

MINUTES BOX ELDER COUNTY PLANNING COMMISSION FEBRUARY 21, 2008

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The Board of Planning Commissioners of Box Elder County, Utah met in the Box Elder County Commission Chambers at 7:00 p.m. The following members were present constituting a quorum:

Richard Kimber	Chairman (arrived 7:25)	<i>The following Staff was present:</i>	
Jon Thompson	Acting Chair		
Richard Day	Member	Kevin Hamilton	Planner
David Tea	Member	Elizabeth Ryan	Secretary
Clark Davis	Member		
Chad Munns	Member		
Theron Eberhard	Member		

Vice Chairman Jon Thompson called the Planning Commission meeting to order at 7:02 p.m.

The following citizens were present:

Donna Kunz/Willard	Ryan Goodliffe/Tremonton
Ronda Davis/Willard	Bob Davis/Willard
Sherman Richins/Riverside	Jerry Anderson/Willard
Lance Larkin/Willard	John Larkin/Willard
Kelly Egli/Tremonton	Ruelen Egli/Garland
Brandy Fowers/Bear River City	Paul Mackley/Ogden

The *Minutes* of the regular meeting held on January 17, 2008 were not reviewed by the members and a Motion was made by Commissioner David Tea to postpone acting on the Minutes of the January 17, 2008 meeting until the March meeting of the Planning Commissioners. Motion was seconded by Commissioner Theron Eberhard and passed unanimously.

PUBLIC HEARINGS

DR PAUL MACKLEY RE-ZONE (BOB DAVIS & LOWELL S. PETERSON) IN SOUTH WILLARD; APPROXIMATELY 92 ACRES FROM THE CURRENT A-20 TO RR-5 ACRES.

This property is located west of I-15 at approximately 7800 South in the South Willard area. Staff commented that the General Plan for the South Willard area states “no change in zoning with the adoption of this plan;” therefore not anticipating any change in zoning but there is the possibility of future changes in the zoning in the residential with some commercial general along Highway 89, but nothing that would anticipate higher density zones in the area. The Public Hearing was opened and the following comments were received from citizens present.

John Larkin: “The South Willard citizens just went through. . . correct me if I’m wrong, but wasn’t all the people appointed by the commission to do the work group. . .they spent considerable time on it, and we’ve

gone through all that not many months ago and it was decided on that below the freeway it was going to stay A-20. And I think that's the will of the people in the South Willard area. At this time especially in agriculture, we need all the agriculture ground we can get. It's the only thing holding the United States together is the ag part. If you start spot zoning that below the freeway little pieces out, my outfit will be jeopardized. We've got a large cattle feed operation, pours a lot on money into this county and the multiply effect is huge. We've been in operation since 1963; we never had no tax rebates or no help from anybody to get going. . . and you've got a power line on the west side of that ground and it's awful wet on the west side in the first place and it's not very well for subdividing in my opinion, but that's neither here nor there. And this piece right here in the middle that you're talking about was re-zoned to put an agricultural livestock yard on. The gentlemen is here and he spend considerable money there, hundreds of thousands of dollars and it wasn't very long that that was zoned for that . . . or by the County Commission, I don't know how it all went, but that would be really unfair to him. I mean that piece of property, or that sale yard's not going to be functioning with them people around 'em, they're not compatible, and our agriculture down there's not compatible with people; with airplanes spraying on corn every year; and through the years every County Commission that I've came before here has kind of agreed to keep that agriculture there. It's some of the best agriculture ground we've got left in the state, and I think it's awful valuable for ag ground. We've put a lot of beef on the market, and there's not anybody in this room that hasn't ate off of my cattle at one time or another. But if you start spot zoning these little pieces, just like a cancer it will just eventually. . . you know that seems the way of the future to take the easy money and sell out for a few pieces of silver. But I intent to stay in ag and my son's here with me and after I'm gone he plans on bein' in ag. . . and we pour a lot of money into this county . . . truckin, beef, fertilizer, and I'm really opposed to it.

Bob Davis: "I'm not planning to do any subdividing at this point in time, but when. . . well a little information. My grandpa built a house in 1861 in Willard and was a mason and a part time farmer and his farm was four and a half acres so I'm not a new comer to this ground and they paid taxes their whole live and I've paid taxes my whole life and the point I want to get at is that when they had that commission appointed committee . . . they re-zoned that ground and it was a done deal unbeknownst to me and it comes through and it's just five acres, but my point of view it would behoove John Larkin and Jerry Anderson and the other people down there that want to stay ag, five acre parcel would behoove them in the long run because what's going to happen is one day some big developer's goin' to come up, he's goin' to buy my ground, he's goin' to buy the church's ground and he's goin' to buy all Paul Mackley's ground and Buzz Harding's ground, which I have guardianship on, that's fifty-five acres in the same corridor, and then their goose will be cooked. Vegan farmers don't need a lot of money, they don't need a lot of beef. . . they don't even need beef; and they don't use tractors they don't pollute the air with diesel fuel. . . and five acre parcels farms suit them real good. They're part time farmers and there's a bigger need for five acre parcels in there. . . you need some sort of. . . you go from five acres to half acre zone on the east side of the freeway, west side of the freeway stays twenty. . . you've got nonconforming lots. You've got four at six acres, just to the north of me by Jerry's stock barn they got a two and a half acre parcel and then a ten acre parcel. We've got nonconforming lots all through there all along that corridor and if they're spraying illegal or somethin' then they need to be watched, but if they're on the up and up then they have no worries, no concerns, just have good neighbors, we all love good neighbors. Thank you.

John Larkin: "Now I'd like to clear up one thing, and that's, Mr. Davis that wasn't his family's farm. He purchased that about twenty years ago. He made it sound like his grandfather had been there since the eighteen hundred or something.

Bob Davis: "He certainly has. My grandpa built a house in Willard in 1861.

John Larkin: "Ya, but this is a lot of miles from there.

Donna Kunz: Had some concerns regarding the leak in the reservoir and that it is being repaired, but until then no more residential homes would be allowed in the area. By re-zoning there would be more houses and if the dam did break then it would cost a lot more money; also said that she had found it difficult to find

insurance because of the condition of the dam and the reservoir. The area will probably be re-zoned in the future, but does not want to see it at this time; moved to this area because of the openness of the property and not a lot of neighbors; also in livestock business.

Jerry Anderson: *I own the piece of property that's right on 7800 and the reason I moved out there is because it is agriculture, and like Johnny says I have invested quite a little money in the place and want to keep it agriculture. Neighbors, that's why I'm going out there. . . to get away from the houses.*

Donna Kunz: Was also concerned with the condition of the roads in the re-zone area and that they would probably need to be paved or resurfaced. Having new houses with people will bring in complaints about the dust and the smell from the livestock, especially during the peak season when the livestock barn is being used and there will be a lot of animal noises. Has an ag-protection with her property, but the complaints still happen from those coming into the area and not really wanting to deal with the noises and smells that go with living in the county.

Bob Davis: A simple solution to the problem would be for the population to decline then there won't be the need for the houses and the cattle to feed the population.

Paul Mackley: Asked for a summation of the comments before he arrived and then sited the reasons for wanting to re-zone the parcels of these three landowners. Has someone interested in purchasing a five acre parcel and the bank(s) are not interested in financing on a twenty acre parcel for a home. Mr. Mackley would also like to be able to keep the remainder to continue with the small farming and animals that he currently has. Has the water shares adequate for one home and some 25 cows and in looking at other areas of the county there seems to be areas that are similar to this petition, i.e. Mantua. Many of the lots are already legal nonconforming and can't be divided any less than what they are.

A Motion was made by **Commissioner Clark Davis** to close the Public Hearing; seconded by **Commissioner David Tea** and passed unanimously.

NEW BUSINESS

DR PAUL MACKLEY RE-ZONE (BOB DAVIS & LOWELL S. PETERSON) IN SOUTH WILLARD; APPROXIMATELY 92 ACRES FROM THE CURRENT A-20 TO RR-5 ACRES.

Staff reported that the standard for granting a re-zone are fairly low and a finding needs to be based on --

- ① Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan. (in this case there is a community plan for South Willard that was adopted April 2006 and it stated that "no changes in zoning with adoption of this plan." This area was already zoned as A-20 before the community plan started and was to remain as A-20. Would probably need to revisit and possibly update the current community plan for the area.)
- ② Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
- ③ The extent to which the proposed amendment may adversely affect adjacent property; and
- ④ The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and waste water and refuse collection. (With having the petition asking for five acre parcel there would probably be a need to address the roads and if they were to remain gravel or need to be paved.)

Commissioner Clark Davis said that the committee was an ad hoc committee and that their recommendations were adopted by the County Commission as part of the General Plan. It was also

suggested by the committee members at the time that the plan be revisited in about five years to see what, if any, changes might need to be made. However, it is a fairly time consuming process and costly to the county to look at these areas where zoning plans have been adopted in recent years if done each time a petition were to come in. **Commissioner Richard Kimber** stated that this petition appeared to be inconsistent with the General Plan and the Community Plan of South Willard. Staff said that if the petition were denied by the Planning Commission it would still need to go before the County Commission for their action.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to deny the re-zone petition of Mr. Paul Mackley (and others) based on the statement in the South Willard Community Plan.

Page 1: Map A: Zoning – “No changes in zoning with adoption of this plan.”

Map B: “If other zoning options besides those which appear in these guidelines or illustrated on the map are required, the plan will need to be amended.” [Page 1 of the Plan is attached to these Minutes]

Motion seconded by **Commissioner David Tea** and passed with **Commissioner Clark Davis** abstaining from the vote.

COMMON CONSENT - None

UNFINISHED BUSINESS

EGLI TWO-LOT SUBDIVISION LOCATED AT APPROXIMATELY 11926 WEST 8000 NORTH IN THE PENROSE AREA.

The petitions had originally come in with a one lot subdivision until realizing that there was an existing home that also needed to be subdivided off of the parcel; resulting in a two-lot subdivision. Staff recommended approval of the two-lot subdivision with the conditions for approval being met.

- ▶ Conditions, requirements and recommendations of culinary water provider. The petitioner/developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to recording of the subdivision.
- ▶ A letter verifying approval from the Health Department for the new wastewater treatment system.
- ▶ Approval from the County Fire Marshal and other emergency services.
- ▶ The developer is required to comply with all the requirements and recommendations of the county’s engineer.
- ▶ Letters of approval verifying service from gas, electric, and/or other utility providers.
- ▶ Rural road/road improvement agreement. **(lots front on 8000 North, Highway 102)**
- ▶ Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
- ▶ Financial guarantee for all required improvements not installed prior to recording of the subdivision.

MOTION: A Motion was made by **Commissioner Clark Davis** to grant Preliminary and Final approval for the Egli 2-Lot Subdivision based on the Conditions outlined by Staff (above). Motion was seconded by **Commissioner Richard Day** and passed unanimously.

KNUDSEN SUBDIVISION #2 (THREE LOTS) LOCATED AT APPROXIMATELY 5000 WEST 12000 NORTH IN THE TREMONTON AREA.

This petition received concept approval earlier and with the addition of the third lot now needs to have preliminary and final approval. The third lot is a flag lot and meets the requirements for approval with the stem of the flag 228.5 feet. Staff recommended approval based on the conditions listed.

- ▶ Conditions, requirements and recommendations of culinary water provider. The petitioner/developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to recording of the subdivision.
- ▶ A letter verifying approval from the Health Department for the new wastewater treatment system.
- ▶ Approval from the County Fire Marshal and other emergency services.
- ▶ The developer is required to comply with all the requirements and recommendations of the county's engineer.
- ▶ Letters of approval verifying service from gas, electric, and/or other utility providers.
- ▶ Rural road/road improvement agreement, if necessary. **(lots front on 12000 North)**
- ▶ Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
- ▶ Financial guarantee for all required improvements not installed prior to recording of the subdivision

MOTION: A Motion was made by **Commissioner Chad Munns** to grant Preliminary and Final approval for the Knudsen Subdivision #2 (Three Lots) based on the Conditions outlined by Staff (above). Motion was seconded by **Commissioner David Tea** and passed unanimously.

SHERMAN L. RICHINS SUBDIVISION PHASE II, FOUR LOTS, LOCATED AT APPROXIMATELY 15050 NORTH HIGHWAY 13 IN THE RIVERSIDE AREA.

This petition was before the Planning Commission for Preliminary and Final approval. The property is located in an area of the county that is currently un-zoned. Staff explained that curb, gutter and sidewalk are not required at this time. However, if the petitioner were to come in sometime in the future for additional lots, curb, gutter and sidewalk for the entire subdivision would be required. Staff recommended granting approval based on the petitioner meeting the conditions for approval.

- ▶ Conditions, requirements and recommendations of culinary water provider. The petitioner/developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to recording of the subdivision.
- ▶ A letter verifying approval from the Health Department for the new wastewater treatment system.
- ▶ Approval from the County Fire Marshal and other emergency services.
- ▶ The developer is required to comply with all the requirements and recommendations of

the county's engineer.

- ▶ Letters of approval verifying service from gas, electric, and/or other utility providers.
- ▶ Rural road/road improvement agreement, if necessary. (**Access to the subdivision is via Highway 13 and a new road 15050 North with a cul-de-sac will be constructed.**)
- ▶ Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
- ▶ Financial guarantee for all required improvements not installed prior to recording of the subdivision

MOTION: A Motion was made by **Commissioner David Tea** to grant **Preliminary and Final** approval to the Sherman Richins Subdivision Phase II based on the conditions outlined by Staff (above) and forward to the County Commission for their action. Motion seconded by **Commissioner Richard Day** and passed unanimously.

VALLEY COMMUNITY L.L.C. (PEGGY & BILLY CHADWELL), RE-ZONE APPLICATION FOR PROPERTY IN SECTION 25, T13N R14W FROM CURRENT MU-40 TO COMMERCIAL SHOPPING DISTRICT OR C-H HIGHWAY COMMERCIAL DISTRICT.

The original petition had been withdrawn as the location of this proposed convenience store and gas station had moved closer to the Rosette area. After some discussion on this item it was decided that since the location of the proposed commercial site was changed a new Public Hearing would need to be held at the March 20, 2008 meeting of the Planning Commission.

MOTION: A Motion was made by **Commissioner Clark Davis** to Table action on this petition until the March 20, 2008 meeting at which time a Public Hearing will be held. Motion was seconded by **Commissioner David Tea** and passed unanimously.

ROCK HILL TWO-LOT SUBDIVISION, CONDITIONAL USE PERMIT, LOCATED AT APPROXIMATELY 13600 NORTH 4400 WEST IN THE COLLINSTON AREA.

The petitioner was not present at this meeting to ask for some re-consideration to previous conditions placed on this permit; therefore, Staff recommended tabling this item. The Planning Commissioners felt that this issue had been discussed and reviewed several times and decided that no further action was warranted.

MOTION: A Motion was made by **Commissioner Richard Day** to not reconsider any of the conditions already set forth for this Conditional Use Permit and no further action will be taken on this petition in the future. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

WORKING REPORTS

Staff reported on the Fencing Ordinance and reported that he and the county attorney, Steve Hadfield, would be working on a draft of a possible ordinance for the Planning Commissioners to review. The time-line had been set for approximately three months out; however, **Commissioner Clark Davis** asked that a more specific time be set, possibly for the April Planning Commission meeting. **Commissioner David Tea** asked if it would be available for review before the April meeting. It was suggested that a

work session be scheduled for either April 1st or 8th, prior to the Planning Commission meeting.

PUBLIC COMMENTS

Mr. John Larkin asked if there was any more information that was available regarding the Fencing Ordinance. Staff was to furnish a copy of the current ordinance to Mr. Larkin. Once the new draft ordinance is available and reviewed by the Planning Commissioners there will be public meetings/hearings on this item.

Donna Kunz asked who was responsible for the fences along the freeway and if repairs were to be done who should be contacted. UDOT is responsible for those repairs and upkeep. Ms. Kunz was concerned that proper handling of some situations was not done. She and others, have had animals shot by some responding officers if they have gotten through breakages in the fences and did not feel that was an appropriate response to the situation.

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Commissioner Jon Thompson made a motion to adjourn the Planning Commission meeting at 8:09 p.m.

Passed and adopted in regular session this 20th day of March, 2008

Richard Kimber, Chairman
Box Elder County
Planning Commission