

**MEETING OF THE  
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES  
July 6, 2016**

The Millard County Planning Commission met on Wednesday July 6, 2016 at the Millard County Offices, 71 South 200 West, Delta, Utah.

**PRESENT:** Gary Walker ..... Planning Commission Vice Chairman  
Tom Nielson.....Planning Commissioner  
Joyce Barney .....Planning Commissioner  
David Sturlin ..... Planning Commission Chairman  
Jodi Robison .....Planning Commissioner  
Molly Stevens .....Planning Commissioner

**EXCUSED:** Greg Greathouse .....Planning Commissioner

**ALSO PRESENT:**

Sheryl Dekker ..... Millard County Planner  
Angi Meinhardt..... Secretary  
Richard Waddingham ..... Deputy County Attorney  
Dean Draper .....Millard County Commissioner  
Ros Vrba..... Energy Of Utah LLC  
Deborah Reyes..... Hanwha Q Cells  
Brison R Ellinghaus ..... Hanwha Q Cells  
Bryan Case ..... ECG  
Nancy Case ..... ECG  
Maia Case..... ECG  
Josh Case..... ECG  
Rob Dalton.....Applicant/Property Owner  
Jamie Dalton .....Applicant/Property Owner  
Amity Burnham ..... EDF-RE  
Adam Long ..... Magnum  
Scott Barney ..... MEDA  
Andy Nickle..... Property Owner  
Gibson Lewis ..... Property Owner  
Chet Simper..... Property Owner  
Amber Nickle ..... Property Owner

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED to each member of the Planning Commission, posted at the Millard County Offices in Delta, the Public Safety Building in Fillmore, and the Main Street Courthouse in Fillmore, posted on the Utah Public Notice Website and the Millard County Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah as required by law, the following proceedings were had: .....

**1. WELCOME, CALL TO ORDER – Chairman David Sturlin**

Planning Commission Chairman David Sturlin called the meeting to order at 6:34 p.m. He welcomed all present.

**2. PUBLIC HEARING for a Zone Change – Application # Z-2016-012 on a zone change from AG20 to RF for property located at approximately 6710 N Jones Road, Delta Grid, for the purpose of developing a Solar Energy System (Major) 215-270 MW . Applicant - Intermountain Solar Plant, LLC Owner – Lone Tree Ranch, LC. 1607.46 Acres.**

Commission Gary Walker made a MOTION to open the public hearing on a zone change from AG20 to RF for application #Z-2016-012. Planning Commissioner Joyce Barney SECONDED the motion. The voting was unanimous in the affirmative. The public hearing was opened at 6:36 pm.

Ros Vrba approached the Commission. He stated he is the initial applicant representing Intermountain Solar Plant. He stated he approached the Commission about a year ago when he starting working on this project. He turned the time over to Deborah Reyes with Hanwha Q Cells Company.

Deborah Reyes approached the Commission. She stated Hanwha Q Cells is the current owner and project component owner of this Zoning change. She stated their global headquarters are in Korea. She stated Hanwha Q Cells is one of the larges solar cell manufacturers and solar panel manufactures in the world.

Deborah Reyes stated that their interest today was to get a zone change from AG20 (Agriculture 20 acres) to RF20 (Range & Forest 20 acres) that is necessary to support a large solar facility. Hanwha Q Cells is interested in installing a project to the size of 215 MW-ac. She stated that the surrounding properties seem to be fairly in line with the request.

Deborah Reyes stated that they are wanting to develop a 215 MW ac/270 MW dc. She stated that this installation will not happen for a few years so they are not wanting to put a cap on the MW as it could potentially change due to technology advancement of the panels. She stated it will not exceed 300 MW.

Commissioner David Sturlin stated that the application needs to state 1,607.46 acres on the project area. Millard County Planner Sheryl Dekker will correct the staff report.

Deborah Reyes continued giving an overview of the project. Their focus is to develop a project from a raw piece of land as it currently exists and provide the engineering, construction, permitting, power purchase agreement, and everything required for the project prior to starting construction. At that point Hanwha Q Cells

will either continue to own and operate long term or if it benefits the particular project they will sell or partner with another company. She stated that they manufacture panels, but they don't necessarily always use their own panels. They use the most competitive panels available at the time. Construction date would be in 2018 or 2019.

Deborah Reyes gave an overview of the technology envisioned for this project. Commissioner Joyce Barney asked if these facilities are only in the US. Debra Reyes stated they have these facilities all over the world.

Adam Long with Magnum approached the Commission. He stated that Magnum owns and leases a significant amount of property surrounding this project. He stated that Magnum is not expressing support nor do they have any objections to this project. It is merely a concern that Magnum would just like to be in the loop. Whether they get notified by the Planning Commission, applicant or the project owners. He stated that any transmission lines and project development will have some effect on Magnum so they are just asking to be notified on changes during this project.

Adam Long stated that depending on the precise location of the transmission line which is planned to follow Jones Road, they will be required to use Magnum's easements. He stated that the current transmission line on the CUP was for a smaller transmission line. This will require a new CUP to serve a project this size.

Commissioner David Sturlin asked Adam Long to verify what piece of property on the map belongs to Magnum. Planner Sheryl Dekker verified Magnum's property on the provided map.

Commissioner Gary Walker stated because this is a zone change he asked where this project falls into the vicinity of our transmission line corridor, and is there going to be any issues getting power from this solar plant to the corridor. Planner Sheryl Dekker stated that in the analysis of the staff report it does mention these concerns. Commissioner Gary Walker asked if it is premature to grant a zone change for something that may or may not be allowed due the transmission line issue.

Brison Ellinghaus with Hanwha Q Cells approached the Commission. He stated they are trying to get all their permitting done one by one as they are not allowed to get them all done at the same time. They are trying to get the permits as they can and to keep moving forward with this project. Commissioner Gary Walker stated he appreciates and understands these things but isn't it also a road block to have a parcel of land that is zoned appropriately but no way to get the power in or out of that parcel of land? Brison Ellinghaus stated that any one of these processes can be a road block, which is a risk the company is willing to take. But that is also why they are trying to secure some of these things now.

Commissioner Joyce Barney asked if we changed the zone change now and nothing is done for 2 years, will it revert back to the previous zoning. Attorney

Richard Waddingham stated that if it goes through now and nothing happens it must go back through a formal zone change. Commissioner Jodi Robison verified that if this zone change is not approved then they will not be able to proceed with things. Planner Sheryl Dekker stated if the applicant cannot get this zone change they are not able to proceed with applications. Commissioner Gary Walker stated if the zone is changed, it will be a zone change for any project that could potentially be on this land.

Commissioner Jodi Robison made a MOTION to close the public hearing for zone change application # Z-2016-012. Commissioner Tom Nielson SECONDED the motion. The voting was unanimous in the affirmative.

- 3. REVIEW and POSSIBLE RECOMMENDATION** on Application # Z-2016-012 for a zone change from AG20 to RF for property located at approximately 6710 N Jones Road, Delta Grid, for the purpose of developing a Solar Energy System (Major) 215-270 MW . Applicant - Intermountain Solar Plant, LLC - Applicant. Lone Tree Ranch, LC. – Property Owner. 1607.46 Acres.

Planner Sheryl Dekker verified that surrounding property owners have been notified and there was no response. Commission verified surrounding property owners are Chesley & Black LC, Magnum Holdings LLC, and Utah Trust Lands Administration. Commissioner Joyce Barney asked about the project description line f. She asked for verification of any sanitation facilities during construction. Planner Sheryl Dekker stated there will not be anything other than maybe a few porta pottys during construction.

Commissioner Joyce Barney asked if the inspections will be done by the Millard County Inspector. Planner Sheryl Dekker verified that the inspections will be done by the Millard County Inspector.

Commissioner Joyce Barney asked when Intermountain Solar Plants' existing CUP (conditional use permit) expires. Planner Sheryl Dekker verified the CUP went into effect 01/07/15 and there is no expiration date.

Brison Ellinghaus stated that the project will have some facilities onsite during the construction. They will detail these facilities in the construction permit application. For the project permit itself, he believes there will be at minimum a small building for medical and other things just as a small shelter. It will most likely be a small mobile building and there will be security and hand washing and things of that nature.

Commissioner Joyce Barney asked if the commission should be approving a zone change without resolving some issues. Commissioner Gary Walker stated he has no problem approving the zone change.

Commissioner Gary Walker asked if this zone change is for their parcels only. Planner Sheryl Dekker verified it is for only their parcels and not any of the

surrounding parcels. Commissioner Gary Walker stated that transmission lines are not allowed in an AG20 zone.

Commissioner Tom Neilson made a Motion to make a favorable recommendation to the BOCC for application # Z-2016-012 from a AG20 to RF20 zone. Must be consistent with the requirements and recommendations listed on the staff report:

A. Approve the zone change from AG20 to RF20.

B. In considering a land use ordinance amendment application, the Planning Commission in formulating a recommendation, and the Board of County Commissioner (BOCC) in deciding a land use ordinance amendment application shall consider the following factors, among others:

1. Consistency of the proposed amendment with the county General Plan.
2. The effect of the proposed amendment on the well-being of the county.
3. The effect of the proposed amendment on the public health, welfare, and safety
4. The effect of the proposed amendment on the interests of the county, and its residents.
5. The ability of the county, and other service providers, as applicable, to provide all infrastructure, facilities, and services required by the uses and activities allowed by the proposed amendment.
6. Compatibility of the proposed uses and activities with nearby and adjoining properties.
7. The suitability of the properties for the uses and activities proposed.
8. The effect of the proposed amendment on the existing goals, objectives, and policies of the General Plan, and listing any revisions to the county's Land Use Ordinances, and any other ordinances and resolutions required to implement the amendment.

Planning Commissioner Molly Stevens SECONDED the motion. Voting was unanimous in the affirmative.

- 4. REVIEW and POSSIBLE RECOMMENDATION** on Non Plat Subdivision application # Z-2016-015 for property located at approximately 745 South Lone Tree Road, Delta Grid. It is proposed that the 43.6 acre parcel be divided creating four (4) parcels with a minimum acreage of 1.5 acres, and minimum lot width of 200 feet. Robert K. C. Dalton and Jamie L Dalton, owners.

Land owner Robert Dalton approached the Commission. He stated he is proposing to subdivide this property for the purpose of building a home on the property. He proposed to divide this property into 4 parcels. Two of the lots will be building lots and the remaining two will stay agricultural. There is no road access to parcel 3 on the map that was provided in the packets. He has provided the Commission with an amended map that will provide access to parcel 3. Robert Dalton stated that the width of that access is about 95 feet.

Commissioner Joyce Barney stated that this was already divided once and she is concerned if this will still qualify for a non-plat subdivision. There was some discussion on the previous land owners and subdivision. Attorney Richard Waddingham asked how long ago was it subdivided. Attorney Richard Waddingham stated he is not sure what the ordinance allowed or stated during the first non-plat subdivision but if the property was first subdivided in the early 1980's, as was mentioned, there would not be a problem because until approximately the mid 1980's, state law allowed a parcel to be divided one time without creating a subdivision. Commissioner Tom Nielson asked when the new ordinance went in to effect. Attorney Richard Waddingham stated that the ordinance went into effect in January 1<sup>st</sup>, 2013.

Commissioner Gary Walker stated he has looked at the property today, and it looked like there has already been some work going on. Robert Dalton stated he has been moving some dirt around and put in 2 pads. Commissioner Gary Walker asked if there was room between the 2 pads for the 95 feet of access. Robert stated that he has measured and staked them for the 95 foot access.

There was more discussion on the previous non-plat subdivision and previous ordinance. Attorney Richard Waddingham stated it is grandfathered in under the old law.

Robert Dalton stated that he has a friend that wants to build a home on parcel 2. Planner Sheryl Dekker stated there should not be any construction on the property yet. Robert Dalton stated he has just been moving dirt and having the ground laser leveled, there is no cement on the pads, it is just dirt.

Commissioner Gary Walker asked if there was water, power and sewer on the parcel. Robert Dalton stated he does have water and he has submitted a change application to have that conversion changed. Robert Dalton verified that he has 2 acre feet. Commissioner Gary Walker asked if we are going to do anything with the other two parcels in making sure they stay agriculture, or do we need to require water for all four parcels. Attorney Richard Waddingham stated that the current ordinance may require that all 4 parcels have a minimum of 1 acre foot of water. The new subdivision ordinance will address this issue. The county has not adopted the new ordinance yet. There was some discussion of what the water requirements are as of now. Commissioner Molly Stevens reads verbiage from the application: If the division of property is for a construction of new dwelling(s), you must show proof of adequate water for the new parcels. Commissioner David Sturlin verified it would only need to be proof for the new dwelling. Commissioner Jodi Robison asked what are parcel 3 and 4 going to be used for. Robert Dalton verified that parcel 3 and 4 will remain as agricultural parcels. Robert Dalton stated that he reads that it sounds like the proof of water requirement is for the dwelling only.

Robert Dalton stated that he owns the 2 agricultural parcels but he leases them out to a farmer. Robert Dalton stated that he does not own any irrigation water. There is no water tied to this ground currently. He stated that he currently owns water rights. Commissioner Gary Walker asked Mr. Dalton why he is not keeping 3 and 4 together if they are both agricultural. Robert Dalton stated that at some point he might want to sell parcel 4 and keep parcel 3 as a boundary behind his dwelling parcel.

Commissioner Joyce Barney asked how many wells will be drilled. Robert Dalton stated he will be drilling two wells. Attorney Richard Waddingham verified that the 1 acre foot requirement is only for parcels with a dwelling. The agricultural parcels will not require the 1 acre foot of water. Commissioner Joyce Barney stated that the 1 acre foot of water will not give them much water for a yard or animals.

Commissioner David Sturlin asked if there was anyone present that would like to address this agenda item.

Andy Nickle approached the Commission. He stated that he owns some of the surrounding property. He asked if Robert Dalton was to sell parcel 4, would the new owner of parcel 4 be able to subdivide. Planner Sheryl Dekker stated that they will have to do a platted subdivision if someone ever decides to subdivide parcel 4. Commissioner Gary Walker stated that a plat subdivision is much more complicated than a non-plat subdivision. Andy Nickle stated this application could have the potential for 4 houses, one for each parcel. There was verification that Robert Dalton could potentially build one home on each parcel if the land owner can come up with the 1 acre foot water requirement.

Andy Nickle verified that he is the trustee to the farm directly to the South and South East of Robert Daltons parcels. Andy Nickle stated that this is in an agriculture area and the more houses that move out there, the more issues agriculture farm owners run into with home owners, such as home flooding and noise complaints. Planner Sheryl Dekker stated there is a CUP (conditional use permit) for these types of homes. This will help the home owner be aware of the farm work that is going on around their home.

Commissioner Molly Stevens was concerned that Robert Dalton has changed the layout of the parcels and asked if it will have any effect on this application. Planner Sheryl Dekker stated the amended layout will not affect the application. Commissioner Gary Walker stated the applicant can adjust property lines as long as they keep the same amount of parcels.

Commissioner David Sturlin stated that the staff report recommendation is to approve the Minor Subdivision to allow for construction of two new homes on the applicant/owners property, with the remaining two lots to be kept in agricultural use. Commissioner Joyce Barney asked if the application can be approved as it was amended in the meeting. Commissioner David Sturlin stated that it could be

approved as amended. Planner Sheryl Dekker stated at this time the BOCC is the land use authority and the Planning Commission can send a favorable or unfavorable recommendation to the BOCC.

Commissioner Gary Walker stated that if Robert Dalton chooses to further divide parcel 3 or 4 it will have to go through a platted subdivision. Robert Dalton stated he is aware of that process.

Commissioner Gary Walker made a MOTION to send a favorable recommendation to the BOCC for application Z-2016-015 for a Non Plat Subdivision. Commissioner Tom Neilson SECONDED the motion. Voting was unanimous in the affirmative.

Gibson Lewis asked about the access going to the property and who will maintain the culverts going into that drainage ditch. Commissioner Gary Walker stated that he assumes that there is a drainage district easement. Andy Nickle stated that the drainage district will come clean out the drainage ditch but they do not maintain or install any crossings or culverts. Commissioner Gary Walker stated that if there is drainage on the parcel then the culverts would belong to the land owner. Robert Dalton stated he has already talked to the drainage district.

- 5. REVIEW and POSSIBLE RECOMMENDATION** on Application to Amend Conditional Use Permit # Z-2016-036 issued for a Solar Energy System (Major) which was issued to ECG Utah Solar 1, LLC. The specific request is to amend and restate the provision of Article VI, Section 5 of the CUP. ECG Utah Solar 1, LLC – Petitioner; SITLA – Property Owner; and EDF – owner of proposed Project.

Commissioner David Sturlin went over the Staff Report and read the new proposed language in the staff report:

“All major changes and modification to the C-2 Conditional Use Permit shall be considered by the Millard County Planning Commission and BOCC as an amendment to this Permit and shall require to comply with all procedures of the County, in effect and as applicable, for the application and consideration of a C-2 Conditional Use Permit Application. All minor changes and modifications to this C-2 Conditional Use Permit shall be reviewed and either approved or denied by the County Planner, provided any such minor changes or modifications do not materially affect the intent and purpose of this C-2 Conditional Use Permit. The County Planner may consult with the County Attorney in determining whether a proposed change is a major or minor change.”

Josh Case CEO for Energy Capital Group representing ECG Utah Solar 1, and Amity Burnham with EDF Renewable Energy approached the Commission. Josh Case stated that they would like to sync up all three of their CUPs so they have matching language. So if an amendment is to happen in the future all of the CUPs can be handled the same way. Commissioner Molly Stevens verified that the other two CUPs show this exact wording. Josh Case verified that this CUP is the only one out of sync.



Commissioner Jodi Robison asked how is “materially affect” defined. Is that when it is a major or a minor change? Commissioner Gary Walker stated he would like to know how we define major and minor. Josh Case stated that the County Planner can consult with the County Attorney to determine if it is a major or minor change. He then stated that ultimately it will be up to the County to decide if it is a major or minor. Attorney Richard Waddingham stated that it would be determined case by case. Commissioner Jodi Robison asked if we are confident that this language matches the statute or ordinance. Commissioner Gary Walker stated that anything that is non-subsided and compliant then no change is necessary. Josh Case stated that this application is from 2014 and he just wants it to match the other 2 CUPs from 2015. Commissioner Jodi Robison asked when the Planner’s judgement would be required if it is just subsided from the CUPs recommendations. Commissioner Joyce Barney said if Millard County says its material and the applicant says it’s not, who would be the one to settle this. There was more discussion about the language and determination of the modification. Attorney Richard Waddingham stated the county would be the one to determine if it is material or non-material. He then stated this is a case by case situation.

Commissioner Gary Walker clarified that on the agenda it should read application Z-2013-036 A.

Commissioner Gary Walker made a MOTION to make a favorable recommendation to the BOCC for application Z-2013-036 A as recommended in the staff report. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

## **6. PUBLIC INPUT**

### **7. APPROVAL OF MINUTES – March 2, 2016 and May 4, 2016**

The proposed minutes of the regular Planning Commission meeting held March 2, 2016 were presented for consideration and approval. Following the review and consideration of minor corrections Planning Commissioner Joyce Barney made a MOTION to approve the minutes for March 2, 2016, as corrected. Planning Commissioner Jodi Robison SECONDED the motion. The voting was unanimous in the affirmative.

The proposed minutes of the regular Planning Commission meeting held May 4<sup>th</sup>, 2016 were presented for consideration and approval. Following the review and consideration of minor corrections Planning Commissioner Joyce Barney made a MOTION to approve the minutes for May 4<sup>th</sup> 2016 as corrected. Planning Commissioner Gary Walker SECONDED the motion. The voting was unanimous in the affirmative.

## **8. PLANNING and ZONING ADMINISTRATOR’S REPORT**

**9. OTHER BUSINESS**

**10. POSSIBLE CLOSED MEETING** Pursuant To Utah Code Annotated Section 52-4-204 & 205

**11. ADJOURNMENT**

Planning Commissioner Tom Nielson made a MOTION to adjourn. Planning Commissioner Jodi Robison SECONDED the motion. The voting was unanimous in the affirmative. The meeting was adjourned at 8:14pm.

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Dated this \_\_\_\_ day of \_\_\_\_\_ 2016

David Sturlin, Chairman  
Millard County Planning Commission