

**MINUTES OF THE  
WASATCH COUNTY PLANNING COMMISSION  
JANUARY 11, 2024**

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

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. on Thursday, January 11, 2024. Chair Chuck Zuercher indicated that all the Commissioners are present with the exception of Commissioner Wendell Rigby and Commissioner Kimberly Cook. Chair Chuck Zuercher indicated that Commissioner Wendell Rigby is now an alternate or associate member and will only be present if needed. Also let the record show that 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.

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**APPROVAL OF THE MINUTES FOR DECEMBER 14, 2023**

Chair Chuck Zuercher indicated that there are not enough members present this evening so we cannot vote on the minutes and we will put them back on the agenda to pass them at our next meeting when more Commissioners are present. Commissioner Doug Grandquis indicated that he has a correction to be made on the paragraph on the last page with regard to my statement. What I was referring to is that I voted against a number of issues but it goes on and says that I wasn't in favor of this issue but I feel that we have to do it anyway. It just doesn't make any sense, the word being used is being enabled and just put voted against. Just strike the word enabled.

**Motion**

**Commissioner Mark Hendricks made a motion to defer the approval of the December minutes until the next meeting when we have a full quorum of those who were in attendance so that they can comment on the minutes one way or the other.**

**Commissioner Doug Hronek seconded that motion.**

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

**AYE: Chair Chuck Zuercher, Commissioner Mark Hendricks, Commissioner Scott Brubaker, Commissioner Doug Grandquis, Commissioner Doug Hronek.**

**NAY: None.**

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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.”

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## CONSENT AGENDA

Chair Chuck Zuercher indicated that we have one consent item on the agenda this evening. All the matters on the consent agenda are considered routine unless somebody from the audience or Planning Commission members would like to hear the matter. All of these matters will be handled with one motion.

**ITEM 1        RUSSELL SKUSE, REPRESENTING PRIVATE CAPITAL DIVERSIFIED FUND, REQUESTS THE FOURTH AND FINAL OF FOUR POSSIBLE 90 DAY EXTENSIONS UNDER THE PROVISIONS OF WCC §16.01.16 TO THE FINAL PLAT APPROVAL OF BENLOCH RANCH PHASE 3 (DEV-4466) WHICH WAS GRANTED BY THE PLANNING COMMISSION ON MARCH 10, 2022 AND SET TO EXPIRE DECEMBER 6, 2023 UNDER THE MOST RECENT EXTENSION APPROVAL. (DEV-8824; DOUG SMITH)**

### Staff

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the applicant is requesting that the Planning Commission extend the expiration date 90 days from December 6, 2023 to March 6, 2024. They haven't been able to obtain their construction permits necessary yet to enact the approval. This is the last extension that they can ask for under the code.

The Planning Commission indicated that they have nothing to say regarding the consent item.

### Public Comment

Chair Chuck Zuercher then asked if there was any public comment regarding the matter and there was none so the public comment period was closed.

### Motion

**Commissioner Doug Grandquis made a motion that we approve the 90 day extension to Benloch Ranch Phase 3 by Private Capital Diversified Fund based on the staff report and developers statements.**

**Commissioner Mark Hendricks seconded the motion.**

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

**AYE:    Chair Chuck Zuercher, Commissioner Mark Hendricks, Commissioner Doug Hronek, Commissioner Doug Grandquis, Commissioner Scott Brubaker.**

**NAY:    None.**

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**ITEM 2        MIKE JOHNSTON, REPRESENTING BICKNELL INVESTMENTS LLC, REQUESTS A MINOR PLAT AMENDMENT TO DIAMOND BAR X NO. 6 IN ORDER TO COMBINE LOTS 20 AND 21 INTO ONE LOT AND TO COMBINE OPEN SPACE AREAS A, B, AND D INTO A SINGLE PARCEL LOCATED AT 5616 S DIAMOND BAR X ROAD IN THE PRESERVATION (P-160) ZONE. (DEV-8627; ANDERS BAKE)**

### Staff

Anders Bake, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the existing plat includes two residential lots which are proposed to combine, lots 20 and 21, into one lot, then three open space lots. All five of these are owned by the applicant. The proposed amended plat will combine the three open space parcels into one open space area and then combine the two residential lots into one residential lot and there can only be one residential family home on the residential portion. The open space area is limited to agricultural uses that cannot have any structures on it aside from a few agricultural related structures that are there listed in the plat notes. So those same plat notes will carry over. The only DRC comments that remain are just ensuring that all the plat notes are copied over to the new plat and include a note that an alternate waste water system will need to be used and that the residential home cannot have a basement. Anders Bake then went through the proposed findings along with the conditions.

**Proposed Findings:**

1. The proposal is to combine lots 20 and 21 into one lot (parcel #s 00-0021-3816 and 00-0021-3817). The proposed amendment would also combine open space parcels A, B, and D into one open space parcel (parcel #s 00-0021-3823, 00-0021-3824 and 00-0021-3826).
2. The combination will result in one 1.77 acre residential lot (Lot 21) and one 4.5 acre open space parcel (Open Space Area A).
3. All relevant plat notes from the existing plat have been copied onto the proposed amended plat. This includes a note which limits the use of the open space area to open space, agricultural and livestock. Residential structures are also prohibited on the open space area.
4. Good cause for the amendment exists since lot combinations reduce density, increase open space, and reduce the number of septic drain fields.
5. No public or private roads are being vacated as part of this plat amendment.
6. Based on the current zoning designation and its associated regulations, the applicant would forfeit the right to re-subdivide the property in the future.
7. This proposed revision conforms to the Wasatch County development standards.
8. The proposal is consistent with Utah Code Section 17-27a-609.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

**Proposed Conditions:**

1. The plat amendment approval shall expire if the plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. The applicant shall resolve any conditions noted in the DRC report to the satisfaction of the applicable review department.

Commissioner Mark Hendricks indicated that if there are any concerns at the staff level any bumps in this because this seems very much consistent with what we like to do in the County by reducing density. It seems like a very easy yes and were there any other concerns along the way that we should be made aware of? Anders Bake replied that since the staff report was published they resubmitted plans and those plans seem to comply and was able to finish the review today and they do comply with all the planning comments now that we had, so at this point there aren't any other concerns and no objections came in.

Anders Bake then went through the DRC comments:

**ENGINEERING comments:**

- Condition of Approval: Before the mylar is signed, documentation should be provided showing that the pertinent utilities are aware of and approve of the abandonment of the PUE along the side lot line being removed.
- Condition of Approval: Note 5 should read "Lot 21 Amended" not Lot 20.

**PLANNING comments:**

- Please add a note stating that all other Plat Notes from the Diamond Bar X Ranch subdivision, No. 6 Third Amended will apply to this plat.
- Add Surveyor's Certificate signature and stamp to mylar – WCC 16.27.12.K.3.
- Add "the acceptance of dedications of public lands, streets and easements;" to County Manager's approval. – WCC 16.27.12.K.7.
- Include Plat Note #4 from the Diamond Bar X Ranch Subdivision No. 6 Third Amended.

**Applicant**

Chair Chuck Zuercher asked if the applicant is here and would like to make any comments. The applicant was not present.

### **Public Comment**

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

### **Motion**

**Commissioner Mark Hendricks made a motion that we approve Item #2, the application by Diamond Bar X and Bicknell Investments LLC for a minor plat amendment, in light of the findings and based on the other representations of the staff in this meeting and subject to the conditions that have been outlined in the Staff Report.**

**Commissioner Doug Grandquis seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Commissioner Mark Hendricks, Commissioner Doug Grandquis, Commissioner Doug Hronek, Commissioner Scott Brubaker.**

**NAY: None.**

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**ITEM 3      BRIAN BALLS, REPRESENTING CHRISTENSEN FARMS LOTS LLC, REQUESTS A PLAT AMENDMENT TO CHRISTENSEN FARM PHASE 1 SUBDIVISION PLAT TO ADD 0.134 ACRES OF ADJACENT PROPERTY TO A RETENTION AREA PARCEL LOCATED AT 1460 S 2130 E IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. *\*IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LAND USE AUTHORITY, AT A PUBLIC HEARING ON JANUARY 17, 2024. (DEV-8733; AUSTIN CORRY)***

### **Staff**

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that you saw this matter over a year ago now. When Christensen Farms Phase 2 came in they designed a road that didn't align with the Christensen Farms Phase 1 Plat that we are discussing. Although the names are Christensen Farms Phase 1 and Christensen Farms Phase 2 they are not the same project. Phase 1 was considered and built independent of the Phase 2 proposals. They were separate preliminary subdivisions and everything. They aren't really the same in terms of process. On the existing plat you can see in the northwest corner there the hatched areas retention area that has an easement over the top of that for storm water. When they designed this new subdivision the road does not exactly follow the alignment along the south border of the retention area property. It leaves a small portion 0.134 acres so their road alignment is designed differently in a way that it leaves that gap. That gap doesn't comply with our code in terms of lot sizes or open space requirements or anything like that. What they are requesting is to give that gap to that retention area in Phase 1. The more significant note in this and why it is a plat amendment that has to go to the Wasatch County Council is because it affects open space and easements that are there. There is a note made on the bottom right. This was a note that was discussed the last time that this came about. The proposal is the exact same as what you saw a year plus ago but the applicant did not proceed forward with that approval and that approval expired so they are back in asking for the same approval again. As far as the staff report the findings and conditions that are listed in there are the ones that were approved last time.

Commissioner Mark Hendricks asked, who is the easement in favor of? Austin Corry replied that the storm water easement is in favor of Wasatch County but it also protects it from future development because that goes toward the density calculation for the whole subdivision.

Commissioner Mark Hendricks indicated that the responsibility of maintenance is on the HOA. Austin Corry replied that is correct and that is the note that is there the Phase 1 HOA is currently responsible in the current plat right now and this plat amendment would make the new phase 2 subdivision HOA responsible for the maintenance of this retention area. The applicant is the new

phase 2 subdivision, not the developer or HOA for phase 1. Austin Corry indicated that it matches something that was already approved and as far as any kind of code changes or anything that would have differed between that year plus ago and now I am not aware of anything that has changed the circumstances when it was previously approved.

Austin Corry went through the proposed findings:

1. The affected plat is Christensen Farm Phase 1.
2. The request is to add 0.134 acres into a 4.19 acre storm water retention area in the existing plat.
3. The proposed landscaping is to seed the area with pasture grass and use the retention area as a pasture. Trees will be planted in the park strip per WCC.
4. The proposal includes a request to change the maintenance responsibility of the retention area from the HOA of the Christensen Farm Phase 1 subdivision to instead be maintained by the HOA of an adjacent subdivision.
5. The existing plat is currently at the maximum permissible density of 1.3 acres/unit for the zone.
6. No public or private roads are being vacated as part of this plat amendment.
7. The Development Review Committee has reviewed the project and forwarded the item on for a determination by the Planning Commission and County Council.
8. Utah Code and Wasatch County Code require a finding of good cause in order for any plat to be amended or vacated. If good cause is not able to be found, the request should be denied.
9. Good Cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
10. Good cause for the amendment exists by accommodating the current design of the Christensen Farm Phase 2 subdivision as proposed, which would create a nuisance strip if the parcel were not combined with the existing retention area, thus precluding the ability of approving the proposed subdivision.
11. Good cause also exists by adding the required open space easement missed in the previous recording, thus resolving an issue of non-conformity.
12. Based on the current zoning designation and its associated regulations, both the existing affected subdivision and the proposed subdivision would be at the maximum permissible density.
13. The proposal is consistent with Utah Code Section 17-27a-609.

Austin Corry then went through the proposed conditions.

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of plat amendment approval.
2. The plat notes should be updated to also include an open space easement in favor of Wasatch County per Wasatch County Code Section 16.08.04(D).

### **Applicant**

Brian Balls indicated that Summit Engineering has been acquired by a company out of Michigan named AT Well Group and they have assumed all of our past and future liabilities so and now part of a national firm called At Well. Brian Balls indicated he has nothing further to offer.

### **Public Comment**

Chair Chuck Zuercher then asked if there is any public comment and there was not so the public comment period was closed.

### **Motion**

**Commissioner Doug Grandquis made a motion to recommend to the County Council approval of the Plat Amendment for Christensen Farms Phase 1, by Christensen Farms Lots LLC, in light of the findings and subject to the conditions.**

**Commissioner Doug Hronek seconded the motion.**

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

**AYE:** Chair Chuck Zuercher, Commissioner Mark Hendricks, Commissioner Doug Grandquis, Commissioner Doug Hronek, Commissioner Scott Brubaker.

**NAY:** None.

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**ITEM 4 VERIZON WIRELESS, REPRESENTING AMERICAN TOWER CORPORATION, REQUESTS A MODIFICATION TO A CONDITIONAL USE PERMIT TO PERMIT REMOVAL OF EXISTING EQUIPMENT AND ANTENNA AND TO INSTALL NEW ANTENNA ON AN EXISTING TOWER LOCATED ON PARCEL 20-0001 NEAR THE WASATCH COUNTY / UTAH COUNTY BORDER IN PROVO CANYON IN THE PRESERVATION (P-160) ZONE. (DEV-8820; AUSTIN CORRY)**

**Staff**

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that this is a cell tower request. So this is just before you leave Wasatch County and enter into Utah County through Provo Canyon and is up Bear Canyon. Up in Bear Canyon there is an existing tower there right now. The poles will stay in the exact same location and the mounting area where the antenna are there are mounting bars that are getting changed out for structural reasons and would look pretty close to the same thing but they need to be on maybe a thicker steel or something. The antennas that are existing there now are getting replaced with an updated antenna. There is no height increase and with the change out there is actually one less antenna than the existing arrangement. By code any time there is a modification to a conditional use permit they have to come back to show you what they are looking to do and that is the request that is in front of you. We would recommend that with the approval, since this is a modification of a CUP, you simply adopt the existing conditions that were in the original CUP, just remain there and that they don't go away with this modification, and if they want to do anything beyond what they are telling you they are doing right now then they would have to come back again.

Commissioner Doug Hronek asked if there is an existing structure near this too. Austin Corry replied that there is an existing structure that they aren't indicating any changes to it.

Austin Corry then went through the proposed findings:

1. The application is for a modification to an existing conditional use permit for a cell tower located on parcel 20-2001.
2. The application indicates that the only modification is to the number of antenna and RRHs currently located on the existing structure. Total numbers are decreasing.
3. The application has not identified any modification to the structural elements, roads and access, vegetation, or any equipment other than the antenna and RRHs is being made.
4. The staff analysis indicates the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses.
5. Notice has been sent to neighboring property owners within 500 feet of the property.
6. There are no known zoning violations on the property at this time.

Austin Corry then went through the proposed conditions:

1. All conditions of the initial approval remain the same.
2. Any modification beyond replacing the antenna and RRH equipment listed on the application shall be required to apply, and be approved, for a modification to the CUP.

**Applicant**

Chair Chuck Zuercher then asked if the applicant would like to say anything and the applicant is not present.

**Public Comment**

Chair Chuck Zuercher then asked if there is any public comment and there was none so the public comment period was closed.

**Motion**

Commissioner Doug Grandquis made a motion to approve Item 4, the conditional use permit by Verizon Wireless for American Tower Corporation to install a new antenna, consistent and in light of previous findings and subject to previous conditions and also in light of the findings and subject to the conditions listed in the staff report.

Commissioner Mark Hendricks seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Commissioner Doug Grandquis, Commissioner Doug Hronek, Commissioner Scott Brubaker, Commissioner Mark Hendricks.

NAY: None.

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**ADJOURNMENT**

**Motion**

Commissioner Scott Brubaker made a motion to adjourn.

Commissioner Mark Hendricks seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Commissioner Mark Hendricks, Commissioner Scott Brubaker, Commissioner Doug Hronek, Commissioner Doug Grandquis.

NAY: None.

Meeting Adjourned at 7:00 p.m.

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CHUCK ZUERCHER/CHAIRMAN

**MINUTES OF THE  
WASATCH COUNTY PLANNING COMMISSION  
DECEMBER 14, 2023**

PRESENT: Chair Chuck Zuercher, Commissioner Scott Brubaker (*via Zoom*), Commissioner Kimberly Cook, Commissioner Wendell Rigby, Commissioner Doug Grandquis.  
EXCUSED: Commissioner Mark Hendricks, Commissioner Doug Hronek.  
STAFF: Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner; Nathan Rosvall, Assistant Wasatch County Planner; Anders Bake, Assistant Wasatch County Planner; Jon Woodard, Deputy Wasatch County Attorney  
PRAYER: Commissioner Wendell Rigby  
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, December 14, 2023. Chair Chuck Zuercher indicated that Commissioner Hronek and Commissioner Mark Hendricks are excused. Chair Chuck Zuercher indicated that the Wasatch County Planning Commission is meeting in the Wasatch County Council Chambers located in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032. Chair Chuck Zuercher thanked the Planning Staff for the good job they do because it really helps the Planning Commission. Chair Chuck Zuercher then called the first agenda item.

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**APPROVAL OF THE MINUTES FOR NOVEMBER 9, 2023**

**Motion**

**Commissioner Doug Grandquis made a motion that we accept the minutes of the meeting of November 9, 2023 as written.**

**Commissioner Kimberly Cook seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Kimberly Cook, Wendell Rigby, Doug Grandquis, Scott Brubaker**

**NAY: None.**

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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.”

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**CONSENT AGENDA**



Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that Item No. 1 on the Consent Agenda was erroneously placed on the agenda and does not need any action by the Planning Commission because approvals for extensions of applications can be made by the staff.

**ITEM 2 BLUE SAGE RANCH, LLC REQUESTS A MINOR PLAT AMENDMENT TO BLUE SAGE RANCH SUBDIVISION IN ORDER TO CONVERT OPEN SPACE PARCELS TO COMMON AREA AND TO REVISE THE ALIGNMENT OF A PUBLIC TRAIL EASEMENT THROUGH THE SUBDIVISION LOCATED AT APPROXIMATELY 5300 E 1200 S IN THE RESIDENTIAL AGRICULTURE 5 (RA-5) AND MOUNTAIN (M) ZONES. (DEV-8700; AUSTIN CORRY)**

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

**Motion**

**Commissioner Wendell Rigby made a motion that we approve Blue Sage Ranch request for a minor subdivision plat amendment with all the findings and conditions.**

**Commissioner Doug Grandquis seconded the matter.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Kimberly Cook, Doug Grandquis, Scott Brubaker.**

**NAY: None.**

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**ITEM 3 ROBERT JOHN & ALICE C HICKEN TRUST REQUEST THE CREATION OF AN AGRICULTURAL PROTECTION AREA CONSISTING OF 23.41 ACRES OF CATTLE AND LIVESTOCK GRAZING LOCATED AT APPROXIMATELY 750 W 1200 N ON PARCEL 00-0007-9629 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 DECEMBER 20, 2023.* (PLN-AGPRO-8697; NATHAN ROSVALL)**

**Staff**

Nathan Rosvall, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the John Robert and Alice C. Hicken Trust requests a creation of an Agricultural Protection Area consisting of 23.41 acres of livestock grazing and meadow hay production located near 600 West and 1200 North in the A-20 zone. The property is being used for livestock grazing and meadow hay production. There are no proposed limitations on this agricultural production. Also it has Rock Creek running through it. It is located in the central planning area. Properties to the east and to the west and also to the north have also received agricultural protection.

Nathan Rosvall then went through the proposed findings:

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 near 600 West 1200 North in the Agricultural (A-20) zone of Wasatch County (North Fields).
3. Total acreage of the Agricultural Protection Area is 23.41 acres.
4. The current use of the property proposed for protection status is greater than fifty percent of the land is devoted to agriculture, including livestock grazing, and in the summer months, growing meadow hay for production.
5. 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.
6. Rock Creek runs through the property.
7. Commonly found soils in the North Fields are: Fluventic Haploborol, this soil is common for tall grasses; Kovich, this soil occurs on broad valley floors and is a slow permeable soil; Logan, this soil is common for meadow hay and pasture.

8. 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.
9. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
10. No objections have been received in response to the notices sent or signs posted on the property.
11. 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 indicated that 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 to ensure downstream flows.

**Applicant**

Robert Hicken replied that he just wants to thank you for the time and effort in considering this.

**Public Comment**

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

**Motion**

**Commissioner Doug Grandquis made a motion that we recommend to the County Council approval of the agricultural protection area of 23.41 acres by John Robert Hicken and Alice C. Hicken consistent with staff analysis and modification and the findings.**

**Commissioner Wendell Rigby seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Kimberly Cook, Doug Grandquis, Scott Brubaker.**

**NAY: None.**

**ITEM 4      ROCKY MOUNTAIN POWER REQUESTS A CONDITIONAL USE PERMIT TO REBUILD 5.74 MILES OF EXISTING 46KV TRANSMISSION LINE AND INSTALL A WILDFIRE STANDARD TRANSMISSION LINE INCLUDING NEW POLES WITH HEIGHTS UP TO 110 FEET. THE NEW POLES WILL FOLLOW THE EXISTING TRANSMISSION LINE ALIGNMENT BEGINNING AT THE MIDWAY SUBSTATION, RUNNING TOWARDS WASATCH MOUNTAIN STATE PARK, CROSSING SWISS ALPINE ROAD, LOWER LIME CANYON, AND THE GOLF COURSES, CONTINUING UP PINE CANYON TO THE COUNTY LINE AT GUARDSMAN PASS ROAD JUST EAST OF BRIGHTON ESTATES. (DEV-8114; ANDERS BAKE)**

**Staff**

Anders Bake, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and presented a Power Point presentation and then indicated that this application is a conditional use permit request from Rocky Mountain Power. The application is to replace wood poles with metal poles on an existing transmission line that is located along the west side of Midway and going through Wasatch Mountain State Park and up into Park City. The reason for this request is for fire safety reasons. The replacement of the wood poles with metal poles will be less prone to wild fire and the replacement also includes a height increase which will be important for fire reasons because as the applicant indicated that it will create separation between lines and then also creates separation from the ground and from the vegetation on the ground. Also the angle that the new lines will be better for lightening protection for fire safety reasons.

Anders Bake indicated that there are 57 existing wood poles and those wood poles will be replaced in the exact same location so the line will not move and the pole locations will not move. The average height will increase so the current lines range from height from 50 feet to 80 feet and the new lines will range from 60 feet to 110 feet. The average height of the existing poles is 64 feet and

the new average height will be 79 feet so average increase of 15 feet. The project passes through areas of Midway, unincorporated Wasatch County and goes into Summit County. The areas in Wasatch County are in our RA-1, P-160 and M zone and all those zones require a conditional use permit for this type of project to be reviewed and approved by the Planning Commission. One of the concerns with this project would be the construction process and just making sure that the environment is impacted during that construction process. The wire will not be replaced so that will be a specular wire that will stay with the update. The new poles are designed to blend into the environment. Anders then presented a map showing the location of the poles. Midway City has provided approval for the line location that goes through their area.

Anders Bake then went through the project summary:

- The proposal will replace approximately 57 existing wood poles with steel and fiberglass poles.
- The existing poles have an average height of 64 feet. The proposed steel poles are an average of 79 feet in height.
- The existing transmission line has a voltage of 46kV. This project will not result in increased voltage capacity and the line will continue to operate at 46kV.
- This project will pass through areas in the RA-1, P-160, and M zones in unincorporated Wasatch County.
- A Conditional Use Permit is required in the RA-1, P-160, and M zones for the replacement of existing electric transmission lines. The Conditional Use Permit requires Planning Commission approval.
- The Department of Natural Resources has approved the portions of the project going through Wasatch Mountain State Park.
- The construction process will result in some vegetation removal which will be reseeded according to the proposed reclamation plan. No new roads will be constructed to place the poles.
- The existing specular wire will continue to be used for this transmission line.
- The new steel poles will be self-weathering with a rusted color. The fiberglass switch poles will have a maroon color.

Anders Bake then went through the proposed findings:

1. The proposal replaces approximately 57 existing wood poles with fiberglass and metal poles as well as raises the height of the poles with the intent to provide better line safety.
2. Heights are raised from an existing height of 50-80 feet to 60-110 feet with the intent to provide better separation between lines and vegetation.
3. The transmission line will continue to operate with a voltage of 46 kV.
4. Much of the new line runs through areas prone to wildfire.
5. Much of the line runs through Wasatch Mountain State Park which the County has no jurisdiction over. The State Park has provided an approval letter for the proposed line replacement.
6. The line has been designed to fit in with the surroundings as much as possible by using earth tones colors and non-specular wire.
7. The new easements are needed for the installation of the line.
8. Access from existing roads will be used and no excavation will be done.
9. The staff analysis indicates the proposal complies with Section 16.23.07 of the current Wasatch County code related to Conditional Uses.
10. Notice has been sent to neighboring property owners within 500 feet of the property on 4 December, 2023. The planning department has received two phone calls from residences expressing their concern with the proposed pole sizes.
11. There are no known zoning violations on the property at this time.
12. The location of the transmission line will not be altered with this project. The applicant has demonstrated that they have access rights to make the proposed changes.
13. The applicant has attached a Reclamation Plan with their proposal to mitigate the potential impacts of construction on the natural landscape.
14. The proposal furthers the health, safety and welfare of the residents of the County by updating an outdated power line to current best industry standards.
15. The Development Review Committee has reviewed the project and accepted the item for the Planning Commission to render a decision.

Anders Bake then went through the proposed conditions.

1. The applicant shall follow all mitigation procedures explained in the attached Reclamation Plan.

2. All issues raised by the DRC, as noted in the DRC report dated 30 November, 2023 shall be resolved to the satisfaction of the applicable review department prior to building permit approval.

Anders Bake indicated that after we put together the staff report we realized that the applicant is not proposing to replace the existing wire and so the existing wire is a specular wire and so recommend changing those conditions to just include one and three shown on the staff report

Anders Bake then went through the DRC Report.

PLANNING comments:

- Condition of approval – Please show ownership of all parcels that are being effected by the project in unincorporated Wasatch County. Show the subdivision boundaries for Brighton Estates and label as Brighton Estates.

MAG REGIONAL TRAIL PLANNER comments:

- Conditional of approval. Any damage to back country trails system will need to be repaired.

### **Commission Comments**

Commissioner Wendell Rigby asked that with the new construction and the wire not being changed out, does the new construction allow for additional power lines to be hung, additional capacity.

### **Applicant**

Travis Jones, from Rocky Mountain Power, addressed the Wasatch County Planning Commission and indicated that this design is for a single circuit. If we are to add an additional line we would have to come back in and re-evaluate that but at this point it only carries the one line on the pole. If we did that we would have to come before the Planning Commission and get a conditional use permit for the different voltage being served on there as well. This is being done for wild fire mitigation work.

Jon Woodard, Deputy Wasatch County Attorney, asked if you would be opposed if we made that a condition that if the wires were replaced in the future that they would be non-specular. Travis Jones indicated that is reasonable and I think that was our intent within the County consistent with our approach to stick with the standards but if that line is changed out we will go with the non-specular and it is just that they are transferring that over. Jon Woodard also indicated that he is really grateful that Rocky Mountain Power is upgrading their lines so that we don't have the fires that we are seeing on the West Coast all the time. This is so proactive.

### **Public Comment**

Chair Chuck Zuercher then opened the public hearing for public comment.

Brant Mock, resident just outside of Midway Swiss Mountain Estates or Swiss Alpine and wanted to know if Rocky Mountain Power could comment on poles fourteen through seventeen and what the existing height is and what the proposed height is for those poles and it is not mentioned here in Exhibit E. Travis Jones indicated that he could get that information for Mr. Mock because it just doesn't have it right before him. Brant Mock gave his e-mail address. Travis Jones replied that he will e-mail that to you.

Anders Bake replied that there were a couple that expressed concern about the height increase and they had indicated that they would be here but evidently didn't make it here this evening.

Chair Chuck Zuercher then closed the public comment period.

### **Motion**

**Commissioner Scott Brubaker made a motion that we approve the conditional use permit, Item No. 4, the 46kV transmission line of Rocky Mountain Power, in light of the findings and subject to the conditions presented in the staff report. Also we are not requiring Condition No. 2 on the non-specular wire as written in the Staff Report.**

**Commissioner Kimberly Cook seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Kimberly Cook, Doug Grandquis, Scott Brubaker.**

**NAY: None.**

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**ITEM 5 STONY OAKS HOLDINGS, LLC REQUESTS FINAL SUBDIVISION APPROVAL FOR STONY OAKS, A PROPOSED RESIDENTIAL SUBDIVISION CONSISTING OF 11 RESIDENTIAL LOTS ON 15.094 ACRES LOCATED AT 1353 S MILLS LANE IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. (DEV-7767; AUSTIN CORRY)**

**Staff**

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and indicated that this proposal received preliminary approval in 2022 and has been working through the DRC process for final subdivision. Since that time very little has changed in the development proposal since preliminary application other than modification to comply with conditions to the preliminary approval. Some of the interior lot lines shifted because they didn't have enough frontage on Lot No. 1, but that was something that was discussed at the preliminary stage and have shifted over but the general outlay, the road layout, it is all the same as what you have seen.

Austin Corry then went through the DRC Report.

**JORDANELLE SSD comments:**

- Coordinate plan review and update with District Engineer for plan approval.

**PLANNING comments:**

- In the future, please do not upload "revisions" to documents that aren't changing. It appears that a number of the submittal documents uploaded a new version, but comparing the documents shows no change had occurred. The review process can be more focused and efficient if you only upload revisions to documents that are actually changing.
- Some adjustments were made to the development approval memo to comport with the fencing indicated on the grading plan submittal. It is anticipated the redline changes are acceptable to the applicant since they align the memo with the actual submittal plans.
- Append to Note #9... "flood insurance is recommended, though not required."
- The front setback on Lot 5 needs to reflect the turn-around easement as well. Add a note to the plat that driveway access to Lot 5 is prohibited through the turn-around easement.

**RECORDER comments:**

- Looks good.

Austin Corry then went through the proposed findings:

1. The subject property is approximately 15 acres located at the southeast of the intersection of 1200 South and Mills Lane.
2. The subject property is in the RA-1 zone.
3. The RA-1 zone allows density of 5 acres per unit if not connected to public sewer and water and 1.3 acres per unit if connected to public sewer and water. The proposal is at 1.4 acres per unit.
4. There are no open space or common area parcels included in the proposal.
5. The applicant proffered a ten percent affordable housing obligation by fee-in-lieu during the preliminary approval which was accepted by the County Council. The fee will be \$30,800 due to the Wasatch County Housing Authority prior to plat recording.
6. WCC 16.21.14 requires that large scale developments provide fencing of suitable quality to keep farm animals out of residential properties.
7. The applicant has provided details for a 5 foot fence consisting of two strands of barb wire and 4 feet of field net mounted to wood posts along the south and east property lines.
8. The Development Review Committee has reviewed the project for technical requirements of applicable codes and forwarded the item for consideration with comments noted in a DRC report.

9. WCC 16.01.16 outlines the expirations of applications or approvals as applicable.

Austin Corry then went through the proposed conditions:

1. The applicant is required to fulfill all commitments made by the applicant through the application materials including, but not limited to, affordable housing, infrastructure, maintenance obligations, etc.
2. The record of the approval and associated plan documents shall be memorialized by the recording of a Development Approval Memorandum prior to plat recording.
3. Note 9 on the plat shall include “flood insurance is recommended, though not required.”
4. The front setback on Lot 5 needs to reflect the turn-around easement and a note on the plat that driveway access to Lot 5 is prohibited in the easement.
5. The applicant shall work with the County to ensure notes regarding on-going maintenance of the storm water facilities is adequately addressed prior to delivering the mylar for signatures by the County. The note will need to address the party responsible and methods of enforcement in compliance with County standards.

### **Applicant**

Chad Christensen, the applicant, just wanted to thank you for being patient with us as we have gone through almost three years of working on this. Thanks to the staff for helping us through each of the details.

### **Commission Comments**

Commissioner Kimberly Cook wanted further explanation on the fence. Austin Corry replied that there is a strand of barb wire and then there is a four foot field wire mesh and another barb wire. So there is two strands of barb wire but a net fence in-between.

### **Public Comment**

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

### **Motion**

**Commissioner Doug Grandquis made a motion that we give approval of the final subdivision for Stony Oaks Holdings, LLC, consistent with and in light of the findings and subject to the conditions.**

**Commissioner Wendell Rigby seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Kimberly Cook, Doug Grandquis, Scott Brubaker.**

**NAY: None.**

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**ITEM 6      CONSIDERATION OF A PROPOSED AMENDMENT TO WASATCH COUNTY CODE CHAPTER 16.33, GENERAL PARKING STANDARDS, AS IT RELATES TO SHARED PARKING STUDIES AND ON-GOING MONITORING OF PROJECTS WHEN PARKING REDUCTIONS ARE GRANTED. *\*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 DECEMBER 20, 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 County Council has seen recent discussions related to shared parking studies which are allowed to be presented for consideration in lieu of standard compliance with the parking counts matrix listed in WCC 16.33 of the code. It was requested that staff look into adding requirements to have transportation consultants or other professionals required to be involved with the applicant in the process to provide better guidance. The item was discussed during the November

Planning Commission meeting. Staff has taken the input received during that meeting into consideration for what is presented here now for formal consideration. This is to address when an applicant is requesting a parking reduction which is allowed currently in the code, helping to provide some better clarity to the procedure that they would go through and what types of limitations we might add to that. A parking study that an applicant has to provide needs to be done by a transportation planner, architect or engineer and somebody with a license that is related to that request. They can use two different strategies, the shared parking strategies is identifying dissimilar uses or different operating times for uses so they wouldn't need the parking spaced to be able to be at capacity at both times. The other is through a transportation demand management strategy. Also they would have to actually provide data to demonstrate that the uses are operating separately. Also puts a reduction on how the reduction happens. It is somewhat opened ended saying that you can come and ask us for a reduction on a shared parking concept but it doesn't really give guidance on what that reduction might be. This would allow the County to grant up to fifty percent of the lowest demand use being removed. If you have high demand use and a low demand use and they are shareable you can take that low demand use and cut it in half and that is your number.

Austin Corry replied that if you utilize the TDM strategy and you could do both in the request and there is basically two different things that it provides. The full code has been put in the staff report. We have an actual land use table so if you go to the Mountain Zone per se you can go in there and there is a land use under the permitted uses and the conditional uses. If you go to our actual table that just says that these are all the options available to you we are talking thousands of numbers that are in there. We don't get many requests for ink printing presses or things like that any more but we have got them in a list. That is one clarifying factor that we put in there. The code already spoke to it but we made it blatantly clear in there that if the use is not specifically in that table that the planning director could pick a use that is most similar to it and apply it and if the planning staff doesn't feel comfortable doing that or we don't feel like there is one that really speaks to it then we require a parking analysis to determine the code requirement.

Austin Corry presented key issues to consider.

- Applicants should be required to include data driven studies when making requests.
- The County can provide guidance on successful approaches.
- Projects that have been granted parking reductions should be monitored for compliance and also to help inform future decision makers of the success or issues related to the regulations.

Austin Corry then went through the amendment summary.

Amendment Summary:

- Clarifies the process for requesting a parking reduction
- Study must be prepared by a transportation planner, architect, or engineer
- Can use shared parking, TDM, or both
- Shared parking must demonstrate dissimilarity using data driven time of day approach
- Establishes some limits to what the shared parking can reduce (50% of lowest demand use)
- TDM strategy lists potential ways
  - Landscape "potential" parking areas
  - Alternative transportation options

Austin Corry then went through some proposed findings:

1. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan as follows:
  - a. Goal 9 seeks to encourage multi-modal transportation options to meet the travel requirements of existing and future residents and visitors.
  - b. The General Plan supports the need to provide flexibility in the approval process for projects that seek creative and successful measures that reduce parking demands.
2. The parking standards in the code have a direct impact on the ability to encourage the transportation options desired under the General Plan.
3. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.33.
4. It is a positive benefit if automobile parking lots are reduced in size to support higher landscape standards or other more efficient or productive land uses.

5. The proposed change clarifies the need to objectively analyze professional data when considering reductions to parking standards.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

**Public Comment**

Chair Chuck Zuercher then opened the public hearing for public comment and there was none so the public comment period was closed:

**Motion**

**Commissioner Wendell Rigby made a motion to forward a positive recommendation for approval of the amendment to Wasatch County Code Chapter 16.33 to the County Council consistent with and in light of the findings presented in the Staff Report.**

**Commissioner Kimberly Cook seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Doug Grandquis, Kimberly Cook, Scott Brubaker**

**NAY: None**

**ITEM 7            CONSIDERATION OF A PROPOSED AMENDMENT TO WASATCH COUNTY CODE TITLES 2, 14, AND 16 IN ORDER TO ADDRESS THE APPLICABLE LAND USE AUTHORITY, APPEAL AUTHORITY, AND OTHER SUBDIVISION PROCESS ITEMS IN RESPONSE TO THE UTAH STATE LEGISLATURES SENATE BILL 174 AND OTHER BILLS FROM THE 2023 LEGISLATIVE SESSION. *\*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 DECEMBER 20, 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 earlier this year the State Legislature passed Senate Bill 174 which modified a number of provisions for how land use applications can be processed by local jurisdictions starting February 1, 2024. The provisions passed have caused a number of jurisdictions across the state to make wide sweeping changes to their land use ordinances and processes as a result. For Wasatch County, however, there are only a few aspects of our current process that would not comply with the requirements. The highest impact element is that the legislature is precluding the Council from acting as a land use authority for preliminary subdivisions for certain single-family residential products and is precluding the Planning Commission from acting on final subdivisions.

Austin Corry also indicated that while the adjustment to the process could be made quickly to comply with SB174's written intent, the County staff has spent time analyzing what appears to be the intent of the state legislature and has attempted to also identify ways that the County can improve efficiency for many of the current processes. At the same time, staff has also heavily weighed the benefits of the public process and necessity for transparency. The proposed amendment is the result of many hours of staff research and discussion weighing the varying interests, legal ramifications, and opportunities for improvement.

Austin Corry also indicated that while the totality of the amendment can only be understood through the complete ordinance, it is understandable that a nearly 50 page document can be difficult to digest easily. The below summary provides at least a high level understanding of the various changes being made and in some instances, a brief explanation of the intent behind the proposed change.

Austin Corry indicated that the legislature want things to move faster through a land use process. The things that SB174 did are first, it modified some moderate income housing reporting requirements that became effective immediately. The County already complies with those requirements. It also modified requirements for a county regarding internal accessory dwelling units. The main change that it made is that it precludes a jurisdiction from requiring there to be an internal connection between the ADU and



the main dwelling. And a large part of that is focused on allowing people to build what it appears to as you read the changes in the text is it is allowing people to build their ADU's above a garage but that ADU might get their access through a stairwell in the garage or something like that rather than trying to find habitable floor space to get back and forth to the other main area. That is a change that we need to make in order to comply with state code. The larger thing that SB174 does is modifying the process for subdivisions of single-family dwellings, two-family dwellings, or town home applications. That specific provision, like I said, is the largest change that this SB174 does. It gave our specific County until February 1, 2024 to comply with this code.

Austin Corry noted some of the other things are that they have instituted time lines for how quickly applications need to be reviewed. Internally through our county procedures we are well in compliance with the time lines that they gave. They gave a requirement of fifteen business days on preliminary subdivisions, twenty business days on final subdivisions. Typically our DRC process we are doing things in fourteen calendar days. Like I say we are well within the requirements there. It does limit preliminary subdivision stage that you cannot have more than one public meeting. This proposal, although I think we could comply without changing our code, but we are adding some language in there or suggesting to add some language in there that helps codify that we are complying with that. If you recall the discussions we had with one of the proposed code amendments that you received earlier this year this was one of the main sticking points was that proposal had some provisions in it that pretty much looked like another public meeting that would conflict with this provision. That is where a lot of our concerns were being raised during that time period.

Austin Corry replied that the last thing that it does in terms of the review process is that it caps the number of review cycles to four. So we are talking about our DRC process now. An applicant submits their documents, the county reviews it and gets some comments back and sends it to them saying here are corrections that you need to make in order to comply with code. The state law for these types of applications says that we cannot have any more than four. So under a strict reading I would usually suggest that for applicants that struggle to meet the code requirements what it is going to result in is a lot of denials happening because we will reach the four review cycles. They haven't been fixing things that the DRC has been asking them to and we will say that we can't do any more than four so you are denied. Which I don't really like the intent but it very much is what the language says. We believe that we have come up with at least an idea to provide some better flexibility. We have codified or we are proposing to codify that four review cycles but also noting that an applicant and the county can agree to let it keep going to more review cycles if they would like. Somebody who innocently doesn't know and honestly trying to work through it and it is not that they are openly ignoring the review comments they are just not understanding them or something. We can keep working through those with them and get them to an approval.

Doug Smith, the Wasatch County Planner, replied that what it might create is some engineer/developers that get to that fourth review cycle and we have recommended denial because they are not in compliance they will demand to come to the Planning Commission and obviously we will have a DRC report that says denial but it could be that we are debating what some of these developers think about that.

Austin Corry replied that you start seeing applications in front of you that aren't ready. The state code is giving them the right to come in front of you after that fourth cycle. Once a land use decision is actually rendered then they would follow the same normal appeal process.

Commissioner Wendell Rigby replied that they can say that we have the four cycles of review and can they press that as a requirement that we have to approve what they submitted or is there something that they still have to meet the county requirements and I have seen that happen before. Austin Corry replied that what you are saying there is a very high likelihood that if an item shows up to you because the applicant is saying that I have my four review cycles and I need to be on an agenda and they will take that position that you are saying. I don't read the state law to say that they are exempted from requirements of the code just because they made it through four review cycles. If they are in front of you demanding a decision then that takes away the option of continuing it unless in the meeting they go ahead and request that they continue you at that time and it will start resulting in likely more denials. Wendell Rigby replied that what is holding them back is either the developer or the developer's engineer who doesn't want to admit to his client that he hasn't gotten it done and they blame the County or the City for the delays or the fact he didn't review right the first time, the second time, the third time and you are adding things to the review each time. The laws that we are seeing are written by the legislature which is sixty to seventy percent of the legislators were developers. They have lobbyists to lobby to put these kind of laws into effect because it speeds up the process but it also I think it ends up hurting the public, the people who they are building these homes and projects for and these end up damaging the residents and developers just go their way after it is all built.

Austin Corry indicated that a lot of these state codes they tend to come through because of bad players. These are the same conversations that I have in my own office just in the DRC process and they will come in and say that they don't like that code and

I don't have the authority to saying that I am not going to enforce it. I just tell you what it is and that you comply with it. Commissioner Doug Grandquis replied that it takes a lot of our discretion away from us and no question about that.

Austin Corry replied that we have to have a published list of what the requirements are for a subdivision. It is codified in our code so that is not an issue. It adopts language similar to what it reads in the State Code right now under conditional use permits that says that if they meet your code you have to approve them. We comply with that. You see us bring projects to you all the time if they are meeting the code it is our recommendation for you is approval. They are re-enforcing that under the state level. It requires modifications to the appeal authority options for subdivision reviews. In essence when it is these single-family residential subdivisions it creates two descriptions for the types of plans that you are receiving with these subdivision applications. It refers to subdivision ordinance review and subdivision improvement plans. It says that if it is a subdivision improvement plans, it suggests that it is the civil engineering documents that are tied to, your water line, sewer line things like that. If it falls under that category than the applicant has a right to appeal even if the DRC is saying that you need to fix your sewer line to do this and they can appeal that to a panel of experts that would be an engineer selected by the applicant and engineer selected by the county and then a third engineer who the two parties agree on. That would make up three body panel where they can go in and argue about what the requirements are for their subdivision improvement plans. Here in the county and at least right now I am not concerned about it because we don't have a standard that meets the definition of what the state is restricting saying these things. Austin Corry replied that as we read through that state code it does suggest that is an option and that we don't have to use that panel of experts. Personally I feel like it would be a lot cleaner and a lot easier if there is a high likelihood if they are upset about one thing they are upset with more than one thing. This could really lengthen the time. Our proposed language we are suggesting that the county is encouraging them or the applicant to utilize our normal appeal authority to go through that process for appeals. When you have the one single review body you can talk about all the issues at once.

Austin Corry replied that obviously required us to address appeal authorities and as part of that we have also looked at our Board of Adjustment. This has been allowed under state code for a number of years. Your appeal authority does not have to be a Board of Adjustment. Since we have been looking at our Board of Adjustment and that board being a board with multiple people when we get appeals we have time lines that we have to meet in order to render decisions on those appeals and with multiple individuals that scheduling and getting hearings set up and things like that becomes difficult. We are recommending that we move to instead of an appeals hearing officer which would be a singular person that would hear the appeals. The person would be familiar with land use and laws and things like that but it would just be a single person and we could facilitate hearing appeals in a quicker manner.

Austin Corry replied that the biggest item in SB174 really forces Wasatch County to do and that is to the land use authority provisions. Preliminary subdivisions and final subdivisions for single family residential projects or two family and town home developments. Preliminary subdivision and final subdivision those are administrative decisions and we have had pretty lengthy discussions between the legislative approvals and administrative approvals. Legislative tends to come with high discretion. That is like zoning code amendments, general plan amendments and things where you are affecting the laws. Then the administrative approval route is do they meet the laws that are in place. Then you are operating as a land use authority that is what you are doing is an administrative approval. In Wasatch County I feel that we have been really good about it. We have to react with what the State Code is having us do.

Austin Corry presented flowcharts of development types review process to the Planning Commission and explained what they signify. Master Plans are not subject to the SB174 changes. The process is that the application gets submitted and the DRC reviews it and if they are giving comments there is this kind of back and forth and then the applicant resubmits. Once they get to where the DRC has established that they are compliant with code and they are ready for a decision we automatically advertise those things for the public hearings that they need to go through and at that time we write the staff report and it comes to you as a Planning Commission as the recommending body and then the Council is where a decisions rendered. The Council is our legislative body.

Austin Corry replied that moving on through our current process for those same overlay zones if they went through a master plan and their next step would be preliminary. Preliminary plans are the starting point if you are talking about a standard large scale development anything more than five lots would go through this process. This is the exact same process as that master plan. The land use authority at this stage this is an administrative decision but right now our land use authority is the County Council. SB174 explicitly says you can't use your legislative body as a land use authority for a preliminary subdivisions. We need to adapt for that. This proposal takes the legislative body out of that just for those applications that are more restrictive from doing that. JSPA, JBOZ, areas in the geologic hazard overlay zone, those are still going to follow the current process that we have. This is only for single-family residential subdivisions. You would now be the land use authority, you as the Planning Commission would now be the land authority for preliminary subdivisions. You are no longer recommending you would be the authority. You can only

have one public hearing on it as well. Commissioner Wendell Rigby replied that it limits the public involvement but the legislature is putting laws into effect that limit in this case the ability of the public to come and comment on it.

Austin Corry replied that this removes some of the transparency and the public process. Our Representative Kohler raised the same concerns when this was on the house floor. Also there is a difference between a public meeting and a public hearing and could result in instances where an item ends back in front of you but you can't take public comment. Jon Woodard replied that he doesn't see anything in the code that says that you have got people here to talk and you can't allow them to talk. Doug Smith replied that will be interesting to see if you do allow the public comment that I suspect there is some developers that would say that you can't do that.

Austin Corry replied that the change that is being made with preliminary basically just pulling the Council out of it because SB174 says that you can't use the Council. And it does put more responsibility on the Planning Commission. One of my concerns is I think there is benefits in having the individuals who create the laws see what those law are actually resulting in to help inform them whether the laws are really working or not. By removing the lawmakers the legislative body out of even seeing those applications they are removed far enough and you may not have results of good laws then.

Commissioner Doug Grandquis said not only that but then later on you say that the Planning Commission is removed as a land use authority for final subdivisions and replace them. In a sense when you approve the preliminary that is it, we are through. Austin Corry replied that we have a provision in our code and state law allows it to happen, that if there are substantial changes to that project we are going to get to the stage it is now final and now we are saying that doesn't meet your preliminary and you have to go back to preliminary and back to the Planning Commission and start a whole new application process to make a change that way. That is going to be one of the unintended consequences that will get people pretty fired up.

Commissioner Wendell Rigby replied that it is more general and then you get to final and it has got all the infrastructure and all the detail in it. Austin Corry replied that we do require engineering plans in the preliminary stage. The DRC at least the way we operate right now is we tend to be more forgiving on what we will allow to move forward. That will likely have to change now and DRC reviews are going to be more critical at preliminary than the developers will like.

Commissioner Doug Grandquis replied that we won't be able to address any feedback then because of this decision being moved on beyond our control. We won't know if what we decide here is put into the final plan. Doug Smith replied that I think the assumption is there and if there is a significant change it will come back to you but what you are approving should be substantial similar to what the final is. It opens up more disagreements because you will have a developer/engineer arguing that it is not a substantial change and we are arguing it is a substantial change.

Chair Chuck Zuercher said do we have to approve the code now. Jon Woodard replied it has to be done by February 1, 2024 or we will get a black eye with the legislature and will be in violation of state law. Austin Corry replied that there is flexibility and if you have other ideas I am all ears so the restrictions in the State Code is that you can't use certain bodies to do certain things. It doesn't necessarily specify how you go about doing that. They want people to just start using staff to make approvals and there are no public meetings, no planning commission, there is no council and suggests that but it doesn't strictly require that. Preliminary plan says that you can't use your Council and we think our Planning Commission operates just dandy. We like you guys. We felt that it is okay for us to use that. We think that we have come with a solution for final to help reintroduce some of the benefits that come from our current process.

Austin Corry indicated that the new preliminary process for single family residential matches our current process for final subdivisions. Unfortunately State Code SB174 says that you can't use your planning commission for the final subdivisions. What we are proposing is that there be the creation of a new committee. This committee would be called the Administrative Land Use Committee. It would consist of the Council Chair, the Planning Commission Chair, and the JSPA Planning Committee Chair or their designee. So the idea there is if somebody can't be there as a chair you can ask somebody else to attend and really think the designee is more appropriate for especially at the Council level because they are broken up to represent certain areas and it is likely that they will ask the person representing that area to operate at that time and that can change who the designee is from meeting to meeting. I think there is an opportunity to improve beyond just having these new committee created and we always have these meetings. There is a real valid concern with the concept if we create another committee that is one more public meeting and this is staff time to be at every public meeting and if we are attending so many meetings that we can't actually do our DRC reviews. Additional meetings place a burden on staff time that make it difficult to get to those other things. So there was the concern that if we take every item yet another meeting because it can't be the Planning Commission meeting that it takes it away from that. We also think that we can meet an intent although it wasn't required in state code but it was clear that the intent was trying to expedite some of these approvals. The idea here would be that those items that you typically see on your consent agenda

and if it is a consent type item and they have worked through the DRC and the DRC is recommending approval the staff report would be written and it would be sent to the Land Use Committee Chair. The chair of that meeting will always be the Council member but it is sent just to the chair. The applicant will have seven days to look at the staff report and see the findings and see the conditions and if they raise no concerns the chair can just approve it administratively with no hearing. Just consent to the approval and it is done.

Austin Corry replied that if there is a concern there or in the case of unresolved comments after four review cycles and they are saying I want a decision and I demand a decision or a rip cord provision from state code and things where they are not meeting those requirements or if it is an item of high public interest that really just shouldn't be done as a consent item and then in those cases the meeting would be established and would be a meeting like we operate with the JSPA where the meetings are just called as needed and not a regularly scheduled meeting and just call them as needed and that is when the three members would assemble together and we operate like we do a normal public meeting. We would allow a lot of these consent things to just go through and signed off and be done.

Austin Corry indicated that I have got four things here that are the most prominent benefits from this idea and 1. It does retain some level of some involvement in the land use process and what I mean by that is because you have got the Council Chair that is sitting on that committee you as a Planning Commission Chair are sitting on that committee you are at least seeing those things that come through. We did present this idea to the Council to make sure that they were comfortable in concept with it before we drafted up the language that we did and there was talk in there that they would likely even use that member that is attending those meetings to then report in their board reports to the rest of the Council what is getting done in those committee meetings so the Council is being made aware in the best way they can. The same with the JSPA. It does reduce the number of extra meetings that need to be held while still protecting that ability to be involved. It provides an expedited route from the current process for consent items so even from today's process you will notice in there is that one of the suggestions and the only requirement from SB174 is moving the single-family residential projects through this new process. Minor subdivisions like Timber Lakes Lot combinations things that show up on your consent agenda quite regularly we site why don't we move those that same way. One of the benefits is that we can start lighting up your agendas. It still helps to preserve a good record of that decision. I think that a staff report being written helps more clearly identify what and how something gets approved as opposed to the DRC reports which might have some applicable comments but explaining how something is meeting a code requirement or how something is anticipated to be adjusted, conditions or approval type of a thing and the staff report helps pull all those together and make it more clear what the expectation is should a dispute arise later on. And it provides a clear record of the decision rendered. These are some of the benefits I see coming from this new Land Use Committee idea. Admittedly our current process is better but we can't use in anymore.

Austin Corry then went through the summary of the proposed amendment:

#### AMENDMENT SUMMARY

- Panel of Engineering experts listed as appeal option for civil improvement plans on subdivisions.
- Changes appeal authority from a Board of Adjustment to an Appeals Hearing Officer.
- Adjusts duties and responsibilities of the Council, Planning Commission, and other land use authorities to comply with SB174.
- Creates an Administrative Land Use Committee to expedite certain approvals in the county.
- Adjusts fee schedule.
- Cleanup and moving of sections to organize the code for efficient and easier understanding.
- Adjusts IADUs requirements to comply with SB174.
- Other small cleanup items to reinforce existing county policies.

Austin Corry then went through some proposed findings:

1. The Utah State Legislature enacted Senate Bill 174 earlier this year (2023).
2. SB174 requires the County to, by February 1, 2024, modify local land use regulations to, among other things, eliminate any provisions that require certain single-family residential developments from being subject to review by the legislative body acting as a land use authority.
3. The county has previously shown an interest in protecting public transparency and interests.
4. The county has weighed the public benefit for other land use authority provisions and appeal authorities in consideration of transparency, fiscal responsibility, and efficiency.

5. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

### **Commission Discussion**

Commissioner Wendell Rigby indicated that isn't this something that if we pushed it off until January to decide that doesn't give you much time to put this committee together and be in compliance with the legislature. Austin Corry replied that some of the reason why I pushed real hard to get it on this agenda was if we do need to make adjustments we do still have another meeting. If this was January right now I would be saying that we have got a problem because we have got to adopt this by February 1, 2024. I think we have got some time here and if there were some things that you saw in there that you had concerns with and wanted us to move into. That said, if you read the draft ordinance that is in there it does state that it would not go into effect until February 1, 2024 even if it were passed now in December we would wait until February 1, 2024 before it went into effect. The Land Use Committee is not that difficult because it is already spelled out who the members are that just is what it is. What we are looking for some more time on is that move from the Board of Adjustment to the appeals hearing officer. We would likely have to go for an RFP or RFQ we need to find somebody who would actually fill that hearing officer role and that is something that we would need some time on.

Doug Smith replied that if it was continued it would go to the Council in the third meeting in January and still be okay unless the Council wanted to continue it. Even then if someone submitted a project after February 1, 2024 they would be vested under this process SB174 and anything prior to that would be under our current process I am assuming. Austin Corry replied so if we didn't make the change and our code ends up in violation of the SB174 then we would not be allowed to enforce our code. We would have to just come up with some sort of a process for them to follow through. It is helpful if it is codified. Is there anything in particular that you are seeing there or just wanting some time to review it?

Commissioner Kimberly Cook replied that it is a lot of information to digest. Doug Smith replied that the Council is aware of this and there has been discussion with them. Commissioner Kimberly Cook replied that if we took another month that wouldn't change things or is there a problem. Austin Corry replied that we have time to implement it still if you felt like you needed another month.

Chair Chuck Zuercher replied that we would like to hear Commissioner Mark Hendricks in what he has to say about this going forward. We could take more time to go through it more thoroughly. Doug Smith replied that there are five commissioners here and this is a big issue to decide.

Commissioner Scott Brubaker replied I have got one person over here saying that a month isn't going to change much and this other person over here saying maybe you should slow down and see what else you could figure out here. It is hard to know that we will come up with anything better. I think that these guys have been looking at this for a long time. I guess I would ask Doug and Austin, do you think we are there? I mean do you think we are as good as we are going to get? Or do you think there is something else that we could do and I mean you probably have already thought through that. Any comments on that? Austin Corry replied that I never liked to give an answer to, are we as good as we are ever going to get. I think there is always room for improvement. I will say there has been a significant amount of work going into this to where I feel like we are about as improved as we could do to be in compliance.

Jon Woodard replied that my work on this and I pushed as hard as I felt like I could without feeling like we are going directly against what the legislature wants to try and maintain the ability of our elected representatives role in the planning process and for the public to have a role in the planning process. It takes away substantially from both of those things but I feel like we have done as much as I could see to do and preserve those and comply with SB174.

Commissioner Kimberly Cook replied that I would like to hear what Commissioner Mark Hendricks has to say. Chuck Zuercher replied that we could put it off for a month to give time for Commissioner Mark Hendricks to look into this. Austin Corry that is fine with me.

Chair Chuck Zuercher replied that he would like to hear what Commissioner Mark Hendricks would say. We can only do a few things and still be in compliance with what they want period. Austin Corry replied that there are options and some of them aren't good ones and there are consequences. Austin Corry replied that the moderate housing changes that I talked about that is what the state wrote in if you don't comply and then we are pulling your state transportation funds.

Commissioner Kimberly Cook asked if other counties just comply and do what they need to do. Commissioner Scott Brubaker replied that I bet there are other counties with their staff going crazy right now or they aren't going crazy and they will get a black

eye for that. Doug Smith replied that you have to just comply regardless. Commissioner Scott Brubaker, that is true. Doug Smith indicated that you can't process it the old way you have to just write a new code.

Chair Chuck Zuercher replied that as much as I would like to hear Commissioner Mark Hendricks and he could bring us some great ideas but the bottom line is we are probably pretty close the way it has to be. Austin Corry replied that as it is composed it would comply with State Code.

Commissioner Doug Grandquis indicated that philosophically, politically, ethically or whatever I am deeply opposed to this and I was going to vote no to this but after listening to staff and taking their input I don't think we really have a chance. I think that we have got to move forward. There is just that time line and we can't tell if there is going to be an adequate number of people here for the next meeting and then what will we do. We are really up against the wall here so it is against my judgement and I have talked this over with my wife because like I said I have voted against a number of issues and I am going to go ahead and make a motion after public comment.

### **Public Comment**

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

### **Motion**

**Commissioner Doug Grandquis made a motion that I would recommend to the County Council to approve the proposed amendment to the Wasatch County Code Titles 2, 14, and 16 in compliance with SB174 based on staff's recommendations and subject to the findings.**

**Commissioner Wendell Rigby seconded that motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Scott Brubaker, Kimberly Cook, Doug Grandquis.**

**NAY: None.**

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## **ADJOURNMENT**

### **Motion**

**Commissioner Wendell Rigby made a motion to adjourn.**

**Commissioner Kimberly Cook seconded the motion.**

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

**AYE: Chair Chuck Zuercher, Wendell Rigby, Scott Brubaker, Kimberly Cook, Doug Grandquis**

**NAY: None.**

Meeting adjourned at 8:00 p.m.

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CHUCK ZUERCHER/CHAIRMAN

# Wasatch County Planning Commission

February 8, 2024



## Item #1

Buried Water Tank  
-Oak Haven Water Company-

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Conditional Use Permit

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PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL



**COUNTY MANAGER**

Dustin A. Grabau

**COUNTY PLANNERS**

Doug G. Smith, Director  
Austin Corry, Assistant Director  
Anders Bake, Planner  
Nathan Rosvall, Planning Tech.

**COUNTY COUNCIL**

Kendall Crittenden  
Steve Farrell  
Karl McMillan  
Mark Nelson  
Spencer Park  
Erik Rowland  
Luke Searle

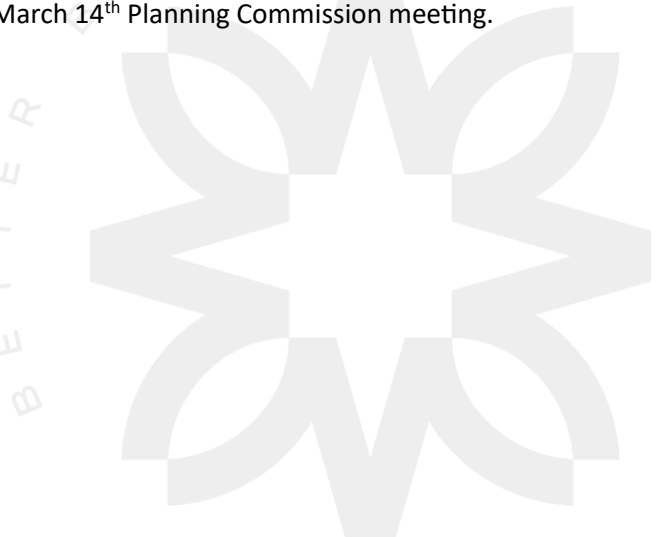
## MEMORANDUM

**To: Wasatch County Planning Commission**  
**From: Planning Staff**  
**Date: 8 February 2024**  
**Re: Item # 1 – Oak Haven Water Tank Conditional Use Permit**

Commissioners,

Berg Engineering, representing Oak Haven Water Company, has applied for a Conditional Use Permit to replace an existing water tank in the Oak Haven Subdivision. This item is on the agenda due to written objection received during the noticing period outlined in WCC §16.01.05 for specific Conditional Use Permit requests.

The County Attorney's Office is requesting that the applicant provide a franchise agreement for the area that will be served by the proposed tank replacement. County Staff is currently working with the applicant to address this issue which we anticipate will be resolved shortly. However, since the details of the agreement would inform aspects of the staff analysis and recommendation, a comprehensive staff report detailing the project will not be able to be provided at this time. As such, it is recommended that the proposed Conditional Use Permit be continued to the March 14<sup>th</sup> Planning Commission meeting.





# Wasatch County Planning Commission

February 8, 2024



## Item #2

Helipads for Private Use  
-Wasatch County Code §16.21.40-

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Discussion and Potential Amendments

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PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL



**COUNTY MANAGER**

Dustin A. Grabau

**COUNTY PLANNERS**

Doug G. Smith, Director  
Austin Corry, Assistant Director  
Anders Bake, Planner  
Nathan Rosvall, Planning Tech.

**COUNTY COUNCIL**

Kendall Crittenden  
Steve Farrell  
Karl McMillan  
Mark Nelson  
Spencer Park  
Erik Rowland  
Luke Searle

## MEMORANDUM

**To: Wasatch County Planning Commission**  
**From: Planning Staff**  
**Date: 29 January 2024**  
**Re: Item 2 Discussion regarding Wasatch County Code §16.21.40 entitled “Helipads for Private Use” and potential amendments to the code. (Doug Smith)**

### **BACKGROUND**

This item is for discussion and guidance only. The direction given by the planning commission will determine the next steps. No motion is needed at this time.

In April of 2023 there was an application for an amendment to the Helipad ordinance to allow helipads in the P-160 zone on a non-conforming lot. Non-conforming lots can, but typically do not, meet the minimum acreage required for the underlying zone. The particular lot was approximately 10 acres surrounded by a non-conforming subdivision of 1-acre cabin lots (Diamond Bar-X). The planning commission discussed the proposal in the meeting held on April 13<sup>th</sup> and forwarded a recommendation to deny unless the proposal was on a conforming 160 acre lot (see attachment A).

The item went to the County Council on August 16, 2023 (see attachment B). The Council had a vigorous discussion then made a motion to deny the request and send it back to the Planning Commission for further discussion. The Council wanted the planning commission to discuss whether there are appropriate zones for a helipad and if not should there even be a helipad ordinance? There was no time frame for the discussion or bringing the item back to the council.

There seemed to be consensus about helipads between the planning commission and council regarding non-conforming lots. The council was also vocal about their uneasiness of a code allowing them at all in any zone. Some comments centered on the remote nature of the P-160 zone and the intent of the P-160 zone for protection of wildlife as well as grazing. There seemed to be somewhat of a consensus that helipads should not be allowed on lots of record which, as mentioned, are typically smaller than the underlying zone. Since the discussion to allow helipads seemed to center on the P-160 zone below is the purpose and intent statements from the P-160 zone.

The purpose of the preservation zone (P-160) is to establish areas in Wasatch County where development may be limited due to the remoteness of services, topography and other sensitive environmental issues. Furthermore, the specific intent in establishing the preservation zone (P-160) is for the following purposes:

1. Protect the present and future water supply of the county and surrounding counties;
2. Protect natural features and sensitive environmental areas;
3. Protect the county grazing and forestry land;
4. Avoid excessive costs for public services which result from excessive scattering of residential dwellings in remote areas;
5. Prevent excessive soil erosion and water pollution;
6. Promote the raising and keeping of domestic and wild animals and fowl in keeping with optimum intensity of use, consistent with recognized range management practices;
7. Prevent the necessity of having to pay excessive taxes on grazing lands;
8. Preserve and protect recreational opportunities;
9. Allow residential development on a limited basis when services are not readily available but are appropriately addressed by the developer to the satisfaction of the county; and
10. Residents of the proposed development would have essential services provided at a level that would not impact their health, safety and welfare, and to provide these services would not be fiscally irresponsible for the county.

The helipad ordinance was adopted in 2008 after an application was submitted for approval of a helipad code. The County worked with the applicant's attorney to come up with the ordinance. As far as we are aware the ordinance has been used twice since its inception, first on a 60-acre lot of record in the P-160 zone across from the Deer Creek Campground on the south side of highway 189 and the second on a 5-acre lot in the Wasatch View subdivision surrounded by the Valley Hills subdivision.

#### **DISCUSSION POINTS TO CONSIDER**

- Are lots of record appropriate for a helipad? Lots of record are lots in any zone of any size that may or may not meet the minimum acreage requirements but are "grandfathered" with a building right.
- Is the only zone for consideration of a helipad the P-160 zone? The next largest zones would be M (20 acres) and A-20 (20 acres). We have had illegal helicopter landings and takeoffs in the A-20 zone and received numerous calls from the neighbors with livestock disturbance and noise complaints.
- Allowing helipads even in a P-160 zone creates the noise of the helicopters flight path. The impacts are not only the immediate surrounding neighbors but everyone along the typical flight path. Should this noise be taken into consideration?
- Would helipads be appropriate in areas outside of the valley floor in the P-160 zone on either platted 160 acre lots or acreage conforming lots of record i.e., Strawberry, Wolf Creek Ranch etc.
- The majority of the County is zoned P-160. Much of the lands outside of the valley floor is P-160.
- If the P-160 zone is considered for helipads there could be conforming P-160 lots adjacent to a nonconforming subdivision of smaller lots. Should there be required distances from existing platted lots or other ways of considering the impacts on the smaller lots?
- The current code allows for a helipad on a lot of 10-acres or more.

**EXHIBITS**

- A. Planning Commission minutes and Report of Action
- B. County Council meeting minutes
- C. 16.21.40 Helipad ordinance

## EXHIBIT A – Planning Commission minutes and Report of Action

**ITEM 9** **CORT LOCKWOOD, REPRESENTING TREVOR MILTON, REQUESTS A TEXT AMENDMENT TO WASATCH COUNTY CODE §16.05.02 IN ORDER TO ADD PRIVATE HELIPADS AS A PERMITTED ACCESSORY USE IN THE PRESERVATION (P-160) ZONE. *\*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 APRIL 19, 2023. (DEV-7623; 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 during a Planning Commission meeting regarding a request to amend the Milton Diamond Bar X Plat the public comment received identified a zoning violation on Lot 1 of the plat seeking to be amended. Wasatch County Code 16.21.40 requires that private helipads obtain a conditional use permit from the Planning Commission before being constructed or operated. Neighboring property owners identified that a private helipad was in operation at the site and the County staff was unable to find any evidence of a conditional use permit being issued for the property. On January 20, 2023 the applicant agreed to cease operations of the helipad until such time as the necessary permits could be obtained. Through the course of applying for the permits, it was discovered that the current Wasatch County code does not include private helipads as an allowance in the P-160 zone.

One of the key elements that we look for whenever a code amendment is proposed is whether it is consistent with our General Plan or not. The General Plan doesn't directly speak to it. The closest thing that I could find were Policy 1.1.3 and 1.1.4 that talked about being careful about protecting physical or environmentally constrained areas and more specifically focused on development, so again it is not directly related but trying to analyze it as best we can. Goal No. 3 says that we do need to review the land use portion of the General Plan on a regular basis. This would be a policy decision ultimately that is being made. It is a code amendment so you as a Planning Commission are a recommending body. The inclusion of this is really a policy decision of whether it falls in line with what the County would want to see from a land use policy.

Austin Corry indicated that there are two questions you ought to debate as a Planning Commission. The first is the use of private helipads acceptable as a use in the P-160 zone. The second is if the use of helipads be considered accessory to a single family dwelling. The reason that this is key is that the place that the applicant has put that in the proposed code is important because their particular project they are looking for is a non-conforming subdivision. It is in the P-160 zone but it is not a 160 acre lot. What that means by listing it as an accessory use is that you can apply that to non-conforming subdivisions. If it were in the permitted uses table itself or the conditional uses table itself we have a provisions under our legal non-conforming standards that state that you don't get the whole host of options that are available in the zone. That is why the second question is an important one for you to consider as part of this that making sure that you understand what their particular amendment would do for the code and allow.

I will note that in 16.21.40 it does require a minimum lot size of ten acres in order to apply it though so you couldn't do this on a one acre lot of record.

Austin Corry then went through possible findings for approval.

1. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.05.01 in that the amendment does not conflict with other provisions for determining the impacts to health, safety, and welfare.
3. The General Plan states that development of remote areas should be limited.
4. According to the applicant, the positive impacts of the proposed change would be "providing property owners with greater flexibility in managing/accessing their land and will attract more affluent individuals to the area which will help bolster the local economy".
5. According to the applicant, the negative impact of the proposed changes "could be an increase in noise pollution from helicopter flights".
6. Wasatch County Code 16.21.40 establishes criteria for mitigating impacts of helipads for private use through a conditional use permit process.
7. The DRC, including the Sheriff and Fire Marshal, have not identified major concerns with the inclusion of private helipads as accessory uses in the P-160 zone.
8. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Austin Corry then went through possible findings for denial.

1. The proposed amendment is not in the interest of the public, and is not consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is not consistent with the purpose and objectives outlined in Section 16.05.01.
3. The General Plan states that development of remote areas should be limited.
4. Positive impact of the proposed changes identified by the applicant do not address items of general health, safety, and welfare.

5. Negative impact of the proposed changes could be increased noise pollution, increased desire for residential uses in remote areas of the county where services are limited, specifically emergency response times.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County code.

#### **Commission Comments**

Commissioner Scott Brubaker replied that possibly increasing the minimum size for helipad greater than ten acres might make this acceptable. Also indicated that I am not interested in this.

Commissioner Doug Hronek asked, is this something that could be obtained through a conditional use permit and why there is a need to amend the code for a small number of people. Why not address this on a as it comes basis. Austin Corry replied if you approved this and the Council approved this as written as an accessory use it would still go through a conditional use process to grant that accessory use. Right now the code doesn't allow it at all.

Commissioner Mark Hendricks replied that it has to create a 160 acre minimum. My feeling is you can make a good argument for safety and having either for aircraft emergency purposes or access purposes for helipads all around clearance and for search and rescue, fire or law enforcement purposes and an argument could be made for that. Helicopters are noisy and doesn't help with peace and tranquility. I am more comfortable in having that way out away from everything and more comfortable with bigger lots than ten acres. Doug Smith, the Wasatch County Planner, indicated that he was here when that code was written and involved in writing that code and as far as I am aware we have got two legal helicopter pads in the County. One is by Deer Creek Dam and the other was close to Wasatch View. In dealing with the Wasatch View one, the neighbors were so upset with this and got calls on a daily basis complaining of that. Possibly a motion that said that we will pass it on with a recommendation to deny unless there was a minimum acreage or a substantial acreage or something like that.

Vice Chair Wendell Rigby indicated that one helicopter landed near to us because it was a foggy day and couldn't get in to the hospital. I guess I am opposed to helipads unless it is way far out; we have enough aircraft in the valley which makes enough noise. This really doesn't fit in our rural nature.

Commissioner Kimberly Cook said that she doesn't want helicopters at all.

#### **Public Comment**

Vice Chair Wendell Rigby then opened the public hearing up for public comment.

Ginny Tuitte indicated that there is a helicopter next to my property that lands quite frequently in the North Fields and was curious when you talked about the lot of record and how that impacts us. Austin Corry replied that for this code the way it is written it would not apply to the North Fields, that is A-20 zoning, and this would only apply to the P-160 zone as an accessory use.

Vice Chair Wendell Rigby then closed the public comment period.

#### **Motion**

**Commissioner Mark Hendricks made a motion that we move this forward to the County Council with a recommendation to deny unless it is applied to a conforming 160 acre lot in that zone and this doesn't change any of the conditional thing.**

**Commissioner Scott Brubaker seconded the motion.**

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

**AYE: Vice Chair Wendell Rigby, Mark Hendricks, Doug Grandquis, Doug Hronek, Kimberly Cook, Scott Brubaker.**

**NAY: None.**

Wasatch County Planning Commission  
**Report of Action**  
 13-April-2023

*Commissioner Wendell Rigby was present as Chair.*

**ITEM #9** – Cort Lockwood, representing Trevor Milton, requests a Text Amendment to Wasatch County Code §16.05.02 in order to add private helipads as a permitted accessory use in the Preservation (P-160) zone. \*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 April 19, 2023. (DEV-7623; Austin Corry)

**STAFF PRESENTATION** - The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

- Mr. Corry highlighted that there are two key policy decisions to understand with the proposal. 1) is the use of private helipads acceptable as a use in the P-160 zone, and 2) should the use of helipads be considered accessory to a single family dwelling, thus allowing them to be applied for on non-conforming lots of record.

**APPLICANT AND PUBLIC COMMENT** - Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Ginny Tuite commented that there is a helicopter that lands in her area of the north fields. She asked if this would allow that to happen because of the inclusion of Lots of Record. Mr. Corry replied that the lot of record allowance is still limited to the P160 zone and wouldn't affect the A-20 zone in the form proposed by the applicant.

**PLANNING COMMISSION DISCUSSION** - Key points discussed by the Planning Commission included the following:

- Commissioner Brubaker stated that he would consider this if it had a minimum acreage of 100 acres, but less than that I'm not interested.
- Multiple Commission members stated that allowance for far remote areas seems appropriate, but not for everything. Maybe not including lots of record and requiring it to be compliant subdivisions like Wolf Creek Ranch.

**MOTION**

Commissioner Hendricks made a motion to move recommend denial to the county council unless it is applied only to a conforming 160 acre lot in the P-160 zone.

Commissioner Brubaker seconded the motion.

**VOTE ( 6 TO 0 )**

Doug Grandquis	<u>AYE</u>	NAY	ABSTAIN	Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN
Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN	Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN
Doug Hronek	<u>AYE</u>	NAY	ABSTAIN	Mark Hendricks	<u>AYE</u>	NAY	ABSTAIN

**FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

1. The proposed amendment is not in the interest of the public, and is not consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is not consistent with the purpose and objectives outlined in Section 16.05.01.
3. The General Plan states that development of remote areas should be limited.
4. Positive impact of the proposed changes identified by the applicant do not address items of general health, safety, and welfare.
5. Negative impact of the proposed changes could be increased noise pollution, increased desire for residential uses in remote areas of the County where services are limited, specifically emergency response times.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

  
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 Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

**PUBLIC HEARING  
AUGUST 16, 2023**

**CORT LOCKWOOD, REPRESENTING TREVOR MILTON, REQUESTS A TEXT AMENDMENT TO WASATCH COUNTY CODE SECTION 16.05.02 IN ORDER TO ADD PRIVATE HELIPADS AS A PERMITTED ACCESSORY USE IN THE PRESERVATION P-160 ZONE DEV-7623.**

**Staff:**

Austin Corry, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that during a Planning Commission meeting regarding a request to amend the Milton Diamond Bar X Plat DEV 7004, public comment received and identified a zoning violation on Lot 1 of the plat seeking to amend Wasatch County Code 16.21.40 requires that private helipads obtain a conditional use permit from the Planning Commission before being constructed or operated. Neighboring property owners identified that a private helipad was in operation at the site and County staff was unable to find any evidence of a conditional use permit being issued for the property. The applicant agreed to cease operations of the helipad until such time as the necessary permits could be obtained. Through the course of applying for the permits, it was discovered that the current Wasatch Code does not include private helipads as an allowance in the P-160 Zone.



The legislative body will need to make a policy decision on two primary factors. 1. Is the use of private helipads acceptable as a use in the P-160 Zone and 2 should the use of helipads be considered accessory to a single family dwelling, thus allowing them to be applied for on non-conforming lots of record. In addition to those two factors, the Council could consider whether the allowance should be added to other zones as well. No one can make this exception and decision except the Wasatch County Council.

Austin Corry indicated that the text is to add helipads as a private use under the permitted accessory uses section of the P-160 Zone. This would only apply to the P-160 Zone but it would apply to anywhere where there is a building right so that would include anywhere where there is a building right. That would include lots of record. By doing it through the permitted accessory uses rather than listing it in a use table under the conditional uses.

The applicant has to identify what they believe to be positive impacts of the proposal as well as negative impacts. The applicant's statement is that the proposed changes will have a positive impact on the community by providing property owners greater flexibility in managing or accessing their land and will attract more affluent individuals to the area will help bolster the local economy. Their stated negative impact would be an increase in noise pollution from helicopter flights. They do state that they believe that the requirements that we currently have in County Code under Section 16.21.40 would mitigate any of those impacts.

Austin Corry replied that the Wasatch County Planning Commission has reviewed this consideration and they have forwarded it onto you with a unanimous recommendation that you deny the proposal. There was significant discussion from the Commission and in fact some of their discussion related to our existing 16.21.40 requirements and they suggested that they believe that they were too lenient related to our existing 16.21.40 requirements and they suggested that they believe that those are too lenient and that set back distance, lot size distances should even be larger than what they are under that section.

Austin Corry then went through the proposed findings for approval.

1. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.05.01 in that the amendment does not conflict with other provisions for determining the impacts to health, safety, and welfare.
3. The General Plan states that development of remote areas should be limited.
4. According to the applicant, the positive impacts of the proposed change would be providing property owners with greater flexibility in managing/accessing their land and will attract more affluent individuals to the area which will help bolster the local economy.
5. According to the applicant, the negative impact of the proposed changes could be an increase in noise pollution from helicopter flights.

6. Wasatch County Code Section 16.21.40 establishes criteria for mitigating impacts of helipads for private use through a conditional use permit process.
7. The DRC, including the Sheriff and Fire Marshal, have not identified major concerns with the inclusion of private helipads as accessory uses in the P-160 Zone.
8. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Austin Corry then went through the proposed findings for denial.

1. The proposed amendment is not in the interest of the public and is not consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is not consistent with the purpose and objectives outlined in Section 16.05.01.
3. The General Plan states that development of remote areas should be limited.
4. Positive impact of the proposed changes identified by the applicant do not address items of general health, safety, and welfare.
5. Negative impact of the proposed changes could be increased noise pollution, increased desire for residential uses in remote areas of the County where services are limited, specifically emergency response times.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

**Applicant:**

Cort Lockwood, representing the applicant, addressed the Wasatch County Council and indicated that we kind of went through the process to get this CUP for our clients and ran into this issue where we can get CUP for a private helipad but it is not attached to any code right now or any zones. You can't actually get it so we are trying to get a CUP and got to this stage. We are trying to see how we can get this attached so that we can actually apply for the CUP. We are open to whatever is required or whatever you guys would like to do there instead of an accessory use. Just so we can even get to the process for applying for a CUP is the hope here today.

**Public Comment:**

Chair Spencer Park then opened the public meeting for public comment and there was none so the public comment was closed.

**Council Discussion**

Councilman Steve Farrell asked that how do we justify this in terms of our General Plan as it relates to the P-160 Zone and keeping our county rural? Cort Lockwood replied that within the General Plan we already have the CUP that is written in the code for a private helipad but right now no zone can apply for it. Right now the CUP is in but we can't apply for it. Councilman Steve

Farrell replied that what justification that we have to put it in the P-160? Well access is tough in a lot of the P-160's zones especially this spring when roads were washed out and people weren't able to get to properties and that was an issue on this property specifically so the justification would be to be able access some of those areas. Councilman Steve Farrell replied that was true to any place in Wasatch County and to any County road that is not paved was bad. Cort Lockwood replied that no zone now is able to apply for it and personally I think that all of the zones should be able to apply for it if it is in the code. Councilman Steve Farrell replied that the P-160 Zone is the most remote and pristine with raw land zoned in the whole County. If we open it up and allow there we are going to have helipads all over the county in the P-160. Cort Lockwood replied that I think that we should get that CUP anyway and should be allowed to apply for the CUP that is in the code. Then we would like to go through the CUP process whether we get rejected or approved for that. We would like to get to that process.

Austin Corry indicated that what he is saying that we have a section of code the 16.21.40 which I call the junk drawer of the code and it is supplementary standards and not specific to a zone. There are standards that would apply for maybe a particular use but that use could apply to multiple different places. These are the standards that were written if somebody were to apply for a helipad for private use and that is what it would be analyzed under. What he is referring to is helipads for private use have a specific land use number and that land use number is not listed as a permitted use or a conditional use in any of the zones in our County as of today. That use number does not exist.

Doug Smith, the Wasatch County Planner, replied that he was involved in writing that code and was actually working with Bruce Baird to write the code. I would blame myself because we wrote the code and went through that process and we didn't address what zones it was allowed in, in the rest of the code.

Chair Spencer Park replied that the P-160 it is to protect wildlife and I think a helicopter anywhere in the P-160 would have a very dramatic effect on it. Councilman Steve Farrell indicated we have problems in the North Fields with livestock being disturbed from a helicopter noise flying over the animals. I think we should go ahead and deny this request in the P-160 Zone and send it back to the Planning Commission and have them come back with some proposals or an understanding how we could use this 16.21.40.

Dustin Grabau indicated that you are looking for potential changes to this section of the code with an eye to considerations of what un-approval for P-160 helipads would look like? Councilman Steve Farrell replied that I would ask the Planning Commission and staff to come back and identify what areas of the code this would best work in 16.21.40 helipads and if it would work in Wasatch County. The comment in there was it brings more affluent people that is a terrible statement. All of the people coming into Wasatch County are affluent and it is not money in spirit or experience or something. I don't think we should specify who can have one and who can't.

**Councilman Steve Farrell made a motion that we deny this request and ask the staff and the**

**Planning Commission to go back and review the County Code as it is and recommend where 16.21.40 helipad for private use would best fit if it would fit at all and there is no time line to this matter. Councilman Kendall Crittenden seconded that motion and would make a statement and whatever changes take place I don't think I would never be in favor of one in P-160 and possibly a way to put them in some of other zones. Austin Corry asked a clarifying question. When you are suggesting that staff and Planning Commission look at it do you have an idea on a time line that you are wanting for that? The motion carries with the following vote:**

**AYE: Chair Spencer Park**

**AYE: Karl McMillan**

**AYE: Luke Searle**

**AYE: Kendall Crittenden**

**AYE: Steve Farrell**

**AYE: Erik Rowland**

**AYE: Mark Nelson**

**NAY: None.**

## EXHIBIT C – Existing Helipad Code

### **16.21.40: HELIPADS FOR PRIVATE USE**

1. Purpose: The purpose of this section is to provide a place to locate helicopter landing areas where they will not interfere with the health and safety of Wasatch County residents and visitors. A private use helipad shall meet the following minimum standards:
2. Compliance With Applicable Guidelines: The applicant must conform with all applicable county, state, and federal requirements.
3. Takeoff And Landing Area Requirements:
  1. Private use helipads shall, as a minimum, have a takeoff and landing area two (2) times the overall length of the largest helicopter allowed to use the facility.
  2. Landing area shall be no closer than two hundred fifty feet (250') of any dwelling, unless prior arrangements have been made with property owner.
  3. Dust and blowing debris shall not be a health or safety hazard to nearby residents and/or their property.
  4. The surface of the area shall be grassed, paved or treated as may be required to minimize dust or blowing debris.
  5. The owner of a private use helipad shall erect a safety barrier around the peripheral area surrounding the takeoff and landing area. The safety barrier shall be a fence, wall or hedge no less than three feet (3') in height and fully enclosed with a self-locking gate.
  6. The effect of takeoffs, landings and hoverings shall not disturb the property, structure or growth of an abutter, nor shall it cause an abutter to suspend or interrupt any outside activities that they perform on their property. The county council shall determine whether a takeoff, landing or hovering is an unreasonable disturbance.
  7. The takeoff and landing area shall not be located in an area that is detrimental to public health, safety and welfare.
4. Operational Restrictions:
  1. Operation of the aircraft shall be limited to time periods between one hour before sunrise and one hour after sunset.
  2. There shall be a maximum duration time of ten (10) minutes. Duration time shall be the amount of time from initial engine startup, takeoff and flight to a point of zero noise discernable from the site.
  3. The maximum decibel rating at adjoining property lines shall not exceed one hundred five (105) dB. However, the planning commission may impose additional noise and sound restrictions as a condition to mitigate any reasonably anticipated detrimental effects.
  4. A private noncommercial helipad for the personal use of the occupant of a single-family residence may be considered by the planning commission through a conditional use permit process. Provisions for reviewing a helipad in a residential area shall include the following:
    1. Compliance with all requirements of [chapter 16.23](#), "Conditional Use; General Procedures", of this title.
    2. No more than one helicopter shall be stationed, located, parked or operated at, to or from the location at any given time.
    3. No helicopter using the facility shall have more than seven (7) seats, nor be designed to carry more than seven (7) persons, not including the pilot.
    4. No helicopter using the facility shall have more than one main rotor system.
    5. No fueling or maintenance facilities shall be located on the property.
    6. The facility shall be located on a parcel of land at least ten (10) acres in size.
    7. Nothing in this section applies to the emergency use of a helicopter relating to the evacuation of a human being with a serious medical condition, which condition requires immediate evacuation to a hospital, to military use, or use by other public entities.

# Wasatch County Planning Commission

February 8, 2024



## Item #3

### Industrial Protection Area Advisory Board and Codes

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### Recommendation or Enactment



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## Item 3 – Industrial Preservation Areas Code Text Amendment

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**Project:** Amendment to 16.29 | Industrial Protection Area Amendment  
**Meeting Date:** 8 February 2024  
**Report Date:** 31 January 2024  
**Report Author:** Doug Smith

**Council Action Required:** Yes  
**Type of Action:** Legislative  
**Applicant:** County  
**Affected Code Section(s):** 16.29, 4.09.02, 2.02.019

### DETERMINATION ISSUE

Whether or not code sections 16.29 (Agriculture Protection Area), 4.09.02 (General Fee Ordinance) and 2.02.019 (Agricultural Protection Advisory Board) should be amended to allow for the protection of industrial areas with the same process and added to the same code as the Agricultural Preservation Area code that is allowed in State code 17.41 and County code 16.29.

### RECOMMENDATION

Planning Staff recommends that the Planning Commission forward a positive recommendation to the County Council for approval of the code text amendment.

## BACKGROUND

This is a proposal to amend the existing Agricultural Protection Area code in 16.29 as well as sections in 4.09.02 and 2.02.19. This amendment adds the ability to protect Industrial areas. The various code sections proposed to be amended allows for an application fee, provides for an industrial protection advisory board and outlines a process for designating property as an industrial protection area and establishes criteria for industrial protection areas.

The Agricultural Preservation Area code was adopted at the end of 2022 and has been used a number of times by property owners in the north fields with the intent to preserve their agricultural uses. Utah State code 17.41 allows for the preservation of Agricultural areas and industrial areas in the same code. The amendment to the County code is simply adding Industrial uses to the Agricultural Preservation Area Code so it can do what the State code already allows. The intent of the State and proposed County code is to provide protection, already afforded for agricultural uses, for industrial areas. The protection allowed by these codes is intended for urbanizing areas where industrial uses are being encroached on by uses that are not compatible with industrial zones and uses. Farms and industrial uses might have been somewhat remote when initially approved but with increasing development pressure may get residential neighbors who complain about noise, odors, dust, lighting, hours of operations etc.

The State and County preservation codes allow for protection of preserved areas in the following ways:

- Limits local regulation changes and rezoning of property
- Excludes protected areas from certain nuisance complaints
- Stipulates that State and County agencies should encourage the continued viability of the protected uses
- Has restrictions on the use of eminent domain
- Has restrictions on State development projects

For the most part, the additions to the existing Agricultural Preservation Area code (16.29) is only adding the phrase “and Industrial Protection Areas”. The majority of the text has stayed the same other than the aforementioned phrase. This is because the state code, which the county code used as a template, currently allows for the protection of Industrial areas. The code changes are minor as you can see in attachment A which is a copy of the draft code.

## KEY ISSUES TO CONSIDER

- Is it appropriate to preserve Industrial uses in the Industrial zone and the PF zone?
- Is the Agricultural Protection Advisory Board, now in place and processing Agricultural Preservation Area applications, the appropriate body to use as the Industrial Protection Board?

## STAFF ANALYSIS

Part of the intent of this proposed code amendment is to protect the sewer treatment ponds as well as the farm area to the southeast where the sewer effluent is used for irrigation. The proposed code could also be used to protect the existing industrial uses and zones southeast of the airport and north of the Sewer treatment ponds if applied for.

One of the considerations for adopting a new code is if it is in compliance with the General Plan. There are policy and goals in the General Plan that encourage maintaining industrial uses. Following are the goals and policies that are found in the General Plan:



6.1.2 POLICY: If the sewer farm on the west side of the airport is ever abandoned, this area should be preserved as open space or very low density residential separated from the airport and compatible with the surrounding south fields densities.

6.1.3 POLICY: Maintain the industrial zoning between Heber City Airport and Daniel Road.

8. GOAL: Promote the development of industry and business that will protect property values and ensure a pleasant place to work.

11.4.2 POLICY: Maintain the industrial zoning between 300 South in Midway and Heber Valley Special Service District's waste water treatment facility.

11.4.4 POLICY: Maintain the industrial zoning between Heber City Airport and Daniel Road.

INDUSTRIAL PROTECTION AREA BOARD – This proposed amendment would allow for the use of the Wasatch County Soil Conservation Board, who is serving as the Agricultural Preservation Board, as the board for the Industrial Protection Board. The State code simply states that, “A county legislative body shall appoint an industrial protection area advisory board.” This board, as is the case now with the Agricultural Preservation Board, forwards a recommendation to the County Council. Several options were debated however after consideration it was determined that using an existing board that is already operating would be preferable because it would not change any of the processes with staff or the Board that are already in practice and outlined in the code. The board is also interested in soil conservation and agricultural preservation. Preservation of the area referred to as the “sewer farm” as a farming pursuit is something that they most likely are concerned about. This has been discussed with the chair of the Agricultural Preservation Board who was agreeable with the board also serving as the Industrial Preservation Board.

### RECOMMENDED MOTION

Move to forward a Recommendation for Approval to the County Council for item 3 consistent with the findings and recommended modifications presented in the staff report.

### *– FINDINGS –*

1. Wasatch County and the surrounding incorporated cities are developing rapidly.
2. Residential development may encroach on Industrial type uses and zones.
3. Residential development may not be compatible with some industrial zones and industrial type uses.
4. State code 17.41 allows for Industrial Protection Areas.
5. Wasatch County adopted an Agricultural Preservation area code in 2023 based on State code 17.41.
6. The Agricultural Preservation Code has been used to process a number of Agricultural Preservation Areas.
7. This proposal amends the existing Agricultural Preservation code and makes some minor changes mostly adding the phrase, “and Industrial Protection Areas.”
8. There are certain areas of the County with industrial type uses in the Industrial zone and PF (Public Facilities) zone that should be protected from encroaching development.
9. This proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan including sections 6.1.2, 6.1.3, goal 8, 11.4.2 and 11.4.4

- 10. The proposed amendment uses the existing Agricultural Preservation Area Board as the Board for the Industrial Preservation Area Board.
- 11. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

**ALTERNATIVE ACTIONS**

Following is a list of possible motions that the Planning Commission can make. If the action taken is inconsistent with the potential findings listed in the staff report, the Planning Commission should state new findings.

- 1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the proposed code amendments are consistent with the General Plan and in the best interest of the public.
- 2. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
- 3. Recommendation for Denial. This action may be taken if the Planning Commission finds that the proposed code amendment is not appropriate at this time and/or is not supported by the General Plan.

**EXHIBITS**

Exhibit A – Ordinance 24-02.....5  
 Exhibit B – Affected zoning areas.....20

**ORDINANCE NO. 24-02**

**AN ORDINANCE AMENDING WASATCH COUNTY CODE CHAPTERS 4.09.02 AND 16.29. ADDING CHAPTER 2.02.23. THESE CODES ALLOW FOR APPLICATION FEES, AN INDUSTRIAL PROTECTION ADVISORY BOARD, A PROCESS FOR DESIGNATING PROPERTY AS AN INDUSTRIAL PROTECTION AREA AND ESTABLISHES CRITERIA FOR INDUSTRIAL PROTECTION AREAS.**

**RECITALS**

**WHEREAS**, the Utah State Code allows for industrial protection areas as allowed in Utah Code 17-41-201; and

**WHEREAS**, Wasatch county is a rapidly developing and urbanizing county; and

**WHEREAS**, development adjacent to industrial uses can cause issues with residential uses adjacent to industrial uses; and

**WHEREAS**, the County Legislative Body wants to support and maintain uses that existed prior to encroachment of residential development that may not be compatible with residential uses; and

**WHEREAS**, the state code allows for other protections if a property is considered to be in an industrial protection area; and

**WHEREAS**, the County is not required to enact an industrial protection area ordinance; and

**WHEREAS**, the legislative body desires to limit and further define some aspects of Utah Code 17-41-101 et seq. through this ordinance to ensure the purposes of the Wasatch County Land Use and Development Code are not undermined; and

**WHEREAS**, the ordinance includes those areas that are zoned industrial and PF (Public Facilities); and

**WHEREAS**, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

**WHEREAS**, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission held a public hearing as required; and

**WHEREAS**, the County Legislative Body, having considered all of the evidence provided to be in the best interest of the health, general welfare, and safety of the inhabitants of Wasatch County;

**NOW THEREFORE**, the County Legislative Body of Wasatch County ordains that the Wasatch County Code be amended as follows:

**SECTION I: Enactment**. The following amendments, additions, and deletions to the Wasatch County Code, are hereby enacted: *See attached Exhibit A*.

**SECTION II: Repealer**. If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

**SECTION III: Amendment of Conflicting Ordinances.** To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

**SECTION IV: Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

**SECTION V: Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

**SECTION VI: Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk’s office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

**APPROVED and PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Attest:

**WASATCH COUNTY COUNCIL:**

Joey Granger  
Wasatch County Clerk / Auditor

Spencer Park, Chair  
Wasatch County Council

**VOTE**

- Spencer Park, Chairman \_\_\_\_\_
- Karl McMillan, Vice Chair \_\_\_\_\_
- Mark Nelson \_\_\_\_\_
- Luke Searle \_\_\_\_\_
- Erik Rowland \_\_\_\_\_
- Kendall Crittenden \_\_\_\_\_
- Steve Farrell \_\_\_\_\_

**ADOPTION OF ORDINANCE AFFIDAVIT**

STATE OF UTAH                    )  
  ): ss.  
COUNTY OF WASATCH        )

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- (a) Causing this ordinance to be entered at length in the ordinance book;
- (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk’s office and with the name of the members voting for and against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this        day of  
  , 2024.

\_\_\_\_\_  
Joey Granger  
Wasatch County Clerk / Auditor

SUBSCRIBED AND SWORN to me, a Notary Public, this \_\_\_\_ day of  
  , 2024.

\_\_\_\_\_  
Notary Public

Residing in:  
My commission expires:

**EXHIBIT A – PROPOSED AMENDMENT**

**2.02.19: WASATCH AGRICULTURAL PROTECTION AREA ADVISORY BOARD AND INDUSTRIAL PROTECTION AREA ADVISORY BOARD**

A. Establishment and Membership: Pursuant to Utah Code 17-41-201, the Wasatch County legislative body hereby creates the Wasatch County Agriculture Protection Area Advisory Board and the Industrial Protection Area Board.

1. Membership: The Agriculture Protection Area Advisory Board and Industrial Protection Area Board shall consist of five (5) members comprised of the following:
  - a. Five (5) members who are also serving on a Wasatch County Soil Conservation Board.
  - b. Board members shall serve on a volunteer basis, without salary, and shall advise the county legislative body and perform the functions required by law.
  - c. Board Members shall serve a term of two years.
  - d. Members shall be appointed by the county manager, with the advice and consent of the county legislative body.
2. Voting Members of the above mentioned Boards shall constitute the official Governing Boards of the Agriculture Protection Area Advisory Board and the Industrial Protection Area Board and shall have all the rights, powers, duties and responsibilities delegated to the Board as set forth herein. Action may be taken by a simple majority of all the Board Members. The Wasatch County Planning Department is the administrator of the Agriculture Protection Area Advisory Board and the Industrial Protection Area Board. At least three of the Board members must be present to take any official action. Board Member's votes are not weighted in any manner.
3. Powers And Duties: The Agriculture Protection Area Advisory Board and the Industrial Protection Area Board shall have all power, authority and responsibility necessary to direct and conduct the business of the Wasatch Agriculture Protection Area Advisory Board and the Industrial Protection Area Board as allowed by law. The Boards my prepare policies, procedures, by-laws and resolutions necessary to carry out the work of the Boards in a proper and businesslike manner.
4. The Boards will hold meetings as necessary.
5. The Boards shall comply with the Open Public Meetings Act.

**4.09.02: WASATCH COUNTY FEES**

C.	Fees Of The Wasatch County Planning And Zoning Department:	
2.	Other fees:	

	<p>Agriculture Protection Area or <a href="#">Industrial Protection Area</a> or <a href="#">amend an existing Agriculture Protection Area or Industrial Protection Area.</a></p>	<p>\$500.00 plus actual costs.</p>
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39 **CHAPTER 16.29: AGRICULTURE PROTECTION AND INDUSTRIAL PROTECTION**  
 40 **AREAS**

41 **16.29.01: DEFINITIONS**

42 For the purposes of this Chapter, the following words and phrases shall have the meanings  
 43 respectively ascribed to them below:

- 44 A. "Advisory Board" means the Wasatch County Agriculture Protection Area Advisory  
 45 Board [or the Industrial Protection Advisory Board.](#)
- 46 B. "Agriculture production" means production for commercial purposes of crops,  
 47 livestock, and livestock products.
  - 48 1. "Agriculture production" includes the processing or retail marketing of any crops,  
 49 livestock, and livestock products when more than 50% of the processed or  
 50 merchandised products are produced by the farm operator.
- 51 C. "Agriculture protection area" means a geographic area within the unincorporated part of  
 52 Wasatch County created under the authority of Utah Code Chapter 41, Title 17, and of  
 53 this Chapter, that is granted the specific legal protection contained in Utah Code Chapter  
 54 41, Title 17.
- 55 D. "Applicable legislative body" means:
  - 56 1. the Wasatch County legislative body if the land included in or proposed to be  
 57 included in an agriculture protection area is within the unincorporated part of  
 58 Wasatch County; or
  - 59 2. [the](#) legislative body of the city or town if the land included in or proposed to be  
 60 included in an agriculture protection area is within the boundaries of a city or  
 61 town.
- 62 E. "Contiguous" means touching along a common side or so close in proximity as to be  
 63 separated only by the width of a road, canal, railroad track, easement, or similar right-of-  
 64 way.
- 65 F. "Crops, livestock, and livestock products" includes:
  - 66 1. Land devoted to the raising of useful plants and animals with a reasonable  
 67 expectation of profit, including:
  - 68 2. Forages and sod crops;
  - 69 3. Grains and feed crops;
  - 70 4. Livestock as defined in Utah Code 59-2-102(19)(d);
  - 71 5. Trees and fruits; or
  - 72 6. Vegetables, nursery, floral and ornamental stock; or
  - 73 7. Land devoted to and meeting the requirements and qualifications for payments or  
 74 other compensation under a crop-land retirement program with an agency of the  
 75 state or federal government.

- 76 [G. “Industrial” as it relates to this chapter only shall mean the uses allowed in an Industrial](#)  
 77 [zone or the PF \(Public Facilities\) zone.](#)  
 78 H. “Planning Commission” means the Wasatch County Planning Commission, a Township  
 79 Planning Commission, or a planning commission of a city or town.  
 80 I. “Political subdivision” means a county, city, town, school district, local district, or special  
 81 service district.  
 82 J. “Proposal sponsors” means the owners of land in agricultural production who are  
 83 sponsoring the proposal for creating an agriculture protection area.  
 84 K. “Regulation” means a law, ordinance, or regulation.  
 85 L. “State agency” means each department, commission, board, council, agency, institution,  
 86 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,  
 87 bureau, panel, or other administrative unit of the state.  
 88 M. “Unincorporated” means not within a city or town.  
 89 N. “Zoning Regulation” means local laws, ordinances or regulations that govern how real  
 90 property can and cannot be used in a certain zoning designation.  
 91 O. “Zoning Designation” means the designation of zoning for land, as indicated on the  
 92 zoning map.

93 **16.29.02: PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA OR**  
 94 **AN INDUSTRIAL PROTECTION AREA.**

- 95 A. A proposal to create an agriculture protection area or [an industrial protection area](#) or an  
 96 amendment to an existing agriculture protection area [or industrial protection area](#) within  
 97 the unincorporated part of the County may be filed by completing the standard forms  
 98 created by the County Planning Department and by filing said forms in the office of the  
 99 County Planning Department. The written petition shall:  
 100 1. Contain a legal description, including acreage, of the land proposed to be  
 101 considered as an agriculture protection area [or an industrial protection area](#);  
 102 2. The names of the owners of record of the land proposed to be included within the  
 103 agriculture protection area [or the industrial protection area](#);  
 104 3. for each parcel of land, or any portion thereof:  
 105 a. the tax parcel number or account number identifying each parcel; and  
 106 b. the number of acres of each parcel.  
 107 4. Addressed, stamped envelopes for each owner of land within 1,000 feet of the  
 108 land proposed to be included in an agriculture protection area [or industrial](#)  
 109 [protection area](#);  
 110 5. Contain a notarized declaration signed by the property owner(s);  
 111 6. Contain a description of the agricultural [or industrial](#) pursuits on the property;  
 112 7. Contain any proposed limits on the types of agriculture production [or industrial](#)  
 113 [production/uses](#) to be allowed within the agriculture protection area [or industrial](#)  
 114 [protection area](#);  
 115 8. Contain a site plan showing structures, uses and acreages of agricultural [or](#)  
 116 [industrial](#) production on the property;  
 117 9. Contain any other information reasonably requested by the Wasatch County DRC.  
 118 B. To be accepted for processing by the County Planning Department, a proposal under  
 119 Subsection (A) shall be signed by a majority number of all owners of real property and



- 120 the owners of a majority of the land area in agricultural production within the proposed  
121 agriculture protection area [or industrial production area](#). For the purpose of this  
122 Subsection (B), the owners of real property shall be determined by the records of the  
123 County Recorder.
- 124 C. The Wasatch County Planning Department shall accept and process such forms only if  
125 they are properly completed and accompanied by the filing fee. The filing fee is set forth  
126 in the adopted Wasatch County Government Fee Schedule.
- 127 D. An agriculture protection area [or industrial protection area](#) may include within its  
128 boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, if  
129 that land constitutes a minority of the total acreage within the agriculture protection area  
130 [or industrial protection area](#).
- 131 E. Any property or parcel proposed to be included in an Agriculture Protection Area must be  
132 in the A-20 zone.
- 133 F. [Any property or parcel proposed to be included in an industrial protection area must be  
134 either in a PF \(Public Facilities\) or Industrial zone.](#)
- 135 G. The following land is not eligible to be included in an agriculture protection area based  
136 on their condition as of November 1, 2022:
- 137 1. Land in an area described as north of SR-113 and west of Heber City's boundary  
138 and bordered on the north and west sides by the existing transmission line, but not  
139 excluding the rectangular area 270 feet to the south and 520 feet to the east of the  
140 transmission line adjacent to the northwest corner of the previously described  
141 area,
  - 142 2. Land that is within 100 feet of the centerline of SR-113, 2400 South, 1200 South,  
143 Southfield Road, Midway Lane, US 40, River Road, SR-32, 189, Main Canyon  
144 Road, the portion of the Bypass Alignment as shown on the Wasatch County  
145 General Plan Map 32 which is south of SR-113, or Road 10 ([Wallsburg second  
146 access](#)) as shown on the Wasatch County General Plan Map 21.
- 147 H. Parcels that include property that is not eligible under this subsection may still be eligible  
148 for inclusion in an agriculture protection area, though the agriculture protection area will  
149 not include those parts that are not eligible.

150 **16.29.03: AREA REQUIREMENTS.**

151 In accordance with Utah Code 17-41-301 the minimum number of contiguous acres that must be  
152 included in an agriculture protection area within the unincorporated part of the County is hereby  
153 established as five (5) acres. Creation of an agriculture protection area shall not impair the ability  
154 of land within the area to obtain the benefits of Title 59, Chapter 2, Part 5, [Farmland Assessment](#)  
155 Act. The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, [Farmland Assessment](#)  
156 Act, shall be determined exclusively by the provisions of that act, notwithstanding the land's  
157 location within an agriculture protection area.

158  
159 [The minimum number of contiguous acres that must be included in an Industrial protection area  
160 within the unincorporated part of the County is hereby established as ten \(10\) acres.](#)

161 **16.29.04: NOTICE AND PUBLIC HEARING REQUIREMENTS FOR PLANNING**  
162 **COMMISSION, ADVISORY BOARDS AND COUNTY COUNCIL.**

- 163 A. The Wasatch County Planning Department shall provide notice of the proposal for an  
164 agriculture protection area [or industrial protection area](#) within the unincorporated part of  
165 the County by:
- 166 1. Posting notice on the Utah Public Notice Website created in Utah Code 63A-16-  
167 601;
  - 168 2. Mailing written notice to each owner of land within 1,000 feet of the land;  
169 proposed for inclusion within an agriculture protection area [or industrial](#)  
170 [protection area](#); and
  - 171 3. Posting notice at [two](#) public places within or near the proposed agriculture  
172 protection area [or industrial protection area](#), [reasonably likely to be seen by](#)  
173 [people in the area](#). The County legislative body hereby authorizes the Wasatch  
174 County Planning Department to designate the location of these [two](#) public places  
175 within or near the proposed agriculture protection area [or industrial protection](#)  
176 [area](#). [The Planning Department shall periodically verify that the posted notices](#)  
177 [remain in place for 15 days; and replace the notice\(s\) within a reasonable time](#)  
178 [after discovering that the notice\(s\) have been removed or damaged.](#)
- 179 B. The notice shall contain:
- 180 1. a statement that a proposal for the creation of an agriculture protection area [or](#)  
181 [industrial protection area](#) has been filed with the County;
  - 182 2. a statement that the proposal will be open to public inspection in the office of the  
183 County Planning Department;
  - 184 3. a statement that any person or entity affected by establishment of the area may,  
185 within 15 days of the date on the notice, file with the County Planning  
186 Department written objections to the proposal or a written request to modify the  
187 proposal to exclude land from or add land to the proposed agriculture protection  
188 area [or industrial protection area](#);
  - 189 4. a statement that the County will submit the proposal to the Planning Commission  
190 and Advisory Board for review and recommendations and the proposed dates; and
  - 191 5. a statement that the County legislative body will hold a public hearing on a  
192 specified date to discuss and hear public comment on:
    - 193 a. the proposal to create the agriculture protection area [or industrial protection](#)  
194 [area](#);
    - 195 b. the recommendations of the Advisory Board and Planning Commission;  
196 and
    - 197 c. [any](#) requests for modification of the proposal and any objections to the  
198 proposal.
- 199 C. Any person wishing to modify the proposal for the creation of the agriculture protection  
200 area [or industrial protection area shall](#) within 15 days after the date of the notice, file a  
201 written request for modification of the proposal, which identifies specifically the land that  
202 should be added to or removed from the agriculture protection area [or industrial](#)  
203 [protection area](#).
- 204 D. A person wishing to object to the proposal for the creation of the agriculture protection  
205 area [or industrial protection area](#) shall, within 15 days after the date of the notice, file a

206 written objection to the creation of the agriculture protection area [or industrial protection](#)  
207 [area](#) with the Wasatch County Planning Department.

208 **16.29.06: REVIEW OF PROPOSAL.**

- 209 A. After 15 days from the date of the notice, the Wasatch County Planning Department shall  
210 refer the proposal and any objections and proposed modifications to the proposal to the  
211 Planning Commission and Advisory Board for their review, comments, and  
212 recommendations.
- 213 B. Within 45 days after receipt of the proposal, the Planning Commission shall submit a  
214 report of action to the County legislative body that:
- 215 1. analyzes and evaluates the effect of the creation of the proposed area on the  
216 county's planning policies and objectives;
  - 217 2. analyzes and evaluates the proposal by applying the criteria contained in Section  
218 16.29.08;
  - 219 3. recommends any modifications to the land to be included in the proposed  
220 agricultural protection area;
  - 221 4. analyzes and evaluates any objections to the proposal; and
  - 222 5. includes a recommendation to the County legislative body either to accept, accept  
223 and modify, or reject the proposal.
- 224 C. Within 45 days after receipt of the proposal, the Advisory Board shall submit a report of  
225 action to the County legislative body that:
- 226 1. analyzes and evaluates the effect of the creation of the proposed area on the  
227 county's planning policies and objectives;
  - 228 2. recommends any modifications to the land to be included in the proposed  
229 agriculture protection area;
  - 230 3. analyzes and evaluates the proposal by applying the criteria contained in Section  
231 16.29.08;
  - 232 4. analyzes and evaluates any objections to the proposal; and
  - 233 5. includes a recommendation to the County legislative body either to accept, accept  
234 and modify, or reject the proposal.
- 235 D. The County legislative body shall consider a failure of the Planning Commission or  
236 Advisory Board to submit a written report within the 45 days under Subsections (B) and  
237 (C) as a recommendation of that body to approve the proposal as submitted.

238 **16.29.07: PUBLIC HEARING.**

- 239 A. After receipt of the written reports from the Advisory Board and Planning Commission,  
240 or after the 45 days has expired, whichever is earlier, the County clerk, in coordination  
241 with the Wasatch County planning department, shall:
- 242 1. schedule a public hearing;
  - 243 2. provide notice of the public hearing by:
    - 244 a. posting notice on the Utah Public Notice Website created in Utah Code  
245 63A-16-601; and

- 246 b. posting mailing written notice to each owner of land within 1,000 feet of  
247 the land proposed for inclusion within an agriculture protection area or  
248 industrial protection area; and
- 249 c. posting notice at two public places reasonably likely to be seen by people  
250 in the area within or near the proposed agriculture protection area or  
251 industrial protection area, and shall periodically verify that the posted  
252 notices remain in place for seven days; and replace the notice(s) within a  
253 reasonable time after discovering that the notice(s) have been removed or  
254 damaged; and
- 255 3. ensure that the notice includes:
- 256 a. the time, date, and place of the public hearing on the proposal;
- 257 b. a description of the proposed agriculture protection area or industrial  
258 protection area;
- 259 c. any proposed modifications to the proposed agriculture protection area or  
260 industrial protection area;
- 261 d. a summary of the recommendations of the Advisory Board and Planning  
262 Commission; and
- 263 e. a statement that interested persons may appear at the public hearing and  
264 speak in favor of or against the proposal, any proposed modifications to  
265 the proposal, or the recommendations of the Advisory Board and Planning  
266 Commission.
- 267 4. Nothing herein shall preclude the ability of the planning department to include all  
268 public hearings being placed on the same notice for convenience in advertising.
- 269 B. The County legislative body shall:
- 270 1. convene the public hearing at the time, date, and place specified in the notice; and  
271 2. take verbal or written testimony from interested persons.
- 272 C. Within 120 days of the submission of the proposal, the County legislative body shall  
273 approve, modify and approve, or reject the proposal. Failure to approve the proposal  
274 within 120 days shall be deemed a denial by the county legislative body, unless the  
275 county legislative body continues the proposal to a date certain.
- 276 D. The creation of an agriculture protection area or industrial protection area is effective at the  
277 date of the County legislative body's approval of a proposal or modified proposal.
- 278 E. In order to give constructive notice of the existence of the agriculture protection area or  
279 industrial protection area to all persons who have, may acquire, or may seek to acquire an  
280 interest in land in or adjacent to the agriculture protection area or industrial protection  
281 area, within ten days of the creation of an agriculture protection area or industrial  
282 protection area, the County Planning Department shall file an executed document  
283 containing a legal description of the agriculture protection area or industrial protection  
284 area with:
- 285 1. the County Recorder; and  
286 2. the Planning Commission.
- 287 F. Within ten days of the recording of the agriculture protection area, the County legislative  
288 body shall:
- 289 1. send written notification to the Commissioner of Agriculture and Food that the  
290 agriculture protection area has been created, and include in said notification the  
291 following:

- 292 a. the number of landowners owning land within the agriculture protection  
293 area;  
294 b. the total acreage of the area;  
295 c. the date of approval of the area; and  
296 d. the date of recording.
- 297 G. Failure by the County to record the notice required under Subsection (E) does not  
298 invalidate the creation of an agriculture protection area.
- 299 H. Land in an agriculture protection area and industrial protection area shall be designated  
300 on the county zoning map.
- 301 I. The County legislative body may consider the cost of recording notice under Subsection  
302 (E) and the cost of sending notification under Subsection (F) in establishing a fee.

303 **16.29.08: EVALUATION CRITERIA.**

- 304 A. In evaluating a proposal and in determining whether or not to create or recommend the  
305 creation of an agriculture protection area or industrial protection area, the Advisory  
306 Board, Planning Commission, and County legislative body shall apply the following  
307 criteria:
- 308 1. whether or not the land is currently being used for agriculture production or  
309 industrial uses, as the case may be;
  - 310 2. whether or not the land is zoned for agriculture uses, industrial uses or in the PF  
311 zone, as the case may be;
  - 312 3. what the General Plan land use recommendation is for the land;
  - 313 4. compatibility of uses of neighboring properties for agricultural production or  
314 industrial uses, as the case may be;
  - 315 5. whether or not the land is viable for agricultural production or industrial uses, as  
316 the case may be;
  - 317 6. the extent and nature of existing or proposed farm improvements or industrial  
318 improvements, as the case may be;
  - 319 7. anticipated trends in agricultural, industrial, or technological conditions, as the  
320 case may be; and
  - 321 8. Any other criteria to be considered under this Chapter, or related to the criteria of  
322 this Chapter.

323 **16.29.09: ADDING LAND TO AN AGRICULTURE PROTECTION AREA OR**  
324 **INDUSTRIAL PROTECTION AREA.**

- 325 A. Any owner may add land to an existing agriculture protection area or  
326 existing industrial protection area within the  
327 unincorporated part of the County by:
- 328 1. filing a proposal with the County planning department; and
  - 329 2. obtaining the approval of the County legislative body for the addition of the land  
330 to the area.
- 331 B. The County legislative body and other applicable persons shall comply with the  
332 provisions for creating an agriculture protection area or industrial protection  
333 area in determining whether or not to accept the proposal.

334 **16.29.10: REMOVING LAND FROM AN AGRICULTURE PROTECTION AREA OR**  
335 **INDUSTRIAL PROTECTION AREA.**

- 336 A. Any owner may remove land from an agriculture protection area or industrial protection  
337 area within the unincorporated part of the County by filing a petition for removal of the  
338 land from the agriculture protection area or industrial protection area with the County  
339 planning department. The written petition shall be on a form provided by the Wasatch  
340 County Planning Department, which shall:
- 341 1. Contain a legal description of the land proposed to be removed from the  
342 agriculture protection area or industrial protection area;
  - 343 2. Contain a notarized declaration signed by the property owner(s);
  - 344 3. Contain any other information reasonably requested by the planning Department.
- 345 B. The County legislative body hereby designates the Wasatch County Planning Department  
346 as the department who processes applications to remove land from an existing  
347 Agriculture Protection Area or industrial protection area. The Planning Department shall:
- 348 1. grant the petition for removal of land from an agriculture protection area or  
349 industrial protection area even if removal of the land would result in an  
350 agriculture protection area or industrial protection area of less than the minimum  
351 number of acres for the establishment of an Agricultural Protection Area or  
352 industrial protection area; and
  - 353 2. in order to give constructive notice of the removal to all persons who have, may  
354 acquire, or may seek to acquire an interest in land in or adjacent to the agriculture  
355 protection area or industrial protection area and the land removed from the  
356 agriculture protection area or industrial protection area, file a legal description of  
357 the revised boundaries of the agriculture protection area or industrial protection  
358 area with the County Recorder and the Planning Commission.
- 359 C. The remaining land in the agriculture protection area or industrial protection area is still an  
360 agriculture protection area or industrial protection area.
- 361 D. When a municipality annexes any land that is part of an agriculture protection area or  
362 industrial protection area, the County legislative body shall, within 30 days after the land  
363 is annexed, review the feasibility of that land remaining in the agriculture protection area  
364 or industrial protection area according to the procedures and requirements of Section  
365 16.29.11. The planning department, in coordination with the county clerk, shall facilitate  
366 the County legislative body conducting their review by noticing any required public  
367 meetings, and preparing necessary staff reports to evaluate the feasibility.
- 368 1. ~~If appropriate,~~ the County Planning Department shall remove the annexed land  
369 from the agriculture protection area or industrial protection area.
  - 370 2. Appeals of actions of the Planning Department applying this subsection shall be  
371 made to the Appeals Hearing Officer.

372 **16.29.11: REVIEW OF AGRICULTURE PROTECTION AREAS.**

- 373 A. For the purposes of this Section, the term “calendar year” means the period from January  
374 1 to December 31 inclusive.
- 375 B. The County legislative body shall perform an initial review of any agriculture protection  
376 area or industrial protection area created under the authority of this Chapter in the 20th

377 calendar year after it is created to determine whether the agriculture protection area or  
378 industrial protection area should be continued, modified, or terminated.

379 C. If the County Planning Department receives five (5) written complaints from different  
380 aggrieved persons within three (3) calendar years immediately preceding the 20<sup>th</sup>  
381 calendar year after an agriculture protection area or industrial protection area or any  
382 portion thereof is created or reauthorized, or alternatively the County legislative body  
383 determines that after the initial review that the agriculture protection area or industrial  
384 protection area should be modified or terminated, or within 30 days of land in an  
385 agriculture protection area or industrial protection area being annexed, then the County  
386 Planning Department shall, for that agriculture protection area or industrial protection  
387 area:

388 1. request the Planning Commission and Advisory Board to submit  
389 recommendations about whether the agriculture protection area or industrial  
390 protection area should be continued, modified, or terminated;  
391 2. schedule the County legislative body to, at least 120 days before the end of the  
392 20<sup>th</sup> calendar year, or within 120 days of the applicable annexation, hold a public  
393 hearing to discuss whether the agriculture protection area or industrial protection  
394 area should be continued, modified, or terminated;  
395 3. give notice of the hearing using the same procedure required by Section 16.29.04;  
396 and  
397 4. after the public hearing, the County legislative body shall continue, modify, or  
398 terminate the agriculture protection area or industrial protection area.  
399 5. If the County legislative body modifies or terminates the agriculture protection  
400 area or industrial protection area, the Wasatch County Planning Department shall  
401 file an executed document containing the legal description of the agriculture  
402 protection area or industrial protection area with the County Recorder.

403 D. If the County legislative body determines after that initial review that the agricultural  
404 protection area or industrial protection area should be continued or otherwise fails to  
405 affirmatively continue, modify, or terminate the agriculture protection area or industrial  
406 protection area in the 20<sup>th</sup> calendar year, within 120 days of an applicable annexation,  
407 then the agriculture protection area or industrial protection area is considered to be  
408 reauthorized for another 20 years. The time required for action is continued provided the  
409 county legislative body continues the matter to a date certain, and the legislative body  
410 takes action on the matter in the subsequent meeting.  
411

412 **16.29.12: PROTECTION OF LAND IN AGRICULTURE PROTECTION AREA AND**  
413 **INDUSTRIAL PROTECTION AREA**

414 A. Land in an agriculture protection area and industrial protection area shall be protected as  
415 provided in Utah Code 17-41 Part 4 (2023).

416 B. Local regulations of general applicability, enacted after land is added to an agricultural  
417 protection area or industrial protection area, shall apply to land in an agriculture  
418 protection area or industrial protection area, and shall be presumed to bear a direct  
419 relationship to public health or safety, and to not unreasonably restrict farm structures or  
420 farm practices or industrial uses. If a property owner seeks to be exempt from local  
421 regulations of general applicability, the property owner shall bear the burden of proving

- beyond a reasonable doubt that the regulation does not bear a direct relationship to public health or safety, and that it unreasonably restricts farm structures, farm practices or industrial uses and practices, using the statement outlined in subsection (E) below.
- C. Local regulations, including zoning regulations, that effect the A-20 zone or land in agriculture protection areas or the Industrial and PF zones in industrial protection areas, which are enacted after land is added to an agricultural protection area or industrial protection area, are presumed to be applicable to land in agriculture protection areas and industrial protection areas. If a property owner seeks to be exempt from such local land use regulations, including zoning regulations, the property owner shall bear the burden of proving by a preponderance of the evidence that they are exempt from the regulation under Utah Code 17-41 Part 4 (2023), using the statement outlined in subsection (E) below.
- D. Land within an agriculture protection area or industrial protection area that is changed from A-20, Industrial or PF to another zoning designation shall be presumed to remain subject to the zoning designation in effect when the land was added to an agriculture protection area or industrial protection area. The property owner shall follow the statement outlined in subsection (E) below to let the land use authority know of the exemption, and then the land use authority shall bear the burden of proving by the preponderance of the evidence that the land is subject to the new zoning designation at issue. If the A-20, Industrial or PF zone is dissolved or called by another name, the land shall be considered part of the zoning designation which is functionally the closest to the A-20, Industrial or PF zone, and the property owner may seek exemption from individual local regulations, including zoning regulations, using the procedure outlined in section 16.29.12.
- E. If a property owner desires to have a local law, ordinance, or regulation, including a zoning regulation, or zoning designation, not apply to land in the agricultural protection area or industrial protection area because its applicability is limited by Utah Code 17-41 Part 4 (2023), the property owner shall submit a statement with any applicable land use application indicating:
1. What regulation is not applicable to the land.
  2. When the regulation was enacted.
  3. What alternative regulation is applicable, if any.
  4. When the land was added to an agriculture protection area, and a statement that the land is still in an agriculture protection area.
  5. How the enactment or application of the land use regulation to the land is prohibited by Utah Code 17-41 Part 4 (2023).
  6. Any other information reasonably requested by the planning department or the legislative body.
- F. The applicability of the local land use regulations, laws, ordinances, or regulations shall be determined by the land use authority as part of the approval or denial of the associated land use application. Any appeals shall be made using the processes for an appeal of the associated land use decision. Determinations shall be made on an individual land use application basis, and determinations shall not be applicable to other land use applications.
- G. Any complaints of violations of the land use and development code for property in an agriculture protection area or industrial protection area may be required by the planning



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department to demonstrate that the alleged violation would not be afforded protection due to the property's status in an agriculture protection area [or industrial protection area](#) in order to be considered for an enforcement action. Nevertheless, the planning department retains sole discretion on whether or not to bring an enforcement action by the planning department.

Exhibit B – Affected zoning areas

