

Albany County Planning and Zoning Commission
REGULAR MEETING
August 9, 2023
Minutes

Staff Present: David Gertsch – Planning Director, Joe Wilmes – Associate Planner, Matt Ayres – County Civil Attorney, Sue Ibarra – Board of County Commissioners Liaison

I. CALL TO ORDER/ROLL CALL (Time 5:02 p.m.)

Chairman: The Regular Meeting of the Planning and Zoning Commission will come to order.

Chairman: Will the secretary call the roll.

Vote: Ms. Hanning: Present

Mr. Platt: Present

Ms. Kocornik: Present

Ms. Ben-David: Present

Chairman Hinckley: Present

Chairman Hinckley asked Commissioner Platt to Chair the meeting.

II. Approval of Agenda

Chairman: Are there any additions or deletions to the agenda for August 9, 2023?

Chair will entertain a motion to accept the agenda August 9, 2023 (as AMENDED).

So moved by Commissioner Hinckley.

Seconded by Commissioner Ben-David.

The motion vote was unanimous.

Motion Carried.

III. Approval of Minutes

A. Chairman: Are there any corrections to the minutes for the July 12, 2023, meeting?

Chair will entertain a motion to accept the minutes for the July 12, 2023, meeting with corrections.

Commissioner Ben-David had some corrections.

Commissioner Hinckley had some corrections.

So moved by Commissioner Hanning.

Seconded by Commissioner Hinckley.

The vote was unanimous.

Motion Carried.

IV. DISCLOSURES/CONFLICTS OF INTEREST:

Chairman: The Chair calls for any disclosures/conflicts of interest to be known.

There were none.

V. PUBLIC APPLICATIONS

A. Palm Conditional Use Application (CU-01-23)

Presentation of the Staff Report by Joe Wilmes, Associate Planner.

Questions from Commissioners to Staff.

Commissioner Kocornik asked about the potential second homes size and use and if there would be a second well.

Those were passed along to the applicant to answer later in the meeting.

Commissioner Hanning confirmed that the setbacks would easily be met on this size of land.

Commissioner Hinckley asked about the number of responses that were given by agencies that the application was sent to. He also asked for staff's response to the public comments that were made.

It was pointed out that the Staff Report had outdated language.

David Gertsch said that they could approved it with amended language.

The Chair will open the public hearing – anyone wishing to speak for or against the Palm Conditional Use Application (CU-01-23) please approach the lectern, state your name and address.

Justin Mazurie, an adjacent landowner, asked if he could view the application anywhere, he is worried about an additional well going in, an additional septic, he had questions about the legal description, asked about water rights, covenants, potential of a rental.

There being no further public comments the Chair will close the public hearing.

Chairman Platt asked if the applicant would like to make comments.

Holly Palm, the applicant, said they could do an addition but if they tore down the current house and a new one up there would be no place for her kids to live while that process took place, she doesn't think a new well would be required, there will be a second septic system and perc tests have been done already, there is no intention to subdivide.

Commissioner Kocornik asked about the smaller of the two proposed houses.

Ms. Palm explained that it would be a guest home for people visiting to stay.

Commissioner Ben-David asked about them putting a larger house on.

Ms. Palm explained that it would give an opportunity to grow the family.

Commissioner Kocornik asked why she doesn't think they will need a second well.

Ms. Palm explained that there is no data behind that comment, but they have good pressure and there is ground water within 6-7 feet from the perc tests.

Open discussion among Commissioners.

Commissioner Hinckley confirmed with David Gertsch that they are not approving the plan that they heard, but they are approving a second dwelling on the property.

Matt Ayres added that the County does not have any regulatory oversight over wells or the appropriation or use of water.

Commissioner Ben-David wonders how this fits within the ADU conversation that Planning and Zoning has been having.

David Gertsch says that the County as not adopted ADU standards at all, and that in order to even come forward with a second dwelling conditional use, they are required to have at least 10 acres of property and they are only allowed two dwellings maximum.

Commissioner Hanning motioned, and Commissioner Hinckley seconded to recommend to the Board of County Commissioners approval of the Palm Conditional Use Application (CU-01-23) adopting and incorporating the Staff Analysis, Findings of Fact, and Conclusions of Law as each are stated in this Staff Report.

Matt Ayres said that because the Staff Report does not have the required findings, that if it is to be approved tonight, the board would have to come up with the required findings on their own through a motion, or possibly wait until a later meeting, but as it sits right now the Staff Report does not have the required findings.

Commissioner Hanning asked to withdraw her motion.

The Planning and Zoning Commission had a discussion over what the motion would be.

Chairman Platt motioned, and Commissioner Kocornik seconded to table the Palm Conditional Use Application (CU-01-23) until the next monthly meeting in September.

The vote was unanimous.

Motion Carried.

VI. CURRENT PLANNING PROJECTS

A. Amendments to the APOZ Discussion:

i. APOZ Boundary

1. David Gertsch introduced the item.

- a.** David Gertsch talked about a conversation that was had between David, Joe, Matt, Jake Schneider – County Engineer from WWC, and Thomas Stuemky – Wyoming Licensed Survey from WWC, and it was said that the 75-foot line proposed by Stantec is surveyable, however it is very unlikely that the survey would be able to be replicated exactly, because of the surveying methods. He also sent out an email to Planners across the state on a listserv asking what they do with boundaries in GIS and don't follow property lines. The consensus was that they use property lines, but if not property lines they use road centerlines or river centerlines, which would not be applicable to this situation. Everyone is trying to tie the boundary to something on the ground. He still recommends using property lines as the boundary.
- b.** Chairman Platt does not accept what the survey said.
- c.** David Gertsch explained that when Stantec came up with the GIS data it was not tied to anything on the ground, which is the problem with replicating a survey.
- d.** Commissioner Ben-David thinks the issue is that the line has huge errors on where it is.
- e.** Chairman Platt stated as a fact that this line (75-foot line) is surveyable.
- f.** The Commission asked David to bring up the 4 maps that were made for discussion.
- g.** Commissioner Hinckley introduced all of the maps. He said that he was prepared to make a motion for the Hybrid Line but is unsure after what David said.
- h.** Matt Ayres said he believes what WWC said is all true, and that legally defensible is the standard. And what WWC is that that cannot be done with the 75-foot line.
- i.** Chairman Platt said that is a little extreme. The coordinates can be converted to meets and bounds and back and forth.
- j.** Matt Ayres asked him to find a licensed Wyoming Surveyor that can confirm that.
- k.** Chairman Platt said it may be the best to adopt the Stantec proposed CAPP with the understanding that we can satisfy the surveyability we can update things.
- l.** Commissioner Hanning thinks that because of the uncertainty of the well logs and the uncertainty of the surveyability she thinks they should use the proposed CAPP boundary by Stantec and use property lines.

- m.** Matt Ayres said that the standard that the surveyors have in their minds is not the standard that applies to a zoning district boundary. All the zoning district boundary requires is that it be applied consistently. So, how that is accomplished, is that you look at the map and make the determination of whether they are in or out. So, as long as there is a static map and it shows where that boundary is, then you can determine whether you're in or out. This is not a full standard of a surveyable line, this is a zoning map, so as long as that line with whatever projection it is on remains static, it is enforceable. He said that he appreciates Commissioner Hanning's thoughts on the property boundaries, while it gives more certainty of where the boundary is, it detracts from the defensibility of implementing the line in the first place, but you are following what the plan says.
- n.** Commissioner Hinckley came up with a situation of how this would work in real life.
- o.** David Gertsch said that if the Commission decides to do something other than the Stantec proposed CAPP lines (property lines), he would recommend the 75-foot protective shale line, not the hybrid line, because both of those lines are from Stantec, whereas the hybrid line was made by the Planning Department.
- p.** Commissioner Hinckley thinks that all of the lines came from Stantec.
- q.** Chairman Platt asked staff if they have started writing regulations.
- r.** David Gertsch says that regulations are being worked on and should be on the next meeting's agenda.
- s.** Commissioner Hinckley motioned and Commissioner Kocornik seconded to direct staff to develop draft language to implement what we've called the Hybrid APOZ Western Boundary, with language to include the following principles: 1. That the boundary may be adjusted by the County in response to new data or analysis, under the provisions of the Administrative Procedures Act. 2. Any interested party can request the APOZ boundary adjusted with specific procedures or requirements laid out for such a request.
- t.** Commissioner Hanning asked whether the maps should be redone to show the purple zones of uncertainty, so the public can follow their thinking on how the Hybrid came to be, and that it is incorporating all Stantec maps.
- u.** Commissioner Hinckley said that he agrees, he has a number of comments of how these maps are titled. He said we wouldn't call it the 75-foot lines, there is one called "Aquifer Boundary" it isn't the Aquifer Boundary it is the Current APOZ. Another deficiency is that it doesn't show what is in the City.
- v.** David Gertsch explained that the reason the lines do not go into the City is because we have no jurisdiction in the City. He asked Matt

Ayres if it is a big deal if we have an Overlay Zone line that goes into the City, where we have no jurisdiction.

- w.** Matt Ayres said that we are allowed to zone in the unincorporated areas of the County.
 - x.** Chairman Platt said we can certainly draw the line as an initial line.
 - y.** Commissioner Ben-David said she thought we were working in conjunction with the City.
 - z.** Matt Ayres explained that we are, but we have no authority in the City. For example, the APOZ Boundary Line has to be in the County.
 - aa.** Commissioner Hinckley said that these maps are for information, these are not for regulations.
 - bb.** The vote was unanimous.
 - cc.** Motion Carried.
- ii.** Wastewater Regulations
- 1.** David Gertsch introduced the item.
 - a.** He explained that Staff would like to move the wastewater regulations that are currently in the Zoning Resolution into the County Wastewater Regulations. He is looking for the Commissions thoughts on what they would like to do.
 - b.** Commissioner Hanning asked if some of the regulation changes involving setbacks from vulnerable features would still go forward.
 - c.** Matt Ayres said that anything that doesn't have to do with wastewater would still go forward in the Zoning Resolution.
 - d.** Commissioner Hanning said right now the Zoning Resolution only talks about setting back the wastewater, but Stantec's recommendation is to enlarge that the setting back anything from a vulnerable feature.
 - e.** Matt Ayres said that right now the setbacks from vulnerable features is done through the SSI process.
 - f.** Commissioner Hanning thinks there is potential tightening up of the Zoning Resolution on what goes on near vulnerable features, like the SSI could give you permission to use mitigating best management practices to allow something to go on. What Stantec says is to get rid of the squishy language for what you can do next to vulnerable features. She likes the thought of moving the wastewater stuff to the wastewater regulations but thinks there is some stuff they still have to deal with in the zoning regulations. She asked Matt if there should be any redundancy between the Zoning Resolution and the Wastewater Regulations.

- g.** Matt Ayres said the rule is that the County can only regulate in a manner that does not conflict with or duplicate DEQ regulations. Since we have the small wastewater delegation agreement, it seems that that is what gives us the authority to regulate the small wastewater facilities wholesale, again that is specific to small wastewater facilities, not public sewage systems, or things of that nature. The square peg should go in the square hole, even if it might fit in the circle hole.
- h.** Chairman Hinckley asked what are the wastewater regulations. Where does he look at them and do they come across this commission.
- i.** David Gertsch explained that the wastewater regulations do not have to come across Planning and Zoning Commission. This is based on a delegation agreement between the Department of Environmental Quality and Albany County, this delegation agreement which was originally adopted also included as part of those, the regulations that were adopted, the wastewater regulations were based on DEQ's minimum standards, which is Chapter 25 of DEQ's regulations. Planning and Zoning has never been involved with in the past, but just because Planning and Zoning has never been involved doesn't mean they can't be in the future.
- j.** Commissioner Hinckley explained that they are contemplating a deviation from the Stantec recommendation, which was for all of this to be included in the Zoning Resolution. He asked when the delegation agreement was made.
- k.** David Gertsch explained that it was made in the 1980's.
- l.** Commissioner Hinckley said that Stantec has recommended that septic systems within the APOZ has a maximum nitrate number of a certain number, that standard would then appear in the wastewater regulations, which would then be approved or negotiated with DEQ, and what are the chances that the delegation agreement gets updated within the next 20 years.
- m.** David Gertsch said that we want the delegation agreement updated within the next year or two.
- n.** Commissioner Hinckley said that in his experience nothing happens with DEQ for years at a time. He asked how much of this can be incorporated into the delegation agreement and then placed in the lap of the Albany County Wastewater Engineer.
- o.** David Gertsch said that we are proposing to put Stantec's recommendations for wastewater, in the wastewater regulations.
- p.** Matt Ayres would recommend scheduling an executive session for next meeting.

- q.** Commissioner Hinckley said he would like to preserve the option of leaving setbacks in the Zoning Resolution, including as they are now, any development. He would split off that septic systems are a type of development, the details of which could be handled through the wastewater regulations, but he's not sure he's ready to let go entirely of septic systems within the APOZ within the Zoning Resolution especially with reference to setbacks.

B. Accessory Dwelling Amendments Discussion

i. David Gertsch introduced the item.

- 1.** He went over what was changed from the last time that they came to the Planning and Zoning Commission.
- 2.** Commissioner Kocornik thinks her comments have been incorporated, but she raised a question of whether we want more dwellings on properties, there are good reasons to do it, but there will be impacts.
- 3.** Commissioner Ben-David said that the application they looked at earlier was pretty much exactly this.
- 4.** Commissioner Hanning asked if an attached accessory dwelling unit the Planning Department would be looking to see if the septic system would be sized appropriately. She went on to say that if it is an attached accessory dwelling unit, with an appropriately sized septic, that there should be no acreage limitation.
- 5.** Commissioner Kocornik said there would be other impacts such as traffic and would leave it how it is.
- 6.** Commissioner Hanning withdrew her idea to split out a difference between attached and detached accessory dwelling units. She said she can live with this.
- 7.** Commissioner Hinckley would like to change the definition of principal dwelling. He thinks that if someone would like to do a second dwelling unit that would stay within the zoning density, they shouldn't have to do a conditional use.
- 8.** Commissioner Hanning asked how these regulations would work if someone wanted to build a bigger house on their property.
- 9.** Chairman Platt would favor making these things allowable instead of conditional and would favor making it less restrictive and apply to the whole county. He thinks that we should handle an additional building different than an addition and would like them broken out like Commissioner Hanning's original idea.
- 10.** Commissioner Kocornik thinks we should tie it into zoning instead of wastewater systems.
- 11.** Commissioner Hinckley asked if an addition comes in does the Planning Department look at the adequacy of the wastewater system.

12. David Gertsch confirmed that is the case.

C. Howe Road Discussion

i. Chairman Platt introduced the item.

- 1.** He asked Staff what concerns Mountain Cement has about the safety of Howe Road and a background of the issue.
- 2.** David Gertsch went over the background, he knows Mountain Cement maintains it, he doesn't know who owns it. He thinks Mountain Cement's issues are to do with safety. The trucks they have are very big, they are heavy and wide and more traffic would lead to more conflicts.
- 3.** Commissioner Ben-David said she used to live on Howe Road and these trucks are very dangerous.
- 4.** Commissioner Hanning asked how the trucks compare to the Hamaker trucks. She asked about South Knoll's access from Howe Road and how it is any safer.
- 5.** Commissioner Hinckley asked how the Paddocks application would be treated if it came forward today.
- 6.** David Gertsch explained that there wouldn't be much difference and that is why we are looking to add the second access to the regulations.
- 7.** Commissioner Hanning mentioned that during the public hearing for the Paddocks application one of the residents admitted that they sometimes drive through the South Knoll Subdivision and asked if there was any leverage to have the Paddocks work out an agreement with the South Knoll Subdivision.
- 8.** David Gertsch explained that it would have to be their only way of ingress and egress.
- 9.** Chairman Platt motioned to recommend that the County Commissioners direct Staff to make a determination of who controls what ingress and egress there will be along Howe Road.
- 10.** Commissioner Ben-David asked if this was under the Planning and Zoning Commissioner per view.
- 11.** Chairman Platt believes that this would fall under Planning and Zoning.
- 12.** Matt Ayres disagrees, the County Commissioners control County property. This is about ownership, which is beyond just planning. The Paddocks issue is a binding contract between two private parties, there's nothing we can do about that. What the motion describes is a directive to enter protractive litigation.
- 13.** The motion failed because of a lack of a second.

D. Laramie Growth Area Plan Update

- i. David Gertsch told the Commission that the plan was approved and went over the next steps.

VII. OTHER ITEMS/ANNOUNCEMENTS

A. Next Regular Meeting September 13, 2023, 5:00 p.m. in the Commissioner’s Room

B. Commissioner Comments

VIII. CITIZEN COMMENTS – Non-Agenda Related Topics

IX. ADJOURNMENT

Chairman: There being no further business to conduct, the Chair would entertain a motion to adjourn the meeting.

So moved by Commissioner Hinckley.

Seconded by Commissioner Hanning.

The vote was unanimous.

Motion Carried.

Meeting adjourned at 8:09 p.m.

*An audio recording of the meeting can be found on the Albany County website:
<https://www.co.albany.wy.us/agendacenter>*

*A video recording of the meeting can be found on the Albany County Government – Laramie Wyoming YouTube page:
<https://www.youtube.com/channel/UCEilgbgJIW4AWNAu3EfrjVg/videos?view=57>*