

WORK SESSION – Thursday, September 15, 2022

Minutes of the Huntsville Town Council work session held at the Ogden Valley Library, 131 South 7400 East, Huntsville, Utah, 84317.

The work session addressed the Development Agreement between the Bill and Michaeline Wangsgard Trust and the Town of Huntsville. The Wangsgard's were invited to the work session to give their comments on the Development Agreement which was written by the Town. The Development Agreement dedicates the right of way which will be referenced at 400 North. The right of way is owned by the Wangsgard Trust and will be dedicated to the Town. (See Attached Agreement)

Attending: TCM Kevin Anderson, Mayor Sorensen, TCM Bruce Ahlstrom, Beckki Endicott-Clerk, Bill and Michaeline Wangsgard, Ron Gault

Mayor Sorensen called the meeting to order. He turned the time over to Beckki Endicott to give some background information.

Beckki stated she worked with Bill Morris to write the Development Agreement. They used the minutes from the previous Town Council Meetings to come up with the details of the agreement. Beckki is hoping that the work session will address any concerns about agreement so that edits and adjustments can be made to the agreement prior to the public hearing on that agreement.

At the time of the writing of this agreement, Attorney Morris strongly encouraged the road to be built and developed. This includes all the elements of the road. Beckki communicated to Attorney Morris that the Town Council did not want the road with improvements at this time. There is a deferment clause in the agreement which would delay improvements and put them on the property owner who uses this road to build out his development. The parcel of land to the south of the Bill and Michaeline Wangsgard's is currently not developed.

Michaeline Wangsgard specifically mentions several edits that need to be made in the agreement. There were some additional items that need to be addressed in the agreement.

1) Under Section 2 and item 5 there is a deferral of the improvements for the ROW. The agreement needs more definition as to who is responsible for those improvements.

2) The agreement needs the exhibits attached.

3) Michaeline Wangsgard questioned the need for a map or survey. She stated that the legal descriptions are complete, and divisions are the same as they were years prior. Beckki will have to check on this at Weber County. She believes that they will need a mylar for the subdivision for it to be finalized at WC.

4) Michaeline Wangsgard stated that the agreement refers to the ROW, but they are dedicating the entire parcel to the Town. There needs to be a definition in the agreement that the parcel is the ROW.

5) TCM Anderson would like "Property" to be defined. He isn't sure if it refers to the Developers property or the Wangsgard property. This needs to be consistent throughout the agreement.

TCM Anderson suggests putting together a meeting with the Wangsgard's attorney to refine the agreement.

Culinary Water Connections

Ron Gault was in attendance prior to the regular session. He was asked to comment on the safe yield of the well. The safe yield of the Wishing Well is what the State of Utah Department of Water Quality thinks the well can produce consistently. Huntsville Town was required to monitor flow rates for two full years before the State issued an official flow rate. Ron Gault stated during the time of the monitoring, Huntsville Town had problems with its flow meters. There are two flow meters. Huntsville has replaced one of the flow meters. The Town has another flow meter on order, but it is backordered. They are hoping to have this flow meter by Christmas.

The flow meter issues are reflected in a conservative safe yield that was issued by the state. The safe yield issued by the State is 150 gallons per minute. That number is converted into a number of connections allowed in the community that is served by that system. Right now, Huntsville Town is rated to provide for slightly less than the number of the connections it has right now. Huntsville Town's connection number and safe yield are within 20% of the official flow rate. If the connections and safe yield go above the 20%, then the Town would be out of compliance with the State standards.

The Wishing Well is a secondary or redundant source of culinary water. Ron Gault said that legally Huntsville will be required to go back to the Spring as it's primary source at some point. Ron Gault stated that Huntsville is providing for its existing connections and currently can not legally expand beyond its existing connections.

Many people ask Ron Gault about switching over to the Wishing Well for the primary source. They hear that the source is very good and produces well. Ron Gault stated that the well does produce at a good rate. However, the water plant was designed for 300 connections. It operates most efficiently at 150-200. They haven't ever run the plant higher than 280. Commercial connections are counted as several residential connections.

TCM Anderson wanted to know about the number of shares that we can purchase from the Monastery due to the safe yield. TCM Anderson wanted to know if the safe yield could be reevaluated when the additional flow meter was installed. Ron Gault did not feel that he was qualified to answer this question. He needed to get with Bill White to know if there is a limit to how many Huntsville could purchase versus how many Huntsville could legally use.

TCM Bruce Ahlstrom motioned to adjourn the meeting. TCM Kevin Anderson seconded the motion. All votes Aye. Motion passed.

Meeting adjourned at 6:45 p.m.

_____

Beckki Endicott, Huntsville Town Clerk

DEVELOPMENT AND DEFERRAL AGREEMENT

The "Parties" to this Development and Deferral Agreement ("Agreement") are the WASNGSGARDS 41 TRUST, ("Developer") and HUNTSVILLE TOWN ("Town"). The Effective Date of this Agreement is the date signed by the last Party to this Agreement.

RECITALS

WHEREAS, Utah Code §10-9a-604.5 provides for this Agreement;

WHEREAS, the Developer seeks permission to dedicate Public Right-of-Way ("ROW") which property is more particularly described on Exhibit "A" which is the "Survey" attached hereto and incorporated herein by this reference;

WHEREAS, the Town seeks to protect the health, safety, and general welfare of the residents by requiring the residents to conform to the Town Code when dedicating ROW;

WHEREAS, the purpose of this Agreement is to protect the Town from the cost of completing ROW improvements which shall be made by the Developer or subsequent development of the property adjoining the ROW specified in the Survey;

WHEREAS, the mutual promises, covenants, and obligations contained in this Agreement are authorized by State Law and binding on the Developer, subsequent purchasers and those benefitting from the ROW;

THEREFORE, the Parties hereby agree as follows:

SECTION 1: FINDINGS OF FACT

The following Findings of Fact are agreed upon by the Parties:

1. On, July 30, 2015, the Huntsville Planning Commission reviewed the plats of their "Property" with William and Michaeline Wangsgard legally identified currently as Weber County Parcels: 200100022 and 200100041.
2. William Wangsgard explained that in the pre-1970's his father Harold W. Wangsgard annexed approximately four (4) acres located at the end of 6800 East into Huntsville Town. At that time, the portion of 6800 East ending at the property was a Weber County road, there being country properties between the Wangsgard property and the Town boundaries. As such, the annexed property was an island, with Weber County property between the property and the Town boundaries belonging to the Harold W. Wangsgard ETAL Trust.
3. In the 1970's Jack and Barbara Cox (William's sister) built a house on the western-most quarter of the Property, obtaining permission from Harold Wangsgard and the Town to access their house via 6800 East and crossing the Property. Jack and Barbara's house is now identified as Weber County Parcel: 20-010-0043.

Commented [SH1]: Parcel number is 20-01-00046 as of quit claim deed in 2018

4. On or about 1991, the Property was divided into four (4) lots, roughly equal in size, with Lot 3 being the most west lot containing a 45-foot wide by 389-foot-long rectangular piece along the southern portion of the three (3) western-most lots and recorded as Weber County 20-010-0022. Also, on or about 1991, Bill and Michaeline Wangsgard obtained a building permit from the Town and built a house on the eastern-most lot identified as Weber County Parcel 20-010-0031.
5. Later the Wangsgards acquired the third from the west lot, and a new parcel number was assigned to the main portion of the lot (20-010-0040) with the rectangular piece continuing with the same parcel number (20-010-0022). This parcel has served as a driveway and contains a 25-foot of-way (ROW) granted and recorded by the Wangsgards.
6. Also in the intervening years, the property between these four (4) parcels and the Town boundary was annexed into Town and 6800 East was paved up to the SW corner of the properties. The Town's obligation for snow removal only extends to the end of 6800 East, but the Wangsgard's have allowed the snowplow to use the ROW and their driveway to turn around.
7. Preston Cox purchased parcel 20-010-0042 (which is currently 20-010-0047) and built a house on this parcel in approximately 2010.
8. In 2008, the Wangsgard's platted the two properties (20-010-0031 and 20-010-0040) into one parcel for tax purposes. It received a new parcel number (20-010-0041).
9. The Wangsgard's submitted an application to the Planning Commission to subdivide this Property on March 24, 2022. The Planning Commission recommended approval of the subdivision application. The Town Council discussed the subdivision application on July 21, 2022.
10. To comply with the Huntsville Town Code 15.6.5 the frontage for every dwelling shall have the required frontage on a public street or on a right-of-way which has been approved by Town.
11. Developer proposes to dedicate more than the current minimum road with standard in place at the time this Agreement is entered for Developer's one-half of the ROW. Developer proposes to dedicate 45' which is parcel 20-010-0022.
12. To comply with the Huntsville Town Code, the Huntsville Town Council moved to approve the subdivision application of Bill and Michaeline Wangsgard on July 21, 2022, subject to conditions set forth in this Agreement.

Commented [SH2]: Parcel number changed in 2017

Commented [SH3]: I would like to have the 45' of ROW addressed somewhere in this agreement.

SECTION 2: RIGHT-OF-WAY

1. The Developer hereby dedicated to the Town the ROW specified on Exhibit "A" on Weber County Parcel 200100022, otherwise known as 400 North, to comply with Huntsville Town Code 15.6.5.
2. The Developer also hereby dedicates to the Town a temporary 60 foot (60') cul-de-sac easement on the east end of the ROW entirely on Developer's Property as shown on Exhibit "A" to accommodate fire and snow removal access. The temporary cul-de-sac shall be removed at the time 475 N is connected to 6900 E.
3. Upon development of Weber County Parcel 200100010, the parcel south of the 400 North ROW, the following requirements shall occur as part of any development:
 - a. Access to Weber County Parcel 200100010 shall be the 400 North ROW.
 - b. Connection to utilities may be made at the most accessible location or locations for utilities along the 400 North ROW to minimize ROW excavation.
 - c. Any future development along 400 North requires the dedication of additional right-of-way sufficient to meet the requirements of the Town's minimum road width standard that are in place at the time of application for subdivision or any other development whatsoever.
 - d. Upon development of _____ the developer is required to connect 400 North to 6900 East in the size, width, and development standards in place at the time of application for subdivision or any other development whatsoever.
 - e. Upon development along 475 North the developer is required to connect 475 North to 6800 E in the size, width, and development standards in place at the time of application for subdivision or any other development whatsoever.
4. This Agreement shall be recorded by the Town against all affected and adjoining parcels on Exhibit "B" attached hereto and incorporated herein by this reference.
5. Deferral. All ROW improvements required by the Town Code for the Developer in install are hereby deferred in accordance with this Paragraph. Such include, curb, gutter, sidewalk, asphalt, storm drain, and all other infrastructure improvements specified in the Town's standards. The Town may require the Developer to install all deferred improvements within 180 days from written notice from the Town in the event that the Property is developed into a residential subdivision. If improvements are installed later such shall conform to the Town's standards in place at the time the improvements are installed. Developer agrees to install and maintain a gravel road surface on the portion of the dedicated ROW in the sufficient width to meet the requirements of Weber Fire District.

Commented [SH4]: Dedicates instead of dedicated

Commented [SH5]: Should be as

Commented [SH6]: I think Huntsville has the chance at dedication to name this road the correct North. If you expand Geo-Gizmo this ROW lines up more with 500 N not 400 N. If we don't name it 500 N we should at least name it 450 or 475 N. See addresses for parcels 20-165--0003 and 20-010-0033. I think we should name it 475 N, and change it on all other references

Commented [SH7]: We specified the turn around to be 60'

Commented [SH8]: If 475 N is connected to 6900 E we would not want the cul-de-sac to be in place

Commented [SH9]: We discussed expanding the street at the intersection of 6800 E and 475 N

Commented [SH10]: improvements

SECTION 3: GENERAL PROVISIONS

1. Indemnification. The Developer and any subsequent purchaser, assign, or any other party hereby expressly agrees to forever indemnify and hold the Town harmless from and

against all claims, costs, and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of this Agreement or the performance of any construction or work at the time of development or improvements under this Agreement.

2. **Term.** The term of this Agreement is perpetual, and this Agreement is binding on all heirs, subsequent purchasers, and/or assigns.
3. **Employment.** The Developer is not an agent or employee of the City.
4. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.
5. **Amendment or Modification.** The Parties to this Agreement may amend or modify this Agreement only by written instrument executed by the Town and by the Developer, or authorized agent. Such amendment or modification will be properly notarized before it may be effective.
6. **Attorney's Fees.** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both Parties, each will bear its own costs in their entirety.
7. **Vested Rights.** Except for the express terms related to the ROW dedicated herein, this Agreement shall not be interpreted to grant any other vested right to the Developer or any other person or entity whatsoever.
8. **Third Party Rights.** No person or entity not a party to this Agreement has any right of action under this Agreement.
9. **Scope.** This Agreement constitutes the entire agreement between the Parties and no oral statement(s), promise(s), inducement(s), or otherwise that is/are not expressly contained in this Agreement is binding on the Parties.
10. **Severability.** If any part, paragraph, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, paragraph, term, or provision of this Agreement.

11. **Recordation.** The Town shall record this Agreement at any time in the Recorder's Office of Weber County, Utah, for the parcels legally identified and described in Exhibit "B" attached hereto.
12. **Referendum.** If this Agreement is subject to referendum, it shall be at the sole expense of Developer.
13. **Immunity.** Nothing contained in this Agreement constitutes a waiver of any of the Town's immunity under any applicable law or otherwise.
14. **Jurisdiction and Venue.** Jurisdiction and venue for any litigation or action commenced by either Party to this Agreement shall be the Second District Court of and for Weber County. The Parties hereby expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.
15. **Notice.** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:
 - a. Developer: _____.
 - b. Town: _____.

FOR TOWN:

 Mayor Date _____

Attest:

 Town Clerk

Approved as to Form:

 Town Attorney

State of Utah)
 §:
 County of Weber)

On this ____ day of _____, 20____, before me, _____, a Notary Public, date month year notary public name public, personally appeared _____, Mayor, who proved on the basis of satisfactory name of document signer evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal.

NOTARY PUBLIC

FOR DEVELOPER:

Trustee
Approved as to Form: _____ Date _____

Attorney for Trustee

State of Utah)
 §:
County of Weber)

On this ____ day of _____, 20____, before me, _____, a Notary Public, date month year notary public name public, personally appeared _____, Mayor, who proved on the basis of satisfactory name of document signer evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal.

NOTARY PUBLIC