

**MINUTES
BOX ELDER COUNTY
PLANNING COMMISSION
MAY 17, 2007**



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

Richard Kimber	Chairman		
Jon Thompson	Member	<i>The following Staff was present:</i>	
Richard Day	Member (excused)		
David Tea	Member	Kevin Hamilton	Planner
Clark Davis	Member	Elizabeth Ryan	Secretary
Theron Eberhard	Member (excused)	Pat Comarell	Consultant
Chad Munns	Member		

Chairman Richard Kimber called the meeting to order at 7:00 p.m.

The following citizens were present:

Amanda John/Tremonton	Rock Dean Hill/Bear River
Ben Brough/Tremonton	Wayne Bulkley/Phoenix, AZ
Jacob Kingston/Plymouth	Nate Marble/Tremonton
Randall Marble/Tremonton	Steve Hansen/Kaysville
Wayne Hansen/Kaysville	

The *Minutes* of the regular meeting held on April 19, 2007 were made available to the Planning Commissioners prior to this meeting (May 17, 2007). Commissioner David Tea and Commissioner Richard Kimber pointed out some wording errors after which time a Motion to accept the Minutes of April 19, 2007 [with corrections] was made by **Commissioner Jon Thompson**; seconded by **Commissioner David Tea** and passed unanimously.

COMMON CONSENT - None

PUBLIC HEARINGS

JOHN PROPERTIES LLC/DAVID JOHN ONE-LOT SUBDISIVION, LOCATED AT OR ABOUT 7200 WEST 6800 NORTH WEST OF THE BEAR RIVER AREA.

The Public Hearing was declared opened on this one-lot (5.60) acre subdivision for David John. No comments were received from those present and the hearing was closed with a motion by **Commissioner Clark Davis** and seconded by **Commissioner David Tea**. Unanimous.

ROCK HILL TWO-LOT SUBDIVISION, LOCATED AT OR ABOUT 13600 NORTH 4400 WEST IN THE COLLINSTON AREA.

The Public Hearing was declared opened and Mr. Hill addressed the Planning Commission by submitting a letter he had written regarding his petition (a copy is included with the official Minutes).

Commissioner Chad Munns said that he would need to be excused from the discussion on this petition as he has property in the area, but he would like to participate in the Public Hearing portion. In Mr. Hill's letter he referred to several areas in the *Box Elder County Land Use and Management Code* that could be used in approving his request. Chad Munns (as a citizen) noted that there is already a house (used part-time) located on the existing road that already has a right-of-way in place. Mr. Munns also questioned what was needed from the railroad in regards to the crossing that is posted as a private RR crossing. Mr. Hill was petitioning for a private lane from the existing right-of-way road. At the conclusion of the discussion the Public Hearing was closed with a motion by **Commissioner David Tea** and seconded by **Commissioner Jon Thompson**. Five in favor, **Commissioner Chad Munns** abstained.

BLUE GRASS ESTATES, PHASE I & II, LOCATED AT OR ABOUT 10800 WEST AND 18800/13600 NORTH IN THE BOTHWELL AREA.

Phase I of this concept subdivision is located on corner portion [created] lots of the Chanshare Sod Farm where the sprinklers don't water the sod. Phase II is a fourteen lot subdivision which will require a dedicated road through the subdivision, creating frontage for each of the 5-acre lots. It was suggested that the possibility of a stub road at the end of the subdivision be included to accommodate any future development. The Public Hearing was opened and the petitioner was present to address the Planning Commissioners. The petitioner has met with the Bear River Water Conservancy District and water will be provided for the lots by the BRWCD. The petitioner has also received verification of other utilities. The Health Department has not conducted any of the perk tests, but as there are other homes in the area, the petitioner did not feel that there would be a problem. The property has been in sod production for the past twenty-five years and they would now like to start creating some five acre lots on the corners of the sod parcels. **Commissioner Richard Kimber** was confused as to the naming of the proposal, calling them Phase I and Phase II, and it was suggested that the two developments be changed to **Project A** and **Project B** for better clarification. Therefore, **Project B** is now the development with the corner lots of the sod areas. There are water lines available for lots 5, 6, 7, and 8. Lots 1, 2, 3, and 4 and Lots 9 and 10, would possibly have individual wells or a connection with the BRWCD. Part of the existing road (10800 West) is paved, yet other sections are not. The petitioner was concerned about what the Commission would require of the roads, particularly 12800 North, as it is a gravel road and there are already five homes on that [gravel] road. Would the petitioner be responsible for paving and bringing that road

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to county standards? If it was necessary to pave 12800 North, the petitioner asked what would be the responsibility of those five existing homeowners along that road, or would the [new] developer have to cover the cost entirely. Rather than pave the entire road, the petitioner also asked if pavement in front of each of the five-acre lots on 10800 West would suffice. At the conclusion of the discussion, the Public Hearing was closed with a motion by **Commissioner Chad Munns** and seconded by **Commissioner Jon Thompson**. Unanimous.

BENJAMIN BROUGH TWO-LOT SUBDIVISION, LOCATED AT OR ABOUT 4616 WEST 1200 NORTH IN THE TREMONTON AREA.

The two-lot subdivision is located east of Tremonton City; the Petitioner is currently in the process of having the property annexed into Tremonton. The two lots are separated by a sixty foot wide strip to allow access to the remainder parcel of 15.52 acres. Staff recommended that this strip be widened to 66 feet for any future development and the Rural Road Agreement included. The Public Hearing was opened. Ben Brough was present and told the Planning Commission that he has secured the letter of approval from the Health Department and from the Fire Marshall regarding these two lots. The annexation process is still under review by Tremonton City. No other comments were made and the Public Hearing was closed with a motion by **Commissioner David Tea** and seconded by **Commissioner Chad Munns**. Unanimous.

NEW BUSINESS

JOHN PROPERTIES LLC/DAVID JOHN ONE-LOT SUBDISIVION, LOCATED AT OR ABOUT 7200 WEST 6800 NORTH WEST OF THE BEAR RIVER AREA.

This one-lot subdivision, located at approximately 7200 West 6800 North in the Bear River area is 5.60 acres and currently un-zoned. Water will be provided by the West Corinne Water Company. The petitioner has provided proof for all utilities including the Health Department for the septic system. Staff recommended granting preliminary and final approval for this petition subject to meeting the requirements of the county's Land Use Management and Development Code, obtaining a letter from the County Fire Marshal, and requiring the Rural Road Agreement (deferring curb, gutter, and sidewalk) be signed and kept in the petitioner's file until further development occurs in the area.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant preliminary and final approval for the David John One-Lot Subdivision, subject to meeting the county's Land Use Management and Development Code, approval from the Fire Marshal, and the signing of the Rural Road Agreement by the petitioners. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

ROCK HILL TWO-LOT SUBDIVISION, LOCATED AT OR ABOUT 13600 NORTH 4400 WEST IN THE COLLINSTON AREA.

The petitioner is requesting approval for this two lot subdivision located in an area of the county that is currently zone RR-2 (two acre lots). The proposed lots are 3.50 and 13.72 acres and the petitioner

was also requesting approval for a private road/easement to the properties. Staff's recommendations included:

- ◆ A dedicated road meeting county road standards from Highway 38
- ◆ A letter from the railroad approving the crossing of the RR.
- ◆ Recommendations and requirements outlined by the county's engineer.
- ◆ Requirements and recommendations of the Health Department for the on-site disposal (septic) systems.
- ◆ A letter of approval from the County Fire Marshal.

Commissioner Chad Munns asked to be excused from the discussion due to a conflict of interest. Staff stated that perhaps one home could be built on the parcel without having to require the road improvements.

Commissioner Clark Davis asked what would be required of the petitioner in regards to the improvements to the road. Staff's response was that it would need to be brought up to the county's standards of a 66 foot right-of-way as there is a lot of property in the area that could potentially be developed in the future. Staff also did not believe that the RR would grant several crossing to the property. The first to build on a road such as this would probably be the one to incur the costs associated with it; since the petitioner is requesting approval for his lot located at the end of the road there would be some substantial costs involved with it. Staff would not recommend a two-lot subdivision with a gravel driveway/roadway. The Planning Commission does have the authority to grant [or recommend to the County Commission] approval for a road which would meet lesser standards than a fully improved road, but Staff would not recommend approving a road with less than 33 feet right-of-way with 18 feet of asphalt surface and approval by the county's engineer. (This would be a minimum standard for one lot, but with two lots, it would need to be paved, according to Staff).

Commissioner Jon Thompson said that requiring the petitioner to fully improve this road would require quite an expense on his part. It was asked if the Rural Road Agreement is not in essence granting approval to lots located on a gravel road and how are they different than this petition. Staff responded by saying that he did not believe that further development would be occurring in the areas where the Rural Road Agreement has been put in place.

Commissioner Richard Kimber asked about the water source for these two lots and if an application for a well had been submitted. The petitioner responded saying that one well permit has been issued and the other is in the process, but no wells have been dug at this point.

Commissioner Clark Davis asked if the petitioner could build his home without the second lot, which the petitioner hoped to sell to finance his project. Mr. Hill stated that it would probably stretch his resources and he would not be able to build his home. Mr. Hill also stated that he would like to keep all of the land, but it is necessary to sell at least the one lot to help with the finances.

Commissioner Clark Davis further suggested that perhaps it would help the petitioner if he did not sell the additional lot, thus eliminating the additional use of the road and [not] having to meet all of the requirements and recommendations of the County Planner. If this item is tabled [as recommended by Staff] what could the petitioner do before the next meeting in June to meet the conditions outlined by Staff? Staff's response was that he would like to at least see --

- * A letter from the railroad granting access to the property.
- * Return with some kind of dedication plan for the road [with the other property owners] dedicating a 66 foot right-of-way.
- * A deferral (Rural Road Agreement) could be recorded with the plat which could help with any future landowners building and then complaining about the dirt road conditions.
- * Would also like to see the cost estimates to have the road paved for the two lots.

At the conclusion of the discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Clark Davis** to accept Staff's recommendation to Table the Rock Hill Two-Lot Subdivision petition and request that the petitioner move forward with obtaining (1) a letter from the railroad granting access to the property; (2) agreement from the other property owners regarding dedicating the 66 foot right-of-way for the road; and (3) address the road improvements in terms of having one lot or two lots approved. Motion was seconded by **Commissioner Jon Thompson** and passed, with **Commissioner Chad Munns** abstaining from the vote.

BLUE GRASS ESTATES, PHASE I & II, LOCATED AT OR ABOUT 10800 WEST AND 18800/13600 NORTH IN THE BOTHWELL AREA.

These two proposed subdivision are located in the Bothwell area where the zoning is currently RR-5 (five acre lots). The petitioner has submitted applications for two subdivisions, labeled Project A and Project B. **Project A** is a conventional subdivision of fourteen lots and will have a fully improved road. **Commissioner Richard Kimber** asked if any of the property was currently in an Ag-Protection. The petitioner responded that the Bingham property is in ag-protection, but the Marble property is not, but they may pursue that option in the future. Water for this project will be provided by the Bear River Water Conservancy District and the petitioner has submitted a letter of verification. Staff's conditions for approval included:

- ▶ Approval by the county's engineer regarding the improvement drawings for the new and upgraded roads before returning to the Planning Commission for preliminary approval.
- ▶ Road right-of-ways be dedicated to the county and improved to full county standards.
- ▶ Approval from the Health Department for wastewater (septic) disposal systems.
- ▶ Approval from the County Fire Marshal.

Commissioner Clark Davis asked for clarification regarding concept approval and preliminary approval. Staff responded that with concept approval, the petitioner is given the go-ahead to start moving forward with the engineering of the project. With concept acceptance it is assumed by the petitioner that if they are able to meet all of the requirements of the county's Land Use Management Code the subdivision would be approved by the Commission(s). Preliminary approval gives the go-ahead for the petitioner's engineer to start planning roads, the laying of pipelines, and other infrastructure that may be needed for the project. **Commissioner Clark Davis** was also concerned at what level is the petition(er) vested in the plan. According to Staff, the petition is not vested until the subdivision is recorded, but at each level of approval the petitioner assumes a level of expectation regarding the proposal. (The petitioner agreed with this explanation.)

MOTION: A Motion was made by **Commissioner Clark Davis** to grant concept approval for the Blue Grass Estates Subdivision [**Project A**] with the following conditions as outlined by the Planner: (1) county engineer's approval of drawings for the new and upgraded roads; (2) road right-of-ways being dedicated to the county and improved to full county standards; (3) approval from the Health Department; and (4) approval from the County Fire Marshal. Also a stub road [may be] needed at the end of the subdivision to accommodate any future development. The Motion was seconded by **Commissioner David Tea** and passed unanimously.

Project B of the Blue Grass Estates Subdivision is a ten-lot subdivision where the lots are to be dispersed over an area of 320 acres and are located on the section corners and quarter section corners with the remaining land staying in sod production by Chanshare Sod Farm. Regarding Project B on the corner areas, Staff suggested that the Planning Commissioners decide whether or not each of those lots needs to be on a fully improved road or if pavement in front of each lot would suffice. Staff's conditions for approval included:

- ▶ Approval by the county's engineer regarding the improvement drawings for the new and upgraded roads before returning to the Planning Commission for preliminary approval.
- ▶ Road right-of-ways be dedicated to the county and improved to full county standards.
- ▶ Approval from the Health Department for wastewater (septic) disposal systems.
- ▶ Approval from the County Fire Marshal.

The petitioner addressed the Planning Commissioners regarding the annual run-off from White's Valley along 10800 West and the waterway along the [west] side of that roadway would probably require some sort of dike to accommodate that excess water [in a 100 year flood]. As some of the road is currently paved and 12800 North is a county gravel road, the petitioner asked what they could expect regarding any further requirements for paving and bringing the road(s) up to full county standards. **Commissioner Chad Munns** asked if the petitioner would be allowed to construct a private lane off of 12800 North which would provide access to Lots 1, and 2, and access to lots 3, and 4 via 13600 North. Staff indicated that he would not be opposed to private roads meeting the standards of the Code of 33 feet of right-of-way with 18 feet of asphalt. **Commissioner Clark Davis'** understanding was that lots 5, 6, 7, and 8 [and possibly 9 and 10] would be developed first and the commissioner was interested in discussing the standard of the road for those lots in particular. Staff stated that if the petitioner wants to develop the area in two phases the first phase would have the road improved and dedicated at that time and when the second phase occurred then the issue concerning that road could be more fully considered. The petitioner said that they had no objection to the paving of 10800 West, but as 12800 North is already an improved county [gravel] road with existing homes along it, they questioned whether or not they (the petitioner) would have to cover the cost of the improvement of the entire road.

MOTION: A Motion was made by **Commissioner Clark Davis** to accept the concept plan of the Bluegrass Estates Subdivision [**Project B**] with the following conditions as outlined by the Planner: (1) county engineer's approval of drawings for [any] new and/or upgraded roads; (2) road right-of-ways being dedicated to the county and improved to full county standards, and at the time of the development of lots 1, 2, 3, and 4 the issue of how the road would need to be developed would be looked at more closely; (3) approval from the Health Department; and (4) approval from the County Fire Marshal. The Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

BENJAMIN BROUGH TWO-LOT SUBDIVISION, LOCATED AT OR ABOUT 4616 WEST 1200 NORTH IN THE TREMONTON AREA.

This two-lot subdivision with remainder parcel is located east of Tremonton City and the petitioner is in the process of requesting annexation into Tremonton City. Water will be provided by Tremonton City and approval has been given by the Health Department for the septic system. Staff recommended that a Rural Road Agreement be signed by the petitioner(s) and the agreement would be transferred to Tremonton City if annexed. Verification of all utilities and letter from Fire Marshal has been received.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant preliminary and final approval for the Benjamin Brough Two-Lot Subdivision subject to meeting all requirements of the Land Use Management Code, approval by Tremonton City if annexation occurs, and Rural Road Agreement included in file. Seconded by **Commissioner David Tea** and passed unanimously.

WASHAKIE RENEWABLE ENERGY CONDITIONAL USE PERMIT (SITE PLAN REVIEW) LOCATED IN THE WASHAKIE AREA

The Petitioner, Jacob Kingston, is requesting the site approval for a bio-diesel manufacturing plant at approximately 24000 North 8000 West in the Washakie area, an un-zoned area of the county. Staff's background report included the following:

- ▶ Industrial/commercial developments in un-zoned areas of the county are regulated by Chapter 22 of the Land Use Management and Development Code.
- ▶ The buildings for the proposed use are already constructed. They were permitted as agricultural buildings.
- ▶ Bio-diesel manufacturing requires approval from the United State Department of Transportation, Utah Department of Public Safety, Internal Revenue Service, Environmental Protection Agency and the National Bio-diesel Board.
- ▶ In reviewing this site plan the Planning Commission is to consider the following.
 - Traffic safety and congestion
 - Outdoor advertising
 - Landscaping
 - Buildings and site layout.

Further findings regarding this petition included:

- ▶ The site is accessed by a gravel county road and is approximately 3 to 4 miles from the nearest paved road.
- ▶ The distance to the nearest dwelling is not known.
- ▶ State and federal permits requirements are considerable for the operation.
- ▶ Petitioner needs to submit the drawings for a site plan from his engineer.

Commissioner Clark Davis suggested that a Public Hearing should be scheduled (even though one is not required by the Code) regarding this petition to better inform the Commission and the public as to the exact operation and address any possible concerns regarding this project. It was also

suggested that the Petitioner prepare a short PowerPoint presentation explaining the project and how bio-diesel is manufactured. Mr. Kingston indicated that it would probably be two-three months before full production. When asked what his background was to be able to run this type of business, Mr. Kingston replied that he had a Bachelor's, Master's and PhD in chemical engineering with a background in biomass.

MOTION: A Motion was made by **Commissioner David Tea** to accept the Concept Plan for the Washakie Renewable Energy CUP and thus giving the Petitioner the go-ahead to begin working toward obtaining the necessary approvals for this project. Staff's conditions for approval included:

- A detailed site plan be submitted which shows all of the information required in Section 22.4 through 22.9.8 of the Land Use Management and Development Code.
- An impact to the existing county roads be evaluated by the county's engineer and all recommendations of the engineer followed.
- A letter from the Utah Department of Public Safety indicating that the proposed use will not create a danger to nearby dwellings.
- Compliance with all requirements and recommendations of all state, local and federal permitting agencies.

Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

UNFINISHED BUSINESS

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

The Petitioner was seeking approval for the expansion of the Nish Rock Products gravel pit located north of the Plymouth area. The pit is currently in operation and the petitioner(s) are looking to add an additional eighty acres for production over the next ten to twenty years. A public hearing was held at the April 19, 2007 meeting and no objects were received. The county engineer has submitted a letter outlining the conditions for the expansion of this project (a copy of that letter is with the official minutes of this meeting). Staff recommended that approval be given subject to those conditions outlined by the county engineer.

MOTION: A Motion was made by **Commissioner Jon Thompson** to recommend granting approval by the County Commission for the expansion of the Nish Rock Products gravel pit site [following conditions outlined in the county engineer's letter]. Motion seconded by **Commissioner David Tea**. Motion passed with **Commissioner Clark Davis** abstaining from the vote, due to a conflict of interest.

WORKING REPORTS

Commissioners Richard Kimber, David Tea, Clark Davis, Jon Thompson, Richard Day and Chad Munns will be attending the Certified Community Planner Seminar scheduled for May 31-June 1, 2007 in North Salt Lake, along with County Planner Kevin Hamilton. **County Commissioner Rich VanDyke** will attend also.

Pat Comarell talked with the Commissioners regarding the updating of the *Land Use Management & Development Code* and suggested that a Public Hearing be set for the June 21, 2007 meeting. Ms. Comarell said that some of the chapters will still not be available, such as the sign ordinance, the sensitive overlay zones, and issues dealing with Planned Unit Developments and larger development projects. The subdivision ordinance will most likely be taken from another source and tailored to fit the needs of Box Elder County. Hopefully the subdivision ordinance would be ready for adoption by the July or August meeting. Ms. Comarell also mentioned that the State Legislature is [probably] going to redraft the state [subdivision] ordinance and that could be used as a guideline for Box Elder County's [updated] ordinance.

MOTION: A Motion was made by **Commissioner Clark Davis** to set a Public Hearing for the June 21, 2007 meeting to review and discuss the updated chapters of the *Land Use Management & Development Code*; seconded by **Commissioner Jon Thompson** and passed unanimously.

At the conclusion of the items discussed on the agenda, **Commissioner David Tea** suggested that the Commissioners address some of the concerns brought up by **Commissioner Theron Eberhard** at the April 19, 2007 meeting. Those issues included the moratorium in place in Cache County and the possibility of the same occurring in Box Elder County. Also of concern by **Commissioner Theron Eberhard** was the review of subdivision plats by the planning commissioners prior to approval and forwarding to the County Commission for approval. It was suggested that further discussion on these two topics be scheduled for the June 21, 2007 meeting. **Commissioner Clark Davis** suggested that clarification be given in regards to what items should be placed under Common Consent [agenda] items, what approvals have been received on those petitions and what would constitute taking items off of Common Consent for full discussion. These two topics will be placed on the June 21, 2007 agenda.

PUBLIC COMMENTS - NONE

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

Passed and adopted in regular session this 21st day of June 2007

Richard Kimber, Chairman
Box Elder County
Planning Commission