

MINUTES  
PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE LAND USE  
ORDINANCE, AND  
SPECIAL MEETING OF THE TOWN COUNCIL  
TOWN OF CASTLE VALLEY  
THURSDAY, MARCH 20, 2008 AT 6:30 P.M.  
CASTLE VALLEY COMMUNITY CENTER  
2 CASTLE VALLEY DRIVE

**Town Council Members Present:** Damian Bollermann, Jim Lindheim, Ranna Bieschke, Valli Smouse and Aaron Davies.

**Others Present:** Karen Nelson, Sheri Simmons, Jack Campbell, Mary Beth Fitzburgh, Mark Webster, Darr Hatch, Ron Drake, Yda Smith, Thom Gorley, Dave Erley, Jeffrey Fink, Debbie Officer, Joan Sangree, Sue de Vall, Jeff Whitney, Paul Lessig, Lindsay Lessig, Mark Roth, Mitch Stock, Bruce Keeler, Eric Johanson, Marie Hawkins, Fay Roth, Erik Secrist, Leta Vaughn, Egmont Honer.

**Public Hearing:**

1. Call to Order: 6:32 P.M.
2. Comments from the public.

Mary Beth Fitzburgh does not support the point system because it would be difficult to administer. While the point system does offer a lot of flexibility, there are some types of homes that could not be built.

Jack Campbell would like something done relatively soon. He says that with the current zoning, homes of 100,000 square feet could still be allowed.

Karen Nelson supports square footage limitations, as well as basement and grade definitions.

Egmont Honer asked why there is support for changing the height limit from 30 feet to 25 feet, and asked what was wrong with the 30 foot height. He would like to keep the 30 foot height.

George Holling asked why we need ordinances and regulations which affect maybe three percent of the residences. He feels that this would open our market to speculators who would come in and turn lots over after a few years at a profit. They would enforce the CC&R's, which would have a negative result on many properties. He and his family would like to live here, and would not like to see anything change the character of the area.

Dave Erley supports size limitations and is concerned with setback issues. He favors leaving the setback at 30 feet. He feels 110 of the 440 lots will be affected. He is also very concerned about the burden of deciding for the owners falling under the Conditional Use Permit.

Jeff Whitney does not feel the 30 foot height of his buildings is a problem. He does not believe that people can tell the difference between 25 or 30 feet from a distance of 30 feet away. He purchased three permits this week, and is speaking without personal bias. He also feels that the impact of 7,000 square feet per lot is extremely minimal.

Eric Johanson said that dwelling limits have, to a certain extent, been swept away, and the point system does not seem in line with what the questionnaire asked. He feels we should just do what people want. He also feels that there is strong lobbying going on with regard to people wanting larger homes and they should consider the impact of larger homes on climate change. He said that large homes are an obscene misuse of the planet's resources.

Jim Tharp feels that there is no lobbying currently going on as aggressive as that which went into the survey or the petition. He feels the problem is very simple. Either we want to be more restrictive and we implement a system, or we leave everything as is.

Bruce Keeler said that setbacks at 30 feet would turn many of the properties into non-conforming uses. He said that the points system might be a way of working out something, but that it could be a mess to administer.

Mitch Stock did not feel the difference between a height limit of 25 or 30 feet should be an issue, or that setbacks should be an issue.

Joan Sangree supports the lower height limit of 25 feet, and feels that 5 feet does make a difference. Also, her understanding of 7,000 square feet of roof coverage was for the total structure, not of each floor.

Leta Vaughn mentioned that, as a former building permit agent, she cannot even imagine the difficulties in implementing the point system.

Darr Hatch said that he agrees with most everyone at the public hearing that the ordinances currently in place are all we need. He feels the Board of Adjustments can help with any problems, and that everything is acceptable as is. He is definitely against the point system.

Marie Hawkins expressed her concern that it has taken so long to get an ordinance in place. She feels the basic PLUC system was concise and very good, while the point system is confusing and penalizes people who were already here. She asked why we couldn't go back and reformulate the original

intention, as what we are seeing now is not the original plan from the PLUC. She also asked why the Town Council cannot work out a simple, fair thing that the PLUC tried so hard to send to the Town Council.

Yda Smith commented that, while they are not year-round residents, they definitely would like to restrict heights and square footage to keep the character of the place they would someday like to live.

Mark Webster commented that he sees the point system as punishment. He agrees with the comments made tonight, and wonders how the Conditional Use Permit Process would work with the point system.

Debbie Officer commented that the point system would be difficult to administer.

John Lucas was unable to attend the meeting, but submitted a letter which was read by Valli Smouse (Attachment A).

Aaron Davies read a letter submitted by David Erley, Mary Beth Fitzburgh, Karen Nelson, Marie Hawkins and Greg Halliday (Attachment B).

Denise Lucas read letters submitted by Ron Mengel and Jennifer Mengel (Attachments C and D).

Adjournment of Public Hearing: 7:24 P.M.

**Special Meeting of the Town Council:**

1. Call to Order: 7:32 P.M.
2. Discussion of Comments from the Public Hearing on Proposed Amendments to the Land Use Ordinance.

Damian commented that he has not heard one comment during the Public Hearing in favor of the point system. While he favors some type of limit, he would like to see the least regulation necessary to accomplish the public purpose. Damian further stated that if you limit the size of residences you have made an impact. He suggested doing things incrementally to see how each piece works before addressing other changes.

Damian also stated that agricultural uses are concerns and that we should consider excluding agricultural uses.

Valli said that she had heard no support for the point system at the public hearing, and very little support of anything else other than limiting the square footage. She is in support of the point system, but feels it needs to be

“tweaked”. She believes simple is always better and the comments about not changing the setbacks made sense to her. She, personally, does not feel the point system is complicated, but does understand that new things make people uncomfortable.

Jim feels that this has, from the beginning, been a very complicated, complex issue. He believes the new information from the PLUC and from Damian provides valuable input, and would like time to review them.

Ranna said that the first time she had heard of the Special Meeting was yesterday, and she would like more time to process the feedback given during the public hearing before discussing anything further. She is still not convinced that the point system is difficult to administer or the wrong approach to amending this Ordinance.

Damian mentioned that his big concern is that the point system creates an “all or nothing” kind of situation. He also mentioned that he hadn’t heard much consideration of his suggestion for an incremental approach.

Damian asked the Town Council what they feel the next step should be.

Jim feels that another meeting is called for to further discuss the ideas put forward tonight by Damian and the PLUC. He also believes that sometime within the next month we should take some draft and vote on it.

Damian feels it would be preferable to have another public hearing on another draft before acting on it.

Valli feels we have had our public hearing, although we can go back and make a few changes.

The consensus was to schedule a special meeting for Wednesday, March 26, at 5:45 P.M.

Jim motioned to adjourn. Ranna seconded the Motion. Damian, Jim, Ranna, Valli and Aaron all voted in favor of the Motion. The Motion passed unanimously.

Adjournment: 8:12 P.M.

**APPROVED:**

**ATTESTED:**

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**Damian Bollermann, Mayor**

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**Denise Lucas, Town Clerk**

**ATTACHMENT A**

March 20, 2008

**To: Castle Valley Town Council**

**From : John Lucas**

**Subject: Proposed Zoning Amendment**

**Because of a commitment to a higher power I could not attend tonight's meeting. Thank you for entering my comments into the record.**

**I strongly oppose the proposed zoning amendment for the following reasons:**

**It is OVER REACHING. It was prepared in response to the reply to one question on a very flawed survey. It seems a majority of those responding indicated they were in favor of a limit on house size. The proposal has extrapolated that response into a limit on total under roof square footage, a reduced height limit and increased set back criteria. These are uncalled for!**

**It is OVERLY RESTRICTIVE especially in regards to total under roof development. The 7,000 sq. ft. limit amounts to only 3.2% of a five acre parcel. While I am philosophically opposed to any limit on size, from a practical perspective I could support a reasonable limit of not less than 11,000 sq. ft. (5%).**

**The point system is an ARBITRARY means of restricting a property owner's right to develop his property the way he wishes and not be limited by the whims of a few. If the system it is not arbitrary than please provide the generally accepted regulations or guidelines upon which it is based.**

**The point system UNFAIRLY PENALIZES prior acceptable property developments, especially those that are agricultural. It could very well ADVERSELY AFFECT THE VALUE OF SUCH PROPERTIES. It could adversely affect all property values by driving away the more affluent prospects.**

**NO CONSIDERATION IS BEING GIVEN TO NON-RESIDENT PROPERTY OWNERS. Do you think it's fair and ethical to put in place a regulation that will severely restrict their development possibilities and perhaps adversely affect their property values without giving them an opportunity to comment on it? Since they were given the survey shouldn't they be given the opportunity to comment on what action it has prompted?**

**In closing, we have the five acre lot size minimum, the one dwelling unit per parcel limit, the 30 foot set-back, the 30 foot height limit and I can go along with an 11,000 sq ft. under roof limit, that's enough limits on an individual's right to develop his property! And it will ensure that more than 95% of the valley will not be under-roof.**

**Thank you for your time and hopefully consideration. God bless our valley and all who agree with me. Okay, the rest of you too!**

## ATTACHMENT B

March 20, 2008

To the Town Council of Castle Valley,

We are writing about our concerns with the proposed revisions to 85-3 using the "point system" that is currently under consideration by the Town Council.

After reviewing the proposed revision dated 3/06/08, our biggest concern is the subjective nature of deciding whether or not someone is granted a conditional use permit. The proposed revision in section I.5.3A(H) states that lot owners with buildings erected before December 31, 2007 may be granted a conditional use permit, allowing them to take the maximum ten points up to a total of 13 points. Section I.5.3A(I) states that lot owners with buildings erected before December 31, 2007 that are over 25 feet high may also be granted a conditional use permit allowing additions to that building to exceed 25 feet in height.

In both cases, a conditional use permit may be denied if the "proposed building(s) would have a significant adverse visual impact on the viewshed, privacy, and sense of open space in the area." As members of the PLUC, we are completely uncomfortable having to administer such a provision using such subjective criteria. Each member of the Town Council should be just as uncomfortable with administrating these types of conditional use permits.

Our current "Utah League of Cities and Towns" handbook also states:

"Sometimes conditional uses are used because the city or town thinks that conditional uses give planning commissions or city councils more discretion in whether or not to allow certain uses. This is a flawed assumption and cannot be further from the actual situation....The best practice is to avoid, as much as possible, having conditional uses. If the use is not appropriate, the ordinance should make it a non-permitted use. If the use is appropriate, it should be a permitted use. Conditional uses should be the exception and not the rule."

We understand the concept of adding language that would allow homeowners who built under different rules to have the same potential build out of 7000 square feet. If height is what you are most concerned about with lot owners with pre-existing buildings, then write it into the ordinance and get rid of the conditional use permit. We are asking that the ordinance be edited stating something to the effect of, "home owners who built before December 31, 2007 shall be given up to three additional points and anything built using these three additional points must be under ..... feet tall. Home owners with buildings in existence before December 31, 2007 that exceed 25 feet in height shall be allowed to build additions to that building at or below its current height as long as the combined square footage of that building with its proposed additions does not exceed..... square feet and as long as the combined square footage of all buildings on the lot shall not exceed 7000 square feet."

Using criteria other than specific height, square footage and set back limits for building will only invite problems. Please consider the potential impact this will have on the town and write clear objective criteria into the ordinance with real numbers and limits.

Thank you for your time and consideration,

The Members of the Planning and Land Use Commission



## ATTACHMENT C

March 20, 2008

Town of Castle Valley  
HC 64, Box 2708  
Castle Valley UT. 84532

Re: Public hearing to proposed 85-3 amendments

To whom it may concern:

I ask that the town clerk enter the following comments into the public hearing record.

After reading the proposed changes I am left with the feeling that as a current resident I am benefited by the proposed changes. The PLUC has clearly worked diligently to craft a detailed document outlining these changes. Ethically however, I feel I should not be silent but rather voice concerns which come to mind.

First I am concerned from a technical stand point when additional restrictions and complexity are added to our community while not promoting proactive environmental values I feel we need.

Secondly I feel the proposed changes may have long term unintended diversity and financial consequences.

First I believe we all live downstream. What we do, affects those around us. The inclusion of garage space in living space is very unusual in my experience. I believe our community should be promoting the parking of vehicles on impervious surfaces or in garages to mitigate the leakage of gasoline and oil into our aquifer. Gasoline contains [Methyl tert-butyl ether](#) or MTBE. Small quantities of MTBE have been found to easily [pollute](#) large quantities of [groundwater](#) when gasoline with MTBE is spilled or leaked. My reading of this ordinance asks that a builder owner trade garage space for living space. I do not think this is a wise trade as vehicles parked on open ground are ready leak sources. I am not suggesting garages should be mandated but rather, that the public and future builders be given the facts to make good decisions.

In a similar environmental vein my reading of the ordinance indicates the projected roof area will control the allowable square footage. I would like to think we are promoting "a lowered" carbon foot print / energy conservation by encouraging passive solar or active which require larger overhangs. I think it counterproductive to dictate a trade off between square footage and sound energy saving technical design. I would also encourage the review and possible change to the proposed method of measuring the square footage of living area. The measurement method should address actual internal square footage and not disadvantage those who make investments in conservation. For example the thick

wall designs associated with super insulation, straw bails or other innovative, energy conserving construction techniques should not be traded away for a square footage limit. The last technical concern is one of administration. The cost of administration should be carried by the building process not the tax payer.

I personally would like to focus on the sharing of knowledge appropriate to good decision making and the advancement of positive environmental values but I realize everything is a difficult balance when an ordinance such as this is being considered.

Secondly I stated I am concerned the proposed changes may have long term unintended diversity and financial consequences. I moved to Castle Valley because I valued the character of the people and the diversity of the area in all of its forms, including architectural. I hope this ordinance does not further divide the people and limit the future diversity I think we all value. Financially I think this change will have the unintended consequence of reducing property values and creating a hardship for those seniors who desire to “cash out” and move to an area with more services. I sincerely hope this is not the case, but every scenario I review ends in this conclusion.

I hope the Town Council will review the amendments carefully.

Sincerely,

Ron Mengel

**ATTACHMENT D**

March 20, 2008

Town of Castle Valley  
HC 64, Box 2708  
Castle Valley, UT 84532

RE: Public Hearing on proposed 85-3 amendments

To Whom It May Concern:

I ask that the Town Clerk enter the following comments into the public hearing record.

I believe that it is wrong to include a garage in the living space/total square footage computation. It is contrary to real estate valuations and government property tax methods. It discourages owners from building garages thereby increasing the possibility of fuel and oil leakage into the aquifer.

The criterion of square footage as measured by a roof footprint discourages the use of passive solar design. Passive solar design requires the use of measured overhangs to control the amount of solar gain or loss within the structure. Adjustment for roof overhang should be possible within the "point system".

The definition of "Floor area coverage" is unclear. Does it imply that the attic crawl space between the ceiling and the roof is to be counted as a floor?

Existing owners within the Town of Castle Valley do not own the view shed across undeveloped properties. The 30-foot height limitation, which has been in place for years, should be maintained in the ordinance.

I hope the Town Council will carefully review and consider the proposed amendments.

Sincerely,

Jennifer Mengel