MINUTES

Eastern Summit County Planning Commission

REGULAR MEETING
THURSDAY, February 18, 2016
COUNCIL CHAMBERS
SUMMIT COUNTY COURTHOUSE
60 NORTH MAIN
COALVILLE, UTAH

COMMISSIONERS PRESENT:

Chris Ure, Chair
Tonja Hanson, Acting Chair
Doug Clyde
Ken Henrie
Sean Wharton
Jeff Vernon
Louise Willoughby

COUNTY COUNCIL MEMBERS PRESENT:

Roger Armstrong
Kim Carson

STAFF PRESENT:

Patrick Putt–Community Development Director
Helen Strachan–Deputy County Attorney
Ray Milliner – Principal Planner
Katy Staley-*Secretary*
Peter Barnes – Planning & Zoning Administrator

REGULAR SESSION

Chair Ure called the meeting of the Eastern Summit County Planning Commission to order at 6:00 PM.

1. **Public input for items not on the agenda or pending applications.**

   The public input session was opened. There were no comments made and the public input session was closed.

   Chair Ure turned the chair over to Vice-Chair Hanson due to his current mental state.

2. **Public hearing and possible action for sending a recommendation to the County Council for the proposed amendments to the Official Zoning Map of Eastern Summit County, as well as proposed amendments to the Eastern Summit County Development Code Chapters 3: Zoning Districts and Requirements, Chapter 4: Review Processes and Procedures, and appendix A: Definitions. –*Patrick Putt, Community Development Director.***

Director Putt reminded the public of what changes are being proposed to the development code. The highway corridor is being renamed and extended in certain areas. There are new zones being proposed. The important thing to note is that the Commission may put forward a recommendation to the County Council. The public will have an opportunity to give input again when it goes before the County Council.

There was a question from the public (Carsten Mortensen), asking if there had been any changes made to the map in the last six months. There was discussion amongst the Commissioners, with the consensus being that there may have been some minor changes in the Chalk Creek area, but they were minimal.

The public hearing was opened for comment.

Tom Norton, representing the South Summit Trails Foundation, said that they have been working with municipalities toward incorporating more trails in the community. The SSTF is concerned that connected trails were not addressed in the master plan and they have sent a letter requesting that this be included in the discussion.

Neil Dawson of the Huff Creek area of Upton wanted to know if his land could be included in the AG-6 zoning because he wants family to be able to build on his land. There was some discussion and clarification on where his land is located on the map and what the current zoning is. The current zoning is 100.

Mark Robertson, of the Robertson Ranch, requested that his area be changed to AG-1 so that his family can create three building lots for posterity. Commissioner Vernon stated that this area had already been voted on by the Commission, and the vote was 4-3 against having that area designated as AG-1.

Carsten Mortensen thanked the Commission for the good job they have done, and stated that he believes property owners should have the right to decide what should be done with their land.

Stuart Grow asked about the process for applying for a subdivision. Under section 11-4-5 on page 10, subheading 6, it states, ***If the Subdivision includes any land located within one hundred feet (100') of the center line of a canal, the Community Development Department shall: b. Wait at least 10 days after the day on which the authority notifies a canal company or canal operator to approve or reject the Subdivision Application.*** Mr. Grow would like to know if the canal company has the right to deny or approve a subdivision. Deputy Attorney Strachan stated this language comes from State Code and it is a waiting period in which the County cannot take any action, but the canal company does not have a say in approval or rejection.

Tenney Cannon, representing himself and other homeowners in the Northeast Kamas Valley, stated that the homeowners in that area have little faith in the waste

management of the area and feel that the creation of AG-1 for their area will be a threat to the future. He compared the situation to a precursor of the Flint, Michigan crisis. Mr. Cannon and the homeowners he represents disapprove of the AG-1 classification in that area being proposed.

Lonnie Marchant stated that he is in favor of what is being proposed because it focuses on the flexibility and property rights of landowners.

McKenzie Coleman seconded the opinion of Mr. Cannon. She has concerns about the impact of proposed residential subdivisions and the loss of the rural community.

Jan Perkins is opposed to the proposed AG-1 because of potential pollution of well water and asked the Commission who will be responsible if there is contamination due to the AG-1 classification. Commissioner Vernon stated that it would be the responsibility of whoever put in the faulty system and that there are regulations in place to make it safe, so there should be no problem. Ms. Perkins stated that there are no regulations for contractors on the installing of septic systems in our County, to which the Commission members replied that statement is untrue.

Tom Brown commended the Commission for their work. He supports the proposed AG-1 and stated that without the proposed changes there could be more severe restrictions in the future. He hoped that the Commission stands on their recommendation of this proposal.

Dirk Rockhill stated that there is a good system throughout the State and County in regards to septic systems and waste water. Mr. Rockhill wants to be able to build lots for his family to be able to live near him and work his land with him. If he is unable to do this, then he will sell his land. He hopes that the Commission will move forward with this proposal.

Thayne Stanbridge questioned an area on the map that goes from an AG-6 to AG-80 and back to AG-40. It is verified on the map as Rocky Point.

David Kirk, representing Pine Springs, stated that the HOA has undeveloped lots on their property that are designated lots. They are questioning whether they will still be able to develop on these lots if the changes to the Zoning Map and the Development Code go through. Director Putt stated that staff will be happy to meet with Mr. Kirk to give him a more precise answer.

Justin Harding is confident that the water will be safe. He believes that this proposal will help with landowner's rights and be a benefit to the community.

Tom Boyer stated that there is one part that the public doesn't understand about the proposal. Right now it is almost impossible to get a building permit and Mr. Boyer

believes that if this proposal goes through, it will make it easier to be able to attain a building permit. He requested that the Commission send this through tonight.
Terry Fritz requested that the AG-1 and AG-6 designations be reduced in the West Hoytsville area for now until the water issues in that area can be resolved.

The public hearing was closed and brought back to the Commission.

Commissioner Willoughby stated that what she is hearing is that the public likes what the Commission is doing and that the public would like the Commission to move forward.

Commissioner Henrie made the comment that he is worried that the Commission is going to do something wrong where water is concerned. He agrees that septic tanks are safe and very well-regulated. He doesn't believe that septic tanks are the issue. He is concerned about wells and doesn't believe they should be put in every hundred feet. He isn't sure how the regulations on who can have a well will work. He would like more factual information on how many wells are feasible to have in a certain area.

Commissioner Wharton thanked the public. Some of the concerns that he keeps hearing are in regards to AG-1. He doesn't believe that people understand that up until 2004 the area of the AG-1 was 1000' wide. A lot of the AG-1 was already in place. The Commission isn't trying to perpetuate that problem. The way zoning has been done from the beginning is to overlay all the waterways, all the roadways, and all the wetlands. That is how it has historically been done in Summit County.

Commissioner Wharton said when wells start drying up, Weber Basin won't issue a well permit anymore. The County won't issue building permits. There are checks and balances in place, so this won't become big sprawl.

When the Commission took action stating that a minimum lot size on a six acre zone is one acre, that gives people the ability to pull their density and suit it to the best possible location anywhere within their property. What he thinks they will see is small clustering of two or three one-acre lots on the back of an 80-acre parcel. Open space will still be maintained. Hopefully if we put this in place and work with Staff and have faith in the County Council, then we can do something that is beneficial for all the residents in the County.

Chair Ure talks about chapter 3 of the Development Code. 11-3-14: Chart of Allowed and Permitted Uses:

"If there is no letter designated for a use in a particular zone, or if a particular use is not listed on the Chart of Allowed and Permitted Uses, it is prohibited."

Chair Ure would like to scratch the word prohibited out of that and replace it with something to the effect of "...it is to be determined by the Planning Commission if this

use should be allowed." He would at least like to give somebody a fighting chance. Somebody might have something that doesn't fit the use chart.
Commissioner Henrie stated that we may want to say *"Prohibited until the time Staff has time to review it."* Chair Ure just doesn't like the word prohibited because it throws up a red flag. Principal Planner Milliner asked if this would be something the Commission would like to determine.

Commissioner Henrie commented that there is a contradiction on the same page of the Code that is being discussed in Section D.

> *A temporary Use is a Use that can be established for a limited duration with the intent to discontinue such Use upon the expiration of the time period. Any Use not listed as an allowed Use or a Conditional Use within a Zone district may be considered as a temporary Use pursuant to and in accordance with the provisions of section 11-4-13 of this title. (Ord. 776,7-18-2012).*

Commissioner Henrie stated one section states that if it is not listed, then it is a temporary use. And the other section states that if it is not listed then it is prohibited. This should be cleared up. Deputy Attorney Strachan suggested striking the red language included in the section that Chair Ure is concerned about and leaving Section D.

Commissioner Willoughby gave an example of not having anywhere that Office Use is listed. This is obviously something that needs to be added. How would the Commission go about changing that from being temporary?

Planner Milliner stated that the Commission would initiate an amendment to the Code and it would be brought to the Council for approval or a member of the public could make the request. A processing fee would be charged. It could also be initiated by the Commission, the Council, or by Staff.

In regards to Office Space Use, Chair Ure suggested that if there is a low impact home-based business with 3-4 employees then the business should be allowed even if they are not living in the house.

Commissioner Wharton stated they should reapply to be zoned commercial. If they live in the home, then it is already addressed under an in-home business use.

Chair Ure made a motion to add office space (with four employees or less) to the Use Chart with the following conditions: low impact in every zone except Commercial, Light Industrial, and Industrial. Commissioner Willoughby Seconded the Motion.

Commissioner Henrie requested guidance from Staff. Staff stated that they couldn't give any relative examples, but recommended the Commission state a measurable standard and possibly revisit the issue in the future. They also mentioned that the Commission

may want to address the type of business that should be addressed as well, not just the number of employees.

- **MOTION FAILED (4-3)** *Commissioners Willoughby, Commissioner Vernon, and Chair Ure voted in approval Commissioners Henrie, Commissioner Clyde, Commissioner Hanson, and Commissioner Wharton opposed.*

Commissioner Hanson shared some statistics from a June study from Envision Utah, a non-profit organization that works with communities and the Governor, forecasting growth in Utah. They stated the Summit County population in 2010 was 36,324, the projected number to reach 45,491 in 2020. By 2060, the population will be 107,671. The majority of the growth will be coming to Eastern Summit County.

For those not worried about growth, it is coming fast. The impacts will be felt. Commissioner Hanson asked how we deal with today's development and growth has the potential to define the culture, fabric and character of Eastern Summit County well into the future, not just tomorrow. She stated she is not anti-development or anti-property rights. She is for good strategic planning, leaving a legacy for generations to come. Future generations can enjoy the quality of life that every person in this room enjoys.

In order to do that, the Commission needs to be strategic. She is very concerned about certain areas of the map. She has concerns with the water and the septic systems.. Her opinion is the County should hire an outside consulting company to look at the map. She supports what Staff has done. She cannot support the map. She supports the zoning districts, but not where they go on the map.

Commissioner Henrie stated that there were comments made saying someone more professional should look at this. The Commission doesn't have a clue what they are doing. He agrees with that comment.

Of all the comments that were made, what really stuck out was that people want to have a place to pass down to their kids. The problem with that is that you can't really limit it to just your children. Just the fact that we are allowing more places, will allow more newcomers. Newcomers aren't necessarily bad.

Commissioner Henrie stated that nothing could be better for the Upton area than to have more people, but not too many people. His opinion is the zoning that they are proposing has gotten out of control. He is completely opposed to the AG-1 because it promotes sprawl. One acre lots or smaller are a good idea and should be allowed, but spreading them along each side of every major road doesn't seem like good planning.

If someone wants the higher density, it should be moved to a place with the infrastructure to support it. It should be separated from agricultural areas. To call the highway corridor an agricultural area is wrong. One-acre lots or less should not be zoned as agricultural. High density areas should have community water and sewer systems. He wouldn't oppose the highway corridor being left as it is, he believes the AG-6 is a great zone and gives a great opportunity to increase the value of a person's property. It is a highly sought-after size of property for many people. He doesn't like that the Commission are allowing a one-acre minimum lot size in that zone.

The biggest issue he has with this is that they haven't come up with a list of justifications for changing the zones. There is no legal basis. If there was a list of justifications, then he would vote for it and he would support it. In addition to the map, documents that the Commission is planning to send to the County Council have a lot of errors and contradictions, mainly in chapter 4. There have been changes made to it since the last meeting that have not been discussed. He doesn't believe it should be sent to the County Council because it puts a great burden on them. He can't support the map as drawn, or the packet being sent to the County Council yet.

Commissioner Willoughby stated that there has been a lot of time and work put into this and she would like to share her opinion. The people of Eastern Summit County want a more rural quality of life but there are differences in how this is going to be achieved. What she doesn't want to see is those who have large pieces of property being forced to sell, or shut down their operations and let weeds grow. The property owners need to be able to manage their own land and have some choices.

Chair Ure asked Deputy Attorney Strachan if the State Code requires a courtesy notice on the division of land for non-developmental purposes. He referred to:

> Concerning Chapter 4, Page 28, Section B, 1. *A courtesy notice shall be mailed to each owner of property located within three hundred feet (300') of the property to be divided.*

Deputy Attorney Strachan responded that State law doesn't specifically say anything about a courtesy notice, nor does it indicate 300 feet, it only requires noticing provisions are followed. The Summit County Code has language requiring notification.

Chair Ure says this was only going to require Administrative approval. Noticing requirements would drag it out. Deputy Attorney Strachan stated that we cannot be less restrictive than State Code.

Commissioner Clyde asked if Chair Ure was concerned that noticing would hold up an otherwise expeditious process. Chair Ure answered in the affirmative. If it is just for non-development purposes he doesn't see why noticing would be necessary. He read from the State Code, "*The land use authority needs to notify in writing that the*

County has provided notice as required by ordinance." Would 300 feet still be required? It states 300 feet in this instance, but Staff sends notice to those within 1000' to be consistent.

Chair Ure made a motion to change the language in this section to state: Notice as required by this Code. Commissioner Wharton seconded the motion.

- **MOTION CARRIED *(*7-0)**

Chair Ure made a motion to forward a positive recommendation to the County Council for Chapters 3 and Chapters 4 with the amendments and the changes that Staff sees fit concerning misspellings, capitalization and non-substantive items. Commissioner Vernon seconded the motion.

Commissioner Clyde echoed Commissioner Hanson and Commissioner Henrie's concerns. He believes the AG-1 is bad zoning. None of the Commission is opposed to higher density. The AG-1 zoning has already caused issues in Western Summit County. There were faulty water and sewer systems that caused millions of dollars in lawsuits. The one acre zone is being located in the most environmentally sensitive areas that Eastern Summit County has. This is out of place and out of context with our General Plan. Having a place for our children to live is a compelling argument, but the problem is that the land runs out pretty quick. He opposes the map as it is set forth. He is a professional and has seen mistakes made over and over again.

Commissioner Hanson would like Chair Ure to consider amending his motion to send it to the County Council and ask for them to include a professional review from an outside source. It was clarified the motion was for Chapters 3 and 4 only.

Both the Commission and Attorney Strachan believed it was best to vote on the map and Chapters 3 and 4 separately. Commissioner Henrie stated that he will oppose it not only for grammatical errors, but because he believes it needs to be gone over again before being passed to the County Council.

Commissioner Vernon stated that they have been working on this for three years and this is his last night on the ESCPC. He always votes in favor of property owners and their rights. The County has restricted the value of his property by not allowing him to develop. People may argue that isn't a good reason for developing codes, but he believes it is. He is in favor of the proposal and would like to get it moved forward to the County Council tonight.

Chair Ure restated his motion to send a positive recommendation to the County Council for Chapters 3 and Chapters 4 and the definitions with Staff's corrections that are non-substantive. Commissioner Vernon seconded the motion.

MOTION CARRIED (4-3) *Voting in favor of the motion was Commissioner Vernon, Commissioner Willoughby, Commissioner Wharton, and Chair Ure. Voting against the motion was Commissioners Henrie, Commissioner Hanson, and Commissioner Clyde.*

Chair Ure has written some facts and findings to go along with the map.

1. He believes *the amendment is generally consistent with the goals of the General Plan.* A balance of diversity is the desire of the Eastern Summit County residents including private property rights. The amendment acknowledges the historic rural and agricultural character. It supports economic development and diversity. It strengthens the economic base and promotes the social and economic well-being of the residents. It promotes a mix of housing types and availability.
2. *The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community.* He agrees with that statement. The Commission is using agriculture as the baseline zone. The community as a whole is in support.
3. He agreed that "*The specific development plan is in compliance with all applicable standards and the criteria for approval as described in chapter 4 of this title."*
4. *He believes "The amendment does not adversely affect the public health, safety and general welfare."*

Commissioner Willoughby wished to submit her findings of facts.

1. Regarding health, safety and welfare: There is a plan for the future. Studies show there would be no oversaturation of septic systems. It is compatible with adjacent uses. There is nothing that the Commission is asking for that isn't already there. The reason for the change in the map is because of a high level of non-conformity. The Commission needs to allow growth to spur economic opportunities. The changes will spur growth in farming activities. There are facts and findings to support what we are doing.

Chair Ure made a motion to send a positive recommendation to the County Council with the facts and findings for the map with the recommendation to the County Council to have an outside consultant look at the map. Commissioner Wharton seconded the motion. Commissioner Vernon stated his opposition to having an outside consultant look at the map, since they will just have the same findings as the ESCPC.

MOTION FAILED (3-4) *Commissioners Hanson, Commissioner Wharton, and Chair Ure voted in favor of the motion. Commissioners Vernon, Commissioner Clyde, Commissioner Willoughby and Commissioner Henrie opposed the motion.*

Chair Ure made a motion to send a positive recommendation to the County Council with the proposed zoning map with the facts and findings. Commissioner Willoughby seconded the motion.

- **MOTION CARRIED (4-3)** *Commissioners Willoughby, Commissioner Vernon, Commissioner Wharton and Chair Ure voted in favor. Commissioners Henrie, Commissioner Hanson and Commissioner Clyde opposed.*

A five minute break was declared. *(Commissioner Vernon left the meeting.)*

Chair Ure made a motion to take the master plan development (MPD) off the table and to take the overlay zones, the rural residential, the pure residential, and the recreation commercial off the table and ask Staff to start preparing a document for that for the second meeting in March. He would like to discuss those items at that meeting. Commissioner Willoughby seconded the motion.

MOTION CARRIED (6-0)

Commissioner Henrie proposed to reconvene a subcommittee to rework the Master Plan. It was decided to wait until the new Commissioner was appointed.

Chair Ure made a motion to bring the Village Overlay back to the table. Commissioner Henrie seconded the motion. All Commission members voted in favor of the motion.

- **MOTION CARRIED (6-0)**

COMMISSION ITEMS

- Chair Ure suggested that with two Commissioner's terms ending, the Commission may want to make an amendment to have the Commission consist of five members instead of seven at the end of the year. This is something that could be discussed in a joint meeting with the County Council.

- The first meeting in March was changed to be held in Coalville instead of Kamas.

- Director Putt suggested that the retreat should include a review of the General Plan.

- Commissioner Hanson publicly thanked Commissioner Vernon for his service even though he was no longer in attendance.

<u>ADJOURN</u>

The meeting was adjourned at 8:04 p.m.

Approval Signature