

MINUTES
PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO ORDINANCE 95-6 AMENDED,
AN ORDINANCE OF THE TOWN OF CASTLE VALLEY
REGARDING THE BUILDING PERMIT AND OTHER LAND USE PERMIT PROCESSES
AND
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, September 6, 2017
Time: 6:30 PM
Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson, Mary Beth Fitzburgh, Marie Hawkins, Harry Holland, Bill Rau
Absent: None
Others Present: Dwayne Finney, Jack Campbell, Jazmine Duncan, Russ Cooper, Dave Erley, Darr Hatch, Sherry Karp, Phil Freiberg

PUBLIC HEARING

1. Call to Order.

Rau called to Order this Public Hearing regarding proposed amendments to Ordinance 95-6 Amended at 6:30 P.M.

2. Public Hearing regarding proposed amendments to Ordinance 95-6 Amended.

Campbell suggested changing the two item designations on page two labeled (a) and (b) to (l) and (m) to reduce confusion with the (a) and (b) designations on page 1. He also suggested using the word “receive” in place of “attain” and identifying the “building permit” referred to at the bottom of page one as “County building permit.” Roth confirmed that the Town has no separate permit for structural building permits, unlike septic permits, electrical permits, solar permits, and temporary dwelling permits. She said the Town provides zoning approval on the County building permit form as well as requiring additional supporting documents for Town purposes. Fitzburgh agreed that saying “provide zoning approval for the building permit” reflects the language in the Ordinance.

Duncan asked whether the Ordinance should include something about grid-tied solar systems, based upon previous input from Rocky Mountain Power. Fitzburgh explained that information was asked for in the solar permit form. Hatch asked if a solar permit would be required for solar panels not tied into the grid, such as for a pump. Fitzburgh replied that systems already in place would not be affected but that an electrical permit is always required for electrical hookups.

Finney questioned the redundancy of this Ordinance since the County already has ordinances [covering the same issues]. Rau replied that the County governs technical aspects and inspections, whereas the Town is concerned with adherence to its zoning regulations. Finney asked how this ordinance affects the Town and why the Town needs this type of control. Fitzburgh responded that members of the public—through public input and letters—had asked the Town for zoning regulations to address the potential impacts of solar energy systems. She said the PLUC had spent two years developing the amendments in Ordinance 85-3 to address size, viewshed, property rights, etc., which were then approved by the Town Council on June 21, 2017. According to Fitzburgh, these amendments to Ordinance 95-6 are a technical update to support the amendments in 85-3.

Both Fitzburgh and Rau stated that Ordinance 85-3 was available on the Town website and that the Building Permit Agent could provide more detailed information.

Finney asked for clarification of “interlocal agreement.” Fitzburgh explained that it allowed the Town to use the services of the County building inspector rather than having to hire its own inspector.

3. Adjournment.

Rau adjourned the Public Hearing at 6:43 P.M.

REGULAR MEETING

1. Call to Order.

Rau called to Order the Regular Meeting of the Planning and Land Use Commission at 6:43 P.M.

2. Open Public Comment – none.

3. Approval of minutes.

Regular Meeting of August 2, 2017.

Fitzburgh moved to approve the Minutes of the Regular Meeting of August 2, 2017, as presented. Anderson seconded the Motion. Anderson, Fitzburgh, Hawkins, and Holland approved the Motion. Rau abstained. The Motion passed with four in favor and one abstention.

4. Reports.

Correspondence.

Roth reported that correspondence regarding the nonroutine CUP application to be reviewed under Item 5 will be found with those documents.

Town Council Meeting – Fitzburgh.

Fitzburgh reported that the Town Council has asked the PLUC to continue research regarding the use and legality of using a business license for regulating property rentals in Castle Valley, both short-term and long-term rentals. She observed that research done now could benefit the Town in addressing any future changes in the law that may occur at the State level.

Fitzburgh also reported that the Town is planning to have surveys done on cul de sacs within the Town in order to help establish the boundaries of turnarounds and easements.

County Resource Management Plan (CRMP) Report – Rau.

Rau said there was nothing new to report except that he thinks the CRMP Report has been sent to the State.

Permit Agent – Cooper.

Permit Activity.

Cooper's monthly building permit report listed one residential building permit and one certificate of occupancy review. Cooper also reported on his findings regarding proper recycling of solar equipment. He said he found no regulations except for a core charge on recycling batteries. He noted that California is reviewing environmentally responsible recycling but no law has been passed at this point. According to Cooper, one source told him that most companies that sell new batteries will take back the old ones, but there is no requirement that they do so. Fitzburgh asked about recycling solar panels and Holland asked about taking them to the land fill. Cooper said there was no established recycling procedure for solar panels and said that the land fill would not accept them.

Procedural Matters.

Roth informed PLUC Members that updated copies of the most recent versions of Ordinances 85-3 (2017) and 2006-3 (2015) were now in their binders and that larger binders will be assembled for each of them in the next month or two. She also reported that drafts of the new routine and nonroutine solar permit applications were included. Fitzburgh said they would review the application forms later in the Meeting with the associated review of Ordinance 95-6.

NEW BUSINESS

5. Discussion and possible action re: recommendation to the Town Council for approval of nonroutine Conditional Use Permit (CUP) on Lot 387 for Castle Rock Property Management.

Rau asked Jason Matz to describe his plans for Castle Rock Property Management. Matz replied that it is a business that offers various services, such as landscaping, handyman, light construction, equipment work, and welding to people in Castle Valley and Grand County. He described how the business grew out of the process of cleaning up his own property over the past six years which led to people calling him for assistance on their own properties. Matz said the majority of his work is done off-site. He estimated that less than 30 days was spent last year on work done in his shop. According to Matz, past projects which would be done on premises have included custom furniture, metal handrails, and shop fabricated pieces.

Fitzburgh asked how much personal work of the same nature is done on premises. Matz thought personal projects added only a few percent more days.

Rau asked how well the shop was insulated and protected for fire danger and storage of oil and other flammable materials. He suggested that conditions for the CUP could require use of a sealed container for storage of flammable materials. Matz replied that he currently uses steel shelving and a sealed container for storage. Fitzburgh expanded possible conditions to include a separate room or a sealed cabinet. Matz responded that he currently stores flammable materials in his pole barn which is separate from the workshop. He said he was not sure of the R-value of the building insulation. He also said the type of welding he does has to be done inside.



Fitzburgh referred to a draft document listing a set of proposed conditions that include related quotes from Ordinance 85-3 which detail the requirements for fire risk suppression equipment and a 60-foot radius graveled area for outside work. She explained that the PLUC will vote on whether to make a recommendation to the Town Council (TC) and that they (TC) will make the final decision. Other considerations, she said, are time of work, noise levels, sound control techniques to help contain noise, volume and storage of flammable and hazardous materials. She said that a certificate of inspection will likely be required. She also said that if the business ever moves, all business related flammable and hazardous materials would have to be removed from the property.

Anderson asked about the number of employees, noting that on any business day, only one employee is allowed on the property at a time. Fitzburgh asked Matz if he would ever have more than one employee on the property at a time. Matz said that two landscape employees arrive each morning to pick up equipment and return it at the end of the day. He said he also requires one shop technician when working in the workshop. Fitzburgh said that the intent of the conditions is to manage traffic, noise, and the number of people on the property.

Rau asked about necessary storage capacity. Matz said that he keeps 30 gallons of diesel but not sure about the volume of transmission oil and other materials. He said the diesel fuel was for his backhoe which has a 50-gallon tank.

Holland inquired about the square footage used in the business. He said it looked as though the shop was less than 800 S.F. Matz said he thought the pole barn was also about 800 S.F. He thought about two-thirds of the space was used for the business and the rest as garage. He said he also has a room of hand tools that are for both personal and business use.

According to Matz, he uses a half-ton truck in the business and none of the equipment exceeds 14 feet in height.

Anderson who lives across the street from Matz said that he has had no concerns about previous business activity. He said he has visited the shop and found it well organized.

Hawkins asked about firearms on the property. Fitzburgh related that a complaint regarding other issues on the property has been filed with the Town, but the PLUC is only considering the CUP application. She said the Town Council will consider other issues.

Hawkins asked about hours of operation of the business. Fitzburgh noted that hours are restricted to 8:00 A.M. to 7:00 P.M. She said that any complaints about hours of operation would have to be reviewed after a permit was issued. Matz replied that work hours are generally 9:00 A.M. to 5:00 P.M., although sometimes 8:00 A.M. to 2:00 P.M. He noted that he is willing to work within conditions imposed.

Rau expressed concern about assurance that the workshop is as safe as can be in regards to fire protection. Matz said he would invite an inspection. He noted that the property surrounding the workshop is cement or gravel and the rest is heavily irrigated from the irrigation ditch. Fitzburgh observed this would not prevent a building fire from spreading. Erley noted that businesses “cross a different line” of responsibility for fire safety concerns.

Campbell referred to his experience with a neighbor who had a woodworking shop which was noisy. He said it is different when someone with a plumbing business needs to store equipment and when work is done like a woodworking shop. He noted that the majority of Matz’s work is spread throughout the valley.

Anderson agreed that Matz’s work and equipment, such as using a small front-loader to backfill a trench, is very beneficial to the community. Fitzburgh added that a lot of Matz’s work helps to mitigate fire danger throughout the valley, which she supports and wants to be available to residents. The intent is to consider the impact on neighbors and on fire hazards.

Rau asked Matz if he would be open to an inspection by the Building Permit Agent (BPA) within the next few weeks to assess the shop and fire suppression preparedness. Matz said he would be happy to comply and expressed confidence it would be found sufficient.

Rau asked BPA Russ Cooper to arrange an inspection on the property before the next TC Meeting if the PLUC makes a recommendation to approve the CUP to the TC. Cooper said he would do so and suggested including someone from the fire department to accompany him.

Campbell commented that sometimes a zoning ordinance may need to be “tweaked” to allow a service that is considered valuable to the community.

Fitzburgh said that it looks like the square footage used by the business is within the 1200 S.F. allowance.

Rau asked Matz if he had questions or concerns about other conditions proposed. Matz asked for a better definition of “noise disturbing activity.” He said an actual decibel level would be less vague. Fitzburgh said that standards (general operating conditions) were established by ordinance but additional conditions can be added by the PLUC. She said the conditions must be reasonable, so they cannot say that no noise is allowed. She noted that this may be a process. She said if he were willing to comply with the conditions and meet those, then he would be okay. Matz replied that he was concerned that some of the standards seemed ambiguous and did not protect him.

Fitzburgh responded that if someone were not meeting their conditions, a complaint could be filed or could be considered during the yearly renewal process. She said the PLUC does not ask for neighbors’ permission; instead,



the PLUC establishes conditions that would mitigate various impacts that would come with a business and makes their recommendation for approval based on standards set in the Town's land use ordinance.

Rau stated that community members have to be aware that we cannot have total silence, complete darkness, etc.

Campbell said common sense was important. He noted the difference between starting a diesel backhoe at 7:00 A.M. and letting it idle rather than starting it and moving it to the worksite. Hatch observed that conditions help to confront lack of common sense.

There was discussion about how the complaint resolution process works to be fair and guard against the effect of vindictive neighbors, the role of direct contact with complainant, and the need to prove there has been a violation. Erley explained the complaint resolution process was designed to have three members, with balanced heads who are aware of the rules, listen to arguments from both sides; it is designed to be fair to everyone and to guard against vindictive neighbors.

PLUC Members drafted the following amendment to the conditions for the CUP: "Applicant must store any flammable or hazardous materials in an appropriately labeled sealed containers that are approved for storage of such materials by the National Registration of Testing Laboratories that are UL listed provided that the total amount of materials never exceeds 30 gallons of fuel, an additional 10 gallons of other types of hazardous material, one 40-liter bottle acetylene, one 40-liter bottle oxygen, one 20-liter bottle CO₂ and other flammable materials must be stored in a sealed container."

Hatch interjected that if all flammable materials were required to be in approved sealed containers, it would not be necessary to list each and every item. He also referred to the discrepancies between regulations for business use and what is done for personal use.

Matz asked about Town policy on bulk storage of fuel. Fitzburgh replied that the PLUC needs to revisit what Ordinance 85-3 says about personal use of hazardous materials.

Campbell suggested that allowing a second standby tank for bottled gas would be important and wouldn't be an additional fire hazard.

PLUC Members generally agreed but thought it important to limit the amount of fuel storage to 30 gallons and to show that fire protection equipment was present. Matz agreed but asked for the flexibility to change the volume of storage if needed.

Erley said he was not comfortable with an unlimited volume. Matz asked if the Town Roads Department had established standards that would provide a guideline. Erley replied that he did not think the Roads Department provided a comparable comparison to a premises occupation.

Rau suggested that Matz review the volume of storage necessary and present it to the TC when they review his CUP request.

After the discussion above regarding properly approved containers, Fitzburgh said she was comfortable with restricting only the amount of fuel by volume.

Hawkins said she liked the idea of listing the different amounts of materials that would be stored.

Holland asked for verification that storage containers are safe.

Anderson said he felt the regulations were getting cumbersome and restrictive. He noted that Matz needs these materials—acetylene, oxygen, etc.—to operate his business. He noted that these materials can be stored safely. He added that these same materials are allowed in school art classes.

Holland said it appears that gasoline storage is the primary concern here. Other PLUC members agreed.

Duncan asked Matz if his workshop had a sprinkler system. Matz said it did not.

Fitzburgh moved to recommend approval of the nonroutine Conditional Use Permit with the conditions set forth in this Draft 2 with a change in Item D stating that total amount of flammable material never exceeds 30 gallons of fuel at any given time. Anderson seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau stated that the recommendation goes to the Town Council which meets in two weeks. He thanked everyone for their comments.

6. Discussion re: consideration of requiring a business license for short-term rentals of one month or less.

Fitzburgh restated that the Town Council had requested the PLUC to reconsider the use of business licenses for short-term and long term rentals. Rau agreed to investigate further and list all municipalities in Utah that require business licenses for rental property. Fitzburgh suggested including minimum rental periods established by Utah municipalities in his research. Rau noted that some municipalities impose a fee in addition to the business license.

Finney inquired about the possibility of the State mandating no prohibition of rentals. He noted that many areas use zoning codes to regulate types of rentals.

Rau replied that the research is intended to provide an understanding of what other municipalities are doing regarding rentals in order to decide whether the Town wants to move forward in drafting changes to its existing

ordinances. He said that, if the legislature decides there can be no limitation on short-term rentals, the Town should be prepared for that.

Fitzburgh added that the Town does not currently allow short-term rentals (25 days or less). She said if the Town has to allow short-term rentals in the future, the research would help to find ways to mitigate their impact.

PLUC Members agreed to drop this Item and re-list it with revised language for the next PLUC Meeting.

UNFINISHED BUSINESS

7. Discussion and possible action re: amendments to Ordinance 95 - 6 regarding solar energy systems.

Fitzburgh moved to untable Item 7. Anderson seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

PLUC Members agreed to change the items labeled “a” and “b” on page two to “l” and “m” to avoid confusion with the “a” and “b” items on page one. They agreed to retain the “At a minimum...” insertion between the listed items on page two because they refer to different things. PLUC Members also agreed to retain the word “attain” because it seems to adequately reflect the meaning here and to retain the language used regarding the description of “building permit” on page one.

Fitzburgh moved to recommend approval of Draft 8.4.17 with the amendments to Ordinance 95-6 Amended with the correction on page two to change the second set of “a” and “b” items to “l” and “m.” Holland seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

PLUC Members reviewed, edited, and made changes to the drafts for the routine and nonroutine solar permit application forms. Roth will make the changes and prepare the final forms.

Fitzburgh said she thought it was important to recommend disposal methods for solar equipment. Cooper said that manufacturers may or may not take used materials back. There is, he said, no government law to require them to do so. Fitzburgh suggested providing a recommendation for how to safely dispose of solar panels and batteries. Cooper suggested that it could be handled through a property inspection. He will draft a notice with suggested disposal methods.

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

PLUC Members reviewed a summary of suggestions provided by Rau. He defined a special event as “Any gathering which requires payment for entrance or involvement, thus making it a commercial enterprise” and suggested mitigations of impacts might include a portable toilet for every 50 participants, parking on one side of the road to allow for passage of emergency vehicles, and prohibition of any event involving motor vehicle racing. He proffered that this information could be provided on the Town website rather than incorporated into an ordinance and suggested that the Roads Committee and the Fire Commission may want to consider some guidelines or regulations regarding parking on Town roads during special events.

Holland reported that Moab City only requires permits for commercial events or use of public property.

Roth described the permit process for use of the Town Building and grounds. She said that fees are only charged for commercial events.

After discussion, Rau agreed to make some notes to forward to the Town Clerk regarding use of a Quick Link on the Town website regarding things to consider when planning a large event.

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

10. Closed Meeting.

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

ADJOURNMENT

PLUC Members re-entered the Regular Meeting of the Planning and Land Use Commission.

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

Rau adjourned the Meeting at 8:36 P.M.



APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

APPROVED