



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
September 11, 2025 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 TC Garcia
Commissioner Shea Walker
Commissioner Melissa Rigg
County Administrator Mack McDonald
County Attorney Mitch Maughan
County Building Official Corey Coleman

Pledge of Allegiance

The Planning Commission conducted the Pledge of Allegiance.

Approval of Minutes

1. Approval of the Minutes for the July 10, 2025 Planning Commission

Time Stamp 0:13:24 (audio)

Commissioner Rigg made the motion to approve the minutes with changes to include adding into the minutes the sequence pertaining to public comments where the Commission Chair gave the Applicant Mr. Van Dyke extra time to speak in public comments and then I think it's important to also put in there that Shannon Brooks got up and made the comments and about how the comment period didn't work where it didn't look fair giving extra time to another but not everyone. Commissioner Schafer indicated that there were names also misspelled.

Motion was seconded by Commissioner Wilson.

Voting Yea: All in favor. 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 received.

ADMINISTRATIVE ITEMS

2. Training on Land-Use Provided by the Office of Property Rights Ombudsman. Rob Terry, Statewide Land-Use Training Director

Time stamp 0:19:26 (audio)

Mr. Terry provided required Planning Commission Training regarding land-use law from the Land Use Development and Management Act (LUDMA), General Plan Process, Land-Use Ordinances Adoptions, Technical Assistance from Southeast Regional Development Agency, History of Zoning, Roles of Planning Commissions, Land-Use Authority, Property Rights, Conditional Uses, Decisions and Substantial Evidence, Public Clamor, Commission Bias, Accessory Dwelling Units, Short-Term Rentals, Vested Rights, Variances, Conditional Use Permits, Annexation

Commissioners had an opportunity to ask questions throughout the training.

Regarding the land uses in an ordinance, Commissioner Nielson asked about a work around in a land-use table if something is not included unintentionally and not included then the County is in favor of it? Mr. Terry gave examples of how these could be provided by understanding that the Court is going to side with the property owner when considering the maximum use of private property. More often the court will side with the property owner for use where issues of interpretation or something not being listed. A use may not be appropriate, but the local level decision would have to have findings of fact as to why the use is not allowed. With a land-use matrix it is impossible to include everything. It is important to have language within the ordinance for the Planning Commission to have discussions about uses that are not in the matrix. As a planner, if you have language prohibiting all uses not listed, at least have a process available so that the Planning Commission can have discussion of whether or not the use should be allowed. Commissioner Nielson would like to have a process to approve new uses rather than prohibiting it. A conditional use process could also help with those uses not listed.

Commissioner Nielson asked about short-term and Assessor Dwelling Units (ADU)? Mr. Terry provided his training regarding ADU's and Short-Term Rentals.

Commissioner Wilson asked if a Short-Term Rental is considered as a commercial building with fire suppression requirements? Building Official Corey indicated that it is a commercial building listing in International Residential Code. Mr. Terry mentioned that it is an ongoing discussion also at the State level due to the conflicts between building code and LUDMO. Building code is much more detailed where LUDMO is supposed to be broad. Residential Unit

is also being debated at the State level, not just Short-Term Rentals. Short-Term Rentals will not be defined anytime soon. Commissioner Nielson mentioned that he sees it as residential, even as a new build, but Counties and Cities want to treat these as commercial. The County wanted to implement a permit process with inspections, and this is the worst direction we could go in. If poorer communities can use these to put money in their pockets, why would we prohibit it at the government level by restricting it. Mr. Terry feels that this will be more of a “may” instead of a “shall”, leaving it up to local levels to dictate what Short-Term rentals should be governed by.

Commissioner Nielson asked if Mr. Terry has ever heard of land-use licensing like Airbnb arbitrage? I own a home and lease it to someone, he goes and lists it with whatever company, am I required to go get a short-term license? Mr. Terry mentioned that it is up to the local authority. The property owner has ultimate responsibility. Commissioner Nielson followed up with a tax assessment question. Mr. Terry mentioned that there isn’t consistency in the state between what is considered primary and secondary. Consistency and transparency are what you want to have throughout the state.

Commissioner Rigg asked if a community can prohibit Short-Term Rentals in zones or set restriction on the number of units, on a zoning map, or set a limit on the number in a zone? Mr. Terry indicated that the local agency can within what State law says. You cannot prohibit someone from posting an ad, even if they are not permitted in an area. If the local agency determined that this is not prohibited, you have to have secondary evidentiary proof that it is taking place. The State will set the guardrails but relies on the local level to be specific. Commissioner Rigg mentioned that if half of Spanish Valley is Short-Term, can we prohibit it in the other half. Mr. Terry indicated that yes, as long as you have it in your ordinances that takes that type of approach. All the pressure is on the local agency to have something that is legally defensible.

In discussion about the General Plan or Land-Use Ordinance, Commissioner Nielson asked if the County Commissioners can also make a negative recommendation and pass it at their level. Mr. Terry stated that any recommendation that comes from the planning commission that goes to that legislative body, they can give as much weight to that as they want to. The law simply states that it has to go to the planning commission for a recommendation before the legislative body can act on it.

Mr. Terry touched on Vested Rights being a completed application and all fees paid, the applicant has vested rights under the ordinance in place once it is entirely completed, they would be vested at that time. Mr. Nielson asked about the loss of Vested Rights. Mr. Terry answered that Utah Code provides the validity of an approved application and is conditioned upon proceeding with reasonable diligence. So my recommendation to local agencies is to have some language in there that allows for staff and administration, as they're going through this, to be able to point to something so that reasonable then isn't left up to the interpretation of just the individual looking at it. Commissioner Nielson asked if a vested right can be transferred to a new property owner of that property? Mr. Terry answered that vested rights can be transferable, but the law does not consider them to be automatically transferable. If property changes hands and the new property owner is either unaware of something or does not have any communication with the local agency, then there has been court cases where they have looked at that before and said that the local agency is within their right to determine that there wasn't

reasonable diligence for you to move forward on something because there wasn't even communication about property changing hands and things of that nature. So best practice, of course, is if someone's buying property and there's any vesting on that property, that they're going to make sure that the local agency understands I still intend to move forward with this item. And that can allow for transference of vesting rights.

County Administrator McDonald provided the Commission with the questions that the Commissioners had for Mr. Terry. County Commissioner Stubbs was not present today because they had a question about County Commissioners attending Planning Commission meetings and it was discussed that a County Commissioner at the meetings can be seen as influencing the Planning Commission decisions. It was also asked about having a County Attorney present at all of the meetings, unless it is a legal remand or a legally pressing issue, that it is up to the Planning Commission to interpret the ordinance adopted by the County Commissioners. The County Commission sets the law and Planning is supposed to interpret that law that is set, in the past, the Planning Commission has turned to the County Attorney for that interpretation of the ordinance to make a decision. The discussion is critical that the Planning Commission discusses and interprets those ordinances so that the debate is shown in the minutes for the record of facts. The County Attorney's then use that in defending an appeal or a court case. That deliberation and interpretation from the Planning Commission is critical. We also discussed the General Plan where inconsistencies can be allowed in the General Plan when compared to the Land-Use Ordinance. It is important that they are consistent, but it is not required. Mr. Terry expressed that Utah is not a consistency state, where other states are. It is best practice to try and make them consistent.

Commissioner Garcia mentioned that he likes having the Attorney here to ask direct questions. County Administrator McDonald responded that it makes sense during the development of the ordinances but when an applicant comes in, the expectation is that the Planning Commissioners are applying that ordinance to the application. With Attorney's present, the Planning Commissioners are turning to them for the interpretation and then an argument starts between a Planning Commissioner and the Attorney. Commissioner Nielson mentioned that he feels like staff should provide the recommendation, but he is not a Planning Commissioner that will rubber stamp things, he would rather have the discussion. Commissioner Rigg likes having them there when it is a process question. Mr. Terry mentioned that if there is a constant question about a process, a definition or a policy, staff should be consulting the Attorney to help answer the question but having an Attorney present at all meetings for smaller local agencies often times creates a lot of onus and challenges.

3. General Plan Update

Time stamp 2:07:35 (audio)

County Administrator McDonald provided an update on the General Plan Status. The County has reached out and asked for assistance from the Southeastern Regional Development Authority and asked for Planning Assistance. They have a regional planner, Todd Thorne who will be helping the County. We also reached out to the State, who has an integrated Water and Land Use in the General Plan Team who will also be helping with the updates to the General Plan.

Part of this update includes a water utilization plan to be developed, this is why we also have a Special Service District member on our Planning Commission. The densities in our General Plan and Ordinances need to consider water availability and future forecasts.

Our General Plan already includes Agricultural Protection Zones, we just need to make a process in our Ordinance.

County Administrator updated the Planning Commission as to why the language was in the General Plan regarding the Spanish Valley plans.

Commissioner Nielson indicated that the San Juan Conservation District is having a meeting with the Division of Drinking Water on the 16th to work on establishing a watershed plan, water quality and the streams.

Commission Chair Schafer asked if we were out of compliance with our General Plan. Administrator McDonald indicated that there are items that the State requires that are missing from our General Plan such as water integration, and affordable housing. Commission Chair Schafer wants to make sure that we do not stop working on the Land-Use Ordinance. Administrator McDonald mentioned that the General Plan changes should be fairly simple, we can use the local citizen group to help get the changes out to the Public. We can also utilize their survey data that was provided to update the survey piece.

LEGISLATIVE ITEMS

4. Consideration and Approval of a Sign Permit for CED, 11910 S Highway 191, Michelle Eccles, Buds Signs

Time stamp 2:31:21 (audio)

County Administrator McDonald presented the staff report and discussed the findings within the Spanish Valley Ordinance regarding sign standards and reviewed the height standards, type and placement of the sign proposed for 11910 S Highway 191. He reviewed Chapter 8 regarding the illumination allowances as well as Chapter 9, distance from Highway 191 being further than 500 feet but it is in the Highway District which allows for wall signs on the buildings. Wall signs are allowed as long as they do not exceed 20% of the face of the building. The building is 100 foot so it meets this requirement. The sign application and placement meets all of the ordinance requirements including coloring of the lettering and the sign.

Motion made by Commissioner Nielson to approve the sign where it meets the ordinance.

Seconded by Commissioner Wilson.

Voting Yea: All in favor. Motion carries.

BUILDING PERMIT(S) REVIEW

5. September Building Permits

Time stamp 2:41:11 (audio)

Building Official Corey Coleman explained and answered questions regarding the September Building Permits in the County. Commissioner Wilson asked questions regarding several of the Spanish Valley Building Permits.

ADJOURNMENT

Time stamp 2:46:56 (audio)

Motion to adjourn was made by Commissioner Walker.

Seconded by Commissioner Rigg.

Voting Yea: All in favor. Motion carries.