

**MINUTES**  
**JOINT WORKSHOP MEETING**  
**OF THE PLANNING AND LAND USE COMMISSION**  
**AND THE TOWN COUNCIL**  
**FOR DISCUSSION OF PROPOSED AMENDMENTS TO**  
**ORDINANCE 85-3 CONCERNING CONDITIONAL USE PERMITS**  
**and**  
**REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION**

Date: Wednesday, December 3, 2014

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Laura Cameron, Alice Drogin, Jazmine Duncan, Dave Erley, Mary Beth Fitzburgh, Jennifer Goff, Tory Hill, Bill Rau

Absent: Bob O'Brien, Marie Hawkins

Others Present: Jocelyn Buck, Jack Campbell

Clerk/Recorder: Faylene Roth

**WORKSHOP**

1. CALL TO ORDER.

Cameron called the Workshop to Order at 6:35 P.M.

2. Discussion of proposed amendments to Ordinance 85-3 concerning conditional use permits.

Cameron provided historical background regarding these proposed amendments: the PLUC had presented these amendments concerning conditional use permits (CUPs) to the Town Council with other proposed changes to Ordinance 85-3—including limits on beekeeping, some additional livestock regulations, and some general corrections—after the General Plan had been completed. At that time, the Town Council approved amendments regarding beekeeping limits because there was some urgency due to outside interest in bringing a large-scale bee operation into the Valley. According to Cameron, the Council requested additional time to consider the issues regarding animal issues and conditional use permits, so they postponed consideration of the remaining proposals to a later date.

Erley expressed the value of taking a proactive approach in regulating CUPs.

Duncan expressed the view that regulations should not always do what is best for the government, but should also consider what is best for the community—their livelihood, home, property.

Drogin stated that CUPs provide an opportunity to “test drive” certain types of home/premises occupations.

Duncan said that she realized that these regulations are put in place in order to provide reasons for denying certain types of CUPs, but she was concerned about how others would interpret this document.

Hill said that most of the proposed amendments made sense to her but noted the difficulties the Town has faced in enforcing its regulations. She noted concern in the community about livestock limits and also asked how something like “magnetic or electrical interference” referred to in Section 4.8.3(15) could be regulated.

Fitzburgh replied that the animal units are regulated by specific numbers; but she noted that the permitting process allows the Town to control, or enforce, regulations through a permit application and approval process rather than trying to enforce land use regulations after a land use is started and operational. She said that the restrictions imposed in 4.8.3(15) would cover a variety of home

businesses that might occur and would provide an opportunity to mitigate or enforce regulations through a CUP permitting process before a violation occurs.

Fitzburgh summarized the group's opinion that animal use issues will be considered at another time.

Goff expressed her point of view—as someone who has livestock—that the restrictions on animal uses can seem helpful or can be prohibitive, depending upon one's point of view.

Erley suggested that the upcoming water study should provide useful information to help the Town make decisions about appropriate animal units.

Fitzburgh noted that these new regulations for CUP's were based on what the majority of property owners and residents wanted, according to the results from the General Plan Survey.

A summary of the general discussion of the proposed amendments concerning CUPS follows:

Section 1.6 Definitions: Definition for "Foster Care Home" is deleted here because foster care homes is deleted in Section 4.5.F. Cameron explained that foster care homes are intensively screened by the State, so the PLUC felt it was unnecessary to impose another layer of control on them. She said that "family day care centers" was retained in Section 4.5.F. She also mentioned that the Town cannot legally prohibit group homes for the elderly or disabled. She suggested that specific regulations regarding their operations be addressed by the Town in the future. Fitzburgh noted that the restriction in 85-3 regarding the number of unrelated people who can live in one home provides protection against other types of large group homes.

Section 4.7.4 Conditional Use Standards of Review—General Review Criteria: The added items—(b) through (j) are based on the sample ordinance for conditional uses provided by the Utah League of Cities and Towns (ULCT). These proposals will help prevent unforeseen uses that have high and adverse impacts.

Section 4.7.4(b): These general review criteria apply to the permanent and nonpermanent conditional uses listed in Section 4.5. Duncan thought that windmills should be allowed and treated separately in the ordinance. The group reached consensus to retain windmills here for now. The PLUC has plans to address regulations for alternative energy structures separately.

Sections 4.7.4(c) through (g) were reviewed without change.

Section 4.7.4(h): the group agreed to Rau's suggestion that "potential financial burden" be changed to "potential substantial financial burden" after what the Town learned about the limits of insurance coverage for a recent mobile auto repair business in protecting the Town from potential financial liability.

Sections 4.7.4(i) and (j) were reviewed without change.

General discussion continued regarding the definitions of "substantial" and "normal." Fitzburgh said the language is intended to be a guideline and is therefore more general and less specific. Further discussion suggested these terms referred to such things as the need for frequent inspections and/or the need to hire a new staff member or a professional to meet the needs of the required regulations. It was noted that a CUP applicant could mitigate these impacts by paying for required inspections.

Additional discussion continued regarding Section 4.7.4(g): how does the Town judge what will diminish enjoyment of property for one person and not another. Fitzburgh said that this statement is included in the text of almost all land-use ordinances. Hill observed that it allows neighbors to come forth when CUPs are renewed if the CUP holder is not adhering to their CUP requirements. Duncan thought it denied an applicant the chance to "prove themselves."

Section 4.8.3(1) General Operating Requirements: After discussing the difficulty in identifying and controlling residential character as stated in the sentence added on line 2, it was agreed to delete it here since it is already stated in Section 4.7.4(a). Cameron noted that the General Plan Survey provided community support for this concern.

Section 4.8.3(3): Duncan said that after the Hazard Mitigation Committee's meeting with Rocky Mountain Power (RMP), she would think that RMP would be responsible for ensuring adequate

power. Hill said that sufficient power is available from RMP; it is the customer who has to install an electrical panel that can accept the excess power. Erley said he thought this item was more about bandwidth where excess use can affect neighbors. Fitzburgh noted that excessive water use could also affect neighbors and that bringing in heavy equipment could affect our roads. It was decided to leave this item as it is.

Section 4.8.3(14): The proposal to add a requirement that flammable materials be stored in a separate room or in a fireproof metal cabinet in areas where sparks may be produced was reviewed and approved.

Section 4.8.3(15): It was agreed to add a qualifying statement at the end of this new provision which would state “in excess of that associated with residential or permitted agricultural use.”

Section 4.8.3(16): It was agreed to add the same qualifying statement--“residential or permitted agricultural use”-- at the end of the first sentence in this section. The PLUC plans to hold a Public Hearing on these proposed changes at its January 7, 2015, Meeting. The Town Council will hold another Public Hearing when it considers the PLUC recommendations.

### 3. Adjournment.

Fitzburgh moved to adjourn the Workshop. Goff seconded the Motion. Cameron, Drogin, Duncan, Erley, Fitzburgh, Goff, Hill, and Rau approved the Motion. The Motion passed unanimously.

Cameron adjourned the Workshop at 7:28 P.M.

## REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Present: Laura Cameron, Mary Beth Fitzburgh, Jennifer Goff, Bill Rau

Absent: Marie Hawkins

Others Present: Jocelyn Buck, Jack Campbell

Clerk/Recorder: Faylene Roth

### 1. CALL TO ORDER.

Cameron called the Meeting to Order at 7:32 P.M.

Open Public Comment – Jack Campbell expressed his support for conditional use regulations. He sees them as addressing answers to known problems from the past. He said one of the “costs” of living in such a nice place is having to get a conditional use permit (CUP). He agreed that CUPs were a good way to avoid future problems and warned against the tendency to “gut” regulations that are already in place. Campbell claimed that the right to quiet, peaceful enjoyment of one’s property is a fundamental property right; secondary rights, he said, follow as long as they don’t conflict with a primary property right. He supports a CUP process that guarantees primary property rights while allowing as many other uses as it can. He thinks the document under discussion in the Workshop does protect this primary property right. Campbell countered Erley’s comment that the Town should wait until science provides the facts to help decide things with the claim that some things are just nuisances and can be addressed right away. Campbell noted how the Town had tightened its regulations regarding woodworking shops during the time he has lived in the Valley. He says the strengthened regulations have prevented conflict between neighbors.

### 2. APPROVAL OF MINUTES.

Regular Meeting November 5, 2014.

Rau moved to approve the Minutes of November 5, 2014, as presented. Fitzburgh seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor and none abstaining.

### 3. REPORTS.

Correspondence – None.

Town Council Meeting – Cameron reported that the Town Council approved Bob O'Brien as the new Town Council Member. She said that the Council also opened the sealed bids for the Castle Valley watershed study. According to Cameron and Fitzburgh, a committee including Dave Erley, Alice Drogin, John Groo, Mary Beth Fitzburgh, and geohydrologist Jeff Freethy will meet on Thursday, December 04, 2014, to begin review of the bids. Other topics discussed at the Council Meeting were the 10-year celebration of the Town Building and the Castle Valley Library, as well as some problems that arose on private property that borders BLM land within the incorporated Town during the hunting season due to the State's failure to post the changes in hunting regulations for the Castle Valley area and private property owners who have yet to post "no trespassing" signs along their property lines.

Hazard Mitigation Committee – Rau had no report at this time.

Permit Agent – Roth reported there was no permit activity during November.

Procedural Matters – Cameron stated that she thought the use of a Certificate of Land Use Compliance (CLUC) was a good way to handle the permitting of a Park trailer for use as a studio. Fitzburgh noted that there is no inspection performed by Grand County building department with the exception of electrical or plumbing installation for Park trailers because they are considered a temporary structure. The CLUC ensures that local zoning issues are met and requires the property owners to sign off on the same forms that building permit applicants must sign: one dwelling per lot, no short term rentals, and geological awareness acknowledgment. Roth reported that the 2015 calendar should be moved from Item 4 to the front of the PLUC binders. She also said that David Church, attorney for Utah League of Cities and Towns (ULCT) confirmed that the PLUC could organize the two public hearings scheduled for January either by topic or by ordinance. She also suggested that next year CUP renewals be sent out in October with an earlier return date so that final preparation of the report does not overlap with the Thanksgiving holidays when applicants are likely to be out of town. Roth informed PLUC Members that she will be away during the last half of December but will post the Public Hearings and documents before she leaves. She said that she will also be able to send out the draft Agenda for January.

### NEW BUSINESS

4. Discussion and possible action re: possible changes to Ordinance 85-3 concerning conditional use permits, definitions, formatting, and Appeal Authority.

Rau suggested that the term windmill in Section 4.5.I be changed to wind turbines. After further discussion, PLUC Members agreed to delete "windmill" in Section 4.5.I and add it at the end of the section as 4.5.L. The item will say: Windmills and wind turbines. Rau will also determine whether other terms, such as wind generator or others, would be appropriate to add. Campbell expressed concern about the use of the phrase "in excess of residential or permitted agricultural use" because some residential and permitted agricultural uses might be excessive. Fitzburgh replied that the uses with a CUP would likely be more consistent or go on for longer lengths of time than they would with residential or permitted agricultural use. Cameron suggested that Campbell send an email to the Town Council or make a statement at the upcoming Public Hearing. PLUC Members agreed to change items 15 and 16 in this section from "No home occupation..." to "No home or premises occupations..." No additional changes were made to the proposed amendments to Ordinance 85-3 regarding the Appeal Authority.

Roth will post a Public Hearing for the January 2015 PLUC Meeting. She will incorporate proposed changes into one document for posting on the website and review at the Hearing.

Fitzburgh moved to table Item 4. Rau seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor.

5. Discussion and possible action re: possible changes to Ordinance 2006-3 concerning Appeal Authority.

Fitzburgh said that she will report on her investigation about how meetings with the Appeal Authority could happen by email and still meet the requirements of the Open Public Meetings Act. Rau inquired about the necessity for the term dates for PLUC Members in Section 1.2. Fitzburgh said they show how the initial terms were staggered and are useful for tracking current terms. She noted that the list for Board of Adjustment Members was deleted in Section 4.1. Roth will post the Public Hearing for these amendments for the January 2015 PLUC Meeting and will post the document on the website before the Hearing.

Fitzburgh moved to table Item 5. Rau seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor.

6. Discussion and possible action re: recommendations to the Town Council for approval of conditional use permit and business license renewals for 2014.

Roth submitted a report showing 32 CUP renewals and 23 Business License renewals for the 2015 calendar year. She noted that the number of applicants who chose the inactive status increased this year. Rau asked whether there had been a determination of how long the inactive status could be claimed. Fitzburgh said none had been made. She asked Roth to remind the PLUC in June 2015 to take this issue under consideration.

Fitzburgh moved to recommend approval by the Town Council of the Conditional Use Permit and Business License Renewals as presented. Rau seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor.

7. Discussion and possible action re: nonroutine certificate of land use compliance request for Lot 246.

PLUC Members reviewed the application and Certificate of Land Use Compliance Agreement for use of a Park trailer as a permanent studio on the lot. They agreed that the application and Agreement addressed their concerns regarding zoning issues and lack of inspections by Grand County Building Department. The Agreement shows that zoning issues are met and that safety is the responsibility of the property owners. Fitzburgh asked that Roth emphasize these points with the property owners and let them know that the Agreement will be filed with the County Recorder's Office. Roth said that the applicants have submitted an electrical permit because the County Building Inspector will inspect the electric installation before hook-up. Cameron will sign the nonroutine Certificate of Land Use Compliance with the Town Clerk as notary, and Roth will file the Agreement with the Recorder's Office.

Fitzburgh moved to approve the Certificate of Land Use Compliance for Lot 246 as presented. Goff seconded the Motion. . Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor and none abstaining.

8. Discussion re: PLUC Chair for 2015.

Cameron expressed her pleasure that Rau was willing to be considered for the PLUC Chair position for the 2015 term. The Chair and Vice-chair will be elected at the January 2015 Meeting. Fitzburgh said that they expect a new Member to join the PLUC next month. She said that she was willing to serve as Vice-chair for the first six-months of 2015 but hoped that someone else would take on the Vice-chair position at that time. Fitzburgh said it would be a good training opportunity for whoever was assuming the Chair position in 2016.

Fitzburgh will open the January 2015 Meeting before the Public Hearings and conduct the election for Chair and Vice-chair. The new Chair will then take command of the Public Hearings and the following PLUC Meeting.

Fitzburgh thanked Cameron for stepping up to the Chair's position and praised her for the great job she has done. Fitzburgh said that she hoped Cameron would continue to attend Meetings and give her input.

**UNFINISHED BUSINESS**

- 9. Discussion and possible action re: regulations for solar panels, windmills, and other alternative energy structures (tabled).
- 10. Discussion and possible action re: reviewing and amending Ordinance 96-1: Watershed Ordinance (tabled).
- 11. Closed Meeting (if needed).

**ADJOURNMENT**

Rau moved to adjourn the Meeting. Fitzburgh seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously with four in favor.

Cameron adjourned the Meeting at 8:45 P.M.

**APPROVED:**

**ATTESTED:**

\_\_\_\_\_  
**Bill Rau, Chairperson**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Faylene Roth, PLUC Clerk**

\_\_\_\_\_  
**Date**