

MINUTES BOX ELDER COUNTY PLANNING COMMISSION AUGUST 16, 2007

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

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

The following citizens were present:

Austin Butler/Garland	Scott & Melanie Bowcutt/Garland
Randy Marble/Tremonton	Buster & Brett Marble/Tremonton
Brett Judson/Willard	Jan Rampton/Garland
Adam Burris/Petersboro	Allen Burris/Smithfield
Amy Hugie/Brigham City	Rock Hill/Bear River City
Lane Waite/South Willard	

The *Minutes* of the regular meeting held on July 26, 2007 were made available to the Planning Commissioners prior to this meeting (August 16,2007). Two minor corrections were pointed out by Commissioners David Tea and Chad Munns. A Motion was then made by Commissioner David Tea to accept the Minutes with corrections; seconded by Commissioner Jon Thompson; passed unanimously.

PUBLIC HEARINGS

BRETT & PENNY JUDSON, SETBACK VARIANCE, APPLICATION CUP07-012, LOCATED AT 7607 SOUTH 525 WEST IN SOUTH WILLARD

This petitioner was requesting a variance on the setback requirements for building a storage shed on their property in South Willard. Staff stated that according to the subdivision plat there was a 10 foot utility easement along the rear portion of the property line where the variance was being

requested. The petitioner indicated that moving the shed to accommodate that [ten foot] easement would change the landscaping plan for the yard. **Commissioner Theron Eberhard** asked if they would be able to build right on the easement line, and it was concluded that would be allowed. The petitioner also said that they had looked at other property in the area of their subdivision and there were others that had built within that ten foot easement and asked how that had been granted. The Public Hearing was then closed with a Motion by **Commissioner Jon Thompson** and seconded by **Commissioner Chad Munns**, passed unanimously.

JAN RAMPTON ONE-LOT SUBDIVISION, APPLICATION SS07-019, LOCATED AT APPROXIMATELY 5795 WEST 14400 NORTH IN THE GARLAND AREA

This one-lot subdivision is located in an area of the county that is currently un-zoned and is one half acre in size. The lot is on an existing right-of-way. There were no comments during the Public Hearing and a Motion was made by **Commissioner Jon Thompson** and seconded by **Commissioner Richard Day** to close the Public Hearing; passed unanimously.

COPPER HILLS 4-LOT SUBDIVISION, APPLICATION SS07-020, LOCATED AT APPROXIMATELY 14500 NORTH 400 WEST IN THE BEAVER DAM AREA.

This four-lot subdivision is located on the border with Cache County where the zoning is currently RR-2. Each lot meets the two acre minimum with the 200 feet of frontage. The lots will front on 400 West in the Collinston/Beaver Dam area. No comments were made during the Public Hearing regarding this petition. A Motion was made by **Commissioner Theron Eberhard** to close the Public Hearing; seconded by **Commissioner Jon Thompson** and passed unanimously.

ROCKY VIEW 4-LOT SUBDIVISION, APPLICATION SS07-022, LOCATED AT APPROXIMATELY 8400 WEST 1200 NORTH IN THE TREMONTON AREA.

This four-lot subdivision is located in an area of the County that is currently un-zoned with access from 12000 North in Tremonton. The petitioner was not present at the meeting. Staff had recommended to the petitioner that they contact Tremonton City concerning possible annexation into that city's boundaries. No other comments were received and the Public Hearing was closed with a Motion by **Commissioner Richard Day** and seconded by **Commissioner David Tea**; passed unanimously.

COMMON CONSENT

JAN RAMPTON ONE-LOT SUBDIVISION, APPLICATION SS07-019, LOCATED AT APPROXIMATELY 5795 WEST 14400 NORTH IN THE GARLAND AREA.

This one lot subdivision is located in an area of the County that is currently un-zoned and the lot size is one half acre. The lot will front on an existing right-of-way and the petitioner has provided letters of verifications from the Health Department and all other necessary utilities. As the petitioner has met all of the following *conditions* set by Staff, Preliminary and Final approval was recommended at this time.

- ▶ Letter of approval from culinary water provider.

- ▶ Letter of approval from Health Department concerning the wastewater treatment or septic system.
- ▶ Letter of approval from the Box Elder County Fire Marshal.
- ▶ Approval from the County's Engineer and that the petitioner comply with those recommendations prior to recording of the subdivision.
- ▶ Letters of approval for the various utilities for the site.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to approve the Jan Rampton One-Lot Subdivision [as a common consent item] with the *conditions* set by Staff; seconded by **Commissioner Richard Day** and passed unanimously.

NEW BUSINESS

BRETT & PENNY JUDSON, SETBACK VARIANCE, APPLICATION CUP07-012, LOCATED AT 7607 SOUTH525 WEST IN SOUTH WILLARD.

This property is located in the South Willard area when the current zone is R-1-20 (20,000 square foot lot). **Commissioner Theron Eberhard** asked what the reason was for the petitioner wanting a variance in reducing the setback requirements and if it were not granted would it affect the use of the building. The petitioner responded by saying that it would not affect the use of the building, but the work that had been put into planning the landscaping for the lot would need to be changed and that he had seen several other storage type buildings in the area that were within the ten foot easement on the property. Concern was expressed by the Planning Commissioners that the ten foot area allows for utility easements and if access to that easement were needed in the future the utility companies could come in and require the building to be removed at the owner's expense. **Chairman Richard Kimber** asked about the other buildings in the area that were within the ten foot easement portion of the property and asked Staff if it would be possible to research how those variances were granted. Staff responded that it could probably be done, or that just possibly taking a driving survey of the area and locating those buildings would lend some information about the past granting of those building permits. This property was zoned as R-1-20 in 2000/2001 and these buildings are mostly located within new subdivisions in that area that were approved after the zoning change. **Chairman Richard Kimber** was also concerned that this was the second time a request for setback variance had come before the Planning Commission within a month and was this setting some sort of precedent in granting these variances. **Commission Tea** thought that granting a variance was done because of some hardship and he could not see that need in this particular request. After some further discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant a variance of five feet on the east side of the property, but retaining the ten foot easement on the north side where the utility easement is present. Seconded by **Commissioner David Tea** and passed unanimously. A public hearing will be set at the County Commission level with a fourteen (14) days notice of the hearing.

COOPER HILLS 4-LOT SUBDIVISION, APPLICATION SS07-020, LOCATED AT APPROXIMATELY 14500 NORTH 400 WEST IN THE BEAVER DAM AREA.

This four-lot subdivision is located in the Beaver Dam area where the current zoning is RR-2 (two acre lots). The lots will have frontage on an existing right-of-way gravel road of 400 West. Staff did not recommend curb, gutter and sidewalk for this petition, but a Rural Road/Road Improvement Agreement would need to be signed by the petitioner/developer. The gravel road of 400 West is currently maintained by Cache County and three of the lots would have frontage on 400 West. The petitioner has applied with the health department for approval of the septic systems on the lots and one well would supply the water for all four lots and there would need to be a well protection easement, but there should be adequate property for a home and septic on the lot where the well was located as each lot is approximately 400 feet deep with 200 feet of frontage. The petitioner questioned the need for improving the road when it is currently being used by gravel trucks and it is a double chip and seal surface. There was also some question as to whether or not 400 West is a right-of-use road by the County as it is maintained by Cache County. Staff's additional *conditions* for granting approval included:

- ▶ Letter of approval from culinary water provider.
- ▶ Letter of approval from Health Department concerning the wastewater treatment or septic system.
- ▶ Letter of approval from the Box Elder County Fire Marshal.
- ▶ Approval from the County's Engineer and that the petitioner comply with those recommendations prior to recording of the subdivision.
- ▶ Letters of approval for the various utilities for the site.
- ▶ The petitioner(s) signing a Rural Road/Road Improvement Agreement.
- ▶ The petitioner(s) comply with all state and county subdivision regulations for which a specific variance has not been granted.
- ▶ Financial guarantee for all required improvements not installed prior to recording of the subdivision.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant Preliminary and Final approval of the Copper Hills 4-lot Subdivision with the stipulation that 400 West be improved to Box Elder County standards (or a Rural Road/Road Improvement Agreement signed to go into effect when further development occurs) as recommended and reviewed by the County Engineer at this time and also other *conditions* as outlined [above] by Staff. Motion seconded by **Commissioner Richard Day**. **Commissioner David Tea** asked for clarification on the County Surveyor/Engineer role in determining whether or not to improve the road at this time. Staff responded that the road would need to be at least 33 feet wide to be approved for vehicle traffic. Motion passed unanimously.

ROCKY VIEW 4-LOT SUBDIVISION, APPLICATION SS07-022, LOCATED AT APPROXIMATELY 8400 WEST 1200 NORTH IN THE TREMONTON AREA.

As this 4-lot subdivision would be accessed through a new private road off of 12000 North in Tremonton and would need to have approval for that access from Tremonton City, Staff recommended that the petitioner be directed to petition Tremonton City for annexation into that

city's boundaries. If annexation was not granted then the petition would go forth and be subject to meet all of the requirements of the County for approval of the subdivision.

MOTION: A Motion was made by **Commissioner Jon Thompson** and seconded by **Commissioner David Tea** to have the petitioner seek annexation into Tremonton City; passed unanimously.

HAROLD SELMAN INC., AG-PROTECTION, TWENTY-TWO PARCELS, APPROXIMATELY 5178.83 ACRES AND BLUE CREEK FARM SIX PARCELS, APPROXIMATELY 975.60 ACRES

The petitioner was requesting an Ag-Protection of approximately 5178.83 and 975.60 acres (28 parcels) of their property. Staff outlined the [State] criteria for the creation of an ag-protection area which included:

- (1) Whether or not the land is currently being used for agriculture production or for an industrial use, as the case may be;
- (2) Whether or not the land is zoned for agriculture use or industrial use, as the case may be;
- (3) Whether or not the land is viable for agriculture production or industrial use, as the case may be;
- (4) The extent and nature of existing or proposed farm improvements or the extent and nature of existing or proposed improvements to or expansion of the industrial use, as the case may be; and
- (5) (a) In the case of an agriculture protection area, anticipated trends in agricultural and technological conditions.

As the land included in the proposal appeared to meet the [State] criteria as outlined, Staff recommended granting approval for the creation of the Ag-Protection area.

MOTION: A Motion was made by **Commissioner Chad Munns** and seconded by **Commissioner Jon Thompson** for the approval of the Ag-Protection request for the Harold Selman Inc. property; passed unanimously.

SCOTT BOWCUTT, SUBDIVISION AMENDMENT ONE, APPLICATION SS07-007, LOCATED AT APPROXIMATELY 5915 WEST 14400 NORTH IN THE GARLAND AREA.

This amended petition is for the Scott Bowcutt property located in the Garland area where there are currently no zoning restrictions. The property was originally divided into two lots with the remainder parcel having approximately .25 acre. This amendment is for a lot-line adjustment resulting in the creation of an additional lot; lot one is .50 acre, lot two is 1.31 acres, and lot three is .50 acre. Lot two is now a flag lot and meets the restrictions for access as the stem of the flag is less than 250 feet in length. Lots one and three will have frontage on 14400 North. The petitioner has met the *conditions* set forth by Staff which included:

- ▶ Letter of approval from culinary water provider.

- ▶ Letter of approval from Health Department concerning the wastewater treatment or septic system.
- ▶ Letter of approval from the Box Elder County Fire Marshal.
- ▶ Approval from the County's Engineer and that the petitioner comply with those recommendations prior to recording of the subdivision.
- ▶ Letters of approval for the various utilities for the site.
- ▶ The petitioner(s) signing a Rural Road/Road Improvement Agreement.
- ▶ The petitioner(s) comply with all state and county subdivision regulations for which a specific variance has not been granted.

MOTION: A Motion was made by **Commissioner Richard Day** to grant approval for the Scott Bowcutt Subdivision Amendment One (Lot Line Adjustment) and seconded by Commissioner David Tea; passed unanimously.

UNFINISHED BUSINESS

AUSTIN C. BUTLER STORAGE UNITS, SITE PLAN APPROVAL, APPICATIONAL CUP07-008, LOCATED AT APPROXIMATELY 13650 NORTH 6000 WEST IN THE GARLAND AREA.

This petition was before the Planning Commission during their July 2007 meeting. The location of the storage units has changed to the north side of the property and the petitioner is seeking approval for storage units with a time frame of two years to have the pavement around the units. **Chairman Richard Kimber** stated that upon traveling throughout the County there were few storage units where there was pavement into or around the units and that the travel into and the speed around the units would be minimal, thus the requirement of pavement was not deemed necessary. Staff agreed. A fence will be installed around the units with a gate that will be locked nightly. Staff's *conditions* for approval included:

- ▶ A letter of approval from the County Engineer and the developer comply with all recommendations and requirements of the Engineer.
- ▶ A paved travel ways at least 24 feet wide around the units.
- ▶ A building permit from the County.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant approval for the Site Plan of Austin C. Butler Storage Units as per the *conditions* recommended by Staff with the exception that no pavement around the units is necessary but a privacy fence is to be installed. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

ROCK HILL TWO-LOT SUBDIVISION, APPLICATION SS07-010, LOCATED AT APPROXIMATELY 13600 NORTH 4400 WEST IN THE COLLINSTON AREA.

This petition had received preliminary approval subject to the signing of the Rural Road Agreement by Rock Hill and David Alexander. Mr. Hill has retained the service of Ms. Amy Hugie to resolve the issue of the Rural Road Agreement language, making it clearer and easier to understand. (The

Commissioners were given a copy of the RRA.) Ms. Hugie addressed the Planning Commissioners stating *“I understand you gentlemen have seen this for the last two or three months and we’re trying to get something that everybody can live with, the County, David Alexander, and my client Mr. Hill. What is going on currently is trying to talk to Mr. Alexander, because his understanding in everything is that he is going to have to dedicate that amount of property like right now. He, of course, is violently opposed to doing that. However, . . . so we’ve been trying to talk through that and we’ve also been trying to take the section in the Rural Road Agreement that talks about Special Improvement Districts. We, of course, understand that it takes at least 51% of the landowners to organize a Special Improvement District, but educating Mr. Alexander about that is taking a little time. (My understanding is that each landowner in the district gets a vote, it’s not. . . you don’t get to vote by parcel, you vote by if you own a piece of property in the area.) So Mr. Alexander is concerned about whether or not. . . that would mean. . . that a landowner could come in and require Mr. Hill and Mr. Alexander to make a Special Improvement District. That, of course, can’t happen, but it’s educating Mr. Alexander about that process that is taking a little time. In paragraph one, what was added, [Mr. Hamilton is right], it talks kind of about an existing county approved road. . . it’s not very clear as to what that existing approved gravel road is. The last part of paragraph one, it was added. . . it talks about said improvements being necessary if further development . . . **At the time the Board of County Commissioners makes that determination, the property owners agree to dedicate the right-of-way according to the approved land use ordinances of Box Elder County, The right-of-way description is attached to this agreement in the form of an easement.** Mr. Hill has an easement that goes to his lots. However there is some discussion between both Mr. Hill and Mr. Alexander about paragraph seven and eight, and my suggestion would be that the Planning Commission approve . . . Mr. Hill can have his approval based upon the signed Rural Road Improvement Agreement that is approved by Mr. Hamilton and Mr. Hadfield. My thinking is that David Alexander and Rock Hill need to sit down with Kevin Hamilton and Steve Hadfield and just discuss seven and eight and if they, (if it needs to be tweaked any), then just as long as Mr. Hadfield and Mr. Hamilton approve that, then that would be an acceptable . . . Mr. Hamilton and I didn’t discuss this before. . . we kind of talked about it before, but that’s what I would suggest to the County, that the Planning Commission do, is grant the approval based upon. . .if these two sections have to be tweaked a little for clarification. . . everyone gets covered. . .everybody gets taken care of, the County, Mr. Hamilton, Mr. Hill, and that should hopefully fix. . . “*

Chairman Richard Kimber asked Ms. Hugie if she would want to review the “tweaked” Rural Road Agreement.

“If it’s OK with Mr. Hill, I don’t have a problem with it. . . I represent him, he just needs to get it done in whatever way is acceptable to him and it is acceptable to the County and acceptable to Mr. Alexander then that would be great.”

Commissioner Theron Eberhard asked about number seven and the establishment of a Special Improvement District and if that were the only way that the County would elect to complete that road. Ms. Hugie replied that in paragraph one it talks about two different ways to do it, in the first sentence; *“The County waives the requirement to install improvements, such as curb, gutter, and sidewalk, asphalt and other improvements as required by the Ordinance along said road until such time that said improvements are deemed necessary by the Adjoining Landowners through [1] the establishment of a Special Improvement District or [2] if further development facilitates the need for improvement as determined by the Board of County Commissioners.”* **Commissioner Theron Eberhard**

then stated that number seven is more restrictive than number one, because number seven says that it has to be by a Special Improvement District. Mr. Hamilton (Staff) stated that Mr. Hadfield may even decide to eliminate number seven once he had the opportunity to review the document. Staff further stated that the biggest concern is that the Board of County Commissioners

be able to make that determination. Ms. Hugie felt that if Mr. Hadfield was willing to take that part out and it was acceptable to the Commissioners and Mr. Hadfield that would be what would satisfy her and her client (Mr. Hill). Ms. Hugie further stated that she had spoken with Mr. Hamilton about this and that paragraph one really covered the needs of the County and number seven was not necessary, since paragraph one allows two viable options to improve the road in the future. Therefore, Ms. Hugie felt that Mr. Hadfield would be agreeable to taking it out of the final agreement. Mr. Hamilton felt that this document could be “hammered” out fairly quickly to the satisfaction of all parties.

Commissioner Jon Thompson asked Ms. Hugie, “in your legal opinion, and in what conversations you’ve had with Mr. Alexander, does he understand that Mr. Munns or his successors as assigned, that if they want to use that road for access to their property, it becomes a whole new issue?”

Ms. Hugie’s response was, “We have talked about that, but if that road is developed by Mr. Munns’ successor. . . if they want to put development on that, they have to go through the subdivision process . . . and you [the planning commission] would have that issue to deal with on that piece of property.” That would then have to be worked out with Mr. Alexander. “Mr. Alexander’s big concern is (1) he didn’t like this thing where the County could come in at any time and deem it necessary, verses . . . I think the way this talks about. . . there has to be some sort of development come in. . . you have to have some sort of triggering mechanism. . . some sort of justification and there has to be some sort of findings and that’s what he’s been concerned about. One, he doesn’t want to have his ability to develop the property hampered and two, he doesn’t want to have the County to be able to just at the drop of a hat, just come in and say ‘I’m sorry, you’re just going to have to develop this road.’ And so those are the things that I think really would be helpful if Kevin and Steve sat down and talked with David Alexander and Rock Hill, the four of them to just hammer that out and just hammer those little issues out, because Mr. Alexander came away from the last meeting that he went to, that he was going to have to . . . give over the road right now, and that’s just not the case. But that’s the misunderstanding . . . so that’s my suggestion as to how to deal with it is to have the four of them sit down and I think that Kevin is right, that with very little tweeking it will be there.”

MOTION: A Motion was made by **Commissioner Jon Thompson** to recommend approval to the Rock Hill Two-Lot Subdivision subject to those stipulations as set forth by our Staff and approval of the Rural Road Agreement with Mr. Alexander. Motion was seconded by **Commissioner Chad Munns**.

Commissioner David Tea asked if those stipulations would be noted on the plat associated with this subdivision so that in the future any buyer would be aware of what they were getting into. Staff replied that the Rural Road Agreement is recorded with the subdivision plat. **Commissioner Theron Eberhard** also asked if they should stipulate that paragraph seven be removed, but **Chairman Richard Kimber** felt that should be left to the discretion of Staff and Mr. Hadfield work that out and if they deemed that appropriate then they could do that. **Commissioner Chad Munns** asked if this was the standard Rural Road Agreement used by the County and the response by Staff was “yes”, except for the sentence that Ms. Hugie added to paragraph one. **Commissioner Chad Munns** said that he was OK with that then suggested that it be tweaked. Staff then replied that many of the existing ordinances are being rewritten at this time.

Motion then passed unanimously.

BLUE GRASS ESTATES ONE-LOT SUBDIVISION, APPLICATION SS07-011, LOCATED AT APPROXIMATELY 12800 NORTH 10800 WEST IN THE BOTHWELL AREA.

The property (lots) that were originally included in the Blue Grass Estates Subdivision has been sold with the exception of this one lot that the petitioner is seeking approval for. The property is located in an area of the County that is currently zoned as RR-5 and the lot has five acres fronting on 10800 West in the Bothwell area. The nearest paved road is approximately one-half mile from this property. There are four other existing lots on this road and pavement was required when those lots were approved. It was suggested that pavement be required for at least 180 feet in front of this proposed lot with the signing of the Rural Road/Road Improvement agreement to go into effect when future development occurs. Paving the road creates additional maintenance from the County road department, and the petitioner said that he did not believe that the current width of the road meets the standard requirements of the County because of the drainage along the west side of the road.

MOTION: A Motion was made by **Commissioner Jon Thompson** to grant Preliminary and Final approval for the One-Lot in the Blue Grass Estates Subdivision. The Road Department be contacted in regards to the pavement of the smaller section of road and if they determine that it is not recommended at this time then the petitioner would need to sign a Rural Road/Road Improvement Agreement for future development; seconded by **Commissioner Richard Day**.

Commissioner David Tea proposed an amendment to the Motion regarding the paving of the road surface. If the Road Department recommends pavement then the entire length of the road in front of the lot would need to be paved and not just the 180 feet. **Commissioner Chad Munns** asked who owns the other half of the road and how does the County force the requirement of pavement on those owners. Staff stated that if the petitioner were not able to get the owners of the other half of the road to agree with, and participate in, the financial cost of the road pavement (if pavement is recommended by the Road Department) then it is possible that the approval of the lot would not go further in development. The amendment to the Motion was seconded by **Commissioner Richard Day**. Both the Motion and the amendment to the original Motion passed unanimously.

WORKING REPORTS

Staff talked with the Planning Commissioners regarding a possible work session in September as the work session for August had been cancelled. Karen Wikstom (working on the mixed-use and large scale development ordinances) would not be available until October for a work session, but Staff is currently working on existing ordinances that need to be “fixed” or updated. Because of Labor Day and Peach Days, it was determined that a work session would not be held in September. **Commissioner David Tea** asked about the identification of the roads throughout the County and what was the status on that subject. With all of the development currently occurring in various parts of the County, the Planning Commissioners would like to know where [and what] are the busiest roads and what is the condition of those roads. Staff informed the Commissioners that Bill Gilson of the Road Department would like to be involved in the planning of the roads. **Commissioner David Tea** also stated that every month the Planning Commission deals with the issue of whether or not

asphalting is needed in conjunction with a proposed subdivision. The Road Department personnel need to be involved and a standard needs to be set that can be followed by the Commissioners. Also, what is the cost of maintaining the asphalt to the County and to the taxpayers? Every subdivision is unique; they may appear the same on the surface, but with closer inspection there may be exceptions. This issue needs to be placed on a future agenda or discussed in a work session.

Commissioner Chad Munns asked what was the current status of the fire issue in the County. The Planning Commissioners need to be educated on that issue also. Staff reported that the various water companies are working on the issue of having adequate water flow for either fire hydrants and/or sprinklers in new home developments. There is a need to have a standardized fire code with all of the water companies. Commissioner Richard Day said that some of the water companies had met earlier in the month and are currently working toward a meeting with the Sheriff, the County Attorney, and the County Fire Marshall.

PUBLIC COMMENTS - NONE

Brett Judson asked about his petition for a variance since it received approval from the Planning Commission could he acquire the building permit. Staff informed him that it would now go to the County Commission for a Public Hearing at that level before final approval was granted and would probably be at their first meeting in September.

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Commissioner David Tea made a motion to adjourn the Planning Commission meeting at 9:47 p.m., seconded by **Commissioner Richard Day** and passed.

Passed and adopted in regular session this 18th day of October 2007

Richard Kimber, Chairman
Box Elder County
Planning Commission