MINUTES
BOX ELDER COUNTY PLANNING COMMISSION
SEPTEMBER 17, 2009

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 Day	Chairman	*the following Staff was present*:	
Chad Munns	Vice-Chair		
Desiray Larsen	Member	Kevin Hamilton	Director
David Tea	Member	Elizabeth Ryan	Secretary
Jay Hardy	Member	Tamara Wright	Planner
Jay Christensen	Excused	Steve Hadfield	Co. Attorney
Laurie Munns	Member		

Chairman Richard Day called the Planning Commission meeting to order at 7:03 p.m. The Minutes of the August 20, 2009 meeting were made available to the Commissioners prior to this meeting and upon review Commissioner Desiray Larsen pointed out that the acronym referred to in the Riverside Farms Subdivision needed to be changed from HMO to HOA. A Motion was then made by Commissioner David Tea to accept the Minutes with the correction made; seconded by Commissioner Chad Munns and passed unanimously.

The following citizens were present:

Danny MacFarlane/Provo	Stephen Jenks/Brigham City
Derek & Zjani Julander/Brigham City	DeWayne Julander/Bear River City
David & Pam Hawkes/South Willard	Marc Jones/Brigham City
David Yates/Brigham City	Paul & Judy Madsen/Garland
Jeff Packer/Brigham City	Brian Rose/Willard

PUBLIC HEARINGS

Chairman Richard Day informed those present that this was the time set for the public hearings on the various petitions on the agenda. The Commissioners would listen to the comments and concerns, but this was not a questions/answer time. The Chairman then called for the hearing of the first petition.

TEXT AMENDMENT TO THE *LAND USE MANAGEMENT & DEVELOPMENT CODE* FOR BOX ELDER COUNTY. ARTICLE 6: ♦SUBDIVISIONS; TO CLARIFY AND UPDATE THE ORDINANCE TO MEET CURRENT DEVELOPMENT REQUIREMENTS AND UTAH STATE CODE REQUIREMENTS, IN PARTICULAR DEFINITIONS AND COUNTY ENGINEERED RECOMMENDED CHANGES.

Chairman Richard Day informed those present that this item was being Tabled for the Public Hearing as well as any action under new business at this time.

MOTION: A Motion was made Commissioner Laurie Munns to Table this item; seconded by Commissioner David Tea and passed unanimously.

LANCE EARL, CUP09-021, FOR TEMPORARY RESIDENCE OF PARK MODEL TRAILER LOCATED AT 2400 WEST HIGHWAY 30 IN THE COLLINSTON AREA OF BOX ELDER COUNTY.

Staff informed the Commissioners that Mr. Earl is requesting a CUP in order to locate a mobile home on property where he intends to build a home. The property is currently zoned MU-40 and the mobile home would only serve as temporary living quarters until the home was completed. No comments were received during the public hearing and a Motion was made by Commissioner David Tea to close the hearing, seconded by Commissioner Desiray Larsen and was unanimous.

RON L. ANDERSON RANCH 1-LOT SUBDIVISION, SS09-010, LOCATED AT APPROXIMATELY 495 NORTH STONE ROAD IN THE SNOWVILLE AREA OF BOX ELDER COUNTY.

Staff informed the Commissioners that this petition is for dividing a 2.11 acre lot with an existing home from the agricultural land located northeast of the Snowville area and is currently un-zoned. No comments were received during the Public Hearing and a Motion was made by Commissioner Laurie Munns to close the hearing, seconded by Commissioner David Tea and was unanimous.

MADSEN 2-LOT SUBDIVISION, SS09-011, LOCATED AT APPROXIMATELY 13125 NORTH EAST GARLAND ROAD OF BOX ELDER COUNTY.

Staff informed the Commissioners that this petitioner is requesting a 2-lot subdivision with Lot 1 consisting of 5.54 acres and Lot 2 6.185 acres. There is an existing home located on Lot 1 and a private drive will access Lot 2. The property is currently un-zoned and Lot 1 has frontage on East Garland Road. No comments were received during the Public Hearing and a Motion was made by Commissioner Desiray Larsen to close the hearing, seconded by Commissioner David Tea and was unanimous.

JOSEPH YATES 1-LOT SUBDIVISION, SS09-012, ONE LOT SUBDIVISION LOCATED AT APPROXIMATELY 3845 NORTH HIGHWAY 38 IN THE HARPER WARD AREA OF BOX ELDER COUNTY.

Staff informed the Commissioners that Mr. Yates has made a petition to divide a 5.5 acre lot with an existing home from property located in the Harper Ward area which is currently zoned RR-5. No comments were received during the Public Hearing and a Motion was made by Commissioner David Tea to close the hearing, seconded by Commissioner Desiray Larsen and was unanimous.

DAVID E. HAWKES, ENLARGEMENT OF HOME LOCATED AT APPROXIMATELY 860 WEST 7950 SOUTH IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. ENLARGEMENT AND EXPANSION OF NONCONFORMING STRUCTURE

Chairman Richard Day asked to be excused from participating on this item due to a possible conflict of interest and turned the chair over to Vice Chairman Chad Munns. Staff informed the Commissioners that Mr. Hawkes is requesting an expansion of his non-conforming home located in the South Willard area where zoning is currently R-1-20. This was an existing home within the Twin Falls Subdivision and does not meet the current setback requirements. Mr. Hawkes

approached the Commissioners and further explained this request stating that his wife is an LPN, and the existing home was purchased seven years ago from Bob and Ronda Davis under contract. The house was exiting before the subdivision was built around it and the road design was done by Hansen and Associates. He did not know why the road was designed the way that it was, as it would have been just as easy to design it in such a way that would have left this home conforming with the necessary frontage requirements. Mr. Hawkes is a surveyor and has worked on other subdivisions in the area and feels that this home could have easily been made to conform, but since it wasn't, he now has to deal with the twenty-four (24) foot front yard setback. He and his wife want to expand the home adding on a residential care facility and his architect has drawn the addition on to the existing home leaving a twenty (20) foot setback from the new addition. There is a garage on the back of the property, and Mr. Hawkes said that with the addition there would be twenty feet between it and the garage. No other comments were received during the Public Hearing and a Motion was made by Commissioner Laurie Munns to close the hearing, seconded by Commissioner David Tea and was unanimous with Chairman Richard Day excusing himself due to a possible conflict of interest.

UNFINISHED BUSINESS

VALLEY VIEW ESTATES (BRIAN ROSE), SS08-012, LOCATED AT APPROXIMATELY 7150 SOUTH HIGHWAY 89, IN THE SOUTH WILLARD AREA.

Staff explained that this petition received its Preliminary approval on July 16, 2009 instructing the petitioner to obtain new letters verifying the availability of utilities for this subdivision. Those letters have now been received and are in the file. The petitioner still needs to meet with the County Fire Marshall, County Road Department and County Engineer/Surveyor to discuss the grade of the road and the [required] temporary turn-a-round for this phase of the subdivision. Staff then recommended Final approval on this subdivision.

MOTION: A Motion was made by Commissioner Chad Munns to grant Final approval to the Valley View Estates Phase II with the conditions as outlined by Staff. Motion seconded by Commissioner Jay Hardy and passed unanimously.

Conditions for approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.
2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.
3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter**

specifying their recommendations and requirements have been met.

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

DEREK JULANDER SS09-009, LOCATED AT APPROXIMATELY 3085 WEST 4600 NORTH IN THE EAST CORINNE AREA OF BOX ELDER COUNTY, UT.

Staff explained to the Commissioners that at the August 20, 2009 meeting this petition was given concept approval with the condition that a new plat be obtained indicating that as this is a flag lot the stem is required to be thirty (30) feet wide and the length no more than 250 feet. Also the ordinance changing the zoning in this area from A-20 to RR-20 needed to be completed and adopted by the County Commission. A new plat has now been submitted and the County Commission adopted Ordinance 317 on September 1, 2009. Staff then recommended granting Preliminary and Final approval on this subdivision.

MOTION: A Motion was made by Commissioner Jay Hardy to grant Preliminary and Final approval to the Derek Julander one-lot subdivision subject to the conditions as outlined by Staff. Motion seconded by Commissioner Chad Munns and passed unanimously.

Conditions of Approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County

Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Rural road improvement agreement.

8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

COMMON CONSENT

1) RON L. ANDERSON RANCH 1-LOT SUBDIVISION, SS09-010; 2) MADSEN 2-LOT SUBDIVISION, SS09-011; 3) JOSEPH YATES 1-LOT SUBDIVISION, SS09-012

MOTION: A Motion was made by Commissioner Desiray Larsen to move these three items from the **Common Consent** to **New Business** in order for further discussion to take place. Motion seconded by Commissioner David Tea and passed unanimously.

NEW BUSINESS

RON L. ANDERSON RANCH 1-LOT SUBDIVISION, SS09-010, LOCATED AT APPROXIMATELY 495 NORTH STONE ROAD IN THE SNOWVILLE AREA OF BOX ELDER COUNTY.

This 2.11 acre lot is located in the Snowville area of unincorporated Box Elder County. There was some question as to the surveyed monument on this lot, but during the discussion Commissioner Chad Munns still felt that this petition could be granted concept/preliminary/final approval at this time as the action was for a one-lot subdivision regardless of the actual survey.

MOTION: A Motion was made by Commissioner Chad Munns to grant Concept, Preliminary, and Final approval to the Ron L. Anderson Ranch 1-Lot Subdivision subject to conditions as outlined by Staff. Motion seconded by Commissioner David Tea and passed unanimously.

Conditions for Approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the

requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Rural road improvement agreement.

8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

MADSEN 2-LOT SUBDIVISION, SS09-011, LOCATED AT APPROXIMATELY 13125 NORTH EAST GARLAND ROAD OF BOX ELDER COUNTY.

This petition is for a two-lot subdivision with lot one having an existing home located on the property. The second lot is located to the rear of lot one and there will be a private driveway [of approximately 1600 feet with an ingress/egress] to access the property. The property is located in an un-zoned area of the county and Staff recommended granting concept/preliminary/final approval at this time subject to Staff's recommendations.

MOTION: A Motion was made by Commissioner Desiray Larsen to grant Concept, Preliminary and Final approval with conditions as outlined by Staff. Motion seconded by Commissioner Laurie Munns and passed unanimously with Commissioner Chad Munns abstaining from the vote as he is a neighbor of the petitioner.

Conditions for Approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving

authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Rural road improvement agreement.

8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

JOSEPH YATES 1-LOT SUBDIVISION, SS09-012, ONE LOT SUBDIVISION LOCATED AT APPROXIMATELY 3845 NORTH HIGHWAY 38 IN THE HARPER WARD AREA OF BOX ELDER COUNTY.

This application is to divide off a 5.5 acre lot which has an existing home located on the property in the Harper Ward area of the County, currently zone RR-5. This property fronts on Highway 38 and UDOT has approved the existing access. Staff recommended granting Concept/Preliminary/Final approval at this time with the conditions as outlined.

MOTION: A Motion was made by Commissioner Chad Munns to grant Concept, Preliminary, and Final approval to the Joseph Yates l-Lot Subdivision with the conditions as outlined by Staff. Motion seconded by Commissioner David Tea and passed unanimously.

Conditions for Approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of

installing the required and recommended improvements has been approved by the County Commission.

2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

LANCE EARL, CUP09-021, FOR TEMPORARY RESIDENCE OF PARK MODEL TRAILER LOCATED AT 2400 WEST HIGHWAY 30 IN THE COLLINSTON AREA OF BOX ELDER COUNTY.

Staff read through the approval standards to be taken into consideration for approving this conditional use permit request for the location of a mobile home to be used as temporary living quarters while a home is being built on the property located in a MU-40 zone.

1. A conditional use permit may be issued only when the proposed conditional use is allowed by the zone where the conditional use will be located, or by another provision of this Code.
    a. Article 3-2-070-3 – allowed in the zone as approved by Planning Commission.
2. Conditions may be imposed as necessary to prevent or minimize adverse effects upon the character of the site, adjacent properties, surrounding neighborhoods, and other existing development; improvements in the vicinity of a conditional use, upon the County as a whole, or upon public facilities and services.
3. No conditional use permit shall be authorized unless the evidence presented establishes:
    a. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
        i. When the applicant has complied with Articles 3-6-050 and 3-6-060, then the proposed use will not be detrimental to the health, safety, or general welfare of persons.

b. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;

i. The proposed use slows downs the construction of the home.

c. The proposed use at the particular location is compatible with the intent function and policies established in the general plan, this Code and the particular zoning district in which the use is proposed.

i. When applicant meets all the conditions of approval, then the proposed use will be compatible with the general plan, this Code and the MU-40 zoning district.

4. The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements of this subsection can be met.
5. The following factors should be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
   a. The proposed use will comply with the regulations and conditions specific in this Code for such use.
   b. Conditions relating to safety of persons and property.
   c. Conditions relating to the compatibility of the use.

Commissioner David Tea asked for clarification on "continued construction." Staff said that would mean there was no [long] lapse in the construction of the home. A building permit is issued for a period of 180 days and if there has not been any inspection or continued improvement on moving forward with the home building, the permit would be expired. Commissioner Chad Munns then asked if the petitioner to come forward and discuss the concerns that they had in regards to this request. The Commissioner then asked Mr. Earl what his ultimate plans were concerning this mobile home as a temporary use is defined as two years and did the petitioner feel that would be adequate time to complete the building of his home. Mr. Earl said that they wanted to establish their residence at that location until they were able to begin the construction of the home. Commissioner David Tea asked about the size and dimensions of the proposed mobile home, but Mr. Earl said that he did not have the mobile home currently, at which time Commissioner Chad Munns asked if the petitioner was aware of the rules and regulations regarding what type of mobile home would be allowed as to age and size. Mr. Earl said that he was. Chairman Richard Day then asked if the two year time frame would be adequate for the building and competition of the home; and Mr. Earl said that it would be. Mr. Earl also said that he would probably take the wheels off of the mobile home and skirt around it, but it would not be on a permanent foundation as was Commissioner Jay Hardy's concern. Another major concern that the Commissioners had was what Mr. Earl planned to do with mobile home once his permanent home was completed. Staff's condition for approval was that all of the utility services to the mobile home be disconnected thirty (30) days after the occupancy was granted for the permanent dwelling. The Commissioner's concern was that it not be left on the property at all but removed. If was suggested by one of the commissioners that it could possibly be used as a shed, but that idea was not favorable to the majority. Also, Chairman Richard Day felt that the Planning Office needed to be notified once the mobile home was removed from the property. At the conclusion of the discussion the following motion was made.

MOTION: A Motion was made by Commissioner Jay Hardy to grant approval for the CUP request for Lance Earl's mobile home to be placed on the property where a residence is to be built for the period of two years with the conditions as outlined by Staff and that the mobile home is to be removed from the property once the permanent home is completed and occupied. Motion seconded by Commissioner Chad Munns and passed unanimously.

Conditions for Approval:

1. The single family dwelling must be constructed within 2 years of approval of this application.
2. Compliance with Article 2-2-100.
3. Compliance with Article 3-6-050 – Inspection and Special Regulation of Mobile Homes.
4. Compliance with Article 3-6-060 – Compliance with Other Regulations.
5. Compliance with the requirements and recommendations from Building/Fire Inspector letter dated 9/8/2009.
6. Continued Construction of the permanent residence shall not be suspended or abandoned for a period of 180 days.
7. Verification the resident of the park model home is the owner who is building the home.
8. Thirty (30) days after occupancy is granted for the permanent dwelling, proof that all services are disconnected and the mobile home was removed from the property shall be submitted to the Planning and Zoning Office.

DAVID E. HAWKES, ENLARGEMENT OF HOME LOCATED AT APPROXIMATELY 860 WEST 7950 SOUTH IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. ENLARGEMENT AND EXPANSION OF NONCONFORMING STRUCTURE

Chairman Richard Day asked to be excused from participating in this discussion and action due to a possible conflict of interest. Chairman Day then turned this item over to Vice Chairman Chad Munns. Staff explained that this request by David Hawkes is to expand his legal non-conforming home located in the R-1-20 zone in the South Willard area. The home currently has a twenty-four (24) foot front yard setback and the expansion of the home, if built to the current architectural lines, would reduce that setback to twenty (20) feet, thus making it more non-conforming. The expansion is for a residential care facility which is allowed by conditional use permit in this zone and would need to be petitioned for under a separate application. Staff stated the definition for a non-complying structure as: a) *"a structure that legally existed before its current land use designation; and b) a structure that because of one or more subsequent land use ordinance changes, the structure does not conform to the setback, height restrictions, or other regulations excluding those regulations that govern the use of land."* Staff continued with the approval standards as stated in **Article 2-3-060. Non-Complying Structure** from the ***Box Elder Land Use Management & Development Code*** as follows:

A - Continuation: A non-complying structure may be continued so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as permitted by this section or as may be required by law. If a non-complying structure is removed from the lot where it was located, each future non-complying structure on such lot shall conform to the provisions of this Code.

C - Enlargement and Expansion: Any expansion or enlargement of a non-complying structure that increases the degree of nonconformance is prohibited except as provided in this subsection.

1. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the Zoning Administrator.
2. A structure which is non-conforming as to height, area, or yard requirements may be enlarged upon authorization by the Planning Commission, where the Commission, after notice and a hearing, finds the enlargement to be compatible with adjoining property and not detrimental to the community, as determined by the effect of the enlargement on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services.

The Commissioners asked the petitioner to talk with them regarding their concerns with reducing the existing setback on this extension. Commissioner David Tea asked if it would be possible to move the addition back two-three feet so that it would be in line with the existing structure. Mr. Hawkes said that there is a garage on the property and he would like to keep the addition twenty feet from that structure. Mr. Hawkes also said that he had spoken with his architect and would be able to move the house back two feet. Concerning the issue expressed by the Commissioners that reducing the setback for this petition would be setting a precedence for the area, Mr. Hawkes said that there are other homes (new homes) in the area, in the Nerva Lane Subdivision in particular that do not meet the required thirty (30) foot setback. He felt that the addition onto his home would add to the value of it as well as those in the neighborhood. Commissioner Chad Munns said that he could understand where Mr. Hawks was coming from regarding the new homes not meeting the requirements, but the issue was that of now making his home more non-conforming according to the ***Code.*** Therefore it would need to stay at the twenty-three setback location (shown as the northeast corner of the existing home). Mr. Hawkes said that he could probably work with his architect and move the expansion back meeting the required two and a half feet, thus keeping in line with the twenty-three foot mark. Commissioner Chad Munns then said that would be favorable with the Commission and would keep in line with the requirements of the ***Code***.

MOTION: A Motion was made by Commissioner David Tea to approve the enlargement of the David Hawkes [existing] home with the conditions as outlined by Staff and that the enlargement does not make the property more non-conforming that it is currently at the twenty-three foot setback on the front property; therefore meeting the regulations of the ***Box Elder County Land Use Management & Development Code***. Motion was seconded by Commissioner Laurie Munns and passed with Chairman Richard Day abstaining from the vote.

Conditions of Approval:

1. The front yard setback shall not be less than the 23.11' setback indicated on the Site Plan submitted to the Planning and Zoning office.

WORKING REPORTS

For a brief period the Commissioners discussed the issue brought up by Mr. Hawkes in regards to some of the newer homes in the area that do not meet the setback requirements. Their concerns were who reviews the setbacks on a building site and who is to enforce them. Staff said that they sign off on the building permits but they did not have the expertise or authority to make sure that the setback requirements are followed. That would probably be for the surveyor when laying out the location of the home to be built or the building inspectors.

Tamara Wright said that she had spoken with Thomas Furman regarding his coming in to address the Commissioners about the wind turbine that he recently put on his property, but she had not heard back from him yet. Also a work session needed to be scheduled for October and the date of October 6, 2009 at 6:00 p.m. was agreed upon. Chairman Richard Day asked about the progress on **Article 6**, but *Ms. Wright* said that there is still some reviews that need to be completed by the County Attorney and until that is done this item would not be place on the agenda.

Kevin Hamilton informed the Commissioners that BRAG has drafted a County Pre-Disaster Plan and will need to be adopted [as part of the County's General Plan] by the County and each of the individual towns within the County in order for any FEMA monies to be distributed in case of a

disaster. *Mr. Hamilton* said that once it is adopted (by March 1, 2010) then it could be worked on through ordinances to meet the needs of Box Elder County. *Mr. Hamilton* said that he would try and get a draft copy to each of the Commissioners within in the next week.

PUBLIC COMMENTS – NONE

A **Motion** was made by Commissioner Chad Munns to adjourn at 8:22 p.m., unanimous.

Passed and adopted in regular session this 15th day of October 2009.

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Richard Day, Chairman
Box Elder County
Planning Commission