

MINUTES BOX ELDER COUNTY PLANNING COMMISSION SEPTEMBER 20, 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 (excused)	Kevin Hamilton	Planner
David Tea	Member	Elizabeth Ryan	Secretary
Clark Davis	Member	Steve Hadfield	Co. Attorney
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:

Rob Illig, Jayant Sathe, Rick Bilotto/Gold Rush	
Nate Marble/Bothwell	James Plaia/Tremonton
Benson Astle/Brigham City	Laura Wurth/Tremonton
Dewayne Julander/Bear River	Craig Doxey/Orem
Derek Julander/Brigham City	Ben Johnston/Tremonton
Zjani Julander/Brigham City	Betty Rae McMurtrey/Brigham City
Jay D Bywater/Brigham City	Shelley A Bywater/Brigham City
Dan Davidson/Beaver Dam	Tom A Davis/Brigham City
Justin Ross/Brigham City	Melanie Christy/Brigham City
Gina Allen/Brigham City	

The *Minutes* of the regular meeting held on August 16, 2007 were not made available to the Planning Commissioners prior to this meeting (September 20, 2007). Those Minutes will be reviewed at the October 18, 2007 meeting.

PUBLIC HEARINGS

CRAIG DOXEY CONCEPT PLAN, APPLICATION SS07-021, LOCATED IN SECTION 21, NE/4, S 21, T8N, R19W, 2 MILES NORTH OF HIGHWAY 30 AND ONE HALF MILE EAST OF THE NEVADA BORDER.

This 160 acre parcel has recently been illegally subdivided into several parcels ranging from ¼ acre to 5+ acres. There is a Class D County road, but many of the parcels would not have access to that road, nor is there culinary water or adequate fire protection. The Public Hearing was opened and
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Mr. Doxey addressed the Planning Commissioners stating that at the time of the division of the parcel he was not aware that it was illegal and that now he was trying to rectify the situation by proposing a possible solution regarding the road access and also that many of those that purchased the property will probably never see it but just wanted to be able to own a piece of land. Mr. Doxey further stated that because this area of the County was un-zoned that his understanding was that there were no restrictions accompanying the land. When he advertised and sold the parcel, he posted pictures on the internet and also stated that there were no services available as it was located in a remote and undeveloped area of Box Elder County. When Mr. Doxey initially thought about buying and subdividing some land in the western part of Box Elder County, he contacted Mr. Garth Day and was told that since the area was un-zoned it could be done, but that there may not be access to the individual parcels. Mr. Doxey said that he had noticed several other areas in the County where land was being subdivided in the remote area of the County, however Mr. Garth Day told him that he was really not too happy with all of the subdividing that was being done in those areas of the County. Mr. Ben Johnston had been hired by Mr. Doxey to try and find a solution to this problem and was seeking approval by the Planning Commission to move forward. The Public Hearing was then closed with a Motion by **Commissioner Clark Davis** and seconded by **Commissioner Theron Eberhard**, unanimous.

DEWAYNE JULANDER RE-ZONE PETITION APPLICATION SS07-023, 66.13 ACRES FROM A-20 TO RR-20 LOCATED AT APPROXIMATELY 4600 NORTH AND 2800 WEST IN THE CORINNE AREA.

This 66.13 acre parcel is currently zoned A-20 and the petitioner was requesting that it be rezoned to RR-20 to facilitate selling one-half acre where the original farm house is located to a family member. He also has other family members that would like to build homes in the future and the zoning would need to be changed for that purpose too. The petitioner felt that it would be easier to request that the entire acreage be rezoned at this time instead of various spot-zoning requests. Approximately eleven of the 66 acres in the proposed area for the re-zone are considered as wetlands according to the petitioner. The Salt Creek runs through the eastern portion of the property where there is a deep ravine and the stability of the banks of the ravine are unknown. The Public Hearing was opened and the following comments were received.

Dewayne Julander said that many of the other residents in the area were concerned that he was going to develop the entire 66 acre and that would give the potential of over 100 lots. However with the wetlands and the area of the Salt Creek that was not his purpose. His grandson wants to purchase the old farm house, but with the current zoning he cannot just sell him that house with a small lot. He had also considered five acre lots, but because of the layout of the property some of the lots would not meet those criteria either. He also was not aware that the zoning of this property had been done in 2004; before that time the area was un-zoned. He has two sons that have built on the land prior to the zoning and has two other children that also want to be able to build, but with the A-20 zone, they would not be able to without having a 20 acre parcel.

Tom Davis said that he and many of the other neighbors are concerned that with zoning being one half acre it would open up the area for 80-100-120 homes. Most of the people of the area do not want to see that happen. Mr. Julander's sons that already have homes on the property probably have five acres with their homes and Mr. Davis (and others) felt that zoning to RR-5 would be better for the area. The farmhouse has property that could probably be included to meet the five acre zone if that is what was decided. Mr. Davis also felt that a landowner should be able to do what they

wanted with their property as long as it did not impact others in the area. There is also concern as to where the water for these lots will come from as there is a waiting list for water hookups with Corinne Water Company.

Shelly Bywater was also concerned with how the re-zone would impact the area, the school district, the water issue and that the water pressure is already low.

Mellonie Christy said that she did not believe that the intent of the petitioner was to re-zone the area in order to develop a large subdivision. The farmhouse has been there for quite a while and did not think that having the farmhouse sold with a smaller lot would impact any of the neighbors in the area.

Max Huggins has known the Julander family for quite some time and did not think that this issue should become a personal thing with granting the .50 acre zone in order to build a house, but did not want to see a large subdivision in the area.

James Bradshaw lives across the street and wondered if the old farmhouse could be torn down and another house built on its site, thus eliminating the need for the re-zone altogether. He was against the ½ acre lots and thought that five acre would be more reasonable.

The Public Hearing was then closed with a Motion by **Commissioner Clark Davis**, seconded by **Commissioner Jon Thompson**, unanimous.

CURTIS CHRISTENSEN RE-ZONE APPLICATION SS07-024; APPROXIMATELY 714 ACRES LOCATED AT APPROXIMATELY 5000 NORTH IOWA STRING ROAD IN THE CORINNE AREA.

This petition is to re-zone the approximate 714 acres of Curtis Christensen from the current A-20 and RR-20 zones to M-G (General Industrial District). This re-zone is to accommodate a possible paper manufacturing facility in the area. The West Corinne Community Plan covers this area and directs that manufacturing uses should typically be located along the major thoroughfares such as the Iowa String Road. The property is approximately one mile from the closest family residence and would not conflict with any farming activity in the area. The Public Hearing was opened. Mr. Robb Ellig, representing the paper manufacture said that the re-zone would be contingent on the company committing to locating to the area. This is a Fortune 500 Company and is and would be well respected if it should decide to locate to this area. The land to the south of the proposed facility would be made available for the suppliers of the company's product. The property is also located on a rail line that would be advantageous to the company. A soil study is currently being done and mitigation regarding the wetlands. The Public Hearing was then closed with a Motion by **Commissioner Theron Eberhard**, seconded by **Commissioner Clark Davis**, unanimous.

COMMON CONSENT- none

NEW BUSINESS

CRAIG DOXEY CONCEPT PLAN, APPLICATION SS07-021, LOCATED IN SECTION 21, NE/4, S 21, T8N, R19W, 2 MILES NORTH OF HIGHWAY 30 AND ONE HALF MILE EAST OF THE NEVADA BORDER.

This concept plan to subdivide approximately 160 acres located in an un-zoned area of the County contains lots ranging in size from 0.25 acre to 5 acres. Some of the lots were proposed without any frontage on a dedicated road and would front on private roads and right-of-ways. This subdivision is in a remote area of the County and the County may not be able to provide adequate police and fire protection. The developers were proposing that the development be allowed to vary from the County standards in the following ways:

- Roads will not meet the County standards
- There would be no culinary water system
- There would not be adequate water flow for any fire protection

Staff's other findings in regards to this petition were:

- ✦ No dedicated [County] roads to access the subdivision.
- ✦ The small parcels of 0.25 acre may not have any value for agricultural use and would place disproportionate burdens on the County to provide services
- ✦ Other subdivisions with this small of lots had not been approved in this area.

Ben Johnston of Johnston Engineering addressed the Planning Commissioners stating that the petitioner, Mr. Craig Doxey, was trying to find a solution to the current dividing of this property that he did not realize was illegal at the time he sold the parcels. Many of the owners of these parcels would probably never see the land that they had purchased. It was noted that this is an unorthodox subdivision and the land could possibly be re-subdivided allowing for the landowners to have access via the property hash lines; the corners of the lots would be marked to identify the individual parcels. The roads could be commonly owned by all those within the subdivision and a document could be sent to each of the landowners for their signature stating that they were in agreement with this action. **Commissioner Theron Eberhard** stated that this was somewhat like the area in Dove Creek that was approved (with ten acre lots) and now the original petitioner is no longer in the picture and those residents are now having problems regarding access to the lots in that area. **Commissioner Eberhard** felt that this was a similar situation with much smaller lots. **Commissioner Chad Munns** asked about whether or not there was other language that could be used regarding this area instead of calling it a "subdivision" as that seemed to be what was causing a lot of the problems with the approval. Labeling an area as a subdivision implies that the owners can build on the property. After reviewing the conditions for approval set forth by the Planning Staff which included: letter of approval from culinary water provider; letter of approval from Health Department for septic; letter of approval from the Box Elder County Fire Marshal; letter of approval from the County's Engineer; letters from the various utilities for servicing the area; a rural road/road improvement agreement; compliance with all state and county subdivision regulations; a financial guarantee for all required improvements; and dedication of all roads to the County leading into the subdivision, the following motion was made based on the Staff's recommendations that *"all lots should be provided with a water system that provides adequate flow for fire protection, waste water treatment approval and frontage on a dedicated road. A letter from the state agricultural agent should be received indicating that each parcel has an independent viable agricultural use. A recreation development is not recommended due to the distance from emergency services."*

MOTION: A Motion was made by Commissioner Clark Davis to deny the petitioner's request for this subdivision based on the findings and conditions stated by the Planning Staff. The Motion was seconded by Commissioner Jon Thompson and passed unanimously.

DEWAYNE JULANDER RE-ZONE PETITION APPLICATION SS07-023, 66.13 ACRES FROM A-20 TO RR-20 LOCATED AT APPROXIMATELY 4600 NORTH AND 2800 WEST IN THE CORINNE AREA.

The petitioner was requesting that his 66.13 acres be re-zoned from the current A-20 (20 acre agricultural) to RR-20 (residential half acre lots). The West Corinne Community Plan covers this area and lists floodplains and wetlands as concerns that should be addressed when considering the development potential of the area. The petitioner had stated that approximately eleven (11) acres of his 66.13 were considered as wetlands. Staff's approval standards included:

- ★ *Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan.*
- ★ *Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.*
- ★ *The extent to which the proposed amendment may adversely affect adjacent property.*
- ★ *The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.*

During the Public Hearing many of those express concern over granting approval for the half acre lots, but would not be opposed to five acre zoning. Commissioner Theron Eberhard stated that this was the second re-zone request of an individual that had come before the Planning Commission and was concerned that precedence was being set. At this time the application was only for a re-zone and not for a subdivision. Commissioner Jon Thompson asked if this was not unlike "spot zoning", but Staff reported that spot zoning can be done now. In regards to the five acre zone, Mr. Dewayne Julander felt that the five acre zone would be too large for many that might not be in the farming business. The half acre zone would be more flexible in dividing up the property and he did not intend selling numerous lots as was expressed during the Public Hearing. Many of those wanting to build and reside in this area are waiting a number of years before getting approved for a water tap through Corinne City. Mr. Julander also stated that he was not aware of the action that had taken place in zoning this area in 2004, however, the Planning Commissioners said that there were numerous town meetings and public hearings held during the process of zoning this area. Commissioner David Tea asked if this area could qualify as a cluster situation. Staff suggested that more research be done in the area regarding the wetlands and possible development before the petitioner was to move forth with the request. Commissioner Clark Davis suggested that there be maps and overlays available for subsequent meetings that would show this area in reference to the surrounding property and also consider the option of a "cluster zone".

MOTION: A Motion was made by Commissioner Jon Thompson to Table the request for the re-zone of the Dewayne Julander property until more information regarding the wetlands, ground water, geo-tech reports and other [zone] options could be addressed and considered. Motion was seconded by Commissioner Theron Eberhard and passed unanimously.

CURTIS CHRISTENSEN RE-ZONE APPLICATION SS07-024; APPROXIMATELY 714 ACRES LOCATED AT APPROXIMATELY 5000 NORTH IOWA STRING ROAD IN THE CORINNE AREA.

This re-zone request is for property located at approximately 5000 North Iowa String Road. The current zoning is A-20 and RR-20 and the proposed change are to M-G (General Industrial District). The total acreage is 713.77 acres. This request is to accommodate a large paper manufacturing plant with a facility of about 950,000 square feet with seven (7) contiguous buildings. The West Corinne Community Plan directs that manufacturing uses should typically be located along major thoroughfares such as the Iowa String and the proposed amendment is consistent with goals, objectives and policies of the County's General Plan, and the amendment would not adversely affect the adjacent property owners. Representatives from the company stated that the re-zone would only take affect if the company made the final decision to locate to Box Elder County. Staff stated that this property has been used in the past as agricultural and that there is a rail line through the property which would be beneficial to the company. Commissioner Clark Davis said that various County representatives (as well as city and state) have been working with this company for the past year regarding the location to the area. He further indicated that this would be beneficial to the County and the area over the long term. The Governor has also been involved in the negotiations with this company. Commissioner Richard Kimber asked where the water was coming from to service this project and was informed that Brigham City would be taking care of that along with the sewer issue. The power companies have also been noticed regarding this proposed business.

MOTION: A Motion was made by Commissioner Theron Eberhard to approve the re-zone application of the Curtis Christensen property and recommend to the County Commission that the re-zone be completed subject to the commitment of the company's site selection being located in Box Elder County; also with the Conditions set by Staff which included:

- ✧ Traffic and wetland reports submitted for review by the County's engineer and compliance with the recommendations of the County's engineer prior to approval of a conditional use permit for the project.
- ✧ Detailed verification that the items listed under #4 of the standards for approval have been addressed prior to approval of a conditional use permit for the facility.
 - (#4) The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

Motion was seconded by Commissioner Jon Thompson and passed unanimously.

MARION ORCHARD CO., AG-PROTECTION OF APPROXIMATELY 240 ACRES LOCATED NORTH OF CORINNE CITY ON HIGHWAY 13.

Staff reviewed the criteria to be applied in evaluating a proposal 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.

Based on the above findings Staff recommended granting approval for the Ag-protection request.

MOTION: A Motion was made by **Commissioner David Tea** to approve the creation of the Ag-protection for the Marion Orchard Co., and submit to the County Commission for their approval. Seconded by **Commissioner Theron Eberhard** and passed unanimously.

UNFINISHED BUSINESS

BLUE GRASS FARMS FOURTEEN-LOT SUBDIVISION, APPLICATION SS07-011, LOCATED AT APPROXIMATELY 10300 WEST 13600 NORTH IN THE BOTHWELL AREA.

This petition was before the Planning Commission for Final approval. Staff's findings included:

- ▶ The petitioner has submitted a letter from the Bear River Water Conservancy District for culinary water.
- ▶ The roads in the subdivision will need to be fully improved.
- ▶ Waste water treatment will be by on-site waste water systems.
- ▶ Homes should have fire suppression sprinklers as fire hydrants are not available at this time. (The Thatcher Fire Company has said that they would be able to service this subdivision in regards to fire protection.)
- ▶ Roads should be stubbed to the east and west on the south end of the subdivision. (A new road would be constructed at 10300 West as the main frontage for these lots.)

As the petitioners have adjusted their proposed road alignments in response to the Planning Commission comments during preliminary approval, Staff recommended final approval with the conditions outlined during the July 26, 2007 meeting. Nate Marble, petitioner, said that development to the west and east of this subdivision is not in the immediate future plans for those landowners; however a road would be constructed between lots 10 and 7 (at 13365 North). Staff said that he did not like the current rural road agreement as it leaves the cost of developing those roads to some future [lot] owner as the agreement goes with the lot and not the developer. **Commissioner Richard Kimber** said that he would be more comfortable with an easement along the south end of lot 13 than the rural road agreement.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to grant Final approval to the Blue Grass Farms 14-lot Subdivision based on the conditions outlined by Staff and the addition of the southwest stub road being included and paved with a one-foot easement. Motion also included the recommendation of sprinklers being installed in the homes for fire protection. Motion seconded by **Commissioner Clark Davis** and passed unanimously.

WORKING REPORTS

Commissioner Clark Davis asked that the County Attorney Steve Hadfield address the Planning Commissioner regarding the illegal subdivisions in the western areas of the County such as the Craig Doxey petition that was heard at this meeting. **Commissioner Chad Munns** asked that the members of the Planning Commission be better informed before the meetings so that there were no surprises during the Public Hearing portions of these meetings. It was suggested that it might be valuable for the Commission members to meet prior to the 7:00 p.m. meeting time to review the items on the agenda with the Staff. This would be opened to the public to attend, but no comments could be made by the public during that time. If called something other than a “meeting” the public would not be allowed.

Steve Hadfield talked with the Commissioners regarding the illegal subdivisions in the County and that the County could prosecute the offenders or ask the judge in the case to order restitution, but some of these divisions were done with the County’s written approval. His office is still getting some calls, but not really sure how to fix the problem. If the sale of the property was misrepresented by the seller then the buyer could file a law suit themselves in the case. Those that purchased the land cannot transfer the property to another person [by law], but it could be given back to the person they bought it from in the first place.

Staff said that a group from the Thatcher area [regarding 626 acres] of Foss Valley Road had recently come into the office to talk about creating a Special Service District for the area and hoped to secure bonds for improving and building in the area. Staff suggested that they first look into creating a Community Plan for the area and then an amendment to the County’s General Plan could be proposed. As was done in other areas of the County, i.e. West Corinne, Bothwell, and South Willard, an outside consultant could be hired to help with the process, but the County may not be interested in doing so at this time as it could open up other areas to ask for a similar process.

A work session was scheduled for October 9, 2007 with Jody Burnett (attorney from SLC) to talk with the Planning Commissioners regarding the land use issues and possible legal issues where land development is taking place.

Regarding the Fence Ordinance, **Commissioner Clark Davis** said that as Mr. Garth Day had returned to Box Elder County, **Commissioner Jay Hardy** had talked with Garth concerning some other issues in the County and Staff (Kevin Hamilton) had also recommended that Garth could be a facilitator in the continuance of the fencing issue. A recommendation needs to be finalized and submitted to the County Commission on this issue. It was suggested that Garth Day be asked to attend the October 9th work session.

Commissioner Chad Munns asked if the unfinished business [items] on the agenda could be moved up on future agendas so that the petitioners would not have to wait for the entire meeting before their item was addressed as was the case with the Blue Grass Farms 14-Lot petition at this meeting.

An item on the agenda for the October 18, 2007 meeting will address a northern Utah regional landfill at the Little Mountain site which would include Box Elder, Cache, [most of] Davis, and Weber Counties. **Commissioner Clark Davis** is currently applying for the permits associated with a larger landfill and a Conditional Use Permit will be submitted by NURLA (Northern Utah Regional Landfill Authority) soon. It was suggested that the Planning Commissioners take a field trip to the

proposed site before the next meeting when this item will be on the agenda for review. It would also be a good idea to have the project engineer at the field trip to answer and address any questions in regards to this request.

PUBLIC COMMENTS - NONE

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Commissioner Jon Thompson made a motion to adjourn the Planning Commission meeting at 9:37 p.m., seconded by **Commissioner David Tea** and passed unanimously.

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

Richard Kimber, Chairman
Box Elder County
Planning Commission