



MINUTES

PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO ORDINANCE 85-3, THE TOWN'S LAND USE ORDINANCE, REGARDING SOLAR ENERGY, DEFINITIONS, LAND USE AND APPEAL AUTHORITY, PERMITTED USES FOR RAR-1 ZONE, BUILDING FOUNDATIONS BEING IN COMPLIANCE WITH THE UTAH UNIFORM BUILDING STANDARDS ACT, AND FORMATTING AND REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, June 7, 2017

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Members Present: Mary Beth Fitzburgh, Marie Hawkins, Harry Holland, Bill Rau

Members Absent: Ryan Anderson,

Others Present: Jack Campbell

Clerk/Recorder: Faylene Roth

PUBLIC HEARING

1. Call to Order.

Rau Called to Order the Public Hearing regarding proposed amendments to Ordinance 85-3, the Town's Land Use Ordinance, regarding solar energy, definitions, land use and appeal authority, permitted uses for RAR-1 zone, building foundations being in compliance with the Utah uniform building standards act, and formatting at 6:30 P.M.

2. Public Hearing regarding proposed amendments to Ordinance 85-3, the Town's Land Use Ordinance, regarding solar energy systems, definitions, land use and appeal authority, permitted uses for RAR-1 zone, building foundations being in compliance with the Utah Uniform Building Standards Act, and formatting.

Jack Campbell submitted a list of comments and expanded on them as cited below:

He said the language in the Ordinance was ambiguous regarding whether it referred only to photovoltaic solar energy systems or opened it up to other kinds of systems that can be totally different. He thought the Ordinance should be restricted to photovoltaic systems only.

Fitzburgh referred to the proposed definition of solar energy system, but Campbell responded that it was the phrase "...and other equipment..." that was open-ended.

Campbell also objected, in the Building Height definition, to the exclusion of building and roof mounted solar arrays in determining maximum building height. He was concerned that a building already at maximum height could reach an overall height in excess of the maximum building height which would greatly increase the visual impact because solar panels are much more extensive in view than a vent or a chimney and perhaps allow people to see it as justification for taller buildings. He suggested changing Section 4.15.1.7 to state "...shall not exceed one (1) foot...or...up to two (2) feet is permitted *but never higher than maximum building height*."

In Section 4.2.M Campbell suggested changing "solar energy system" to "solar photovoltaic energy system." He also observed that 4.2.L requires above ground water tanks to have a finish that is compatible to the surroundings. He wondered whether a similar requirement for "a color matching surrounding vegetation" or even black or dark in color should be required for solar installations. He noted that a huge solar array with a white backing would be a nuisance to neighbors. He also expressed concern about the viewshed of a long, high, continuous array.

Campbell repeated a previous opinion that designating solar arrays as a conditional use rather than a permitted use would give more flexibility in managing the subjective nature of concerns like glare.

Campbell also noted that solar energy is generally considered an "acknowledged good," but said the PLUC should "keep in mind that [solar arrays] should not too heavily impact any particular neighbor."

In addition, Campbell said he still thinks a square footage limit should be applied to routine arrays in order to better protect viewshed. He suggested figuring out the biggest most objectionable system the Ordinance would allow, then imagining it in your own viewshed.

3. Adjournment.

Hawkins moved to adjourn the Public Hearing. Fitzburgh seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau adjourned the Public Hearing at 6:45 P.M.



REGULAR MEETING

1. Call to Order.

Rau called the Meeting to Order at 6:45:15 P.M.

2. Open Public Comment.

Jack Campbell said that after noticing new utility poles around the big new house on the Loop Road, he wondered if anyone in Town government has the responsibility to follow up on what Rocky Mountain Power (RMP) does. In the past, he said, the power company did work not in compliance with the Town Ordinance.

Fitzburgh replied that the Town has a franchise agreement with RMP that governs what they can do. Rau suggested that Campbell raise this concern at the next Town Council Meeting.

3. Approval of minutes.

Regular Meeting of May 3, 2017.

Holland moved to approve the Minutes of May 3, 2017, as presented. Fitzburgh seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

4. Reports.

Correspondence.

Roth asked Members to put the email letter in Correspondence regarding responses from SEUSD Sanitarian Orion Rogers about alternative waste water treatment considerations behind the tab for Item 8 as reference for later discussions.

Town Council Meeting – Fitzburgh.

Fitzburgh said that Bruce Keeler gave an alternative energy report to the Town Council asking the Town to adopt a resolution stating the Town's commitment to our power coming from renewable energy. She said that he is in contact with the Solar Energy Task Force. She also said that Council Member Duncan had reported State Sanitarian Orion Rogers had said there was a state program that gives low-interest loans to repair faulty septic systems. The proposed fiscal year budget, she said, had added \$900.00 to the PLUC budget for appeal authority costs. However, she said, appeal authority costs should be independent from the PLUC budget, so the Council will create a separate line item for it.

County Resource Management Plan Report (CRMP) – Rau.

Rau reported that Grand County Council has begun to consider the draft of the CRMP. According to Rau, the County held a public workshop last month. His impression, he said, is that most of the County Council had not yet reviewed the draft in detail. He said those who had seemed to think it was not well balanced, reflecting more focus on retirees who have time to come to meetings. Further discussion, according to Rau, reflected a desire on the Council's part to set a better balance. Rau said the consultants are looking for more supportive documents. He hopes that the County Council will become more engaged in the process. The final draft, he said, is due to be sent to the State at the end of July.

Permit Agent – Roth.


Permit Activity.

Roth reported that the affidavits for fulfillment of Decommissioning Contracts discussed at a previous Meeting have been completed. Several, she said, have been recorded at the County Recorder's Office and the others are ready. She reported that Cate and Honer voided their 2009 residential building permits for a garage and a house before applying for the current permit listed for Lot 153. She also reported that recent permit approvals for June were issued for Lots 322 and 329. Lot 329, she said, also had a previously approved permit from 2009 for a house addition. She said the 2009 permit was voided before issuing the current permit.

Fitzburgh questioned whether a new Decommissioning Contract should be issued with the new building permit on Lot 153. Hawkins countered that the Decommissioning Contract goes with the Temporary Dwelling permit, not the building permit. Fitzburgh thought it would be a better practice in the future to sign a new decommissioning contract when a new building permit is issued.

Review of Temporary Dwelling Permits (TDP).

Roth presented a report on current temporary dwellings. The map shows that nine (yellow) of 17 lots with campers, RVs, or travel trailers are currently permitted. She said she recently discovered that Lot 29 had obtained a TDP in 1998, but it was never renewed. She plans to send them a renewal request. It is used intermittently. The 2nd page shows that of the nine permitted TDPs, four are possibly used full-time and five used intermittently. The 3rd page lists lots with temporary dwellings that are not permitted with notes on



what is known about their use. Lot 29, as stated above, will be sent a renewal request since they have an earlier permit on file.

Fitzburgh asked Roth to send the list of temporary dwellings without a valid permit to the Town Council and ask them to send a letter to the property owners similar to the notification letter sent to property owners with septic issues [due to lack of proper waste water treatment].

Procedural Matters.

Roth reminded PLUC Members of the Open and Public Meetings Training on June 22, 2017. She said that PLUC Members should attend Sessions 2 and 3.

NEW BUSINESS

5. Discussion and possible action re: proposed amendments to Ordinance 85-3 concerning solar energy systems, definitions, land use and appeal authority, permitted uses for RAR-1 zone, building foundations being in compliance with the Utah Uniform Building Standards Act, and formatting.

Rau and Fitzburgh both mentioned that any future community or municipal solar projects would be years down the line and would require additional ordinance regulation, so it would not need to be addressed in the current proposed amendments.

Hawkins said that Campbell raised a good point about specifically defining a solar energy system as “solar photovoltaic energy system.” PLUC Members agreed to make that change. Hawkins also brought up Campbell’s concern about whether the phrase “and other equipment” used in the definition opened it up to other kinds of systems that are not here addressed. Fitzburgh said the phrase referred to other components. She suggested using the phrase “solar photovoltaic collectors and accessory equipment” for clarification.

PLUC Members agreed to change the definition to read “a system of solar photovoltaic panels or modules and ancillary equipment that relies upon...”

Discussion followed about whether a building to hold batteries should be permitted before the solar permit is approved.

Fitzburgh said that Section 4.2.M classifies solar energy systems as a permitted use for residential or agricultural use which would allow a system to be put on a lot without a dwelling that could be used for agriculture.

Section 5.8, she said, was a necessary correction for the adoption of the recent ordinance proposal to adopt the current International Building Code approved by the State of Utah.


The change in Section 7.4.3 corrects an oversight in an earlier update of Ordinance 85-3, said Fitzburgh. Also, she said that Section 4.15.1.5 was added to ensure that a roof mounted system was for either an existing building or one that has been permitted. Fitzburgh noted that Ordinance 95-6 calls for a six-month expiration on all building permits [if they have not been permitted by Grand County] and this applies to all building permits, including septic, electrical, and solar.

PLUC Members agreed to change line 4.15.1.8 to read that the total combined kilowatts for a routine solar energy system shall not exceed 10 kilowatts for each legally platted lot. In the introduction to Section 4.15.2, they changed “system” to “solar energy system” and deleted the word “estimated” in line 6.

Fitzburgh said that the last sentence of 4.15.2.1 was included to ensure that no grid-tied system would interfere with the existing RMP infrastructure. According to Fitzburgh, Rocky Mountain Power does not allow any grid-tied system to exceed 25 kilowatts for residential uses. They do, she said, allow grid tied systems of up to 2 megawatts for agricultural uses, but the owner is responsible for any necessary upgrades to the infrastructure that might be needed. Grid tied systems require an interconnection agreement from RMP before construction can begin. Approval of agreement can take up to 30 days. During this process RMP would determine if the Town’s electrical infrastructure equipment could handle the kW’s of any proposed grid tied system. If it can’t, the applicant would be required to upgrade the Town’s electrical infrastructure equipment which would be very costly.

Holland wondered whether 25 kilowatts was too high for Castle Valley, but PLUC Members agreed to keep the RMP maximum size. A review of data on size and square footage necessary for both low and high efficiency modules indicated that the 1500 S.F. maximum set for nonroutine systems was sufficient in size. Fitzburgh observed that RMP has to approve the final grid tied system. Both she and Holland questioned whether several large systems in the early states would prevent later applicants from obtaining interconnection agreements with RMP if the infrastructure was overworked.

Fitzburgh reported her findings that indicated a 25 kilowatt system would be more than enough to irrigate four acres, for livestock and for residential uses. There were, she said, many variables for setting an exact size for irrigation, such as water pressure, evaporation, etc. She will get more information before the next meeting. The average residential household, she said, would need a system that is 10 kilowatts but PLUC Members noted that many here in Castle Valley are closer to 5 kilowatts.



Rau asked whether Section 4.15.1.3 adequately addressed Campbell's concern about the visual impact of the backside of a solar array. Fitzburgh responded that this section asks the applicant to consider how the array will affect neighbors and noted that Item 4.15.1.2 states that appurtenances "shall be screened to the extent reasonably feasible." Rau agreed that the ordinance is designed to provide some protection against applicants who might not take these impacts into consideration. Fitzburgh said that the ordinance allows the PLUC to address these issues for nonroutine applications.

Holland asked about maximum height considerations. Roth said that most roof-mounted systems have been within two inches of the roof surface, so only flat-topped houses would be affected by additional height. Fitzburgh noted that projections above the ridge line are not allowed per International Building Code regulations and that flat roofed houses would be allowed up to two feet above the maximum building height of 25 feet. Members felt that no portion of panels should exceed the 25 feet height limit. Fitzburgh will change the wording to say that no portion of a solar energy system shall exceed 25 feet.

Campbell again addressed the height issue. He would like to see the solar exemption deleted in the Building Height definition. Discussion followed regarding building difficulties for houses on a slope—both in their increased visual impact and in the challenges they face in adhering to maximum height. Hawkins said that potential buyers need to be aware of the restrictions that would apply to individual lots.

Another complication from not excluding solar height in determining building height, described by Fitzburgh, is that it would alter the way the ordinance relates height and square footage: no more than 5000 S.F. can be over 19 feet in height and height for the whole building is determined by the highest point. So, she said, if the ordinance stated that solar panels were included in height, they would likely be the tallest point of the building which would arbitrarily increase overall building height and unnecessarily complicate determining combined square footage and height allowances on a lot. PLUC Members agreed to leave the solar panel exemption under the definition of Building Height.

PLUC Members agreed that they wanted to see another draft before approving their final recommendation to the Town Council. They agreed to hold a Special Meeting on Tuesday, June 13, to review the revised draft. PLUC Members agreed to defer the decision for legal review of the proposed amendments to the Town Council.

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

6. Discussion and possible action re: requiring a Town permit for special events on property owner's lots.

Rau reported that inclusion of this Agenda item came from concern raised by a resident about a recent event where 150 motorcyclists were invited into Castle Valley. He noted that Ron Drake's Castle Valley Comments column described it as a benign event for a decent cause. Rau observed that it is an example of things we don't anticipate but should be prepared for. He said that Moab does require permits for public events but not private events if it is closed to the public, held on private property, and doesn't require additional facilities for cooking, water, power, sanitation, etc. A concern here, he said, is parking.

Campbell cited previous Moab Music Festival events that were held in Castle Valley with cars parked up and down the road. He said that these events could be unsafe if there were a fire.

There was a brief discussion between the public and PLUC Members regarding the desire for quiet and the role of Nuisance Ordinance.

Rau will write a draft for review at the next Meeting that would include a permitting process through the Town.

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

UNFINISHED BUSINESS


7. Discussion and possible action re: amendments to Ordinance 85-3 to extend the minimum rental period and require a business license for renting residential property (tabled).

Left tabled.

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

Left tabled.

9. Closed Meeting (if needed).



Fitzburgh moved to move into a Closed Meeting for the reason to hold a strategy session to discuss pending or reasonable imminent litigation. Holland seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau reopened the Regular Meeting of the Planning and Land Use Commission at 10:00 P.M., June 7, 2017.

ADJOURNMENT

Fitzburgh moved to adjourn the Meeting. The Motion was seconded by Hawkins. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 10:02 P.M.

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

APPROVED