



CITY COUNCIL AGENDA ITEM

To: Mayor Graham and City Council

From: Ted Shekell, Planning Director
Walter Denton, City Administrator

Date: June 29, 2004

Subject: Ordinance No. _____: An Ordinance Approving a Road Dedication Plat for the Lake St. Ellen Planned Use Subdivision – **First Reading**

List of committees that have reviewed: This matter has not been reviewed by Committee at the time of the writing of this agenda item. It is scheduled to be in front of the Community Development Committee at 5:30 on July 6 just prior to the Council meeting where this matter will be considered.

Background: The Lake St. Ellen Subdivision, which has previously been approved by the City Council (both as a Planned Development and as a Final Plat, Phase I) is now subject to litigation between the developer and the prior land owner, Kuhlman Design (who claims to be a current land owner). The prior owner, Kuhlman Design Co, claims to own one square acre of land in the middle of the entrance to the subdivision off Old Collinsville Road. Apparently, when title searches were done by Kamman when he purchased the ground, and by Osborn when he purchased it from Kamman, neither title search revealed that Kuhlman owned this one acre tract. Therefore, the developer's primary road access to the subdivision is being challenged by Kuhlman. The matter is now being negotiated between the parties' attorneys.

In order to prevent the entire first phase of the subdivision from being inaccessible to Old Collinsville Road, and to ensure that two access points remain to the development (the other will be off the first 150' of Ashland), it is recommended that alternate access be considered by the City Council to allow him access to his subdivision (in the event the primary access problem with Kuhlman cannot be resolved). The attached roadway dedication plat shows a proposed new entrance off Old Collinsville Road near the southern end of the development. This roadway access will be located on property owned by Osborn and will be dedicated to the City, as will the other roads within the development. It will have a 50' ROW and will eliminate one cul-de-sac.

The developer, who has submitted building permits for 22 units, has only recently been made aware of this ownership dispute by Kuhlman. All infrastructure improvements for the subdivision have been constructed (water, sewer, roads, drainage), and the subdivision is ready for residential building permits to be issued, except for the disputed one acre. The alternate access roadway dedication is needed before the City can issue any building permits. After consultation with Dale Funk, it was determined the City needed to have guaranteed roadway access to the lots proposed for construction to eliminate any future problems with roadway access at the time the units are to be occupied.

Legal Considerations, if any: None

Budget Impact: None.

Staff recommendation: Approval of the road dedication plat.