

# MINUTES

## BOX ELDER COUNTY PLANNING COMMISSION

### MARCH 19, 2009

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

|                 |               |   |                     |
|-----------------|---------------|---|---------------------|
| Richard Day     | Chairman      | <i>the following Staff was present:</i> |                     |
| Chad Munns      | Vice Chairman |   |                     |
| Richard Kimber  | Member        | Kevin Hamilton                          | Planner             |
| David Tea       | Excused       | Elizabeth Ryan                          | Secretary           |
| Jay Hardy       | Excused       | Tamara Wright                           | Excused             |
| Jon Thompson    | Member        | Steve Hadfield                          | Co. Attorney        |
| Theron Eberhard | Member        |   | (arrived 8:12 p.m.) |

**Chairman Richard Day** called the Planning Commission meeting to order at 7:11 p.m. The Minutes of the February 19, 2009 meeting were made available to the Commissioners prior to this meeting and upon review, **Commissioner Theron Eberhard** made a Motion to accept the Minutes as written; seconded by **Commissioner Richard Kimber** and passed unanimously.

The following citizens were present:

|                               |                             |
|-------------------------------|-----------------------------|
| Jeff VanderVeen/Draper        | Bob & Ronda Davis/Willard   |
| Kevin Heil/Willard            | Dave Richards/Tremonton     |
| Edward Bowen/Collinston       | Jennifer Steward/Tremonton  |
| George P. Welsh, JR/Snowville | Keith Heil/Willard          |
| Taylor Anderson/Willard       | Jerry Anderson/Plain City   |
| Brandy Fowler/Bear River      | George Welsh, III/Snowville |
| Rod Herrick/Ogden             |                             |

### **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, and called for the hearing of the first petition.

### **ROAD VACATE, LOCATED AT APPROXIMATELY 15200 NORTH 400 WEST IN THE COLLINSTON/BEAVER DAM AREA**

This portion of road being considered for vacating is not developed and is in accordance with section 17-27-808 of the Utah State Code and the Box Elder County Land Use Management & Development Code. Box Elder County has petitioned to have this road vacated and there are four abutting property owners in the location of this road; they have been notified of this petition. Public hearing was opened for discussion and Edward Bowen addressed the Commission stating that the northeast side of his field was taken to square up HWY 30 last summer when this road was improved creating a safer drive into Cache County. The public hearing was closed with a Motion by **Commissioner Theron Eberhard**, seconded by **Commissioner Chad Munns** and was unanimous.

**DAVID C. RICHARDS, CUP09-004 (PRIVATE STREET) LOCATED AT APPROXIMATELY 16295 NORTH BEAVER DAM ROAD.**

Staff informed the Commissioners that the petitioner had applied for a single family dwelling on his property that would be accessed by a private road/street. The proposed lot does not have the required 250 feet of frontage on a county road in the RR-2 zone; however a private street can be approved by the Planning Commission as a conditional use permit. This private street also provides access to two other landowners, Jason Howard and Daniel Richards. This access road is currently a gravel road and may need to be upgraded to meet the 20-ton load requirements to handle an emergency vehicle. The public hearing was opened and David Richards informed the commission that he has put in about \$1800 worth of gravel on this road and asked about the letter from the county engineer which specifies how the road needs to be built up to meet the county standards. Staff said those requirements would be covered during the approval process of the petition later in this meeting. The hearing was then closed with a Motion by Commissioner Richard Kimber, seconded by Commissioner Theron Eberhard and passed unanimous.

**MEDIA FLO/AMERICAN TOWERS, CUP09-005, EXTENSION TO EXISTING TOWER LOCATED NORTHWEST OF PLEASANT VIEW ON THE BOX ELDER/WEBER COUNTY LINE.**

Staff explained that this petition is for an extension on a current media tower located on the Box Elder/Weber County line. The property is located in the MU-160 zone and is a conditional use in that zone. The current tower is 75 feet and the petitioner is requesting a 25 foot extension. Jeff VanderVeen, representing the petitioner was at the public hearing. No comments were received and the hearing was closed with a Motion by Commissioner Chad Munns, seconded by Commissioner Jon Thompson and was unanimous.

**KEVIN R. HEIL, CONDITIONAL USE PERMIT, CUP09-006 FOR AGRICULTURAL PURPOSES, LOCATED AT APPROXIMATELY 7115 SOUTH HWY 89 IN THE SOUTH WILLARD AREA.**

This petitioner has requested a change in the use of his lot from residential to agricultural and the change would require a conditional use permit. Staff explained that Mr. Heil would like to build a Cleary building (53 X 68 feet) and also have a garden area of approximately 45 X 30 feet. Staff further explained that this use is allowed in the R-1-20 zone; however the side setback would need to comply with the zone requirements for that area. There is currently an old wood shed and mobile home on this lot and they would be removed. The public hearing was opened and Keith Heil (brother) stated that he feels this would improve the area and would not be much different than the current development occurring in the surrounding area(s). This would clean-up the lot and make it more appealing. The hearing was then closed with a Motion by Commissioner Theron Eberhard, seconded by Commissioner Chad Munns and was unanimous.

**BERVA THURSTON SUBDIVISION #3, SS09-002, ONE-LOT SUBDIVISION LOCATED AT APPROXIMATELY 4400 WEST 14400 NORTH IN THE RIVERSIDE AREA.**

The petitioner was requesting concept/preliminary/final approval for this one-lot subdivision of .72 of an acre located in the un-zoned area of the County. This subdivision would create a flag lot and would have access from 4400 West. The subdivision falls within the guidelines of a small subdivision and the petition has received all of the letters verifying utilities. No comments were

received and a Motion was made by **Commissioner Richard Kimber** to close the hearing, seconded by **Commissioner Chad Munns** and was unanimous.

**CHANGES TO ARTICLE 5: REGULATIONS OF GENERAL APPLICABILITY – DESIGN REQUIREMENTS FOR A COUNTY ROAD IN A RURAL AREA.**

Staff referred to a letter received from the County Engineer, Brent Slater. The Planning office has determined there is a need to address the county (rural) road standards at this time. When a petitioner applies for a building permit and the property is found to be a legal lot in an unincorporated area of the County, the current Code requires the lot to have frontage on a county road or on a private road/street approved by the Planning Commission before a building permit may be issued. The fire code actually has more stringent requirements that need to be included in the Code and the staff of the Planning Office has met with Stephen Hadfield, Bill Gilson, Andre Pommier, Donnie Tarver and Brent Slater to review those standards. (A copy of the letter from Jones & Associates is included with the official minutes.) Tom Thurston asked about the road width of 20 feet and was told that any road would need to be built to that width for the travel surface with the entire right-of-way being 30 feet. The hearing was then closed with a Motion by **Commissioner Jon Thompson**, seconded by **Commissioner Richard Kimber** and was unanimous.

**UNFINISHED BUSINESS**

The County Attorney, Steve Hadfield had requested to be present for this item on the unfinished business; **Anderson Livestock Auction, CUP09-003**, and was not available at this time; therefore a Motion was made by **Commissioner Richard Kimber** to move this agenda item for discussion until the new business had been dealt with and the County Attorney was present. Motion seconded by **Commissioner Chad Munns** and was unanimous.

**NEW BUSINESS**

**ADMINISTRATIVE INTERPRETATION, SS09-001, GEORGE P. WELSH, LOCATED IN THE SNOWVILLE AREA.**

Staff informed the Commissioners that Mr. Welsh had applied for a permit to allow the placement of a recreational vehicle as a permanent dwelling on his parcel (08-007-0015) in the Snowville area. Staff had determined that this is not an allowed use, as recreational vehicles are not designed for permanent use, but only for temporary and recreational uses and in designated camping or recreational coach park areas (as per Article 3-6-030B). ***“Recreational coaches which do not include facilities necessary to be mobile homes as defined in this Code, shall not be used at any place within the established boundaries of the County, at any time, for living quarters except in designated camping areas or recreational coach parks.”*** The petitioners then addressed the Commissioners regarding this request and asked that if they were not allowed to live on this parcel could they still be approved for a utility line to provide electrical service to this parcel as they have a storage trailer that houses food (storage) items. They would continue to live in the recreational park across the road from this parcel. There seemed to be some question as to the actual request that the petitioners were making, therefore, **Commissioner Richard Kimber** suggested that this request be Tabled until the petitioners were able to meet with the County Planner in regards to the actual need of a conditional use permit.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to concur with Staff's recommendation on the interpretation of this request in the denial of a recreational vehicle as a dwelling within the boundaries of the County, except in designated areas, and that the petitioners continue to work with the County Planner regarding the request of electrical service to their parcel. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

**ROAD VACATE, LOCATED AT APPROXIMATELY 15200 NORTH 400 WEST IN THE COLLINSTON/BEAVER DAM AREA.**

As this item was discussed earlier during the public hearing, the following motion was made.

**MOTION:** A Motion was made by **Commissioner Richard Kimber** to concur with the recommendation of the Planning Staff and recommend to the County Commissioners that this proposed road vacation located at approximately 15200 North 400 West in the Collinston/Beaver Dam area be scheduled for a Public Hearing at the County Commission level and considered for approval. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

**CONDITIONAL USE PERMIT, CUP09-004, DAVID C. RICHARDS, APPROVAL FOR A PRIVATE STREET TO ACCESS PROPERTY LOCATED AT APPROXIMATELY 16295 NORTH BEAVER DAM ROAD.**

Staff explained that the conditions needed in order for this CUP to be approved included improving the road to a 30 foot right-of-way (having a 20 foot travel surface) with five foot drainage swales on each side. Also an approved 50 foot radius turn-around for emergency vehicle access with a permanent sign at the entrance off of the county road to the private road/street to identify all of the dwellings accessed by this private road, along with other conditions as outlined. Staff then recommended approval for the CUP private street access to the David C. Richards property. **Commissioner Theron Eberhard** asked if this CUP was contingent on the improvements to the road as outlined by the fire code. Staff answered that was the case.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to grant approval to the David C. Richards Conditional Use Permit for a private road/street to access their property. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

**Conditions of Approval:**

1. The private lane would need improved to 30' wide which includes a 20' wide pit run and road base surface, with 5' drainage swales on each side.
2. An approved 50' radius turnaround must be provided for emergency vehicle access.
3. A permanent sign located at the entrance from the County Road is also required to identify all the dwellings that are served by the access road.
4. The approach across the bridge to the County Road needs to have tree limbs cut out for clear intersecting views. Height clearance no less than 16 feet and the view of oncoming traffic using the county Road must be improved.
5. A right of ingress and egress easement will need to be obtained from Daniel Richards and Recorded in the Recorder's Office.
6. Financial guarantee for all required improvements not installed prior to the issuance of a building permit.

7. Compliance with all requirements set forth by County Engineer, Fire Marshall, Building Official, and Road Department.

**CONDITIONAL USE PERMIT, CUP09-004, MEDIA FLO/AMERICAN TOWER, LOCATED NORTHWEST OF PLEASANT VIEW ON THE BOX ELDER/WEBER COUNTY LINE.**

Staff explained that this [75'] tower may be erected above the height limits as set forth in Article 5-1-120. The tower will not exceed 100 feet. Verification from the designer needs to be submitted stating that the current tower design will accommodate the additional 25 feet. Commissioner Theron Eberhard asked if there was an antenna on this tower, and Jeff VanderVeen representing the petitioners said that there is an antenna but it is mounted as to not exceed the 100 foot maximum height.

**MOTION:** A Motion was made by Commissioner Richard Kimber to grant the Conditional Use Permit for the extension of this media tower. Motion seconded by Commissioner Theron Eberhard and passed unanimously.

**Conditions of Approval:**

1. Tower height shall not exceed 100'.
2. A set of stamped Engineered Plans showing the proposed height increase will not exceed 100'.
3. Any changes to the site plan dated 01-06-09 will require an amendment to the Conditional Use Permit.

**CONDITIONAL USE PERMIT, CUP09-006, KEVIN R. HEIL LOCATED AT APPROXIMATELY 7115 SOUTH HWY 89 IN THE SOUTH WILLARD AREA.**

The petitioner was requesting a use change to his property from the current residential to an agricultural use. He would like to place a Cleary building with a garden area on this lot that currently has an old mobile home and wood shed. Staff outlined the conditions necessary for approval of this petition;

- 1) must comply with all requirements for R-1-20 zone,
- 2) entire site must be developed at one time,
- 3) the uses are for agricultural storage and a garden area,
- 4) if the lot becomes a residential, the Cleary building would become the accessory building, and
- 5) compliance with letter from fire dept, building, and other county officials must be met.

After these conditions were outlined, Kevin Hamilton addressed the Commissioners stating that this petition is two-fold and the Planning Commission would need to 1) make an administrative interpretation as to whether or not this petition fits as a conditional use; an accessory to the conditional use of agriculture (as agriculture in this zone is a conditional use) and any buildings would only be allowed as an accessory to that agricultural [conditional] use. Therefore, if the Commissioners were to determine that this building was not an accessory to that agricultural use, then 2) the next question in approving this conditional use permit would probably be a moot point. Commissioner Richard Kimber then asked what exacting was the agricultural use. Kevin Heil, the petitioner, told the Planning Commissioners that currently there are some fruit trees on the property and his intention was to have a community garden area for his extended family. The use of the building would be for the storage of a personal vehicle, equipment, etc.; and that it was not his intent

to make money with the agricultural use of the land. Currently the property is not being maintained and is not looking very good and this use would help to clean it up and become productive and also act as a buffer between the commercial use west of it and Highway 89. Mr. Heil had also submitted a site plan for this building and wanted to discuss the setback requirements with the Commissioners. He would like to have this building considered as the secondary building and be able to meet those setback requirements instead of the requirements for the main building. **Commissioner Theron Eberhard** stated that in reviewing the Code, the specific uses for agricultural use in the R-1-20 zone were 1) to grant a conditional use for agriculture it would include grazing, pasturing of animals, tilling of soil, raising of crops, horticulture and gardening (3-7-070-4.1), and 2) the accessory uses outlined in 3-7-070-1.0 thru 3-7-070-1.5, which included permitted and conditional uses of buildings. Staff further explained that the request for the reduction in the setback requirements would also be a conditional use. **Commissioner Richard Kimber** then asked about the size of the building and it was concluded that the building would cover approximately 11% of the property. **Commissioner Kimber** then said that he felt the size of the building was excessive to be considered as an accessory building to a garden plot. Mr. Heil went on to explain that this lot is separated from his residential lot by property owned by his brother. Mr. Heil said that he has no intention of living on this lot in the future, but would like to clean it up and use it for his garden and Cleary building; the only connection this lot has to his residential lot is the private right-of-way that connects them through access. Mr. Heil's source of water for this garden area would be via the two culinary water sources that he has. The petitioner, staff and Planning Commissioner continued to discuss this application and it was determined that the request did not meet the current standards as set forth in the Code. (As determined by Staff, this application was cancelled and a refund in the amount of \$375.00 for the application fee would be processed.)

**MOTION:** A Motion was made by **Commissioner Jon Thompson** that this petition did not meet the current standards for agricultural use (of the building) of the Box Elder County Land Use Management & Development Code (as an administrative interpretation), and therefore, the application was denied. Motion seconded by **Commissioner Theron Eberhard** and passed unanimously.

**BERVA THURSTON SUBDIVISION #3, SS09-002, ONE-LOT SUBDIVISION LOCATED AT APPROXIMATELY 4400 WEST 14400 NORTH IN THE RIVERSIDE AREA.**

Staff recommended concept/preliminary/final approval of this petition with the conditions outlined by staff. **Commissioner Theron Eberhard** asked for clarification regarding the classification of this lot being a "flag lot," and Staff explained that it meets the requirements (the stem being less than 250') and that any necessary improvements for this road are reviewed with the petitioners so that it meets the requirements of the county engineer.

**MOTION:** A Motion was made by **Commissioner Richard Kimber** to grant concept/preliminary/final approval to the Berva Thurston Subdivision with 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.

**CHANGES TO ARTICLE 5: REGULATIONS OF GENERAL APPLICABILITY – DESIGN REQUIREMENTS FOR A COUNTY ROAD IN A RURAL AREA.**

After some discussion between the Planning Commissioners and the Planning Staff it was decided to Table action on this item until the full text of the changes were available for review.

**MOTION:** A Motion was made by **Commissioner Richard Kimber** to Table approval to Changes to Article 5 of the Land Use Code until the language of the proposed ordinance was available for the Planning Commissioners to review for approval. Seconded by **Commissioner Jon Thompson** and passed unanimously.

**EXTENSION REQUEST FROM J. ALTON VEIBELL REGARDING THE HIGH COUNTRY ESTATES SUBDIVISION.**

Kevin Hamilton told the Commissioners that Mr. Alton Veibell had asked for an additional extension on the High Country Estates Subdivision due to the current economic conditions. Mr. Veibell has had several problems with this subdivision over the several years and asked the Planning Commission for an extension in August 2008, at which time a six month extension was given. Mr. Hamilton said that the original extension given in August [2008] could be amended to grant a one year extension which would expire in September 2009. If the subdivision was not completed by that [extended] deadline and the plat recorded, Mr. Veibell would need to reapply for the subdivision to be approved under the current Code. **Commissioner Jon Thompson** asked Mr. Veibell what needed to be completed in this subdivision and was informed that most of the water lines are in place and that the roads still needed to be completed with the blacktop surfacing and he, Mr. Veibell, was hopeful that the economy would improve and funding could be secured to complete the work by deadline in the fall.

**MOTION:** A Motion was made by **Commissioner Richard Kimber** to grant the amendment of the original extension to the maximum of the one year, expiring in September 2009. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

**REVIEW FOR COMPLIANCE WITH COUNTY POLICY REGARDING THE DISPOSAL OF SURPLUS REAL PROPERTY: LEASE OF COUNTY PROPERTY TO U.S. PIPELINE.**

Kevin Hamilton explained to the Planning Commissioners that they were the recommending body in regards to disposal of surplus property (or in this case, the lease of county property). U.S. Pipeline has requested leasing approximately 20 acres south of the Bear River area on Highway 13. This lease would be for a temporary use and is allowed for up to a two year period as a conditional use permit. The Planning Commission needs to make a determination that this CUP conforms to the General Plan of the County. Mr. Hamilton then stated that the Commission needed to include the following in their findings.

**The language of the lease agreement includes:**

- ❑ the lease of the property is subject to conditional use approval
- ❑ that the approval of the CUP conforms to the County’s General Plan
- ❑ the lease does not waive any other County ordinances, nor
- ❑ waive the obtaining of the Conditional Use Permit

U.S. Pipeline will be working with Ruby Pipeline and is looking to lease this property for approximately one year for the purpose of having a central location for a staging area and construction management area along the route. Ruby Pipeline still has to come to the County and apply for a General Plan amendment and receive a conditional use approval for that pipeline and in addition will need a CUP for the site as a temporary use. Commissioner Richard Kimber then asked if the county attorney had reviewed this request, but Mr. Hamilton did not think he had had that opportunity as of yet. After some further discussion the following motion was made.

**MOTION:** A Motion was made by Commissioner Chad Munns to have the County continue the negotiations with U.S. Pipeline regarding the lease of the property and that the lease be reviewed by the county attorney; motion seconded by Commissioner Jon Thompson and passed unanimously.

A ten minutes break was taken at this time in the meeting by a motion from Commissioner Richard Kimber, seconded by Commissioner Jon Thompson, unanimous. (8:12 p.m.)

Meeting was called to order by Chairman Richard Day at 8:21 p.m. with Steve Hadfield, the county attorney present.

## **UNFINISHED BUSINESS**

### **ANDERSON LIVESTOCK AUCTION BARN, CUP09-003, LOCATED AT APPROXIMATELY 1151 WEST 7800 SOUTH IN THE SOUTH WILLARD AREA.**

Mr. Anderson had made application for a CUP for this auction barn located in the South Willard area in the A-20 zone. The original (2007) CUP had expired by terms and Staff informed the Commissioners that a letter had been received from a citizen voicing concerns that the conditions of the original permit had never been met. (A copy of the letter is attached to the official minutes) This citizen had also requested that the auction barn be shut down until the new conditional use permit was issued. Mr. Anderson said that the conditions in the original permit were vague and many times he was not sure what was being required for compliance. Staff then reviewed the findings regarding this CUP request.

- a. All buildings on site need to be constructed of non-combustible materials to reduce the threat of fire as deemed by the building department. That also satisfied the requirement for a fire hydrant and was approved when they were granted the building permit and occupancy.
- b. Terry Menlove with the Department of Agriculture and Food has indicated at this time there are no state or federal requirements for a remediation plan – dealing with sick/deceased animals, as currently there is not a state/federal law dealing with that issue.
- c. Anderson Livestock is current with all of the state and federal inspections as of March 18, 2009 and a copy is in the file.
- d. Staff is waiting for compliance information from [William Atkin] Department of Natural Resources. Staff had spoken with Mr. Atkin and was informed that this information could be a few months out as he has recommended approval to the state engineer and does not know when the recommendation would be received;

therefore he [Mr. Atkin] is not in a position to give the compliance letter at this point.

- e. Harry Campbell, from the Department of Environmental Quality has been contacted regarding any ground water contamination; however at this point the planning staff is playing phone tag and has not been able to speak with him directly.
- f. The licenses from the Department of Agriculture & Food expired 12/31/2008; however Staff had spoken with that agency and learned that all of the licenses have been renewed, and once the petitioner receives them they will be furnished to the Planning Office to obtain copies for the file.

During this review process, Staff indicated that there are still some unanswered questions regarding this permit which include:

- i. The Planning Commission needs to determine whether this use is clearly defined and allowed under the Agricultural Industry of the Code.
- ii. The Planning Commission should discuss the appropriate hours of operation along with parking accommodation. Staff had contacted five other livestock auctions within the state and most allow about two acres for parking.
- iii. A determination needs to be made to separate the public parking from the loading trailers and have it indicated on the site plan.
- iv. Does JUB Engineers for South Willard need to review the site plan in regards to flood control?
- v. The two roads that access this property at 1500 West and 7800 South. Should the traffic congestion and impact on these roads be discussed, and to what extent do these road need to be improved?

This business is located in the A-20 zone and agricultural industry is a conditional use in that zone. The definition in 1-3-040 states: ***“Agricultural Industry (Agricultural Business): An industry or business involving agricultural products in packaging, treatment, sales, intensive feeding or storage. Typical uses include animal feed yards, fur farms, commercial milk production, food-packaging or processing plants, and commercial poultry or egg production, commercial greenhouses, and similar uses as determined by the Planning Commission.”*** Staff has interpreted that because Mr. Anderson is selling an agricultural product, which is livestock and other items directly related to the sale of livestock, it does fall within the agricultural industry definition. Mr. Anderson had provided a list of proposed items that he would like to be considered for sale at the auction which include, 1) cattle, goat, sheep, horses, pig, livestock etc.; 2) tack items, saddles, consigned items; 3) possible farm machinery in the future (however, Staff was not able to find where this would be an allowed use at this site and in discussing with the other auctions within the state, it was found that none sell farm machinery); two of the five spoken with do sell consignment items. Mr. Anderson also had some other businesses that are operating at this time including, Country Stitching/Embroidery, and Anderson Brother’s & Taylor Gate Sales, which include water troughs, panels and fencing items. Mr. Anderson also has someone that is separate from the Anderson Livestock provide café services during the auction times. Staff had found that agricultural industry does not allow for any retail sales; therefore any items sold where sales tax is required to be collected are not an allowed use in this zone.

A question was asked about the water permit for this facility and Staff stated that the well water permit is for livestock and culinary use, as per William Atkin. A citizen indicated that they felt this operation was a commercial business and not part of an agricultural business. Also the auction needed to have a state permit for a public auction and that the conditions set for this site didn’t meet

the zone requirements. In addition this citizen did not feel that the current well permit was adequate for this operation and said that he could furnish a copy of the permit to the Commissioners the next day. However, again Staff stated that as per the definition in the Code it was determined that this use did fit an agricultural industry use. **Commissioner Chad Munns** concurred that he felt the use met the definition of the Code language. Staff further stated that Mr. Anderson is in the process of applying for a new well water permit that will include adequate water for ten head of livestock and the culinary uses, thus replacing the older permit that had been referred to by the citizen. Another concern that had been brought to the Planning office dealt with the fire protection for this facility and Staff found that the South Willard Water Company would provide fire protection to the best of its ability and there is a fire hydrant located at 1075 West 7800 South. Letters had been received from the County Engineer, Brent Slater, concerning pavement of the road (7800 West) and the need for barrow ditches to catch the water run-off from the public road. Also the landscaping was discussed along 7800 South adjacent to the auction building. The citizen was concerned about the trash generated from the auction that blows over to his rental property and those attending the auction parking along 7800 South in front of this rental property. However, it was determined that any restrictions regarding parking along this road would have to be enforced by the sheriff's department and any placement of no parking signs would [possibly] have to come through the road department. Other requirements from the County Engineer were briefly discussed, but would be dealt with when the Conditional Use Permit was given and the conditions were outlined. At the conclusion of the discussions, Staff recommended tabling this item until the compliance letters and licenses had been received by the petitioner. Also, Kevin Hamilton said that even though the original CUP had expired, the process to stop this operation had not begun as it had been determined that this was an allowed use in the A-20 zone and the petitioner (and County Planner) had been working toward securing the required documentation for this operation.

**MOTION:** A Motion was made by **Commissioner Richard Kimber** to Table this application for the Conditional Use Permit for the Anderson Livestock Auction Barn for thirty (30) days allowing time for Staff to work toward securing 1) the compliance information from [William Atkin] Department of Natural Resources; 2) information from Harry Campbell, from the Department of Environmental Quality regarding ground water contamination; and 3) the new license from the Department of Agriculture & Food being brought into the Planning Office by the petitioner for verification. (Staff again said that it has been frustrating working with some of these agencies and trying to get them to commit to a deadline for receiving these letters.) The Motion was then seconded by **Commissioner Chad Munns** and passed unanimously.

The Planning Commission was adjourned at 9:14 p.m. to proceed into a closed session.

## **WORKING REPORTS**

The Planning Commissioners discussed possible replacements (candidates) of the three vacancies occurring on the Planning Commission during the closed session.

The closed session was ended with a Motion by **Commissioner Chad Munns** and seconded by **Commissioner Richard Kimber** at 9:53 p.m.

## **PUBLIC COMMENTS – NONE**

At the conclusion of the closed discussion and after reconvening the open meeting, **Chairman Richard Day** expressed thanks to the three members of the Planning Commission that had asked to give up their seat on this Commission. They included, **Commissioners Richard Kimber, Jon Thompson** and **Theron Eberhard**. **Chairman Day** thanked them for their timeless work in serving on the Box Elder Planning Commission for the past [many] years (between 10 to 26 years of volunteer service).

**Commissioner Theron Eberhard** then made a motion to adjourn the Planning Commission meeting at 9:54 p.m.

Passed and adopted in regular session this 16th day of April 2009.

---

Richard Day, Chairman  
Box Elder County  
Planning Commission