

**MINUTES
BOX ELDER COUNTY
PLANNING COMMISSION
JUNE 21, 2007**



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

Richard Kimber	Chairman
Jon Thompson	Member
Richard Day	Member
David Tea	Member (excused)
Clark Davis	Member (excused)
Theron Eberhard	Member
Chad Munns	Member

The following Staff was present:

Kevin Hamilton	Planner
Elizabeth Ryan	Secretary

Chairman Richard Kimber called the meeting to order at 7:06 p.m.

The following citizens were present:

David Alexander/Collinston	Louise Francis/South Willard
Rock Dean Hill/Bear River	Kent & Kathy Ross/South Willard
Nate Marble/Tremonton	Jerry Peterson/South Willard
Randall Marble/Tremonton	Taunia Sanchez/South Willard
Dean Brett/South Willard	Sherm Richins/Riverside
Brent Parker/Wellsville	Lee Watkins/Brigham City

The **Minutes** of the regular meeting held on May 17, 2007 were made available to the Planning Commissioners prior to this meeting (June 21, 2007). A couple of word corrections were pointed out after which time a Motion to accept the Minutes of May 17, 2007 [with corrections] was made by **Commissioner Jon Thompson**; seconded by **Commissioner Theron Everhard** and passed unanimously.

COMMON CONSENT - None

PUBLIC HEARINGS

SHERMAN RICHINS TWO-LOT SUBDIVISION, APPLICATION SS07-013, LOCATED AT APPROXIMATELY 15050 NORTH HIGHWAY 13 IN THE RIVERSIDE AREA.

This two-lot subdivision is located in an area of the county that is currently un-zoned and one lot will be .50 acre and the other .75 acre. No comments were received from those present during the Public Hearing portion regarding this petition. A Motion was made by Commissioner Jon Thompson to close the Public Hearing; seconded by Commissioner Chad Munns and passed unanimously.

GERHARDT ONE-LOT SUBDIVISION, APPLICATION SS07-015, LOCATED AT APPROXIMATELY 120 SOUTH 6800 WEST IN THE WEST CORINNE AREA.

Taken off agenda; needed to submit a re-zone application from MU160 to RR-20.

DEAN BRETT CONDITIONAL USE PERMIT, APPLICATION CUP07-009, LOCATED AT APPROXIMATELY 7568 SOUTH 520 WEST IN SOUTH WILLARD.

The petitioner is asking for a variance on the required setbacks for the purpose of building a garage/shed on his property located in the Bay View Estates Subdivision in South Willard. The R-1-20 zone allows for variances from the required 10 feet if approved as a Conditional Use Permit by the Planning Commission. The petitioner is requesting approval to build a 30'x 30' building three feet from the south property line and five feet from the west property line (the west property line is the rear property line.) The Public Hearing was opened and comments were taken from those present.

- Kent Ross lives west of the Brett property and did not have any objection to the setback of five feet, but did not want the three foot variance granted. Also mentioned that there is a Pine View [secondary] water line on the Brett property; could possibly create a problem if repairs were necessary. Did not think that there were other any easements on the Brett property, but should probably have verification from the South Willard Water Company granting the five foot variance.
- Louise Francis is purchasing the home across the street that was currently owned by Dean Brett with a similar garage/shed building on that lot and the setbacks are less than the ten feet.
- Jerry Peterson is also next to the Brett property and had some objections to having a steel building constructed. Would rather see a wooden structure to conform better to the other homes and buildings in the neighborhood. Also felt that granting the variance of less than the required ten feet would allow the building too close to the fence line and also cause [possible] safety hazards. Also concerned about the noise during the construction of the building and noise from the use of the building in the future.
- Taunia Sanchez had some concerns regarding what the use of this building would be. On the former location there was a lot of noise at times when 4-wheelers and lawn mowers were being worked on, sometimes late at night.

- A letter was presented to the Planning Commission from Bernie and Sally Rittenour stating that they would like to see the setbacks remain at the required ten feet. (letter attached to official Minutes)

At the conclusion of the comments a Motion was made by **Commissioner Theron Eberhard** to close the Public Hearing; seconded by **Commissioner Jon Thompson** and passed unanimously.

NEW BUSINESS

SHERMAN RICHINS TWO-LOT SUBDIVISION, APPLICATION SS07-013, LOCATED AT APPROXIMATELY 15050 NORTH HIGHWAY 13 IN THE RIVERSIDE AREA.

Staff outlined the **conditions** for approval of the subdivision requests which included:

- ☑ Letter of approval from culinary water provider
- ☑ Letter of approval from wastewater treatment provider, i.e. Health Department approval for septic system where no sewer is available.
- ☑ Letter of approval from the Box Elder County Fire Marshal (as many of the local water companies do not have the capacity to provide the necessary pressure for fire hydrants at the location of individual homes) it is necessary that the County Fire Marshal verify that protection will be provided by the County.
- ☑ Letter of approval from the County's Engineer listing the requirements and recommendations for the subdivision.
- ☑ Letter(s) of the availability for all utilities, i.e. gas (or propane), electric, and any other necessary utilities.
- ☑ Compliance with all state and county subdivision regulations for which a specific variance has not been requested and granted on the record.
- ☑ Financial guarantee for all requirement improvements not installed prior to recording of the subdivision.

The Riverside-North Garland Water Company will be providing the culinary water for this subdivision and verification letters regarding electric and telephone have also been received. Letters of approval from the Health Department, the Fire Marshal and the County Engineer have not yet been received, however. The petitioner is planning on installing a fire hydrant to service this subdivision and will meet whatever requirements the water company sets. Based on the above findings and conditions Staff recommended granting approval of this petition.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant Preliminary and Final approval for the Sherm Richins Two-Lot Subdivision, subject to the **conditions** listed above. Motion was seconded by **Commissioner Richard Day** and passed unanimously.

DEAN BRETT CONDITIONAL USE PERMIT, APPLICATION CUP07-009, LOCATED AT APPROXIMATELY 7568 SOUTH 520 WEST IN SOUTH WILLARD.

Staff outlined the conditions for approving a variance of setback requirements including:

- ⇒ Verification from the petitioner that the building will not be built within any easements.
- ⇒ That a Public Hearing be set by the County Commission with 14 days notice before the date of the intended meeting.

The findings of Staff included:

- ★ Yard setbacks are intended to protect neighboring properties from encroachments that would reduce the safety and value of the neighboring property. Examples included fire or the blocking of sunlight that reduces the usability of the property.
- ★ The subdivision plat does not appear to have any utility easements along the property lines where the proposed variance is requested. Petitioner should verify that there are no easements along the property lines where variance is requested if approval is granted.

Dean Brett addressed the Planning Commissioners and showed pictures of his property and the proposed location for this garage/shed. Mr. Brett said that he could locate the proposed building on the other side of his property, but that would create another access from the side street to get to the building and possibly interfering with the view of the neighbor(s). He also stated that he does not intend to put up a steel building and was willing to ask for a variance of five feet on both sides and there would be no access from a side street to the structure. On his former property in the same subdivision the setbacks were granted for three feet and ten feet and were approved by the former County Planner. The purpose of the building was not for a business in this residential area. The petitioner also stated that if he were to construct the proposed building in the back area of his property it would be in the vicinity of the septic system and other easement (utility) in the back yard of the property toward the northwest. Also there would need to be additional access from the street to the garage if the location were changed to the rear of the property behind the home.

Staff recommended that the Commission take into consideration the comments received during the Public Hearing and also have the petitioner's request reviewed by the County engineer. Commissioner Richard Kimber also asked that the petitioner submit a more detailed drawing of the property indicating the location of the septic system and water lines and any easements located on the property [as to the width and length of any easements].

MOTION: A Motion was made by **Commissioner Jon Thompson** to Table action of the petition of Dean Brett for a variance on required setbacks until the July 19, 2007 meeting, enabling the petitioner to address the issues raised during the Public Hearing and also those mentioned by the Planning Commission and conditions of the Staff. Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

WOODYATT FARMS SUBDIVISION; APPLICATION SS07-014, LOCATED AT APPROXIMATELY 7550/7800 SOUTH 800 WEST IN SOUTH WILLARD

This proposed subdivision is located in the South Willard area of the County where the current zoning is R-1-20 (20,000 square foot lots) Each of the proposed lots (72) meet that requirement.

The subdivision would require new roads to be built to County standards and dedicated to the County upon completion of the subdivision. Access to this subdivision would be via 7800 South. As this is quite a large subdivision **Commissioner Richard Day** was concerned that there was only one proposed access to the subdivision. It was suggested that a traffic study be requested of UDOT and that additional access be provided. Brent Parker [representing the developer] stated that UDOT has been contacted but they won't address any of the issues until the petition had first been heard by the Planning Commission. Also, UDOT is concerned with excessive ingress/egress from Highway 89 to the subdivision and that access roads need to line up on both sides of Highway 89 with the various subdivisions being built in this area. The petitioner has assumed that additional access would eventually occur on the north side of the development where it would join with other developments, such as The Farms Subdivision via 950 West. As 7800 South (or Nerva Lane) currently has another subdivision accessing from this road, it would probably need to be widened and improved further to accommodate the increase of traffic. **Commissioner Richard Day** also thought that there was a possibility that some of this property lies within the area of an Ag-Protection (Tim Lundy property) and that would need to be taken out of protection prior to development. Lee Watkins, an engineer with Hansen and Associates, stated that the Health Department has been contacted regarding the 20,000 square foot lots instead of the full .50 acre and approval would probably be given for the development with individual septic systems. Staff stated that an environmental impact assessment study has been received regarding this petition. Staff also outlined the conditions for approval which included:

- ☑ Letter of approval from culinary water provider
- ☑ Letter of approval from wastewater treatment provider, i.e. Health Department approval for septic system where no sewer is available.
- ☑ Letter of approval from the Box Elder County Fire Marshal (as many of the local water companies do not have the capacity to provide the necessary pressure for fire hydrants at the location of individual homes) it is necessary that the County Fire Marshal verify that protection will be provided by the County.
- ☑ Letter of approval from the County's Engineer listing the requirements and recommendations for the subdivision.
- ☑ Letter(s) of the availability for all utilities, i.e. gas (or propane), electric, and any other necessary utilities.
- ☑ Compliance with all state and county subdivision regulations for which a specific variance has not been requested and granted on the record.
- ☑ Financial guarantee for all requirement improvements not installed prior to recording of the subdivision.

Upon conclusion of the discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant Concept Plan approval for the Woodyatt Farms Subdivision. Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

UNFINISHED BUSINESS

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

Commissioner Chad Munns asked to be excused from the discussion due to a conflict of interest.

The petitioner has received the necessary letters from the Fire Marshal, the Railroad for access, from the land owner (David Alexander) for the easement to the property, and from the County Road's Department indicating that it would not be necessary to pave the road and bring to it county standards at this time. Currently David Alexander is the adjacent property owner and has a sixteen foot easement across the property that is recorded with County Records. Mr. Alexander also did not have a problem with the Rural Road Agreement if there were only two homes built on the [subject] property as he owns property on both sides of Highway 38 and is continuing to farm the ground. The petitioner has also provided all of the necessary letters of verification for utilities and the water will be provided by individual wells on the property. If approved, the property would have two lots, one 3.50 acres and the other [approximately] 13.72 acres. The area is currently zone RR-2 (two-acre lot minimum). Staff outlined the conditions for approval of the petition including:

- Letter of approval from culinary water provider
- Letter of approval from wastewater treatment provider, i.e. Health Department approval for septic system where no sewer is available.
- Letter of approval from the Box Elder County Fire Marshal (as many of the local water companies do not have the capacity to provide the necessary pressure for fire hydrants at the location of individual homes) it is necessary that the County Fire Marshal verify that protection will be provided by the County.
- Letter of approval from the County's Engineer listing the requirements and recommendations for the subdivision.
- Letter(s) of the availability for all utilities, i.e. gas (or propane), electric, and any other necessary utilities.
- Rural road/road improvement agreement signed (by both property owners).
- Compliance with all state and county subdivision regulations for which a specific variance has not been requested and granted on the record.
- Financial guarantee for all requirement improvements not installed prior to recording of the subdivision.

Staff recommended approving this petition subject to the [two] property owners (Rock Hill and David Alexander) signing a Rural Road Agreement agreeing to construct and dedicate a road [in the future when deemed necessary] at the will of the County to full County standards. There could be no other homes or developments (other than the two being purposed by Rock Hill) that would be accessed by this easement until such a road was constructed. **Commissioner Jon Thompson** asked the petitioner and Mr. Alexander if they were both clear in regards to the Rural Road Agreement and that [by signing] it was restricting any further developments in the area until a fully dedicated and improved road was built to meet County standards and that it would be at the demand of the County to determine when such a road would be necessary. Mr. Alexander agreed with the concept that only two homes would be built and that he did not have any intention of further development or selling any other property owned by him in the foreseeable future. However, there are other land owners in the area and they were not present at this meeting. **Commissioner Jon Thompson** asked Staff to clarify what was meant by the precedence that was being set at this meeting regarding the building of homes on private (or dirt) roads and that it would limit the number to two houses on such roads/lanes. Staff explained *"the concern is...that the only time you have the opportunity to get roads is when somebody comes in to develop...the issues with this...as far as Mr. Hill is*

concerned, he'll have access, but we haven't protected the other property owners in the area, such as to the west for example, probably have enough property here where 100 homes could be built. I spoke with the railroad...and there is an existing crossing here, but if somebody else along here wanted to come in and have other crossing across the road it would be very difficult for them. So, by not requiring...that the County be able to say when it is time to have it dedicated... what you're doing is allowing someone to build off of this road and allowing them to kind of monopolize the access to the interior property." The petitioner, Rock Hill, had also spoken with **Commissioner Clark Davis** to get clarification on the number of homes that would have to be built before a road was required that would meet county standards. Mr. Hill's understanding from this conversation was that there was no set number of homes on a road that would require or determine when a road needed to be constructed to County standards, but that it would be when the other home owners (in future developments) started to complain about the excess dust, snow removal and subsequent traffic on a road. Staff stated that essentially that was accurate and that is why the recommendation was being made at this time with this particular petition because it is difficult to determine when an improved road would be necessary. Mr. Alexander stated that Mr. Hill was seeking approval from the Planning Commission for two-lots and that he has only given Mr. Hill approval for two-lots being accessed on his easement road. After continued discussion on this matter, Mr. Alexander stated that he did not feel comfortable with signing the Rural Road Agreement at this time based on information received during this meeting, as he could not predict what might happen in the future and especially where the "at will of the County" regarding the building of an improved road was concerned, and said that he would need to "sleep on it".

MOTION: A Motion was made by **Commissioner Richard Day** to grant concept approval of the Rock Hill Two-Lot Subdivision based on the signing of the Rural Road Agreement by the two [present] landowners; seconded by Commissioner Theron Eberhard; passed with **Commissioner Chad Munns** abstaining.

BLUE GRASS FARMS, LOCATED AT OR ABOUT 10300 WEST AND 13600 NORTH IN THE BOTHWELL AREA.

This proposed subdivision has a total of fourteen lots in an area that is currently zoned RR-5 (five acre lots) The petitioner was seeking approval for four lots in Phase I of the development. All of the proposed lots within the subdivision will front on a new road 10300 West. Staff outlined the **conditions** for approval which included:

- Letter of approval from culinary water provider.
- Letter of approval from wastewater treatment provider, i.e. Health Department approval for septic system where no sewer is available.
- Letter of approval from the Box Elder County Fire Marshal (as many of the local water companies do not have the capacity to provide the necessary pressure for fire hydrants at the location of individual homes) it is necessary that the County Fire Marshal verify that protection will be provided by the County.
- Letter of approval from the County's Engineer listing the requirements and recommendations for the subdivision.
- Letter(s) of the availability for all utilities, i.e. gas (or propane), electric, and any other necessary utilities.
- Rural road/road improvement agreement be signed.

- ☑ Compliance with all state and county subdivision regulations for which a specific variance has not been requested and granted on the record.
- ☑ Financial guarantee for all requirement improvements not installed prior to recording of the subdivision.

Before final approval is given for this subdivision, the petitioner will need to submit complete engineer drawings for review. The findings of Staff included:

- ★ The petitioner has submitted a letter from the Bear River Water Conservancy District for culinary water.
- ★ The roads in this subdivision will need to be fully improved.
- ★ Waste water treatment will be by on-site waste water system (septic system).
- ★ Homes will need to have fire suppression sprinklers as fire hydrants are not available for this development at this time.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to grant Preliminary approval for the Blue Grass Farms Phase I Development based on the above mentioned conditions of Staff; seconded by **Commissioner Chad Munns**; passed unanimously.

BLUE GRASS ESTATES AT BOTHWELL, LOCATED AT OR ABOUT 1300 NORTH 10800 WEST IN THE BOTHWELL AREA.

This ten lot subdivision is located in an area of the County that is currently zoned RR-5 (five acre lot minimum) and each lot will meet that requirement. 12800 North will remain a gravel/dirt road with the signing of the Rural Road Agreement by the existing residents and new developer. The proposed lots will front on 13600 North, 12800 North and 10800 West with a new gravel road built to County standards to access to lots one and two. The petitioner was asking for Preliminary approval of the entire ten lots of the subdivision. Staff outlined the conditions for approval which included:

- ☑ Letter of approval from culinary water provider.
- ☑ Letter of approval from wastewater treatment provider, i.e. Health Department approval for septic system where no sewer is available.
- ☑ Letter of approval from the Box Elder County Fire Marshal (as many of the local water companies do not have the capacity to provide the necessary pressure for fire hydrants at the location of individual homes) it is necessary that the County Fire Marshal verify that protection will be provided by the County.
- ☑ Letter of approval from the County's Engineer listing the requirements and recommendations for the subdivision.
- ☑ Letter(s) of the availability for all utilities, i.e. gas (or propane), electric, and any other necessary utilities.
- ☑ Rural road/road improvement agreement be signed.
- ☑ Compliance with all state and county subdivision regulations for which a specific variance has not been requested and granted on the record.
- ☑ Financial guarantee for all requirement improvements not installed prior to recording of the subdivision.

The findings of Staff included:

- ★ The petitioner has submitted a letter from BRWCD for culinary water.
- ★ The County Road’s Supervisor has submitted a letter requiring a rural road agreement if the roads are not asphalted.
- ★ Waste water treatment will be by on-site waste water system (septic systems).
- ★ The homes will need to have fire suppression sprinklers as fire hydrants are not available for this development.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant Preliminary approval for the Blue Grass Estates Subdivision at Bothwell (ten lots) based on the conditions of Staff; seconded by **Commissioners Richard Day** and passed unanimously.

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

No additional information had been received regarding this petition, therefore a Motion was made by **Commissioner Chad Munns** to Table any further action on this petition; seconded by **Commissioner Jon Thompson** and passed unanimously.

WORKING REPORTS

The Planning Commissioners discussed the current situation regarding moratoriums in Cache County for developments larger than five lots. It has proven to be problematic for Cache County at this time. It was felt that a full moratorium would not be appropriate at this time in Box Elder County. Also a moratorium can only be put into place for six months. Currently large subdivisions are held to the ordinances now in place and by limiting development to five lots or smaller it could create additional problems, i.e. construction of roads, meeting fire codes regulations. Larger subdivisions allow the Planning Commission to set standards for the developer and the County Commission has the final approval for any developments based on the recommendations of the Planning Commission. The developments throughout the County offer good reasoning to have more zoning restrictions (or zoning established) in areas of the County that are currently un-zoned. Zoning could possibly help with the development or at least control and slow it down some. A Motion was made by **Commissioner Chad Munns** to move on to the next item on the agenda.

Items that are (or could be) placed on the Common Consent agenda were discussed. Petitions that were for one-lot subdivisions, not requiring any improvements or infrastructure could probably be placed on Common Consent and allow the Planner to recommend approval without having to have lengthy discussions by the Planning Commissioners. If a question was brought up regarding the item it could then be moved down to the regular agenda items for discussion.

PUBLIC COMMENTS - NONE



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Commission Jon Thompson made a motion to adjourn the Planning Commission meeting at 10:41 p.m.

Passed and adopted in regular session this 19th day of July 2007

Richard Kimber, Chairman
Box Elder County
Planning Commission