

PUD-CUP 2019-02

## Tealby Village PUD Concept Summary and Recommendation

**Public Body:** Tooele County Planning Commission

**Meeting Date:** December 4, 2019

**Parcel ID:** 19-097-0-0004

**Current Zone:** RR-5

**Property Address:** 125 East Erda Way

**Request:** Conditional Use Approval for the proposed Tealby Village PUD Concept

**Unincorporated:** Erda

**Planners:** Jeff Miller

**Planning Commission Recommendation:** Tabled on November 6<sup>th</sup> and November 20<sup>th</sup>.

**Planning Staff Recommendation:** Condition of Approval

**Applicant Name:** Joe White

### PROJECT DESCRIPTION

Joe White is requesting conditional use approval for the proposed Tealby Village Planned Unit Development (PUD) concept on a parcel in Erda which contains a total of approximately 44.32 acres. The main portion of the property is envisioned to be comprised of 74 residential lots of varying sizes. Along SR-36, the PUD would have approximately 13.5 acres reserved for commercial uses. A perimeter trail system is being proposed around the perimeter of the residential units, with an additional trail planned to run alongside the commercial portion of the PUD and the frontage road that will connect this development with the proposed PUD development to the south.

### SITE & VICINITY DESCRIPTION (see attached map)



The subject property (currently undeveloped) is located near the intersection of Erda Way and SR-36, and surrounds the Thompson Smokehouse, which is located at the southwest corner of this intersection. The property has approximately 450 feet of frontage along Erda Way. The Excelsior Academy is located immediately north of the subject property. There are narrow strips of commercial property on both sides of SR-36, immediately east of the subject property. The vacant property immediately south is currently

zoned RR-5 and is the subject of PUD-CUP 2019-02. There are vacant parcels in the RR-5 zone to west along Erda Way.

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## GENERAL PLAN CONSIDERATIONS

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According to the Future Land Use Map of the Tooele County General Plan Update 2016, the subject property is located within an anticipated "center". This "center" is anticipated to consist of mixed uses (commercial uses and residential densities of between 10-15 units per acres) near the intersection of Erda Way and SR-35, and an area of "Density Residential", which allows for approximately two to eight single-family residential units per acre. The proposed density of approximately 1.67 units per acre is appropriate for envisioned growth in this area according to the general plan. In addition, the proposed PUD would provide an alternative housing type for senior citizens within the community. One of the purposes of the current PUD ordinance is to "provide a variety of housing, in accordance with the county's general...plan."

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## ISSUES OF CONCERN/PROPOSED MITIGATION

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As development moves forward within the unincorporated areas of Tooele County, an issue of concern that has been identified is that the Tooele County Health Department has made it known that standard septic systems will not be allowed going forward on parcels smaller than 5 acres in size, due to increased nitrate groundwater contamination. Typically, this would be a significant issue of concern with a large-scale development, however the applicant has informed planning staff that they are proposing to mitigate this concern with the installation of water and sewer infrastructure on the subject property during the subsequent subdivision and development stages.

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## NEIGHBORHOOD RESPONSE

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A public hearing was held with the Tooele County Planning Commission on November 6, 2019. When the hearing was held, there were a large number of people in attendance. Most of the comments were in opposition to the proposed PUD with concerns about water, traffic, density, whether or not the current PUD ordinance should be applicable, impacts on traffic, concerns about zoning, etc.

**\*Please see the attached e-mail correspondence that has been received regarding this item.**

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## PLANNING COMMISSION RESPONSE

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When this item was heard by the Tooele County Planning Commission on November 6<sup>th</sup>, 2019 they made a motion to table the item, so that the planning commission would have additional time to review the materials that were presented and the public comments that were received. On November 20<sup>th</sup>, 2019, the applicant requested a continuance until December 4, 2019. The planning commission made a motion to continue this item until then.

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## PLANNING STAFF ANALYSIS

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Staff has reviewed the requested PUD and has found that the subject property is located in an area envisioned to be a "center" within the community. The proposed density for the PUD is within the envisioned residential density for the area according to the Tooele County General Plan Update 2016.

The requested PUD is cohesive with the surrounding uses in the immediate vicinity, the Tooele County General Plan Update 2016, and the current PUD ordinance in the Tooele County Land Use Ordinance. The envisioned PUD will also be compatible with the Tooele County Active Transportation Implementation Plan.

Although not a required element of the concept plan stage for the PUD, the applicant has provided planning staff with a traffic study for the area. This traffic study had analyzed both the property contained within this PUD application, and PUD-CUP 2019-03, which is located immediately to the south. The overall residential density for both PUD applications is below the estimated 500 residential units, which were analyzed with the traffic study.

All open space areas and trails within the development must be owned and managed by an HOA or similar entity. More details are needed during the preliminary and final plan submittals regarding the overall design of the proposed trail system, including surface materials, etc.

## **PLANNING STAFF RECOMMENDATION**

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Planning Staff recommends that the Tooele County Planning Commission analyzes the information found in this report before reaching a decision on the proposed Planned Unit Development. If a motion is made to approve the proposed concept for the PUD, Planning Staff recommends the following condition of approval:

- When the applicant submits an application for the preliminary and final plan stages for the PUD, additional information is provided regarding the planned water and sewer utilities, as well as additional details regarding any landscaping and trail elements within the PUD.

# PUD-CUP 2019-02: Proposed Tealby Village Planned Unit Development (PUD)

125 East Erda Way: (Parcel ID: 19-097-0-0004)



# TEALBY VILLAGE P.U.D. CONCEPT PLAN ERDA WAY ERDA, UTAH

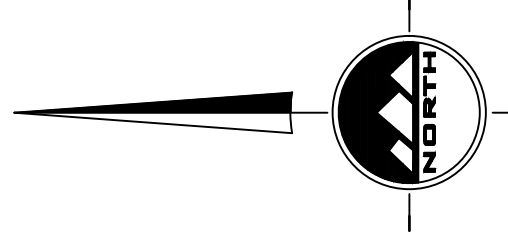
CONCEPT

PROJECT NUMBER: T1858A  
DRAWN BY: R. FISH  
PROJECT MANAGER: J. CLEGG

1 of 1

TOOELE COUNTY PLANNING COMMISSION  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
BY THE TOOELE COUNTY PLANNING COMMISSION.

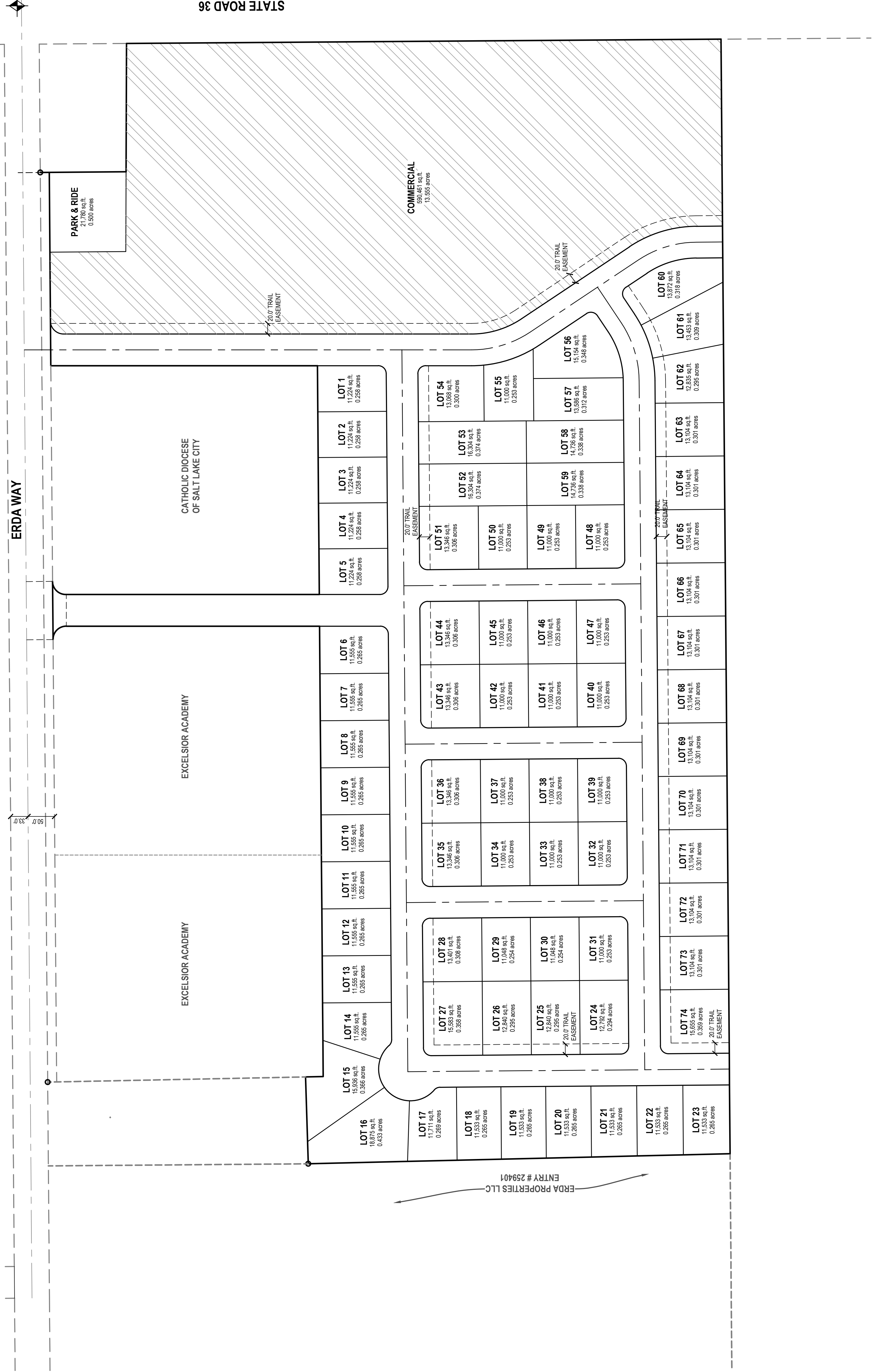
CHAIR, TOOELE COUNTY PLANNING COMMISSION



HORIZONTAL GRAPHIC SCALE



DESCRIPTION	AREA PROPOSED	PERCENTAGE PROPOSED
74 RESIDENTIAL LOTS	922,859 sq. ft. 21.188 acres	47.82%
COMMERCIAL	590,461 sq. ft. 13,555 acres	30.95%
PARK & RIDE	21,780 sq. ft. 0.500 acres	1.13%
ARTERIAL ROADS	395,016 sq. ft. 9.098 acres	20.46%
TOTAL SITE	1,930,216 sq. ft. 44.372 acres	100.00%



ERDA PROPERTIES LLC  
ENTRY # 259401

October 32018



RE: Tealby Village – Erda, UT

Tealby Village is a proposed 500 single family home development with 5 acres or 50,000 sf of commercial office space located on the southwest corner of Erda Way and SR 36 in Erda, UT. The site extends to Cochrane Lane and is proposing four access points for the residential development and one business access for the proposed professional office. Figure One shows the proposed area and Figure Two shows an initial site plan.



**Figure One: Site Locations**

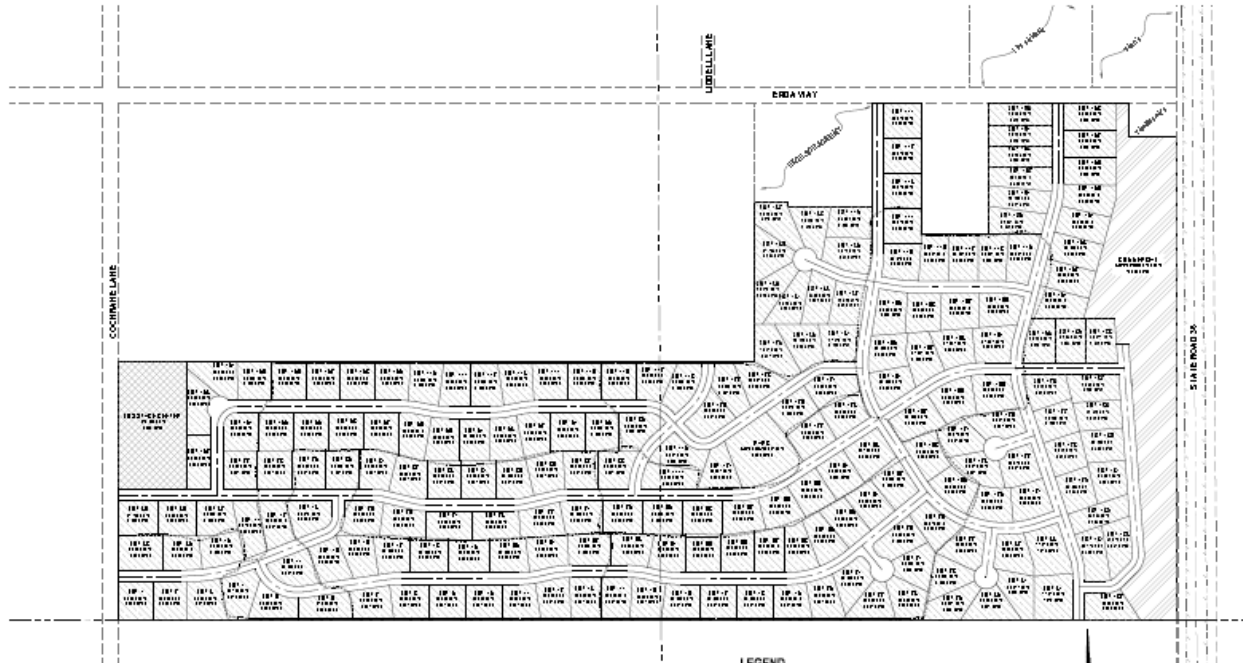


Figure Two: Site Plan

Based on the ITE Trip Generation Manual, 10<sup>th</sup> Edition, the projected traffic for the site is based on land use and square footages. Applying these values generates 466 AM peak trips, 618 PM peak trips and 5,530 daily trips.

**Land Use Trip Generation Projections**

ITE 10th Ed	Size	Land Use	Trip Rate			Trips		
			AM	PM	Daily	AM	PM	Daily
Townhomes	500	210	0.74	0.99	9.44	370	495	4720
Professional Office	50,000	712	1.92	2.45	16.19	96	123	810
<b>Total</b>						<b>466</b>	<b>618</b>	<b>5530</b>

According to Traffic on Utah Highways, Erda Way carries approximately 3,500 trips a day. The proposed development represents a substantial increase in traffic relative to the current level however, the capacity of the roadway is approximately 15,000 ADT. Therefore, once this development is built, Erda Way is projected to carry an estimated 9,000 ADT. This would be operating at 60% of the roadway capacity which still represents a Level of Service A. The surrounding roadway infrastructure has available capacity to accommodate the traffic generated by the site.

Please contact me with any questions.

Sincerely,  
**A-Trans Engineering**

Joseph Perrin, PhD, PE, PTOE  
 Principal

November 5, 2019

To: Tooele County Planning Commissioners  
Subject: Statement against of PUD-CUP 2019-02 & PUD-CUP 2019-03  
Dear: Tooele County Planning Commission

I would like to voice my concerns regarding the upcoming Commissions review of PUD-CUP 2019-02 & PUD-CUP 2019-03 agenda items for NOV 6<sup>th</sup> 2019 Tooele County Planning Commission Meeting.

First I would like to address the initial request for rezones which were granted by the Planning Commission in 2018. After the Commission's approval the public then began a referendum, and submitted the required signatures. During the counting process the Developer (Joe White) withdrew his applications. The Planning Commission had already granted the rezone for these parcels.

The Tooele County Commissioners then announced that they were allowing the withdrawal and returning the zoning to the original zoning.

This was clearly not in compliance with Chapter 3-11.

3 - 11. Restriction on applications after decision of rezone application. A final determination regarding an application to amend the zoning map shall preclude the filing of another application to amend the zoning map to reclassify the same parcel of property, or any portion thereof to the same zone classification within one year of the date of the final decision unless the county planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence to merit consideration of a second application within the one-year time period. (Ord 2005-22, 9/13/05)

The last decision on these parcel properties was December of last year. There has not been a substantial change in the circumstances or sufficient new evidence to merit consideration of a second application within the one-year time period.

These next applications from Mr. White are for a PUD under Chapter 9 which are the subject of this statement.

The request for the PUD's with the County Planning Department was rushed since at this time there was going to be a quote "Time Out" on PUD applications while chapter 9 was rewritten to correct errors.

Mr. White hurried to make the application under the old Chapter 9 since the determination of the Planning Commission would be an administrative decision.

The problem with this hurried effort to avoid the new chapter 9 was that the procedures that are spelled out were not followed (9.4) Pre-Application Conference.

I attended the Planning Commission meeting on Sept 4, 2019 for PUD-CUP 2019-01 and spoke regarding this lack of compliance to Chapter 9 for that request and also mentioned these applications at that time.

I stated to the Board that the defined listed requirements of Chapter 9-4 had not been completed. I would have thought at that time that the Board would have asked the Planning Staff if that was true, but they did not.

The discussion moved on and the County Attorney Mr. Broadhead suggested to the Board that if PUD-CUP 2019-01 was granted it should be subject to a request for rezone to make it more in line with the upcoming rewrite of Chapter 9. I thought this was a strange position for the County Legal Department to take.

When Mr. Jeff Miller was talking about the PUD—CUP 2019-01 Development he addressed my concern with since he had work so much with Mr. White and Mr. Butterfield on the previous requests he decided it was not necessary to have the 9-4 Pre-Application Conference requirement satisfied. I would assume that the same reasoning has been placed on these two applications.

I see nowhere in Chapter 9 that allows Mr. Miller to skip steps in the application process, thus the Planning recommendations are flawed and not complete.

I also notice that the Notice of the Planning Commission addenda published in the Transport Bulletin Oct 31<sup>st</sup> makes references as “Joe White: is the applicant on both PUD’s, however the name on the application for PUD-CUP-2019-03 for the meeting on Nov 6<sup>th</sup> has been changed to a Matt Donaldson. All the Drawings submitted to the County by Ensign are all under Joe Whites name, the traffic study is also co-mingled, between the two applications with different applicants. If Mr. Matt Donaldson is going to be the applicant then he should apply under the New Chapter 9 ordinance.

The traffic study is a vain attempt to gloss over the real problem. Erda Way will not be able to accommodate the volume of traffic entering and exiting these developments so close to the Highway 36 intersection. The study makes no mention of the future traffic that will be coming from the New Temple, or if Skywalk was to be completed or the new Medical center on the Northeast corner of Highway 36 and Erda Way. The most important thing left out of this study is the drop off and pick up of students from the Excelsior Academy, where presently the parents have to park on the shoulder of the road and wait before make a left into the school’s pick up area. There are no crosswalks or school zone signage how many students do we sacrifice.

I feel that Mr. White and Mr. Donaldson are complicit in their attempt to circumvent the rewrite of Chapter 9. They too should have had knowledge of the existing requirements of the Chapter 9.

Planning Commission is not enforcing or questioning the accuracy of the application when information is presented to them, why have a Board? Staff have erred in completing the application in compliance with Chapter 9.4.

We the people need to know that the Tooele County Ordinance’s as written are being followed completely and inaccurate and incomplete workmanship will not be tolerated or approved.

Thank You,  
Douglas Buss

## Jeffrey C. Miller

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**From:**  
**Sent:** Friday, November 8, 2019 10:47 AM  
**To:** Jeffrey C. Miller  
**Subject:** Planning Commission processes

Mr. Miller,

After attending the November 6th Planning and Zoning meeting I would like to ask a few questions and make a few suggestions.

1. These documents attached to the agenda requests-what is the time frame to publish them? And do you update the information? The "Neighborhood Response" doesn't seem to reflect accurate information and I don't see them being corrected to show the emails and public comments your office has received. It looks like these particular requests (PUD-CUP 2019-02 and PUD-CUP 2019-03) were posted the same day as the meeting. So there is not ample time for concerned citizens to get their responses into your office for publication before the meeting.
2. These notices that are required to be sent to surrounding property owners are not being received by said owners. This is evident from the Nov. 6th meeting. Which property owners are actually notified of rezone requests?
3. The time available for public concerns at these meetings should be increased to 5 minutes. I also feel that if it were Questions and Concerns, it would be more helpful. It is the "Questions" that we all have that we NEVER get answered. That is what makes these meetings so frustrating. We attend hoping that our questions will be answered, and leave the meetings more frustrated and angry. Why can't this be added to the agenda?
4. My final suggestion is to PLEASE instruct the P&Z members on the use of the microphones. The mumbling is just not acceptable. If they can't speak at a level for the room to hear them, then they need to TURN ON their microphones.

Thank you,  
Donna Phillips  
Lake Point

## Jeffrey C. Miller

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**From:**  
**Sent:** Thursday, November 7, 2019 8:33 AM  
**To:** Jeffrey C. Miller  
**Subject:** Good Morning Jeff

I am sorry you had to take so much abuse last night. I wanted to tell you some of the things people from West Erda told me.

Your notification letter looked more like a flyer. Most of the people don't know how to navigate the county website to get the information. When they actually could identify where the development was going, by us posting pictures on our Facebook Page, they were outraged. The letter seemed like the county is telling them they have to have "evidence" and that "opinions" don't matter. I had lengthy discussions all day yesterday with residents about that statement and the wording. What is evidence? You have to show the developers have criminal intent to push this through? It didn't translate to them and you make it sound like their concerns aren't valid concerns.

We pay a lot of taxes out here. All of us have received increases and we get little in return. I can't even get the county to clean up the polygamist's relatives next door on the corner. It's a trash dump with motorhomes, old boats, a tent sideways, a home and whatever else that has been in construction for 3 years. It is frustrating and then we have to be dissed by the county because we are standing up to bringing more trouble to our little Erda Township, regarding overcrowding, traffic and most likely crime. It's proven that people crammed together in developments have trouble with depression, neighbors etc.... We don't want that here.

We also want the ordinances existing to be enforced before we start creating more government over reach into our animals. It's like the county is punishing everyone for one incident, like when the teacher makes the whole class stay after because one kid won't fess up to stealing.

I agree the animal ordinances need to be re-done, but you might do better if you called a working meeting including a committee of 5 residents who actually own cows, sheep etc... and include them in your working meetings. No one is going to write in their suggestions and it might show good will to the citizens that their contributions could be useful in making the final decision. Just a thought.

Here is my suggestion and you can take it or leave it.

1. When you send out those notices. Send a map and description of exactly where the development is going in. Label the streets. I did this with the referendums and it was helpful for people to make an educated decision to sign or not sign.
2. Put a date on your notice, so people know how many days they have to reply.
3. Personalize it. Include their name and address in the top left hand corner.

I worked in Business Management in Los Angeles, managing a bookkeeping staff. We managed actors, producers, writers and all their personal assets and bills, from mortgages to car insurance. I worked with all types of personalities and I could talk a stressed out actor off a ledge by being genuine and making them always feel I had their best interests at the top of my list. Making people feel like they matter would alleviate a lot of what you got last night. I don't think you deserved it, but the public doesn't understand when they get an inflamed notice with no date, no personalization and almost felt threatened to speak up last night.

We're all hoping for better days and to be able to work together,  
Diane Christensen

**Jeffrey C. Miller**

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**From:**  
**Sent:** Wednesday, November 13, 2019 11:06 AM  
**To:** Jeffrey C. Miller  
**Cc:**  
**Subject:** Planning Commission Request for State Codes from Allison Kipp's Comments at the Last Planning Commission Meeting  
**Attachments:** Utah Code Section 17-27a-508 Reason for Refusal of Land Use Application.pdf; Code 17-27a-205 Notice of Public Hearings and Public Meetings on Adoption or Modification of Land Use Regulation.pdf; Chapter 9-4 Pre-Application Conference.pdf; Legal Definition of Spot Zoning.pdf; Chapter 2-2(240) Definition of Spot Zone.pdf; Chapter 3-11 Text.pdf; TC Final General Plan - Need to Adress Development and Growth - places constraints on limited resources - especially water.pdf; Kunz West Erda Rezone.pdf; Erda Estates Notification.jpg

Mr. Miller,

The Planning Commission requested the various codes that I quoted while speaking against both PUD-CUP 2019-02 and PUD-CUP 2019-03 last week. I attach the codes I quoted for their reference. Below the asterisked line is a summary of my arguments against each PUD-CUP that evening.

I also attach for the Planning Commission's review the Planning Staff's recommendations for the Kunz West Erda Rezone Request. The inconsistency with the surrounding RR-5 properties both in lot size and in use (agricultural) and spot zoning were brought up in the Planning Staff's report. The Planning Staff clearly does not treat each application that it receives with uniformity and in accordance with the Land Use Ordinance. I suspect the approval of the two prior rezone applications and the PUD's for these properties are a case of who you know and how well do you know them. I suggest that the Planning Commission should reconsider the recommendations of the Planning Staff and do their own research for these applications.

In closing, I respectfully request that the Planning Commission either (1) deny both PUD-CUP 2019-02 and PUD-CUP 2019-03, or (2) accept both PUD-CUP 2019-02 and PUD-CUP 2019-03 with the condition that the Applicants amend the PUD applications to include only 5-acre lots to be consistent with the Land Use Ordinance, the existing zoning, the surrounding zoning, and in accordance with the surrounding property owners' requests to deny.

Please confirm receipt by return e-mail.

Best regards,  
Allison Kipp

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**Notices to the Adjacent Property Owners**

PUD-3 – Applicant name wrong on notice sent to property owners. The notices to the property owners were deficient – did not address letter to owner, did not identify where the property was located, the notice looked like a brochure.

## **Citizen Input and Background of Applications**

Referendums were filed to allow the citizens to determine if the properties should be rezoned and had 3,400 signatures. Once Mr. White found out that there were enough valid signatures, the County Ordinances Rezoning these parcels were withdrawn at a Special County Commission Meeting on December 27, 2018, at 1:00 p.m. As the County was placing a moratorium on new PUD applications until the deficient Chapter 9 was amended, Mr. White submitted these PUD applications after the meeting and before the beginning of 2019.

## **Applications Should Have Been Refused for Being Incomplete**

Pre-application conferences were not held for these applications as required by *Land Use Ordinance Chapter 9-4*:

“Prior to submitting a planned unit development application, **an applicant shall participate in a pre-application conference with the zoning administrator, county planner, county engineer, sheriff’s department, fire district, and the health department. A member of the planning commission and a member of the county commission shall be invited to attend the preapplication conference.** Representatives of other county departments and decision making bodies may also be present, where appropriate.”

## **Spot Zoning**

The Planning Staff’s recommendations in favor of these Applications is **spot zoning** as they are not consistent with the County’s zoning ordinances. See *Land Use Ordinance Chapter 2-2(240)* and <https://legal-dictionary.thefreedictionary.com/Spot+Zoning>.

“(240) Spot zone “means a zoning amendment which singles out a relatively small parcel **for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property, which is invalid because it is not in accordance with the general plan.**”

“The granting to a particular parcel of land a classification concerning its use **that differs from the classification of other land in the immediate area.** Spot zoning is invalid because it amounts to an arbitrary, capricious, and unreasonable treatment of a limited area within a particular district and is, therefore, a deviation from the comprehensive plan.”

A conditional use recommendation by the Planning Staff does not negate other aspects of our County’s zoning ordinances. While a review of a conditional use should be an individualized consideration, it must also be consistent with the terms of our county’s overall zoning plan.

## **Applicants Prohibited from Filing These Applications**

Additionally, even if the Applicants had attended pre-application conferences, they were prohibited from filing these applications for one year. A final determination was made by the Planning Commission when these properties were rezoned and ordinances were issued; therefore the Applicants are prohibited from submitting applications for a one-year period. The fact that the Applicants requested withdrawal of the approved County ordinances is irrelevant. See *Land Use Ordinance Chapter 3-11*.

“A final determination regarding an application to amend the zoning map **shall preclude the filing of another application to amend the zoning map to reclassify the same parcel of property, or any portion thereof to the same zone classification within one year of the**

**date of the final decision** unless the county planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence to merit consideration of a second application within the one-year time period. (Ord 2005-22, 9/13/05)”

The PUD’s are **not** consistent with the surrounding uses in the vicinity as the Planning Staff stated in their recommendations.

### **Citizen’s Rights and Objections to the Applications**

The citizens do not want the property rezoned. Utah State Code states that a land use application shall be approved unless **“the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing.”** See *Utah State Code 17-27a-508*.

Additionally, the General Plan provides for citizen input for development in Erda. There is **“little to no potential for change without agreement from property owners.”** – See Tooele County General Plan - Constraints of Land Available for Development by Zone – Section 4, p. 2-13

Contrary to what was stated in the Planning Staff’s recommendations, there is **no** “delicate balance between changes within the built environment and the surrounding agricultural and rural uses.”

Lots can be sold as five acres – septic systems allowed for the existing zoning.

### **Lack of Water in Erda**

Water is a scarce and a limited resource in Erda and the development will only cause more harm to the water table. According to the General Plan, there is a **“lack of water in Erda”** and the **“need to address development and growth is imminent, as it places constraints on limited resources in Tooele Valley, especially water.”** These are just two of the areas in the General Plan that discuss the limited water available in the Tooele Valley. See *Tooele County General Plan, p. 1-1 and p. 2-4*.

### **Lack of Infrastructure and Traffic**

Erda does not have adequate infrastructure for these developments. Schools are already overcrowded (School Bond Referendum) and we do not have adequate police personnel. Additionally, there is already too much traffic on Highway 36 and Erda Way (a single lane, narrow road).

Finally, I advised the Planning Commissioners that any change to land use requires notices to be sent to everyone in an area:

*Utah State Code 17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation. A County “shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.”* There are other requirements for the notice as well that can be found within that section of the Utah State Code.

Multiple Residential District, RM-7 .....	5 Acre
Multiple Residential District, RM-15 .....	5 Acres
Multiple Residential District, RM-30 .....	5 Acres
Neighborhood Commercial District, C-N .....	20,000 Square Feet
Shopping Commercial District, C-S .....	1 Acre
Highway Commercial District, C-H .....	1 Acre
General Commercial District, C-G .....	1 Acre
Manufacturing and Distribution, M-G .....	1 Acre
General Industrial District, M-G .....	1 Acre
Hazardous Industrial district, MG-H .....	1 Acre

**9-4 PRE-APPLICATION CONFERENCE.**

(1) Prior to submitting a planned unit development application, an applicant shall participate in a pre-application conference with the zoning administrator, county planner, county engineer, sheriff's department, fire district, and the health department. A member of the planning commission and a member of the county commission shall be invited to attend the pre-application conference. Representatives of other county departments and decision making bodies may also be present, where appropriate.

(2) The purpose of the pre-application conference is to enable the applicant to present the concept of the proposed planned unit development and to discuss the procedures and standards for the planned unit development approval. The conference is intended to facilitate the filing and consideration of a complete application. No representation made by the zoning administrator, county planner, county engineer, sheriff's department, fire district, the health department, the county commission, the planning commission or the representatives of any county departments or other decision making bodies during such conference shall be binding upon the county with respect to the application subsequently submitted.

(3) The zoning administrator shall schedule the pre-application conference within 14 calendar days after receiving the request from the applicant. At the time of the request for the pre-application conference, the applicant shall include a narrative summary of the proposal and a description of adjacent land uses and neighborhood characteristics.

**9-5 DEVELOPMENT PLAN APPROVAL STEPS.**

The development plan approval process requires three approval steps: a Concept Plan, Preliminary Plan approval and a Final Plan approval.

**9-6 CONCEPT PLAN.**

(1) The concept plan is intended to provide the applicant an opportunity to submit and obtain review of a plan showing the basic character and

scope of the proposed planned unit development without incurring undue cost. At the election of the applicant, the concept plan may be submitted to the planning commission for its review, and decision following a public hearing.

(2) An application for submittal of a concept plan shall include schematic drawings at a scale of not smaller than 100 feet to the inch, of the proposed development concept, showing buildings located within 85 feet of the site exclusive of intervening streets and alleys, the general location of vehicular and pedestrian circulation and parking; public and private open space; and residential, commercial, industrial and other land uses, as applicable, and a tabulation of the following information:

(a) total number of dwelling units and rooming units proposed, by type of structure and number of bedrooms;

(b) total square feet of building floor area proposed for commercial uses, recreation and accessory uses and industrial uses, by general type of use;

(c) proposed number of off-street parking and loading spaces for each proposed type of land use;

(d) total land area, expressed in square feet and as a percent of the total development area, proposed to be devoted to residential uses, by type of structure; commercial uses; industrial uses; other land uses; public and private open space; streets, sidewalks, trails and paths; and off-street parking and loading area; and

(e) total project density or intensity of use.

(3) The applicant shall submit an application for planning commission consideration, 14 calendar days prior to the next planning commission meeting. Upon receipt of an application, the zoning administrator shall forward the concept plan application accompanied by staff recommendations to the planning commission seven days prior to the next scheduled planning commission meeting.

(4) Upon review, the planning commission shall approve the concept plan, approve the concept plan subject to modifications or conditions, or disapprove the concept plan.

**Effective 5/9/2017****17-27a-205 Notice of public hearings and public meetings on adoption or modification of land use regulation.****(1) Each county shall give:**

- (a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and
- (b) notice of each public meeting on the subject.

**(2) Each notice of a public hearing under Subsection (1)(a) shall be:**

- (a) mailed to each affected entity at least 10 calendar days before the public hearing;
- (b) posted:
  - (i) in at least three public locations within the county; or
  - (ii) on the county's official website; and

**(c)****(i) published:**

- (A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
- (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

**(ii) mailed at least 10 days before the public hearing to:**

- (A) each property owner whose land is directly affected by the land use ordinance change; and
- (B) each adjacent property owner within the parameters specified by county ordinance.

**(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:**

- (a) in at least three public locations within the county; or
- (b) on the county's official website.

**(4)**

- (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

**(b) The notice shall:**

- (i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
- (ii) state the current zone in which the real property is located;
- (iii) state the proposed new zone for the real property;
- (iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
- (v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
- (vi) state the address where the property owner should file the protest;
- (vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and
- (viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

- (c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection

(4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Amended by Chapter 84, 2017 General Session

**Effective 5/14/2019****17-27a-508 Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.**

- (1)
- (a)
- (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
- (A) in effect on the date that the application is complete; and
- (B) applicable to the application or to the information shown on the submitted application.
- (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:
- (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
- (B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.
- (b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- (i) 180 days have passed since the county initiated the proceedings; and
- (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.
- (d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:
- (i) in this chapter;
- (ii) in a county ordinance; or
- (iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
- (i) in a land use permit;
- (ii) on the subdivision plat;
- (iii) in a document on which the land use permit or subdivision plat is based;
- (iv) in the written record evidencing approval of the land use permit or subdivision plat;
- (v) in this chapter; or
- (vi) in a county ordinance.
- (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

- (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or
  - (ii) in this chapter or the county's ordinances.
- (h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:
  - (i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or
  - (ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- (3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.
- (5)
  - (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:
    - (i) to the local clerk as defined in Section 20A-7-101; and
    - (ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).
  - (b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:
    - (i) the relevant land use approval; and
    - (ii) any land use regulation enacted specifically in relation to the land use approval.

Amended by Chapter 384, 2019 General Session

Amended by Chapter 384, 2019 General Session, (Coordination Clause)