

MINUTES

PUBLIC HEARING
ON PROPOSED AMENDMENTS TO 85-3 REGARDING
DEFINITIONS OF DWELLING, KITCHEN, TEMPORARY DWELLING AND OTHER DEFINITIONS;
CHAPTER 3 - LAND USE AND APPEAL AUTHORITIES;
CHAPTER 4 - PERMITTED AND CONDITIONAL USES; DECOMMISSIONING TEMPORARY ACCESSORY
DWELLINGS FOR MEDICAL PURPOSES;
CHAPTER 5 - BUILDING AND LOT REQUIREMENTS;
CHAPTER 6 - NONCOMPLYING BUILDING;
CHAPTER 7 - VARIANCES AND APPEALS; AND
CHAPTER 9 - ENFORCEMENT, FEES, PENALTIES, AND FINES
AND
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION (PLUC)

Date: Wednesday, May 2, 2018

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

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

Absent: Ryan Anderson

Others Present: Jack Campbell, Jazmine Duncan, Sherry Karp, Lindsay Lessig, Paul Lessig

Clerk/Recorder: Faylene Roth

CALL TO ORDER PUBLIC HEARING

Rau called the Public Hearing on proposed amendments to Ordinance 85-3 to Order at 6:31 P.M.

1. Public Comments.

Jack Campbell said, in his view, some serious mistakes were made a number of years back and, considering the Agenda items listed tonight, he thinks he's entitled to comment on them. He made the following statements:

- a) In Section 4.10.1 the phrase "...more than one and one-half (1.5) animal units per acre on each legally platted lot shall be allowed as a conditional use" should be replaced by "may be allowed" because it grants [unconditioned] permission for too many livestock.
- b) Section 4.10.1 also states that "...livestock not listed on the chart...shall also be allowed." It should be changed to "may be allowed" since you don't know what that animal might be.
- c) The Animal unit table allows 30 pigs on a lot and 50 pigs with a conditional use permit. He said, "It is a vile raging blunder in the Castle Valley zoning ordinance to allow pigs "because pigs can be very smelly and the smell is like human manure." He acknowledged that the PLUC might not choose to deal with this issue at this Meeting, but he wanted it in the Public Hearing record.
- d) The most important thing in decommissioning is the kitchen plumbing. Having a sink is more critical [for food preparation] than having a stove. So, if you want to make sure a decommissioned structure will not be used as secondary dwelling, it is more important to remove the sink.
- e) His sense is that it is not a good idea to have the zoning ordinance say that people can stay temporarily in campers with no firm limit on how long they can stay. He thinks it better not to even mention it—even teepees and yurts are quasi-structures that could easily slip over into guest houses. He suggested that, at least, these issues should be included in next General Plan survey.
- f) The paragraph on page 22 regarding noncomplying buildings that says "A building that legally existed before its current Land Use Regulation..." should say "this Land Use Regulation...." According to Fitzburgh, the phrase is directly from State code.
- g) He appreciates using the phrase "one kitchen per platted lot" and the treatment of a canning kitchen as a conditional use.

Paul Lessig made the following comments:

- a) He asked what the PLUC was trying to achieve for the Town; it seemed to him to be prevention of apartments and short-term rentals, but he was concerned that it inadvertently might prevent some



reasonable use. He has a son with family of four and doesn't think a tent would be suitable accommodations for a visit. He could see wanting to build something to accommodate family guests. He also wondered what accommodations would be made for the surviving spouse of a TAD designee. Fitzburgh commented that the surviving spouse might likely qualify as the primary TAD designee. She also referred to Section 5.5 which addresses the intent of only one dwelling per lot with the exception of one TAD per lot. She noted that past surveys show that residents prize open space and want to get a handle on overnight rentals.

- b) It can be an architectural problem for many residents to expand their primary dwelling to accommodate additional family members [as guests or for medical reasons].
- c) The Town should address enforcement of the use of secondary structures as rentals, outdoor lighting violations, etc.

Jazmine Duncan initiated a discussion regarding the potential for septic systems to contaminate the CV aquifer as being "when, not if." Some resources for helping to address this issue would be Orion Rogers, the State Sanitarian, and a prior septic density study of Castle Valley referred to by Fitzburgh.

2. Adjournment.

Thompson moved to adjourn the Public Hearing. Hawkins seconded the Motion. Fitzburgh, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously. Rau adjourned the Public Hearing at 6:55 P.M.

CALL TO ORDER REGULAR MEETING

Rau called the Regular Meeting of the PLUC to order at 6:55 P.M.

1. Open Public Comment – None.

2. Approval of Minutes.

Regular Meeting of April 4, 2018.

Roth informed PLUC Members that she added a line for "Clerk/Recorder: Faylene Roth" after "Others Present." Thompson noted that the voting roll call for the Motion in Item 4 (page 3) shows Anderson and Fitzburgh voting twice. Roth redlined the duplicate names as a deletion.

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

3. Reports.

Correspondence – None.

Town Council Meeting – Fitzburgh.

According to Fitzburgh, the Town Council delayed action on a decision for decommission of the TAD on Lot 109. Duncan reported that some TC members were not comfortable with updating the contract and wanted to wait to see how proposed amendments from the PLUC would address decommission of a TAD.

Permit Agent – Interim Building Permit Agent (BPA) – Roth.

- Permit Activity.

Roth submitted a report showing three electrical permits, one solar permit, one building permit, one septic permit and a Temporary Dwelling Permit during the month of April 2018.

- Updates on Recent Applications.

Fitzburgh reported that she had a conversation with Brian Murray asking that the plot plans for electrical repairs and upgrades that require no new lines or changes in the service entrance be simplified and not be required to include setbacks, etc. Thompson said the Ordinance is written to allow the BPA to make a determination of what supporting documents are required. Fitzburgh also mentioned that a change of use application might be required when a building without utilities is converted to one with electricity.

Roth reported that James Bonny had the requested survey for Lot 298 completed. After she, Thompson, and Anderson made a site visit, they discovered that the setback requirements given by the Variance Officer did not match the position of the building pad prepared by the property owner. Bonny has said he plans to request another variance to adjust the position of the setbacks. PLUC Members asked Roth to inform Bonny that he should contact the Town Clerk to proceed.

- Procedural Matters.

PLUC Members were reminded of the Open and Public Meetings Training on Thursday, May 3, 2018.



NEW BUSINESS

4. Discussion and possible action re: amendments to Ordinance 85-3 regarding definitions of Dwelling, Kitchen, Temporary Dwelling and other definitions; Chapter 3 Land Use and Appeal Authorities; Chapter 4 Permitted and Conditional Uses; Decommissioning Temporary Accessory Dwellings for Medical Purposes; Chapter 5 Building and Lot Requirements; Chapter 6 Noncomplying Building; Chapter 7 Variances and Appeals; and Chapter 9 Enforcement Fees, Penalties and Fines.

After discussion and review, the changes listed below were approved. Grammar and punctuation corrections will be made outside this Meeting after these changes are incorporated into a new draft. PLUC Members agreed that the livestock issues presented by Campbell were important and would be addressed separately from these amendments. Rau suggested that Hawkins formally request the PLUC to re-examine this section. Fitzburgh replied to Campbell's concerns about the use of "shall" and "may" in Section 4.10.1. She said that the use of "shall" in this section applies to a designation as a conditional use. It does not imply that blanket approval is given to a request.

- Page 1, Table of Contents – added 4.16 Additional Kitchens Exceeding One Kitchen Per Legally Platted Lot.
- Page 3, Definitions – Dwelling: (line 5) Delete "Also," and add "A dwelling is also" prior to "...any building or portion of a building that includes all of the following:" (line 9/10) Approved change to "Only one kitchen...allowed per legally platted lot" rather than "per building." (line 11) After discussing Campbell's concerns about the last sentence that grants permission for visiting family and friends to "occasionally" stay in "yurts, teepees, and other temporary structures," PLUC Members agreed that they wanted to retain it in order to clarify what is allowed.
- Page 3, Definitions – Grade Existing: (line 7/8) Gave responsibility back to the Building Permit Agent (BPA) rather than the Roads Manager because the BPA needs to be aware of grade in order to determine building height.
- Page 4, Definitions – Temporary Dwelling: Last sentence deleted because addressed in earlier definition of "Dwelling."
- Page 5, 3.1.1 Building Permit Agent: (line 6) Insert "The [BPA] shall determine if, upon renewal, a temporary dwelling permit shall require additional conditions for its continued use as a temporary dwelling and refer those that require conditions to the [PLUC]." (line 13) Change "it" to "is."
- Page 5, 3.1.4 Town Council: 9 (line 2/3) Move "annual" to next line to read "...review, annual renewal and revocation..."
- Page 6, 3.2.1 Planning and Land Use Commission: (line 4) Adds "...or nonroutine..." to cover all situations.
- Page 9, 4.2.H Permitted Uses...: Adds designation of Town Council (TC) as entity that determines "commercial agricultural use."
- Page 9, 4.2.N Permitted Uses: Added "One operational and approved septic waste-water disposal system per legally platted lot." Discussed adding information to the septic permit regarding the procedure for decommissioning an old septic and adding a new one.
- Page 11, 4.7.5 Conditional Use Permit [CUP] Renewal: (para. 5, line 2/3) Added language regarding "conflict with any Town Land Use Regulation" to ensure that if a second kitchen were being used to create an illegal dwelling or rental, the CUP renewal could be denied.
- Page 11, 4.7.6 (5) CUP Revoked: Added same line as above to ensure that the CUP could also be revoked.
- Page 12, 4.11 Temporary Accessory Dwellings [TAD] for Medical Purposes: Adds a statement that TADs must comply with all square footage and height regulations and allows other buildings to be removed to enable a TAD to be legally installed.
- Page 13, 4.11.2.E and F [TAD] Use: Revises language to clarify who can sign the TAD contract and to allow the change of a caregiver without having to amend the TAD contract.
- Page 13, 4.11.3 Other: Thompson asked what the term "fixture" meant; but, beyond being a legal term, no one knew the definition.
- Page 14, 4.11.5.B Expiration of [TAD] Permit: Last sentence reordered to say "...shall be removed...unless the permit has been renewed or decommissioned in conformity with these requirements."

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- Page 14, 4.11.5.D: (lines 5-8) After discussing Campbell’s suggestion to specifically require removal of a sink as part of the decommission, the PLUC confirmed the original wording which includes the County requirements of removal and walling over of any 220 receptacles and/or gas stubs in the kitchen area and a reference that removal of some of the plumbing may be required. There was general discussion about whether TADs should be restricted to smaller units like Park trailers so that their removal would be easier than removal of a single-wide manufactured or mobile home. It was noted that the additional requirements for decommission would include putting a single-wide on an approved permanent foundation. Rau suggested adding this issue to the next General Plan survey.
 - Page 14/15, 4.12 Temporary Dwelling Permits Issued: The last sentence of the first paragraph was deleted to be consistent with its earlier deletion in the definition of Temporary Dwelling. The last sentence of the second paragraph was wordsmithed to begin, “Granting of a new [TDP]...”
 - Page 17, 4.16 Additional Kitchens Exceeding One Kitchen Per Legally Platted Lot: Adds a section to regulate a second kitchen as a conditional use permit. Language was added at this Meeting to regulate the decommission of a second kitchen in the same way it is regulated for a TAD. PLUC Members agreed the CUP would be nonpermanent and must be renewed annually. Fitzburgh added that the CUP application will have to be updated.
 - Page 18, 5.2.A and B Setback Requirements: Wordsmithing was done in A and B to add the word “setbacks” to the descriptions.
 - Page 19, 5.5 Only One Dwelling Per Legally Platted Lot: (line 3) changed wording from “The purpose of requiring one dwelling per...” to “The purpose of limiting...” (Para. 3, lines 8-10) Changes language to say only one kitchen per lot to match change in the definition of “Dwelling” and adds a reference to the regulation to allow a second kitchen through a conditional use permit.
 - Page 20, 5.6 Approval Required For Lot Division: Added a note that the code sections listed are from Utah State Code.
 - Page 20, 5.7.B All Buildings Must Be Permitted: (Para. 1 and 3) Redesignates the BPA (in three places) instead of the Roads Manager as the responsible agent for Grade Reviews.
 - Page 20/21, 5.7.C and D: (line 3) Adds the phrase “from the lot” between “exit point” and “of the surface water” in both sections.
 - Page 21, 5.9 Conversion Of Existing Dwelling To An Accessory Building: Adds the same language used for TADS and Temporary Dwellings regarding decommission of a kitchen.
 - Page 21, 6.1 Noncomplying Buildings: Change first line to read “...before the Town’s current Land use designation...”
 - Page 25, 7.1.4(2a) Graphic Information: Add “setbacks” to the list of items to show on the site plan.
 - Page 25, 7.1.4(2d): Changes “Drainage Review signed by the Roads Manager to “Grade Review signed by the [BPA].”
 - Page 26, 7.1.5 Procedures for Variance Applications: Moved the following from Written Information to this section: “Noticing and posting requirements shall be met as specified in this Chapter and in accordance with the Utah Open and Public Meetings Act.”
 - Page 27, 7.1.11 Time Limit for Variance: (lines 5-7) The following phrase was modified as underlined: “The Town may grant an extension of a Variance for up to one additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or the permit has yet to be approved by the Grand County Building Department.” Deleted “Extension requests must be submitted prior to the expiration of the Variance” and the last sentence which invalidated building permits not approved by Grand County Building Department within six months of zoning approval. These were considered redundant.
 - Page 29, 7.2.2 Scope of Review...on Appeals to the Variance and Appeal Officer of the Assessment of Fees: (line 4) Changed “written fee is assessed” to “fee is assessed.”

Fitzburgh moved to recommend that the Town Council approve amendments to Ordinance 85-3 as presented in the Excerpted Draft Amendments dated 4.10.8 version 2 and as amended tonight. Hawkins seconded the Motion. Fitzburgh, Hawkins, Rau and Thompson approved the Motion. The Motion passed unanimously.



Fitzburgh will make the changes and submit to PLUC and TC Members. Thompson and Roth will consult regarding grammatical changes after the document is updated.

5. Discussion and possible action re: amendments to Ordinance 95-6: An Ordinance regarding the Building Permit and Other Land Use Permit Processes to align it with proposed amendments proposed to Ordinance 85-3.

Fitzburgh asked PLUC Members to review the proposed amendments before the next Meeting and to submit any comments to her a week before the next Meeting in order to allow time to incorporate corrections and changes before the Meeting.

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

6. Discussion and possible action re: revisions to Resolution 2013-1: A Resolution to Adopt a Permit Application and Fee Schedule.

Fitzburgh moved to table Item 6. Hawkins seconded the Motion. Fitzburgh, Hawkins, Rau and Thompson approved the Motion. The Motion passed unanimously.

Rau asked Members to review the proposed amendments before the next Meeting. Fitzburgh said she will also send out revised permits and Building Permit Information Sheet as part of the packet.

7. Discussion and possible action re: recommendation to Town Council regarding a Routine Solar Energy System (SES) Application for roof-mount SES on noncomplying structure due to setbacks on Lot 431.

The application had been reviewed by PLUC Members in advance of the Meeting. They agreed that the application was complete and had the necessary plot plan, work order number, and requested information. Fitzburgh stated that this was a routine Solar Energy System application on a noncomplying building due to setbacks which requires the PLUC to make a recommendation to the Town Council.

Fitzburgh moved to recommend approval as presented of the Routine Solar Energy System Application for Lot 431 to the Town Council. Thompson seconded the Motion.

In further discussion Fitzburgh reported that, since State Code says that a roof-mounted solar installation is not a structural change to a noncomplying building, she would recommend that the Town Council approve the application as presented.

Fitzburgh, Hawkins, Rau and Thompson approved the Motion. The Motion passed unanimously.

UNFINISHED BUSINESS

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

PLUC Members reviewed options for a post to the Castle Valley Community FaceBook Page informing residents of the upcoming General Plan survey and a request for participation in the process. Members agreed to use Thompson's draft. She will post it and will serve as the contact person.

Rau asked Members for their input on topics and issues to include in the General Plan survey. Hawkins suggested animal control, including the leash law. Thompson suggested the complaint process. Rau suggested, in addition, aging in place; volunteering for Town government, committees, and projects; speeding; improved communication; use of the Town funds for specialists as written into 85-3, including lawyers; fire protection; and rentals. He asked PLUC Members to start going through the survey to consider what should be added or deleted.

Fitzburgh moved to table Item 8. Hawkins seconded the Motion. Fitzburgh, Hawkins, Rau and Thompson approved the Motion. The Motion passed unanimously.

9. Discussion re: storage of fuels and hazardous materials within the Town (left tabled).

10. Discussion re: future amendments to Ordinance 85-3 (left tabled).

11. Closed Meeting (none).

ADJOURNMENT



Thompson moved to adjourn the Meeting. Hawkins seconded the Motion. Fitzburgh, Hawkins, Rau and Thompson approved the Motion. The Motion passed unanimously. Rau adjourned the Meeting at 8:53 P.M.

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

APPROVED