

MINUTES
PLANNING & ZONING COMMISSION MEETING
TOWN OF CASTLE VALLEY
Tuesday, January 31, 2006, Castle Valley Community Center

Commissioners present: Pam Hackley, Valli Smouse, Michael Peck

Absent: Vickie Kress

Others present: Damian Bollermann, Karen Nelson, Jack Campbell, Marie Hawkins,
Alison Kennedy, and Greg Sayers

Minutes recorded by: Jennifer Mengel

1. Call to order: Meeting called to order by Pam Hackley at 7:01 PM.
2. Approval of Minutes: Minutes of the January 11, 2006 P & Z Meeting were not approved pending completion.
3. Communication from the Public: The audience did not have any non-agenda issues to discuss.

Pam Hackley recommended a motion to amend the agenda to address “New Business, item 12”. Valli Smouse so moved and Michael Peck seconded the motion. The motion passed unanimously.

12. Conditional Use Permit Application of Alison Kennedy, Canyon Springs Consulting, Lot 387.

Pam stated that while she would support recommending Alison’s permit application, the Commission was unable to act upon her request because it had not received confirmation that the adjacent property owner notification process had been completed and any comments duly noted.

Alison described her business as a primarily computer-oriented activity within her home with client interaction occurring at off-site locations.

Jack suggested that the application be approved pending the receipt of any public comments.

Michael stated that the conditional permits are in the process of being standardized.

Valli noted that Alison’s request is a perfect example of a low-impact business. **Valli moved that the Commission approve Alison Kennedy’s conditional use application for Lot 387 with the stipulation that if any letters from adjacent property owners are received which voice concerns, the permit must be reviewed. Michael seconded the motion.**

Pam stated that she had the following conditions to add to Alison’s application: Days of operation: Sunday – Saturday, year-round; no employees; no signs; no UPS/FedEx deliveries; everything not expressly permitted is prohibited.

Discussion followed regarding Pam’s imposed conditions. Michael felt that the requirement of expressly permitted was not workable. Valli stated that the inference was that “expressly permitted” referred to Town zoning restrictions. Jack stated that the conditional use permit was intended to control the growth of a business beyond what was originally approved and was necessary to defend the Town’s position in the event of legal proceedings. Damian suggested that UPS deliveries are allowed in the same way that vehicles per day are permitted. Current conditional use permits allow up to 10 vehicles per day. Alison stated that she would like to have the right to occasional UPS/FedEx deliveries. Pam suggested one client and/or UPS delivery per day. Damian and Michael agreed that one per day or no more than five per week would be an acceptable alternative.

Pam restated her position as follows: Seven conditions to be imposed upon Alison’s conditional use application; Days of operation: Sunday – Saturday, year-round; no more than five client visits per week;

occasional UPS/FedEx deliveries; no storage of hazardous materials; no employees; no signs; everything not expressly permitted is prohibited.

Valli moved to accept Alison's application, with the inclusion of the seven conditions described by Pam and with the stipulation that no letters opposing this application are received postmarked January 31, 2006 or before. Michael seconded the motion and it passed unanimously.

The application will be forwarded to the Town Council for consideration at their next scheduled meeting. The Clerk will inform Alison of the status for the Council meeting.

Conditional Use Permit Application of Damian Bollermann, Sweetwater Well Service, Lot 181. Damian submitted his conditional use permit application on January 20, 2006. The notification letters to adjacent property owners have not yet been sent.

Damian described his business as selling pumps and fixing peoples' wells. He provides water treatment including simple filters, ultraviolet sterilizers and reverse osmosis systems. He makes peoples' water work for them. He believes that he can operate his business within the conditional use process. Damian is requesting four vehicle trips per day. He has one service truck which he uses to perform well work at client's property. He would like one UPS/FedEx delivery per day, would have no employees and no signs. He has a shed which he uses to store equipment such as spare pumps and rolls of wire. Because of the shed, he is applying for a premise occupation. He stores fuel for his service truck on his premises.

Valli stated that information concerning Damian's application will be gathered in anticipation of the next meeting of the Commission. **The Clerk will be instructed to have the adjacent property owner responses due a few days before the next P & Z meeting. Valli moved to table Damian's application to the next Commission meeting. Michael seconded the motion and it passed unanimously.**

Damian questioned whether a sign on the Town Notice Board constitutes a "sign" within the context of a conditional use permit.

Marie Hawkins was introduced as the potential fifth member of the P & Z Commission.

Pam Hackley recommended a motion to amend the agenda to address "New Business, item 13". Valli Smouse so moved and Michael Peck seconded the motion. The motion passed unanimously.

Karen Nelson has brought this matter before the Commission in order to clarify the process necessary to gain a variance from the Town's property setback ordinance.

Karen described the history of her lot and structure. At the time of the structure's construction the setback requirements were 30 feet from the easement edge of a street. In March, 1991, the Town changed the zoned setback requirement to 50 feet from all road easements. Karen believes that because the lot is pie-shaped and pinched on two sides by current setback requirements, she is severely restricted and entitled to a zoning variance. Additional history and a description of the construction which Karen wants to undertake are attached to these minutes.

Discussion continued regarding the information gathering efforts which had been conducted thus far. The Clerk had sent a letter to the Town Attorney requesting general guidance in variances issues. The initial response seemed to suggest that the proper path to pursue was a change in the Zoning Ordinance affecting all properties constructed under the 30 foot setback requirement. "Bob Lippman, Council representative, relayed that the Town's attorney Mr. Kinghorn said in a telephone conversation that, based on the information he, Mr. Kinghorn had, that the Board of Adjustment may not be able to grant such a variance and that, it could require a zoning ordinance change (email report of the conversation is attached to these minutes)". [As per Bob Lippman on Feb 4, 2005, this information has since been clarified, and the Clerk/Council will forward the variance request to the Board of Adjustment]."

Pam contacted the League of Cities and Towns Attorney, Mr. Church. "Mr. Church clarified the status of the issue as a CONFORMING use of NON-COMPLYING structure." "Utah State Code was amended in 2005 to distinguish between non-conforming use and non-complying structure -- UCA 10-9a-103 and 10-9a-511". "Our zoning ordinance does not address non-complying structures other than to define non-conforming building". "Utah State Code, however, does address non-complying structures as items able to be reviewed as a variance request by the Board of Adjustment -- UCA 10-9a-702, 703".

Pam has contacted the Town Mayor. He indicated that he will speak with the Town Attorney about the variance request. Karen stated that she did not feel it should take four months to learn the status of her request. She wants the Town of Castle Valley to act on her request.

Valli believes that the Board of Adjustment is the agency to hear the variance request. She suggested that the Commission recommend that the Town Council contact the Town Attorney about non-complying structures for conforming use on odd-shaped lots. Currently there is confusion about how to proceed with Karen's request. Valli feels that the Planning & Zoning Commission should not be involved until the Board of Adjustment is declared as not the proper agency to address the issue.

Pam suggested that a working meeting be established with Bob, Damian, Karen and Pam to review the issue and ensure that a resolution is achieved. The goal of the session would be to establish what agency can address the variance request.

Valli moved that Pam, Bob, Damian and Karen meet to put together data for her variance request so that the proposal can be sent to the Town Attorney. Michael seconded the motion and it passed unanimously.

Michael moved to return to the original order of the Agenda, beginning with REPORTS - item 4. Valli seconded the motion and it passed unanimously.

4. Building Permit Update – No Building Permit Agent present.

5. Town Council Information and Requests – None.

6. Administrative Procedures – Pam prepared a summary draft of a P & Z Annual Plan dated January 23, 2006. The draft is attached to these minutes. Pam reviewed the requirement of activities such as; training of new P & Z members, the distribution of material such as the Ordinances and Resolutions, Planning documents and resources, accessibility of Utah Municipal Code – Land Use, review of the Town General Plan every five years, orientation of new Building Permit Agent (including payment for attending Commission meetings), the passage of an ordaining ordinance by the Town Council establishing the Planning & Zoning Commission and the creation of appropriate by-laws. Additional activities include working with the Clerk to determine her crucial P & Z related tasks and relieve her of unnecessary duties such as preparing the Agenda. In addition the Commission needs to decide what type of minutes they wish to maintain. Other activities before the Commission include finalizing ordinances which have been waiting, address the implications of Senate Bill 60 (aka LUDMA), act upon pending conditional use requests and standardize conditional use expectations.

Pam stated that the Commission needs to set workshop time to concentrate on administrative tasks. The workshop date will be established by email.

OLD BUSINESS

7. Changes to Land Use Code in Senate Bill 60 – tabled.

8. Amendments to 2003-3. - **Michael moved to take item 8 off of the table for discussion. Valli seconded the motion and it passed unanimously.** A public hearing was held on January 11, 2006, concerning proposed changes to Ordinance 2003-3. The public comments are included in the draft of the

minutes from that meeting. Michael stated that he feels the ordinance is ready to be forwarded to the Town Council for their consideration. He feels that the requested adjustments within the ordinance have been completed. Valli said that she was aware of the efforts to produce a fencing ordinance; however, she believes fencing restrictions fit better as a conditional use within the structure of current zoning requirements. The current ordinance requires that everyone who wants an exclusionary fence must also have an agricultural use permit. She believes that the agricultural permitting process will allow the opportunity to address fencing issues. She does not want 2003-3 upheld as an ordinance.

Karen suggested that moving fencing restrictions into the Zoning Ordinance would encourage people to be more familiar with the requirements of the Town's Land Use restrictions. Pam agreed that putting all of the land use issues under a common umbrella would help to clarify the various issues.

There was general consensus that if the General Plan was slated to be reviewed anyway, perhaps delaying a recommendation to the Town Council would be more sensible. Jack had previously submitted suggestions to the P & Z Commission for a rewording of the original ordinance. Pam requested that Jack resubmit his suggestions. Karen spoke of her efforts to simplify the ordinance wording while still maintaining the "back-up" documents necessary to support the ordinance. Jack spoke about administrative ways of accomplishing simplified text. Pam reminded the Commission that they must respond to the Council's request for an amendment to the Fencing ordinance, 2003-3 as well as the proposed Fuel Storage Ordinance.

Michael believes that putting all of the requirements in the zoning restrictions will help people to follow the guidelines.

Pam suggested that the subject be tabled, but be put on a workshop agenda. Valli so moved, Michael seconded the motion and it passed unanimously.

9. Michael moves to take the draft of the Aquifer Protection Ordinance off of the table for discussion. Valli seconded the motion and it passed unanimously. Michael suggested that this draft be discussed at the workshop along with the fencing ordinance. **Michael moved to table the Aquifer Protection Ordinance, but include it in the workshop proposed for the Fencing Ordinance. Valli seconded the motion and it passed unanimously.**

10. Annual review of Conditional Use permits – No report by Clerk.

11. Planning Commission Enabling Bylaws – remains tabled.

Pam informed the Commission that the Utah League of Cities and Towns had forwarded information, with a request for comments, regarding proposed revisions to the Utah open public meetings law. Pam requested Commission members to respond by email with any comments.

ADJOURNMENT:

Michael moved to adjourn the meeting at 8:46 PM. Valli seconded the motion and it passed unanimously.

Minutes taken by J. Mengel