

**MEETING OF THE  
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES  
July 14, 2021**

The Millard County Planning Commission met on Wednesday July 14th, 2021 at the Millard County Offices, 71 South 200 West, Delta, Utah.

**PRESENT:**

John Nye.....Planning Commissioner  
David Sturlin ..... Planning Commission Chairman  
Joyce Barney ..... Planning Commission Vice Chairman  
Demar Iverson .....Planning Commissioner  
Erin Sorenson.....Planning Commissioner

**EXCUSED:**

Denton Peterson ..... Deputy County Attorney  
Peter Greathouse .....Planning Commissioner  
Bob Rogers.....Planning Commissioner  
Dean Draper .....Millard County Commissioner

**ALSO PRESENT:**

Adam Richins..... Millard County Planner  
Angi Meinhardt..... Secretary  
Tammy Messersmith..... TNT Land & Holdings  
Terry Messersmith ..... TNT Land & Holdings  
Kyle Swallow..... KG Ranch LLC  
Whitney Swallow..... KG Ranch LLC  
Ben Stephenson ..... Fillmore Resident  
Ian Adams..... Fillmore Resident  
Kyle Monroe..... Fillmore Resident  
Kevin Eardley..... PES  
Dale Dyer..... Valley Agronomics, LLC  
Kathryn Stringam ..... Nitah & Company LLC  
Brandon Shurtz.....Applicant  
Jentri Shurtz.....Applicant  
TJ Lovato ..... Kanosh Resident  
Todd Mcfarland..... Millard County Resident

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED to each member of the Planning Commission, posted at the Millard County Offices in Delta, the Public Safety Building in Fillmore, and the Main Street Courthouse in Fillmore, posted on the Utah Public Notice Website and the Millard County Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah as required by law, the following proceedings were had:

**1. WELCOME, CALL TO ORDER –** Chairman David Sturlin

Planning Commissioner Chairman David Sturlin called the meeting to order at 6:32 pm. He welcomed all present.

**2. PUBLIC INPUT**

**3. PUBLIC HEARING—**Zoning Ordinance Map Amendment Application # Z-2021-031 requesting to change the zoning of 279.33 acres land located along the east boundary of Fillmore City between approximately Center Street and 500 North from Agriculture 20 (Ag-20) to Range and Forest (RF). Kyle Swallow, Applicant

Commissioner Erin Sorenson made a MOTION to open public hearing on application Z-2021-03. Commissioner John Nye SECONDED the motion. Public hearing opened.

Applicant Kyle Swallow approached the Commission and gave description of his project and reasoning for the Zone Ordinance Map Amendment.

Kyle Monroe approached the Commission on behalf of Fillmore City. They have some concerns such as, unsustainable roads and a growing residential area east of the property. He stated that two of the biggest business in Fillmore use the same access road and the loose gravel may become a problem.

Ian Adams, a resident of Fillmore City approached the Commission. He had concerns of the Dust from the proposed gravel pit. He would like the Commission to go look at the area as this will affect a lot of people. The Fillmore city park sits right on 500 north. This project will create traffic issues. Another concern is 279 acres is being converted for one gravel pit. This would be a massive gravel pit.

Terry Messersmith, Developer of TNT Land and Holdings approached the Commission. He stated that he developed 20 lots of land that sits right on 5<sup>th</sup> north. This will interfere with the homes on that road. He thinks this gravel pit can agitate silicosis. He thinks this would be too close to a subdivision. He agrees that the traffic will become a problem on 500 north.

There was verification that this application is just to change the zoning not to approve a gravel pit at this time.

Kathy Stringam, resident of Fillmore approached the Commission. She is the very furthest house from the proposed location. She came to find out more about this project. She has a few concerns. She stated this project would create more traffic. She is also concerned of the dropped gravel as it will create many more problems. She is also concerned with the dust.

Attorney Elise Harris with Fillmore City approached the Commission. She thinks this deserves a broader view of the entire issue. Fillmore has a concern of all the different things that could be allowed on the property once changed to RF. AG20 is a more compatible use for the location of this property.

Commissioner Joyce Barney made a MOTION to close the public hearing for application Z-2021-031. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

**4. REVIEW and POSSIBLE RECOMMENDATION – Zoning Ordinance Map Amendment Application # Z-2021-031 requesting to change the zoning of 279.33 acres land located along the east boundary of Fillmore City between approximately Center Street and 500 North from Agriculture 20 (Ag-20) to Range and Forest (RF). Kyle Swallow, Applicant**

There was verification of where the property was located on a Fillmore City map that was provided by Attorney Elise Harris.

Applicant Kyle Swallow stated that he is aware that a CUP would need a road agreement. He also stated there is lots of debris on the road from people heading to the dump. He does not for see the traffic being any different than it is today. It will be a seasonal project. He is willing to decrease the project area if that will bring peace and comfort.

There was discussion that the way that the county has the table of uses set up and stays AG20 the gravel pit will be prohibited. There was discussion if this was changed to RF anything that is in the table would be allowed.

Applicant has had many people contact him giving him support on the proposed change.

There was discussion of the other access roads for the gravel pit. There was discussion of this pit being beneficial to Fillmore City.

Commissioner Joyce Barney made a MOTION to make a recommendation to BOCC to deny the application. Commissioner Joyce Barney would like the applicant to discuss this project with Fillmore City. Commissioner David Sturlin SECONDED the motion. There was discussion of the applicant being able to reapply. Applicant would like to take no action at this time and he will amend this application. Commissioner Demar Iverson, Commissioner Erin Sorenson and Commissioner John Nye opposed. Motion failed.

The applicant requests to amend the application and return to the Commission. This application is left open at this time.

There was discussion of the General Plan.

**5. REVIEW and POSSIBLE APPROVAL**—Application #Z-2021-040 for a Non-Plat Subdivision near 2300 W. 7000 N. Delta creating three (3) parcels from property approximately 37.0 acres in size. Brandon Shurtz, Applicant

Applicant Brandon Shurtz approached the Commission and gave description of his proposal.

There was verification and reasoning why this was split once and then again put back together. There was verification that this is the correct application.

There was discussion of the applicants getting a well on the property.

Commissioner John Nye made a MOTION to approve application Z-2021-040 for a Non-Plat Subdivision based on the recommendations and as it is in conformance of the general plan.

Recommendations:

1. Approve the Non-Plat Subdivision as proposed.
2. Basis for Recommendation or Approval of the Subdivision (Title 11-Subdivision Regulations)

11.1.4: Definitions

SUBDIVISION:

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

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

C. "Subdivision" does not include:

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

11-3-1: Mini Subdivisions

- A. Conditions: Any property owner or an owner’s agent (hereinafter a “property owner”) may submit to the county recorder’s office for recording a document that subdivides property by metes and bounds into nine (9) or fewer parcels, without the necessity of recording a final plat if:
1. The planning Commission has reviewed the document and has given the county commissioners its recommendation on the subdivision application; and
  2. The document contains a certification of approval signed by the chairman of the county commissioners or his designee that:
    - a. The planning commission has given its recommendation to the county commissioners;
    - b. The subdivision is not traversed by the mapped lines of a proposed street as shown in the master plan and does not require the dedication of any land for streets or other public purposes;
    - c. Each parcel in the subdivision meets the minimum area, width, access, and frontage requirements of the zone in which the property is located, or has been granted a variance from those requirements by the board of adjustment.
- B. Use Restrictions: The uses on parcels created under this section must be either permitted or conditional uses in the zone district in which they are located. Non-Plat subdivision which results in the creation of three (3) or fewer lots will be presumed to be for the primary purpose of supporting agricultural uses rather than for primarily residential purposes.
- C. Lot Size: The sizes of the lots created in a three (3) or fewer lot, Non-Plat subdivision may be smaller than the minimum lot size required in the zone in order to preserve agricultural land uses.
- D. One Time Process; Information on Deed: This special provision may be utilized only once per parcel of property. Parcels of land which are subdivided under these special circumstances must be deed restricted with a notation on the documents of conveyance that this one-time election has been exercised and that the resulting parcels may not be further subdivided without recordation of an approved subdivision plat. The deed restriction shall also contain a statement that subsequent owners of the created parcels are on notice that the parcels are in an agricultural zone, were created for the support agricultural activities, and may be subject to the noises, odor and other conditions typical of agricultural activities. (Ord. 01-08-27A, 8-27-2001, eff. 10-8-2001)

Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

6. **PUBLIC HEARING**—Text Amendment Application #Z-2021-041 amending Title 10, Chapter 25, Appendix A of the Millard County Code to permit the storage of hazardous materials in the Light Industrial (LI) Zoning District as a C-1 Conditional Use. Valley Agronomics, LLC, Applicant

Commissioner Demar Iverson made a MOTION to open public hearing for application #Z-2021-041. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative. Public hearing opened.

Applicant Dayle Dyer with Valey Agronomics approached the Commission. He gave description of his proposal.

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

**7. REVIEW and POSSIBLE RECOMMENDATION – Text Amendment Application #Z-2021-041 amending Title 10, Chapter 25, Appendix A of the Millard County Code to permit the storage of hazardous materials in the Light Industrial (LI) Zoning District as a C-1 Conditional Use. Valley Agronomics, LLC, Applicant**

Commissioner Demar Iverson asked if this proposed use will be governed by Water Quality. Planner Adam Richins stated that DEQ, Fire Marshall, OSHA, SDS are all involved in hazardous material storage permits.

Commissioner David Sturlin read recommendation from Planning Commissioner Peter Greathouse. He is opposed to this proposal as this will allow any business to store hazardous material and they should be left in HI zone. He asked to limit this to storage for retail fuel stores.

There was discussion to add or amend a use.

Commissioner Erin Sorenson stated she would be comfortable moving forward with this application as it will be regulated by the state. She is also comfortable with the changes listed by Commissioner Greathouse. But either way the applicant should be able to move forward.

Kevin Eardley approached the Commission. He stated he will be doing the propane tank installment for Valley Ag. He stated there are a lot of state setbacks for these kinds of permits. Once they have CUP permit, they have to get a permit with the Fire Marshalls. They do annual inspections as well. They will also need to file a plan with the local fire department as part of the Fire Marshalls plan.

Commissioner Erin Sorenson made a MOTION to send a favorable recommendation on application #Z-2021-041 for a Text Amendment, amending Title 10, Chapter 25 Appendix A of the Millard County Code.

1. Permit the storage of hazardous materials in the HI and LI zoning district as a C2 permit.  
Including all the other listed recommendations as it follows the General Plan.

In considering a land use ordinance amendment application. The Planning Commission in formulating a recommendation, and the Board of County

Commissioners (BOCC) in deciding a land use ordinance amendment application shall consider the following factors, among others:

1. Consistency of the proposed amendment with the county General Plan.
2. The effect of the proposed amendment on the well-being of the county.
3. The effect of the proposed amendment on the public health, welfare, and safety.
4. The effect of the proposed amendment on the interests of the county, and its residents.
5. The ability of the county, and other service providers, as applicable, to provide all infrastructure, facilities, and services required by the uses and activities allowed by the proposed amendment.
6. Compatibility of the proposed uses and activities with nearby and adjoining properties.
7. The suitability of the properties for the uses and activities proposed.
8. The effect of the proposed amendment on the existing goals, objectives, and policies of the General Plan, and listing any revisions to the county's Land Use Ordinances, and any other ordinances and resolutions required to implement the amendment. (Ord. 12-12-04, 12-4-2012)

Commissioner David Sturlin SECONDED the motion. Voting was unanimous in the affirmative.

**8. REVIEW and POSSIBLE RECOMMENDATION – Text Amendment Application #Z-2021-036 amending Title 5, Chapter 3 of the Millard County Code pertaining to Property Maintenance and the Abatement of Nuisances.**

There was discussion that this was previously brought to the Commission for review. Planner has not had a moment to get a draft with redline in it for review tonight. Planner Adam Richins discussed the reasoning for a text amendment application.

There was discussion that this is not ready to move forward tonight.

Todd Mcfarland asked if there will be any public input for the public. Todd Mcfarland would like the opportunity to talk about his findings. There was discussion once a draft is in place, it would be a more appropriate time to make comment.

Todd Mcfarland approached the Commission and gave his comment on the text amendment application. He disagrees with any effort to base nuisances on ascetics.

The Commission had more discussion of the draft amendment.

## 9. OTHER BUSINESS

Planner Adam Richins stated he has received 2 separate contacts to drop subdivisions in the Millard County area for lower end housing.

## 10. APPROVAL OF MINUTES –June 2, 2021 Planning Commission Meeting and June 16<sup>th</sup>, 2021 Planning Commission Work Session.

The proposed minutes of the regular Commission meeting held June 2, 2021 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Joyce Barney made a MOTION to approve the minutes for June 2, 2021 as corrected. Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

The proposed minutes of the June 16<sup>th</sup>, 2021 Planning Commission Work session were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner John Nye made a MOTION to approve the minutes for June 16<sup>th</sup>, 2021 as corrected, Commissioner Demar Iverson SECONDED the motion. Voting was unanimous in the affirmative.

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

## 12. ADJOURNMENT

Commissioner Demar Iverson made a MOTION to adjourn. Commissioner Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

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Dated this \_\_\_ day of \_\_\_\_\_ 2021  
David Sturlin, Chairman  
Millard County Planning Commission