

**MINUTES OF THE  
WASATCH COUNTY PLANNING COMMISSION  
JUNE 8, 2023**

PRESENT: Chair Chuck Zuercher, Mark Hendricks, Doug Hronek, Kimberly Cook, Scott Brubaker  
EXCUSED: Commissioner Doug Grandquis, Commissioner Wendell Rigby  
STAFF: Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner;  
Nathan Rosvall, Assistant Wasatch County Planner; Jon Woodard, Assistant Wasatch County  
Attorney; Rick Tatton, Court Reporter (*via Zoom*).  
PRAYER: Commissioner Mark Hendricks  
PLEDGE OF ALLEGIANCE: Led by Commissioner Kimberly Cook and repeated by everyone

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. on Thursday, June 8, 2023. Chuck Zuercher also indicated that all the Planning Commission members are present except Commissioner Doug Grandquis and Commissioner Wendell Rigby. Also the Wasatch County Planning Commission is meeting in the Wasatch County Council Chambers in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032.

Chair Chuck Zuercher then read the following:

“As indicated on the screen, a required public hearing will be held for certain agenda items prior to Planning Commission action. After each such item has been presented, time to comment will be provided for all those who wish to speak. Public hearings and citizen comments are a legitimate source of information for the County to consider in making legislative decisions.

For items that do not require a public hearing, public comment may still be taken following presentation of the item, however, please keep in mind the following if public comment is accepted during these items: When making land use decisions, the Planning Commission can only rely on substantial evidence on the record, which is that amount and quality of evidence relevant to proving or disproving a specific requirement of the applicable law.

During any public comment period, each speaker will generally be limited to three minutes. Additional time may be given to individuals specifically invited to speak by the Planning Commission.”

Chair Chuck Zuercher then called the first agenda item.

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**APPROVAL OF THE MINUTES FROM THE MAY 11, 2023 AND MAY 18, 2023 MEETINGS**

Commissioner Mark Hendricks commented that he will do his best to speak clearly because it is difficult to transcribe our meetings, but in reading the minutes of May 11, 2023 for Item # 2 which is found in my copy on page 6 of those minutes and I would like to propose deleting the entire last paragraph of the narrative of our discussion which is primarily transcribing what I said. I must have been hard to understand or speaking not plainly and I would like to delete the whole paragraph and offer a replacement paragraph that is a little more clear. He then read that paragraph and handed the copy of that to Doug Smith, the Wasatch County Planner, to put in the minutes for May 11, 2023 (whereupon that was read into the record, and a copy of which was put into the minutes). Commissioner Mark Hendricks then indicated that is the amendment to the May 11, 2023 minutes.

**Motion**

**Commissioner Mark Hendricks make a motion that we accept the minutes as amended for the May 11, 2023 meeting.**

**Commissioner Kimberly Cook seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Doug Hronek.**

**NAY: None.**

Chair Chuck Zuercher then asked for a motion for the May 18, 2023 minutes.

**Commissioner Mark Hendricks made a motion to accept the minutes as written for the May 18, 2023 minutes.**

**Commissioner Doug Hronek seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Mark Hendricks, Scott Brubaker, Kimberly Cook, Doug Hronek.**

**NAY: None.**

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**ITEM 1 TJ STEPHENS, REPRESENTING 1035 W 1800 N LLC, REQUESTS THE CREATION OF AN AGRICULTURAL PROTECTION AREA FOR 10.83 ACRES LOCATED ON PARCEL 07-9579 IN THE NORTH FIELDS AREA IN THE AGRICULTURE 20 (A-20) ZONE. *\*IF FORWARDED, THE RECOMMENDATIONS BY THE PLANNING COMMISSION AND THE AGRICULTURE PROTECTION AREA ADVISORY BOARD ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JUNE 21, 2023. (AGPRO-7881; NATHAN ROSVALL)***

### Staff

Nathan Rosvall, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that TJ Stephens, representing 1035 W 1800 N, LLC, is requesting an Agriculture Protection Area for property located in the Agriculture (A-20) zone at 1035 West and 1800 North in the North Fields. The property contains 10.83 acres. The proposed Agriculture Protection Area includes a barn and a single family residence on the northerly portion of the parcel. The property is a legal nonconforming Lot of Record. The agricultural use on the property includes raising of livestock, cows, horses, goats, etc., and the harvesting of grass for hay. The adjacent property owners currently use their properties primarily for residential and agricultural purposes. The application is made pursuant to the recently adopted County Code 16.29 Agricultural Protection Area, which is allowed by the State Code Section 17-41-201. The intent of these codes is to protect agricultural areas from encroachment of urban development and the impacts that come with it including nuisance complaints, future road expansion, changes in zoning regulations, eminent domain, etc. The process for obtaining the designation of an Agricultural Protection Area is review and recommendation by the Agricultural Advisory Board and the Planning Commission prior to the approval by the County Council. Also at the time the staff report was written, no objections have been received in response to the notices that were sent.

The proposed findings are:

1. The request is to create an Agriculture Protection Area to maintain the agricultural use and the rural environment.
2. The subject property is located in the Agricultural (A-20) zone at 1035 West 1800 North.
3. The parcel is 10.83 acres.
4. The property is a legal nonconforming parcel.
5. The current use of the property proposed for protection status is for the raising of livestock and grass production for hay.
6. The proposed area includes one existing barn and a single family dwelling on the parcel.
7. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.
8. The property owners intend to maintain the same farming operations as is currently being utilized on the property.
9. Middle Ditch is located on the property.
10. Commonly found soils in the North Fields are: Fluventic Haploborol, Kovich and Logan.
11. Wasatch County Code Section 16.29.08 outlines the evaluation criteria for granting the Agriculture Protection Area, and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.
12. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
13. No objections have been received in response to the notices sent or signs posted on the property.
14. If the Agricultural Protection Area is approved, the approval will be in effect until its 20<sup>th</sup> calendar review year.

Nathan Rosvall then went through the proposed modifications.

Section 16.29.06 allows for the review of the proposal with the options that include accepting the proposal, rejecting the proposal or modifying the proposal.

As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal/ditch to ensure downstream flows.

### **Applicant**

Chair Chuck Zuercher asked if the applicant is present. It was indicated that the applicant was online and did not want to add anything further.

### **Planning Commission Discussion**

The Wasatch County Planning Commission discussed further how much of the north fields was currently protected.

### **Public Comment**

Chair Chuck Zuercher then opened the issue up for public comment and there was no public comment so the public comment period was closed.

### **Motion**

**Commissioner Mark Hendricks made a motion to recommend approval of Item 1, with the findings and modifications as outlined by staff, to the County Council.**

**Commissioner Scott Brubaker seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Scott Brubaker, Kimberly Cook, Mark Hendricks, Doug Hronek.**

**NAY: None.**

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**ITEM 2 MJSAA, REPRESENTING ORION JORDANELLE PROPERTY HOLDINGS LLC, REQUESTS FINAL SITE PLAN APPROVAL FOR PODS 10B AND 10C, THE LODGE AT STILLWATER, CONSISTING OF 60 UNITS ON 2.85 ACRES OF THE HAILSTONE VILLAGE MASTER PLAN IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-7080; AUSTIN CORRY)**

### **Staff**

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation to the Wasatch County Planning Commission and indicated that Stillwater Lodge is a condominium hotel project that is part of the original Hailstone Village master plan that contains 12 pods of development. Pods 1-8 and 10 have been platted at this point. Last year, the applicants requested an amendment to the plat that reduced the number of remaining units from 66 units to 60 units, but increased the size of the remaining units. Approval for this amendment was granted and the plat was recorded in February of this year. This application is for the accompanying site plan approval which includes the review of architecture, engineering, parking, amenity areas, landscaping, etc., that have not yet been constructed (Pods 10B and 10C). The code compliance analysis will be referencing Pod 10, as it is the applicable analysis being considered at this time. This discussion is not intended to convey requirements for additional pods throughout the development unless it is specifically noted.

Austin Corry then indicated that the Lodge at Stillwater was approved as a condominium hotel project and commercial uses. The JBOZ requires commercial uses to meet a front setback of 10 feet, side setbacks of 10 feet and a rear setback of 30 feet. As development of other phases of the Stillwater master plan have progressed, the vehicular portion of the road fronting the property

was constructed previously to the back of curb. This project will need to complete the remaining right-of-way improvements for the parkstrip and sidewalk. A geotechnical report was submitted as part of the review which the County reviewing consultant has reviewed and found to be satisfactory to meet the geological standards necessary for the proposed project with the exception of a modification to the pavement design.

Parking for the Stillwater Lodge was heavily debated during the preliminary approval decades ago. When the phase 10A final for the Lodge was approved, it included a parking requirement for 1 stall per unit plus 15 stalls for employee parking. It does not appear that the requirement for patrons to commercial tenants was assessed. The application, including reclamation of parking stalls in phase 10A, provides 178 total stalls exclusively in the underground parking area. This total is sufficient to meet the minimum code requirements of WCC 16.33. The applicant states there is an off-site parking easement that could also serve the project, but has not provided any evidence as to the scope or determination of what that easement entails. As such, the County is not making any determination as to the existence of such an easement. If more intense uses are added inside the commercial area or if the use of the lodge units changes from hotel to a permanent residency, additional parking requirements will likely need to be met in order for the change of use to be approved by the County.

Based on the vested previous approvals, the structure is limited to 65 feet from natural grade. A certificate of height verification was submitted, signed by James Pitkin of Dominion Engineering, noting the elevations and heights of the building based on existing natural grade and compared to the plans submitted by the applicant. Additional recertification will be necessary during the construction process to ensure these elevations are clearly understood and adhered to as the project progressed.

The applicant intends to have the garbage collection area located inside the underground parking area. Signs are regulated under section 16.26 of the Wasatch County Code. The application has not indicated any intention of adding signage to the project area. All unfinished improvements to the right-of-way and utilities must be bonded for in compliance with County bonding policies before any building permit will be able to be accepted for the project.

Austin Corry then went through the DRC report.

JORDANELLE SSD comments:

- Coordinate detail plan review for water and sewer connections with JSSD District Engineer.

ENGINEERING comments:

- Condition of Approval: The structural concrete retaining walls must be reviewed in conjunction with the application for a building permit.
- Condition of Approval: There is one remaining comment on the geotechnical report pertaining to the pavement section. Address Comment #3 before construction.
- More info on Condition of Approval comment ENG-13: This is the old letter. AGECE responded to this one. The remaining comment states: "Only flexible pavement design input values were provided in the response. The resilient modulus value for the base course was not provided. Assuming a value of 27,000 pounds per square inch for the resilient modulus, a value that was recommended by UDOT in their 2008 design manual, gives a required minimum structural number of about 1.8 for the asphaltic concrete on the base course. The structural number listed for the recommended 4 inches of asphaltic concrete is 1.51, which is too low and a greater thickness of asphaltic concrete is needed to satisfy the design. The concern with the rigid pavement design was the use of the same equivalent single-axle loads for the rigid and flexible pavement designs."

PLANNING comments:

- Thank you for providing this. As a condition of approval, a certificate will be required after survey of the poured foundation as well to certify that the build elevations match the drawings, and to certify that no part of the building will exceed 65 feet from natural grade.
- The plan set for the building permit will need to include the elevation markers consistent with the elevation certificate. Only one of the two building elevation sheets has been updated to include this at this time. The building permit will be rejected if the complete information is not provided.

**Applicant**

Kathleen Hill with MJSAA asked if there were any questions.

Dan Dansie, legal counsel for the owner, requested that the condition regarding parking re-evaluation be limited to only reviewing the portion being changed in use. There was discussion held back and forth regarding what Attorney Dan Dansie has proposed.

### **Planning Commission Discussion**

Commissioner Mark Hendricks suggested one of the findings be modified slightly and made into a condition. Attorney Jon Woodard proposed some changes to the language regarding parking to clarify that it is any change of use and not limited to just commercial uses. Commissioner Mark Hendricks asked about some property disputes regarding adjacent property regarding parking. Austin Corry replied that pod 11 is across the street and there is a dispute about how much parking that the Stillwater Lodge has an easement right to. This project stands alone. If the applicant was not able to meet all of their parking on site and required something on that then we would have required them to perfect that easement or demonstrate what their rights really were so that we could actually validate that they had it.

The Wasatch County Planning Commission had a lengthy discussion regarding parking, future uses, and what the condition of approval should be to accurately ensure parking needs are continually met as the Lodge was a mixed use project and may change uses through time. The Commission determined it was important for the Lodge to be considered as a whole since parking requirements were all determined on the mixed use premise and not as individual use needs.

There was a lot of discussion about the findings and conditions and some were changed according to that discussion. Austin Corry then went through the findings and conditions as some were changed by the Wasatch County Planning Commission.

Austin Corry then went through the proposed findings:

1. The subject property is pod 10B and 10C of the Hailstone Village Master Development that includes 12 development pods with uses and density identified on the recorded master plan.
2. Pod 10 is 5.86 acres and contains 145 lodge units as a condominium hotel.
3. 85 lodge units and roughly 8,000 square feet of commercial space have been built under previous application.
4. The subject application is for the additional 60 lodge units and 2,545 square feet of common area.
5. The applicant has indicated that the lodge has been and will be operated as a condominium hotel.
6. Some of the parking currently built for the project has been repurposed as storage areas.
7. With the reclamation of existing parking garage and construction of new parking garage, the project is providing 178 parking stalls exclusively in an underground parking garage.
8. As a condominium hotel, the project requires 171 parking stalls.
9. A building height elevation certificate has been provided by the applicant to certify that the building will be no taller than 65 feet from natural grade.
10. The density being proposed is consistent with what was approved by condominium plat previously.
11. Access to the project is through parking garage entrances and a pedestrian entrance from Stillwater Drive.
12. The applicant has indicated that trash pickup will be done by physically rolling the dumpster from the underground parking to the outside where trash pickup can occur and the dumpster will be rolled back in. No outside dumpster enclosure is being provided.
13. The application does not propose any signage for the project.
14. The Development Review Committee has reviewed the project and forwarded the item for Planning Commission decision.

Austin Corry then went through the conditions as was proposed after the discussion.

1. Pavement design in relation to the geotechnical review must be resolved prior to permits for construction as indicated by the County review consultant.
2. Structural concrete retaining walls must be included and reviewed in conjunction with the application for building permit.
3. The height certificate from a licensed surveyor shall be updated to revalidate building heights after the footings are poured and again once the trusses are set that will certify that no part of the building exceeds 65 feet from natural grade as indicated on the proposed drawings.
4. Plans submitted for building permit shall include the required elevation markers consistent with the elevation certificate.
5. Construction activities are precluded from areas identified on the plans as "Existing Scrub Oak (Protect in Place)" and to follow the landscape architect recommendations for protecting the area. At a minimum, construction fencing shall be placed around protected areas. If damage to protected areas occurs, the applicant will be responsible to submit revised landscape plans for review and approval prior to receiving certificate of occupancy.



6. Any change of use in the project shall be subject to review and approval from Wasatch County that the use is permitted and that all aspects of Wasatch County Code are complied with, such as, that the change of use is compatible with parking requirements.
7. Bonding shall be provided for all infrastructure improvements such as, but not limited to, water lines, sewer lines, sidewalks, and existing road repair prior to issuance of a building permit.
8. Developer to fulfill its commitment to remove the storage areas and add the parking back in.
9. As commercial uses are introduced to the existing lodge spaces, or if change of use is applied for or occurs for any part of the Stillwater Lodge, the parking counts for the Lodge will be subject to re-review for compliance.

### **Public Comment**

Chair Chuck Zuercher then opened the hearing up for public comment. Chair Chuck Zuercher then closed the public comment period.

### **Motion**

**Commissioner Mark Hendricks made a motion to approve the final site plan for item number two with the findings as amended and as reflected on the screen.**

**Commissioner Kimberly Cook seconded the motion.**

**The motion carries with the following vote:**

**AYE: Chair Chuck Zuercher, Mark Hendricks, Kimberly Cook, Scott Brubaker, Doug Hronek.**

**NAY: None.**

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**ITEM 3      CONSIDERATION AND POSSIBLE RECOMMENDATION REGARDING A PROPOSED AMENDMENT TO NUMEROUS CHAPTERS OF WASATCH COUNTY CODE IN ORDER TO MODIFY PUBLIC NOTICING REQUIREMENTS TO COMPLY WITH RECENT CHANGES TO STATE CODE THROUGH SENATE BILL 43. *\*IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JUNE 21, 2023. (AUSTIN CORRY)***

### **Staff**

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that the 2023 legislative session included Senate Bill SB43 that modified public noticing requirements for a vast majority of state codes, including land use provisions. In reviewing County Code, the current code is compliant with all the changes made by SB43 with the exception of adding physical mailing of noticing for zoning map amendments. This proposal is to make this correction to comply with the law that became effective May 1, 2023. In addition, staff poses the question of whether a 14 day newspaper notice is still desired by the policy makers. State code does not require the newspaper listing, but County Code does. It is anticipated there will be some discussion regarding this. There was a lengthy discussion regarding the 14 day noticing requirement by the Wasatch County Planning Commission.

Austin Corry then went through the proposed findings that it could be recommended to the Wasatch County Council with.

1. The Utah State Legislature has enacted Senate Bill 43 in 2023.
2. SB43 modifies current public noticing practices required by state law.
3. Current County Code complies with noticing required by state law.
4. The addition of mailing requirements to zone map amendments is made more clear when added specifically to the County Code.
5. The proposal considers the impact of newspaper noticing requirements on land use applications.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.
7. Also additions presented by Jon Woodard on his screen for changes to 16.02.05(1) which states, "Notwithstanding any other provisions contained in any other title of Wasatch County code."

### **Public Comment**

Chair Chuck Zuercher then opened the matter up for public comment and there was none so the public comment period was closed.

### **Motion**

Commissioner Scott Brubaker made a motion that we recommend approval of Item 3 as discussed with what is on the screen and including in the rest of the proposal in the packet.

Commissioner Mark Hendricks seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Scott Brubaker, Doug Hronek.

NAY: None.

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### **ADJOURNMENT**

### **Motion**

Chair Chuck Zuercher made a motion to adjourn.

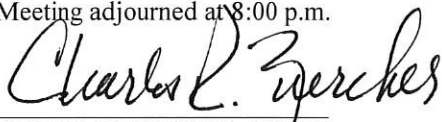
Commissioner Kimberly Cook seconded the motion.

The motion carries with the following vote:

AYE: Kimberly Cook, Mark Hendricks, Chair Chuck Zuercher, Scott Brubaker, Doug Hronek.

NAY: None.

Meeting adjourned at 8:00 p.m.

  
CHUCK ZUERCHER, CHAIR