



PLANNING COMMISSION MINUTES

10 JULY 2014

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Present: Chris Harrild, Josh Runhaar, Phillip Olsen, Chris Sands, Leslie Larson, Brady Christensen, Denise Ciebien, Megan Izatt

Start Time: 05:40:00

Sands welcomed and **Larson** gave opening remarks

Agenda

Items 3 and 4 were removed and will be added to next month's agenda.

Minutes

Passed with minor changes

05:43:000

Regular Action Items

#1 Public Hearing – 5:40: Country Living Rezone (Steven A. Russell)

Larson motioned to open the hearing; Olsen seconded; Passed 4, 0.

Harrild reviewed Mr. Steven A. Russell's request for a recommendation of approval to the County Council for approval of 16.62 acres of property in the Agricultural (A10) Zone to be rezoned to the Rural 2 (RU2) Zone located at approximately 900 West 2200 South, College Ward. It currently qualifies for one home but if the rezone were approved up to eight lots would be permitted. This property is an unincorporated island surround by Logan, Millville, and Nibley and is within Logan City's annexation area. The applicant met with Logan City regarding annexation however he has indicated that he is not interested in annexation at this time. Logan City stated that they are not interested in annexation at this time. Staff noted that it is appropriate to consider the consolidation of services with municipalities to limit leap frog provision between county and municipal jurisdictions. The county has difficulty maintaining small patches of unincorporated islands. Staff noted the best option for the county would be annexation. Staff recommends denial.

Staff and Commission discussed annexation. The county doesn't want to put resources into areas that are going to be annexed within the next couple of years.

Mr. Steven Russell I've got a couple reasons for selling my property. My family isn't here anymore and I would like to follow them. My intention, years ago, was to try and acquire more ground around there and it's been impossible to do that. I've been farming three different plots of land away from my home and in order to do that I'm fighting road traffic and other things. I started this process two years ago and have had the property listed for several years with a realtor and nothing happened. But I've listed it myself since the beginning of the year and there have been a number of people interested. They came to the county and were denied a building permit. I came in and talked with Chris and it took a couple of months and it was determined that I could

get one permit. Anyway, I'm trying to rezone this to the RU2 Zone because there are people out there who would like a larger lot to have horses, etc. All of the neighbors are sitting on larger lots and I don't feel like they would have a problem with this.

Larson what was the issue with the building permit?

Mr. Russell I don't know what it was originally.

Harrild In our initial review of this parcel we found numerous changes to this parcel and were unable to find any documentation to legally support those divisions and therefore his parcel was considered restricted. I reviewed it more recently and was able to find sufficient documentation to establish his property as a legal, buildable lot.

Sands so that is one lot.

Larson so that is one lot for now, but if planned out right in the future they could have more lots.

Mr. Russell I believe the neighbors, like me, would like to try to keep it rural. I'm not trying to develop a subdivision there but I am trying to move on and this seemed like the best way to do this. In order to get the opportunity to build on this parcel I need to have it rezoned and move away from that A10 Zone.

Olsen Have you checked with the local municipalities with what zoning they would have you do?

Mr. Russell at this point neither Nibley nor Logan want to annex it. The surrounding individuals don't want to be annexed either.

Sands is it because it is not a contiguous piece of land that the cities aren't interested?

Mr. Russell yes, they would have to annex the whole thing.

Staff and Commission discussed annexation laws and if there was a possibility of Nibley annexing. Nibley wouldn't be able to annex this without annexing the parcel to the south as well.

Larson is two acre density not a high density to you?

Mr. Russell I don't know, not really where I usually deal with 100's of acres.

Larson I ask because, for this Commission, a two acre density is a high acre density. Usually a low density is 10 acres.

Mr. Russell ok, but it seems like individuals can't necessarily take care of, or want 5 acres.

Gary Larsen we have property directly south of Mr. Russell that is in the county presently. 2200 south presents an interesting concept. Logan City has an annexation policy to the North

and Nibley has an annexation policy to the south and neither city is willing to provide services to individuals. The Logan services are over on Highway 91 and Mr. Russell couldn't bring those services over, it is cost prohibitive. Nibley has a sewer line that runs down that road, but you cannot pay for those services to be run to this area. We don't intend to ask for annexation at this time to Nibley and our situation is a little bit better than his because we do have those services on the southern border of our property. He's stuck in a rock and hard spot because neither Logan nor Nibley is going to help with services. I would strongly encourage the commission to approve this RU2 zone. He is still going to have to drill the wells and get the water rights there. There is a road issue there. It is a very narrow road and we would like to see that road brought up to standard also.

Olsen do you have a home in that area?

Mr. Larsen no.

Olsen all the homes in that area are on wells and septic tanks?

Mr. Larsen yes.

Jed Merrill I live just west of where Steve is. I have no objection to Steve doing this but if you look into the long term road plans we were told there would be a road to come along to hook up to 10th west to help with the traffic coming out of Nibley.

Steve Albiston I own property across the street to the south. My only concern is if he going to have to dig a well for every two acres of property? If he is, I'm very against that. My father owned that property at one time and shortly after he lost it they put a drain in that crosses that entire property and goes over the road to Spring Creek. I feel like whatever utilities or other work has to be down there risks digging up that drain.

Olsen how deep is your well?

Mr. Albiston 168 feet.

Olsen so you believe additional wells would affect your well?

Mr. Albiston I do.

Paul Campbell I own a parcel a little ways away and my father owns a parcel also. I appreciate the thoughts Steve has had for this. Our only concern is the wells. We have two wells on our property, one is agricultural and it was free flowing and it was re-dug about 10 years ago and I can't pump anything out of that. The well for our home was re-drilled about 5 to 6 years ago and we had to go a long ways down to get water. So that is our concern.

06:19:00

Larson motioned to close the hearing; Christensen seconded; Passed 4, 0.

Staff and Commission discussed the concerns that the public raised. While wells are typically a state concern, they can be taken into consideration with a rezone. This is a unique situation where it is located near three cities and the county is trying not to patch work services and roads. There is a consistency of service issues and it's going to be difficult to put development in the county in these types of situations. It would be very unlikely for this parcel to be annexed if it is developed as residential because it would require higher taxes. The county is backing off of services for islands like this. Staff's recommendation for denial is not based solely on the density, the concern is with development in general because of the possibility of annexation for the three cities surrounding this area.

Larson motion to recommend denial of the Country Living Rezone to the County Council with the stated conditions and findings of fact; Christensen seconded; Passed 4, 0.

6:36:00

#2 Mendon South Subdivision (David Sorensen)

Harrild reviewed Mr. David Sorensen's request for a recommendation of approval to the County Council for a 3-lot subdivision on 10 acres of property in the Agricultural (A10) Zone located at approximately 2400 South 54000 West, Mendon. Access is from 2400 South and 5400 West and both are adequate. The Bear River Health Department (BRHD) has approved on-site septic tank systems for the buildable lots. Lot 2 has been identified as a dry lot and no dwelling will be permitted on this lot until an adequate, approved, domestic water right is in place. Staff has received comment from one person that noted their disagreement with additional homes on the roadway and with allowing a dry lot. The code does allow for the dry lot but the Commission can deny the dry lot and make it a wet lot. There is a culvert along the north side of 2400 south that is obstructed due to sediment accumulation that will need to be cleaned out or replaced, and the immediate drainage paths will need to be reformed for it to function properly. The County will take responsibility for the culvert and the developer shall address the drainage paths.

Jeff Nielson I did the surveying and the platting for Mr. Sorensen. This is a pretty straight forward application.

Scott Cannon in 2003 the Utah Geological Society did a study and my concern, which is found in this study, is that although the ground water quality in this area is pristine, it is deteriorating throughout Cache Valley. On the basis of this scientific report, it is deteriorating and the area has been separated into zones with a recommended septic density. In our area, Mendon, they recommend a maximum septic density of five acres, that's one septic system per five acres. I'm not suggesting Cache County has to comply with that, but my thought is that I hope the BRHD follows this. I hope there is science behind that. The water is deteriorating and my alarm went up when the Mendon well started showing nitrates and maybe people weren't paying enough attention to this idea of septic density. But it seems like if it is deteriorating we need to pay attention to that and I don't know what the County's science basis is for giving this the okay. That's one issue and that's probably the primary issue. I'm worried for future generations and how it could harm them. The dry lot, it appears as if you are all aware of it, but the BRHD, when I was getting my water rights, and I have some canal rights, I had occasion a couple of years ago to trade some of my canal rights for well rights. The BRHD told me that they didn't believe I

would be able to trade canal rights for well rights because the canal company wouldn't allow it. I have heard it is the plan to follow that same course to do that, but the fact of the matter is, is that has got to happen before it gets approved. But I have pursued this course before and was told no. Secondly, because of the allocation of the ground water I was also told by the BRHD that even if I could provide water rights they had nothing they could give to increase the well permits in the area because they were over allocated. I worry about that little well in that corner being close to the well in my corner and two or three families drawing on it and what the implications would be but I have no data except what I have on my well and I don't know what that would do. It seems like the proposal isn't unreasonable but I am concerned that someone needs to pay attention to what the science of hydrology is telling us in the area regarding the capacity to support wells.

Sands do you have a pump for your well?

Mr. Cannon I do; a submerged pump.

Sands on the UGS study, is that referring to the shallow aquifer or the deep aquifer that you are drawing your water off of?

Mr. Cannon when I was looking at it, it was referring to ground water. It was not detailed enough for stratification.

Sands my expectation would be that it is the shallow ground water that they are concerned about seeing nitrates in.

Lori Jenkins I'm concerned with the wells. I'm just wondering if the more wells we get there could affect our wells. We have a neighbor who has drilled two wells and cannot use either well and is having to bring in water from elsewhere and store it in a tank.

Runhaar honestly as to the problem there, typically the more wells you see affect the flow, not the quality. I don't know how good the aquifer is in this area but we don't typically see flow issues in sparsely populated areas but I cannot give you a definitive answer on that. They will have to prove out water rights before they can do anything with the subdivision but they do not have to prove water flow. Water is not controlled by the county but by the state and they are not required to prove flow but a water right. Three wells should not affect your quantity.

Sands is that a wet area?

Staff and Commission discussed the wet area of land. No wetlands have been defined in this area but in the spring it gets wet. People who have questions regarding septic tanks, and what the criteria are for approval of septic tanks should contact the Bear River Health Department (BRHD). If people have questions regarding wells and water rights need to contact the state. The county has no authority on wells or water rights.

Caylenn Rowley one problem I have with this, 8 years ago was we were assured there was a moratorium on new wells to keep the country atmosphere and to keep the five acre lots. I think approving this subdivision sets a precedent for all the other empty lots around us. We've always

thought a house had to have 5 acres. We were also told no well would be granted unless there was a five acre lot. My husband has checked on that recently and been assured that it won't happen but I think approving this subdivision is going to falsely inflate the value of the selling price of the property for people who would be willing to buy it for an agricultural property but if it's zoned residential you are going to inflate the property. Why approve it for 2 ½ acre lots, those people can buy the lot and find out they can't build on it because they can't get a well. When Mr. Sorensen did his well it was approved for one residential house on those ten acres and that was it. It had to be on residential house on 10 acres if you look at this well rights and I don't think approving 2 ½ acres parcel should be done.

Sands who did you talk to about the limitations on wells?

Ms. Rowley the state water people. The people we had to talk to, to get our well approved is who we talked to. We were told they needed to be five acres lots. I know the partial parcel between us and the Cannon's, they made sure that they annexed enough for 5 acres so that it could be sold for a residential lot.

Larson the reason this doesn't follow the norm is because it is a 1970 parcel. This is one of the things that make sense to know one, including us, but we are bound by it. But this 1970 parcel, there are rights vested in a parcel that has not been divided since 1970 that we have to allow. So even if the whole area is zoned for a 10 minimum acre or density of 10 acres we are still bound, they are grandfathered in if the lot has not been divided since 1970.

Sands that is correct, because it is a 1970 parcel. If this were 20 acres or 50 acres it would still be the same rules, they would get three lots.

Ms. Rowley it can be divided into 2 ½ acres lots?

Sands we are saying it can be divided into three lots.

Larson it's the number of divisions, not the size.

Ms. Rowley we bought a five acre lot.

Sands you bought a five acre lot, is it a division of a 1970 parcel?

Ms. Rowley it was part of a 1970 acre parcel, but we were told we couldn't split the parcel and have our children build a home on it because of the 1970.

Harrild it depends on each parcel, each one is parcel specific.

Larson each parcel has its own history.

Ms. Rowley we bought it 8 years ago and the previous owner had owned it the whole time and hadn't split it.

Sands you could come in and visit with Chris and he can see if it's a 1970 parcel or part of a 1970 parcel.

Larson they can clarify that quickly for you.

Ms. Rowley we don't want to see 2 ½ acres lots going in around us because it sets a precedent.

Larson it would be the same thing whether they had 100 acres or whatever because of the 1970 parcel rules and we are kind of stuck with it because it is grandfathered in.

Tammy Trickler I am adjacent to this parcel. One of the current concerns I do have regarding this is back to the water. I understand you don't have anything to do with that but when our well was built it was an artesian well and we've had to have our pumps worked on twice and we've been informed it is no longer artesian. Nobody from BRHD has talked to us about flow or function of our well and this is concerning for us.

Robert Jenkins we have talked about buying the north five acres. But from what I understand is that he does not have water rights on that five acres now. If we purchase the five acres with the water right, does it have an expiration date?

Runhaar yes. You have five years to prove beneficial use and then you can file for an extension but if you don't prove beneficial use it will go away.

Christensen motioned to recommend approval of the Mendon South Subdivision to the County Council with the stated conditions of approval and findings of fact; Olsen seconded; Passed 4, 0.

7:23:00

Runhaar the state and EPA are requiring us to go forward with storm water management. The county was rewarded an exemption 10 years ago and we did re-file for the exemption and were denied. We are hiring a full time person to deal with this issue.

7:27:00

Adjourned