



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
January 11, 2024 at 6:00 PM

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

Planning Commission Chair Trent Schafer called the meeting to order at 6:00 pm.

PRESENT:

Chairman Trent Schafer
Vice-Chairman Lloyd Wilson
Commissioner Cody Nielson
Commissioner William John Johnston
Commissioner Shea Walker
Commissioner Melissa Rigg
Commissioner Ann Austin
County Administrator Mack McDonald
Planning & Zoning Administrator Kristen Bushnell
County Chief Deputy Attorney Mitch Maughan
Deputy Attorney Jens Neilson
Board of County Commissioner Silvia Stubbs

Pledge of Allegiance

The Planning Commission conducted the Pledge of Allegiance.

Approval of Minutes

2. Minutes for Meeting on December 14, 2023

Need to update spelling errors on “STILA” to read “SITLA” throughout the document.

Need to include Commissioner Walker & Commissioner Johnston on previous minute approval.

Need to change Commissioner Austin to voting in favor of Crooked Bindi Glamping Resort Conditional Use.

Motion made by Commissioner Schafer for approval of the Meeting Minutes from December 14, 2023 with the changes suggested above. Seconded by Commissioner Walker.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson, Commissioner Johnston, Commissioner Walker, Commissioner Rigg, and Commissioner Austin

Motion Carries.

PUBLIC COMMENT

Public Comment was offered for anything not on the agenda. Public Comment will be allowed for individual Administrative and Legislative Items.

No public comments were provided.

ADMINISTRATIVE ITEMS

3. Update Regarding Planning Commission Renewals or Vacancies, Kristen Bushnell, Planning & Zoning Administrator

Time stamp 0:21:40 (audio) - out of order

We have posted requests for interest to join the Planning Commission for the Blanding and La Sal positions without any submittals. We asked for Commissioner Nielson and Commissioner Johnston to renew their commitment for another four years if interested. They both agreed to renew their commitments for another term.

4. Update of Request for Proposals for Finishing and Implementing New Ordinances, Kristen Bushnell, Planning & Zoning Administrator

Time stamp 0:12:50 (audio) - out of order

Commissioner Wilson said that he could be on the review committee (as well as Commissioner Rigg if we can meet on a Monday).

Administrator McDonald also clarified that if we don't get highly qualified proposals, we can also go to the state list of vendors, which would include architects, engineers, etc. as an alternative route to fulfill this need.

5. Discussion Regarding the Upcoming 2024 Year of Planning Commission Goals and Topics, Kristen Bushnell, Planning & Zoning Administrator

Time stamp 0:26:30 (audio)

Commissioner Schafer wants to finish the ordinances, as we are constantly working on these. Not having a finished version of our ordinances has caused a lot of trouble for our commission. This would also include an overlay map of zones and alternatives for recommendation forward. There was some discussion on whether or not Spanish Valley should continue to have a separate ordinance as we move forward. Administrator Bushnell suggested that instead of having a separate ordinance that we address this through our districting, and the allowances within those districts, to promote the growth we want to see.

Commissioner Wilson would like to have more involvement with the road department with all development because we need to have roads up to our standard specifications in the event that the county takes the roads over in the future for maintenance. Attorney Maughan noted that this is already in place in our subdivision ordinance but that we need to ensure the proper steps are being taken. Administrator McDonald also clarified that the county cannot take on roads that are of private interest. If a road through a development is providing public access to a grander artillery or collective system, then it would be appropriate for the county to accept these roads. A future travel management plan will help us to know where we need county roads. The developments going in need to ensure maintenance agreements as specified in the current subdivision ordinance.

Commissioner Austin would like to review the Planning Commission by-laws at the next meeting to include more inclusive language for wider representation from community candidates. She also asked about updating our website of who is on the Planning Commission, their terms, and create an email (or process) for the public to send comments.

Commissioner Nielson would like to have another training with Southeast Utah Associates of Cities and Counties. It was very valuable in the past and there are new people that could benefit from having that education.

LEGISLATIVE ITEMS

There are no Legislative Items at this time.

PUBLIC HEARING

- 6. San Juan County Planning Commission will be considering changes to the San Juan County Zoning Ordinance to Clarify that Short-Term Rental Uses are Prohibited in the Spanish Valley Residential (SVR) District and make a recommendation to the San Juan County Board of Commissioners.**

Time stamp 1:05:30 (audio)

San Juan Chief Deputy Attorney Mitchell Maughan clarified that Overnight Rentals are not allowed in the Spanish Valley Residential district (SVR). This is to clarify the comments from the Utah Ombudsman office and our attorneys who have all done a comprehensive review of

the ordinance in Spanish Valley. The way the ordinance is written now was thought to allow for short term rentals and legally it came down to the definition of “Lodging House”. The definition of a short-term rental as per this new ordinance is essentially “an owner leasing a property (or portion of a property) to another individual for less than 30 days”. The following language is also included “no short term rental is allowed in the SVR District, a Spanish Valley Overnight Accommodations Overlay shall not be applied to the SVR district, regardless of the number of occupants. No hotel, apartment motel, tourist court, apartment court, commercial condominium for short term rental, bed & breakfasts, boarding house, lodging house, resort, commercial campground, or any other variation of overnight accommodation intended for nightly rental is permitted in the SVR District.”

Commissioner Wilson asked about clarifications on the state law for an “owner occupied bed & breakfast”. Maughan said he would look into this specific situation further but that off-hand he was not aware of any state law regarding this particularly. Administrator Bushnell agreed that in the new zoning maps and ordinance there should be made a difference between an owner on site at all times bed and breakfast versus an un-staffed property being leased as a nightly rental.

Commissioner Nielson clarified that this new ordinance had the 30 day limitation, so a long term rental is allowed.

There was some discussion when updating the table within the ordinance about what counts as an “accessory building”. Administrator Bushnell clarified that an “Accessory Dwelling Unit” is not clearly permitted, therefore prohibited, in the SVR district and does not count as an “Accessory Building”. Commissioner Rigg suggested that we add an additional column to the table to include “Accessory Dwelling Unit” to show permitted, conditional, or prohibited uses. This will have to be clarified very specifically in our future ordinance.

According to The Utah State Code, an internal accessory dwelling unit is defined as being created within a primary dwelling unit within the footprint of the building at the time the accessory dwelling is created for the purpose of having an occupant as a long-term rental for over a consecutive 30 days or longer. This is a bit different from a detached Accessory Dwelling Unit, but runs consistent within the parameters of use.

The Planning Commission recommendation needs to have the revision that an Accessory Dwelling Unit is 1,200 sq.ft. or less (or no more than 50% of the original structure, whichever is smaller) and that, unless specifically permitted, an Accessory Dwelling Unit may not be used as a short-term rental, as per the match of our upcoming future ordinance.

Commissioner Rigg asked for clarification of what happens for projects that are in between in the process during this ordinance being legally adopted. Attorney Maughan stated that the application was vested in the ordinance at the time the application was submitted and accepted from the county. Commissioner Rigg went on to clarify that any existing short-term rentals, provided they are serving 4 people or less, would be grandfathered under a non-conforming use. Commissioner Wilson also explained that this “non-conforming use” transfers with the property but if there is a change of use or change in footprint, that non-conforming status becomes void after one year of abandoned use. Commissioner Nielson asked about how we would know of a change in use, if this would be through the business license applications. Attorney Maughan offered that monitoring this would be one of the main roles of an enforcement officer.

Administrator Bushnell explained that in going forward we would reference our current Conditional Use Permit with the clause that “EXPIRATION OF CONDITIONAL USE PERMIT: Unless otherwise specified in the motion granting a conditional use permit, if the approved use has not started within twelve (12) months from the approval date, the permit shall become null and void by operation of law. Once any portion of the conditional use begins, the conditions related thereto become immediately operative and must be strictly obeyed. [Use shall be construed to mean pouring of concrete or commencement of framing on construction, or operation of the use or uses for which the permit was granted.] For good cause and with a showing of substantial performance to meet the required conditions granting the permit, an applicant may apply to the Planning Commission for an extension. Such a request shall be made before twelve (12) months has passed since the approval date. A request for an extension shall follow the same public hearing procedure for the original permit.”

Commissioner Austin clarified that the start date of this new ordinance is the date of County Commission approval. She asked about going from the previous dates from other attorney statements. Attorney Maughan explained that we could not enforce this retroactively. Administrator McDonald explained that there have been several different legal opinions, with conflicting interpretations, and this ordinance is here now to clarify all those opinions into one ordinance going forward. There are processes in place to mitigate clarifications prior to going to court.

Commissioner Austin asked to clarify that those Subdivision Plats previously approved with the understanding that they wanted to do overnight rentals are not covered here. Administrator McDonald clarified that these Subdivisions/Owners are not vested in the ideas that they had, we can only vest the applications that have been previously approved.

Public comment was offered by Holly & Kolby Smith that she was really glad they had clarified that overnight rentals are not allowed. She was concerned about people taking advantage of operating under the radar, not obtaining proper business licenses, etc. Kolby additionally commented that the Accessory Buildings and uses, he said he read this as Accessory Buildings being permitted but that uses were conditional.

Public comment was offered online by Monet Clark concerned about the development going on around her and the overnight accommodations they are suspected of providing. She asked of our plans for enforcing this ordinance and finding these short-term rentals. She also recommended that as we proceed with our new ordinance that we clarify where we are getting our information.

Public comment was offered by Attorney Jens Neilson to clarify that non-conforming use has to be applied to a property that has been used. You must be able to prove that you have been using the property as such in order to have this grandfathering to qualify. It is not enough to have the idea of what you want to do. You would have to have a building application, or other commencement of building, already submitted to be grandfathered for that use. He further wanted to clarify that the Spanish Valley Residential district was always intended to be residential, it was written to have no commercial use. Nightly rentals in the minds of those who wrote it was a commercial use. But the courts have said that because nightly rentals involve eating, sleeping, showering, etc are of the same characteristics as residential uses even though it is a commercial purpose. They have essentially overwritten what counties and cities have put in their ordinances. They have said that unless it specifically prohibits overnight rentals, that it essentially does not prohibit. That's the catch that San Juan County has been

caught in. He still believes that this ordinance change being proposed is great because it clarifies things 100%. When you look at the Spanish Valley Ordinance on a whole we do say where overnight rentals are included and excluded. But we didn't say it in a way that that Utah Ombudsman office wanted to interpret it. While he doesn't necessarily agree with their decision, this update will remove all doubt.

Public comment was offered by Elise Erler from STILA who wanted to commend the Planning Commission for reviewing this so that the County Commission can move forward with it.

Commissioner Schafer motioned to close the Public Comment. Seconded by Commissioner Rigg.

Voting yea: All in favor

Motion carries.

Administrator McDonald clarified that the County Commission this year has approved a salary for hiring an enforcement officer. There are laws in place that constrain our resources for finding overnight rentals, so we are relying on community members to report those suspected properties that are out of compliance. Safety for those occupants staying in these overnight rentals is a concern. Commissioner Austin suggested that it would be useful to have a website that community members could look up if neighboring properties are licensed and approved or not. Commissioner Nielson was concerned at the enormous list of grievances that may be coming our way. Commissioner Wilson suggested that other counties had a checklist with their business licenses to ensure public safety for things like "overnight rentals" to help owners be more compliant.

Commissioner Wilson made a motion to recommend the ordinance for approval by the County Board of Commissioners with the modification of adding Accessory Dwelling Units to represent the same language as our future ordinance specifically as a permissible use and to clarify the difference of an Accessory Building as permissible but Accessory Use as conditional. Seconded by Commissioner Rigg.

Voting yea: All in favor.

Motion carries.

BUILDING PERMIT(S) REVIEW

7. Building Permits Review November 9, 2023 - January 8, 2024

Time stamp 2:21:40 (audio)

Commissioner Rigg requested that we put the town into the address in the future.

Commissioner Wilson is concerned about the new construction happening at La Sal Junction. He said there's a new metal building without any type of foundation. Commissioner Johnston also commented that there was no foundation, no frost depth or frost protection. Administrator

Bushnell assured him that this property in particular was on our radar and we were waiting for enforcement to be able to begin moving forward with compliance in a legal manner.

Commissioner Wilson also was concerned for the (96) new power supplies being put in at St. Danes in Spanish Valley. Administrator Bushnell said she would follow up to investigate the building permits for this.

Commissioner Austin asked to have us follow up on the new manufactured home on Wildflower Circle suspected of not having all the utilities necessary and may also be short-term renting it. Commissioner Wilson said he had done work at this site and had verified with the county that they were permitted.

Commissioner Schafer said he received an email from Margerie Haun that said there are junk piles coming into Old La Sal. Administrator Bushnell affirmed that this issue was already on our radar and they were already taking action to move forward with compliance.

ADJOURNMENT

Time stamp 2:27:30 (audio)

Motion to adjourn was made by Commissioner Schafer. Seconded by Commissioner Wilson.

Voting Yea: All in favor.