

# MINUTES

## EASTERN SUMMIT COUNTY PLANNING COMMISSION

REGULAR MEETING  
THURSDAY, April 7, 2016  
KAMAS CITY OFFICE  
170 NORTH MAIN  
KAMAS, UTAH

### COMMISSIONERS PRESENT:

Tonja Hanson, *Chair*  
Douglas Clyde  
Ken Henrie

Rich Sonntag  
Sean Wharton

**Regrets:** Chris Ure, Louise Willoughby

### STAFF PRESENT:

Peter Barnes– *Planning and Zoning Administrator*  
Ray Milliner – *Principal Planner*  
Patrick Putt– *Community Development Director*

Jennifer Strader– *Senior Planner*  
Kathy Lewis– *Secretary*

The regular meeting of the Eastern Summit County Planning Commission was called to order at 6:00 PM.

### **REGULAR ITEMS**

#### **1. Pledge of Allegiance**

#### **2. General Public Input**

The general public input session was opened.

T.J. Bates asked if there is any way to petition for an additional change to be made to the zoning document. Chair Hanson told him the map along with chapters 3 and 4 are in the hands of the County Council. He could attend one of their meetings to comment.

**3. Public hearing and possible action regarding a possible Plat Amendment to vacate 20.14 acres out of Lot 5 Wanship View Estates Subdivision, 2400 South SR 32; Parcel WSVE-5-AM; T.J. Bates, Applicant – *Jennifer Strader, Senior Planner***

Planner Jennifer Strader said the applicant is requesting to vacate a 20.14 acre portion out of Lot 5 of the Wanship View Estates Subdivision. The property is located in Wanship, south of I-80 on SR 32. Lot 5 currently contains 21.44 acres. The subdivision was recorded in 2000 and contains five lots. In 2007, an amendment was approved to adjust a building pad for Lot 5.

Planner Strader said the density comes from the highway corridor zone. The current zoning is one unit per one acre. At that time, it was one unit per half acre. Beyond the highway corridor zoning is the AP zoning. The applicant is requesting to vacate the parcel to use it for agricultural purposes. Due to the topography of Lot 5, it is difficult for the owners to access the parcel. The applicant has access to the parcel from another parcel that the applicant owns. If approved, Lot 5 will contain 1.30 acres. That meets the minimum requirements for the zone district.

Planner Strader said this meeting is not a public hearing because all of the owners within the subdivision have signed off on this action. Public notices were sent as a courtesy to the neighboring parcel owners. One inquiry was received who requested greater details of the proposal.

Planner Strader said Staff recommends the Planning Commission vote to approve the request as outlined in the Staff Report. The applicant, T.J. Bates, said the owners of the lot would like to sell their home. A few years ago, a sale of the property fell through because of the difficulty to access the lot. If this piece is not attached to the property they believe they can sell it more readily. People don't want or can't afford to buy such a big piece of land.

Commissioner Sonntag asked if the overall parcel is eligible to have six lots. Planner Strader replied this is a five lot subdivision. Commissioner Sonntag pointed out there

will now be a remainder parcel. Planner Strader said the remainder parcel won't be included in the boundaries of the subdivision. If this action is approved, it will be a legal lot outside of the subdivision. It does not have a density right; unless the zoning changes, a house could not be built on it. If the zoning changes in the future, it may be eligible for further dividing, or for a home to be constructed.

Planner Strader said if this is approved, the subdivision will still have five lots. Lot 5 will have 1.30 acres. Commissioner Henrie suggested a plat or title note might be added saying these 20 acres has no density. Administrator Barnes said this would be a normal parcel like any other parcel in the AP-40. Commissioner Sonntag verified that another 20-acre parcel in the AP-40 would not be able to build a house on it, unless there was a lot of record attached.

Commissioner Wharton pointed out that Findings of Fact #6 states it will not be a lot of record. He said it appears to him that it is being vacated so another house could be put on it. However, they need to judge this application by the Code that is in place today. With the current Code, he sees no problems.

Commissioner Wharton said when he looks at the map he can see some small roads. Do these belong to the applicant? Mr. Bates pointed out his father's property which has easier access to the property. Mr. Bates pointed out the steep area located on what would be the remainder property.

***Commissioner Henrie made a motion, which was seconded by Commissioner Wharton, to approve the Wanship View Estates Lot 5 plat amendment with the following findings of fact and conclusions of law:***

**Findings of Fact:**

- 1. James and Rikki Pruitt are the owners of record of Parcel WSVE-5-AM (21.44 acres), located at 2400 State Road 32 in Wanship, UT.***

- 2. The zoning for Parcel ESVE-5-AM is highway corridor (HC) and agricultural protection (AP).**
- 3. The applicant is requesting to vacate a 20.14 acre portion of Lot 5 out of the Wanship View Estates Subdivision.**
- 4. The vacation would result in reduction of Lot 5 from 21.44 acres to 1.30 acres.**
- 5. The newly described Lot 5 meets the existing highway corridor zone acreage requirement.**
- 6. The land that is vacated out of the Wanship View Estates Subdivision will not be considered a Lot of Record.**
- 7. The vacated land will be considered a Legally Created Lot as found in Section 11-4-3 of the Eastern Summit County Development Code.**
- 8. Per Section 11-4-18(D.5) of the Eastern Summit County Development Code, the applicant has provided the name, address, and consenting signatures of all owners of the record of the land contained in the entire subdivision plat.**
- 9. This item is not scheduled for a public hearing.**
- 10. Service providers have reviewed the plat for compliance with applicable standards.**
- 11. Staff has reviewed the plat for compliance with applicant Development Code standards.**

**CONCLUSIONS OF LAW:**

- 1. There is good cause for this Plat Amendment.**
- 2. The proposed Plat Amendment will not result in additional density.**
- 3. The spirit of the General Plan will be met.**

- MOTION CARRIED (5 - 0)**

**4. Approval of Minutes**

**February 4, 2016:**

***Commissioner Wharton made a motion, which was seconded by Commissioner Clyde, to approve the minutes as corrected. All voted in favor.***

***MOTION CARRIED (4 - 0) Commissioner Hanson abstained as she was absent.***

## **WORK SESSION**

### **1. Discussion regarding Master Plan Developments – Planning Staff**

Community Development Director Pat Putt said a couple of months before the Planning Commission forwarded a recommendation to the County Council, Staff brought to the Commission a draft of a master planned development ordinance for an initial discussion. This was intended to be a template for a master plan. It was decided to take a step backwards and start with a more fundamental discussion.

Director Putt said at the retreat, there was discussion if there is a need to create a master plan process. There seemed to be a willingness to explore it. At a Staff level, they put together a memo for the Commission. Its intention is to begin that discussion.

Director Putt explained that a master plan development (MPD) is two things. It is a process and an end product. It is a process because it talks about the measures that a larger scale project is evaluated and ultimately acted on, either in approval or denial. It is also an end-product. It is a comprehensive development strategy for a product. This product is typically not a single family home or a single commercial enterprise. It usually involves larger sites with a fair amount of infrastructure. It could be a mixed use, all residential, or a resort. At the end, it is the plan of what is going to be built and how you they are going to build it.

Director Putt said there was a disconnect with this with what Staff first presented to the Commission. It was seen as Staff trying to forward a list of criteria and measures. Staff was trying to start a discussion. The report they now have explores what are the things that they should look at. What attributes of the project are important? What are the questions they

should ask? Director Putt said if they can identify those things, they can identify a way to measure these things through the MPD process.

Director Putt said basic criteria will be used to measure these projects, including the height, setbacks, and the density. This also gives an opportunity to create the best plan that they can have. It will not only be efficient to build, but it can create value long term.

Director Putt said they believe a better result can be accomplished through the MPD process. Rather than coming up with just criteria alone, they feel they will be more successful in creating the right questions to ask. These questions may include: “How does this plan solve a problem?” “How does this plan take advantage of an opportunity?”

Director Putt said Staff believes they can build in tools that will allow for flexibility. He has found when they don’t allow for flexibility, a project gets built to the lowest common denominator. Even if there is a better way of doing it, it has to meet the letter of the Code.

A list of questions has been put together that are typically asked when a large, complicated project is brought forward. The goal of the questions is to understand the project, the site, and the objectives that are trying to be met. The questions explore what are the challenges about the site. What are the potential opportunities if things are done a little bit differently? This is achieved by a basic question and answer process.

Director Putt emphasized the list of questions are not criteria. These are typical questions that are asked in the design process to understand how the project will work at the selected site. Sometimes these questions are asked by the architects or civil engineers. They may be asked by engineering or at a Staff level.

The questions have been broken into categories. There could be questions about the site or the neighborhood. How is the site being designed from a land planning perspective and from an architectural perspective? How are the buildings designed?

If Staff knows the questions that are important to the Planning Commission, greater success can be achieved. Because the Commission has seen a number of projects, they probably already know the things they should be looking for. If Staff has a good sense of what they believe is important to look at in the more complicated designs, those concerns can be identified. They can go back and see if they can address those questions through measurable criteria.

Director Putt asked which of the questions on this list would be important. Would some of the questions be removed? Do they have some they would add? He hopes they will be able to achieve the best design they can, within reason. Good design means efficient design that benefits the developer, the owner, and the community. Commissioner Clyde said a properly done MPD adds value. He said an example of that is Empire Pass. He described the process it went through.

Director Putt said they are not talking tonight about what this process would be applied to. That discussion will take place later. The specially planned area (SPA) is actually a MPD. The biggest flaw with the SPA is the lack of predictability. He believes the MPD can provide predictability.

Chair Hanson asked if the Snyderville Basin has a MPD. Director Putt said they have a SPA as well, but are working on a similar document. Commissioner Clyde described the evolution of the SPA in the Snyderville Basin. It now only applies to Kimball Junction and the Canyons.

Commissioner Henrie said what Director Putt said makes a lot of sense, but he isn't sure what the end product would be. Would it be a development agreement? Director Putt said the end product would be defined through this exercise. It could end with something that is similar to a final site plan. When they get to this point, the question will be how do they tie this up in a knot? How will this be memorialized? Perhaps a development agreement will be used as the final instrument.

Commissioner Henrie said he thinks it will make a difference if the end product is a site plan or if it is a development agreement. Director Putt said he has worked with both. The master plan came with a written narrative description of what the agreement is for. He also worked in a jurisdiction that didn't have a MPD, but had carefully worded, specific language about the conditions.

Director Putt said the biggest problem that he sees in Summit County is that the development agreement usually expires in five year increments. This brings up an obvious dilemma. What happens in five years if the project hasn't been built out? He said there is always a way the end product can be finalized. It will always include a map.

Commissioner Henrie said he likes to start with the end in mind. He wants to know what they are trying to accomplish. He likes the list of questions so they can understand what they may need to mitigate. He likes the way this is starting. He thinks the first step is to keep the end product in mind.

Commissioner Wharton said he agrees. He keeps coming back to what will their end product be. If they are going to be shaping the east side of the County through MPDs with development agreements, they need to know where they are going to allow this. What is the cut-off? Would it apply to any kind of rezone? When he thinks of the MPD, he thinks of the clustering of high density areas next to the cities. He thinks they should define where they want to see growth. Use this tool to develop growth.

Additionally, he thinks there should be a cut-off. If someone has 150 acres and the base zoning allows them to build 20 units, should they be required to go through the MPD process? He isn't sure what the acreage threshold would be. Commissioner Henrie said perhaps this should be addressed in the General Plan. Commissioner Clyde said it is not uncommon for MPDs to have a threshold.

Director Putt said a MPD could be different for a 200-acre recreational commercial (RC) project than for a 25 family lot subdivision. They may have different levels of the MPD. He

encouraged the Commission to think of this as a final site plan. A MPD will ultimately achieve something similar. It will be a site design and architectural strategy for the property. They may want something different for the larger projects.

Commissioner Henrie said as he reads through the questions, it seems that there will be a different set of questions for a RC project than there would be for a residential project. It would be smart to recognize they may have different questions for different types of projects.

Commissioner Henrie said they should consider if there is a point that a MPD would be required. Commissioner Sonntag said if the applicant wants more than base density, or something less than the standard setbacks, that might be the time for the MPD.

Commissioner Wharton said while he agrees with that statement, there should be a point where a MPD should be triggered due to the density.

Commissioner Clyde said what normally happens when a MPD is applied over base density, is that there is a “get.” If the applicant goes through a MPD process, they will get something they wouldn’t normally. It may not be more density. It might be a more compact development, lesser setbacks, or a narrower road standard.

Commissioner Henrie said he agrees with Commissioner Wharton. Even in base density, there ought to be some number designated that would trigger the MPD process. Building along the highway could also be a trigger.

Commissioner Clyde said MPDs either have a special place or no place in Utah law. They are not legislatively protected like a conditional use permit is. Commissions are not usually required to grant them, unless they are set up that way.

Commissioner Sonntag said the questions presented have a high degree of subjectivity. He hopes they can separate the good solutions from the bad. Director Putt said he and Administrator Barnes and Planner Milliner have thought about this before they ever came to work for Summit County. Part of the problem in finding the right solution is that they don’t

ask the right questions early enough. They should ask the developer to explain their project up front.

Director Putt said in many cases, a bunch of criteria is created that represents a line in the sand. In many cases this has to be done, but there are times when that line is subjective. If they can identify the fundamental criteria, they can come up with some reasonable standards. Beyond those standards, he thinks they will have great success in asking the right questions.

Commissioner Henrie said he thinks it would be appropriate to start making a list of questions. He thinks the trigger for the MDP could be a rezone to a higher density. Another trigger might be a certain number of clustered densities. There are certain things that need to happen when homes are clustered. Commissioner Clyde suggested that ten would be a good number to start with. Commissioner Henrie said anything under ten would not need the MPD process. Director Putt clarified that would be ten units or more of base density. Commissioner Wharton confirmed that is what he was thinking of for discussion purposes. Commissioner Henrie asked what if someone should spread ten units on 100 acres. Commissioner Wharton said he thinks they should still go through the MPD process; they would end up with a better designed subdivision. However, the goal isn't to force someone to build something they don't want.

Commissioner Clyde said when he meets with his clients, every proposal has the opportunities and the constraints listed. He suggested that may be a good way to present this to the public. They don't want the applicant to come in with a fully completed set of plans. Sometimes a person will spend a lot of money to hire an architect to draw up a set of plans that isn't always in line with the goals and criteria of the County. This happens frequently. If the applicant is engaged early enough, they could be told the first thing they have to do is provide an opportunities and constraints analysis along with a project description. The opportunities might be that the person has ten units of density. The constraints may be the land is hilly and soggy in places.

Commissioner Clyde said there is a level of discretionary approval that comes with MPDs. The discretionary authority given to the Fire Marshall is the one he deals with the most. If someone has only one access, they will probably need mitigating factors to balance that. That is when they end up with a development agreement. It ties the people to the mitigation in perpetuity.

Director Putt said it is very hard to walk away from the financial investment that has been extended to the creation of a plan. That is why they need to have that discussion early on. They are not talking about stripping density through this process or penalizing someone. This is about how to best balance the competing interests early on.

Commissioner Sonntag said the Fire Marshall has to sign off on the plat. All a MPD does is to provide a way to mitigate things he might not otherwise allow. Commissioner Henrie said this sounds like a great first step. They can tell the applicant to bring the ideas of what they are trying to accomplish and what the restraints are before getting into the designing process.

Director Putt said they have gotten away from a pre-application meeting, which could be called a sketch plan if they want. This meeting would be held before a formal application is submitted and before they pay a civil engineer and an architect to come up with a lot of drawings. Commissioner Henrie said they could hand the applicant the list of questions and tell them they should address these before they go any further.

Commissioner Sonntag said this process should be something that people will want to do. It can't be something that has so many steps that it takes forever to be completed. Director Putt said the incentive could be that the fee is very nominal, if at all. The materials they need to present would not be overly burdensome or costly to produce. The applicant should have a quick timeframe to this discussion. Commissioner Clyde gave an example of someone who came before the Commission. They had hired an architect to draw a design for a "family camp." If the applicant had come to them beforehand, they could have saved money.

Commissioner Hanson asked how they would like to move this forward. Should a subcommittee be formed? Should Staff do some further work? Commissioner Wharton said he thinks they need to tighten up the parameters. They may not be reducing density, but they may be increasing it. How do they entice people to want to go through this process? An in-depth discussion should take place before they consider increased density as a bonus. He is concerned this could result in “let’s make a deal.”

Commissioner Henrie said if someone wants more density, there has to be some kind of payback for the County and the residents. Commissioner Wharton said this is where the “let’s make a deal” option comes into play. Commissioner Henrie asked if this is something they want to consider. Commissioner Sonntag said he thinks they should give the landowner flexibility, such as smaller lot sizes or setbacks. If someone asks for more density, why not approve it if they like where it is going.

Administrator Barnes said they should convince the public at large that all they are asking is to be an early witness to the design process, not to be in control of the project. They want to be involved early when there is an idea for a project, but nothing has been set in stone. If the questions are asked early, it is a lot better than if the questions are asked after someone has spent a lot of money.

If the County is involved early (without telling the applicant what to do), listening and asking questions, the developer isn’t antagonistic. This will be seen as a benefit and as part of the process. If the problems are identified when someone is \$100,000 into the project, it will cause a significant amount of frustration and cost a lot of money. The project will end up being designed by lawyers. A benefit to the County is that a future problem is avoided.

Commissioner Wharton said he likes the questions. His questions have to do with the higher level. They have talked a lot about predictability, but they lose some predictability when they have if/then statements. Such as, “If you do this, then you get that.” At that point, they can’t predict what is going to happen, they only have a feeling.

Commissioner Sonntag said he thinks they are saying they can predict base zoning and the accompanying rules. The MPD is something else. If someone comes in with a project that has potential and meets with the Planning Director, they might be directed to the MPD process. It could result in some additional things being granted.

Chair Hanson said she doesn't think they should ever give density as a bonus. It should not be if you do this, then you get more density. Commissioner Henrie responded they are allowing people to rezone to a higher density. Commissioner Clyde said he doesn't think they should allow higher densities if certain expectations are met; the reason being that community expectations change overtime. This can result in making the Commissions' rulings look arbitrary. That doesn't mean someone can't come in for a rezone. If someone comes in for a rezone, they will be at 100% risk. It will completely be at the discretionary approval of both the Planning Commission and the County Council. Rezones are always discretionary.

Commissioner Henrie said he still feels like if they are granting additional density, there should be something that benefits the County. Commissioner Wharton asked if it would be reasonable to say that rezone applications are only being taken for certain areas.

Commissioner Clyde said he thinks the public always has the right to ask for a rezone.

Commissioner Henrie asked if it would be a good idea to allow someone to apply to build a subdivision in Christmas Meadows. Chair Hanson said they would have that right.

Commissioner Sonntag said he likes the idea of requiring this type of application to go through the MPD/rezone process. They would not have to be held to a strict set of standards. He thinks all these questions are great questions. A few word changes may be appropriate, such as "adequate" instead of "good."

Commissioner Henrie said he doesn't see any question on the list about storm water. It should be added. Commissioner Clyde said this is an engineering question that becomes much more complicated as the density goes up. A brief discussion ensued about storm water

systems. Commissioner Wharton asked a member of the public, McKinley Smoot, if he had any comments. Mr. Smoot said he did not. He is there to learn.

Chair Hanson asked again how the Commission would like to see this move forward.

Commissioner Sonntag said he would like to see a detailed draft from the experts.

Commissioner Wharton said they should add questions about storm water; that would be a good addition. Director Putt said they are happy to prepare something a bit more formal.

He doesn't want to surprise the Commission or the public with something that looks like an ordinance. He would like to grow this in a way that everybody understands what they are doing. He asked if the Commission would like to have a subcommittee work with Staff.

Commissioner Clyde said he thinks that Staff could create the first draft.

Commissioner Clyde said the MPD process allows the project to be judged on its own merits. A uniform standard across the County may not be required. Director Putt said an MPD allows someone to justify a deviation from a requirement. When they are ready to take action on something, it gives the County an opportunity to create findings why they are doing that and what the associated benefit is for doing these things.

Commissioner Clyde said there may be many things they consider, but only ten questions at the end. Director Putt said in the end there will be a specific number of conclusions of law; they will need to conclude that these things have been addressed or fixed. There may be alternative solutions.

Commissioner Henrie said the wording of these questions should be considered. Examples were given of how the wording might be changed. Commissioner Clyde said they need to incorporate the wording of either sensitive lands or critical lands. Additionally, "unmitigated" should probably be replaced with "significant."

Commissioner Wharton asked as they travel down the road in giving variances for different projects, what kind of precedence are they setting? Administrator Barnes said the process is the precedence. The next project will flesh out different kind of details. Commissioner

Wharton said he worries that someone will point to an application that was granted and show the similarities to theirs and claim it should also be granted. Commissioner Clyde said in the MPD process, they don't have to grant it if the applicant isn't convincing enough. Director Putt said there will be reasons why the findings are being made. It would be the answer to these kinds of things.

Commissioner Henrie asked if it would be of benefit to consider land uses during an MPD application. Commissioner Clyde said that makes a good point. A lot of the things they will encourage with MPDs are land uses that are not addressed somewhere else. Commissioner Henrie said there is an example about a motor cross track. In an email he received, the question was asked about someone who bought up a bunch of land that was turned into a motor cross track. This is not in the chart of allowed uses. Even though the owner has done a wonderful job, it is contrary to the nature of the area. Chair Hanson cautioned that this is not something they should be talking about. Commissioner Clyde said the MPD process is a way they can promote recreational uses that aren't currently allowed in the County. A motor cross track may be appropriate in the right location. Director Putt said Staff will take a step forward with this and come back with something more formal.

Commissioner Wharton said they should consider what Commissioner Ure and Commissioner Willoughby might say. Commissioner Clyde said he believes Commissioner Ure will not want anything that approaches a "let's make a deal" scenario. Director Putt said this is the process they are trying to get away from. Commissioner Wharton said that Commissioner Ure wouldn't want more density and he thinks Commissioner Willoughby would say they should have more. Commissioner Henrie said if an increase of density meets a community need, that would be fine with him. There should be something that qualifies why the increased density might be permitted. It could be because they are going to address the storm water, the road, lighting, and so on. Commissioner Wharton said any developer could make those things happen and then want one-acre density on their 1,000 acres. Both Commissioner Wharton and Commissioner Henrie said that worries them. Commissioner Sonntag said this would be in the context of a rezone. If they don't like it, they don't have to approve it.

Commissioner Clyde said they can only be that broad in their discretion in the rezone process. The County Council can deny a project because they don't feel it is in the best interest of the public. Commissioner Henrie said there was a lot of negative public clamor about the Indian Hollow project. Commissioner Clyde said the State allows the regulatory authority (such as the County Council) to deny a project based on public clamor, though it can't be used to approve a project. Director Putt said Staff will bring this back.

### **DIRECTOR ITEMS**

Director Putt said there is only one item on the agenda for the April 21, 2016 meeting. It is concerning Daniel Richins' hunting camp. Commissioner Henrie said someone from Staff needs to see if this project is in compliance with their CUP.

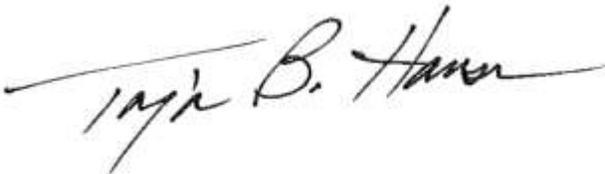
The County Council will hold a work session on Chapters 3 and 4 on April 27<sup>th</sup>. They want to look at the Code before they launch into a review of the map. Whenever this type of meeting occurs, they will run the standard disclaimer that a quorum may be present.

Commissioner Henrie added there should be a question added to the list about non-motorized traffic.

### **ADIURN**

*At 7:40 p.m. Commissioner Wharton made the motion which was seconded by Commissioner Sonntag to adjourn. All voted in favor.*

- **MOTION CARRIED**



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**Approval Signature**