

MINUTES

EASTERN SUMMIT COUNTY PLANNING COMMISSION

REGULAR MEETING
THURSDAY, AUGUST 18, 2016
SUMMIT COUNTY COURTHOUSE
60 NORTH MAIN
COALVILLE, UTAH

COMMISSIONERS PRESENT:

Tonja Hanson, *Chair*
Ken Henrie
Rich Sonntag

Chris Ure
Sean Wharton
Louise Willoughby

Regrets: Douglas Clyde

Staff Present:

Peter Barnes- *Planning and Zoning Administrator* Patrick Putt- *Community Development Director*
Sean Lewis- *County Planner* Helen Strachan- *County Attorney*
Ray Milliner- *Principal Planner* Kathy Lewis- *Commission Secretary*

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

REGULAR SESSION

1. Pledge of Allegiance

2. General public input

The general public input session for items not on the agenda was opened. There were no comments made and the public input session was closed.

3. Public hearing and possible action regarding a Conditional Use Permit Amendment to expand the existing storage units at 8077 East Weber Canyon Road; Parcel CD-668; Mark Moench, representing the property owner – *Sean Lewis, County Planner*

Planner Sean Lewis pointed out the Thousands Peaks Ranch, which is a couple of miles up Weber Canyon. There is a family Corporation that owns the majority of the land.

Storage Units are allowed within the Ranch boundaries. Currently, there are 20 storage units. A conditional use permit (CUP) was approved in 1996.

The applicant is requesting to construct a seven-unit storage building measuring 40'x140'. Because there is already a CUP on the property, the application is being treated as an amendment. Staff would like to update the language of the CUP, which was granted in 1997. There are no findings of fact or conclusions of law and many of the conditions are not applicable.

Planner Lewis said Staff recommends that conditions 1-5 are removed from the original CUP and replaced with the following conditions:

1. *The use of the structures for any commercial purpose is not permitted as part of this approval. Any proposed change in use shall require an amendment to this CUP.*

(Planner Lewis explained this is to prevent renting a storage unit to anyone outside of the Thousand Peaks Ranch.)

2. *The applicant shall obtain any necessary building or engineering permits prior to construction.*

3. *No outdoor storage shall be permitted.*

(Planner Lewis said that outdoor storage has occurred, but with the approval of this CUP, this should be eliminated.)

COMMISSION QUESTIONS AND COMMENTS

Commissioner Sonntag asked how many total units will be on the property when this is completed. Mark Moench, the applicant, responded this will be the third storage structure. Each structure has seven storage units, making a total of 21 units.

A discussion occurred if the number of units should be capped at this amount. Planner Lewis said there is plenty of room to build more. Staff does not want to limit

opportunities. **Commissioner Henrie** said this is an allowed use in this zone. It doesn't seem necessary to put a cap on the number of units allowed.

Chair Hanson asked about the comment that Staff believes the outside storage will go away if this is passed. Mr. Moench said part of the reason why they are building the units is to do away with the outside storage. They don't want people to store their equipment outside because it invites vandalism. **Commissioner Henrie** said it wasn't allowed in the original CUP, but it is happening. Planner Lewis said that is correct. Staff sees this as a reason to grant the amendment, to bring this into compliance.

Commissioner Henrie referred to the #5 of the original CUP. This states that flammable materials should not be stored. He asked if this Commission should add a condition dealing with hazardous materials. Planner Lewis said the County doesn't have the ability to go into a locked storage unit to see what is there. It comes down to what Staff can reasonably enforce. **Commissioner Ure** said that any large quantity of fuel being stored is automatically regulated by the State. **Commissioner Henrie** said he thought it might be good to have something in writing. If a problem does arise, something could be done.

Mr. Moench said he is comfortable in amending the leases to say that no environmentally hazardous materials are allowed, other than fuel for vehicles. He knows all of those who will lease the unit. They are all family or friends. He feels confident that no one will be storing fertilizer or diesel fuel for some kind of nefarious purpose.

Planner Lewis said there is a condition that this will not be commercial in nature. Staff feels confident that this is a non-issue, although there is always the potential that something could happen. He would feel more concerned if this were a commercial storage unit. **Commissioner Ure** said he doesn't think this is needed.

The public hearing was opened.

Harold Ralston has property in the Smith and Morehouse area. He has spoken with other property owners. They are not opposed to Thousand Peaks Ranch building the units, but they have a concern about the corner. In the wintertime, this corner is overloaded with snowmobiles. There doesn't seem to be adequate parking. The road gets blocked. People park between the no parking signs. He asked where their guests park. Do they park on their property or just outside of the gate? This is over-congested in the wintertime on a weekend.

Chair Hanson asked Mr. Ralston who owns the property on this corner. Mr. Ralston said he isn't sure who the owner is. Mr. Ralston said the traffic backs up to the Beaver Creek Canyon gate. He recommended that the gate be removed so that a turnaround could be created.

The public hearing was closed.

Mr. Moench said that what Mr. Ralston is referring to is correct. Many people come to snowmobile on the weekends. They park their cars along the right of way at the corner that leads to Smith and Morehouse. There is a triangle of ground that is probably owned by the Stillmans, but everybody uses it as public parking.

Mr. Moench said when completed, each one of the seven units could hold three cars. These units will relieve some of the congestion on the road. Each unit is allowed to park one vehicle in front of the shed, but no more.

Commissioner Ure asked what an average number of people might be that uses their cabins during the winter months. How often would the storage units be used during winter? Mr. Moench said people who have cabins come just about every weekend, but

he thinks that most of the congestion comes from people who come for the day. Planner Lewis said the congestion that Mr. Ralston is speaking of is outside of the gates.

Commissioner Wharton asked how far removed from the road would this unit be. Mr. Moench said he guesses about 65-70 feet from the road. There is plenty of room to pull in and pull their trailers around.

Commissioner Sonntag asked if the storage unit will be used by the same people who are currently parking their vehicles there. Mr. Moench said it is for the people who are using this area to park their vehicles. **Commissioner Sonntag** said in that case, this will mitigate some of the problem.

Commissioner Ure made the motion, which was seconded by Commissioner Sonntag, to approve the Thousand Peaks Ranch storage building as listed in the Staff Report with Condition #4 being added.

FINDINGS OF FACT:

- 1. Thousand Peaks Ranch, LLC is the listed fee title owner of Parcel CD-668.***
- 2. Parcel CD-668 is 470.0 acres in size.***
- 3. Parcel CD-668 is located at 8077 E. Weber Canyon Road.***
- 4. Parcel CD-668 is located in the Agriculture Grazing 160 zoning district.***
- 5. The applicant proposes to construct a 5,600 square foot storage unit building featuring 7 bays measuring 20'x40' each.***
- 6. According to the applicant, the first storage building was built on Parcel CD-668 during the mid-1970s.***
- 7. The Eastern Summit County Planning Commission voted on September 4, 1996 to allow construction of 8 storage units on the site.***

- 8. Per Section 11-4-12.G of the Eastern Summit County Development Code, any request to increase square footage of a previously approved Conditional Use Permit requires an amendment to the existing permit.***
- 9. The proposed structures are located more than 100 feet from all property lines.***

CONCLUSIONS OF LAW:

- 1. The proposed structure is the same use that has been permitted at this location since at least 1996. The structure is proposed to be used for the benefit of owners at Thousand Peaks Ranch and is not intended to be used by the general public.***
- 2. The addition of a structure of this size will not cause impact to existing agriculture operation, will not require culinary or wastewater systems, nor will the structure require upgrades or improvement to the existing County infrastructure.***
- 3. The addition of a storage building at this location does not violate any laws.***
- 4. The proposed structure will cause no negative impacts to the health, safety, or welfare to the general public.***

CONDITIONS OF APPROVAL:

- 1. The use of the structures for any commercial purpose is not permitted as part of this approval. Any proposed change in use shall require an amendment to this CUP.***
 - 2. The applicant shall obtain any necessary building or engineering permits prior to construction.***
 - 3. No outdoor storage shall be permitted.***
 - 4. There will be 21 total units.***
- MOTION CARRIED (7 - 0)**

4. Public hearing and possible action regarding Amendments to the Eastern Summit County Development Code Chapter 11-2-4, Development Evaluation Standards, Natural Resources – *Ray Milliner, Principal Planner*

Principal Planner Ray Milliner said what is before the Commission is an amendment to Chapter 2 of the Development Code. The reason for the amendment is because the natural resources section has a number of regulations and prohibitions that are non-negotiable. It prohibits building on 30% slopes and homes that ridgeline. Over the last few months Staff has had issues with lots that have nothing but slopes greater than 30% or areas where the only buildable location will cause the home to ridgeline.

Planner Milliner said the Board of Adjustment is allowed to grant variances only to Chapter 3 of the Code, which is about height and setbacks. Chapter 2 is not included. The only option available is a Special Exception from the County Council. The County Council has directed Staff to make amendments to Chapter 2 to rectify the situation. The recommendation is that the language should be similar to what is found in the Snyderville Basin Development Code.

Planner Milliner said the proposed language is attached as Exhibit A in the Staff Report. He asked if the Commission would like to go through the language. **Chair Hanson** said she would prefer to ask questions of Planner Milliner. Planner Milliner said Staff's recommendation is that the Commission review the language and forward it to the County Council.

Commissioner Sonntag asked if an option is to allow the Board of Adjustment to review ridgeline and steep slopes. Planner Milliner responded that because the situation is that there are a number of lots that don't comply with the Code, this is an indication that the Code needs to be amended. Attorney Strachan said she believes there are limitations on what the Board of Adjustment can hear.

The Commission had the following comments and alterations:

- Letter D: **Commissioner Henrie** requested an explanation of the proposed language. Planner Milliner said this is at the request of the County Engineer. He explained the Engineer is recommending that a roadway, bridge, or deck would be a minimum of two feet above the surface.

Commissioner Ure said the entire Woodland Valley is a floodplain. This would require anyone building a driveway, road, or house to come up two feet. A discussion included that the wording should include the word "shall."

Commissioner Ure made a motion to remove the language and to allow the Engineer to put in other language if he desires. A discussion of the motion took place.

Commissioner Henrie said he thinks there would be multiple ways to cross a floodplain. Planning and Zoning Administrator Peter Barnes said the County Engineer is the floodplain manager. It is not a discretionary action they can take. It is something they refer to him. He recommended if they strike this verbiage, it has an explanation attached as to why they decided to do so.

Commissioner Ure said other than the river, most of the water that comes through the valley is controlled by irrigation companies. They are the ones that regulate the size of the culvert and other similar details. **Chair Hanson** asked if the Commission strikes Letter D would the Engineer have an opportunity to see this before it goes to the County Council. Administrator Barnes said most likely this would be reviewed by the Engineer. Most likely some kind of language would be put back in. Staff can inform the Council that this language was stricken and then put back in by the Engineer.

Commissioner Wharton asked if they could leave the language in with a disclaimer at the end "*...if the County Engineer feels it is necessary.*" **Commissioner Willoughby** said she would rather have the County Engineer revisit the language with their concerns in

mind. They shouldn't have a Code that only fits one person. They should keep the Code as simple as possible. At the end of the discussion, the Commission decided to strike Letter D and allow the Engineer to add it back in if he wants.

- Letter A: **Commissioner Sonntag** said he is concerned with the wording of Letter A. How can a geological hazard be fully mitigated? **Commissioner Sonntag made the motion that the word "fully" be removed. The motion was seconded by Commissioner Wharton.**

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

- Letter F (1): Planner Milliner said the flat lots are built on first because they are easier. That leaves the lots that are steeper. **Commissioner Ure** asked why building on steep lots is allowed as an exception, but there is no exception to put a septic tank on ½ acre. Planner Milliner said Planning and Zoning has no control over the Health Department standards.

The language remained as written.

- Letter F (1-c): **Commissioner Ure** said this references building close to the street. This language perpetuates the problem of curb-cuts. **Commissioner Sonntag** said the goal is to preserve as much of the natural terrain as possible. This is not always done by being located close to the street. **Commissioner Wharton** suggested they strike the words "close to the street." The Commission agreed to do so.
- Letter F (1-d): This was discussed but left as written.

- Letter H: **Commissioner Willoughby** said she has a question about how are they going to determine what is hillside and ridge top. In some valleys, that is all there is. She thinks this not clear. It is confusing and expensive. Planner Milliner explained how Staff determines if an application has a house that will ridgeline. He explained how the pole test is conducted. A 30 foot pole with a flag is used.

Commissioner Sonntag recommended they remove “hillside” and leave “ridge top.” This would eliminate a lot of the problems. He believes they should designate which points from certain highways that they care about, such as Highway 32.

Commissioner Ure said he agrees with **Commissioner Sonntag**. It should be subject to certain areas. Planner Milliner said they could define the roads and certain view corridors that they care about. **Commissioner Ure** agreed, but he cautioned that would be difficult to do on the west side of Highway 32 because of Rockport Estates. He recommended this language stay in the Chapter as a Low Impact Permit.

A discussion took place about which roads should be considered. **Chair Hanson** asked if major roadways should be designated. Planner Milliner said that could be defined by the Engineering Department. **Commissioner Sonntag** said someone could decide which points on the major highways are of concern. A property owner could then know where they could and could not build. **Commissioner Willoughby** asked if this is really a problem or is it only one or two squeaky wheels.

Planner Milliner asked if the Commission would like to designate some specific points to be added to the language. He said the biggest issues are when someone comes in with a set of plans on Weber Canyon Road, Chalk Creek, SR 32, and by Interstate 80.

Community Development Director Putt said he thinks they are over-thinking this. Staff has the discretion through the low impact process to make a reasonable call. He said

they could spend several weeks determining these points, but the language they have has worked very well for the Snyderville Basin.

He added that they run into this problem all of the time, sometimes several a week. He feels this would be an incredibly helpful tool. Had they had this option during the past year they would have been able to eliminate several special exceptions and save property owners the cost of \$1,000 in getting their plans approved.

Commissioner Sonntag asked if it would help if the Commission determined the roads. Director Putt recommended if that route is taken, Staff should come back with some recommendations. He doesn't want to miss something.

Director Putt explained that ridgelineing was first addressed by the Snyderville Basin. He believes the Eastern Side decided not to try to address this because of the much larger geographical area. It was decided to look at this on a case-by-case basis. Because more building is taking place, they are seeing more problems. There isn't a way of building a home without having it break skyline from somewhere. This proposed language is a safety valve to prevent a taking. They don't want to force the majority of the people into a costly appeal process.

Commissioner Sonntag said if they picked the roads, someone in the GIS Department could determine how high a structure could be on each road. **Commissioner Henrie** said he believes they should determine the roads. Instead of striking the last sentence (*Visually sensitive areas shall be determined at the time of development application*), it should be included.

Commissioner Willoughby recommended that a pre-determined process be established. Director Putt said it is important to create a reasonable process with some flexibility. Each case should be considered. A 24-foot home might have negative visual

impacts, but a 26-foot home under the right circumstances may reduce the visual impacts. Different mitigating circumstances need to be taken into account. This process would allow a conversation to take place with the property owner.

Commissioner Sonntag said he worries that the property owner doesn't know what can be done.

Commissioner Willoughby said she thinks they are on the same side; they are just looking for the appropriate words to make it happen. **Commissioner Wharton** recommended they eliminate "hillside," leave "ridge top," and add in the last sentence that had been stricken.

Commissioner Ure asked why a LIP would be needed if they are going to have all of the qualifications listed. Attorney Strachan said there has to be criteria and standards. Someone has to analyze if the application meets the standards. **Commissioner Sonntag** asked what the least expensive way is that this could be processed. Attorney Strachan said it would be under a low impact permit. **Commissioner Ure** said that Chapter 4, which deals with the LIP, doesn't address a house that breaks ridgeline.

The verbiage of the language was considered. Should "visually subjective" be replaced with language that is not so broad. **Chair Hanson** verified that Staff will refine the language and bring it back to the Commission. **Commissioner Ure** asked that the term "ridgeline" be defined. **Commissioner Sonntag** said they should consider if this ordinance should include hillsides or just ridge tops.

***Chair Hanson** opened the public hearing.*

John Lindsley has an existing 1,000 square foot home in Rockport Estates that technically ridgelines. He would like to expand the home. He has had the architectural plans created and is ready to submit the needed paper work. He anticipates some problems.

Mr. Lindsley said he believes this ordinance is very vague. He is going to place the home far back on the property to reduce the ridgeline. He agreed that this is something that should be addressed. They seem to be trying to get this problem taken care of; however, the County has missed the boat in Rockport Estates. There are already a lot of homes that ridgeline. This existing community is not a ridgeline-sensitive area. He hoped that as he gets ready to submit plans, he doesn't have to face the same thing that others have.

Mr. Lindsley said this problem won't go away quickly. There will be a lot of people who will try to build homes on ridgelines. He hopes that when his plans are submitted, Staff and the Commission can see that this is something that makes sense. He said the definition of where they measure the ridgeline from is crucial.

Alan Lindsley said he is the project manager of Rockport Estates. He said since this ordinance has started, residents are starting to panic. There are "For Sale" signs going up. The majority of the lots are on the SR 32 hillside. Many of them are breaking ridgeline. People with bare lots believe they won't be able to build and the value of their lot is going to decline. They want to sell before a decision is made or they may be stuck with a 26-foot height.

Mr. Lindsley said he has been asked many times where Summit County is measuring from. There is a different view coming from Kamas or coming from Wanship. He wanted to bring to the Commission's attention that people who live there are nervous. There are a lot of people who have owned property since 1974 when the subdivision was approved.

Chair Hanson asked Mr. Lindsley how many of the 340 lots are vacant. Mr. Lindsley said there are 100 homes built. The SR 32 side is about 2/3 built out. The backside facing Promontory is growing quickly.

***Chair Hanson** left the public hearing opened until the next meeting.*

Commissioner Ure said he would like Staff to come back with points to determine the ridgeline. **Chair Hanson** said she doesn't think they have time to do that at this time. How would they define the points? It would have to come back to the Commission and there will be disagreement among the Commissioners. **Commissioner Ure** said he doesn't think it would take much time because they know where the problem areas are.

Planner Milliner said it would depend on where the individual lot is. That would be the problem of defining the points. They would have to determine the most important visual points from Henefer to Woodland. John Lindsley offered to hire an engineer to make that determination. Planner Milliner said the problem is that it isn't just Rockport Estates.

Commissioner Willoughby asked if this language could be put in place for a period of time until they can get the visual points defined. Planner Milliner said they get three or four of these a week. It isn't just in one location like Rockport Estates or Weber Canyon. It is everywhere.

Planner Milliner said that Planner Molly Orgill has been out with the pole test about four times this week. That is why they created this language. They don't want these people going before the County Council. This process is the simplest, least expensive, fastest way to get them a building permit while they are reviewed for compliance.

Commissioner Ure said they have a lot on their plate. He doesn't believe there should be a big push on this. This is just putting a band aid on the problem.

Chair Hanson asked if they can make different policies for certain areas, like Rockport Estates. Planner Milliner said that once they have a public hearing on this, it could be in effect as a temporary zoning ordinance, pending legislation. It would become a working document.

Planner Milliner said that if this goes into effect, until the language is changed, any applications that ridgeline would be reviewed as a low impact permit subject to the criteria listed in this language and in Chapter 4. **Chair Hanson** proposed that they send this back to Staff to rework the language. At some future time they will look at specific visual points.

Commissioner Wharton made a motion to continue the public hearing until September 1, 2016. Commissioner Willoughby seconded the motion.

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

5. Approval of Minutes

June 16, 2016:

Commissioner Ure made a motion, which was seconded by Commissioner Willoughby, to approve the minutes as written. All voted in favor.

- **MOTION CARRIED (4 - 0) Commissioner Henrie and Commissioner Wharton abstained.**

WORK SESSION

1. Discussion regarding Master Plan Developments; RR, RS, RC, and Village Overlay Zones; Family Estate Subdivision – *Planning Staff*

Director Putt asked if they are ready to bring these items to a public hearing. Is there a fatal flaw that they want to eliminate? In the event that there is not, he suggested they will hold a public hearing on September 15. This would give them time to advertise the meeting.

Commissioner Willoughby distributed a handout that she created to help her understand what is being proposed. She is concerned that when zones are crossed to move density, the MPD process is triggered. She presented different scenarios. If someone crosses zones, do they now have to have 5-acre lots? Do they lose the ability to have 1-acre lots? If so, how does the clustering work?

Director Putt asked some clarifying questions about the different illustrations. He said if the landowner wanted to move the density from the AG-1 into the AG-40, the MPD would be triggered if the lots remain at one acre. If the landowner doesn't want to go through the MPD process, the lots have to be 5 acres in size. **Commissioner Willoughby** said that moving 1-acre lots into the AG-40 zone would trigger the MPD.

Commissioner Willoughby moved to her next example. It had three building lots. One is in the AG-6 zone and two in the AG-1. If that person wants to move the 1-acre parcels to the back, they would have less than 5 acres and the MPD process would be triggered. The County Council has said they want the density moved off the road. This would discourage that.

Commissioner Willoughby moved to her last example. This hypothetical landowner has eight 1-acre lots along the highway. Right behind this property they own 40 acres.

If they stretch the lots into long narrow lots the neighbor in the AG-40 would have 9 houses next to them. This scenario shows this could be done without triggering the MPD. She said these examples demonstrate her concerns because there are so many unknowns.

Director Putt asked **Commissioner Willoughby** what aspects of the MPD create the areas of concern. **Commissioner Willoughby** said there are some things that she would want to avoid, such as the requirement to have open space. Director Putt answered there isn't a mandatory requirement to have open space. He added that the MPD process doesn't take density away. In fact, it could increase density. There is not an automatic requirement for open space. The MPD provides an opportunity to have reduced lot sizes. There is an opportunity to establish reduced setbacks.

Director Putt said he is trying to understand the concern of going through the process when they are ultimately going to have to go through a process anyway. The MPD process can provide someone with more density and with better results. The MPD arranges the density on the site.

Commissioner Ure said perhaps someone wouldn't want to have extra density. Going through the MPD would prolong and complicate the process. It would cost more money. **Commissioner Willoughby** asked about the bonus density. What would trigger it?

Director Putt said these situations would probably be in the AG-40 or the AG-6 zones. These zones have established an expectation of the people who live there. The MPD gives the Commission an opportunity to review so that no unintended consequences are created. He added the 5-acre threshold was what the Commission arrived at after debate. Director Putt said he doesn't think that everyone on the Commission agrees

with every aspect of this ordinance. The question is if they are ready to test this in public, then in the near future forward this up for the County Council to review.

Chair Hanson said she thinks they are ready to have a public hearing. Following that they can fine tune the ordinance. **Commissioner Henrie** said he thinks more discussion is needed. They haven't discussed the reverse scenario. What if someone wanted to bring density from the AG-80 into the AG-40? **Commissioner Ure** said his concern is about having the lot size be 5 acres. It is a useless piece of ground. Several Commissioners disagreed.

Commissioner Henrie said he thinks they should take this document and have a subcommittee go over it and then bring it back. **Commissioner Ure** said he is unable to serve on the subcommittee at this time. **Chair Hanson** said if this goes to the subcommittee, it would come back to the Commission before it goes to a public hearing. **Commissioner Willoughby** said she would really like to hear what the public has to say. **Commissioner Sonntag** asked that they have a public hearing and then have the subcommittee work on it. A straw poll was taken if they should move the document forward to a public hearing. **Commissioner Henrie** was against and the rest of the Commission were in favor.

COMMISSION ITEMS

Because there were no specific items for the first meeting in September, it was decided to cancel that meeting. That meeting is just before the Labor Day weekend.

ADJOURN

At 10:00 p.m. Commissioner Ure made the motion which was seconded by Commissioner Henrie to adjourn. All voted in favor.

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

A handwritten signature in black ink, appearing to read "Taylor B. Hansen". The signature is written in a cursive style with a long horizontal line extending to the left.

Approval Signature