

MINUTES
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION
TOWN OF CASTLE VALLEY

Date: Wednesday, May 8, 2019
Time: 6:30 PM
Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson, Pamela Gibson, Marie Hawkins, Bill Rau, Colleen Thompson

Absent: None

Others Present: Diane Ackerman, Donnarae Aiello, Jazmine Duncan, Michael Falasco, George Holling, Sherry Karp, Norman Llewellyn, Tom Wood

Clerk/Recorder: Faylene Roth

CALL TO ORDER REGULAR MEETING

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) of the Town of Castle Valley to Order on Wednesday, May 8, 2019, at 6:30 P.M.

1. Open Public Comment.

None.

2. Approval of Minutes.

Regular Meeting of April 3, 2019.

Thompson moved to approve the Minutes of April 3, 2019, as presented. Anderson seconded the Motion. Anderson, Gibson, Hawkins, and Thompson approved the Motion. Rau abstained. The Motion passed with four in favor and one abstention.

3. Reports.

Correspondence. – None.

Town Council Meeting – Thompson.

Thompson reported that two Town Council (TC) Member terms are expiring this year and an election will be held. One of the terms is for a member who serves as Treasurer. Mayor Duncan said she was not sure whether another TC member could assume that function if no one runs for that specific position. Thompson added that the TC approved the Certificate of Land Use Compliance for repair of a noncomplying barn structure on Lot 387. She also said that Ed Weeks was appointed as the Town's representative to the Emergency Services Special Service District Board. In addition, she said, the TC discussed the proposed Bureau of Land Management Fire Mitigation Project above Round Mountain and reported that PLUC Member Anderson attended a field trip to the project area last week. The TC also approved the Water Study Proposal.

Permit Agent – Building Permit Agent - Thompson

- **Permit Activity.**

Thompson submitted a report showing that there were seven building permits issued in April plus two Temporary Dwelling Permit renewals.

Updates on Recent Applications.

According to Thompson, several other permits are in progress.

Procedural Matters.

- **General Plan Survey Update – Roth**

Roth reported that the General Plan surveys have been finalized and are ready to deliver to Canyonlands Copy Center on Thursday [May 9]. She said they will be in the mail by Monday, May 13, and the requested return date was set for June 13, 2019. Roth added that the Open Public Meetings Training is scheduled for Thursday, May 23. She said that PLUC Members normally attend the afternoon session from 12 noon to 3:00 P.M. According to Roth, Members are expected to attend the training at least once per term. She said she will attend. Anderson, Gibson, and Thompson expressed their intention to attend.

- **Report on American Planning Association (APA) Workshop – Gibson/Thompson**

Gibson reported that she and Thompson focused on sessions discussing code review, conditional use permits (CUPs), water law, accessory dwelling units, legislative updates, and meeting management. She said that Utah State Law regarding CUPs codifies case law decisions by Utah Courts since 1995 which declares that if a conditional use is permitted and conditions can be imposed to mitigate negative effects, then the use cannot be denied. She said it is important that conditions not be discretionary; the ordinance should state clearly

what conditions should be required. According to Gibson, APA Presenters emphasized that CUP decisions are administrative, not legislative. They strongly suggested that Town Councils (TC) be removed from the decision process. APA Presenters also informed them that public *hearings* are not required for CUP decisions. Public *meetings*, however, are required. The public, she said, can provide input to the land use authority (LUA) but do not get a vote on whether the permit is approved or not approved. Thompson added that the reason for removing the TC as the LUA for CUPs is because TC Members are elected officials, and as such may tend to be subject to public pressure. Both Thompson and Gibson favored changing the ordinance to make the PLUC the LUA for CUPs. Thompson emphasized that input from the public should contain facts, not emotion (i.e. "clamor").

Thompson said that Castle Valley conditional uses—routine, nonroutine, permanent, and nonpermanent—do not easily align with conditional uses in most other municipalities which usually pertain to shopping malls, real estate, etc. She also noted that CUPs in most other communities run with the land rather than the land owner as in Castle Valley. She added that our routine business licensed could fairly easily be revised so as not to be a CUP. The ordinance can list the types of businesses permitted and provide clear standards and conditions for each. Prohibited businesses should also be listed in the ordinance. She said the public could petition the Town to change the ordinance in order to allow a non-listed business. Thompson said that she and Gibson were advised to work with the Utah State Ombudsman office to clarify the specific issues within Castle Valley.

NEW BUSINESS - None.

UNFINISHED BUSINESS

4. Discussion and possible action re: amendments to Ordinance 85-3 Sections 4.9, 4.9.1, 4.9.2, and 4.10.1 (tabled).

Anderson moved to untable Item 4. Gibson seconded the Motion. The Motion did not pass.

Rau repeated his request to untable Item 4 so that action could be taken.

Gibson moved to untable Item 4. Anderson seconded the Motion. Anderson, Gibson, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

Rau suggested that they drop this discussion from the Agenda and pursue it with future amendments to the ordinance after the General Plan Survey results are reviewed. It was not retabled.

5. Discussion and possible action re: recommendation to Town Council regarding nonpermanent conditional use permit applications for livestock exceeding the permitted animal units for Lots 54, 55, and 429 (tabled).

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

PLUC Members reviewed a revised draft of conditions as follows:

1. To mitigate odors, Applicant agrees to regularly remove manure from pens and corrals and immediately spread upon Applicant's fields and pastures. Due to weather or other exigent conditions, Applicant may need to collect said manure in temporary staging piles. A temporary staging manure pile shall be as far from the road easement as feasible. At no time shall any temporary staging manure pile exceed three (3) feet in height and all manure must be spread upon Applicant's fields and pastures, removed to a composting pile or removed from the property within four (4) weeks of its creation.

After discussion with Applicant, PLUC Members increased the maximum height of the temporary staging manure pile to not exceed five (5) feet. (Wood objected to #1 allowing up to four weeks for removal of the temporary staging manure piles but no change was made.)

2. Applicant has stated that it does not plan to have any composting manure piles. However, Applicant agrees that to the extent it later decides to have a composting manure pile, Applicant will locate the composting manure pile 200 feet from any road easement and at least 50 feet from the property line of any adjacent neighboring property and at a location on Applicant's property where any potential run-off into Town roads, natural drainages, and/or neighboring properties can be mitigated. For any

composting manure pile, Applicant must create a berm surrounding such pile on three sides and be at least 12" in height. At no time shall a composting manure pile exceed six (6) feet in height. PLUC Members and Applicant agreed that the composting manure pile would be placed at least 200 feet from the Lazaris Lane road easement, and at least 50 feet from the Castle Valley Drive road easement and any property line with neighboring lots but excluding the boundary between Lots 54 and 55. In addition the three-sided berm surrounding the composting manure pile will surround the downhill side of the pile.

3. To mitigate odors resulting from livestock, Applicant agrees to consult with neighboring property owners and to plant trees and/or shrubs along the Lazaris Lane side of Lot 54 and Lot 55. Because the existing non-conforming corral on Lot 54 butts up to the Lazaris Lane road easement, there is insufficient space to plant trees or shrubs along that portion of Lot 54. Applicant agrees to work with the owner of Lot 53 to plant trees and shrubs to mitigate odors and the visibility of the corral. Applicant also agrees to plant trees and/or shrubs along the north side of the existing orchard.

PLUC Members and Applicant agreed to include planting along the Castle Valley Drive side of Lot 55 after comments received from Ackerman.

4. To mitigate the negative impacts of flies, mosquitoes and other vectors from spreading neighboring properties, Applicant shall treat manure and other sources with an organic pest treatment. Applicant agrees to continue to use bio-control predators for insect control, or such other effective organic treatment, every three to four weeks during warm weather, by spreading the treatment over the ground in the pens and over the fields and pastures when the manure is spread.

PLUC Members and Applicant agreed to restrict insect and vector control to what results from the keeping of livestock, which means removing the mosquitoes reference. Spreading of bio-control measures was restricted to application over the ground in the pens, removing the requirement to spread bio-control over the fields and pastures.

5. To mitigate potential run-off from the property onto public streets and/or drainages, Applicant agrees to place berms of sufficient height in areas where run-off is most likely (e.g., Lazaris Lane side) of lots 54 and 55 and at low-lying areas of lot 429 that are contiguous with public roadways or neighboring properties. Applicant shall obtain a drainage review for each lot from the Roads Manager and to develop a plan with the objective of mitigating potential run-off from snow and water accumulation from any of the properties to public streets.

PLUC Members and Applicant agreed to identify run-off as run-off of animal waste and to remove the requirement that the Applicant prevent run-off from snow and rain accumulation. (Wood objected to #5 lacking specificity and removing the requirement for a berm along the pasture on Lot 55. PLUC Members felt the drainage review plan to mitigate run-off would be sufficient.)

6. Applicant agrees that at no time will there be more than eighteen (18) animal units in total on Lots 54, 55 and 429. Applicant also agrees that no more than six (6) animal units will be confined in the non-complying corral on Lot 54 at any one time.

PLUC Members and Applicant agreed to state that no more than nine (9) animal units would ever be present on any one lot at a time after comments from Wood.

7. Applicant agrees that shade shelters will be available for livestock on each pasture that is created. Applicant objected that this condition is unnecessary, as any responsible livestock owner would provide shade. No changes made.

8. Applicant agrees that Lot 429 will be restricted to a total of six (6) animal units. Applicant agrees to provide a livestock management plan that sets forth how Applicant plans to house, contain and provide forage for the animal units on Lot 429. Under no condition will any animal units be contained within the existing fence that is non-complying. Applicant agrees to comply with all setbacks for fences, corrals or livestock pens as set forth in the Ordinances. Applicant's plan must be submitted to the Town before any additional animal units are permitted.

PLUC Members and Applicant agreed to delete the requirement that the management plan be submitted before any additional animal units are permitted since the lot is restricted to the permitted six units.

9. Applicant may transport some cattle from Lots 54 and 55 to graze for a few days on Lot 429.

PLUC Members and Applicant agreed to delete this condition. A condition was added in its place to require any additional pen or corral on Lot 55 to be located on higher ground on the southeastern half of the lot to avoid run-off from animal waste, after comments from Wood.

10. No extra animal units will be permitted on any lot until viable pastures are established on the subject lot.

PLUC Members and Applicant agreed to alter the wording to state that pastures “are established and maintained on the subject lots.” (Wood questioned how the requirements for excess animals applied to Lots 54 and 55 as separate lots. Holling replied that Lots 54 and 55 are managed as contiguous lots.)

11. Applicant acknowledges that it has represented to the Town that the breeds of animals it is raising are Dexter Cattle and American Guinea Hogs, which are smaller breeds of cattle and swine, respectively. The approval of a conditional use permit is based on these representations and will be revoked if Applicant subsequently replaces its Dexter Cattle and American Guinea Hogs with larger breeds of cattle and swine.

Applicant objected that they may want to add a Jersey milk cow later (they had one that died last year; Jerseys are larger than Dexters). No changes made.

Gibson moved to recommend that the Town Council approve the nonpermanent conditional use permits for Lots 54, 55, and 429 with conditions as amended this evening. Anderson seconded the Motion. Anderson, Gibson, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

6. Discussion and possible action re: proposed amendments to Ordinance 2003-3 (tabled).

Anderson moved to untable Item 6. Thompson seconded the Motion. Anderson, Gibson, Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

PLUC Members agreed to drop this discussion from the Agenda and pursue it after the General Plan Survey results are reviewed. The item was not retabled.

7. **Closed Meeting** – None.

ADJOURNMENT

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

Rau adjourned the Meeting at 8:45 P.M.

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date