



PLANNING COMMISSION MEETING

**117 South Main Street, Monticello, Utah 84535. Commission Chambers
October 26, 2023 at 6:00 PM**

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

Public 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 Melissa Rigg
Commissioner Ann Austin
Commissioner Shay Walker
County Administrator Mack McDonald
County Attorney Jens Nielson
Board of County Commissioner Silvia Stubbs

Pledge of Allegiance

The Public Commission conducted the Pledge of Allegiance

Approval of Minutes

1. Consideration and Approval of September 28, 2023 Planning Commission Meeting Minutes

Commissioner Rigg added a correction to Riggs name being misspelled.

Motion to approve the minutes with the corrections as was made by Commissioner Wilson, Seconded by Commissioner Austin.

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

New Ordinance Process

2. Discussion of Process for New Ordinance and Map Public Engagement Process

Commissioner Wilson stated that it has been four years working on ordinances and the map. Prior to that they were working with Landmark, making changes to the presentation. They spent two years trying to create their own map and ordinances before working with Landmark.

Administrator McDonald explained that this has been the problem today and the ordinances need to be updated. He believes there should be some formal process, a process to be able to better reach out to the public. Public outreach would include smaller communities such as Eastland and some of the other communities that are impacted by the changes in zoning. If there was a Town Hall Meeting where you had several options of a map, then it would be a complete process. Looking at it now, we still don't have this feedback, nor does it have to be the final ordinance once adopted. We could hire a firm that would do the public engagement as part of their contract. We really need to get the ordinances out there, because it resolves some of the issues that we're fronted with. By having a public engagement process associated with it, what new zoning ordinances are going to look like, what does it look like for you, as members of the Planning Commission, are you willing to assist in that or is the anticipation that staff does it on their own? It's necessary to have that public engagement for ordinances and the mapping side of it. He believes in pushing it out to the public to get their feedback.

Commissioner Nielson recommended some sort of public process, I think it would have to have some kind of Advertisement. Even if it was a front page of the newspaper that San Juan County is reaching out to all the communities in the County, because of the news and that this is what we're planning, and the process is in place to clarify and clean up.

Commissioner Wilson indicated that he likes that thought and this way you're involving people within that district, and it doesn't matter if people come from another to give input. Three different nights, three different locations for the meetings. That would help break it up into three different nights to where we're getting public comment. This will help us get public views on their area and from those who do care about their opinions at the local community level.

Administrator McDonald is thinking about a facilitator, who can also bring display boards to show you holistically the changes. Have the facilitators be the face, and then we're there for the answers. Once we've had public hearings and we've solicited on our website, we can take comments. This process is still open currently to the public.

Commissioner Austin mentioned that it would be very helpful to see what's already been commented. We should be able to create a feed of all the comments so others in the public can see those comments or share them with the public.

Administrator McDonald indicated he would investigate an outlet for this kind of public feedback. What you're indicating is typically a news feed and you have everybody's comments on there, minus the inappropriate comments. We can work with the facilitator to put all the comments on a public page.

PUBLIC COMMENT

Time stamp 43:32 (audio)

Public Comment was offered for anything not on the agenda. No Public Comments were received.

PUBLIC HEARING

3. Consideration and Recommendation of the 2.5 Acres of the El Rancho Subdivision Properties Rezone Application to Residential Flex (RF) Zone, Shik Han

Time stamp 44:40 (audio)

Commissioner Wilson made a motion to enter into a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Austin seconds the Motion.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Nielson,

Commissioner Rigg, Commissioner Walker and Commissioner Austin

Administrator McDonald described the staff report and reviewed the process for a rezone as well as the RF Zone and why the applicant is before the Planning Commission requesting the Rezone and their application to be allowed overnight rentals on the 2.5 Acres. Currently that 2.5 acres is Spanish valley residential. District the request from the applicant was to move this to Spanish Valley Residential Flex, just as a reminder, Spanish Valley residential district doesn't allow for the overnight rentals. In the residential flex, it does allow you to then come back, apply for the overlay district for the overnight overlay district, and then have the overnight rentals as part of that.

Mr. Shik asked if there were any questions as far as to why he is applying for a rezone request.

Commissioner Wilson pointed out on the map where the commercial land is.

Commissioner Wilson reviewed the location of the property and indicated that the Commercial District does not have overnight rentals as permitted use but within a Residential Flex allows an Overlay District on that zone which will allow overnight rentals.

Commissioner Rigg asked about the differences between density allowed in the different zones.

Administrator McDonald indicated that the applicant is not asking to increase density from what was already subdivided. He is just changing the availability of permitted uses; overnight rentals are not a permitted use currently.

The Applicant indicated that this was about preserving the value of the properties, there is no increase in density. Right now, their property is on an island surrounded by other uses not congruent with the surrounding zones. The change in zoning will also create a buffer here.

Commissioner Wilson read through the Residential Flex ordinance indicating that no residential use shall be permitted within 100 feet of an adjacent residential boundary, indicated in the development standards. Is this going to create a problem with your development? The Applicant indicated that it would. He also discussed the need to have a broader discussion about this, especially where Business Flex requires a 500 foot buffer. The entire section of Spanish Valley Residential needs to be fixed.

Commissioner Austin indicated that she is interpreting the Residential Flex Planned Community as intended within the Planned Community, the process is either for large tracts of lands or small ones. The minimum for small is 20 acres and minimum for large being 200 acres. My interpretation is that this is for large tracts of undeveloped land, not for existing unless you are removing everything. I think it is for the bigger ones and not the smaller acreage.

Commissioner Wilson indicated that it is all how you interpret the language, if you read the second paragraph, it seems to imply that this is exactly for small acreage as well. The section talks about uses and not the size. It then goes on to the requirements for a large Planned Community acreage. Commissioner Austin thinks that they mistakenly included large in that sentence. If not, everyone with small acreage would then be enticed to change their zoning to Residential Flex, that can't be the intentions of the Planned Community section. We have established that Residential Flex can occur anywhere. Can it be applied to small parcels; the Applicants second application makes sense because it is a large parcel over 20 acres. There

isn't anything applying to small parcels for a Planned Community. I do think the zoning from Spanish Valley Residential should be changed to something that is more beneficial. You can apply an overlay to all these zones to allow for the use.

A discussion then took place regarding each zone and if it applies to only larger 20+ acres and where do the small parcels come into play and the definitions of those zones.

County Attorney Nielson also read through the zoning language between the overall plan, the zoning language gives options in each zone, it includes the small pieces but also an option for the larger properties. The zoning allows for a default. If you are a small property, you can follow specific guidelines and permitted uses and then with larger pieces over 20 acres, you are in the Planned Community section. This gives you options within all of the zones whether it is a small scale or large-scale development.

Commissioner Neilson indicated that he thinks people will apply for rezoning for smaller parcels, but if it is not consistent with the zoning, then those can be denied. For it to be consistent, which is what the applicant is asking for, is valid. Our purpose is to be consistent in how we apply zoning. Here, in this situation, it is absolutely warranted.

Commissioner Austin asked if Highway Commercial would be a better choice, then we do not open the door to everyone to apply? Commissioner Wilson answered that the permitted uses are not a good fit where his property is located, and it does not give all of the other permitted uses listed under Highway Commercial in that area.

County Attorney Nielson indicated that in the permitted uses it says, a range of residential and housing are the primary uses permitted in this district. Other uses, including parks, open space, commercial business and similar uses, shall be permitted within and in proximity to the large gravel pits located in this area. It would be perfectly fine to say that in this ordinance, that's primarily intended for residential housing. If you had a flurry of people coming in with mostly commercial type things, it would be fine for this group to say, hey, we're recommending to the Commission that we've got enough commercial already in the pipeline here, so to everybody who is thinking commercial, this is our view of this ordinance. So, if you're thinking of coming with more commercial, we recommend you don't unless the County Commission says "no, we think it's OK". You have some leeway in there to approve these applications or not and pass recommendation to the County Commission.

Commissioner Wilson reminded everyone that if we turn the applicant down right now, as in we won't recommend it to the Board of Commissioners, there is an appeal process that can then take place.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

(Time Stamp) 1:22:38 Audio

Commissioner Rigg made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Austin seconds the Motion.

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

Motion Carries.

Commissioner Wilson made a motion to Recommend to the County Commissioner the Rezone of the 2.5 acres of El Rancho Subdivision to Residential Flex (RF) Zone.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

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

Abstaining: Commissioner Austin

Motion Carries.

4. Consideration and Recommendation of the 45.5 Acres of the Valley Estates Property Rezone Application to Residential Flex, Shik Han, ESP Spanish Valley, LLC

Time Stamp 1:24:46 (audio)

Commissioner Nielson made a motion to enter into a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Walker seconds the Motion.

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

Administrator McDonald reviewed the application and Staff Report with the Planning Commission describing the property.

Commissioner Wilson reviewed the Planned Community guidelines for acreage over 20 acres of which this property would fall within if rezoned.

The Applicant indicated the intent here is for residential units and giving the option for overnight rentals matching the Overlay District to the north of this property.

Commissioner Austin read through the Planned Community Zone and if this property would then have to go through the Planned Community Zone. Commissioner Wilson pointed out that he would be under the 200 acres and a development agreement. The applicant mentioned he is not changing the density and this project is for residential units. This project is already underway for a portion 8.5 acres of the development.

County Attorney Nielson indicated the developer can bring in additional properties, less than the 200 acres. He can rezone the 45 acres to residential flex but can come in later for the entirety of the property under one process. The fact that you are coming and rezoning the property to Residential Flex just gives you the zoning and what is permitted for uses.

The Applicant indicated that the parcels are already ¼ acres for residential.

Commissioner Nielson asked for clarification, that if we recommend changing the zoning, he will still have to come back and make an application for the Overlay District. This does not vest him for overnight rentals. He would have to come in for the whole 8 acres that are currently underway and would have to be approved for everything under the Overlay District.

Administrator McDonald indicated that the Overlay District would require a Development Agreement and described what we have been working with the developer in discussions in conjunction with the adjacent development to the north such as the roads, landscaping, lighting, and overall process. In the Planned Community uses for a Large Planned Community, nothing in there is permitting Overnight Rentals. In Conditional Uses, it does allow for Overnight Rentals. Under the Overlay District it does permit Overnight Rentals. He would have to go through a separate process for Conditional Uses.

Commissioner Riggs, indicated that the Applicant could come in with lesser acreage under the Planned Community threshold and request uses instead of the entire parcels which would not require them to enter into the Planned Community processes.

Commissioner Wilson pointed out that in the Ordinance it indicates that each Flex under the Planned Community process the language points out that when designing a Planned Community that the language indicates that the Planned Community Zone states that it should be followed “generally” be designed according to the ordinance for each separate Flex Zone. Commissioner Austin pointed out that this is when you go to page 26, which has a one pager for each Flex Zone and then circles back to Planned Community.

County Attorney Nielson indicated that if you want to apply one of the flex ordinance to the area for a small area, this would not be the same requirements in a 20 acre Flex, if you go to the separate Flex Zone, it will have a different process for Residential or Business Flex for larger acres and a Planned Community process then you have to go that route. Commissioner Rigg asked a question about the Residential Flex intentions being close to Highway 191. County Attorney Nielson mentioned that if the Commission makes this as a pattern

throughout then it is fine, the original intent was that it would be along the highway. The Commission has some flexibility in how they interpret the ordinances. Commissioner Rigg indicated that the previous application made sense where it was so close to the highway, this one is different where it does not make sense with the distance from the highway. County Attorney Nielson indicated that the zoning gives you options for flexibility in uses where some are restrictive in uses. Commissioner Wilson mentioned that he could not see how we could not approve this one when they just approved one adjacent to this one.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

Time Stamp 1:43:50 (audio)

Commissioner Nielson made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

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

Motion Carries.

Chairman Shafer entertained any possible motions.

Time Stamp 1:44:27 (audio)

Commissioner Nielson made the motion that we approve making a Recommendation to the Board of Commissioners for 45.5 Acres of the Valley Estates Property Rezone Application be approved for the Residential Flex (RF) Zone and add the comment that just because we approve this tonight. It's not vesting the overnight accommodations today; those decisions and discussion will take place later. He'll have to come back.

Commissioner Austin asked if the Applicant would have to come back as an Overlay District or Planned Community. Commissioner Nielson indicated it is up to the Applicant. Commissioner Austin asked if the County would be able to require the developer of impact fees and a development agreement. Commissioner Nielson advised that we can ask any conditions within reason of the Applicant. For an Overlay District, he would follow Chapter 10 if that is what he wants. If he follows the Planned Community process, it will be the same where the Applicant would have to follow those requirements or conditions within reason.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

Commissioner Rigg asked if the other properties zoned Residential Flex came in for an Overlay District? It was indicated that it was approved for an Overlay District. The Applicant could come back and say that the other properties adjacent were zoned for the Overlay District so we should as well. I was not here for that discussion and approval, and it does seem to me that we are opening the whole area to a bunch of development that needs to be considered, so I am voting No.

Chairman Shafer, seeing no further discussion, called for the vote.

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

Voting Nae: Commissioner Rigg

Motion Carries

5. Consideration and Approval [Recommendation] of the September 2023 Spanish Valley Zoning Map Updating Recent Approved Overlays and Zoning

Time stamp 1:47:20 (audio)

Commissioner Wilson made a motion to enter a Public Hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

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

Administrator McDonald described the Staff Report and after listening to the Planning Commission comments from the previous Planning Commission meeting. The approved Planned Community approvals and in the discussion, obviously we left off the last time we considered this map. Specifically, the SITLA Planned Community was already approved, it was titled Spanish Valley Community, Planning Commission Zone or South Valley Community so that needed to be added.

There was a concern about the Controlled District Highway (CDH), where in the world did this come from in our ordinance? In our previous ordinance those uses existed, they still exist in our overarching zoning ordinance as Controlled District Highway (CDH) and Agricultural-1 (A-1). These exist in our overarching ordinance and cannot be eliminated due to the State Code protecting gravel pits. When we changed the Spanish Valley Ordinance, these should have been included, but were not, but they cannot be excluded per State Code. They cannot be rezoned.

With those properties that you discussed that have had overnight rentals prior to the zoning changes, those uses are not highlighted on the new map as an existing approved use. There is nothing referenced in the ordinance that recognizes these. There is no section that the public

can turn to and find “Existing Approved Use”. The zoning changes when the ordinance was approved in 2019 make these properties a non-conforming use. For example, if you were to look at the old map for existing use on Lloyd's properties and I flip to the ordinances, well, there's nothing defining or referencing Existing Use, the zoning that must be applied is that which was approved during the zone change. So today, under that zoning, one would have to apply for an Overlay District to add more units for overnight rentals to allow for additional units and overnight rentals. Even if you wanted to have single-family homes there, they are not permitted but overnight rentals are.

Commissioner Nielson mentioned that it would be helpful to create a map with everything that has been approved and all these uses, even non-conforming, so that we can have a clear picture about what is there already. When applicants come in, this will help create a better image of what is going on in the area.

Administrator McDonald mentioned that it's not abnormal as zones change in the future, and then we're about to do it again to property owners as those new zones come into play on their properties that there will be non-conforming uses.

Shik Han asked if it would be appropriate at this time to make changes to the Zoning Map so that we can correct some of these problems that exist. Commissioner Wilson indicated that in 2021, we amended the map to create what you see now including corrections.

Commissioner Wilson pointed out some of the Overnight Overlay Districts that were highlighted that he did not think were approved. Administrator McDonald mentioned that these properties that are highlighted were both approved in the Planning Commission and in Commission Meeting. Administrator McDonald will check to make sure that the properties pointed out were for sure approved prior to finalization.

Shik Han asked if it would be appropriate in this situation to make changes to the map and zoning with the surrounding usage, would this be the appropriate time to look at an entire overhaul for the subdivisions that fits more in line with residential flex or highway commercial as you guys are amending this map?

Administrator McDonalds indicated that if the Planning Commission wants to recommend changes to it to incorporate, they could, but it would be better to go through a complete public process notifying owners of the changes for their properties. This process is only to update the map for what has been approved by the Planning and Board of Commissioners.

Commissioner Wilson mentioned that he thinks at this point in time, knowing that the zoning is going to be changing, we should run with this for this moment, but let's get on this in November with getting the community together to get this pinpointed down. And I'm not saying we're going to wipe the slate clean from one end to the other, we are just going to fix some of these areas that need to come into compliance and those areas that do not then we

can leave alone. One of the biggest fights is the 1,000-foot highway commercial. Let's keep your highway flex in there because they don't want big commercials there. They don't want highway commercials, but a highway flex would fit in. We don't want to start at square one again. Let's just critique these changes because I think we could spend 30 minutes on them. From the Spanish Valley map and have it critiqued and fixed and done. And then we can move right up the highway. You know that we're hitting these main areas. There's a lot of places that we're not looking at because there are a lot of unincorporated areas in privately owned areas in San Juan County.

Commissioner Austin indicated the reason you're seeing these clusters of high density is because of these boundaries, that the percentage of privately owned in Spanish valley is very minut when you look at the overall ownership picture. You are seeing this cluster in this area because of the ownership because all of the smaller parcels are taken, and you are seeing a land grab for the larger parcels. I think that's why we're seeing the clusters that we are seeing, because it's the only privately owned area within Spanish Valley South.

Shik Han indicated that without larger properties, it is hard to do affordable housing and recoup costs for infrastructure and costs for construction without being able to large-scale develop allowing for more affordable housing. If not, you need subsidies.

Elise Erler, SITLA, mentioned that everything from a SITLA standpoint that the map looks fine.

Chairman Shafer asked if there are no other Public Comments, then he would entertain a motion to close the public hearing.

Time Stamp 2:22:56 (audio)

Commissioner Rigg made the motion to close the public hearing.

Commissioner Schafer asked for a second to the Motion.

Commissioner Nielson seconds the Motion.

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

Motion Carries.

Chairman Shafer asked for a motion for recommendation with the changes discussed.

Time Stamp 2:24:30 (audio)

Commissioner Nielson made the motion to recommend the Zoning Map with discussed changes to the Board of Commissioners for Approval.

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

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

Motion Carries.

ADMINISTRATIVE ITEMS

6. Consideration and Approval of the Deer Haven Park Subdivision Amendment #7, Tim Buckingham

Time stamp 2:26:27 (audio)

Administrator McDonald discussed the Staff Report and the application for the Deer Haven Park subdivision amendment #7. The applicant is requesting a boundary line change. These come to you in the Subdivision Ordinance, and so this is literally all he's wanting to do is move the boundary of his property. The adjacent property owner approves this change. The adjacent property owner has the well on her property, this change will place it all on one property but incorporate the well on the other.

Time Stamp 2:31:50 (audio)

Commissioner Nielson made the motion to recommend approval of the Deer Haven Park Subdivision Amendment #7

Commissioner Schafer asked for a second to the Motion.

Commissioner Wilson seconds the Motion.

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

Motion Carries.

7. Preliminary Plat Review for Vizcaya Condominiums

Time stamp 2:32:09 (audio)

Administrator McDonald described the Staff Report and the application for Condominium Plats. This was the original approval of the Plat, but now because the condominiums are constructed, we've got to go through that condominium plat.

In our subdivision, it requires a letter from the Special Service District acknowledging that they do have water available and that they've applied and paid the impact fees. It's more of checking all of the boxes for the subdivision and condominium plat requirements in State Code.

Chairman Shafer asked for a motion.

Time Stamp 2:40:10 (audio)

Commissioner Rigg made the motion to Recommend Preliminary Approval of the Vizcaya Condominiums.

Commissioner Schafer asked for a second to the Motion.

Commissioner Walker seconds the Motion.

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

Motion Carries.

BUILDING PERMIT(S) REVIEW

8. September and October Building Permits Report

Time Stamp 2:40:56 (audio)

ADJOURNMENT

Time stamp 2:46:08 (audio)

Motion to adjourn was made by Commissioner Nielson.

Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Austin, Commissioner Nielson, and Commissioner Riggs