

November 15, 2011

**UTAH COUNTY PLANNING COMMISSION STAFF REPORT**

- I. APPLICATION:** - **Public Hearing**
- A. APPLICANT** - **Utah County Planning Commission**
- B. REQUEST** - **Proposed addition of Section 5-18, Utah Lake Shoreline Protection Overlay Zone (SPO Zone), and amendment to Section 4-1, Zones Established, to add the Utah Lake Shoreline Protection Overlay Zone (SPO Zone).**
- C. LOCATION** - **Unincorporated Utah County**

**II. STAFF ANALYSIS:**

Utah County is a member of the Utah Lake Commission (or Lake Commission). In 2007, the County, along with other local jurisdictions and agencies, signed an interlocal agreement to establish the Lake Commission. According to the “Concurrent Resolution Approving the Interlocal Agreement Creating the Utah Lake Commission,” the Governing Board of the Lake Commission (or Governing Board) would include “an elected official of Utah County.” Additionally, the County has representation on other Lake Commission committees. The Lake Commission is not a regulatory body.

The Governing Board adopted the Utah Lake Master Plan (or Master Plan) on June 26, 2009. The Master Plan states it is “offered as a resource to municipalities, state and federal agencies that have regulatory control of the lands and resources within the Utah Lake Master Plan Area to encourage a coordinated approach to land use and resource management.”

A goal listed in the Master Plan states: “Coordination and communication for land-use planning proposals affecting Utah Lake are established through the use of model ordinances, which provide consistency and compatibility among jurisdictions.” On January 27, 2011, the Governing Board offered to Utah County, and other shoreline jurisdictions, a model ordinance entitled “Utah Lake Shoreline Protection Overlay Zone.” The Companion Document to this model ordinance states the “[Lake] Commission’s project steering committee identified an overlay zone as the best suited approach to achieving the Master Plan objectives relating to land use and natural resources.”

Staff has reviewed the model ordinance offered by the Lake Commission, after having consulted with the County Attorney’s Office, and proposes that the Utah County Land Use Ordinance be amended to include provisions for a new overlay zone entitled “Utah Lake Shoreline Protection Overlay Zone” or the SPO Zone.

Utah Lake, including its shoreline, is an important asset to the local community and Staff believes this

proposed overlay zone will promote preservation of the natural, cultural and historical features and resources that lie within the proposed overlay zone (all lands of unincorporated Utah County lying within six hundred sixty (660) feet of the Settlement Boundary or, where the Settlement Boundary has not been established, within six hundred sixty (660) feet of the ordinary high water mark of Utah Lake at statehood). Further, Staff believes this proposal will facilitate and encourage development that mitigates impacts to the above-mentioned features and resources and reduces risks associated with flooding, high groundwater, unstable soils, wave, wind and lake ice action.

The proposed amendments to the land use ordinance are indicated in *bold italics* directly below:

4-1: ZONES ESTABLISHED

In order to carry out the purposes of this ordinance, the unincorporated territory of Utah County, Utah, is hereby divided into zones as follows:

- RA-5 Residential Agricultural Zone
- RR-5 Rural Residential Zone
- TR-5 Transitional Residential Zone
- CE-1 Critical Environmental Zone
- CE-2 Critical Environmental Zone
- M&G-1 Mining and Grazing Zone
- NC-1 Neighborhood Commercial Zone
- HS-1 Highway Service Zone
- I-1 Industrial Zone
- FPO Flood Plain Overlay Zone
- NHO Natural Hazards Overlay Zone
- A-40 Agricultural Zone
- APO Airport Overlay Zone
- PF Public Facilities Zone
- PC Goshen Valley Planned Community Zone
- TDR-R Transfer of Development Rights Receiving Overlay Zone
- TDR-S Transfer of Development Rights Sending Overlay Zone
- SPO Utah Lake Shoreline Protection Overlay Zone*

5-18: UTAH LAKE SHORELINE PROTECTION OVERLAY ZONE

A. *DECLARATION OF LEGISLATIVE INTENT*

*The Utah Lake Shoreline Protection Overlay Zone (SPO Zone) covers those lands that lie immediately adjacent to the shores of Utah Lake. These lands are of great importance because of their natural, cultural and historical resources. Shoreline, open space,*

*wetlands, riparian areas, wildlife habitat and other critical lands characterize this area, which can experience flooding and other hazards associated with wave, wind, lake ice action, high groundwater and soil stability.*

*It is hereby declared that the specific purposes and intent of the County Commission in establishing the Utah Lake Shoreline Protection Overlay Zone are:*

- 1. To take advantage of the powers and more fully implement the basic purposes for planning and zoning set forth in Utah Code Annotated, 1953 as amended;*
- 2. To protect human life and health;*
- 3. To protect the shoreline of Utah Lake;*
- 4. To protect the natural, cultural and historical resources and features adjacent to Utah Lake;*
- 5. To facilitate development design that mitigates impacts to the natural and cultural features of the development area, and reduces risks associated with flooding, high groundwater, unstable soils, wave, wind and lake ice action;*
- 6. To preserve and improve the use and water quality of Utah Lake;*
- 7. To preserve and improve the habit of endangered, threatened or sensitive species.*

*In order to accomplish the stated purposes and intent, the following provisions shall apply:*

**B. SCOPE**

**1. Extent**

*The provisions of this section shall apply to all lands of unincorporated Utah County lying within six hundred sixty (660) feet of the Settlement Boundary or, where the Settlement Boundary has not been established, within six hundred sixty (660) feet of the ordinary high water mark of Utah Lake at statehood. Such provisions shall not abrogate but shall be in addition to all other applicable requirements pertaining to the property within the SPO Zone; where the provisions of this section conflict with any other requirement, the more stringent restriction shall apply.*

**2. Interpretation**

*To determine which properties lie within the SPO Zone, the Zoning Administrator shall determine the boundaries of the zone by scaling the distances from the Official Utah County Zone Map. The Zoning Administrator may be aided by information provided by the Utah County Public Works Department, the Utah County Information Systems Department, the Utah Lake Commission, together with other information deemed helpful by the Zoning Administrator.*

*Any person contesting the location of the zone boundary may appeal to the Board of Adjustment according to Chapter 7 of this Land Use Ordinance.*

**3. Compliance**

*No structure or land use shall hereafter be constructed, located, extended, converted, altered or otherwise developed without full compliance with the terms of this section and all applicable state and federal regulations.*

C. **DEFINITIONS**

1. *“Cultural and Historical Resources” means human artifacts and remains older than fifty (50) years that are identified by the State Historic Preservation Office (SHPO) as cultural and historic resources under State law.*
2. *“Habitat” means the place or environment where a plant or animal naturally or normally lives and grows.*
3. *“Riparian Area” means an area adjacent to surface water bodies such as streams and lakes that is characterized by periodic inundation and hydrophilic (water-loving) vegetative types.*
4. *“Settlement Boundary” means the Utah Division of Forestry, Fire, and State Lands boundary between sovereign lands and adjoining property around Utah Lake.*
5. *“Wetland” means the land that has been determined by the Army Corps of Engineers to be regulated or jurisdictional wetlands under the federal Clean Water Act.*

D. **PERMITTED USES**

1. Uses

*All uses and structures which are listed as permitted uses and permitted conditional uses in the underlying zoning districts shall also be permitted or approved as a conditional use in the territory covered by the SPO Zone, if they meet the standards of this section, as well as the standards of the underlying zoning district.*

2. Clearance

*Before any permit to develop within the SPO Zone is issued, the Zoning Administrator must first find that such development or construction complies with the requirements of the SPO Zone, other applicable overlay zones and the underlying zone and issue a written clearance attesting to such findings. No development, grading or construction shall be commenced within the territory of the SPO Zone until a clearance and permit based on such clearance are issued.*

E. **SITE PLAN REVIEW**

1. Scope

*Concurrent with the submission of a permit application, the applicant shall prepare and submit a site plan to the Zoning Administrator for review, as determined by the Zoning Administrator. The purpose of the site plan is to identify and locate site features to facilitate creation of a site development design that mitigates impacts to the natural and cultural features of the development area, and reduces risks associated with flooding, high groundwater, unstable soils, wave, wind and lake ice action. The Zoning Administrator shall review the plan and shall issue the permit if the standards of this and the other sections of this Land Use Ordinance are met.*

2. Content

*The site plan shall contain the following information:*

- a. North point and scale.*
- b. The names, addresses, and telephone numbers of the property owner(s), the developer of the project, and the architect or other designer.*
- c. The property boundary lines, legal description and dimensions of the subject property.*
- d. The location and identification of all existing and proposed structures and uses on the subject property.*
- e. The location and names of all public and private streets.*
- f. Compromise elevation line and Settlement Boundary line, or, if the Settlement Boundary line has not been established, the ordinary high water mark line of Utah Lake at statehood.*
- g. Topographic contours at five (5) feet or closer intervals.*
- h. Streams, rivers, lakes, tributaries, wetlands, and other hydrologic features.*
- i. Riparian areas.*
- j. Known habitat of endangered, threatened, or State sensitive species.*
- k. Limits of all flood plains.*
- l. Water source protection areas.*
- m. Existing vegetation characteristics.*
- n. General soil types.*
- o. Cultural and historical resources.*
- p. Existing and planned public access and uses, if applicable;*
- q. Existing or planned trails and trail corridors; and*
- r. Areas susceptible to hazards involving wave, wind and lake ice action; Development on the subject property shall be configured so as to avoid undue impacts to the natural and cultural site features listed above and to avoid risks associated with flooding, high groundwater, unstable soils, wave, wind and lake ice action.*

**3. Requirements**

- a. All structures in the SPO Zone shall be setback a minimum of fifty (50) feet from the Settlement Boundary or, where the Settlement Boundary has not been established, fifty (50) feet from the ordinary high water mark line of Utah Lake at statehood.*
- b. The natural topography and drainage patterns of the subject property shall not be altered without approval from the Utah County Public Works Director, which review shall be based on existing engineering reports or his/her (or an authorized agent) own on-site investigation.*
- c. All ground cover areas disturbed in the construction process shall be re-vegetated with appropriate native species.*
- d. Stream and wetland crossings shall not be permitted without approval from the applicable approval body.*

**4. Limitation**

- a. *Upon approval of a final site plan by the Zoning Administrator, no structures or uses of land other than those depicted on such plan shall be permitted.*

**F. STANDARDS FOR LARGE SCALE DEVELOPMENTS**

**1. Concept Plan for Proposed Large Scale Developments**

- a. *Any large scale development proposed in the SPO Zone, which is required to have a preliminary application conference, shall bring a concept plan to the preliminary application conference, which contains the following information:*
  - i. *Boundaries of proposed development;*
  - ii. *Proposed lots;*
  - iii. *Compromise elevation line and Settlement Boundary line, or, if the Settlement Boundary line has not been established, the ordinary high water mark line of Utah Lake at statehood, and location of required fifty (50) foot setback;*
  - iv. *Topographic contours at five (5) feet or closer intervals.*
  - v. *Location, features and functions of any natural resources;*
  - vi. *Proposed locations of any new roadways;*
  - vii. *Location of existing and proposed trails inside and adjacent to the development;*
  - viii. *Existing and proposed features and amenities, including common areas and open space;*
  - ix. *Riparian areas and known habitat of threatened, endangered, and sensitive species;*
  - x. *100-year flood plain and wetlands;*
  - xi. *Public access locations;*
  - xii. *Water source protection areas; and*
  - xiii. *Cultural and historical resources.*

**2. Large Scale Development Requirements**

- a. *Large scale developments shall be developed as per Chapter 6 of this Land Use Ordinance, along with the additional requirements contained in this section.*
- b. *Developmental impact statements shall address (map, analyze and mitigate impacts) the following, in addition to the items listed in Appendix A of Chapter 6 of this Land Use Ordinance:*
  - i. *Compromise elevation line;*
  - ii. *Settlement Boundary line, or, if the Settlement Boundary line has not been established, the ordinary high water mark line of Utah Lake at statehood;*
  - iii. *Riparian Areas;*
  - iv. *Hazards involving wave, wind and lake ice action;*
  - v. *Existing points of public access; and*
  - vi. *Cultural and Historical Resources.*

**III. RECOMMENDATION:**

That the Utah County Planning Commission recommend approval to the Utah County Commission of the addition of Section 5-18, Utah Lake Shoreline Protection Overlay Zone (SPO Zone), and amendment of Section 4-1, Zones Established, to add the Utah Lake Shoreline Protection Overlay Zone (SPO Zone); based on the following findings:

1. Utah Lake, including the surrounding shoreline, is an important asset to County residents because of its natural, cultural and historical resources and features.
2. The lands proposed to be included in the Utah Lake Shoreline Protection Overlay can experience flooding and other hazards associated with wave, wind, lake ice action, high groundwater and soil stability.
3. The area proposed to be included in the Utah Lake Shoreline Protection Overlay Zone are characterized by critical lands and features, such as, open space, rivers, streams, wetlands, riparian areas, wildlife habitat, etc.
4. The provisions of the Utah Lake Shoreline Protection Overlay Zone are aimed at promoting development that avoids undue impacts to the natural, cultural and historical features found in the lands proposed to be included in said overlay, while also reducing risks associated with flooding, high groundwater, unstable soils, wave, wind and lake ice action.
5. The provisions of the Utah Lake Shoreline Protection Overlay Zone promote the preservation of open space and public access to Utah Lake .
6. The provisions of the Utah Lake Shoreline Protection Overlay Zone promote the goal listed in the Utah Lake Master Plan, which states: “Coordination and communication for land-use planning proposals affecting Utah Lake are established through the use of model ordinances, which provide consistency and compatibility among jurisdictions.”