



Planning & Zoning Division
Kerry Beutler, Division Head

Staff Report
Summary

Lassley/Bates Canyon Road: RR-5 to RR-1
REZ-2010-6

Project Type: Rezone

Planning Commission: Tooele County

Meeting/ Hearing Date: 9/1/2010

Staff Planner: Matt Hilderman

Location: Located in the southwest corner of the intersection of Bates Canyon Road and State Route-36

Recommendation: In making a recommendation on any zoning map amendment, the planning commission may approve or deny the application as proposed. The planning commission may modify the proposal to exclude those properties, the rezoning of which does not, in the opinion of the planning commission, meet the criteria and intent of the general plan. Such recommendation shall specifically address the impact such a change will have on the resources and infrastructure within the county.

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Project Type: Rezone

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Staff Planner: Matt Hilderman

Owner/Applicant:

Name: Jesse Lassley
Business Name: Lincoln Investments #7, LLC
Address: P.O. Box 711820, Salt Lake City, Utah 84171
Phone Number: 801-808-8530

Parcel Number(s): 05-044-0-0064

Location: Located in the southwest corner of the intersection of Bates Canyon Road and State Route-36

Legal Description: BEG AT THE NE COR OF SEC 28, T2S, R4W, SLB&M (BASIS OF BEARINGS FOR THIS DESCRIPTION BEING N 89*39'42" E BETWEEN THE N 1/4 COR OF SEC 28 AND NE COR OF SEC 28 OF SAID TOWNSHIP AND RANGE, SAID CORNERS BEING REPRESENTED BY TOOELE COUNTY SURVEYOR'S BRASS CAP MONUMENT PLACED CIRCA 1985) AND RUNNING TH N 89*41'16" E 265.39 FT ALONG THE N LINE OF SEC 27, SAID TOWNSHIP AND RANGE; TH S 0*28'01" E 36.50 FT TO THE WESTERLY R/W LINE OF SR-36, TH ALG SD R/W LI THE FOLLOWING 6 COURSES;

1. N 89*31'59" E 79.36 FT;
2. S 39*10'42" E 43.62 FT;
3. S 12*06'36" W 477.15 FT TO A POINT ON A 10,067.00 FT RADIUS CURVE TO THE LEFT;
4. TH ALONG SAID CURVE 439.06 FT (CHORD BEARS S 10*51'38" W 439.025 FT;
5. S 9*36'40" W 483.93. FT TO A POINT ON A 9,933.00 FT RADIUS CURVE TO THE RIGHT.
6. TH ALONG SAID CURVE 313.49 FT (CHORD BEARS S 10*30'55" W 313.47 FT.)
7. TH CONTINUING ALONG SAID 9933.00 FT RADIUS CURVE TO THE RIGHT 237.18 FT (CHORD BEARS S 12*06'12" W 237.18 FT);
8. S 12*47'15" W 366.94 FT TO A POINT OF CURVATURE OF A 3067.00 FT RADIUS CURVE TO THE LEFT;
9. ALONG SAID CURVE 147.93 FT (CHORD BEARS S 11*24'21" W 147.92 FT M/L TO A FENCE; TH LEAVING SAID WEST RIGHT OF WAY LINE AND RUNNING M/L ALG SD

FENCE S 89*44'45" W 566.12 FT M/L TO A FENCE CORNER; TH CONTINUING ALONG A FENCE THE FOLLOWING 3 COURSES:

1. S 0*08'09" W 93.24 FT;
2. S 89*54'19" W 692.44 FT;
3. N 0*20'42" W 1250.02 FT M/L TO THE N LINE OF THE S 1/2 OF THE NE 1/4 OF SAID SEC 28; AND THE SW COR OF THAT PROPERTY CONVEYED TO JAY BUZIANIS BY QCD ON PEARL HARBOR DAY, DECEMBER 7 2006; TH ALONG THE LINES OF SAID QCD THE FOLLOWING 3 COURSES;
 1. CONTINUING ALONG SAID FENCE N 0*27'39" W 952.78 FT;
 2. CONTINUING ALONG SAID FENCE N 0*18'21" W 371.98 FT TO THE N LINE OF SAID SEC 28 FROM WHICH POINT THE TOOELE COUNTY SURVEYORS MONUMENT REPRESENTING THE N 1/4 COR OF SAID SEC 28 BEARS S 89*39'42" W 1258.25 FT;
 3. ALONG THE N LINE OF SAID SEC 28 N 89*39'42" E 63.09 FT; TH CONTINUING ALONG SAID N LINE 1321.33 FT TO THE POB. COMBINES 5-44-58 AND 5-44-60 FOR 2009 YEAR. CONT 87.87 AC

General Plan designation: Lower Density 1unit/5 acres- 1 unit/1 acre

Existing Zoning: Rural Residential-5 acre (RR-5)

Existing Land Use: Vacant/Agricultural Land

Proposed Zoning: Rural Residential-1 acre (RR-1)

Proposed Land Use: Single-family dwelling subdivision

Surrounding Land Uses and Zoning:

North:	Single-family dwelling	Rural Residential-1 acre (RR-1)
	Single-family dwelling	Residential District R-1-10
East:	Single-family dwelling	Rural Residential-5 acre (RR-5)
West:	Single-family dwelling	Rural Residential-5 acre (RR-5)
South:	Single-family dwelling	Rural Residential-1 acre (RR-1)

Proposed Project Specifications:

Gross Acreage:	87.87 acres
Net Acreage:	84.4 acres
Right-of-way acreage:	6.8 acres
Number of Lots:	69
Density:	0.82 dwelling units/acre

Project Data: The applicant, Lincoln Investment #7, LLC, is requesting a zone change from RR-5 acre residential lots to RR-1 acre residential lots. The proposed rezoned property was one of the first, originally established parcels of farmland to the Tooele Valley. The subject property is still farmed to this day with small amounts of farm livestock residing as well. The applicant proposes, with an approved rezone amendment, an sixty-nine (69) one-acre lot subdivision, supplied with culinary and irrigation water along with a public sewer system through the Stansbury Park Improvement District. This parcel was recently withdrawn from the Erda Township on Tuesday, May 18th, 2010, and is now governed by the Tooele County Planning Commission.

Project Analysis: As required in the Tooele County Land Use Ordinance (TCLUO) Section 3-9 Zoning map amendment procedure, the planning division shall analyze the impact of the proposed change on the development of the land within the community and county. In making a staff report, the planning division shall evaluate the proposal and address the following:

(a) whether the requested zoning is in conformity with the county’s general plan;

Staff: The General Plan denotes this area as Lower Density which includes both 1 unit/5 acres- 1 unit/1 acre designations. Comparing the zoning map amendment application with the Tooele County General Plan, staff has determined there are several contradictions pertaining to development within this area, therefore resulting in instances of conformity with the general plan and instances of non-conformity with the general plan. These examples are depicted below:

Conformity:

- I. “An element of encouraging growth toward incorporated cities and towns is the desire to avoid sprawling infrastructure and services associated with new development. New development should take place in areas which have infrastructure in place.” (TCGP III-2)
- II. Area designated as Lower Density Housing (TCGP IV-20) which reflects an average density from 1 unit/5 acres – 1 unit/1 acre (TCGP IV-21)
- III. “Existing agricultural, residential, commercial and industrial zones should be maintained if they are consistent with plan goals.” (TCGP X-1)

Non-Conformity:

- I. “In Tooele County a balance of good economic health and little or no growth is desired. The open and rural appearance of the county is a shared asset which members of the community would like to preserve for the future.” (TCGP II-2)
- II. “...especially Tooele Valley districts are experiencing growth at a pace which threatens open space assets. Protecting the rural character of these districts against sprawled development could be achieved through open space preservation.” (TCGP II-8)
- III. “The most significant conclusion of the baseline scenario growth projection is that each of the cities and the county are ‘over-zoned’.” (TCGP IV-13)

Staff recommends the planning commission weigh the examples of conformity and non-conformity with the general plan to decide if the proposal supports a revision for higher density zoning or does not support a revision.

(b) a finding that there have been material changes in the character of the neighborhood, community or county such as to justify a change in the zoning as requested by the applicant;

Staff: This area and surrounding parcels of land have experienced rapid growth within the past decade. The area to the North of Bates Canyon Road was rezoned to R-1-10 in 1999 and has since developed a multitude of high-density residential subdivisions and planned unit developments. Stansbury High School also opened in August 2009 and has created a greater concentration of Stansbury citizens to this area. It should be noted that the County cannot regulate the location of a school on the local school district. The fact that the school has located on Bates Canyon Road does not directly identify a desired change in the character or development of the community.

On February 13, 2007, 14.19 acres of property, located adjacent and north of Bates Canyon Road was rezoned from RR-5 to RR-1. As stated in the Tooele County Planning Commission recommendation to the Board of Commissioners to approve such a rezone, it stated,

“The TCPC believes the impact of changing 14.19 acres in this location from RR-5 to RR-1 will be insignificant upon traffic, water, sewer, and schools within the county. Water and sewer may be serviced by the Stansbury Improvement District. Stability of the zoning will be improved because the RR-1 will be more like the R-1-10 PUDs surrounding this property to the east and to the north. Zoning across from Bates Canyon Road in the Erda Township is and should be less dense than this subject property to be in accordance with the General Plan.”

There have also been significant changes within the Erda Township pertaining to residential development with an increase in one-acre developments located in and/or near the inner core. The applicant states, “the proposed rezone conforms to the General Plan designations on the Land Use Map, General Plan Text and the Implementation

Strategies outlines in the General Plan, by maintaining the rural atmosphere currently in place and keeping a nice rural buffer for the Erda Township to the South.”

As mentioned earlier this parcel was recently removed from the Erda Township. The Erda Township Planning Commission has always favored the concept of Bates Canyon Road being a natural boundary between the more dense development of Stansbury Park and the rural development in Erda. Further, the Erda Township Planning Commission has promoted the idea of maintaining the five acre zoning, south of Bates Canyon Road, to allow for a buffer from the dense zoning within Stansbury Park.

Staff recommends the planning commission should determine if these examples of significant character changes justify a change in the zoning designation. Further the commission should consider if the boundary separation between the communities of Stansbury Park and Erda, as previously implied along Bates Canyon Road by the Erda Township Planning Commission, should continue to apply.

(c) the extent to which the proposed development of the subject property in accordance with the requested zoning will be in harmony with and compatible with surrounding land uses and present development in the area;

Staff: A proposed change to one-acre zoning would be compatible with the surrounding areas relative to the comprehensive land use plan. Several parcels of property relatively near to this proposed development have been rezoned to one-acre development. This scenario complies with the concept of cluster/open space development where it states, “public comment was focused on the development of the inner core of each community, while keeping the outlying areas less dense” (TCGP IV-22). Surrounding land uses within this area consist of single-family residential development on one- to five-acre developed tracts of land. A vast majority of property owners value the, “spatial separation of homes (by means of these blocks of privately owned land) [which] seemingly promotes privacy (TCGP II-7) , so traditional development has been popular. Adjacent residents have become accustomed to a rural feel pertaining to their property and enjoy the rural activities associated, such as: recreational farming, livestock, personal agricultural animals, and several small, home based businesses. The developer proposes the same with an approved rezone and proposed standard subdivision.

(d) whether the subject property can be reasonably used and developed as presently zoned;

Staff: Staff believes the subject property can be used and developed within the current RR-5 zoning district. Conservation subdivisions are allowed conditionally within Tooele County and are supported with the General Plan. The applicant specifically identified that they desired to develop a conservation subdivision within their petition for withdrawal from the Erda Township, citing the Township’s prohibition on such subdivisions as one of the specific reasons for withdrawal. XV-5 states, “for example to save fifty percent land as open space, a developer may be allowed to construct units on lots as small as a half acre. Only half of the land is developed, but the same number of units are allowed, thus allowing a developer to get equity from the land, while also preserving open space for the community...even with smaller lots, housing prices and resale values in conservation subdivisions compare favorably to those in traditional subdivisions.” The applicant can also propose a five-acre subdivision, supplied with water, sewer, and infrastructure that would be compatible with subdivision developments located across State Route-36 from North to South.

(e) how the requested zoning will affect traffic congestion and infrastructure in the area;

Staff: The proposed rezone and corresponding proposed subdivision will affect the current infrastructure and traffic within this area. Access to the applicant’s proposed subdivision would be provided by Bates Canyon Road, a minor collector. The applicant proposes, “a 30-foot Right Of Way (ROW) will be dedicated to Bates Canyon Road along the [north] side of the proposed development,” thus complying with the transportation analysis stating, “collector roads should have a minimum width of 80 feet” (TCGP II-19). However, the proposed subdivision plan does not account for the surrounding parcels of land, as stated, “interparcel connections should be encouraged, where appropriate, to provide a local road network that can supplement the collector and arterial system” (TCGP II-19).

Traffic congestion will appear to increase as a result of a zone change as supported by the following:

“According to the National Institute of Traffic Engineers an average family makes 10.6 trips per day. Utah statistics are higher by up to 50% due to large numbers of teenage drivers. Therefore, if 15 trips per day are considered and multiplied by [69] homes it creates 1,035 additional trips per day on Bates Canyon Road.”

The applicant states the current traffic flow on Bates Canyon Road averages 220 to 240 vehicles per hour, averaged out to a 10-hour day equals 2200 to 2400 trips per day.

A subdivision proposed by the applicant could increase traffic by 70% or 3235 to 3435 trips per day. A detailed traffic study could determine the anticipated impacts a specific development would have on the local road network and if the project would significantly alter existing traffic patterns and volumes.

The proposed property lies within the servicing boundaries of the Stansbury Park Improvement District (SPID), thus supplying culinary and irrigation water. There are also existing power, natural gas, and fire hydrants stubbed along the northern property boundary and complies with the infrastructure management goals stating, “new development should take place in areas which have infrastructure in place” (TCGP III-2).

(f) whether the requested zoning will promote the public welfare;

Staff: Please refer to Section A. The proposed project will both conform and not conform to the General Plan which may impact public welfare. The proposed rezone complies with Regional Development Plans and further supports less dense growth with the outlining boundary of Stansbury Park. Staff is also aware from a social and public welfare standpoint, the rezone request is not favored among the surrounding communities. Staff understands this parcel of land has been thru a previous rezone request and other areas abutting Bates Canyon Road have been thru similar one-acre zoning requests. Strong opposition from not only the residents of Erda Township but from the citizens of Tooele County opposed these development changes. Subsequently, these parcels were denied a more dense development, first in 1996 when the applicant withdrew his application in part due to fierce opposition and in May 2007 when the planning commission recommended to deny stating,

“...from RR-5 to RR-1 because it contradicts the health and welfare of the township and goes against the general plan which states every area is already over-zoned.”

Some areas have prevailed on five-acre development though, such as Buzianis Ranchettes, Ironwood Subdivision, Beehive Subdivision, and Pheasant Glen Subdivision.

The planning commission should review and consider the technical vs. social implications to determine if they justify a change in the zoning amendment proposal. Again, the commission must also consider whether the current density separation between the community of Stansbury Park and community of Erda should be maintained.

(g) if a denial of the requested zoning would preclude use of the property for any purpose to which it is reasonably adaptable;

Staff: A denial of the proposed rezone would not exclude the property owner of any uses. A rezone of such would actually exclude a dozen uses within the RR-1 zoning district, which are currently permitted or conditional within the RR-5 zoning district. The applicant also currently has permitted residential development within this proposed property, either five-acre lot development or conservation development.

(h) how the land uses between the existing zone and the requested zoning afford any reasonable use of the property;

Staff: The land uses between the current and proposed are similar for rural residential development, agriculture uses, light commercial and industrial uses, recreational and amusement uses, and public and quasi-public uses.

(i) whether failure to zone the property as requested would impose a hardship on the owner; and

Staff: A denial of the zoning change would not impose a hardship because the current zoning allows rural residential development and the general plan and land use ordinance supports conservation subdivision development, thus proposing two (2) scenarios for residential development.

(j) how the requested zoning will promote or disturb stability in the zoning of the neighborhood.

Staff: In 2007 the Tooele County Planning Commission recommended approval of a rezone request from RR-5 to RR-1 for a property on the north side of Bates Canyon Road, citing that the stability of the zoning will be improved because the RR-1 will be more like the R-1-10 PUDs surrounding this property to the east and to the north. Properties on the south of Bates Canyon Road were not specifically mentioned in the motion. If rezoned this property would be the only one acre zone district south of Bates Canyon Road until you reach the inner core of Erda. If the intent is to allow the one acre zones in Stansbury Park and Erda to join seamlessly then the proposed rezone will help to achieve that similar zoning. If it is intended that the County maintain the less dense five acre zoning to signify the transition from more urban development to rural development then the requested rezone will disturb the stability of zoning in the area and help to create further speculation on other parcels along Bates Canyon Road.

TCLUO 3-10. County commission consideration for zoning map amendment—Hearing—Notice.

Applications to amend the zoning map are discretionary legislative decisions even if the application otherwise conforms to ordinance requirements. Before finally adopting any zoning map amendment, the board of county commissioners shall hold a public meeting.

TCLUO 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.

TCLUO 3-13. Determination of commissioners.

The Board of County Commissioners, after review of the decision of the planning commission, may affirm, reverse, alter or remand for further review and consideration any action taken by the planning commission.

TCLUO 3-14. Appeal procedure.

Any person shall have the right to appeal to the district court a decision by the Board of County Commissioners regarding the amendment of a land use ordinance or zoning may by filing an appeal in writing within 30 days following the date upon which the decision is made.

Reviewing Agency Comments:

(Distributed Wednesday, August 11, 2010)

Tooele County Health Department	NO COMMENT RECEIVED
North Tooele County Fire Dept.	NO COMMENT RECEIVED
Tooele County Sheriff Department	NO COMMENT RECEIVED
Tooele County School District	NO COMMENT RECEIVED
Tooele County Engineer	NO COMMENT RECEIVED
Stansbury Park Improvement District	Concerned about storm drainage release rates – issue resolved
Stansbury Service Agency	NO COMMENT RECEIVED
Public Comment	NO COMMENT RECEIVED

Recommendation: In making a recommendation on any zoning map amendment, the planning commission may approve or deny the application as proposed. The planning commission may modify the proposal to exclude those properties, the rezoning of which does not, in the opinion of the planning commission, meet the criteria and intent of the general plan. Such recommendation shall specifically address the impact such a change will have on the resources and infrastructure within the county.

Cc: File
Owner/Applicant

Encl: Application
County Engineer comments and exhibits