

**MEETING OF THE  
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES  
November 04, 2020**

The Millard County Planning Commission met on Wednesday November 04, 2020 at the Millard County Offices, 71 South 200 West, Delta, Utah.

**PRESENT:**

John Nye.....Planning Commissioner  
Demar Iverson .....Planning Commissioner  
Matthew Kesler .....Planning Commissioner  
Tom Nielson.....Planning Commissioner  
Joyce Barney ..... Planning Commission Vice Chairman

**EXCUSED:** Greg Greathouse .....Planning Commissioner  
David Sturlin ..... Planning Commission Chairman

**ALSO PRESENT:**

Adam Richins..... Planning and Zoning Administrator  
Angi Meinhardt..... Secretary  
Dean Draper .....Millard County Commissioner  
Denton Peterson..... Millard County Attorney  
Jim Kaufman..... Millard County Resident  
Cynthia Kaufman ..... Millard County Resident  
John Andrews ..... Magnum  
Noel Sanyal ..... Kern River Gas  
Shane Allgood .....Kern River Gas  
Matt Ward ..... Chronicle Progress  
Scott Miles .....Kern River Gas  
Randi Smith .....G&R Livestock  
Loretta Barlow..... Black Rock Resident  
Owen Barlow ..... Black Rock Resident  
Leshia Swallow.....Applicant  
Caleb Swallow .....Applicant  
Tiffany James ..... Magnum

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 excused, acting as chair this meeting is Commissioner Joyce Barney

Planning Commissioner Joyce Barney called the meeting to order at 6:38 pm. She welcomed all present.

2. **PUBLIC INPUT**

No public input at this time.

3. **PUBLIC HEARING**—Application #Z-2020-044 amending C-2 Conditional Use Permit #Z-2017-033 to modify the permit boundary, allow for additional storage caverns and construction of additional ponds, permit onsite production of hydrogen, and other facility changes and additions. Magnum CAES, LLC, Applicant

Planner Adam Richins gave a short intro on the Magnum CAES, LLC application.

Commissioner Demar Iverson made a MOTION to open public hearing on application Z-2020-044 amending a C-2 Conditional Use Permit #Z-2017-033 to modify the permit boundary, allow for additional storage caverns and construction of additional ponds, permit onsite production of hydrogen, and other facility changes and additions. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative. Public hearing opened.

Tiffany James with Magnum gave a description of their Advanced Clean Energy Storage Project and reasoning for the amendment.

Planning Commissioners would like to have the permit holder changed to Magnum Holdings to match other permits.

There was discussion of the Preliminary Master Plan.

There was discussion of the Green Hydrogen Generation and Storage Process.

Commissioner Tom Nielson made a MOTION to close public hearing for application Z-2020-044 amending C-2 Conditional Use Permit # Z-2017-033. Commissioner Matthew Kesler SECONDED the motion. Voting was unanimous in the affirmative. Public hearing closed.

4. **REVIEW and POSSIBLE RECOMENDATION** – Application #Z-2020-044 amending C-2 Conditional Use Permit #Z-2017-033 to modify the permit boundary, allow for additional storage caverns and construction of additional ponds, permit onsite production of hydrogen, and other facility changes and additions. Magnum CAES, LLC, Applicant

There was a discussion to table this agenda item or add to the recommendation to get a 3<sup>rd</sup> party review for the permitting before it goes to the BOCC. Tiffany James stated a third-party review was assessed last time. She then stated that none of the requirements are changing from the last assessment.

There was discussion of the partnership with Mitsubishi.

There was discussion that the CUP itself had a review from Jodi Burnet.

There was discussion that this board is to protect the citizens of Millard County. Planner Richins stated it is always good to get clarification and we could always request more information. Tiffany James stated if there are ever things that need to be evaluated, they would defiantly take the time to discuss things with the County.

Attorney Denton Peterson stated that he does not see any legal issues with this application at this time. He then stated there is a specific explanation of the project in the application. The reasonable conditions are copied from the previous application.

Commissioner Tom Nielson made a MOTION to send a favorable recommendation to the BOCC for application Z-2020-044 amending Z-2017-033 to modify the permit boundary, allow for additional storage caverns and construction of additional ponds, permit onsite production of hydrogen, and other facility changes and additions, including the reasonable conditions listed in the staff report 1-29, with the provision that they will clean up the name of the applicant on the permit. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

**5. PUBLIC HEARING**— Text Amendment Application #Z-2020-041 amending the Table of Uses and Accompanying Use Definitions, located in Title 10, Chapter 25, Appendix A, of the Millard County Zoning Ordinance for Gas Pipe Line Right of Way. Kern River Gas Company, Applicant

There was discussion of the reasoning for the amendment application.

Commissioner John Nye made a MOTION to open public hearing for application Z-2020-041 amending the Table of Uses and Accompanying Use Definitions. Commissioner Tom Nielson SECONDED the motion. Voting was unanimous in the affirmative.

Noel Sanyal, Shane Allgood and Scott Miles all with Kern River approached the Commission. Noel Sanyal gave a description of the proposed application.

There was discussion of the buried depth that is required to be 3 feet deep. Applicants stated they will have to make adjustments for places like road crossings etc.

Adam stated this application is just a zoning ordinance so they can get a CUP application in to the government.

Commissioner Matthew Kesler made a MOTION to close public hearing on application Z-2020-041 to amend the Table of Uses and Accompanying Use Definitions. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

**6. REVIEW and POSSIBLE RECOMMENDATION**— Text Amendment Application #Z-2020-041 amending the Table of Uses and Accompanying Use Definitions, located in Title 10, Chapter 25, Appendix A, of the Millard County Zoning Ordinance for Gas Pipe Line Right of Way. Kern River Gas Company, Applicant

Commissioner Tom Neilson made a MOTION to send a favorable recommendation to the BOCC on application Z-2020-041 amending the Table of Uses and Accompanying Use Definitions, including all recommendations:

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 listening any revisions to the county's Land Use Ordinances, and any other ordinances and resolutions required to implement the amendment.

Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

**7. PUBLIC HEARING**—C-2 Conditional Use Permit Application # Z-2020-037 for a Solar Energy System (Major) on 160.0 acres of property located approximately 13 miles west of Cove Fort. Clinton Brown, Applicant

Planner Adam Richins stated the applicant is not attending in person today. Applicant is present by phone.

Commissioner John Nye made a MOTION to open public hearing on application Z-2020-037 for a Solar Energy System. Commissioner Matthew Kesler SECONDED the motion. Voting was unanimous in the affirmative. Public Hearing Opened.

Clinton Brown with Atlas Development Group, LLC gave an over view of the project over phone speaker.

Jim Kaufman approached the Commission. He would like money up front for the roads so the tax payers do not have to pay to fix and maintain those roads.

Lauretta Barlow approached the Commission. They live on black rock road. They are concerned about the traffic and speed from the travelers with the project. She would like to keep the range land range land.

Clinton Brown addressed the concerns from neighboring property owners.

There was discussion of the transmission line for the project.

Commissioner Tom Nielson made a MOTION to close public hearing for application Z-2020-037 for a Solar Energy System. Commissioner Matthew Kesler SECONDED the motion. Voting was unanimous in the affirmative.

**8. REVIEW and POSSIBLE RECOMMENDATION**—C-2 Conditional Use Permit Application # Z-2020-037 for a Solar Energy System (Major) on 160.0 acres of property located approximately 13 miles west of Cove Fort. Clinton Brown, Applicant

There was discussion that one of the conditions is that a road agreement be established prior to construction.

There was discussion of any water rights for the project to be able to mitigate dust and wash off the panels.

There was discussion of the size of the solar panels. There was verification that the panels are about 30 inches off the ground

There was discussion of the project taking about 2 months to construct.

There was discussion of the security of the project along with onsite employees.

There was discussion of the completion of the application. Planner Adam Richins stated we could add a condition to have a bond for reclamation, a condition for the disposal of the panels.

There was discussion of emergency services.

The Commission would like to have a reclamation plan prior to approval.

There was discussion that the county needs to be notified monthly during construction, fencing, and a reclamation bond.

Commissioner Tom Nielson made a MOTION to send a favorable recommendation to the BOCC for application Z-2020-037 for a Solar Energy System with the following reasonable conditions listed in the staff report and including a reclamation bond.

Applicant stated that there is a market that buys secondary panels. They will be recycled.

Attorney Denton Peterson stated there is a reclamation already listed in the staff report but it could be reworded to add “Specifically but not limited to solar panels”

Motion stricken

Commissioner Tom Nielson made a MOTION to send a favorable recommendation to the BOCC for application Z-2020-037 for a Solar Energy System with the conditions specified in the staff report and addition to number 9 the reclamation to specify specifically but not limited to the solar panels. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

- 9. PUBLIC HEARING**—C-2 Conditional Use Permit Application # Z-2020-043 Level 3 Concentrated Animal Feeding Operation (CAFO) for Horses & Burros on property located approximately 1.5 miles northwest of Sutherland. G&R Livestock Inc., Applicant

Commissioner Demar Iverson made a MOTION to open public hearing for application Z-2020-043 for a Level 3 CAFO for Horses & Burros. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative. Public Hearing Opened.

Applicant Randi Smith approached the Commission and gave a description of her proposal. It will possibly be January when the horses arrive. This will be a short-term facility for the horses.

There was discussion of the mortality plan.

There was discussion of traffic for the feed trucks etc.

Commissioner Tom Nielson made a MOTION to close the public hearing on application Z-2020-043 for a C-2 CUP. Commissioner John Nye SECONDED the motion. Voting was unanimous. Public Hearing Closed.

**10. REVIEW and POSSIBLE RECOMMENDATION**—C-2 Conditional Use Permit Application # Z-2020-043 Level 3 Concentrated Animal Feeding Operation (CAFO) for Horses & Burros on property located approximately 1.5 miles northwest of Sutherland. G&R Livestock Inc., Applicant

There was discussion of the road agreement.

There was discussion of the water rights.

There was discussion of a sight security plan.

Commissioner Tom Nielson made a MOTION to send a favorable recommendation to the BOCC on a C-2 Conditional Use Permit application # Z-2020-043 Level 3 CAFO for horses and burros with the conditions and recommendations listed in the staff report

Recommendations:

1. Approve the Conditional Use Permit for development of a 1,000 Horse/Burro operation with reasonable conditions.
2. Basis for Issuance of a Conditional Use Permit:
  - a) The proposed use is a Conditional Use with the Zoning District as identified in Appendix A, Table of Uses.
  - b) The proposed use is allowed within the Zoning District as identified in Chapter 8.
  - c) The proposed use complies with all requirements of the Zoning District, including all minimum area, setbacks, height, and all other requirements as applicable.
  - d) The proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
  - e) The property on which the use is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.
  - f) The proposed use comply with all site plan and building requirements, as provided and required by this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
  - g) The proposed use complies with all applicable dedication requirements of the County and provides the necessary infrastructure, as required.

- h) Such use will not, under the conditions required, be detrimental to the health, general welfare and safety of persons or injurious to property or improvements of the immediate area or the County as a whole.
3. Approve the permit with the following reasonable conditions:
- a. The proposed CAFO be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
  - b. Implementation of safety programs as required by the OSHA and any other state or federal agencies having jurisdiction and observe best practices particular to animal feeding operations.
  - c. Applicants provide own site security.
  - d. Dust and odor control procedures be implemented.
  - e. Mortality management will be done in accordance with applicable laws including but not limited to: off-site rendering, landfilling (at a state approved site), composting or onsite burial.
  - f. Manure be handled in accordance to the Nutrient Management Plan.
  - g. Procedures to control and limit rodent, flies and insects be implemented.
  - h. A clean and healthy environment on the project site be maintained.

Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

**11. REVIEW and POSSIBLE APPROVAL**—Application # Z-2020-045 for a Non-Plat Subdivision located at approximately 4800 West 500 North, Flowell. Caleb Swallow, Applicant

Applicant Caleb Swallow approached the Commission and stated they would like to get this rezoned so they can build a home on the property.

There was discussion of water for the property.

Commissioner Demar Iverson made a MOTION to approve application Z-2020-045 for a Non-Plat Subdivision located at approximately 4800 West 500 North. Commissioner Matthew Kesler SECONDED the motion. Voting was unanimous in the affirmative.

**12. REVIEW and POSSIBLE RECOMENDATION**—Application # Z-2020-046 for Plat H, Phase 4, Sunset View Estates Subdivision. SDSC Enterprises, Applicant

Commissioner Joyce Barney stepped down from voting on this application.



Commissioner Demar Iverson made a MOTION to send a favorable recommendation to the BOCC for application Z-2020-046. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

**13. OTHER BUSINESS**

**14. APPROVAL OF MINUTES** –September 2, 2020 Planning Commission Meeting.

The proposed minutes of the regular Commission meeting held October 7, 2020 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Matthew Kesler made a MOTION to approve the minutes for October 7, 2020 as corrected. Commissioner Tom Nielson SECONDED the motion. Voting was unanimous in the affirmative.

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

**16. ADJOURNMENT**

Commissioner Matthew Kesler made a MOTION to adjourn. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

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Dated this \_\_\_ day of \_\_\_\_\_ 2020  
Joyce Barney, acting as Chairman  
Millard County Planning Commission