

WORK SESSION—February 17, 2022

Minutes of the Huntsville Town Council Work Session, Thursday, February 17th, 2022, at 5 p.m. at the Huntsville Town Hall, 7309 East 200 South. The purpose of the work session was to discuss the CW Lands Excavation Permit.

Name	Title	Status
Richard L. Sorensen	Mayor	Present
Bruce Ahlstrom	Council Member	Present
Kevin Anderson	Council Member	Present
Sandy Hunter	Council Member	Present
Artie Powell	Council Member	Present
Beckki Endicott	Clerk/Recorder	Present
William Morris	Legal Counsel	Speakerphone

Citizens: Todd Meyers (CW Lands), Tony Hill (CW Lands), Jared Andersen (on Zoom)

Mayor Sorensen opened the meeting by introducing everyone. He turned the time over to Jared Andersen and Bill Morris to give some background on the CW Lands excavation permit application. **(See Attachment #1)**

Jared Andersen explained that Todd Meyers submitted documents for an excavation permit. Originally when Todd talked about the excavation permit, Jared Andersen understood that this permit would be for materials. It was his understanding that materials or dirt/soil would be either moved or removed at the site. When CW Lands and Jared Andersen met with the Planning Commission, this is the way the project was represented; that dirt would be moved and removed. It is a usual practice to be able to excavate on your own property if not interfering with any Town or city right-of-way. The Planning Commission approved the permit based on this information. When the permit was then presented to the Town Council for approval, there was more information provided by CW Lands that included utility installations and road improvements. Jared Andersen stated that he reread the excavation permit and it did mention utilities.

Huntsville Town has not had a subdivision come before them requesting final plat of a subdivision after the road and utilities were already constructed. The Huntsville Town code is not set up for the process requested.

Jared Andersen referred Huntsville Town Code, 15.25.1.10.b in the Subdivision Title:

No street improvements or utilities shall be installed until after approval of the Final Improvement Plans by the Huntsville Town Engineer. No lots included in the Final Plat shall be purchased, sold, exchanged nor offered for sale and no construction of buildings upon such lots shall begin until the final plat is so approved and recorded.

He would like to see the code followed. He has seen where the ordinances are applied with conditions. He would also like to see the development agreement between Huntsville Town and CW Lands followed. The development agreement is currently being edited.

Attorney Morris gave reference to State Code 10-9A-604 that allows some construction to be done prior to final plat. He did add that he has been looking at the excavation permit code for Huntsville Town. He stated that in 17.8.B the Town Council has the authority to grant those permits.

Todd Meyers would like to do the improvements and excavation in stages. He believes that the excavation can be approved tonight, and the rest of the improvements can be done in stages. He handed out a tentative schedule of what he would like to see. **(See Attachment #2)**

Attorney Morris wanted an updated status of the bond that would be required of the improvements. Todd stated that 10-9A-604 addresses the construction before final plat and added that there is a way to get around paying the bond and that is to finish the project before the bond is required. Attorney Morris referred to Huntsville Town Code regarding bonds and surety that would be recommended by the Town Engineer.

Jared Andersen reviewed the construction schedule CW Lands handed out. There is not a bond required for importing dirt and rough grading. However, he is not sure how a bond could be issued for a water line that didn't have a final review. Todd Meyers responded that his engineer could do a cost estimate of the improvement and they could bond for that amount. Attorney Morris confirmed that he would be comfortable with that solution.

TCM Sandy Hunter asked if the Town Council could move forward if the ordinances don't allow for it. Attorney Morris stated the code is very specific. Attorney Tony Hill stated that constructing prior to bonding and final plat is something they do regularly. CW Lands is comfortable moving forward. TCM Hunter suggested the residents expect the Town Council to follow the ordinances.

Todd Meyers asked TCM Hunter how what CW Lands has requested not comply with the ordinances. TCM Hunter replied the moving of dirt and rough grading comply with the ordinance. When the schedule approaches utilities, the final approval hasn't been done. There was additional discussion on the excavation permit and what could be amended. Todd suggested CW Lands work on getting approval on the additional permits needed. The permits that are required are listed on the hand-out Todd Meyers gave the Town Council.

TCM Sandy Hunter is in favor of approving the excavation permit for dirt and rough grading. She does not want to go forward until the permit from the Army Corp has been issued. TCM Anderson pointed to Huntsville Town Code 17.7.E where a bond is a prerequisite for an excavation application approval. Attorney Morris confirmed this would be required and up to the Town Council to provide conditions. Jared Andersen wanted to point out that this is private land, and the ordinance applies to Town right-of-way. TCM Anderson agrees with the assessment that excavation could occur on private land but doesn't apply to developing land. He also stated that the preliminary plat was approved with conditions. Those conditions would need to be satisfied at final plat. Now, the Town Council is being asked to approve an excavation permit that doesn't satisfy the requirements. Conditions are being proposed for the excavation permit and this is not consistent with the Town code. In addition, there should be a public hearing before final plat. If the improvements are built prior to final plat, the public hearing is overlooked.

Todd Meyers asked TCM Anderson if the excavation permit could be submitted with conditions. TCM Anderson stated that everything so far has been asked to be approved on conditions and the requirements have not been fully satisfied. The requirements are being pushed to the final plat and CW Lands wants to have most of the development done prior to final plat. The only thing left would be the division of the property. Todd Meyers confirmed that TCM Anderson's assessment is correct. Todd Meyers stated there is an annexation agreement that they are working towards. There was discussion about how the annexation agreement applies to the construction of the subdivision.

Todd Meyers stated one of the reasons they are wanting to make the improvements now is because of the well monitoring and determination of the feasibility study from Weber Morgan Health Department. He is hoping to get approvals in May, but it could be September. He reminded the Town Council the road would be done at their own risk.

Attorney Morris posed the question to the Town Council. He asked them if they want to approve an excavation permit and make findings. Attorney Morris asked them to decide whether the permit code applies to the storage of the dirt outside the potential wetland area and allow CW Lands to rough grade in the road. The third finding would be to note that CW Lands is proceeding at their own risk. TCM Hunter stated she hasn't seen an excavation permit issued in her tenure on the Planning Commission because most excavation is done on private land. Attorney Morris stated the TC could make a finding that an excavation permit is not required under the code for movement of dirt and rough grading as long as it is 300 feet of the right-of-way. TCM Sandy Hunter added that if CW Lands wanted to come within 300 feet of the right-of-way, that not more than 1 acre of wetlands are disturbed, and that they are proceeding at their own risk.

TCM Kevin Anderson made the motion to adjourn. TCM Artie Powell seconded the motion. All votes Aye.

Meeting adjourned at 6:15 p.m.


Beckki Endicott, Clerk/Recorder

HUNTSVILLE TOWN
APPLICATION FOR EXCAVATION PERMIT

APPLICANT ADDRESS 1222 LEGACY CROSSING BLVD #6
APPLICANT CONTACT TODD MEYERS FOR CW THE SAGE LLC
APPLICANT PHONE 801-520-4072 APPLICANT FAX _____
CONTRACTOR NAME _____
CONTRACTOR ADDRESS _____
CONTRACTOR PHONE _____
CONTRACTOR CONTACT _____
CONTRACTOR FAX _____
PROPERTY OWNERS NAME CW THE SAGE LLC
PROPERTY OWNERS PHONE 801-520-4072
JOB ADDRESS NEC OF HWY 39 + 500 SOUTH TO 100 SOUTH

DATE CONSTRUCTION TO BEGIN FEB 15TH, 2022
DATE TO BE COMPLETED JUNE 30TH, 2022
LENGTH OF EXCAVATION 500 SOUTH TO 100 SOUTH WIDTH OF EXCAVATION _____
DEPTH OF EXCAVATION PER UTILITY COMPANY SPEC TYPE OF LINE UTILITIES
METHOD OF INSTALLATION _____
PURPOSE OF EXCAVATION: UTILITY INSTALLATION AND GRADING FOR THE SAGE DEVELOPMENT.

NOTES:

SIGNATURE OF APPLICANT Todd Meyers
DATE 12/7/21

PERMIT APPROVED BY _____
DATE _____
PERMIT FEE 175.00 Paic # 00000105-22

PERMIT NUMBER _____

PC Chair Doug M. [Signature] Date 1-27-22

Beckki Endicott
Town Clerk
P.O. Box 267
Huntsville, Utah 84317

December 8, 2021

Beckki Endicott,

Please find attached an application for an excavation and grading permit. Town Code 15.25.1.7 B. permits grading and excavation following preliminary subdivision approval when in compliance with Title 17 Excavation.

B. Grading Limitation. No large-scale excavation, grading or re-grading, as determined by the Huntsville Town Planning Commission or the Huntsville Town Council shall take place on any land for which a preliminary subdivision plan has been submitted until such plan has been given preliminary approval by the Huntsville Town Planning Commission and then only in accordance with the Huntsville Town Excavation Title. Preliminary Plan approval is required for any subdivision that requires new road improvements or engineering plans.

Title 17 allows the Planning Commission up to 60 days to make a recommendation to the Town Council. I am asking that Planning Commission make their recommendation during their January meeting and then receive their final consideration at the following Town Council meeting.

17.8 Approval of Excavation and Rehabilitation Plans

A. The Huntsville Town Planning Commission shall consider the excavation and rehabilitation plans and all data and information pertaining thereto and shall have sixty (60) days in which to make a recommendation to the Huntsville Town Council.

B. The Huntsville Town Council may approve or disapprove the proposal. If approved, the Huntsville Town Council shall instruct an enforcement official to issue an "Excavation Permit" which shall state any conditions or limitations to be imposed. If disapproved, the Huntsville Town Council shall indicate its disapproval in writing to the applicant with reasons, therefore.

The construction plans for this application are the same as the improvement plans that were previously submitted for the Sage development but without the lot lines. We understand that approval of this permit is separate from the approval required to plat or subdivide the property. Furthermore, and in anticipation of approval by the Huntsville Town Council and issuance of the Excavation Permit, CW the Sage, LLC, desires and is willing to complete its excavation and related activities at-risk and fully acknowledges that receipt of the Excavation Permit is not a representation or warranty that the Huntsville Town Council will approve the final subdivision plat.

Thanks, you for your consideration of this application. Please contact me if you have any questions or need additional information.

Sincerely,



Todd Meyers
Project Manager



Colin Wright
Manager

Application Submittal:

Application for excavation permit
Application fee \$75.00
Excavation and Grading Plans.

Other Required Approvals

Stream Alteration Permit (Division of Water Rights)	Approved
U-Dot Access permit (SR 39)	Approved
U-Dot Encroachment Permit (SR39)	Approved
Grading & Excavation Permit (500 South)	Waiting TC approval
Huntsville Irrigation Company (secondary water)	Being reviewed
Improvement Plans (street, culinary water, drainage)	Being reviewed
Nationwide Permit (Army Corp)	Being reviewed
Dedication of Public Utility Easement	Being prepared

Sage Construction Schedule

Activities	Approximate starting date
Import Dirt	Early March
Rough grading road and pathway	Late March
Hot Tap Water Line	Early April
Water Line	Early to Mid-April
Secondary Water	Mid to Late April
Street and drainage Swell	Early May