

UTAH COUNTY PLANNING COMMISSION

Minutes of February 15, 2000 meeting

PRESENT: Jill Taylor, Chair  
Bill Ferguson, Vice-Chair  
Dean Miner, member  
Steve White, member  
Jeff Brady, member  
Brent Gordon, member  
Gary Aitken, member  
Dan Powell, alternate (not seated)

EXCUSED: Rebecca Albiston, alternate

Others Present: Buck Rose, Bryce Armstrong, Keith Neubert, Liz Arneson, and Jeff Bradshaw from Community Development; Tom Wroe, County Fire Marshal; Raymond Zeeman, Arjun Ram, Parley Hall, Doug Hood, Jeremy Keele, Amy Asay, Douglas Baxter, Merrill Chatwin, Kathy Chatwin, Joanne Roberts, H. Kim Hancock, Richard Harrington, Claire Huish, Kathie Mower, Del T. Scott, Ted Edwards, Brent Sumsion, Kevin Call, Conrad Edwards, Chris McMullin, Jerry Cross, Keith Broadhead, Shirl Ekins, Walter Callaway, Jerry Bradford, Neil Bullock, Jerran Flinders, Jody Robinson, Barbara Bingham, Donna Butler, Randy Butler, Loyd Jackson, Leonda Hancock, Marie Ashton, Jenae Parker, Doug Rowley, David Wilson, Marie Depue, Monte Depue, Alfred Sara and Ruth Johnson, Cindy Keele, Dale Tuk, Sherryl Flowers, Jan Rogers, Craig Carlile, William McMullin, Fred Lyman

The meeting was called to order by Jill Taylor, Chair to the Utah County Planning Commission, at 6:06 p.m. in room 1400 of the Utah County Administration Building, Provo, Utah. The following are minutes of that proceeding:

**APPROVAL OF MINUTES - January 18, 2000**

Motion: Jeff Brady

Second: Steve White

That the minutes of the January 18, 2000 meeting are approved as presented. The motion passed by a unanimous vote.

**DEVELOPMENT MORATORIUM - Possibility of recommending to the Utah County Commission a moratorium for certain zones in unincorporated Utah County for the purpose of ordinance revision relating to large scale development**

Steve White proposed, based on the recommendation of counsel by way of letter, that the matter

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be withdrawn. A moratorium, at this time, would not be in the best interest of the county attorney, and may put the county in a position of liability.

Motion: Steve White

Second: Brent Gordon

That the matter of Development Moratorium is removed from the agenda. The motion passed by a unanimous vote.

**ETHINGTON/RICHARDSON - Two lots in the RA-5 zone, Section 15, T8S, R2E, Spanish Fork/Lake Shore area (Continued from 1/18/00)**

Jeff Mendenhall explained that the applicant is making progress in resolving the concerns of the attorney. However, there are still a few outstanding items. It would be in the best interest of both the county and the applicant if the matter was continued.

Motion: Steve White

Second: Gary Aitken

That Ethington/Richardson is continued to the regular April meeting to allow for the needed outstanding items to be resolved. The motion passed by a unanimous vote.

**FRENCH COUNTRY ESTATES PUD, PLAT "A" - Six lot Planned Unit Development in the RR-5 zone, Section 30, T9S, R2E, Spring Lake area (continued from 1/18/00)**

Jeff Mendenhall indicated that he has received a memo from Mr. Perry, representing French Country Estates, requesting that this matter be continued to the March meeting.

Motion: Steve White

Second: Bill Ferguson

That the request of French Country Estates is continued to the regular March meeting. The motion passed by a unanimous vote.

**L. BANKS SUBDIVISION, PLAT "A" - Two lots in the RA-5 zone, Section 9, T8S, R2E, Palmyra area**

Jeff Mendenhall referred to a map explaining the request, noting that all documents have been received and are in order. There is an existing dwelling on lot 1, leaving lot 2 available for a building permit. Staff recommendation was for approval with conditions as listed in the staff

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report.

David Shawcroft noted that item #12 of his letter, relative to a zoning violation, still needs to be resolved.

Motion: Brent Gordon

Second: Steve White

That the Planning Commission recommends to the County Commission approval of the request of L. Banks for a subdivision based on the following conditions:

1. That the improvements be completed, or that a bond for the improvements has be posted.
2. That the greenbelt rollback tax is paid prior to recording if required by the Utah County Attorney.
3. That the current zoning violation is resolved prior to recording.
4. That item #12 of the County Attorney's letter, dated 1/20/00, relative to a judgment lien needs to be satisfied or removed from the title report.

The motion passed by a unanimous vote.

**FRED MARTIN - Proposed zone text amendment to the I-1, Industrial Zone, to allow gymnastics facilities and operations**

Jeff Mendenhall explained that the applicant proposes a change to the current county I-1 zone designation to allow structures and facilities for the use of gymnastic training and classes. The current I-1 zone states in its declaration of legislative intent that this zone was created for manufacturing, processing, warehousing, fabrication, and wholesaling of goods and materials. Retailing is not the intent or allowed in the I-1 zone. Staff recommendation was for disapproval based on the lack of availability of fire protection and other services available to support the needs of such an operation within all I-1 zone in the unincorporated area.

Motion: Steve White

Second: Jeff Brady

That the Planning Commission recommend to the County Commission disapproval of the request of Fred Martin for a zone change to allow for a gymnastic facility based on the findings listed in the staff report, and that the needs of this type of operation would be better served by Orem City, which could be accomplished through annexation.

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**UTAH COUNTY BOARD OF ADJUSTMENT - Proposed zone text amendment to Section 7-22 of the Utah County Zoning Ordinance to require recording the decisions of the Board of Adjustment on each appeal with the Utah County Recorder**

Jeff Mendenhall presented a proposed ordinance which would amend section 7-22-B of the Utah County Zoning Ordinance to require the recording of each decision of the Utah County Board of Adjustment. As they are a quasi-judicial body, recording of decisions for any future use would seem consistent with their appeal process.

Motion: Jeff Brady

Second: Steve White

That the Planning Commission recommends to the County Commission approval of a text amendment to Section 7-22 of the Utah County Zoning Ordinance to require recording of the decisions of the Board of Adjustment, and that such requirements be noted on the Board of Adjustment appeal application. The motion passed by a unanimous vote.

**WESTERN AGGREGATES/VALLEY ASPHALT - Proposed General Plan and Zone Map amendment from the CE-1 zone to the I-1 zone, Section 31, T9S, R2E, and Section 6-T10S, R2E, Santaquin City area**

Motion: Steve White

Second: Gary Aitken

That the public hearing for Western Aggregates/Valley Asphalt is opened, as advertised. The motion passed by a unanimous vote.

Jeff Mendenhall explained that the subject gravel pit has existed in use for many years and is currently operating under the regulations of the zoning ordinance, and currently has a business license for gravel extraction only. The applicant is proposing that 30 acres of this area be re zoned to the I-1 zone to allow the additional uses of rock crushing, asphalt and concrete mixing plants. The applicant states that this area should be changed for future use of commercial and industrial for Santaquin City and that the existing CE-1 zone is no longer characteristic of the adjacent residential properties within Santaquin City. This request was heard in 1999. At that time, the proposal was to change from a CE-1 zone to an I-1 zone for the entire property that was more than 100 acres. The current 30-acre portion being considered is located in the northwest corner. Staff recommended that, based on the location being adjacent to Santaquin City, consideration should be given to that city with respect governing decisions. An I-1 zone would allow uses without going to the Board of Adjustment, as well as a variety of permitted uses other than gravel related industry.

Craig Carlile, attorney for the applicant, explained that this request comes in light of new

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information as well as the acreage changed explained by Mr. Mendenhall. It was his position that, based on a recent Staker Paving appeal before the Board, the firm opposition by the fruit growers had softened. Further, the historical use has been industrial in nature up until 1976.

Jill Taylor took issue with the position that ‘historical use’ and ‘historical zoning’ were basically the same.

Neil Bullock, David Wilson, Monte Depue, Parly Hall, Alfred Johnson, and Jerry Bradford spoke in opposition to approval of the request based on issues of what that ‘historical use’ actually entailed, dust and environmental issues, traffic and safety, impact on surrounding agriculture, incompatibility with residential development, as well as negative impact to property values in the area.

Craig Carlile was allowed time to rebut public opposition noting that he did not share their opinion that property values would be lowered, or industrial and residential were incompatible. He cited examples of where compatibility was evident in towns like Vineyard. Further, he stated that the Board of Adjustment was placing a ‘tethering’ condition in connection to their recent approvals which placed a hardship on gravel operators, and restricted them from upgrading and entering into long-term planning which would be in the best interest of Utah County as well as his client. Western Aggregate was willing to enter into a developmental agreement much like those used in many cities that would protect the citizens from extended uses other than their gravel industrial from being done.

Dave Shawcroft stated that he was not aware of any developmental agreement that had been tested in court and was not certain that it could be enforced. He recommended against the change siting the proposed dude ranch at Birdseye as an example of changing a zone to accommodate the plans of an applicant. In that matter, the dude ranch was never completed and currently a large residential development is being considered.

Dean Miner asked whether the County Commission had taken any action on the recommendation for an enforcement officer. Mr. Mendenhall responded that it was under consideration, but he was not aware that any decision had been made.

Motion: Bill Ferguson

Second: Jeff Brady

That the public hearing is closed; and that the Planning Commission recommends to the County Commission disapproval based on the following findings:

1. The existing gravel operation may continue in the CE-1 zone, and application for expansion can be submitted to the Utah County Board of Adjustment.
2. The adjacent Town of Genola should be the jurisdiction that controls the land use planning

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in the future as per the extended utilities and the existing land use plan of the Utah County Master Plan.

3. The I-1 zone could currently allow land uses that would be more incompatible to nearby residential uses than the gravel operation.
4. The I-1 zone provides uses that Utah County cannot always permit due to lack of utilities and services in the growing urban setting.
5. The I-1 zone would benefit only one property owner and has not been looked at for countywide acceptability in this area.

The motion passed by a unanimous vote.

**WESTERN AGGREGATES/VALLEY ASPHALT - Proposed General Plan and Zone Map amendment from the M&G-1 zone to the I-1 zone, Section 4, T10S, R1E, Genola area**

Jeff Mendenhall explained that the applicant was issued a building permit (#98-015) for a pit and a crusher in the M&G-1 zone as permitted in that zone, and by the Utah County Board of Adjustment. The Board of Adjustment also allowed both an asphalt and concrete batch plant by special exception in 1998. The request for an I-1 zone would allow the present uses of a crusher, asphalt and concrete mixing plant as permitted uses, and not require conditional uses by the Board of Adjustment. The subject property consists of 160 acres just south of Genola and west of Highway 6. It is commonly known as the Ekins pit. The I-1 zone would allow the applicant to bring in materials and for manufacturing as well as the current applications. It was the position of staff that industrial uses are not appropriate for this area, and recommended disapproval of the request.

Craig Carlile, representing the applicant, stated that when his client came before the Board of Adjustment they were denied because it was an 'industrial use'. He felt frustrated that there was not an area where their needs could be met as well as the needs present and future development. Mr. Mendenhall noted that there are currently 8 to 10 I-1 zones on the county map. Mr. Carlile explained that the 3-5 year tethering that the Board of Adjustment had, as a condition of approval, placed unreasonable restrictions and a hardship on the applicant's operation. He also noted, for the record, that even if they had met all conditions and been 'good neighbors', the Board still could disapprove a request to renew their permit based on changes in the surrounding area. He felt this was unfair.

Arjun Ram, an environmental engineer for Western Aggregates, explained that the importance of not being held to a 3-5 year renewable permit was that a company could not amortize their costs to

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allow them to be more profitable, thus not being able to present a strong financial plan to their stockholders. He felt like they needed the I-1 zoning in order to protect their investment. Further, he indicated that they would probably move their Spanish Fork operation to Genola if they had a more permanent situation. Mr. Ram felt that the gravel industry should be viewed as a natural resource, and should be protected much like the oil industry.

Sherryl Flowers presented pictures and information relative to the dust mites, noting that she represented the fruit growers, and they had not, in fact softened their position.

Keith Broadhead, Mayor of Santaquin, stated that this issue was on the agenda for the Feb. 16<sup>th</sup> meeting of the Santaquin City Council. There is approximately 2200 acres that is planned for development in that area, and he was very concerned about protecting the property values and environment.

Shirl Ekins, a major property owner in the area, took exception to the statements made by Ms. Flowers. He is also a fruit farmer and feels that this is not a problem. He is the owner of the property leased by Valley Asphalt, and also owns a considerable amount of property being developed as residential property. He indicated that within the next couple of years, the gravel pit will probably be moved to another area of his land. Mr. Carlile had some concerns about the possibility of the pit being moved.

Bill Ferguson, also a fruit grower, stated that he had spoken to Mr. Rowley recently about his opposing the gravel pits. It was his understanding that Mr. Rowley's comments at the Staker Paving hearing were only that he would rather see this one pit allowed to operate than to have several more open up in the area. Mr. Ferguson did not feel that the fruit growers had 'softened' their position or had their concerns mitigated.

Craig Carlile concluded by asking, 'if not here, then where'? He felt that the actions of the County had placed his client and the gravel industry in a dilemma. It was his opinion that the Genola site is the best site in Utah County. The pit is completely sight obscured. The Board of Adjustment's conditioned approval has three years left to run.

Dean Miner concurred with Mr. Carlile that the five-year limit was a disadvantage for a businessman. He felt that if he had a couple of years of enforcement history to refer to, he would have more confidence in a decision to approve.

Bill Ferguson took the position that the commission should only be addressing the rezoning to I-1. Although the other information is pertinent to this particular operation, the commission's recommendation should be based on whether the change to an I-1 zone would be in the best interest of the county.

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Gary Aitken stated that he was not involved in the task force, but felt that perhaps the cities should have been more involved.

\_\_\_\_\_ Motion: Jeff Brady

Second: Gary Aitken

That the Planning Commission recommends to the County Commission disapproval of the request of Western Aggregates to change the zone to the I-1 zone, based on the following findings:

1. The existing gravel operation may continue in the CE-1 zone, and application for expansion can be submitted to the Utah County Board of Adjustment.
2. The adjacent Town of Genola should be the jurisdiction that controls the land use planning in the future as per the extended utilities and the existing land use plan of the Utah County Master Plan.
3. The I-1 zone could currently allow land uses that would be more incompatible to nearby residential uses from the gravel operation.
4. The I-1 zone provides uses that Utah County cannot always permit due to lack of utilities and services in a growing urban setting.
5. The I-1 zone would benefit only one property owner and has not been looked at for countywide acceptability.
6. The pit was established in the M&G-1 zone under the current zoning ordinance with the applicants knowledge of the M&G-1 zone and its restrictions.

The motion passed by a 5-2 vote with Dean Miner and Steve White voting in opposition.

*CHAIR CALLED FOR A FIVE MINUTE RECESS*

**UTAH NATIONAL PARKS COUNCIL BSA - Proposed major campground and campsite facilities for noncommercial use as a Boy Scout/Cub Scout camp area, Sections 1 & 2, T7S, R4E and 35 & 36, T6S, R4E, Hobble Creek Canyon area**

Jeff Mendenhall explained that the subject campground is located at the top of Left Hand Fork of Hobble Creek Canyon. A major campground is a permitted conditional use in the CE-1 zone as long as the criteria established by the zoning ordinance have been met. A recent text change relative



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to major campgrounds allows for the frontage to come from an approved H-20 road. Mr. Mendenhall showed a map of the proposed 1,200 acre property. Staff did not have concerns about where the campground was to be located or the proposed plans, but felt that section 7-24-D should be looked at as well as the 4 or 5 items listed in the staff report for clarification.

Steve Foster, Director of Campgrounds for BSA, explained that all items have been addressed and resolved with the exception of the road being looked at by the County Engineer and the water/well matter. He explained that the L.D.S. church will not approve the water change until the County has approved the request. He indicated that Springville City had not voiced any concerns about water shed. However, if the commission requested it, he would be agreeable to presenting an Environmental Impact Study. He explained that the roads were snow packed and that access would be difficult, or impossible, until later in the spring. This would present a problem with completing the water tank before next fall.

Dean Miner asked that the runoff problem also be addressed in the EIS report.

Motion: Steve White

Second: Jeff Brady

That the matter is continued to the regular March meeting to allow for confirmation of items 1-5 of the staff with staff and counsel, and the EIS to be acquired, if possible. The motion passed by a unanimous vote.

**DEAD AIM DEVELOPMENT, LLC - Amendment to landscape/recreational facility park, golf course plan, approved Feb. 20, 1996, Sections 26 & 27, T8S, R3E, Mapleton City area**

Jeff Mendenhall explained that the Planning Commission approved a conditional use permit for a landscape/recreational facility park (golf course) in 1996. There was also a nature preserve of approximately 400 acres that has been recorded as nondevelopmental property on the east side of the course. The proposal is to eliminate those holes south of the UP&L property which contain power lines, and to redesign to the north which would require adding approximately 40 acres of the Ludlow property. This would allow the golf course design to be in one ownership and contiguous area rather than being split by the UP&L property, and the necessity of lease agreements under the power lines. Staff recommended approval noting that approval is only inclusive of a club house, but no residential lots.

Douglas Baxter, representing the applicant, stated that the 10<sup>th</sup> hole will be on the Ludlow property. He also explained that they will be signing an agreement with Mapleton Water Users regarding the canal in which the applicant becomes responsible for the care and upkeep of the canal. The canal is an intricate part of the design. Mr. Henrickson is part of the LLC and will deed property to DAD.

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Motion: Bill Ferguson

Second Steve White

That the request of Dead Aim Development, LLC to amend the landscape/recreational facility park, golf course plan, approved Feb. 20, 1999, in the Mapleton City area, be recommended for approval to the County Commission based on findings of staff.

Mr. Shawcroft noted that approval should be with a letter of authority from Mr. Henrickson as well as some clarification that mining product cannot be moved or extracted from this site as per the court injunction, and that there will be no excavation or selling of products.

The motion was amended and the amendment seconded to include Mr. Shawcroft's suggestions by Mr. Ferguson and Mr. White, respectively. The motion passed by a unanimous vote.

**UTAH COUNTY PLANNING COMMISSION - Proposed recommendation to update the Utah County Zoning Ordinance in book form**

Jeff Mendenhall explained that the approval would allow for the current zoning ordinance to be repaginated, edited for typographical errors, punctuation and codification. This will allow for less confusion and a more concise book. Staff recommended approval.

Motion: Brent Gordon

Second: Steve White

That the Planning Commission recommends to the County Commission that the Utah County Zoning Ordinance be updated in book form to correct pagination, spelling, punctuation, and codification, without any change in text. The motion passed by a unanimous vote.

**Chair recognized Joanne Roberts and Barbara Bingham** who wished to approach the commission with comments.

Joanne Roberts addressed concerns regarding the Mountain Home Development ordinance stating that there seems to be a disparity and incompatibility between the requirements for property owners in the CE-2 zone and those of mountain home developments. When they have tried to address this problem, they have become frustrated. She asked for some direction as to how to appropriately approach the County and have their concerns heard, as well as possibly proposed changes.

Steve White indicated the commission's frustration also noting that they are only in a position to recommend changes, and have done so. The legislative body, that being the County Commission,

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must now address the proposed changes.

Jill Taylor stated that the Planning Commission is limited in their authority, but assured Ms. Roberts that they are very concerned. There was also some confusion as to the interpretation of the term 'clustering' as it is used in the proposed General Plan. She felt that the matter of a moratorium, and whether or not there would be a 'takings' issue, should be addressed.

Jeff Mendenhall felt that both the Mountain Home Development and Recreational Resorts should be looked at.

Steve White suggested that they draft an ordinance that could be presented to the County Commission for consideration. There was a question as to the proper procedure when making a recommendation to the County Commission. It was generally thought that a representative of the Planning Commission could attend the County Commission meeting to explain the Planning Commission's position.

Mr. Mendenhall asked that the Planning Commission meet to set some parameters and indicate to staff what they would like in an ordinance.

Joanne Roberts also noted that in the General Plan calls for an inventory and that inventories need to be the underlying consideration when addressing a development.

Barbara Bingham stated that some of the property owners have joined in litigation against the Mountain Home Development (Cottages at Hobble Creek). She was concerned about the Zoning Ordinance and General Plan not been adhered to, and wondered how rules could be considered without an inventory, as referred to in the Master Plan.

Motion: Bill Ferguson

Second: Jeff Brady

That a work session is set for noon on February 23, 2000 at the County Administration Building (room number to be confirmed by the secretary and posted 24 hours before meeting) for the purpose of considering the Mountain Home Development and Recreational Resorts; and the possibility of drafting an ordinance concerning changes in the Zoning Ordinance; and to adjourn this session of the Utah County Planning Commission. The motion passed by a unanimous vote and the meeting adjourned at 9:25 p.m.

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Minutes respectfully submitted by:

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Shirley R. Englund, Secretary

**MINUTES APPROVED BY:**

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Jill Taylor, Chair