

MINUTES  
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, April 4, 2018

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson, Mary Beth Fitzburgh, Marie Hawkins, Bill Rau, Colleen Thompson

Absent: None

Others Present: Jack Campbell, Jazmine Duncan

Clerk/Recorder: Faylene Roth

**CALL TO ORDER**

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) to order at 6:32 P.M.

**1. Open Public Comment**

Campbell expressed his opinion that it is human nature to push any limits set. Because of that, he thinks that adding language to accommodate occasional use of accessory buildings and campers, RVs, etc. by family and friends for short visits creates a slippery slope towards further abuse of the one dwelling per lot restriction and the ability to differentiate between a short visit and a short-term rental.

**2. Approval of Minutes.**

Regular Meeting of March 7, 2018.

Fitzburgh moved to approve the Minutes of March 7, 2018, as presented. Thompson seconded the Motion.  
Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

**3. Reports.**

Correspondence – None.

Town Council Meeting – Fitzburgh.

Fitzburgh reported that the Town Council (TC) appointed Roth as Interim Building Permit Agent. She also reported that the request to decommission the Temporary Accessory Dwelling (TAD) on Lot 109 was delayed until its next Meeting to enable a site visit by some of the TC Members to better understand the situation. According to Fitzburgh, Mayor Duncan had also requested more time for the TC to review the TAD Ordinance.

Permit Agent – Interim Permit Agent - Roth

- Permit Activity.

Roth reported the building permit for modifications to the garage on Lot 55 was approved by the PLUC at its last Meeting and a Temporary Dwelling Permit (TDP) was renewed on Lot 298 so that the property owner could continue to use it to visit his property until construction of his residence begins.

- Updates on Recent Applications – None.

Procedural Matters.

Fitzburgh reported that she is working with Ordinances 95-6 and 2013-1 plus the Building Permit Information Sheet and Fee Sheet to match the changes being proposed in Ordinance 85-3. Rau suggested she send out copies to PLUC Members and add these documents to next month's PLUC Agenda. Fitzburgh said that she also plans to review the Building Permit Procedures with Roth and to consult the Town's attorney regarding additional information that should be added to the Town's building permits.

Rau reported that the Open and Public Meetings Act Training is scheduled for Thursday, May 3, 2018, from 10:30 A.M. until 2:50 P.M. at the Grand Center. Fitzburgh said that it was not necessary for PLUC Members to attend the morning session. According to Fitzburgh, legislative matters are not discussed but that the morning session would be applicable for Special Districts such as the Fire Department. Rau said that he plans to attend and encouraged Thompson to attend as well as anyone else who may want a refresher. He said to RSVP to Jocelyn or to Bryony Hill whose name and contact is included on the flyer.

**NEW BUSINESS**

**4. Discussion and possible action re: amendments to Ordinance 85-3 regarding definitions of Dwelling and Temporary Dwelling; Chapter 3 Land Use and Appeal Authorities; Chapter 4 Permitted and Conditional**

Uses and Temporary Accessory Dwellings for Medical Purposes; Chapter 5 Building and Lot Requirements; Chapter 6 Noncomplying Buildings; Chapter 7 Variances and Appeals; and Chapter 9 Enforcement, Fees, Penalties and Fines.

Fitzburgh led Members through items that were new in this draft with discussion as needed regarding the previous draft.

In the Table of Contents, pg. 1, Section 4.10 all conditional use permits (CUP) for livestock exceeding one and one-half animal units per acre are designated as nonroutine so that these applications would get greater review and mitigation than a routine permit would receive.

In Section 5.4 is changed to add "legally" before "platted lot" to differentiate these from lots that are joined for tax purposes but not legally replatted.

In Section 1.6 Definitions:

Dwelling: Fitzburgh asked Roth about the communication she had with Bill [Hulse], Grand County Building Department Inspector, which included the County's definition of "dwelling," including decommissioning and use of accessory buildings as overnight guest space. Hulse said that the County allows accessory structures to be used as remote bedrooms and allows them to have a wet bar which can include a sink, fridge, microwave, hot plate, etc. He said the structure cannot have any 220 electrical outlets or gas stubs that could be used for a stove or oven. He said the building codes for this type of structure would be the same as for a dwelling unit and would include a smoke detector. He said: if the unit adds a kitchen, it becomes a dwelling. According to Roth, Hulse also said that County regulations to decommission a dwelling requires that any 220 receptacles be removed and walled over and that gas stubs be removed to either the attic or crawl space and then walled over. He told her that a canning kitchen could have 220 and/or gas but could not have a bathroom.

According to Fitzburgh, the International Building Code defines "kitchen" as an area for food preparation which is the way the PLUC decided to define "kitchen" at its last Meeting. Naming specific appliances was removed from the definition.

Mayor Duncan introduced discussion of septic connections and whether all accessory buildings were required to drain into a single septic system. Fitzburgh replied that the State Sanitarian approves connections from accessory buildings to the septic system which had held up a recent permit application because it did not identify the connection. She said that the Town has no regulation about the number of septic systems on a lot but that the Sanitarian is responsible for ensuring that the size of the system is adequate for the need. A second septic system could be required.

Roth said she had received an email from Orion Rogers [State Sanitarian] who said that there is a minimum acreage per operational septic but that Castle Valley's minimum five-acre lot is well above that minimum. Rogers suggested that the Town allow one operational septic system per lot but he gave no supporting evidence for that. Fitzburgh reported that Orion has indicated some alternative systems such as a large tank that could be pumped on a regular basis and monitored by the Sanitarian could be available for rocky lots. In the future, she said, Orion had indicated a composting toilet that could be pumped—if needed—might be allowed. She also said that the Town's Watershed Ordinance states that anyone with a dwelling must maintain a sewage disposal system approved by the State Sanitarian. PLUC Members agreed this topic should be addressed separately from these changes.

Fitzburgh explained that Castle Valley regulations differ from most communities because it allows accessory structures to be built before the main dwelling which leaves a lot of small structures scattered around that were once used as dwellings. PLUC Members agreed it is difficult to regulate this approach.

According to Fitzburgh, the definition for dwelling here will help to enforce the one dwelling per lot rule because a dwelling is defined as any structure that has specific facilities for living/sleeping, food preparation, bathing and sanitation or as any structure that someone is living in regardless of the specific facilities it contains.

Fitzburgh explained that the clarification of the use of yurts, teepees, and other structures for occasional use by visiting family or friends was inserted to clear up the ambiguity regarding the legality of this use.

PLUC Members agreed to change line 5 in the definition to read "...is not permitted to be used as a residence and to retain the phrase "one kitchen...is allowed per building" rather than per lot.

Karp noted that keeping a kosher kitchen required two kitchens: two stoves, two sinks, two fridges, etc. separated by several feet.

Thompson agreed with a previous suggestion from Campbell to regulate canning kitchens through a CUP. Rau agreed, saying this would accommodate both business kitchens and canning kitchens. PLUC Members

agreed to say that a CUP is required for more than one kitchen. Fitzburgh will rewrite this. According to Fitzburgh, the ordinance describes a dwelling as having a full bathroom which would allow a canning kitchen to have bathroom with toilet and sink only—no shower or tub. Roth said that Hulse had told her a canning kitchen could not include a bathroom, but he did not specify whether that was a full bathroom.

The definition for bathroom was changed to read “an area...containing a toilet and facilities for bathing and sanitation...”

3.1.1 – States that the BPA is the land use authority for septic permits and designates all applications that require “advice or other services...by professional parties...” as nonroutine.

3.1.2 - Designates the Roads Manager as the land use authority for drainage reviews, grade reviews, and right of way encroachment permit applications.

3.1.3 – Discussion centered around developing a process for determining that a temporary dwelling permit renewal might require conditions for its continued use. Fitzburgh will continue to rework the language here.

3.1.4 – Line 2/3 changed to read “...review annual renewals and revocation of both routine and nonroutine [CUPs].”

3.2.1- pg. 6, paragraph 1, line 4, “or nonroutine” is added after “routine” to expand the PLUC’s role as appeal authority for BPA decisions.

3.3 - pg. 7, Septic Permits added to BPA’s land use authority and “routine” is removed from Temporary Dwelling Permits; pg. 8, Nonroutine TDP renewals redefined as TDP renewals that require conditions.

4.2 – C. Clarifies as permitted one single-family dwelling on a legally platted lot and adds structures as well as buildings that can be accessory thereto.; H. Identifies TC as entity that designates a lot as “commercial agricultural use;” J/K. Specifies “one” TD or TAD per “legally platted lot.”

4.10 – Adds language that all livestock CUPs are nonroutine.

4.11 – Refines language that ensures that a TAD not exceed the maximum square footage and building height allowed on a lot and allows removal of other building/s as needed to meet this requirement.

4.11.2 – F. Decided to add language to remove specific names of caregivers to allow for the change of caregivers as needed.

4.11.5 – D. adds County language regarding the decommission of a kitchen by removing and walling over 220 receptacles and gas stubs.

5.2 – A/B added missing language to identify setbacks.

5.5 – Adds language to match changes in definitions of dwelling and kitchen.

5.7.D – Change wording to match description elsewhere about not altering the exit point of surface water.

5.9 – Adds the same wording used in 4.11.5 regarding decommission of a kitchen.

7.1.4 – 1.e. Moved noticing requirements to a later section under Procedure; 2. Added setbacks to requirements for site plan.

PLUC Members agreed to hold a Public Hearing at its next Meeting [May 2] for these proposed amendments. Roth will post the notices. Fitzburgh will submit documents for posting. She will also prepare proposed amendments for Ordinances 95-6 and 2013-1 to match the changes being proposed in Ordinance 85-3. PLUC Members proposed holding a separate Public Hearing at the following Meeting [June 6] for these changes.

Campbell suggested addressing changes to the livestock sections to address some legal typographical and language errors, as well as the greater issue of impact from large numbers of livestock. PLUC Members generally agreed that this issue should be addressed separately, although Fitzburgh said she would look at the typo and language changes mentioned by Campbell.

| Fitzburgh moved to table Item 4. Anderson seconded the Motion. Anderson, Fitzburgh, Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

Anderson moved to reconsider the Motion. Fitzburgh seconded the Motion. Hawkins, and Thompson approved the Motion. Rau abstained. The Motion passed with four in favor and one abstention.

Fitzburgh suggested dropping this item from the next Agenda and rewording the Agenda item for the Public Hearing. She will send the change to Roth. Mayor Duncan suggested posting notice of the Public Hearing on the Castle Valley Community Page.

5. Discussion re: topics, themes, and process for the General Plan Survey.

Rau directed PLUC Members to review the provided document that shows General Plan (GP) survey categories in bold print followed by the topics covered within. Rau said the italics identify his comments. He asked everyone to review the last GP Survey before the next Meeting and to consider what would be added or dropped; e.g. rentals, fire prevention, spending Town money for specialists, aging in place. Roth will send a link from the Town's website for review of the survey. Fitzburgh cautioned that only three to five people were responsible for most of the negative comments found in the survey results.

Rau referred to the proposed schedule for proceeding through the development process which includes Mayor Duncan's suggestion for public input in developing the survey questions. He suggested to Duncan that the PLUC and TC conduct joint meetings during the development stages. He hopes to present a completed General Plan to the public by fall 2019.

Fitzburgh moved to table Item 5. Hawkins seconded the Motion. Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

#### **UNFINISHED BUSINESS**

6. Discussion re: storage of fuels and hazardous materials within the Town (tabled).
7. Discussion re: future amendments to Ordinance 85-3 (tabled).
8. Closed Meeting (if needed).

#### **ADJOURNMENT**

Fitzburgh moved to adjourn the Meeting. Thompson seconded the Motion. Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 9:12 P.M.

**APPROVED:**

**ATTTESTED:**

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

Rau directed PLUC Members to review the provided document that shows General Plan (GP) survey categories in bold print followed by the topics covered within. Rau said the italics identify his comments. He asked everyone to review the last GP Survey before the next Meeting and to consider what would be added or dropped; e.g. rentals, fire prevention, spending Town money for specialists, aging in place. Roth will send a link from the Town's website for review of the survey. Fitzburgh cautioned that only three to five people were responsible for most of the negative comments found in the survey results.

Rau referred to the proposed schedule for proceeding through the development process which includes Mayor Duncan's suggestion for public input in developing the survey questions. He suggested to Duncan that the PLUC and TC conduct joint meetings during the development stages. He hopes to present a completed General Plan to the public by fall 2019.

Fitzburgh moved to table Item 5. Hawkins seconded the Motion. Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

#### **UNFINISHED BUSINESS**

6. Discussion re: storage of fuels and hazardous materials within the Town (tabled).
7. Discussion re: future amendments to Ordinance 85-3 (tabled).
8. Closed Meeting (if needed).

#### **ADJOURNMENT**

Fitzburgh moved to adjourn the Meeting. Thompson seconded the Motion. Anderson, Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 9:12 P.M.

**APPROVED:**

**ATTTESTED:**

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date