

MINUTES
PUBLIC HEARING ON PROPOSED AMENDMENTS TO ORDINANCE 2006-3: AN
ORDINANCE ESTABLISHING THE PLANNING AND LAND USE COMMISSION
AND DESIGNATING LAND USE AND APPEAL AUTHORITIES
and
REGULAR MEETING OF THE PLANNING & LAND USE COMMISSION

Date: Wednesday, May 5, 2010

Time: 7:00 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Lou Taggart, Marie Hawkins, Mary Beth Fitzburgh, Laura Cameron

Absent: Eddie Morandi

Others Present: Jim Lindheim, Joan Sangree, Chris Wolf, Lesley Craig, Larry Craig

PUBLIC HEARING

1. Call to Order: 7:02 P.M.

2. PUBLIC HEARING ON PROPOSED AMENDMENTS TO ORDINANCE 2006-3:
AN ORDINANCE ESTABLISHING THE PLANNING AND LAND USE
COMMISSION AND DESIGNATING LAND USE AND APPEAL AUTHORITIES

Jim Lindheim: (1) Jim would like to keep the requirement that one person on the Board of Adjustments has expertise in land-use law because of the role of the BOA as a quasi-judicial entity when acting as the appeal authority to decisions made by the PLUC and/or the Town Council. One reason is to reduce the pressure on BOA members who “are across the table” from neighbors when making decisions. A second reason is to aid the BOA in meeting the requirement that decisions be legal and narrow in scope. Jim stated that his opinion is not a reflection on the current candidate, but a reflection of his feeling that it is important that one person trained in the law would better protect the Town because the next step in the process is to go to court. He feels that there are lawyers who would be available for this position. (2) Jim feels that electronic meetings can work and that quality is not necessarily an issue. (3) He did not think closed deliberations on a local issue was a good idea. He said that according to the Open Meetings Act, a closed meeting can be called, but did not think it should be “carte blanche” that the meetings would be closed meetings.

Mary Beth asked for additional comments, but none were made.

3. Adjournment: 7:08 P.M.

REGULAR MEETING OF THE PLANNING & LAND USE COMMISSION

CALL TO ORDER

1. Open Public Comment: 7:10 P.M.

Mary Beth asked for comments at this point so that there would be more time for deliberation during the Meeting.

Joan Sangree: Joan thought that building additions should be treated separately because that

might better meet the Town's intent.

APPROVAL OF MINUTES

2. Regular Meeting of April 7, 2010.

Two corrections made by Mary Beth in Draft 2 of the Minutes were confirmed. Faylene reported that she had checked the original draft of the April 7, 2010, Minutes to confirm the corrections. Lou motioned to approve the Minutes as corrected. Laura seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

REPORTS

3. Town Council Meeting – Chair.

Mary Beth reported that the enforcement sections of Ordinance 85-3 was discussed at the last Town Council Meeting. She said that the PLUC had used language similar to what Grand County uses in its land-use ordinance. The Town Council suggested some additions be included in the Castle Valley Ordinance.

Eddie's and Marie's terms expire June 30, 2010. Mary Beth requested they both submit letters to the Town Council to renew their terms.

4. Building Permit Agent.

Two septic applications and three building permits were approved. One Certificate of Occupancy was signed. A Decommissioning Contract will be required for this property if a house is later built.

NEW BUSINESS

None.

OLD BUSINESS

5. Discussion and possible action re: Certificate of Land Use Compliance and Agricultural Building Exemption Form.

Mary Beth presented the revisions to the Certificate of Land Use Compliance and Agricultural Building Exemption Form. Wording was added to include agricultural buildings in calculation of total square footage on a lot and to describe the conditions when change in use would require a building permit. Faylene suggested including a line to record setback measurements. Some minor typographical errors were corrected. Lou motioned to approve the Certificate of Land Use Compliance and Agricultural Building Exemption Form as amended. Laura seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

6. Discussion and possible action re: Amending Ordinance 2006-3: an Ordinance Establishing the Planning and Land Use Commission and Designating Land Use and Appeal Authorities.

Mary Beth responded to the public comment from Jim Lindheim during the Public Hearing regarding his preference for a single person with expertise in land-use law to fill the role as appeal authority. She felt that the current amendments proposed to Ordinance 2006-3 fulfilled the request from the Town Council to change the current Ordinance from “must have” to “will try to find someone.” The intent of the Ordinance continues to be to find someone with land-use expertise. The phrase “strive to ensure” was added in Section 4 for this purpose. If a person with land-use expertise is found, an alternate position has been included in Section 4.1 to accommodate an extra person on the BOA. The alternate fills in when a Board member is absent. In the meantime, PLUC members felt it was important to have a full Board. Another option presented by Mary Beth would be to have the BOA hear variances and have a land-use expert review appeals. Even with this arrangement, the BOA should have a member with legal expertise and objectivity. She suggested that this option could be considered at a later time.

Laura asked who is responsible for finding someone with land-use expertise. According to Mary Beth, it is the responsibility of the Town Council, although anyone can recruit. There are no residency requirements for the position. Marie thought contracting with a lawyer to fill this position would be a good idea. However, the BOA does have access to the Town lawyer. There was a discussion of how a closed meeting of the BOA would be used to consult with the Town attorney. Mary Beth reviewed the wording on page 7 of the amended Ordinance (based on Green River's Ordinance) which described how the deliberations in a closed meeting are to be recorded. The grounds for each decision must be stated and the vote of each member must be recorded. Details of discussion do not need to be recorded. According to Mary Beth, the BOA can consult an attorney after their meeting or can request to have an attorney present at the meeting.

In further discussion, Laura asked if the PLUC could make a recommendation to the Town Council that the current candidate be given the alternate position. Mary Beth agreed that the land-use expert should be a full member of the BOA who attends every meeting. It was reported that Moab has one Board that hears variances and some appeals and another Board that hears appeals on building permits. This Board is filled by three members of the construction community who have had experience with the various codes.

Mary Beth asked for recommendations from PLUC members on how to present Ordinance 2006-3 to the Town Council. Laura suggested that the current candidate be appointed as an alternate so that the full-time position will be available to someone with legal expertise when found. Lesley Craig said that the language in the Ordinance which states that the Town would “strive” to find someone with legal expertise meant that a record must be kept of how they have “strived”. A discussion followed of what that record might include. The PLUC might ask the Town to report on their efforts to find someone. It was noted that the current announcement of the vacancy on the BOA does not include this requirement.

Marie motioned to accept the Ordinance as amended. Lou seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

7. Discussion and possible action re: Amending Ordinance 85-3 regarding permitted and conditional uses, and Building Area and Height requirements.

Mary Beth reviewed some of the ideas in the revised amendments to Ordinance 85-3 regarding Building Area and Height requirements. (1) Sequencing no longer restricts building height. (2) At any given point, only so many square feet can be at a certain height. (3) The highest point of a building sets the high point for the whole building. She suggested returning at a later date to Eddie's suggestion of figuring height separately for those on a slope.

PLUC members reviewed several examples of buildings and additions to see how they would be affected by the proposed amendments to Ordinance 85-3. Wedding cake (multiple heights) roofs would be treated as one roof measured at the highest point from ground level.

Lesley Craig asked whether her building situation on the slope would be allowed under the proposed Ordinance. She wants to build two buildings with a total square footage for both buildings combined under 5000 S.F., but each building has one point that measures a height of 25 feet because of the slope of her land. Mary Beth said that situation would be allowed under the proposed Ordinance.

In further discussion, Mary Beth wondered whether the height of additions should be counted separately as they are currently. The current proposal could be changed to accommodate everyone or only for those who built before May 2008 when the last Ordinance was approved. Her concern with that was that it created a double standard for buildings built from scratch and buildings constructed sequentially.

Larry Craig asked about the purpose for these guidelines. Mary Beth reported that she had looked back through her notes and previous Minutes from the Town Council Meeting with Land Use Attorney Craig Call. He said that the ordinance should achieve the purpose it is intended to achieve. The Town council chose protection of viewshed as the purpose for the current set of requirements limiting height and square footage. The idea is to meet the intent to protect the pastoral view of the Valley without having the landscape littered with tall, large structures. She said that there is no intent to implement design standards. Marie referred to the lack of restrictions during the early history of the Castle Valley community.

In reviewing changes to the Ordinance, PLUC members thought that the proposed Ordinance: (1) minimized the strong visual impact of tall buildings even when multi-leveled, (2) offered a compromise between those who wanted a 3000 S.F. building limit and those who wanted more options, (3) fixed the sequencing issue, and (4) simplified implementation. Mary Beth reported that she had talked with Eddie who had originally suggested four height categories, but he is okay with the current proposal.

Other changes discussed included: on page 6, a definition was added for "detached building." It was decided to add the term "uncovered" to describe walkways that connect detached buildings. On page 7, changes include the definition of "existing grade" and changes in how building height is measured. The phrase "vertical face" is now used to describe where a building intersects ground level. Also, deck posts are not included in height measurement as long as the area under the deck is not enclosed. The building information sheet will be updated to reflect these changes. On page 15 under Permitted Uses, Item C was changed to add "not including animal products." Such products could still be sold, but a Conditional Use Permit would be required. Section I.5.3 changes the square footage and height restrictions: No more than 5000 S.F. can exceed 19 feet. No building can exceed 25 feet. The highest point of a structure determines the height for that building.

A discussion followed of finding ways to communicate with landowners and real estate agents about these changes in building requirements and other Town zoning requirements. Suggestions were to use the annual Grand County tax assessment mailing or a Town of Castle Valley mailing. Mary Beth would like to incorporate the language used by Boulder, CO, about how limitation of building height increases compatibility of new structures with the landscape and surrounding neighborhood in such a mailing. She suggested that Faylene could hand out the approved example sheet and worksheet to landowners along with the building information sheet if the current proposal is approved by the Town Council.

Chris Wolf asked for further clarification on the building examples provided.

PLUC members approved the worksheet. Laura motioned to amend Ordinance 85-3 as reviewed. Lou seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

Mary Beth thanked everyone for their time and effort on this issue.

8. Discussion and possible action re: reviewing and amending Ordinance 96-1: Watershed Protection Ordinance (tabled).

Left tabled.

9. Discussion re: reviewing and amending town ordinances that limit the number of livestock which can be kept on five acres of land (tabled).

Lou motioned to untable Item 9. Marie seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

Mary Beth reviewed Laura's research and preparation of a Proposal for Livestock Density Ordinance. She stated that the intent is not to create a separate Ordinance but to incorporate amendments to the current Ordinances into the Land Use Code. Laura will continue to research this issue by contacting the sources referred to in her Proposal.

Mary Beth proposed forming a subcommittee to work on this issue and holding a workshop in a couple of months in order to include public input from the people within Castle Valley who would be affected by the limits. She reported on a conversation with Bruce Keeler during the past month in which they discussed using the concept of sustainable agriculture as a basis for setting limits on the number of livestock which can be kept on five acres of land in Castle Valley. It was noted that this approach overlaps the PLUC's interest in maintaining a sustainable watershed. Bruce has expressed interest in working with the PLUC on this issue and Laura suggested including Jeff Whitney in the process.

According to Mary Beth, the General Plan shows support from 69 percent of the population in Castle Valley to limit the number of livestock on lots. She said it will be important for the PLUC to decide on a purpose for setting these limits. If someone wants more livestock, they would need to apply for a Conditional Use Permit and agree to appropriate mitigations. It was noted that, since the Town of Castle Valley has mixed

residential/agricultural zoning, some uses (e.g., a hog farm) would not be suitable for Castle Valley.

Marie motioned to retable Item 9. Lou seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

10. Discussion and possible action re: reorganization and revision of Zoning Ordinance 85-3 (tabled).

Lou motioned to untable Item 10. Laura seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

Mary Beth asked PLUC members to review the newest changes to Ordinance 85-3 before the next meeting. Items related to the Board of Adjustments were dealt with in tonight's Public Hearing and review of Ordinance 2006-3 so do not need consideration at this time.

Lou motioned to retable Item 10. Marie seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

Marie motioned to adjourn. Laura seconded the Motion. Lou, Marie, Mary Beth, and Laura approved the Motion. The Motion passed unanimously.

ADJOURNMENT 8:59 P.M.

APPROVED:

ATTESTED:

Mary Beth Fitzburgh, Chairperson Date
Planning and Land Use Commission

Denise Lucas, Town Clerk Date