



## 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 – **Second Reading**

**List of committees that have reviewed:** The Community Development Committee determined that an access to the residential portion of the subdivision from Old Collinsville road is required in addition to the access from the future Ashland extension. The Committee had no other concerns.

### **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 attorney's.

In order to prevent the entire first phase of the subdivision from being inaccessible to Old Collinsville Road, and to ensure 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.

**Revisions from First Reading:** The ordinance has been revised to state that this Road Dedication Plat will be implemented if and only if the title dispute of the one acre tract of land is not resolved to permit access to the residential portion of the development.

**Legal Considerations, if any:** None

**Budget Impact:** None.

**Staff recommendation:** Approval of the road dedication plat.