

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
January 3rd,2018**

The Millard County Planning Commission met on Wednesday January 3rd, 2018 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT: David Sturlin Planning Commission Chairman
Joyce BarneyPlanning Commissioner
Molly StevensPlanning Commissioner
Greg GreathousePlanning Commissioner

EXCUSED: Jodi RobisonPlanning Commissioner
Tom Nielson.....Planning Commissioner

ALSO PRESENT:

Adam Richins..... Planning and Zoning Administrator
Dean DraperMillard County Commissioner
Angi Meinhardt..... Secretary
Richard Waddingham Deputy County Attorney
Barb Clark..... Chronicle Progress
Andrea Huff.....Applicant
Teresa Griffin Utah Division of Wildlife Resource
Kevin Bunnell..... Utah Division of Wildlife Resource
Lynn Zubeck Utah Division of Wildlife Resource
Lori Zubeck Resident
Josh Case..... Energy Capital Group
Demar Iverson Resident
Deena Iverson Resident
Walt Christensen Resident
Jon Finlinson..... IPSC
Jason Christensen J&J Swine Applicant
Jennifer Christensen J&J Swine Applicant
Jim Webb.....Smithfield
Matthew Kesler Resident
Tiffany James Magnum Holdings, LLC

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 6:35 pm. He welcomed all present.

2. PUBLIC INPUT

There was no public input

3. REVIEW and POSSIBLE RECOMMENDATION on Application # Z-2017-034 for a Plat Subdivision for property located at approximately 5300 West, 200 South, Fillmore Grid for the purpose of creating a single 20.01 acre building lot. Luvillas Properties, LLC—Owner; Nicholas and Andrea Huff—Petitioners.

Owner Andrea Huff approached the Commission. She stated she just wants to make her parcel legal so in the future they can have a single family home on the lot. Commissioner David Sturlin stated this is an after the fact single lot plat subdivision. He reviewed Recommendation D, and stated it is important that when the plat subdivision is submitted it must have the one time process on the deed. Commissioner Joyce Barney asked if because this is an after the fact subdivision, would the applicant have to re do the deed. Planner Adam Richins stated they could add that to the deed once the Huffs purchase the lot.

Commissioner David Sturlin went over some of the submittal requirements that are highlighted in red on the staff report. He wants to make sure the applicant is aware of those requirements.

Commissioner Greg Greathouse asked if this is a one acre split. Commissioner Molly Stevens stated it is not a new split. There was confirmation that back in 1998 the land owner split it in different lots and did not do it correctly.

Commissioner Joyce Barney asked where the water source will come from. Andrea Huff stated she does not have any water rights at this time. She stated it will be about 7 years before they build a home on this parcel. Commissioner Molly Stevens asked if they would have to get water rights if they do not have a building permit. Planner Adam Richins stated water rights would be required when a building permit is issued.

Commissioner Molly Stevens disclosed her interest on this as she is the relator for this property. Attorney Richard Waddingham stated she does not need to step down from voting.

Commissioner Joyce Barney made a MOTION to send a favorable recommendation to the BOCC for application Z-2017-034 for an after the fact

single lot subdivision. Commissioner Greg Greathouse SECONDED the motion. Voting was unanimous in the affirmative.

- 4. REVIEW and POSSIBLE RECOMMENDATION** on Application # Z-2017-035 for a Plat Subdivision for property located at approximately 605 North 500 West, Delta, Grid for the purpose of dividing Parcel # DO-4070. It is proposed that the 40 acre parcel be divided creating two (2) parcels-one parcel having 1.983 acres, and the remaining parcel having approximately 38.0 acres, Julie Wood-Owner, Derrick and Taylor Petersen-Petitioners.

Commissioner David Sturlin read proposal. The applicants were not present.

Planner Adam Richins stated there is an existing residence on the land. The property owner is wanting to sell the home but keep the land for farm use. The water source and septic system will not change. There was a discussion that this parcel borders the Delta City boundary. Commissioner Joyce Barney asked if the home has Delta City water services. Planner Adam Richins stated he is not sure if it's a municipal or private water system.

Commissioner Joyce Barney made a MOTION to send a favorable recommendation to the BOCC for application number Z-2017-035 for a plat subdivision with the stipulation that they bring proof of legitimate water rights for the property. Commissioner Molly Stevens SECONDED the motion. Voting was unanimous in the affirmative.

- 5. PUBLIC HEARING** for Application #Z-2017-029 for proposed Level 3 Concentrated Animal Feeding Operation (CAFO) C-2 Conditional Use Permit. Petitioners-J&J Swine, LLC & A-Team Equipment Services, LLC. Owner – SWALLOW AG LLC.

Commissioner Joyce Barney made a MOTION to open a public hearing for application Z-2017-029 for CAFO CUP. Commissioner Molly Stevens SECONDED the motion. Voting was unanimous in the affirmative Public hearing open at 6:50 pm.

Demar Iverson from Pahvant Valley approached the Commission. He is ignorant of how this is being put together. His concern is if the sewage will be getting in their culinary aquifer. He is also concerned on the numbers of pigs on the property. Commissioner David Sturlin stated the application states 8800 pigs at any given time.

Demar Iverson asked if there was any concerns of smell coming from this operation. Commissioner Greg Greathouse asked Mr. Iverson if he lived south or north from this property. Demar stated he is east from this proposed property. He thinks this operation would be about a mile away from his home. He stated these are major concerns being a homeowner so close to this

proposed land. Demar Iverson stated he is very concerned about the water quality if this operation gets put in.

Applicant Jason Christensen with J&J Swine approached the Commission. He stated to answer the question about water quality, the permitting process has to go through the state that has many requirements. As far as the sewage lagoons, they will be sealed with plastic lining. Jason Christensen stated they have to go through many precaution to be compliant with everyone. Jason Christensen stated there will be one lagoon for 8800 hogs. Jason Christensen stated there will be eight barns and they will all be connected to the one lagoon.

There was a question from the public of where the water is coming from. Jason Christensen stated there is a water right on the Pahvant side of the property with a well that is either going to have to be cleaned out or have a new well drilled.

Mathew Kesler approached the Commission. He stated he is about 4 miles from the proposed project. He asked how the smell will compare on a non-windy day to a windy day. Jason Christensen stated that is a hard question to answer as it will vary. Mathew Kesler stated for the record that he is against this project.

Deena Iverson approached to Commissioner. She asked if the sewer lagoons will be enclosed or open. She also asked if this will attract more insects and rodents. She is curious if the farmers need to re insecticide or take different precautions.

Jim Webb with Smithfield approached to answer these questions. He stated that Smithfield will only be providing the pigs for the operation, they do not own the site nor will they run the site. He then stated that the lagoons are open air anaerobic lagoons or storage ponds. He stated that the manure will be collected from these storage ponds and applied to nearby agricultural crop lands. As far as insects, he has never seen any problems with insects on other sites. The only problem they have had with rodents is the rodents getting into the pig feed. They will have a system to kill the rodents before they become an issue.

Commissioner Joyce Barney asked how deep the storage ponds would be. Jason Christensen stated they hit cinder rocks and could only go about 8 feet deep. Jim Webb stated that diagram is still being developed but thinks they will be 8 to 10 feet deep. This portion of the site will be fenced off.

Commissioner Greg Greathouse asked how they will be disposing of dead animals. Jason Christensen stated that the mortality of the animals have not been determined yet. Jim Webb stated the disposal of dead animals is

addressed in the permit application, mortality management will be done in accordance with applicable laws that are state approved. Commissioner Greg Greathouse stated the permit application is leaving the disposal wide open for the applicants. Planner Adam Richins stated that the county does not regulate this but the state does.

Commissioner Joyce Barney asked if the Millard County Landfill accepts dead animals for disposal. Planner Adam stated that the applicants will have to coordinate with the landfill.

Steve Styler with Smithfield would like to talk about the disposal of dead animals. State code states that the animals can be buried on sight but this policy will be developed. This would not be the preferred option but it does meet state code. He then stated there are four options in the application. Commissioner Joyce Barney asked if the 80 acres will give them enough room to bury on site and still have the operation. Steve Styler stated it does not specify how much room they need in the Utah State Code it just states that it is permitted.

Planner Adam Richins asked if they have a mortality rate that could be expected. Jim Webb stated generally mortality rates would be 5%. He then stated it could be about 2 animals a day. They would vary in size. Steve Styler stated they will follow the options that are allowed in state code for disposal.

Steve Styler stated that applicants have sixty consumptive acre feet of water rights. This project will use 20 acre feet of water. Steve Styler stated the applicants have three times more water than what they need. He stated the applicants will be filing a water right change application with the Utah State Engineer to change the point of diversion, place of use, and nature of use to allow for the use of this water at the CAFO. He is aware that a lot of people are concerned about the water rights. Commissioner David Sturlin asked if the water right change would need a public hearing. Steve Styler confirmed that it would require a public hearing.

Commissioner Molly Stevens asked where the well is located right now. Steve Styler stated the well is on the Pahvant side and the place of use is on the Flowell side. Steve Styler stated there will have to be a change of title which is part of the change application. Commissioner David Sturlin asked if some of the water will be used for the lagoon. Steve Styler confirmed that part will be to fill, clean and sanitize the lagoons along with watering the animals.

Commissioner Molly Stevens asked if the Division of Water Rights will determine how much water will be used. Steve Styler confirmed and stated it will be presented in the change application. Steve Styler stated that Smithfield has gone through this process a lot and has it down to a science as far as

how much water is used. They will submit that to the Utah State Water Engineer. They will review it and see if it is acceptable.

Eric Anderson with the Utah Division of Wildlife Resources (DWR) approached the Commission. He is aware this is not a water right hearing. The well that is going to be used is a stock watering well. He stated for that amount of hogs it would be more like 50 acre feet of water. But this will be ironed out with the change application.

Eric Anderson stated his concern is that Clear Lake is drying up. None of the wells in that valley are metered at all. If Clear Lake dries up then everyone in Flowell will not have as much to irrigate with. He is concerned about how much quantity will be sucked up from underground.

Eric Anderson stated that his other concern is the lagoons. What if they leak and they go in the ground water. He stated that the technical publication that have been done show that the water coming through Flowell goes through to Clear Lake. He asked what it will do to the water quality if the lagoons leaks.

Commissioner Greg Greathouse asked if there is already a water right that will be plenty of water for this type of thing. Eric Anderson stated it is there but things would have to be switched over. Commissioner Greg Greathouse stated the CUP require that they have proof of water.

Lynne Zubeck with DWR approached the Commission. He has managed Clear Lake since 1992. He has watched this go from 10 miles long down to about a half mile long. That is how much water we have lost. If we take these 8800 hogs and they get a drink everyday that's over 4400 gallons a day. That's in addition to cleaning the pens and whatever else needs to be done on the hog farm.

Lynne Zubeck stated he is concerned about the waste water coming from the hog farm. Not only will we be losing water, but the water quality will go down quickly. He stated this will directly impact Clear Lake as there is still some wildlife but there is not much habitat because of the lack of water.

Commissioner Greg Greathouse asked how far away Clear Lake is from Flowell. Lynne Zubeck stated it is about 13 miles from Flowell. But the operation will be closer than that.

There was discussion on how deep the well is. Commissioner Greg Greathouse stated this is just a minor part of a problem. Lynne Zubeck stated this is an addition to all the problems.

Commissioner David Sturlin asked Jim Webb if there has been any historical failure in any of their lagoons. Jim Webb stated that part of the permitting

process they have to have a 60 mil HDPE liner, and it exceeds the requirements for municipality. They also have monitor wells around the lagoons. The monitor wells will catch the increase of nutrients before it goes any further. They are placed in shallowest aquafer. Those wells will be monitored twice a year. Commissioner Molly Stevens asked how many monitor wells they will have to have. Jim Webb stated they will have at least two monitor wells, an up gradient and a down gradient.

Jim Webb stated there are a lot of water numbers being thrown around tonight. He stated they have many years of data to refer to. Their average usage is 2 gals per head per day. That equates to about 17,000 gals per day. He stated that the Department of Water Rights will have hearings on this.

Jim Webb stated there has been times when there has been a small hole in the liner of the lagoons but their monitoring wells caught it and it was repaired and the water quality came back. He stated in the town of Milford it would take 50 to 75 years to travel 10 miles through the aquafer.

Matthew Kesler asked how deep the monitoring wells would be. Jim Webb stated he is not sure how deep the shallowest aquafer is but that is where they will put them.

Commissioner Joyce Barney asked how deep the home owners well is. Matthew Kesler stated his is about 200 feet deep. Demar Iverson stated his is about 400 feet deep. Matthew Kesler stated his concern is with new projects coming out in Pahvant it leads to water issues.

Walt Christensen approached the Commission. He stated he is a former relative to the applicants. He stated they have had fallouts in the past. He is planning on drilling a 400 foot well to get good water before he builds a home in that area. He stated he is against this project. Commissioner Molly Stevens asked where his location is at. Walt Christensen stated he is about a mile away from this site on the county road. He is on the south east side of the property.

Planner Adam Richins stated this might have been in the staff notes, but there would be a restriction of homes being built within ¼ mile from the project if permitted.

Commissioner Molly Stevens made a MOTION to close public hearing for application Z-2017-029. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative. Public hearing closed at 7:26 pm.

6. REVIEW and POSSIBLE RECOMMENDATION on Application #Z-2017-029 for proposed Level 3 Concentrated Animal Feeding Operation (CAFO) C-2

Conditional Use Permit. Petitioners — J&J Swine, LLC & A-Team Equipment Services, LLC. Owner – SWALLOW AG LLC.

Commissioner David Sturlin went over recommendation 3: a-i. He stated these are the reasonable conditions that would go to the BOCC. He asked if there was any other conditions the Commission would like to add.

Commissioner Joyce Barney had some concerns about the roads. Commissioner Greg Greathouse had a concern about number 7. He stated they also need to meet the state requirements. He thinks we need to grant the CUP but make sure that it does not exceed the 8800. Planner Adam Richins stated we could approve them up to a number but not to exceed the 8800 that way if it is limited to water it will be limited to size as well.

Commissioner Greg Greathouse is also concerned with #9. He would like to see a copy of their animal disposal plan. Commissioner Joyce Barney stated if they dispose the deceased animals at the landfill they will need to have a discussion with the landfill to have a more specific plan. There was more discussion on the specifications of the disposal of animals.

Commissioner David Sturlin read part of the project description “These parcels are currently zoned as Agricultural and Agricultural 20, but have received a favorable recommendation to be converted to Agricultural Industrial by the Millard County Planning and Zoning Commission and are awaiting a decision by the Millard County Commission.” Commissioner Greg Greathouse asked the applicants if the BOCC has finished the approval of the zone change to AI. Steve Styler stated that was approved on December 5th by the BOCC.

Planner Adam Richins asked if we need to address the water transfer prior to the CUP being issued. Commissioner Greg Greathouse stated we could add a condition to the CUP that the applicants have the approved water transfer and in place.

Commissioner Joyce Barney stated at the last public hearing the applicants stated they notified everyone, but the Kessler’s and Iverson’s are stating that they never got word of this except from the newspaper. Commissioner Molly Stevens stated they are out of the one mile zone so they was not required to be notified. Demar Iverson stated there are 7 homes around that land and only a few of them are within one mile.

Commissioner Molly Stevens stated when she drives from Delta to Holden she can smell the turkey farms that have been put in and they are confined. She is asked if this is going to be the same thing for the Pahvant community. Demar Iverson stated that the wind is 99% south or west winds. Matthew

Kessler stated that he asks all the time about the smell and they never give him an answer. There was discussion about the smell.

Planner Adam Richins asked if it benefit us to have further public hearing for further public notice. Steve Styler stated this issue has come up before as far as notifying people. He stated that the applicant did exactly what was asked by the Commission and notified who they needed to notify. They did not need to knock on everyone's doors. They satisfied every requirement to notify every surrounding property owners.

Lorie Zubeck asked if there could be a request to have a public hearing at the BOCC meeting so that other people could be aware of this. Commissioner Greg Greathouse stated that they have met all the legal requirements on advertising. Planner Adam Richins stated that BOCC could elect to have a public hearing at their level if they choose.

There was question to Attorney Richard Waddingham for advice on moving forward. Attorney Richard Waddingham stated if the BOCC wanted to have a public hearing they could do so. He stated we could leave the public hearing open for additional comments. There was discussion on appeals.

Commissioner Greg Greathouse made a MOTION to table recommendation on application Z-2017-029 to the next available meeting. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

Commissioner David Sturlin asked if we could give the applicants something to bring back to the next meeting to satisfy the Commission. Commissioner Greg Greathouse stated he is not satisfied with the odor and he is not sure they can mitigate the odor. He stated the applicants need to address what the mitigation for odor would be. Commissioner Greg Greathouse also stated he thinks more of the Commission needs to be present to recommend this CUP to the BOCC. Commissioner Joyce Barney agreed and stated this is a pretty big permit and she would like more of the Commission present. Commissioner Greg Greathouse stated it would be a regular meeting not a public hearing for this application.

Jim Webb asked what the Commission wants him to do to address odor. He stated there will be a lot of conflicting testimony of odor. Planner Adam Richins stated the proposed use is consistent with the zone. Commissioner Greg Greathouse stated we are not turning down the CUP we are just tabling.

7. PUBLIC HEARING for Application # Z-2017-030 on a zone change from Range & Forest, Agriculture, and Agriculture 20 to Heavy Industrial. Magnum Holdings, LLC—Applicant.

Commissioner Molly Stevens made a MOTION to open public hearing on application Z-2017-30 for a zone change from Range and Forest, Agriculture, and Agriculture 20 to Heavy Industrial. Commissioner Greg Greathouse SECONDED the motion. Voting was unanimous in the affirmative. Public hearing was open at 8:02 pm.

Tiffany James with Magnum Holdings approached the Commission. She stated that Magnum has handed in four applications and she would like to give an overview of what has been going on. They are currently building a western energy hub consisting of seven businesses. This project started back in 2008 with their gas storage project. She gave an overview of the contexts of Magnum.

Commissioner Greg Greathouse would like to go through the zone change. Tiffany James stated that these are part of their CAES project and they run through 3 different zone types so they would like to change them to HI as they are industrial in nature.

Jon Finlinson with Intermountain Power approached the Commission. He stated that Intermountain Power supports the zone change and they are interested in additional industrial facilities in their neighborhood. This will enhance and create value for Intermountain Power to go forward with more options in the future.

Commissioner Joyce Barney asked how many of these acres are owned by Intermountain Power Projects. Tiffany James stated it is all Magnum lands

Commissioner Greg Greathouse asked why they need to be changed to HI. Tiffany James stated that it is in the best interest to the property.

Commissioner Molly Stevens made a MOTION to close public hearing. Commissioner Greg Greathouse SECONDED the motion. Voting was unanimous in the affirmative.

- 8. REVIEW and POSSIBLE RECOMMENDATION** – Application # Z-2017-030 on a zone change from Range & Forest (RF) / Agriculture (AG) / Agriculture 20 (Ag-20) to Heavy Industrial (HI) for the purpose of AI (Agricultural Industrial) for property located south of the Intermountain Power Project (IPP) near the intersection of Brush Wellman and Jones roads, approximately 8 miles north of Delta. Magnum Holdings, LLC—Applicant.

Commissioner Greg Greathouse made a MOTION to make a favorable recommendation on application Z-2017-030. Commissioner Molly Stevens asked if there was any comment from any surrounding land owners. Planner Adam Richins stated he has not received any comment. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

Commissioner Greg Greathouse stated sending a recommendation on the CUP will be premature until the BOCC approves the zone change.

Commissioner Greg Greathouse was excused from the meeting at 8:14 pm.

9. **PUBLIC HEARING** for Application # Z-2017-031 on a Zoning Ordinance Amendment—Text Amendment, amending the Table of Use Definitions in Title 10, Chapter 25, Appendix A. Magnum Holdings, LLC—Applicant.

Item was tabled to the next available meeting as there was not enough Commission members for a quorum.

10. **REVIEW and POSSIBLE RECOMMENDATION** – Application # Z-2017-031 on a Zoning Ordinance Amendment—Text Amendment, amending the Table of Use Definitions in Title 10, Chapter 25, Appendix A. Magnum Holdings, LLC—Applicant.

Item was tabled to the next available meeting as there was not enough Commission members for a quorum.

11. **PUBLIC HEARING** for Application # Z-2017-032 for an amendment to existing C-2 Conditional Use Permit Large Scale Project # Z-2010-008.

Item was tabled to the next available meeting as there was not enough Commission members for a quorum.

12. **REVIEW and POSSIBLE RECOMMENDATION** – Application # Z-2017-032 for an amendment to existing C-2 Conditional Use Permit Large Scale Project # Z-2010-008.

Item was tabled as the CUP cannot be recommended until the BOCC approves the zone change.

13. **PUBLIC HEARING** for Application # Z-2017-033 for an Electrical Generating Facility C-2 Conditional Use Permit for the construction and operation of the proposed Magnum Compressed Air Energy Storage (CAES) Project located south of the Intermountain Power Project (IPP) near the intersection of Brush Wellman and Jones roads, approximately 10 miles north of Delta. Magnum CAES, LLC—Applicant.

Item was tabled as the CUP cannot be recommended until the BOCC approves the zone change.

14. **REVIEW and POSSIBLE RECOMMENDATION** – for Application # Z-2017-033 for an Electrical Generating Facility C-2 Conditional Use Permit for the

construction and operation of the proposed Magnum compressed Air Energy Storage (CAES) Project. Magnum CAES, LLC—Applicant.

Item was tabled as the CUP cannot be recommended until the BOCC approves the zone change.

15. PLANNING and ZONING ADMINISTRATOR'S REPORT

Planner Adam Richins stated that our next scheduled meeting has some conflicts so we will need to change the date on our February 7th meeting.

Planner Adam Richins stated we have got a number of applications and interest for solar at different levels. A number of entities have actually enquired about the possibility of doing large scale solar in the county. He would like to look at our solar ordinance and make the necessary changes if needed.

Planner Adam Richins stated some of the Commission members terms have expired. There was discussion of the Rules of Order.

16. OTHER BUSINESS

17. APPROVAL OF MINUTES – December 6, 2017

The proposed minutes of the regular Commission meeting held December 6th, 2017 were tabled to the next available meeting.

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

19. ADJOURNMENT

Dated this ___ day of _____ 2018
David Sturlin, Chairman
Millard County Planning Commission