

Perry City Planning Commission
3005 South 1200 West
7:00 PM May 15, 2014

Members Present: Chairman Dave Walker, Vice Chairman Doug Longfellow, Commissioner Steven Pettingill, Commissioner Tom Peterson

Members Excused: Commissioner Vicki Call, Commissioner Travis Coburn, and Commissioner Don Higley

Others Present: Malone Molgard, City Attorney; Council Member Brady Lewis, Susan K. Obray, Minutes Clerk; Lani Braithwaite, Shea Billings, Toree Sorensen, Melba Clark, Merrill Clark, Jason Felt, Great Basin Engineering, Doug Dorius, Raylene Dorius, Ross Backe, Gayla Backe, Marsha Moline, Wendy Jensen, Bob Thurgood, Boyd Hirschi, Kevin Butters, Ed Christensen, Marie Christensen, Bart Bess, Larry Bond, Harley Morrison, Nadine Anderson, Scott Hurst, Jeff Overson, Annie Overson, Ronda Parry, Jim Keller, Eric Morrill. Jim Flint, Hansen & Associates, Darren Bauer, Marilyn Perry, Reva Anderson, Robert Anderson, Natalya Essler, Ayden Essler

1. Approx. 7:00 pm-Call to Order and Opening Ceremonies

Invocation- Don Higley

Invocation was given by Commissioner Pettingill

Pledge of Allegiance-David Curtis

The Pledge of Allegiance was led by Commissioner Peterson

Review and Adopt the Agenda

MOTION: Commissioner Peterson moved to adopt the agenda as written. Vice Chairman Longfellow seconded the motion. All in favor.

Declare Conflicts of Interest, If any

Request to declare conflicts of interest by Chairman Walker; there were none.

Report by Council Member Lewis

Council Member Lewis had nothing to report.

MOTION: Vice Chairman Longfellow moved to close the regular meeting and open the public Hearings for Items 3A, 3B, and 3C. Commissioner Pettingill seconded the motion. All in favor.

2. Approx. 7:05 p.m. Public Comments and Public Hearings (If listed below)

A. Public Hearing Regarding Item 3A (Taylor's Cove)

Wendy Jensen: Ms. Jensen stated that she is the developer for the Taylor's Cove Subdivision. She said that she would like to develop lots 1, 21, and 22 for phase 1. Wendy stated that Parcel A has already been approved for her to build her house on. She stated that the subdivision has been engineered.

Bob Thurgood: Mr. Thurgood stated that he lives above the Quail Pointe Development. He said he was also the developer for that development. Mr. Thurgood stated that he has some questions. He said it appears to him that the lots in this development are the same size lots in Quail Pointe. Codey Illum confirmed that they meet the minimum standard. Bob stated if Ms. Jensen is only going to do the 3 lots in the first phase is the Planning Commission going to still require her to put the street in. Mr. Thurgood stated that he has a

concern with the proposed 1425 East Street in this development. Mr. Thurgood stated that Hill Haven is a Planned Unit Development and understands that Hill Haven Drive is a city street. He said as Wendy develops this property the traffic will have to go down Hill Haven to get out on the highway or it's going to have to go out of Quail Pointe. He said going to the south on 1425 East the City will probably only require her to finish the street to the end of her property. Mr. Thurgood stated there needs to be a way to get in and out for those people owning those three lots. He said that the street needs to be finished and meet all the requirements such as curb, gutter, storm water etc.

Boyd Hirschi: Mr. Hirschi stated that he is the President of the Perry Irrigation Company. He said there is a Perry Irrigation line that has been piped and runs from Chateau Estates through to Quail Pointe and it also includes Hill Haven Subdivision. He reported that while he was on his mission, Hill Haven Phase 3 was allowed to go in and it was required to be piped because it is an open canal. He said it went through the Planning Commission and the City Council without anything being done. Mr. Hirschi stated that there is an open ditch in the corner of Hill Haven Phase 3 and the kids love to play in the open ditch. He said that he has a pipeline that goes all the way up this subdivision and has outlets all the way up. He asked what is going to be done with this. Mr. Hirschi stated that Pineview canal and Perry Irrigation are above this development and they have had to pipe the ditch all the way from the north end. He said he is sure that the City wants to bring the water line from Quail Point Subdivision and connect it to Ansley's Subdivision. He said that he would like to meet with the engineers from both sides and give them more background.

Larry Bond: Mr. Bond stated that he submitted a letter to the City from the Hill Haven Homeowners Association. He said they are not opposed to the subdivision because everyone has the right to develop their property. Mr. Bond commented that their only concern is the proper drainage so that their area is not filled up with water and seep down through the rocky area and get into their homes. He said that traffic is another concern and that there should be another way out to the highway. Mr. Bond stated that their final concern is the open canal and the kids playing in the ditch. He asked that consideration be taken regarding the drainage, traffic and safety.

Melba Clark: She said that the drainage problem is directly behind her home. Mrs. Clark stated that she has gone out numerous times and told the little children to please leave because someone could get hurt. She explained that there is a board that goes across the ditch and the kids jump into the ditch opening where the water is. She reported that her husband and Mr. Bond were out there at 2:00 AM diverting the water because the water was coming down the hill and it would have gone into their home if they had not been out there diverting the water away from their home.

Merrill Clark: Mr. Clark stated he would like to clarify a couple of things. He said on Earlene Hill's property there is a peach orchard at the top owned by John Valcarce. Mr. Clark stated when he irrigates his orchard from the canal he runs a ditch below Parcel A. He said it gets plugged with sediment and took them an hour and a half to unplug it. Mr. Clark reported that there is a pipe that does go to the west that Mr. Hirschi mentioned. He said that it is the sediment from when the orchard was run by Mr. Tingey. Mr. Clark stated that there is another one in the ditch of the canal that goes west. He said he has talked to Mr. Hirschi about this. He reported that the kids have put sticks and other debris and it has

overflowed and has come onto his property twice. He said if he hadn't noticed it at the time they would have been flooded out. Mr. Clark stated that there is a lot of runoff from this property. Mr. Clark said the runoff has run a block to the north and flooded a house. He said when Ms. Jensen was approached she commented that it was not her water, and it came from her property. Mr. Clark would like to see a holding pond for the drainage so it doesn't come onto the Hill Haven property.

Nadine Anderson: Mrs. Anderson stated that she is president of the Hill Haven Homeowners Association. She said they are happy to see the property developed and think it is a good idea. She said the concern is Hill Haven Drive and the amount of traffic that will go up and down that street. Mrs. Anderson said unless there is some other way for traffic to come out of the subdivision, it will go down Hill Haven Drive. She reported that when Hill Haven Subdivision was finished, Hill Haven Drive was deeded over to Perry City, and that is a big concern. She explained that before all the houses in Hill Haven were finished there was a flood in one of the lower homes that came down from that hill after a big storm. She said that the house did have a lot of water damage to it. Mrs. Anderson stated that she wants to make sure that the Planning Commission takes the drainage issue into consideration.

Ross Backe: Mr. Backe stated that he lives on lot #44 in Quail Pointe. He said he would rather keep the open space. He said he would rather not have the development. Mr. Backe stated that if Ms. Jensen is only developing the three lots, is she still required to maintain the rest of the property. He said she has done a good job in the past but this year it is overgrown with weeds. Ross stated another concern is the storm drainage coming down onto the undeveloped part and asked where is it going to go.

B. Public Hearing Regarding Item 3B (Christensen Estates Subdivision)

Doug Dorius: Mr. Dorius stated that he lives in the corner lot just southeast of lot #3 in the Christensen Estates Subdivision. Mr. Dorius stated when he built the house 17 years ago it was his understanding that lot #3 was too small to build a home on. He said that he considered buying the lot from Jr. Nielsen at the time, and then Mr. Christensen started building a house on it. Mr. Dorius stated that it is his understanding that it does not meet code as far as the size of the lot or the size of the home. He explained that he has spent a small fortune and a lot of sweat in building a railroad tie wall along their property line. He said when they excavated the house they backfilled and buried half of the railroad tie wall, which is on his side of the property. Mr. Dorius stated building the house there within 8 feet of the property line has completely blocked their view of a good view of the valley. He reported not only have they blocked the view they built a home there that is not complete and is an eye sore, the yard is a pitiful mess. He said the reason he is bringing this up is that the past is a good indication of what the future will be of what they will do with the other two lots. Mr. Dorius passed around pictures of the property.

Marilyn Perry: Mrs. Perry stated that she lives behind lot #2 of the Christensen Estates Subdivision. She said she is opposed to the area labeled 1 and 2 being two lots. She felt that lots 1 and 2 should be one lot. She said that 3 lots in this space is cramped and does not fit in with the neighborhood and would have negative impact on resale value for the properties around it. Mrs. Perry stated when lots are side by side with a garage in between them it matters a little less if they are a little closer. She said when you turn a corner and

the lots in question are in others backyards then you need more distance than 4 feet. She said the lots are so narrow by the time you subtract the easement allowance and the 4 feet space on each side the houses would be against our property lines. Mrs. Perry said that she understands there is a septic field that runs from lots 1 and 2 from lot 3. She said she has driven around many neighborhoods in Perry and haven't seen the encroachment on other properties like what has happened to Doug Dorius's house from lot 3. She commented that she has a vegetable garden and a deck in her backyard and spends a lot of time there. She felt she should not have to give up the enjoyment and privacy of half of her yard so Mr. Christensen can build a compound for his six children and their families. She said when she decided to move to Utah in 1997, she looked at many houses and lots in Brigham and Perry. Mrs. Perry stated that she decided to build in Perry because she felt the planners had a vision for a quaint, beautiful, and spacious community. She said she hopes that her decision in choosing Perry was not a mistake.

Darren Bauer: Mr. Bauer stated that he had the expectation that the property developed would be held to the same standards as other homes and lots around it would be maintained well and not be a detriment to the neighborhood and helps us sustain our property values. He said that the same standards should be upheld by the Christensen's if they choose to develop the property. Mr. Bauer stated again he would hope that it would be held to the same standards, that it not detract from the neighborhood, and that it be maintained well.

C. Public Hearing Regarding Item 3C (Orchard View Estates Subdivision)

There were no public comments on this Public Hearing regarding Orchard View Estates Subdivision.

MOTION: Commissioner Peterson moved to close the public hearing and open the regular meeting. Commissioner Pettingill seconded the motion. All in favor.

D. Public Comments(Regarding other issues)

Rhonda Perry: Mrs. Perry stated that she wanted to address the Cherry Ridge issue. She said that after the Cherry Ridge public hearing closed, the Planning Commission talked to the Butter's and there were more questions she had. She stated that she lives up along phase 1 her property borders the property known as the Cherry Ridge Pit. She reported that her biggest concern of fencing the property is that they have chosen to put barbed wire up all along their backyards. She said that there are 15 homes that border along the side of the property. Only four homes have existing fences, so that puts them in a position to have barbed wire along the back of their property. She explained if you measure from her back door to the property line it is 52 feet. She felt this was awfully close for a barbed wire fence in a residential neighborhood. Mrs. Perry stated that they all have swing sets, sand boxes, and soccer nets and all kinds of things. She felt it was a hazard for kids to get snagged on a barbed wire fence while they still remain on their property. She stated that if they put a fence on the property line it becomes a shared fence because of where it is. Mrs. Perry stated that there are two reasons why people don't put up fences, one is they can't afford it and the other is that they don't want one. She felt a lot of people would feel like they had to put up a fence in front of the barbed wire fence, and there are a number of those 11

homes that could not afford to put up a fence. She said it was her understanding when they bought their lot that it was going to be a park and a cul-de-sac. Rhonda stated that they don't want to put a fence up because it ruins the view and putting barbed wire on the property would diminish the property value. She commented that it would be difficult to sell your property with a barbed wire fence in the back yard. She said they would like to ask for an easement on the barbed wire fence. There is a drop off on our properties that goes down to

where the property is. She said if they would be willing to put the barbed wire fence at the bottom of the hill, there wouldn't be much problem with that, they would be able to keep their animals in and we wouldn't be caught up in the barbed wire fence. Mrs. Perry stated that if the animals are going to graze, there is not enough there to graze on, so that would police how many animals they could have. She said if they are able to put feed down there then it opens it up to have a large number of animals. She stated that if it turns into a feed lot, then it can diminish their property value.

Toree Sorensen: She stated that she lives above where they want to put the fence. Mrs. Sorensen stated when her and her husband moved in 11 years ago they went to Butters and they were given a bunch of regulations in order to build their home. She said as she was looking at the material it said "Agricultural type fencing materials (barbed or mesh wire etc,) shall not be allowed for residential fences". She said if they put up a fence they would be sharing our property. Mrs. Sorensen stated that they are asking for the same courtesy as we have given them that they don't put up a barbed wire fence right there. She said it does affect them and the children. Mrs. Sorensen reported that she runs a pre-school and she knows that they say keep your kids on your own property, but they would never move into another place and put barbed wire between them and their neighbors, and that is what they are doing.

Joseph Garvin: Stated that he talked to them two weeks ago in regards to the barbed wire fence. He said from his back porch to his property line is 42 feet, from where his children play to the property line there is a 12 foot buffer where he would have barbed wire in his back yard. He stated that is a big concern for most of them. He said that the barbed wire he could live with it is the cows behind the barbed wire fence that is the issue. He said he has spoken with three different professional people about his property value and his ability to sell his home with cows in his backyard. Mr. Garvin stated that this will diminish his property value and make it harder to sell his home with the cows in the backyard. He said not to mention there would be a barbed wire fence in his backyard that a cow could come right up too and poop right there in his backyard. He stated that is would smell and would be a health concern. He stated in regards to the gentlemen that gets his house flood all the time, guess what that water will be full of? He said it will be in his backyard and that is not very good fertilizer, especially when it is 3 feet deep in your backyard and there for your kids to play by and smell. He said this one person is creating an issue for so many people. Mr. Garvin stated what is the greater good there. Are we going to take care of more residents and improve their lives or are we going to take care of that one person. Mr. Garvin stated that they have the right to do what they want with their own property as long as it doesn't affect those around them. He said it will make a huge impact not only for those around it but everyone in the whole subdivision.

Julie Mitton: Julie stated that she lives in Cherry Ridge Phase 1 along that line. She said she wanted to make sure that the road stays open because it is their only access in and out of the subdivision. She said that is a fire hazard safety and concern, so we need to make sure we have two ways in and out of our subdivision. She said she wants to make them aware of The Clean Water Act because there will be animals there, and the kids like to play in the ditch down below. She is concerned that there will be diseases that will develop. Ms. Mitton stated that we don't need animals that will be in the stream. It will create more problems for the residents of Cherry Ridge.

Scott Hurst: He stated he wants to know what the easement is for a permanent structure which the fence is because the railroad ties are cemented to the ground. He said there is an easement that is a permanent fixture and how did they get the permit to do that if it is inside the easement. Mr. Hurst stated in regards to the drainage, the kids play back in there and if someone dies, it is not going to be on Perry anymore it is going to be on him because it runs through his land. He said he would like to see some kind of culvert put in to help that.

Shealene Billings: She said the fence that they are proposing is right along her property also. Shay stated that the financial situation in putting in a fence is not good for everybody. She explained that her husband works out of state in order for them to make a living. She said putting up a fence would be another financial hardship for them and others in that subdivision. Mrs. Billings stated that if they would have known there was going to be a barbed wire fence and animals, they wouldn't have moved there in the first place. She said when they built their home, they followed the covenants so they could sell the rest of their lots and their property value would be good. Mrs. Billings stated that if they want to put that in their backyard, the property value goes down and if they have to move out of state it will be hard to sell their home. She stated that she would like the same consideration from them that they gave Butter's when they built their home.

Annie Overson: Mrs. Overson stated that the barbed wire fence will be bordering the back part of their yard. She said her concern is they have talked about putting a fence back there but wouldn't do it if they didn't have too, but if there is barbed wire they will put a fence up when they can afford too. She stated her concern is once they have the money to put a fence up there will be already barbed wire bordering their property. Mrs. Overson is asking for a small easement. She stated that Butter's had mentioned that they are going to run the barbed wire 5 feet behind the existing fences and she is asking for the same consideration and would like to put her fence in when they can afford it. She said that she has permanent cement curbing that borders the last 2 feet of her yard. She reported that Butter's have already come through and ripped out trees and knocked them down and uprooted her flower beds. She said there have already been bad changes made to her property and now they are going to put the barbed wire fencing right along the back of her yard. Mrs. Overson asked for a little give so that they could make their property more valuable and more beautiful and not have to bring their fence in a couple of feet into their yard.

Eric Morrill: Mr. Morrill stated that he also lived in the Cherry Ridge Subdivision. He said in the beginning he did not have a very good relationship with Butter's. Eric stated that he felt like he was short changed on some problems that they made when they were developing

the subdivision. He reported that they had a hard time locating their sewer and the excavator billed him an extra \$2,000 to locate his sewer. He said he doesn't have the greatest relationship with Butter's but agrees with them in what they want to do with their property in putting a barbed wire fence up only because it is a good deterrent for the large animals. He said he didn't feel it was a safety concern as it is a last ditch chance to hang onto this property. Mr. Morrill said that the real safety issue is there have been some fires started back there by some of the kids in the neighborhood. Mr. Morrill stated that his 7 year old nephew witnessed some teenagers over there having sex and came home and told him in detail. He stated that there have been couches dumped off and kids riding them down the hill like a sled in the middle of the summer. The safety concern is the access the kids have to that property not the barbed wire fence. He commented that the access they are going to have with the barbed wire fence will be a band aid to put on a cut, or its going to be animals breaking through a non barbed wire fence. He said his biggest concern is the safety within the property not so much the fence that is bordering around it.

3. Land Use Applications

A. Final Recommendation to the City Council to Approve Taylor's Cove Location: Approx. 25 West and Hill Haven Drive. Applicant: Wendy Jensen

Wendy Jensen stated that she would like to address some of the issues that have been brought up. She said the first issue she wants to address is the traffic. Ms. Jensen said that a few years ago Bob Thurgood wanted to put a charter school up in that area and that would have caused a lot more traffic. She said there would be busses everyday, there would be parents bringing children, it would be very congested and very, very busy. She stated that by putting up a subdivision there would be a lot less traffic. Ms. Jensen commented that she lives in Quail Pointe and she wants to make sure it is meeting all the standards. She said she has been working on this the last year in making sure that she is compliant with all of the requirements. Ms. Jensen stated that they have created a small retaining pond down at the bottom it is similar to Bob Thurgood's development which is Quail Pointe. She said all of the water will be tied into the drains as discussed over the last year. Wendy said that the open ditch is all covered, the ditch is on Mrs. Hill's property and that would be an issue she would need to address. Mrs. Jensen stated that the property that she owns does not have an open ditch. She said that they will partner up with Boyd Hirschi regarding the piping issues, and her engineers have reviewed all of that. She turned the time over to her engineer.

Jason Felt with Great Basin Engineering said that Parcel A is set aside for the storm drain detention pond. He stated that this property is a self contained drainage wise which means rainfall. Any water that accumulates on the property stays on the property, and won't flood the neighbors. He said all the water will be directed to the streets, which will be collected in the storm system and collected in the pond on Parcel A. He said that there will be a pipe coming from the pond and will connect into the existing system which historically has collected that water. He said the discharge water will be at a metered rate so it won't all come flushing down. He stated concerning the irrigation line he believes that there is an existing easement to that pipe. Boyd Hirschi stated that it is an 8 inch concrete pipe that has been in there for years. Mr. Felt stated that lots 1-10 will have an additional public utility easement which will prevent any type of disturbance to the underground infrastructure that is already there. He said that a grading plan will be put together that

will show how all the surface water is collected, how it's directed and show that the water on each lot is self contained which will prevent flooding on any of the neighbors. Mr. Felt stated that Phase 1 will include lots 1, 21, 22, and Parcel A and the front of those properties will be developed as part of those lots. He said the improvements for the road will be developed as part of the front of those lots, so there will not be dirt access roads to any of the lots. Chairman Walker confirmed that the main road will be finished and the access to the lots will be complete. He asked about the utility easement. Commissioner Pettingill stated that there is a utility easement there but Mr. Hirschi has pipe in the ground there. He said it is a right of use easement for a water line. Commissioner Pettingill said that he is sure that no one wants the drainage water dumped into the irrigation system. He asked where the water will go. Mr. Felt stated it will be collected and discharged in the ditch down below. Chairman Walker asked where the water goes that is discharged in the ditch. Mr. Hirschi stated that it is the Perry Irrigation ditch and there is no storm drain line there. Ms. Jensen stated that it was her understanding that it ties into somewhere Bob Thurgood had done on the Quail Pointe Subdivision and then ties into the Hill Haven Subdivision.

Commissioner Pettingill stated that the kids playing in the ditch was not her property so it should not be an issue, it should be whoever owns the property responsibility. Codey Illum stated that one of the engineering comments is that they have to have written permission for any planned storm drain discharge into the irrigation canal or onto private property. Mr. Illum stated that the discharge water is a concern and needs to be addressed. Mr. Illum stated that it meets all of the city requirements with the engineer's notes to be included. Vice Chairman Longfellow stated he has storm drain issues that need to be taken care of. Commissioner Peterson asked if it should be tabled until the storm water issue is resolved with the owner of the ditch. Chairman Walker stated that they can give approval tonight and if he doesn't agree, then they need to come up with another option. He said that needs to be addressed per Perry City ordinance. Vice Chairman Longfellow stated that it has been noted by the City Engineer and so it needs to be addressed.

Mr. Illum stated that they can give preliminary approval and hold off on the final until everything is addressed. Mr. Heiner stated that they have already had Preliminary approval from the Planning Commission and they are here for final approval. Commissioner Pettingill felt that item #20 on the Engineer memo (written permission for any planned storm water discharge into irrigation canal or onto private property) would be a hurdle for the developer. He said all the others can be talked about and solved. Commissioner Pettingill stated that he would like Mr. Jones to define #20 on the engineer's memo regarding discharging water onto private property. He said every developer has the obligation to provide a detention basin per Perry City's code.

MOTION: Commissioner Pettingill moved to approve final approval for Taylor's Cove pending the Planning Commission understanding the definition of how Ms. Jensen will discharge water onto private property. Vice Chairman Longfellow seconded the motion. Roll Call Vote.

Commissioner Peterson	yes	Commissioner Pettingill	yes
Vice Chairman Longfellow	yes	Chairman Walker	yes

Motion Approved: 4 yes 0 no

**B. Preliminary/Final Recommendation to the City Council to Approve Christensen Estates.
Location: Approx. 2815 South 775 West. Applicant: Ed Christensen**

Mr. Christensen stated that this little subdivision dates back about 15-20 years. He said this used to be Jr. Nielsen's originally and the lots were part of his. He said as he recalls the sewer was going to have to run downhill so he just built part of the acre. Mr. Christensen stated that when they developed lot 3 the city made him sign an agreement that he would stay with the original plat. He said when Sumida's property sold; they went ahead and paid for the curb, gutter and street. Mr. Christensen explained that all the utilities are stubbed into lots 1 and 2. He said he did not split the property because he did not want to pay the taxes. Ed reported that there is a house already on lot 3, the street, curb, and gutter is existing. Mr. Christensen stated that their son wants to build on lot 1. He stated that the only change that was made from the original plat was the easement between lots 1 and 2. Ed explained that he has an acre and a half behind lots 1 and 2 and has no access other than from Hwy 89. He said it is orchard right now and at some point someone is going to want to develop that piece of property and that is why he is asking for the easement between lots 1 and 2. Mr. Christensen stated that this subdivision had been previously approved in 2002 as phase 3. He said that it was originally three lots when Jr. Nielsen developed it.

Commissioner Peterson asked if they want the easement so they can have access to the additional property to the west. He stated that it would create a flag lot. Mrs. Christensen stated that they have to access to that orchard property somehow. Mr. Christensen stated in his lifetime he will never build on it, unless he builds some big garages to house antique automobiles. Mr. Christensen stated that the easement is for access to the acre and a half behind lots 1 and 2.

Commissioner Pettingill asked what the zone was for this property. Mr. Illum stated that it was R1 a minimum of 10,000 square feet. Commissioner Peterson stated that lot 3 does not have the minimum square feet. Mr. Illum stated that was a concern and it was addressed with Hansen & Associates who told him that they can make it a 2 lot subdivision with the third lot as a remainder parcel. Commissioner Peterson asked if the frontage meets Perry City standards. Mr. Illum confirmed that they do. Commissioner Pettingill stated that he doesn't like to encumber those lots with an easement. Mr. Christensen stated that their son needs that easement to get back to his RV garage. Vice Chairman Longfellow stated that he can put a driveway on his lot to access his RV garage. Vice Chairman Longfellow asked if the property in the back is landlocked. Mr. Christensen stated that the orchard would be because the only access to that property is through the easement between these lots or Highway 89, so it is not landlocked. Commissioner Peterson stated he has a difficult time with easements being used as a driveway to access the property. Commissioner Pettingill stated that his son can build his house and not encumber it with an easement. Vice Chairman Longfellow stated that the lots fit the city requirements except for the easement. Commissioner Peterson stated that would be his recommendation to approve it without the easement.

MOTION: Commissioner Pettingill moved to recommend to the City Council for final approval of the Christensen Estates Subdivision Lots 1, 2, and 3 without the prescribed easement that is on the subdivision plat. Commissioner Peterson seconded the motion. Roll call vote.

Commissioner Pettingill yes
Vice Chairman Longfellow yes

Commissioner Peterson yes
Chairman Walker yes

Motion Approved: 4 yes 0 no

**C. Preliminary /Final Recommendation to the City Council to Approve Orchard View Estates.
Location: Approx. 1850 South 100 West. Applicant: Bart Bess and Jim Keller**

Jim Flint with Hansen & Associates stated that he has read all of the City Engineers comments and will address them all. He said that 100 west will be an extended paved road. He said it will drain and go into the existing detention pond. He said the irrigation issue is complicated. Mr. Flint stated that there are 5 irrigation issues that he is working out with the Perry Irrigation Company. He said that the Perry Irrigation ditch (on the proposed lots 1 and 2) will be eliminated and a new 18' pipe will be put right along the paved road and run back into the ditch. He reported that he talked with Boyd Hirschi in regards to the Perry Irrigation lines and there were some agreements that were made that he wanted them to be aware of. Mr. Flint stated that the irrigation company was concerned about the accessibility to the ditch. He said they have agreed to provide a 15 foot-gravel access road along the south line of Lot 2. Mr. Flint stated that they will provide an irrigation structure with a turnout for Randy Matthews on the north side. He reported that the private irrigation for the proposed lots will actually be provided by Pineview, each lot will have a pressurized turnout. Vice Chairman Longfellow asked about the draining of the water into a pond. Mr. Flint stated that Perry City owns the detention basin that is part of the Ansley Subdivision. He said they oversized the pond and they need to work out an overflow detail with the City Engineer. Mr. Illum stated that the only concern that staff had was the lot that Casey Crossman owns above would be landlocked. Mr. Illum reported that Mr. Crossman has purchased lot 7R of the Ansley Subdivision and so that would be his access in and out of that property. Mr. Illum stated that it meets all of Perry City requirements.

MOTION: Commissioner Longfellow moved to approve the Orchard View Estates Subdivision for the final recommendation to the City Council. Commissioner Pettingill seconded the motion. Roll call vote.

Commissioner Pettingill yes
Vice Chairman Longfellow yes

Commissioner Peterson yes
Chairman Walker yes

Motion Approved: 4 yes 0 no

4. Land Use Ordinances, Zoning, Design Guidelines, General Plan, Etc

**A. Conditional Use Application for Domesticated Animals on property in the R2 Zone.
Location: 3300 South 1200 west, locally known as "Cherry Ridge Pit". Applicant: Cherry Ridge LLC (Tysen Butters)**

Commissioner Peterson stated this conditional use permit is asking for permission to put animals in the R2 zone. Chairman Walker stated that he has a right to put a fence anywhere he wants to it is his property, but the animals do not meet the ordinance. Codey Illum stated that you have to have at least 40 thousand square feet to have 1 animal in an R2

zone. Malone Molgard stated that there is a list of standards that the Planning Commission needs to follow in order to approve a conditional use permit. He said this will give them guidance in whether to approve the conditional use permit. Mr. Molgard stated that items 9(Fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses; and 10(The effects of any differences in use or scale have been mitigated through careful planning and establishment of appropriate conditions; are particularly applicable to this conditional use permit. Commissioner Pettingill stated that if you refer to the special exception for height requirements for residential fences it says the fence will not prevent intrusion into the property of adjacent landowners; which is not an intrusion; and one or more adjacent landowners is/are opposed to the construction of the fence ; or take into account the rights of adjacent landowners. Mr. Molgard stated that in 45.20.040 Additional Information (Notes) regarding Land Use Chart, it says for any lot in the RE1/2 Zone of 40,000 square feet or larger lots in the R1/2, R1/3, R1A, R1 or R2 zones, domesticated animals shall be permitted by Conditional Use Permit, with an annual review. He said if he has a Conditional Use Permit he can have domesticated animals. He said in 60.01.010, Applicability to Land Use Chart, it says these conditional use permit requirements, regulations and restrictions are intended to apply to all uses listed in the Land Use Chart of the Perry Municipal Code, Title 45; Zoning, Including Procedures, Land Use Chart, Area Requirements, and Zoning Map that are designated "C" (Conditional Use). He asked the Commissioners to look at the Perry City Land Use Chart that was provided and referred to page 1 in the agricultural uses under grazing. It has a squiggly line and the use is not permitted. He said that the Land Use Chart says it is not permitted but the other statute says it is permitted with a conditional use permit. Mr. Molgard stated that his suggestion is to use the guidance in the Perry code and determine whether you want to allow it. He said you can approve it with conditions or deny it.

Mr. Illum stated in 60.01.030 it states that the Planning Commission will review all proposed conditional uses and may impose conditions of approval to preserve the character of the zone district and to mitigate potential adverse effects of the conditional use. He said so this is in the Planning Commissions hands. Mr. Molgard stated that it is up to the Planning Commission to set the conditions or deny it. Mr. Illum stated the only concern that staff has is the egress for the emergency access. He said if the fence is allowed, we need to maintain the established easement of emergency right of way out of the subdivision. Commissioner Pettingill asked if it was established. Mr. Molgard stated that it was. Mr. Illum said that it was in all the minutes and it was required. Mr. Illum explained that we can't allow a fence to block off that access. He said if we do then we are the ones that are liable. Commissioner Pettingill asked if we have the access. Mr. Illum stated that we do not. Mr. Molgard stated that there are copies of the Planning Commission and City Council minutes in their packets. He said that in the minutes it states that in order for Phases 2 and 3 to be approved that second egress would be required, but has never been done. Mr. Butters stated that the agreement between them and the city was that the city would construct the access; they would donate the property for a park; and they would take the tax deduction and the city would create the access. He said the city ran out of money to do that, then they decided to do a little park so they redesigned and engineered phase 4.

Commissioner Pettingill said that he was on the Planning Commission and City Council at the time and felt that is not what happened. Commissioner Pettingill stated that the city was promised a park and the city never got the access or the park. He said that they would

facilitate another phase and then another. Mr. Butters stated that the original conditions were that they would donate the property and the city would develop a park and construct the access through their park as part of the development. He said that was his understanding at the time. Commissioner Pettingill stated that this has been a poor planned issue and a follow through with the developer and the city. He said the minutes reflect that the developer should have put in a second access and it was not done. Mr. Butters stated that they have Preliminary approval on phase 4. He said phase 4 plat shows a smaller park because that is what the city requested, and then said they couldn't do it. Commissioner Pettingill said that the Planning Commission gave him the best zone they had and now he wants to revert it to agricultural use for tax purposes. Mr. Butters stated that they have the right to put up a fence. He said in regards to the access safety stand point they could put a box on it with locks. He said they want the city to be able to have access to the subdivision when they need too. Mr. Butters stated that they have no intention in causing problems for the neighbors. He said that they want to put 5-6 animals and graze them until the grass is gone. Mr. Butters stated that they have to have 5-6 animals for 3 months on their property in order to meet the agriculture requirements. Commissioner Pettingill stated that the City has bent over backwards to accommodate and facilitate the Cherry Ridge Development. He said they have a cul-de-sac in that subdivision because there is only one access. Mr. Butters stated that they would love to finish phase 4 or have the city buy it for a park but it is not possible at this time.

Chairman Walker stated that he read it in the minutes that Butter's offered it as a park but there were no agreements made. Commissioner Peterson stated that they would be able to put horses, cows, pigs, llamas, goats etc. He said that the Planning Commission would have to put conditions on which animals it would be. Chairman Walker asked where the fence was going to be placed. Mr. Butters stated that they would put it behind their property line. He said they could put it back a little farther but it would create an area that there would be no way to effectively maintain. He said that some of the Cherry Ridge residents have already encroached onto their property. Vice Chairman Longfellow asked if there was another type of fence they would put up along that side of the property that borders the residents. Mr. Butters stated that the problem they have if they don't put up barbed wire in, to contain the animals, then if the animals get out into people's yards then that is a problem. Commissioner Pettingill stated that the City Council needs to get with Mr. Butters in regards to the second access road.

MOTION: Commissioner Pettingill moved to deny the Conditional Use Permit.
Commissioner Peterson seconded the motion. Roll call vote.

Discussion

Vice Chairman Longfellow felt they should not deny it. He said he has the right to put a fence up on his property and the Planning Commission could limit the amount of horses and cows on the property. Vice Chairman Longfellow stated that there is some history with the property but felt they should not deny his application. Chairman Walker felt that they need to have an access road. He said Mr. Butters has the right to put up a fence on his property

Commissioner Pettingill yes
Vice Chairman Longfellow no

Commissioner Peterson yes
Chairman Walker no

Motion Failed: 2 yes 2 no

5. Review Next Agenda-Thursday June 5, 2014

A. General Plan Circulation Element Public Work Session 1 of 3 starting at 6:30 p.m.

B. Municipal Code Amendment Cul-de-sac Recommendation to City Council (Public Hearing)

6. Adjourn

MOTION: Commissioner Pettingill moved to adjourn. Vice Chairman Longfellow seconded the motion. All in favor.