



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
February 8, 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 (arrived approx. 6:30pm)
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

1. Minutes for Meeting on January 11, 2024

Need to revisit recording to update motions being made away from Chairman Schafer.

Motion made by Commissioner Rigg to approve the meeting minutes with corrections.
Seconded by Commissioner Johnston.

Voting Yea: All in favor.

Motion carries.

Commissioner Austin asked to address Item #6 of the Agenda as the packet of information was substantial, over 750 pages, and she felt that while the discussion was appropriate for tonight's meeting that we should postpone the vote to give more time for due diligence and consideration.

Chairman Schafer clarified the procedure to move forward with Administrator McDonald. There was no deadline for the courts, however, this process has been on-going for several years and time is of the essence.

Commissioner Austin made a motion to change Agenda Item #6 from an action item to a discussion item only. No seconded.

Motion fails.

PUBLIC COMMENT

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

Public comment provided by Ms. Huckabee in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Sloan in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Smith in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Shapiro in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Whitensy in opposition to the Love's Travel Stop proposal.

Public comment provided by Ms. Smires in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Wysey in opposition to the Love's Travel Stop proposal.

Public comment provided by Mr. Vandyke in favor of the Love's Travel Stop proposal.

Public comment online provided by Ms. Daley in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. McNeill in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Steward in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Angel in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. Turk in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Larry in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. Clark in opposition to the Love's Travel Stop proposal.

Public comment online provided by Ms. Margalese in opposition to the Love's Travel Stop proposal.

Public comment online provided by Mr. Allred in opposition to the Love's Travel Stop proposal.

The meeting was recorded electronically and audibly. A transcript of the meeting, including a verbatim discussion of the Love's Travel Stop issue was transcribed by CHERYL J. HAMMER, RPR; UTAH CCR 126919357-7801 of Veritext Legal Solutions (801)746-5080; A COPY OF THIS TRANSCRIPT IS INCLUDED HEREWITH AND BY REFERENCE MADE APART OF THESE MINUTES.

ADMINISTRATIVE ITEMS

2. Review of 2022 Planning Commission By Laws.

Time stamp 0:13:00 (audio)

Administrator Bushnell, in an effort to move the meeting quicker this evening, will include this as an informational item to commissioners now and will continue the discussion at the March Planning Commission.

LEGISLATIVE ITEMS

3. Consideration and Approval of a Conditional Use Permit Allowing for a RV Park/Wedding Venue for Lot 10 Spring Draw Subdivision Phase 2, Old La Sal, Kyle Lankford

Time stamp 1:06:00 (audio)

Administrator Bushnell explained this application is an extension of a Conditional Use Permit previously approved in November 2023 as the landowner was able to acquire adjacent parcels towards their endeavor. Owner Lankford further clarified that the changes were to move the main building further North onto the newer property and create several camp sites.

Commissioner Rigg questioned the amount of tent sites for a public water system. Lankford explained that the tent sites would use the original restrooms provided.

Motion made by Commissioner Walker to approve the Conditional Use of this permit including:

- Must coordinate with the Division of Drinking Water to avoid a public water system or the creation of a Public Water System and pass that off through the County Administrator
- Must comply with any state or federal fire restrictions
- Must comply with all building permit requirements
- Must comply with San Juan County Health Department requirements and Utah State water system requirements. Including having an engineer design the appropriate septic systems for the uses.
- Must comply with San Juan County business license requirements.

Seconded by Commissioner Wilson.

Voting Yea: All in favor.

Motion carries.

4. Consideration and Approval of a Conditional Use Permit for 4110 South Highway 191, APC Towers LLC, Romano & Associates

Time stamp 1:14:00 (audio)

Administrator Bushnell gave an overview of project near Shirt Tail. Commissioner Schafer spoke in favor of the tower due to the continuous cell service between Blanding and White Mesa.

Commissioner Nielson disagreed with the location due to the proximity to the Blanding airport and having air traffic, despite the approval letter included from the FAA.

Administrator Bushnell discussed the uncertainty of this tower being able to reach the voids in service at the bottom of White Mesa Hill, Recapture Reservoir and the canyons along Highway 95. Commissioner Nielson reinforced the concern for the voids in service in this corridor and suggested that there were other possible locations for this tower that would provide similar coverage and be away from the airport.

Representative Curry spoke about the engineering behind getting the best coverage area and that they did have height restrictions with the FAA.

Commissioner Nielson asked about the availability to users on the tower. Curry stated that the towers are open to 4-5 carriers, offered openly to leasing space.

Commissioner Austin asked about the process for variances on telecommunication towers. Administrator McDonald explained that the variance request goes through Lyn Creswell, Administrative Law Judge.

Motion made by Commissioner Wilson to approve the Conditional Use of this permit including:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.

- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.
- The tower shall be operated in compliance with federal regulations.
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed at owner's expense.
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.
- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35'.

Seconded by Commissioner Johnston.

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

Abstain: Commissioner Rigg

Motion carries.

5. Consideration and Approval of a Conditional Use Permit for Utah State Route 95, Vertical Bridge Development LLC, Romano & Associates

Time stamp 1:29:00 (audio)

Administrator Bushnell gave an overview of the project between Natural Bridges and the turn off to Hall's Crossing. This telecommunication tower is an off-grid system including solar panel arrays and battery storage.

Commissioner Rigg stated that she believes this should go to a public hearing due to this site location being in the middle of Bears Ears National Monument. While recognizing that there is not cell coverage in the area, she believes this is an inappropriate site.

Commissioner Rigg motioned for this Conditional Use to go to Public Hearing.

Seconded by Commissioner Austin.

Voting Yea: Commissioner Rigg and Commissioner Austin

Voting Nah: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson, Commissioner Walker

Motion fails.

Representative Curry explained that this was the height required to get the bare minimum of coverage in that area. The geographical features do not favor other locations.

Commissioner Rigg stressed that this kind of development needed to have tribal, BLM, National Parks, and other land management agencies input before moving forward. She questioned if it was appropriate to jump at the first proposal, in this area, instead of having all options available.

Commissioner Nielson stressed the importance of safety along this corridor. There are more and more people in this area and that requires more and more emergency services and availability to obtain help. Commissioner Johnston agreed strongly that due to the recreational activities of this area, emergency access needs to be available.

Commissioner Austin suggested more but shorter towers. She also stressed the carelessness of visitors if they know that they can get emergency help.

Commissioner Austin made a motion to deny the Conditional Use Permit.

Seconded by Commissioner Rigg.

Voting Yea: Commissioner Rigg and Commissioner Austin

Voting Nah: Commissioner Nielson, Commissioner Johnston, Chairman Schafer, Commissioner Wilson and Commissioner Walker

Motion fails.

Commissioner Walker suggested that this tower is reactive to the Bears Ears National Monument that has brought in many more people and he supports getting this in as we are already behind the curve of services.

Motion made by Commissioner Nielson to approve the Conditional Use of this permit including:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.

- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.
- The tower shall be operated in compliance with federal regulations.
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed at owner's expense.
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.
- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35'.

Seconded by Commissioner Walker.

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

Voting Nah: Commissioner Rigg and Commissioner Austin

Motion carries.

6. Consideration and Approval of the Love's Travel Stop, Proposed Along HWY 191, within Spanish Valley on 13.06 acres as a Mixed-Use and Permitted Under the Controlled District Highway Commercial (CDh) Zoning. Mack McDonald, Chief Administrative Officer.

Time stamp 1:47:30 (audio)

Administrator McDonald addressed the history of the Application for Love's Travel Stop & Country Stores for a truck stop, café, fast food establishment and related use in Spanish Valley. Love's commenced the application process in May of 2019. (Love's submitted its application using Grand County forms and sent its payment to Grand County. At the time, Grand County provided plan review and building inspection services in the Spanish Valley area under an inter-local agreement.

A group identified as "The Northern San Juan County Coalition" has opposed this project, attacking San Juan County's ordinances; the application of these ordinances by staff and commissioners, together with other issues. Issue related to this matter have gone to the district court, the Utah Court of Appeals and back to the district court.

Most recently, the Planning Commission has been ordered by the Seventh Judicial District Court in and for San Juan County, State of Utah, to determine whether Love's proposed travel stop on property it owns on the east side of U.S. Highway 191 and south of Sunny Acres Lane

in the Spanish Valley area of San Juan County is a permitted use and whether it requires a variance or a conditional use permit. In 2019, the San Juan County Planning and Zoning Director at the time, Walter Bird, approved the project as a permitted use.

The Love's property is currently zoned Highway Commercial (HC) under the Spanish Valley Development Ordinance (SVDO). But before that, the property was zoned Controlled District Highway Commercial (CDh) under the San Juan County Zoning Ordinance (2011) (SJZO). Although Bird approved Love's plan as a permitted use, he did not explain why it was a permitted use. The district court determined that the travel stop was a mixed use, not entirely any single one of the permitted uses listed for the CDh zone in the ordinance. Citing SJZO section 12-2's provision in the list of permitted uses in the CDh zone that it included "[o]ther uses approved by the Planning Commission as being in harmony with the intent of the neighborhood commercial zone and similar in nature to the above listed uses," the court held that "the Planning Commission (not this court) must first determine from substantial evidence whether this project is 'an automobile service station,' a 'restaurant,' or both. And if so, whether two or more permitted uses can be combined and still be in harmony with the Highway Commercial zone."

The court directed the Planning Commission to decide that issue "and determine whether the use also requires a variance or conditional use permit." Administrator McDonald reminded the commissioners of their roles and the importance of creating sufficient findings regardless of how the vote and other matters.

After some discussion, the planning commissioners first discussed which ordinance should apply as that would be consequential in their findings.

Commissioner Rigg made the motion that the Love's application was complete and that the 2011 Ordinance applies due to the fact that the application was submitted and complete prior to the 2019 moratorium and Spanish Valley Ordinance adoption. Findings also include that the application fee was paid, sketch plan was reviewed, that the applicant did their due diligence of everything that was asked of them at the time.

Seconded by Commissioner Johnston.

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

Voting Nah: Commissioner Austin.

Motion carries.

Commissioner Rigg motioned that the Love's Truck Stop was not a permitted use. Failed for a second. Discussion continued.

The commissioners then discussed whether a truck stop, café, general store, etc. are permitted uses under the ordinance. Commissioner Nielson stressed that all automobile service stations are mixed-use in nature, that most have other services, such as eateries associated with them. Commissioner Wilson commented that this included uses such as garage storage of

automobiles, and commercial parking lots. Commissioner Walker suggested that the uses are similar in nature.

Commissioner Austin stressed that the definition of a Truck Stop is far beyond an automobile service station and the level of impact that type of development has on the surround area. Commissioner Rigg does not think this was a permitted use.

Commissioner Nielson made the motion that the uses of the Love's Truck Stop are permitted due to the similarity of the permitted uses listed for the Highway Commercial District and is in harmony with the intent of the zone as per the 2011 Ordinance. Those uses listed include a restaurant, drive-in café, automobile service station, commercial parking lot, and the purpose and use is permitted because it is in harmony.

Seconded by Commissioner Wilson.

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

Voting Nah: Commissioner Rigg and Commissioner Austin

Motion carries.

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BUILDING PERMIT(S) REVIEW

6. February Building Permits

Time stamp 3:15:00 (audio)

ADJOURNMENT

Time stamp 3:16:30 (audio)

Motion to adjourn was made by Commissioner Walker. Seconded by Commissioner Rigg.

Voting Yea: All in favor.