

COMMON CONSENT

REESE WIRICK CONDITIONAL USE PERMIT FOR HOME OCCUPATION, CUP 07-004

Staff explained that this home occupation is in the South Willard area and the nature of the business requires a Conditional Use Permit for home occupations in the R-1-20 zone. There will be no visiting clients to the location of the business; the petitioner is a tile setter and is the sole employee. Also no heavy equipment will be located at the site.

MOTION: A Motion was made by **Commissioner Clark Davis** to grant the approval of the Conditional Use Permit for the home occupation of Reese Wirick located in South Willard and the issuing of the business license pertaining to this permit. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

PUBLIC HEARINGS

CASTAGNO ONE-LOT SUBDIVISION, APPLICATION SS06-014

Staff explained that this one-lot subdivision is located southwest of Snowville in an un-zoned area of the County and the petitioner has submitted proof of all utilities. There were no comments made during the Public Hearing on this subdivision and a Motion was made by **Commissioner Clark Davis** to close the hearing, seconded by **Commissioner David Tea**; passed unanimously.

ROCKET ROAD THREE-LOT SUBDIVISION (SAM HANSEN), APPLICATION SS07- 003

Staff explained that the petitioner is requesting approval for this three-lot subdivision located in an area of the County that is currently un-zoned and the lots range in size from 0.57 to 0.67 acre. There were no comments made during the Public Hearing on this subdivision and a Motion was made by **Commissioner Clark Davis** to close the hearing, seconded by **Commissioner David Tea**; passed unanimously.

FERRIN SORENSEN ONE-LOT SUBDIVISION, APPLICATION SS07-004

Staff explained that this petitioner is requesting this one-lot split of 0.86 acre located at approximately 13600 North 4400 West in an un-zoned area of the County. There is a home currently located on the lot that is to be split and there will be two remainder parcels created by this action. [Mr. Sorensen] wants to sell the farm without the property where the house is located. There were no comments made during the Public Hearing on this subdivision and a Motion was made by **Commissioner David Tea** to close the hearing, seconded by **Commissioner Clark Davis**; passed unanimously.

LUCAS JOHNSON ONE-LOT SUBDIVISION, APPLICATION SS07-008

Staff explained that the petitioner is requesting approval for a one-lot subdivision at approximately 3500 West 12995 North in the Deweyville area. The property has recently been re-zoned to RR-2. The petitioner was also requesting that the Planning Commission grant a 20-foot private

road/easement to access this lot, as it currently does not have frontage on a dedicated county road; access would be via Highway 38. Lucas Johnson was present at the Public Hearing and explained to the Commissioners that he was unaware of the situation regarding the lot having frontage on a county road when he began this project about eight months ago. It was not until he applied for the building permit that he learned that his engineer/developer had not followed the proper application channels with the county for this subdivision. He has received this property from his father and he informed the Commissioners that he is adding the additional property to the lot that will result in frontage on Highway 38. No further comments and a Motion was made by **Commissioner Chad Munns** to close the hearing, seconded by **Commissioner David Tea**; passed unanimously.

SCOTT BOWCUTT TWO-LOT SUBDIVISION, APPLICATION SS07-007

Staff explained that this 2-lot subdivision is located at approximately 5915 West 14400 North in an area of the County that is currently un-zoned. The petitioner has submitted the letters of verification for all utilities for these two lots except for the approval from the Health Department for the septic systems. Mr. Bowcutt was present at the hearing and stated that the Health Department official was currently out of town, but would be returning and the approval for the septic systems would be given to the Planning Office within the next week. As no other comments were made, a Motion was made by **Commissioner David Tea** to close the Public Hearing; seconded by **Commissioner Clark Davis**; passed unanimously.

DIAMOND "S" RANCHETTS SUBDIVISION, APPLICATION SS07-005

Staff explained that this petitioner had requested concept approval for this 46-lot subdivision at the March 22, 2007 meeting of the Planning Commission. No additional technical data has been submitted by the petitioner, therefore Staff recommended that comment be taken from the public and that the petition be tabled until further information has been received. The Public Hearing was declared opened and several comments were made (the petitioner was not present at the time of the Hearing).

Dennis Holland presented a two-page summary of his concerns to the Planning Commissioners (attached to these Minutes), which included several questions that he felt needed to be addressed in relation to this subdivision. The main concerns were regarding the water supply for the Ranchettes; the canal on the east side of the subdivision and if a topographical survey had been done regarding the spring flooding of this property. There is also a train track on the west side of the subdivision next to the intersection entering into this subdivision. Also asked about the other utilities for the development. There are six wells located in the area of this proposed subdivision and Mr. Holland felt that they would [eventually] be contaminated by the septic systems required for the houses. These wells are the primary source of culinary water for Mr. Holland and others [currently] living in the area. (See attachment)

Bruce Zundel clarified that the flooding from the canal onto the proposed property of the subdivision was approximately ten acres. The canal overflows yearly around the end of June due to just the natural flow of the water. He did not feel that this was a good location for a subdivision. Mr. Zundel owns a dairy farm in close proximity to this subdivision. His land is in an ag-protection, yet it doesn't seem to have any impact of the people moving into homes when they have to deal with the farm smells.

Jay Capener has concerns with not only this subdivision but also all subdivision using a canal as drainage and opposed to the petition.

[Representative] Ronda Menlove has property east of this proposed subdivision and is concerned about the flooding and infrastructure. There is an old drain system that was put in many years ago by the Army Corp of Engineers and was accidentally broken recently, causing a lot of water to spill out which indicated that there is a lot of water running underneath. The canal helps to prevent flooding, but in really wet years it will flood as it did two years ago. More research needs to be done in relation to the roads, the infrastructure for the development and the flooding of the area.

Sue Holland was concerned with the possible dangers with having homes in close proximity to this canal. It is a deep canal and usually has water in it for eight to nine months out of the year and children are naturally curious; there is a great deal of possibility of drowning. Also if she and her family had wanted to live in a populated area they would have stayed in Salt Lake.

Tom Hansen was opposed to the subdivision and felt the 16800 North is a narrow two-lane road and with the increase in traffic it would not be sufficient to handle the additional vehicles. **Commissioner Richard Kimber** answered by stating that if the petition were to go forward a study of the traffic impact would be done by UDOT.

Ben Johnston representing the petitioner stated that this is just a preliminary concept plan and all of the issues that have been mentioned would be addressed, i.e. water runoff, roads, etc.

Meagan Menlove spoke about the farm that belonged to her grandfather and time that she spent there while growing up and was concerned about the increase in traffic for the area.

Commissioner Clark Davis pointed out that one of the main issues with this area is that it is un-zoned at this time and because of that it is difficult to deny a petitioner the right to develop their land as long as they meet the conditions set forth by the County. If there were zoning in place then the existing property owners would be able to have more of a say in how the surrounding property is developed. Suggested that it would be something to keep in mind for the future.

[Representative] Ronda Menlove asked what the procedures were in setting up zoning for an area. **Commissioner Richard Kimber** stated that during the time he has served on the Planning Commission there have been many times when work has been done to get zoning in an area and many times those property owners have been opposed to it, wanting to do what they want with their property. However, when something is proposed to come into an area that the citizens don't want then they change their minds and want zoning. The zoning has to start with the local area and the people that live in the area. Zoning is protection for everyone. In recent years West Corinne, the Bothwell area and South Willard have gone through the re-zone process. It can be a hard process because a lot of citizens don't even want to consider zoning. Once a petition is in place starting the zoning process, the planning director and the planning commission will assist the citizens through the process that can take several months to complete.

Clint Munns asked if this property where the subdivision is proposed was in ag-protection and if so did the surrounding property owners have to agree to have it taken out of protection. (The original petitioner who asked to have the area put into ag-protection would be the one to request to have it taken out, or if the use of the land were to change, then it would no longer be in ag-protection.)

Ben Johnston stated that when an area is in ag-protection it is so noted on the final plat. All buyers of property within a subdivision are made aware of the protection when they purchase property.

The Public Hearing on the Diamond “S” Ranchettes was closed with a Motion by **Commissioner Chad Munns**; seconded by **Commissioner David Tea**; passed unanimously.

POINT LOOKOUT ESTATES, APPLICATION SS07-006

Staff explained that this petition was before them at the March 22, 2007 meeting where the concept plan was accepted and the Public Hearing set. This is a proposed 65-lot subdivision located at approximately 18400 North Highway 13 in an un-zoned area of the County. Each lot would meet the minimum of one-half acre. This subdivision is also located in close proximity to a canal. The Public Hearing was declared opened by **Chairman Richard Kimber**.

Bruce Zundel stated that this area has porous soil and the canal is located at the top of a steep hill. Mr. Zundel uses the water from the canal for irrigation on his farmland in the vicinity. The area is prone to flooding in the springtime.

Jay Capener felt that the flooding issue needed to be more fully addressed before any development started.

Brandon Godfrey the developer for this project stated that all of the homes would be located above the bluff in the area and he was not aware of the drainage problems in the area, but they would be addressed along with all the other infrastructure issues. Family members have farmed the land since about 1915.

Dennis Holland asked if there was enough water available to supply the culinary needs for all of the proposed lots within this subdivision.

Brandon Godfrey answered that the eight-inch main line does not have enough water to supply the area; however the current water district in the area is negotiating with the Bear River Water Conservancy District to have them supply water for the whole valley, which also includes the Nucor Plant.

Tom Hansen asked about the number of septic systems required for the area, however **Chairman Kimber** stated that is an issue that is addressed by the Health Department.

Some additional comments were made concerning the size of the subdivision and would it need to have its own fire department. It would not be large enough for a department, but fire hydrants would be required throughout the subdivision. Currently the subdivision would have 65 lots with the potential of 210 total at build-out.

The Public Hearing for the Point Lookout Estates Subdivision was closed with a Motion by **Commissioner Clark Davis** and seconded by **Commissioner David Tea**; passed unanimously.

NISH ROCK PRODUCTS, LLC, APPLICATION CUP07-003

Staff explained that this petitioner is seeking [site] approval for a Conditional Use Permit for the expansion of their existing gravel pit located in the Plymouth area of the County. The petitioner had an environmental impact assessment available for the commission. (A copy of that report is included with the Official Minutes.) The county engineer has not had an opportunity to review the assessment prior to this meeting. Staff recommended that following the Public Hearing the Commission table (until the May 17, 2007 meeting) any further action on this CUP until the county engineer has the opportunity to review it.

Wayne Bulkley (the petitioner) addressed the Planning Commissioners. **Commissioner Clark Davis** asked to be excluded from this discussion as there was a conflict of interest due to the fact that the Davis and Bott Accounting firm does work for Nish Rock Products. The existing area being operated by the Nish family as a gravel pit consists of 109 acres. The 80-acre area to the east is what is being considered for the expansion of the gravel pit. The gravel trucks don't travel through neighborhoods as Highway 13 has an easy access to I-15. There are no springs, surface water, or wetlands on or nearby the pit that would lead to concerns about potential water runoff. The additional land would be farmed or left fallow until the company is ready to extract the gravel. The increase in production would be gradual with new equipment; however there would not be more than two plants operating at any given time. The additional 80 acres would not be opened up for gravel extraction until the next 10-20 years, not wanting to take aggressive moves in extracting the gravel from the area. Operation would also comply with government regulations and the county in regards to air quality matters and water quality regulations. Electrical service would be brought to the site, thus eliminating the use of generators. Would also limit their hours of operation as not to interfere with any persons living close to the area where the gravel pit is located. At the conclusion of the petitioner's comments the Public Hearing was declared opened by **Chairman Richard Kimber**.

Two positive comments were made by Bruce Zundel and Dennis Holland concerning this petition; one regarding the operation and the other concerning the water being recycled. Following the comments the Public Hearing was closed with a Motion by **Commissioner Theron Eberhard** and seconded by **Commissioner David Tea**.

A short break was taken at the conclusion of the Public Hearings.

NEW BUSINESS

LUCAS JOHNSON ONE-LOT SUBDIVISION, APPLICATION SS07-008, LOCATED AT OR ABOUT 3500 WEST 12995 NORTH IN THE DEWEYVILLE AREA.

Staff explained that the petitioner would comply with the requirement of frontage on a dedicated county road; therefore the recommendation was to grant final approval for the one-lot subdivision subject to all technical requirements of the LUMCD being submitted before receiving approval from the County Commission.

MOTION: A Motion was made by **Commissioner Clark Davis** to grant preliminary and final

approval to the Lucas Johnson One-Lot Subdivision and submit to the chairman for his signature, and forward to the County Commission for their approval. **Commissioner Theron Eberhard** was concerned that the plat for this subdivision had not been received and reviewed by the Planning Commission. Staff explained that once the petitioner has met all of the requirements of the Code, the Commission really did not have the discretion to hold up the approval for an additional 30-day in order to review the plat. Staff would not present the petition to the County Commission for approval until the plat had been received and reviewed along with verification of all other technical requirements. Motion seconded by **Commissioner Jon Thompson** and passed with six in favor; **Commissioner Theron Eberhard** opposed.

SCOTT BOWCUTT TWO-LOT SUBDIVISION, APPLICATION SS07-007, LOCATED AT OR ABOUT 5915 WEST 14400 NORTH IN THE GARLAND AREA.

Staff recommended preliminary and final approval as this subdivision would not require any new streets or roads and the petitioner has met the requirements of the LUMDC. The property is located in an un-zoned area of the County and the two lots are .5 and 1.47 acres respectively. There is an existing home on the smaller parcel and Mr. Bowcutt will be building a new home on the larger parcel.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant preliminary and final approval to the Scott Bowcutt Two-Lot Subdivision and forward to the County Commission for their approval subject to all technical requirements of the LUMDC being submitted. Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

UNFINISHED BUSINESS

CASTAGNO ONE-LOT SUBDIVISION, APPLICATION SS06-014, LOCATED AT OR ABOUT 38370 WEST HWY 30 IN THE SNOWVILLE AREA

Staff explained that this one-lot subdivision of 10 acres is located in the Snowville area and is currently un-zoned. Recommendation was to grant preliminary and final approval for this petition.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to grant preliminary and final approval for the Castagno One-Lot Subdivision and require the signing of the Rural Road Agreement deferring the installation of curb, gutter and sidewalk, and all technical requirements of the LUMDC being submitted. Motion was seconded by **Commissioner Richard Day** and passed unanimously.

HANSEN (ROCKET ROAD) 3-LOT SUBDIVISION, APPLICATION SS07-003, LOCATED AT OR ABOUT 10000 WEST ROCKET ROAD SOUTH OF THE BOTHWELL AREA.

Staff explained that this three-lot subdivision is located in an un-zoned area of the county and the lots range in size from .57 to .67 acres. Recommendation was to grant final approval subject to all

technical requirements being met and that a deferral agreement for curb, gutter, and sidewalk be required. (File is missing approval letters for the utilities, water source and health department approval). Apparently there will be private wells for these lots.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to grant preliminary approval for the Hansen (Rocket Road) 3-Lot Subdivision. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

SORENSEN ONE-LOT SUBDIVISION, APPLICATION SS07-004, LOCATED AT OR ABOUT 13600 NORTH 4400 WEST SOUTHEAST OF THE RIVERSIDE AREA.

Staff explained that this one-lot subdivision would result in a remainder parcel that the owner will be selling as farm ground. The property is currently in an un-zoned area of the County and verification of all technical requirements of the LUMDC has been submitted. Recommendation was to grant final approval at this time.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant final approval to the Sorensen One-Lot Subdivision and forward to the County Commission for their approval. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

DIAMOND “S” RANCHETTES, APPLICATION SS07-005, LOCATED AT OR ABOUT 16800 NORTH 5600 WEST IN THE RIVERSIDE AREA.

With the number of issues that were brought up during the Public Hearing regarding this proposed 46-lot subdivision, Staff recommended that this item be tabled subject to the petitioner and their engineer providing information on the following items.

- a ground water study
- geo-technical study
- meet all of the other engineering requirements before returning for preliminary approval from the Planning Commission
- review of the plan by the County engineer
- address the surface water flooding issue

Commissioner Chad Munns asked about the number of water hook-ups from the Riverside/North Garland Water Company. Clint Munns, from the water company, said there are probably around 400-410 permits for homes and 380 of those are in use. The water company would not be able to supply the number required for this proposed subdivision and the petitioner is probably looking into another source for the culinary water.

Commissioner Clark Davis pointed out that it is the responsibility of the Planning Commission to decide what the philosophy regarding these larger developments needs to be, as part of the approval process for these subdivisions should not create an undue [financial] hardship on the County. By allowing these large developments in the un-incorporated parts of the County those hardship are potentially being created; to provide for municipal services that are not going to be provided by the developers. However, as Staff pointed out, it is difficult to deny approval of a subdivision if the developer meets all of the requirements outlined in the current LUMDC.

Commissioner Theron Eberhard mentioned Cache County and that they had recently put a moratorium in place regarding any large subdivision until they are able to address issues similar to those that Box Elder County is seeing.

MOTION: A Motion was made by Commissioner Chad Munns to Table the Diamond “S” Ranchettes petition until the issues raised in the Public Hearing and by the Planning Commission have been addressed. Issues including: a geo-technical study of the area; a ground water study; issues regarding the potential flooding of the area; and any secondary (irrigation) water for the proposed lots. Motion was seconded by Commissioner Richard Day and passed unanimously.

POINT LOOKOUT ESTATES, APPLICATION SS07-006, LOCATED AT OR ABOUT 18460 NORTH 5200 WEST IN THE PLYMOUTH AREA.

This proposed subdivision has many of the same issues that need to be addressed as with the Diamond “S” Ranchettes Subdivision. This subdivision includes approximately 65 lots and Commissioner David Tea asked about the possibility of these larger developments seeking possible annexation into some of the towns/cities that are in close proximity. Commissioner Clark Davis suggested that perhaps the developer could start the annexation process and have their request either approved or denied by the town/city. Staff stated that a development has to be 15 lots or more in order to petition for annexation. After some further discussion Staff recommended that this item be tabled subject to the petitioner and their engineer providing information on the following items.

- a ground water study
- Geo-technical study
- meet all of the other engineering requirements before returning for preliminary approval from the Planning Commission
- review of the plan by the County engineer
- address the surface water flooding issue

MOTION: A Motion was made by Commissioner Richard Day to Table the Point Lookout Estates Subdivision petition until the issues raised in the Public Hearing and by the Planning Commission have been addressed. Issues including: a geo-technical study of the area; a ground water study; issues regarding the potential flooding of the area; any secondary (irrigation) water for the proposed lots; and the possibility of annexation. Motion was seconded by Commissioner Theron Eberhard and passed unanimously.

NISH ROCK PRODUCTS LLC, CONDITIONAL USE PERMIT, LOCATED NORTH OF THE PLYMOUTH AREA.

Staff explained that a gravel pit is a permitted use in the un-zoned area. The petitioner needs to submit the actual site plan for the expansion of this operation and the County engineer will need to review the site plan once it is submitted; therefore Staff recommended tabling the petition until the May 2007 meeting.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to Table the Nish Rock Products gravel pit expansion petition until the site plan is submitted and the County engineer has had the opportunity to review it. Motion was seconded by **Commissioner David Tea**; passed with Commissioner Clark Davis abstaining [due to conflict of interest].

WORKING REPORTS

The Planning Commissioner were notified of the upcoming Certified Community Planner Seminar on May 31-June 1, 2007 in North Salt Lake and encouraged to make arrangements to attend

PUBLIC COMMENTS

Clint Munns asked who is responsible for maintaining the canal/ditches that are in the vicinity of the subdivisions such as those that were presented at this meeting. Was also concerned about access to subdivisions being in close proximity to a railroad track as in the Diamond “S” Ranchettes subdivision petition.

Other comments were made in regards to protecting the farm areas of the county along with the irrigation systems and other water concerns.



Commission Jon Thompson made a motion to adjourn the Planning Commission meeting at 9:36 p.m.

Passed and adopted in regular session this 17th day of May 2007

Richard Kimber, Chairman
Box Elder County
Planning Commission