed, and it is a way for the project to move forward and the amenities funded. However, the potential issues that were raised by the citizen's are concerning. Also, Council Member Horrocks expressed concern with the creation of an additional HOA and the conflict that could arise from a second, larger organization dictating their will on the original HOA.

Chairman Klotz summarized that with the mortgage and trust deed situations, that the council should not do anything that would jeopardize a resident's position. Ken Leetham stated that he was not an attorney but believed this was not a City issue.

Commissioner Jensen said it's important to keep the City's interests separate from the private issues of the owners and developers.

Judy Bird, 602 Edgewood Drive. A Bella Vida homeowner, not in attendance, asked her to read a statement: Ilene Rencher, has Parkinson's disease and is concerned about safety with the roadway easement being considered. She walks to the clubhouse and is concerned about her safety. She would like the Commission to consider including another road for increased access.

Mr. Bird stood again to address Exhibit C, the booklet showing the rights in the master plan development. It states that any person acquiring any interest is aware that it is a master planned development expanding over many years. One cannot, under this disclosure, put in villas, let alone say that they can be put on the market to any individual. CC&R agreement, page 45. (Get copy of agreement).

Steve Smoot stated that when you introduce change, it creates a lot of stress, and he apologizes for any stress caused by the new plan. This is a modification, but he believes there are some advantages, such as the Edgewood residents improved views. Also, density and traffic are improved by reducing the plan by 39 units. Sky Properties wants current residents to feel good about the project. Mr. Bird took a lot of effort to create a new design, but their engineer has determined it is not feasible with the grades and utilities involved.

On the main street, they have added ten parking stalls, and 15 new stalls that are around the park. It is just a neighborhood park, not a large park – it won't require much parking. They have added two other gazebos, already purchased and in storage, and it is as important to them, as anyone, to have enough rooftops to be able to carry the cost of the amenities. The villas have been designed to be in keeping with the neighborhood.

He again stated that they are designed to attract the empty nester, aging population. They have been subsidizing the HOA and need further development to sustain the project.

Steve Israelson addressed the residents' mortgage concerns stating that nothing will change in their current HOA, so they should not be in jeopardy. It's just that it will be shared with the

other HOA. They need to have 60 units sold to be able to maintain the costs of amenities. The 48 units cannot carry the cost, but the additional villa units can do that.

Council Member Horrocks asked why they would have two separate HOAs. Steve Israelsen stated that they did not want to jeopardize the age restriction on the buildings. If they were to merge the two HOAs, that that may make the 55-year age restriction null and void. This is an important issue to those residents in the large buildings.

Council Member Horrocks pointed out that Eagles Landing, Aerie Circle, and Edgewood do not have age restrictions and are all senior communities. Two HOAs, with potentially different needs and desires, could be problematic.

Scott Kjar said it is easily resolved on a retail basis. We have agreements between the HOAs, where the Villas HOA might agree to pay its pro-rata share.(It is just based on a per capital basis.) The CC&Rs, on file at the county, contain the details, and allows for expansion of the HOA. Mr. Kjar said they can provide sufficient proof to the City that these issues would be resolved.

Steve Smoot said the plat is very much under control of the City, not only by a prescriptive easement, but access for utilities. Traffic issues will only get better with a reduction of 39 units (from what was originally approved).

Commissioner Oblad asked what Sheila Hudson can expect with her HOA fees. It is a 28% reduction in units, so it does carry a higher cost on the HOA, but like Mr. Israelsen mentioned, it is supposed to be a break-even at 60 units, so by being able to put the new units in, they will meet that much sooner. If they do nothing, it will be worse.

Ms. Hudson said the developers were putting extra money in to keep the HOA going and understood that the developers will ask for all the money back.

Mr. Smoot said this is not the case. Mr. Israelsen said they have put \$35,000 into the HOA this year and \$65,000 total. They will not ask for that back. Mr. Israelsen said there is a loan to the account, so there is a negative cash account carried for a period of time.

Commissioner Jensen asked Mr. Leetham if the Planning Commission needs to address all of these issues, as they seem to be between the homeowners and developers. CC&Rs are reviewed by the City, to determine whether there are conflicts within City ordinances, but CC&Rs are private, and the City does not enforce them.

Council Member Horrocks then summarized comments from the public, stating there was not an overwhelming rejection of the concept. Chairman Klotz said the City looked at parking and other issues thoroughly. The HOA issue is a private one, including amenities such as the putting green and two gazebos. Mr. Israelsen said if Building 2 is built where planned, the putting green will be included.

The foundation hole of building 2 should be given some consideration to make it more aesthetically pleasing and safe. Paul Ottoson recommended a temporary chain link fence with T posts for safety.

**Commissioner Cary moved to approve the preliminary design plan for the Villas at Bella Vida at 602 Edgewood Drive with the condition that at least one crosswalk and pedestrian crossing sign be included between Building 1 and the clubhouse. Commissioner Oblad seconded the motion.**

**Commissioner Cary then asked to amend the motion to include the condition that a chain link fence with slatting or screening be placed around the foundation hole for safety. Commissioner Oblad seconded the amendment. The motion was approved by Commissioners Cary, Klotz, Goodrich, Oblad, Jensen and Council Member Horrocks. Commissioner Allen was excused.**

3. PUBLIC HEARING REGARDING THE PROPOSED VACATION OF  
SUBDIVISION PLATS IN THE BELLA VIDA PROJECT LOCATED AT  
APPROXIMATELY 602 EDGEWOOD DRIVE, SKY PROPERTIES, APPLICANT

Ken Leetham stated that the existing property lines need to be moved to accommodate the design for the Villas at Bella Vida. He showed the original recorded plat and stated that they will now be separate subdivisions. This plat is being vacated except for a portion of the park and entry, and also building 2. State code requires a public hearing for this vacation.

Chairman Klotz opened public hearing at 8:41 p.m. There was no public comment, and he closed the public hearing at 8:42 p.m.

**Council Member Horrocks moved to recommend approval of the proposed vacation of the following subdivision plats within the Bella Vida project: Bella Vida at Eaglewood Planned Unit Development, Amended (excepting parcels 01-407-0008 and 01-407-0009), and Bella Vida at Eaglewood Condominiums Phase 2. Commissioner Jensen seconded the motion. The motion was approved by Commissioners Cary, Klotz, Goodrich, Oblad, Jensen and Council Member Horrocks. Commissioner Allen was excused.**

4. CONSIDERATION FOR THE PROPOSED VACATION OF SUBDIVISION PLAT  
IN THE BELLA VIDA PROJECT LOCATED AT APPROXIMATELY 602 SOUTH  
EDGEWOOD DRIVE, SKY PROPERTIES, APPLICANT

Ken Leetham suggested that the Commission add a condition requiring plat notations showing access easements prior to the City Council approval.

Council Member Horrocks asked about geotech information for the Bella Vida project. Paul Ottoson said the geotech studies have been redone. In the original plan all buildings were on the inside of the loop street, which was one of the recommendations. These new buildings are much smaller and better for the geotechnical situation.

**Commissioner Oblad moved to recommend approval by the City Council of the proposed final subdivision plats within the Villas at Bella Vida project Phases 1 and 2, the Bella Vida at Eaglewood condominiums Phase 2, amended, and the Bella Vida Clubhouse at Eaglewood Planned Unit Development with the condition that verbiage be included for an access easement. Council Member Horrocks seconded the motion. The motion was approved by Commissioners Cary, Klotz, Goodrich, Oblad, Jensen and Council Member Horrocks. Commissioner Allen was excused.**

5. PUBLIC HEARING REGARDING PROPOSED AMENDMENT TO THE CITY'S LAND USE DEVELOPMENT AND MANAGEMENT ACT REGARDING DOMESTIC FARM ANIMALS, MODEL HOMES, AND SITE PLAN REVIEW

Ali Avery stated that City staff would like to amend the City's LUDMA with an all-inclusive animal ordinance, as well as some provision changes to the model homes section, and some changes to the site plan review process.

Chairman Klotz opened the public hearing at 9:01 p.m.

James Keeler, 33 West Center Street, stated they would like to raise chickens, but they cannot wait too long because now is time to buy the chicks.

Jan Iftiger, 960 East Foxhill Road, has nine chickens and asked about the requirement to have them caged. She said that one of the main reasons to raise your own chickens is for the free range benefits. Coops are to keep them warm in the winter. She would like to propose an amendment to allow the chickens to have free run. Her second issue is being 50 feet away from the house. She said they only have ten feet from their back door to the retaining wall, and added that distance should be up to the homeowner and their neighbors. If the chickens are contained in their yard, there is no reason they cannot be free within that space. She stated that the point system is okay, but people who raise chickens as pets will not kill them when they are done laying eggs, but it may limit people in the future who want to raise chickens for the eggs.

Mary Ellen Dworshak, 966 Foxhill Road, said the concern should be whether or not the chickens are a nuisance to the neighbors. He neighbor keeps chickens and she has never heard the chickens when inside the house, and when outside, she hears them but enjoys their sound. She does not smell them, and she does not believe it should be this big of an issue. Would she want a chicken farm next door? No, but having nine or ten next door is not a problem, and she enjoys the eggs.

James Keeler then said that the 50-foot restriction that is also a concern of his.

Mr. Anifily Kyati, Eaglewood Drive, offered a potential solution to the comment about the distances on the property. Distance requirements could be relative to the animal as well as the size of the lot. On a third of an acre it's almost impossible to meet the 50-foot distance restriction.

Mike Ifitiger, 960 Foxhill, said he is getting overwhelmed with what seems to be a simple situation. They have nine chickens, and he believes the City's concern is the affect on neighbors. His wife, Jan, took a petition around the neighborhood and had no one refuse to sign it. The chickens in this City are pets. He said he has worked for an egg production farm, and with an enormous number of chickens, it was stinky. If chickens were allowed in our area, still not one in 100 homes would have chickens. It should be evaluated on a case-by-case basis. If there is a complaint from a neighbor, then deal with it.

Jan Ifitiger then referred to the ordinance portion dealing with rabbits and said they have to be caged if the homeowner does not want them eating everything in their yard. So, if a homeowner does not care about eating everything, then why should the City deal with it?

Chairman Klotz closed the public hearing at 9:13 p.m.

Council Member Horrocks asked if this ordinance was patterned after another city's ordinance, and what the logic is for the 50-foot distance between dwellings? Ms. Avery stated that it was based off Salt Lake City's code and suggested it could be modified to say "50 feet from surrounding dwellings, excluding the owners' property." The City does have requirements for accessory structures.

Ken Leetham stated that the concern is for irresponsible pet owners, and unfortunately, many municipal codes get written for the offenders. The 50-foot requirement could be changed, and the reason for the coop is to ensure chickens have a place to be confined (at night or for laying eggs) – not to prevent them from running free.

The model home ordinance is being revised to make it developer-friendly. Within the 45 day time period, a developer should be able to sell their property. Outside of that window, it is too far. In a case like Bella Vida, Sky Properties could put a model home right at the entrance.

**Chairman Klotz moved to recommend the City Council grant approval for amendments to the City's LUDMA regarding sections 10.7.3.1.1, 10.7.3.1.3, and 10.7.3.1 with the following changes:**

**107.3.1 – "Persons who keep domestic fowl and rabbit shall provide a coop or cage."**

**10.7.3 .1.3 – change "enclosure" to "structure."**

**10.7.3.1.1 – "all enclosures shall be detached from the home and be at least 50 feet from any neighboring dwellings used for human habitation and at least 5 feet from rear or side property line." Commissioner Oblad seconded the motion. The motion was approved by Commissioners Cary, Klotz, Goodrich, Oblad, Jensen and Council Member Horrocks. Commissioner Allen was excused.**

## 6. APPROVE MINUTES

The Planning Commission minutes of March 8, 2011 were reviewed and amended.

**Commissioner Goodrich moved to approve the March 8, 2011 Planning Commission minutes as amended. Chairman Klotz seconded the motion. The motion was approved by**

**Commissioners Cary, Klotz, Goodrich, Oblad, Jensen and Council Member Horrocks.  
Commissioner Allen was excused.**

7. ADJOURN

Chairman Klotz adjourned the meeting at 9:45 p.m.

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Chairman

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Secretary