

MINUTES

Eastern Summit County Planning Commission

REGULAR MEETING
THURSDAY, MARCH 1, 2018
SUMMIT COUNTY COURTHOUSE
COUNCIL CHAMBERS
50 NORTH MAIN STREET
COALVILLE, UT 84017

COMMISSIONERS PRESENT:

Marion Wheaton	Rich Sonntag
Bill Wilde	Tom Clyde
Tonja Hanson, Chair	Don Sargent
Amy Rydalch	

STAFF PRESENT:

Helen Strachan– <i>Deputy County Attorney</i>	Katy Staley– <i>Secretary</i>
Ray Milliner - <i>Principal Planner</i>	Peter Barnes – <i>Planning & Zoning Administrator</i>
Amir Caus – <i>County Planner</i>	Pat Putt – <i>Community Development Director</i>
Sean Lewis – <i>County Planner</i>	

WORK SESSION – COURTHOUSE EXECUTIVE CONFERENCE ROOM

COUNTY COUNCIL PRESENT:

Chris Robinson, Chair	Roger Armstrong
Glenn Wright	Doug Clyde
Kim Carson	

COUNTY STAFF PRESENT:

Anita Lewis– <i>Rural Affairs Assistant Manager</i>	Margaret Olson– <i>County Attorney</i>
	Dave Thomas – <i>Chief Civil Deputy Attorney</i>

1. Joint Work Session with the Summit County Council to Discuss the Promontory Specially Planned Area Development Agreement Provisions Relating to Employee Housing/Workforce Housing and matters related to Eastern Summit County Development Code and Zoning Map.

Council Member Carson opened the meeting at 4:30 PM.

Director Putt led the discussion. The Eastern Summit County Planning Commission had been reviewing an application for an events facility within the Promontory Development

and the Planning Commission questioned what portion of the affordable housing obligation Promontory has met. The Planning Commission tabled the decision for the events facility final site plan until there was more information and discussion about the affordable housing obligation for Promontory as outlined in the SPA (Specially Planned Area) agreement.

Section 4.8.4.1 of the SPA states that Promontory will provide 37 employee households, consisting of 82 bedroom suites for employee housing, sited within the resort, not outside the community gates. Those housing units should be clustered together and integrated into the fabric of the community. Those units should be located in the Resort Village, the Resort Highlands, Middle Valley or South Point development areas, as determined by the developer. Section 4.8.4.1.2 states all employee housing should be produced by the developer within a reasonable time schedule which correlates with employment generators, to be approved by the County. The SPA agreement was created in 2001.

Tom Ellison submitted a letter and Shawn Potter sent some information to the County Council and Planning Commission.

Chair Hanson stated that the proposed events center and proposed nightly rental units will produce many employment opportunities and the employee housing should move forward along with development. There is no schedule currently associated with the employee housing.

Council Member Carson asked if a reasonable time schedule could be produced. **Attorney Thomas** answered that the schedule would need to be made in partnership with the

developer. A lot of latitude was left in where the employee units would be built. Over time, the units were thought to be built in South Point.

Council Member Carson stated that employment generators have already been built and 18 years have passed with only 2 employee housing units being built.

Commissioner Sargent stated that analysis needs to be done concerning the employment generators, including the density built out, and identify when a reasonable timeframe would be to build the employee housing.

Shawn Potter stated that 600 housing units out of the original 1600 unit entitlement have been built. Promontory wants to comply with the employee housing obligation.

Promontory is currently paying a fee in lieu of the employee housing obligation.

Commissioner Clyde stated that the fee in lieu is only \$160,000 to \$175,000 total and is not a meaningful contribution to solving the problem. Building the employee units would be a more meaningful contribution. The Planning Commission is reluctant to approve a plan for more employment generators without a definitive plan to build the employee housing units. **Shawn Potter** shared estimates showing that Promontory would be built out within three years, with an estimated 508 full-time jobs at build-out. At the end of December 2017, there were 124 full-time jobs. Based on these estimates, there should be about 7 employee units built out. The build out of employment will probably not be as high as the original estimate. A full analysis has not been done. **Chair Hanson** stated there is a sense of urgency to move forward. **Commissioner Wilde** stated it is time for Promontory to step up after 18 years and build all 37 of the employee housing units. **Shawn Potter** stated that the employee housing units have been assigned to South Point, with

Promontory being responsible to build the units. Promontory would like to put a plan together and do it the right way.

Council Member Carson stated that by not constructing the employee units within a reasonable timeframe and in conjunction with employment generators, Promontory is in default of the Development Agreement and should create a timeline for building the employee housing units and take it to the Planning Commission. There should be a proposal for accommodating this requirement within 45 days.

Council Member Carson introduced the second part of the discussion. The Council has been working on Chapter 3 amendments. The community has been receptive to the changes that have been made.

Peter Barnes stated there are changes required to Chapter 4 concerning the MPD (Master Plan Development) process before Chapter 3 and the Zoning Map are approved. There is an existing Village Overlay process that has been forwarded to the County Council. There may be other locations other than those already identified where the Village Overlay process may be appropriate.

Director Putt summarized the changes to Chapter 3 and the Zoning Map. There are concerns about the sensitive lands restriction being taken away. **Council Member Carson** stated there could be a deduction for sensitive lands being taken up front. **Council Chair Robinson** stated the trigger for the MPD should be changed to 4 units or more. The MPD will keep the developers away from sensitive lands. Density will not be taken away but measured up front and dictated by the terms of the MPD. This new language will need to be made to Chapter 4 before Chapter 3 and the Zoning Map are approved. There also needs to

be a mechanism in place to prevent a developer from building in smaller developments to avoid the MPD process. Having the Village Overlay process include a recreational component could be used to revitalize the Eastern part of the county. Certain parameters would have to be met to qualify for a Village Overlay.

Council Member Armstrong asked about the Recreational Commercial process. **Director Putt** answered that it will be revisited after Chapter 3 is adopted, but it could be addressed through the Village Overlay process. The MPD process provides base zoning and allows predictable land planning. Bonus density could be allowed. The Village Overlay process allows land planning that probably would not already be permitted and is not tied to base density. The Village Overlay includes multiple property owners, but a single property owner could apply. **Council Member Carson** stated there is a concern with incentivizing sprawl if areas were not designated as possible Village Overlay areas. **Director Putt** stated the Village Overlay process was first created to allow historic communities to recreate themselves and allow expansion. The Village Overlay process is not intended for resort development that would be more appropriate for the Recreational Commercial Zone.

Commissioner Sargent stated he likes the direction the County Council is taking. This direction is ensuring the rural character of Eastern Summit County is being maintained by incentivizing development in appropriate areas.

Commissioner Wheaton agreed. The County Council should look closer at how the areas now designated as Highway Corridor will flow when the Highway Corridor is removed.

Council Chair Robinson stated Chapter 3 and the Zoning Map will not be perfect, but landowners will have the right to request a rezone.

Commission Chair Hanson requested this conversation continue at another time to allow the Planning Commission to be at their regular meeting.

REGULAR SESSION

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

1. **Pledge of Allegiance**
2. **Public input for items not on the agenda or pending applications.**

There was no public comment.

3. **Election of Chair and Vice Chair**

Commissioner Sargent made a motion to nominate Commissioner Clyde as Chair of the Eastern Summit County Planning Commission. Commissioner Sonntag seconded the motion.

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

Commissioner Clyde made a motion to nominate Commissioner Sargent as Vice Chair of the Eastern Summit County Planning Commission. Commissioner Wheaton seconded the motion.

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

4. **Public Hearing and possible action** regarding a Conditional Use Permit to install an underground pressurized water pipe exceeding 12 inches in diameter following the path of the existing Echo Ditch Company Canal; Echo Ditch Company, applicant. – *Sean Lewis, County Planner*

Planner Lewis shared the background. The water in the Echo Ditch Canal pumps out of Echo Reservoir to customers through ditch lines to the town of Echo. The proposal is to put

a pressurized pipeline within the existing ditch in order to save water and limit evaporation. There are three branches from the main ditch, with mixed sizes of pipe. A Conditional Use Permit is only required for any pipe over twelve inches in diameter. Because the entire project has mixed sizes of piping, the entire project is being brought to the Planning Commission. There are some areas where the proposed pipeline deviates from the existing ditch alignment. The applicant has obtained easements for those areas and the easements have been reviewed and confirmed those easements. Staff recommends approval of this Conditional Use Permit according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff Report.

Bryce Wilcox with JUB Engineering, representing the applicant stated that Echo Ditch loses significant amounts of water due to seepage and evaporation. A pressurized line would reduce the loss and be a benefit to all the users.

Commissioner Wheaton asked who will be responsible for long-term maintenance to the pipeline. **Mr. Wilcox** answered the irrigation company would be responsible, the same as they are responsible for the pipe system that crosses the freeway now. Construction will be monitored by the County and all building permits will be required.

Planner Lewis stated there was an email that was received concerning reclamation of the area. Staff will look into the claims that are referred to in the email, but those claims have no bearing on approval of this project.

Commissioner Wilde asked if the ditch company owns the transmission lines. **Mr. Wilcox** answered that Echo Ditch Company owns the pipeline. The existing irrigation line comes out of the Bountiful power plant. There will be an easement through land that is owned by

the Bureau of Reclamation. This will not affect the Henefer line. The existing connection areas will be used.

Commissioner Hanson asked if all users have agreed to the proposal or if there are outliers. **Planner Lewis** stated the ditch company has a prescriptive easement for a long-term ditch. The ditch company has the right to move water through the ditch. As long as the pipeline runs through the ditch, no easement is needed. Staff has verified that easements have been recorded for the areas where there is deviation from the existing ditch.

Commissioner Wilde stated that the shareholders of Echo must have a majority vote and voted unanimously to encumber this debt. **Mr. Wilcox** stated the pipeline has funding from the Division of Water Resources, which has a requirement to have a majority of shareholders vote to take on that debt, which passed. The shareholders are all aware of the assessments that will come.

The public hearing was opened.

Planner Lewis submitted two emailed letters from Gary Francis and Jan Perkins into record (see attached).

Rob Lewis is a shareholder. There are so many leaks in the current pipe system that by the time the water gets to Mr. Lewis, he barely has enough water to water half of his lawn. There is a Board for the Echo Ditch Company that all the shareholders look to. Mr. Lewis is in favor of the proposed pressurized line.

Paul Wangsgaard is the landowner at the end of the ditch that does not get any water because there is not any left. Mr. Wangsgaard is in favor of the proposed pipeline. Without the pressurized line half of his fields dry up because there is not enough water. It takes two

hours for the water to reach the end of his property and his turn is over before it reaches the end of the property.

Chad Harper is speaking for Richard and Jane Harper and is against this project. The project will be cut off at the church cemetery. This is a big expense.

Rob Lewis stated the pipeline will end at Mike Carlson's property.

Mr. Wilcox clarified that the field where the pipeline ends is owned by one shareholder.

There will be an open turnout onto that shareholders ditch. There used to be three crossings of the freeway and the pipeline will be more economical without those three crossings. All shareholders will have access to water, either through the pressurized line or a gravity turnout. The pressure will depend greatly on the level of the reservoir and will be anywhere from 20 to 45 psi. Some customers may be required to be on a turn system and take turns. That will be determined by the ditch company. Because the pipeline is tied to Echo Reservoir, there is nothing more that can be done about the pressure.

Commissioner Wilde stated the pressurized systems save a lot of water and there is nothing better.

Chair Clyde received a phone call from Sandra Morrison from the Echo Historical Society.

Ms. Morrison stated the ditch floods the basement of the old church and school. The biggest operating cost to the school is running a sump pump to keep the basement of the school from flooding the mechanical system. Ms. Morrison is happy with the project.

The public hearing was closed.

Chair Clyde asked if there is a Condition that can be imposed to address the concern of Jan Perkins concerning the loss of mature trees. **Planner Lewis** replied that Staff does not

know how to address this concern without an inventory of the trees and it is ultimately the responsibility of the landowner to maintain the trees.

Findings of Fact

1. The Echo Ditch Irrigation Company submitted a Conditional Use Permit application to construct an underground water transmission line exceeding 12 inches in diameter in and along portions of the Echo Ditch.
2. The proposed underground water transmission line is approximately 2 miles in length.
3. The applicant recorded easements along the existing ditch alignment in which the pipeline is to be constructed.
4. The proposed underground water transmission line deviates from the prescriptive use ditch alignment in 5 locations. The applicant has obtained and recorded easements from the property owners where said alignment deviation occurs. Community Development Staff has verified precise easement locations.
5. A water Transmission line exceeding 12 inches in diameter is a Conditional Use Permit in all zones per the Eastern Summit county Development Code.
6. A public hearing on this matter was held on March 1, 2018.

Conclusions of Law:

1. Based upon the findings above, the proposed Echo Ditch Pipeline is compliant with the standards as found in the Eastern Summit County Development Code.
2. As Conditioned, the proposed underground water transmission line use will not adversely affect, in a significant manner, the health, safety, or welfare of the general public.

Conditions of Approval:

1. All required engineering permits shall be obtained and revegetation bonding provided prior to commencement of construction activity.
2. No construction activity shall begin until such time that the Environmental Analysis for the project has been approved by the Bureau of Reclamation and submitted to Summit County for review.

Commissioner Hanson made a motion to approve the Conditional Use Permit for the pressurized water pipe of Echo Ditch Company Canal as detailed in the Staff Report according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff Report. Commissioner Sargent seconded the motion.

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

Work Session

1. Discussion regarding a possible rezone from Agricultural Protection/Highway Corridor to Commercial for parcels ROS-3 and ROS-4; Wanship. – *Ray Milliner, Principal Planner*

Commissioner Sargent recused himself from the discussion as there is a conflict of interest.

Planner Milliner shared the background. The application request is for a rezone of lots 3 and 4 of the Red Onion Subdivision. The property is located in Wanship near the Chicken Inn. The rail trail is between the parcel and the Chicken Inn. The request is to rezone from AG40 and some Highway Corridor to Commercial. That would be a significant change in the underlying zoning, so Staff is bringing this application to the Planning Commission for a Work Session to get input and direction with regard to issues as the application relates to the General Plan. The first question of discussion is would this be an appropriate location for commercial zoning. This property is located at the freeway exit, which is generally a good location for commercial property. There are some residential properties in the area and changing the zoning of this property may have some impacts on the neighbors. Another question is what potential impacts would a rezone have on the rail trail. The rail trail is one of the County's most important resources. The County Council has designated the Rail Trail as one of the amenities Eastern Summit County has and would like to see it preserved and enhanced. The Use Table has been included in the Staff Report for the Planning Commission to consider if the Commercial Zone uses that are generally allowed would be appropriate for this property. In the past, there have been Development Agreements that have limited certain uses on properties that are rezoned. Staff also would like the Planning Commission to share any specific negotiations they would like included in a rezone of this property.

Sheldon Smith, the applicant stated the neighboring properties are owned by Mr. Smith and his daughter, so any possible impact would be to his own property. This property is ideally situated for commercial use. The County has said in the past they would like to see commercial progress in areas like this. Wanship is ideally situated for commercial use. Wanship has been a hub for commercial in years past. There were two restaurants, two hotels, grocery stores, etcetera. There is currently a zipline company and Auto garage. This is something that is needed in the area, with little impact. There is a buffer between the Rail Trail and this property and there will be little impact to the Rail Trail. There is a large power line through the middle of the property, so there are not a lot of uses conducive to the property. Silver Creek also runs through the property. **Chair Clyde** stated with the power line and the freeway, this property loses its residential appeal.

Commissioner Sonntag asked what use the applicant is proposing for this property. **Mr. Smith** answered that he is not sure yet. He has been approached by people wanting to build an auto repair shop, moving the zipline operation, or storage sheds.

Commissioner Sonntag stated that rezones require a site plan, architectural drawings and an operational management plan. It seems like the Planning Commission does not have the latitude to make judgements on this property.

Chair Clyde stated that the commercial zone is broad and should be split between industrial and light industrial. A good use of the property could be a series of shops that cater to the Rail Trail, such as a bike repair shop, a coffee shop, and maybe even a bed and breakfast. Storage sheds and a large gas station do not appeal. However, it is not the Planning Commission's purview to state what businesses could or could not be built on this

property. It would be tragic to have the front door of Wanship end up as storage sheds or ten acres of junk cars.

Commissioner Rydalch stated it makes sense to have this property be zoned commercial, but it may be early. It would be nice to know what the property will be, with a site plan and some architecture before the rezone is approved. **Mr. Smith** stated he does not know what will be built there and cannot get anyone to look at buying the property without knowing it will be rezoned for commercial use. The property has been in the family for generations. The hope is there will not be too many restrictions placed on the property to prevent it from moving forward.

Planner Milliner stated this property was subdivided about one year ago.

Chair Clyde stated the hesitation is not whether the property should be commercial, but what sort of commercial. There is reluctance to give approval of this rezone without knowing what kind of business would be on the property.

Commissioner Wilde stated he is a big advocate of property rights but asked if the Planning Commission can legally limit uses that are typically allowed uses for commercially zoned property according to the Land Use Table. **Attorney Strachan** stated that a Development Agreement could limit the types of uses that would apply to a specific property. **Planner Milliner** referred to an application that was made in Snyderville Basin where the Planning Commission did limit the types of uses allowed on a property. **Mr. Smith** stated he would like the property to look nice and has no problem with limiting the types of uses for this property. There was a Master's Degree student that made a project out of this property and did feasibility studies for what would work on the property, but a

lot of changes would have to be made. **Chair Clyde** stated this property could potentially be the first Village Overlay.

Director Items

There are no public hearings or work sessions scheduled for March 15th and Director Putt suggested that date as the Commission retreat. There will be some education and discussion of how to do what the Commission is supposed to do.

Echo Reservoir State Park will present their plans for the reservoir. Director Putt will forward those plans to the Planning Commission. There was a presentation held tonight and Director Putt will request a presentation to the Planning Commission with a question and answer session.

ADJOURN

At 7:08 p.m. Commissioner Hanson made a motion to adjourn.

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

A handwritten signature in black ink, appearing to read "Mark B. Hanson", written over a horizontal line.

Approval Signature