

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
March 16, 2021**

The Millard County Planning Commission met on Wednesday March 16, 2021 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT:

John Nye.....Planning Commissioner
Peter GreathousePlanning Commissioner
David Sturlin Planning Commission Chairman
Joyce Barney Planning Commission Vice Chairman
Erin SorensonPlanning Commissioner
Bob Rogers.....Planning Commissioner

EXCUSED: Demar IversonPlanning Commissioner

ALSO PRESENT:

Adam Richins..... Millard County Planner
Angi Meinhardt..... Secretary
Dean DraperMillard County Commissioner
Denton Peterson Deputy County Attorney
Jed ChristiansenApplicant
Bryce TolbertApplicant
Jennifer Tolbert.....Applicant
Alan Czarnowsky Millard County Resident
Rod ChristiansenApplicant
Brent Tolbert Materion Natural Resources
Mike Styler Millard County Resident
Brandon Anderson..... Millard County Resident
Chris Blake Millard County Resident
Brent Blake Millard County Resident
Tom Henrie Materion Natural Resources
Janel Spencer..... Millard County Resident
Joe Spencer..... Millard County Resident
Jed SwallowApplicant
Walker SwallowApplicant
Ellie SwallowApplicant
Joe Pullan VIA Telephone, Applicant
Clinton Brown VIA Telephone, Applicant

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 Commissioner Chairman David Sturlin called the meeting to order at 3:05 pm.

2. PUBLIC INPUT

Planner Adam Richins stated there should be public hearings prior to some of these agenda items. He asked if the Commission would open public hearings on those items as needed prior to the approvals and recommendations.

3. REVIEW and POSSIBLE APPROVAL- Application # Z-2021-015 for a Non-Plat Subdivision of property located at approximately 4170 West 2100 North, Fillmore. Joel & Walker Swallow, Applicants

Applicants Joel and Walker Swallow approached the Commission and gave description of their project.

There was discussion of the access roads on the property.

This is a joint application between the property owners.

There was discussion that this will be a one-time process on the deed and deed restriction as follows.

Commissioner David Sturlin read 11-3-1: D. One Time Process; Information on Deed: This special provision may be utilized only once per parcel of property. Parcels of land which are subdivided under these special circumstances must be deed restricted with a notation on the documents of conveyance that this one-time election has been exercised and that the resulting parcels may not further subdivided without recordation of an approved subdivision plat. The deed restriction shall also contain a statement that subsequent owners of the created parcels are on notice that the parcels are in an agricultural zone, were create for the support of agricultural activities, and may be subject to the noises, odors and other conditions typical of agricultural activities. (Ord. 1-08-27A, 8-27-2001, eff. 10-8-2001)

Commissioner John Nye made a MOTION to approve application #Z-2021-015 according to the recommendations and conformance to the general plan.

CONFORMANCE TO THE GENERAL PLAN

Goal: Provide adequate, affordable and safe housing opportunities for all residents.

Objective: Residential development will occur in a manner that is consistent with the County's cultural values and rural lifestyle.

Implementation Strategies:

- Encourage residential development to occur within developed areas in order to prevent unnecessary sprawl.
- Encourage neighborhood design that provides safe traffic circulation, attractive landscaping and quality physical improvements.
- Develop housing consistent with community and county standards and goals.
- Enforce adopted building codes and subdivision regulations on a consistent basis.
- Develop housing strategies for development in the unincorporated areas of the County.

RECOMMENDATION

11-1-4: DEFINITIONS

SUBDIVISION:

A. Any land that is divided, resub divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions.

B. "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat or other recorded instrument.

C. "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for agricultural purposes;
2. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - a. No new lot is created; and
 - b. The adjustment does not result in a violation of applicable zoning ordinances;
3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or
4. A bona fide division or partition of land in a county other than a first-class county for the purpose of siting, on one or more of the resulting separate parcels:
 - a. An unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or
 - b. An unmanned telecommunication, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.

D. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision", under subsection A of this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

11-3-1: MINI SUBDIVISIONS

A. Conditions: Any property owner or an owner's agent (hereinafter a "property owner") may submit to the county recorder's office for recording a document that subdivides property by metes and bounds into nine (9) or fewer parcels, without the necessity of recording a final plat if:

1. The planning commission has reviewed the document and has given the county commissioners its recommendation on the subdivision application; and
2. The document contains a certification of approval signed by the chairman of the county commissioners or his designee that:

- a. The planning commission has given its recommendation to the county commissioners;

- b. The subdivision is not traversed by the mapped lines of a proposed street as shown in the master plan and does not require the dedication of any land for streets or other public purposes;

- c. Each parcel in the subdivision meets the minimum area, width, access, and frontage requirements of the zone in which the property is located, or has been granted a variance from those requirements by the board of adjustment.

B. Use Restrictions: The uses on parcels created under this section must be either permitted or conditional uses in the zone district in which they are located. Nonplat subdivisions which result in the creation of three (3) or fewer lots will be presumed to be for the primary purpose of supporting agricultural uses rather than for primarily residential purposes.

C. Lot Size: The sizes of the lots created in a three (3) or fewer lot, nonplat subdivision may be smaller than the minimum lot size required in the zone in order to preserve agricultural land uses.

D. One Time Process; Information on Deed: This special provision may be utilized only once per parcel of property. Parcels of land which are subdivided under these special circumstances must be deed restricted with a notation on the documents of conveyance that this one-time election has been exercised and that the resulting parcels may not be further subdivided without recordation of an approved subdivision plat. The deed restriction shall also contain a statement that subsequent owners of the created parcels are on notice that the parcels are in an agricultural zone, were created for the support of agricultural activities, and may be subject to the noises, odors and other conditions typical of agricultural activities. (Ord. 01-08-27A, 8-27-2001, eff. 10-8-2001)

Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

4. REVIEW and POSSIBLE RECOMMENDATION – Application # Z-2020-057 for a C-2 Conditional Use Permit to construct and operate a Meat or Poultry Processing Facility on property located at approximately 5400 S 1750 W, Delta (1 Miles southeast of Oasis). Jed Christiansen, Applicant

Commissioner Erin Sorenson made a MOTION to open public hearing on application Z-2020-057. Commissioner Peter Greathouse SECONDED the motion. Voting was unanimous in the affirmative.

Planner Adam Richins verified that the legal description should read DO-5365-1-1-1. It is correct on some of the forms but incorrect on others.

Applicant Jed Christiansen and Rod Christiansen approached the Commission and gave description of their application. They are only wanting to butcher their own cattle at this time. It is not their intention to handle 100s of cattle at a time. They want to do their own cattle and then maybe in the future handle some of the local community meat processing needs.

The main purpose of building on the proposed parcel is because there is already power on it. The water will have to come from a well. Applicants stated they have water rights that they will be transferring to the parcel.

Mike Styler approached the Commission and stated that he has property on 3 sides of this proposed land. He is speaking in opposition of this project. He feels bad for two reasons. One is that he knows these folks and they are good neighbors, but they want to put this project in the wrong place. Two is this area could use a kill facility like this. But would be better if they could find a location where there is not people and roads close by.

Mike Styler stated once he received the packet in the mail, he was curious about these private kill facilities so he called some friends at the Department of Agriculture and talked to the gentleman that is over these facilities state wide. He received some interesting information. He was told that it is not necessary that these private kill facilities meet state specifications, but it is best if these facilities call the Department of Agriculture in advance and build according to some of the specs that the department gives them. There was nothing talked about that in the application. He then stated that he was told that it is necessary that the state license these facilities. That was also not mentioned in the application.

Mike Styler stated he then asked the Department of Agriculture about waste water disposal. He was told that waste water disposal is quite a problem in other private kill facilities. The Department recommends a separate catchment for blood so that it is not included in the waste water. The blood would then be pumped out and disposed of separately. He then was told that it would take about 100 extra gallons of water for each head of cattle during the butchering process.

Mike Styler asked the Department of Agriculture if they ever get complaints about the smells from these facilities. The Department told him that they get complaints about odor on all of the private kill facilities.

Mike Styler then discussed that this proposed facility is going to be put on a lightly traveled narrow gravel road and with the addition of this facility they will have a great increase in trucks and trailers hauling in the animals. The employees will also be coming in to work at this facility. He is worried about the proximity to the

homes. He went out and measured with a laser finder and the proposed facility is less than 300 yards from his front porch. The facility will be approximately 100 feet from his property.

Mike Styler stated he is concerned about the offal disposal. He understands that the issue needs to be brought up in the plan but he is concerned of how that most scary thing will be taken care of.

Mike Styler stated there is no mention of a plan for a holding facility in the application. If they started using the facility for the community, they would have to have some sort of holding facility.

Mike Styler stated as the need increases, he cannot help but to see this facility becoming a commercial facility, even though that is not the intention as of now. He sees that the door is left open and the possibility is there for it to become a commercial facility. If it did become a commercial facility all the above-mentioned problems would multiply. He would like to find a better place for this facility to be located that does not cause so much personal grief.

Brent Blake approached the Commission and gave concerns of this project. He encourages agricultural facilities and uses but to build a facility worth \$200,000 and the cost of a water well seems to be a foot in the door. This will be an expandable facility and would increase the increase of traffic on the roads. He also has problems with the odor from the proposed facility. He has concerns of what they will be doing with the waste from the animals.

Joe Spencer and Janel Spencer approached the Commission and stated that they live north of the property. They use the road a lot and there are many kids that use that road as the other road is 4500 and it is too busy for the kids to walk and ride bikes down. He is concerned of the traffic. They are concerned of this being a commercial building with many lights and things that do not belong in the rural area.

Commissioner Peter Greathouse made a MOTION to close the public hearing on application Z-2020-057. Commissioner Bob Rogers SECONDED the motion. Voting was unanimous in the affirmative. Closed at 3:35 pm.

There was discussion of the facility only processing about 8 cattle per month.

Jed Christiansen stated that the animals would be hauled away the same day and they would not be left at the facility. They have discussed the project with many people and would like this to stay as a clean facility.

Rod Christiansen stated there will not be much traffic on that road. There will be no semis on that road. The animals would be hauled in a horse trailer from the farm to the facility. The facility would only need about 2 employees.

Commissioner Peter Greathouse asked if this was to go commercial how many animals at one time would this facility hold. Applicant Jed Christiansen stated no more than 5 per day. Applicants stated that every slaughter house in the state of Utah is out 8-12 months to butcher animals. This is the reason they want to process their own animal kill facility.

Applicant stated that they will not be selling their own cattle. The estimation on 10 per month would be max of what they would ever do. Jed stated currently they would probably only process 24 animals per year.

There was discussion of how much water is available for this facility at this time. Applicant stated about 27-acre feet. Applicants stated that they will be contracting out the disposal of the blood and offal. The facility is built so the blood goes down a separate container.

There was discussion of no security plan at this time.

Commissioner Erin Sorenson asked about the projection of the percentage of wild life processing. Applicant Jed Christiansen stated the family probably harvests a few dozen per year. This facility was built specifically for cattle. They are not looking into using the facility for other animals.

Planner Adam Richins stated this application does have a public hearing requirement.

There was discussion of the setback requirements for this application. There was discussion that if the application fits the conditions and the use for the property then it is allowed. Conditions can be added if needed. There was discussion of this being an agricultural area.

There was discussion of the road impact and the need for additional maintenance. A road agreement can be put in place with the road department.

Commissioner Joyce Barney stated on the conditions there is no mention of hauling off offal.

Commissioner Bob Rogers stated that most of the concerns right now fall under general agricultural use.

There was discussion of the property tax value being impacted by this facility.

Commissioner Erin Sorenson stated that there is valid comment on both sides but would like to make MOTION for a favorable recommendation to the BOCC on application #Z-2020-057 based on the Conformance to The General Plan and

based on the recommendations in the staff report with adding 2 additional conditions.

CONFORMANCE TO THE GENERAL PLAN

Millard County enjoys a diverse economic base and employment profile. The County will continue efforts to strengthen their existing position and will encourage economic growth that is compatible with the County's character and lifestyle. The County will also pursue economic development activities that complement existing businesses and industries.

RECOMMENDATION

1. Approve the Conditional Use Permit for a Meat or Poultry Processing Facility with reasonable conditions.
2. Basis for Issuance of a Conditional Use Permit:
 - a) The proposed use is a Conditional Use within 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 complies 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 of the County as a whole. (Section 10-8-3—Procedures and Review Standards for Conditional C-1 Use, Conditional C-1 Sign, and Conditional C-2 Use Applications)
3. Approve the permit with the following reasonable conditions:
 - a. The proposed Meat or Poultry Processing Facility 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 meat processing operations.
- c. Dust and odor control procedures be implemented.
- d. Procedures to control and limit rodent, flies and insects be implemented.
- e. A clean and healthy environment on the subject property be maintained.
- f. Include a road maintenance agreement.
- g. Site area lighting shall be downward directed.

Commissioner Bob Rogers **SECONDED** the motion. Commissioner Peter Greathouse asked to amend the motion to add that the facility be state or USDA inspected. Applicants stated they can agree to that but only if it is required by the state to have a private owned kill facility. There was discussion that that is not in the code and they can propose it as a condition but cannot impose it. The motion to amend failed.

Commissioner Peter Greathouse and Commissioner Joyce Barney opposed. Commissioner Joyce Barney stated she is not against the facility just the location, and that the applicants stated that its private but it looks like it will be for public use. Motion Passed. Commissioner David Sturlin stated that the motion passed and gave the applicants information on what the next steps are to proceed with the application.

5. REVIEW and POSSIBLE APPROVAL-Application #Z-2021-013 for a C-1 Conditional Use Permit for a Campground on property located at approximately 3100 N Hwy 100, Fillmore. Joe Pullan, Applicant.

Commissioner Peter Greathouse made a **MOTION** to open public hearing on application #Z-2021-013 for a C-1 CUP. Commissioner John Nye **SECONDED** the motion. Voting was unanimous in the affirmative.

Planner Adam Richins stated that he got a text from the applicant earlier today and will not be here in person. Applicant Joe Pullan was present telephonically and gave description of the application.

There was discussion if this will become a rented site. Applicant stated it will only be for his family. Applicant stated right now there will be 5 camp sites. Applicant stated if the grandkids wanted a spot, they might add more but the grandkids are pretty young.

Planner Adam Richins stated that one of the conditions can create a limitation of how many spaces can be on the property.

Commissioner Peter Greathouse asked if they will be leaving any of the RVs on the property year around. Applicant stated that they plan on leaving their RV there

year round. Planner Adam Richins stated that the County does have an ordinance of living in a campground year around. The applicant would need to have a permit for this use.

There was discussion of improvements onsite. There will be a septic tank, power and they intend on getting a water well on the property. Applicant has 2-acre feet of water rights already turned over to him for this property.

There was discussion on having open fires on the property. Applicant stated there is a fire pit on a piece of concrete. Applicant will have to get a permit for the electrical and the health department will need to give a permit for the septic tank.

They will be hauling out the waste every time they leave the site.

There was discussion of the access to the property. The road has been improved to 30 feet wide.

Commissioner Joyce Barney made a MOTION to close the public hearing for application Z-2021-013. Commissioner Bob Rogers SECONDED the motion. Voting was unanimous in the affirmative.

Commissioner Peter Greathouse asked to add a few conditions to the recommendation such as to limit to five camp sites at this time and come in to amend if they need more. Also limit three acres for the use of the site. Commissioner Joyce Barny stated she does not see a problem with 8 or 10 sites on the 3 acres.

Commissioner Peter Greathouse made a MOTION to approve application Z-2021-013 for a C-1 Conditional Use Permit for a Campground based on the proposed reasonable conditions:

- A. Adequate access for ingress and egress be improved to a minimum of 20' width to not less than the minimum standard for a county gravel road.
- B. Setbacks and proposed structures shall be substantially as described in the submitted site plan.
- C. Access to the property shall limited to a single driveway for ingress and egress.
- D. No offsite parking shall be permitted.
- E. Onsite waste containers be provided for solid waste. All waste be disposed of in permitted landfill.
- F. Signage shall comply with Millard County sign regulations.
- G. Site area lighting shall be downward directed.
- H. Owner shall be responsible for all site security
- I. Permit shall be subject to review at any time to ensure the operation is in compliance with all conditions and requirements of approval. Additionally, this permit may be reviewed at any time in the event of compliant or request from any surrounding property owner.

J. Limit to 10 campsites.

K. Limit the project area to 3 acres.

Commissioner Bob Rogers **SECONDED** the motion. Voting was unanimous in the affirmative.

6. REVIEW and POSSIBLE RECOMMENDAION- Application # Z-2021-017 for a C-2 Conditional Use Permit for Storage, Hazardous Materials on property located approximately 10 miles northeast of Delta near the intersection of Highway 6 and Brush Wellman Road. Materion Natural Resources, Applicant

Commissioner Joyce Barney made a MOTION to open a public hearing on application # Z-2021-017 for a C-2 CUP. Commissioner John Nye **SECONDED** the motion. Voting was unanimous in the affirmative.

Tom Henrie, Site Operations Leader for Materion Natural Resources approached the Commission and gave an overview of their operation. He then gave description of their proposed application. He stated that 99% of the ore has to be disposed of. The current pond is reaching the end of its service life and are in need of a new pond.

Tom Henrie went over the recommendations on the staff report. They will get copies of their Agency plans to the Planner.

Commissioner Joyce Barney made a MOTION to close the public hearing on application Z-2021-017. Commissioner Peter Greathouse **SECONDED** the motion. Voting was unanimous in the affirmative.

Commissioner Peter Greathouse asked about the ground water contamination. There was discussion of maintaining the contamination. This pond will have an interior liner to prevent seepage and to protect the ground water.

There was discussion of security for the new pond.

There was discussion of the water storage pond.

Planner Adam Richins verified with applicants that they do not have a financial surety instrument for reclamation. Applicant Tom Henrie stated they do not have a reclamation plan for this pond as it has never been required even for the existing pond.

There was discussion of adding a condition for a bond for the new pond but not the old pond. Planner Adam Richins stated that there could be additional land use applications to bring the project to conformity

Brent Tolbert, Controller and Site Strategic Planner for Materion Natural Recourses approached the Commission and stated they do not have a bond in

place for this pond, but they do have bonds for other portions of the project such as for the mine in Juab County and also the landfill. They are a publicly traded company and have to be good stewards to all their shareholders. They do have a closure plan that they review with the state of Utah yearly. He stated there is a mechanism in place.

There was discussion of these ponds being nearly 20 feet deep

There was discussion of monitored wells on the property that report to the state twice a year.

There was discussion of how they ship out the product. Tom Henrie stated that they ship the finished product out in 55 gal drums by truck. They have about 6-7 trucks per day.

There is a long life left of this facility of nearly 60 – 70 years and the ponds could actually connect.

There was discussion and reading of the Reasonable conditions

Applicant requests that the surety be waived at this time.
Brent stated that it is part of their state operating permit at this time.

There was discussion that there will be no housing on sight during construction of the pond.

There was discussion of the Local Agency Plan condition.

There was discussion of Independent Specialist Review condition.

Commissioner Peter Greathouse made a MOTION to give a favorable recommendation on application Z-2021-017 for a C-2 Conditional Use permit as it conforms to the general plan and including recommendations:

2. Basis for Issuance of a Conditional Use Permit:

a.) The proposed use is a Conditional Use within 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 complies 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 injuries to property or improvements of the immediate area of the County as a whole. (Ord. 12-12-04, 12-04-2012)

3. Approve the Permit with the following reasonable conditions:

1. **Federal and State Permitting Requirements.** Uses within the designated project area shall comply with applicable Federal and /or State permits and Licenses for the construction and operation of any such facilities. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver or exception to any law, ordinance, or rule, except to the extent that is authorizes the use of the subject premises in the manner authorized herein.

2. **Plans to be on File.** Prior to commencing construction or operation, Developer shall provide to the Office of the County Planner copies of all plans submitted to Local, State or Federal Agencies in connection with obtaining approval of the project.

3. **Local Agency Plans.** Prior to commencing construction, Developer shall provide plans for:

3.1 **Public Safety and Emergency Response.** The Millard County Sheriff's Office, the Delta City Fire Department, Utah State Fire Marshal's Office, and the Local Emergency Planning Committee must review and approve these Plans.

3.2 **Fire Management.** This plan must be developed in consultation with Federal, State, and Local agencies, as applicable. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and the County Fire Marshall.

3.3 **Traffic Management.** A Traffic Management Plan for all County roads and streets and Municipal Streets used or impacted during construction is provided to the County Planner prior to the issuance of a Building Permit.

3.4. **Fugitive Dust Control.**

3.5. **Storm Water Control**

3.6. **Hazardous Materials Management.**

3.7. **Construction Waste & Human Waste Management**

3.8. **Site Reclamation, Decommissioning, and Abandonment.** A Site Reclamation, Decommissioning, and Abandonment Plan for facilities located on private land be provided and reviewed and revised, as necessary, by the County Attorney and approved by the BOCC. This Plan

shall include an estimate of the cost of site reclamation, decommissioning, and abandonment, including any scrap value offsets. Developer shall post a bond, or other acceptable surety, with a value equal to the costs of site reclamation, decommissioning, and abandonment of the project running to the County, and all other performance guarantees, as determined necessary by the County Attorney, and approved by the BOCC for the entire life of the project. Developer shall provide evidence to the County Of any site reclamation, decommissioning, and abandonment bonding or other surety and guarantees required by any Federal or State agency prior to the issuance of a Building Permit.

4. Required reporting to be on File. Required reporting submitted to any Local, State or Federal Agencies during the life of the project shall be provided to the Office.

5. Final Studies and Documents to be on File. Required reporting submitted to any Local, State or Federal Agencies during the life of the project shall be provided to the Office of the County Planner at the time such reports, materials, and other correspondence are provided to the governmental agencies regulating the Facility. Developer shall provide notice to the BOCC, County Attorney, County Planner, and County Representative of any non-compliance along with the corrective actions required by the governmental agencies regulating the construction and operation of the project.

6. Independent Specialist Review. In reviewing application and reporting materials submitted by Developer under this Agreement, the County may engage an independent specialist, at the County's choosing, to review all reports, materials, and other correspondence filed with a governmental agency related to the construction, operation, and maintenance of the Project. Developer will provide cost recovery to the County for these reviews. The County will identify, treat, and protect these reports and any supporting documents as confidential business information, unless or until this information is deemed to be public information.

7. Building Permits. Developer shall apply for and comply with the requirements for the issuance of Building Permits, including payment of fees based on adopted fee schedules. Prior to the issuance of Building Permit, Developer shall provide documentation to the Office of the County Planner that Developer has received the required Federal and State Permits and Licenses required for the construction and operation of the new facility.

8. Property Owner and Permittee Notice. Not less than fifteen (150 calendar days prior to the commencement of any construction occurring within the project area, Developer shall notify private property owners, as identified as part of the application procedures, described below, and livestock permittees of record utilizing land location within one-half (1/2) mile of the Development Area boundary. This notice shall include a Construction Schedule for the project. Any material deviation (s) from Construction Schedule shall be communicated by supplemental notice(s) to affected private property owners and livestock permittees of record in a timely manner. The notice(s) shall include a Developer

contact, contact phone number and email address, with a copy provided to the County Planner to facilitate communication and coordination.

9. **Insurance.** Developer shall provide a list of all project specific insurance coverage to the BOCC and Millard County Attorney, with such insurance coverage required to remain in place and valid until the Facility is abandoned. Developer shall provide updated lists from time to time as needed to reflect current changes in insurance coverage(s).

10. **Warning Signage.** Developer shall provide Facility warning signage of a size, design and location as required by applicable laws, ordinances, and regulations.

11. **Worker Housing.** Developer shall include provisions in construction contracts/agreements relating to construction within the Development Area requiring construction workers to reside in appropriate and designated housing facilities and locations and prohibiting temporary construction worker housing in any undesignated areas or remote locations of the County.

12. **County Representative.** The BOCC has the right to identify and designate an employee or elected official to act as the County Representative in all administrative matters required herein, and for the efficient administration of the CUP(s) and for coordination and communication with Developer and the various County Offices and Staff.

13. **Pre-Construction Meeting.** Prior to any construction occurring within the project area, the County shall have the option of holding a Pre-Construction meeting with necessary County Officials and Staff, Developer representatives and consultants, and representatives from the governmental agencies regulating the construction of the Facility, as determined necessary by the County representative and County Planner.

14. **Necessary Conditional Use Permit Modifications.** The BOCC reserves the right to initiate necessary modifications, amendments, and additions to this Conditional Use Permit (#Z-2021-017) upon a finding that such modifications, amendments, and additions are necessary to protect public health, welfare and/or safety of the County. All such modifications, amendments, and additions shall comply with the procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

15. **Minor Facility Plan Changes.** Minor Facility plan changes may be required for the project. To promote efficiency in the review and approval of minor facility plan modifications, the County Representative and County Planner are authorized to jointly review and approve or deny all minor facility plan modifications, provided any approved minor facility plan modification does not materially affect the intent and purposes of this Conditional Use Permit. The County Representative and County Planner may consult with the County Attorney in determining if proposed facility plan modifications may be determined to be a minor site plan change. A proposed facility plan change that is not determined to be minor facility plan modification by the County Representatives and County Planner shall be presented to the Planning Commission and BOCC as a Conditional Use Permit amendment, as provided for herein.

16. **Amendments.** All changes and modification to this Conditional Use Permit, and not determined to be a minor facility plan modification, shall be considered by the Planning Commission and BOCC as an amendment to this Permit and shall be required to comply with all procedures of the County, in effect and as applicable, for the application and consideration of a Conditional Use Permit Amendment Application.

17. **Incorporation by Reference.** All information, applications, permits, licenses, attachments, and all other information referenced herein are hereby incorporated into this Conditional Use Permit by reference.

18. **Inconsistencies and Ambiguities.** Any inconsistencies or ambiguities in the materials and information provided to the County by Developer and any ambiguities or inconsistencies in the Conditional Use Permit shall be interpreted and applied in favor of the County.

19. **Recordation.** Upon the approval and execution of Conditional Use Permit #Z-2021-017, this Permit shall be recorded in the Office of the Millard County Recorder, with all Attachments being on file in the Office of the County Clerk and Office of the County Planner, with copies of the recorded document provided to the BOCC, County Attorney, County Planner, County representative, and Developer.

Commissioner Bob Rogers SECONDED the motion. Voting was unanimous in the affirmative.

Commissioner Peter Greathouse was excused from the meeting.

7. **REVIEW and POSSIBLE RECOMMENDATION-** Application # Z-2021-006 for a C-2 Conditional Use Permit for an Electrical Transmission Right of Way (Major) on property located approximately 13 miles west of Cove Fort. Clinton Brown, Applicant.

Applicants appeared via phone.

Commissioner Erin Sorenson made a MOTION to open public hearing for application #Z-2021-006 for a C-2 CUP. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

Applicant Clinton Brown gave description of the proposed application.

There was discussion of the distance of the underground line.

Commissioner Joyce Barney made a MOTION to close public hearing for application Z-2021-006. Commissioner Erin Sorenson SECONDED the motion. Voting was unanimous in the affirmative.

Commissioner Joyce Barney asked where they will be hooking into the power grid. Applicant stated the tie-in as near the intersection of the cut off road of Black

Rock Road with Rocky Mountain Power. They have not secured that yet but that is where they are wanting to access the hookup, as it is most efficient.

There was discussion of trenching the interconnection that is recommended of six to ten feet.

There was discussion of this transmission right of way not being in the Millard County utility corridor.

There was discussion of the maintenance after installation. The owner will be in charge of maintaining the facility as this is a private line.

Applicant stated they do not currently have a power purchase agreement yet for this project.

Applicant stated the recommended conditions are reasonable.

Commissioner Erin Sorenson made a MOTION to make a favorable recommendation to the BOCC on application Z-2021-006 for a C-2 Conditional Use Permit for an Electrical Transmission Right of Way as it is in Conformance to The General Plan and including all Recommended Actions and Reasonable Conditions:

- a) A detailed site Plan shall be provided to the County Planner pre-construction clearly identifying the location of the transmission lines.
- b) A site inspection be conducted by County Staff and/or County representative following the surveying and staking of the Electric Transmission Right of Way (major) sites.
- c) A copy of all required Federal & State Permits and Licenses be provided to the County Planner, prior to the issuance of a Building Permit, and to remain on file in the Office of the County Planner.
- d) A County Road Maintenance Agreement be established between the County & Applicant to address issues of possible County road deterioration as a result of construction equipment used during construction. Such Agreement shall be reviewed and revised, as necessary, by the County Attorney and approved by the Board of County Commissioners (BOCC) prior to the issuance of a Building Permit. This Agreement shall include provisions for adequate road maintenance and repair bonding for any road deterioration caused during construction, acceptable to the County Attorney, and all other performance guarantees and guarantee periods, as determined necessary by the County Attorney, and approved by the BOCC.
- e) A Traffic Management Plan for all County roads used or impacted during construction be provided to the County Planner prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner.
- f) Applicant shall notify all affected private property owners and livestock permittees a minimum of fifteen (15) calendar days prior to the commencement of any construction.

- g) A Site Security Plan, approved by the County Sheriff's Office, be provided prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and County Sheriff. Included in the Site Security Plan shall be provisions that address Facility/Site emergency and normal shutdown procedures and County Public Safety communication protocols.
- h) A Storm Water Control Plan, including all necessary erosion control measures, as required and approved by the Utah Department of Environmental Quality, be provided prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner.
- i) A Site Reclamation, Decommissioning, and Abandonment Plan for facilities located on private and public lands be provided and reviewed and revised, as necessary, by the County Attorney and approved by the BOCC prior to the issuance of a Building Permit. Applicants shall post a bond, or other acceptable surety, with a value equal to the costs of site reclamation, decommissioning, and abandonment of the project running to the County, and all other performance guarantees, as determined necessary by the County Attorney, and approved by the BOCC for the entire life of the project. Applicant shall provide evidence to the County of any site reclamation, decommissioning, and abandonment bonding or other surety and guarantees required by any Federal or State agency prior to the issuance of a Building Permit.
- j) A Fire Management Plan be formulated, in consultation with State, and Local agencies, as applicable. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and the County Fire Marshall. The Fire Management Plan shall identify all defensible space for fire protection in accordance with the County's Wildland-Urban Interface Code.
- k) The approval of Conditional Use Application shall be reviewed five years after approval of the permit, at which time, if a Building Permit Application has not been approved and a valid Building Permit issued, the BOCC may extend the Conditional Use Application approval to one year later upon a recommendation to do so from the County Planner and County Attorney. The Conditional Use Application approval may be further extended by the BOCC to six months later upon a recommendation from the County Planner and County Attorney, and with a finding by the BOCC of extenuating circumstances beyond the control of Applicant. If construction is not commenced within the allotted time period the Conditional Use Application approval shall lapse and Conditional Use Permit shall expire and be void.
- l) Applicant shall include in all construction contracts/agreements that all construction workers must reside in appropriate and designated housing facilities and locations and no temporary construction worker housing shall occur in any undesignated areas or remote locations of the County.
- m) The BOCC shall identify and designate a contact person to act as the County representative in all administrative matters required herein and for the efficient

- administration of the Conditional Use Permit and for coordination and communication with Applicant and the various County Offices and Staff.
- n) The County's representative and Applicant communicating and coordinating together shall have the obligation and responsibility to ensure that all conditions of the Conditional Use Application approval and the accompanying Conditional Use Permit are met and complied with.
 - o) Prior to any construction occurring in Millard County, a Pre-Construction meeting shall be held with all necessary County Officials and Staff and other Federal and State Agency Officials and independent service providers, as determined necessary by the County representative.
 - p) At least monthly during the construction period, and at other times as determined necessary by the BOCC thereafter, Applicant shall provide the BOCC, at a regular meeting, an "in-person" project progress and construction update.
 - q) Any inconsistencies or ambiguities in the materials and information provided to the County by Applicant shall be interpreted and applied in favor of the County.

Commissioner Bob Rogers **SECONDED** the motion. Voting was unanimous in the affirmative.

8. REVIEW and POSSIBLE APPROVAL-Application # Z-2021-021 for a C-1 Conditional Use Permit for Retail Store and Storage, Wholesale and Warehousing on property located 1521 East Main Street, Delta. Bryce & Jennifer Tolbert, Applicants.

Applicants Bryce and Jennifer Tolbert approached the Commission and gave a description of their application.

Planner Adam Richins stated the property is already zoned to have a retail store, but business falls under storage and call for a CUP. But it is a change of operation so it has to get approved by the Planning Commission.

Commissioner David Sturlin read the staff findings in the application.

There was discussion of an easement agreement on the side of the building.

There was discussion of parking issues at the facility.

There was discussion of the reasonable conditions.

Applicant Jennifer Tolbert stated that she is concerned with the recommendation for "Onsite waste containers be provided for solid waste. All waste be disposed of in permitted landfill." She would like to transfer it to the landfill herself. They have already contracted with a company that will take the pallets away onsite. But would like to be able to transfer the waste themselves. Planner Adam Richins

stated that this should be addressed with the landfill if there is not going to be a container on site.

Commissioner Dean Draper asked how often a Semi will come in. Applicants stated there will be one semi load brought to the site per month. Jennifer Tolbert also stated that at this time it will be sold on internet auctions.

Commissioner Bob Rogers made a MOTION to approve application # Z-2021-021 for a C-1 Conditional Use Permit for a Retail Store and Storage, wholesale and Warehousing as it is in Conformance to the General Plan and including reasonable conditions:

- A. A Road Maintenance Agreement be established with Millard County for vehicular traffic on 1500 East.
- B. Adequate access for ingress and egress be improved to a minimum of 20' width to not less than the minimum standard for a county gravel road.
- C. Setbacks and proposed structures shall be substantially as described in the submitted site plan.
- D. Access to the property shall limited to a single driveway on each improved road for ingress and egress.
- E. No offsite parking shall be permitted.
- F. Onsite waste containers be provided for solid waste. All waste be disposed of in permitted landfill.
- G. Signage shall comply with Millard County sign regulations.
- H. Site area lighting shall be downward directed.
- I. Owner shall be responsible for all site security
- J. Permit shall be subject to review at any time to ensure the operation is in compliance with all conditions and requirements of approval. Additionally, this permit may be reviewed at any time in the event of compliant or request from any surrounding property owner.

Commissioner Erin Sorenson SECONDED the motion. Voting was unanimous in the affirmative.

9. OTHER BUSINESS

There was discussion of 10-8-5 conditions being in front of the Commission at each meeting.

There was discussion of the conditions on the CUPs.

10. APPROVAL OF MINUTES –March 3, 2021 Planning Commission Meeting.

The proposed minutes of the regular Commission meeting held March 3, 2021 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner John Nye made a MOTION to approve the minutes for March 3, 2021 as corrected. Commissioner Bob Rogers SECONDED the motion. Voting was unanimous in the affirmative.

11. POSSIBLE CLOSED MEETING Pursuant to Utah Code Annotated Section 52-4-204 & 205

12. ADJOURNMENT

Commissioner Erin Sorenson made a MOTION to adjourn. Commissioner John Nye SECONDED the motion. Voting was unanimous in the affirmative.

Dated this ___ day of _____ 2021
David Sturlin, Chairman
Millard County Planning Commission