

MINUTES

BOX ELDER COUNTY

PLANNING COMMISSION

OCTOBER 18, 2007



Prior to the Planning Commission meeting scheduled for 7:00 p.m., Planning Commissioner(s) Kimber, Day, Davis, Thompson, and Munns, along with Kevin Hamilton, Elizabeth Ryan, Gina Allen, Nathan Rich, Brett Mickelson and three newspaper reporters met at the Little Mountain Landfill for a scheduled field trip. Brett Mickelson, NURLA, discussed the proposed site for the regional landfill with those present and answered a few questions regarding the selection of this site. Upon returning to the Courthouse, the Planning Commissioners met with Staff to review the items on the agenda for the meeting; Commissioner Theron Eberhard joined the group at this time.

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 (excused)	Elizabeth Ryan	Secretary
Clark Davis	Member		
Theron Eberhard	Member		
Chad Munns	Member		

Chairman Richard Kimber called the Planning Commission meeting to order at 7:04 p.m.

The following citizens were present:

Dave & Joan Evans/Tremonton	Brandon & Amy Evans/Bothwell	Brett Mickelson/Park City
Amanda Nielson/Bothwell	Geneva Naef/Bothwell	Susan Kinsella/Tremonton
Nate Marble/Bothwell	Drew Nielson/Bothwell	Brenda Sagers/Tremonton
Dewayne Julander/Bear River	Derek Julander/Brigham City	Christine Michael/Salt Lake
Dave Friedli/Hyrum	J.A. Danielson/Corinne	Martin Soholt/Mantua
Zjani Julander/Brigham City	Betty Rae McMurtrey/Brigham City	Curtis L. Marble/Corinne
Jay D Bywater/Brigham City	Shelley A Bywater/Brigham City	Chad Holmgren/Tremonton
Dan Davidson/Beaver Dam	Tom A Davis/Brigham City	John D. Sagers/Tremonton
Justin Ross/Brigham City	Melanie Christy/Brigham City	Tim O'Shaughnessy/Bear River
Gina Allen/Brigham City	Ronnie Crovey/Bothwell	Lisa O'Shaughnessy/Bear River
Dot & Max Huggins/Brigham City	Richard Nicholas/Tremonton	
Michael & Victoria Tenner/Bothwell	Roger & Judy Newman/Tremonton	
Sam Hansen/Bothwell	Marshall Thompson/Logan	
Eli Anderson/Tremonton	Larry & Barbara Ellis/Bothwell	
Dave Archer/Tremonton	Joe Kropf/Tremonton	
Nathan Rich/Layton	Susan & George Moen/Tremonton	
Lois & Jeff Ivers/Tremonton	Clay Oyler/Tremonton	
Eric & Tracee Olsen/Tremonton	Kerry Zundel/Tremonton	

The *Minutes* of the regular meeting held on August 16, 2007 were approved with a Motion by Commissioner Chad Munns, seconded by Commissioner Clark Davis and passed unanimously. Commissioner Theron Eberhard pointed out one correction in a Motion of the September 20, 2007 Minutes; Commissioner Jon Thompson then made a Motion to accept the September 20, 2007 Minutes with the correction; seconded by Commissioner Theron Eberhard and passed unanimously.

PUBLIC HEARINGS

BRANDON D. EVANS RE-ZONE, APPLICATION SS07-025, LOCATED AT 10900 NORTH 10000 WEST IN THE TREMONTON AREA FROM RR-5 MODIFIED TO GENERAL INDUSTRIAL DISTRICT.

During the Public Hearing the following comments were made.

Brandon Evans, the petitioner was requesting a re-zone of property from the current RR-5 Modified to M-G General Industrial for the expansion of his existing business of a welding manufacturing shop in the Bothwell area. Because of the growth of the business, enlarging the business is not allowed in the current zone. The property directly south of this location is currently un-zoned. The petitioner, Brandon Evans, addressed the Commissioners and citizens present explaining his request. The business was started in 1997 and currently has five employees (four of which live in the Bothwell area). The primary purpose of the business is making steel handrails for homes, but it has also proved to be an asset to the farmers in the area that have called upon Mr. Evans to help with repair of farm machinery and equipment. Mr. Evans also stated that it is not his intent to re-zone in order to create any sort of a subdivision, but only for the expansion of his existing business and continuing to be able to support his family and provide support for his employees and their families.

Susan Moen was opposed to the re-zoning of the area as they had recently purchased a lot (and built a home) in the Stevenson's Subdivision in the previous year. One of the reasons for choosing this location was due to the fact that it was non-commercial and wanted to have it remain that way.

Amy Evans, wife of the petitioner, stated that the business was started in 1997 and they were just requesting the re-zone in order to upgrade the shop where the business is housed.

Richard Nichols agreed that Mr. Evan's intentions were good in expanding his business, but had three questions regarding the petition and the re-zone. 1) What is it that classifies this business as industrial; 2) when the business was first started in 1997, why wasn't the zoning a problem then; and 3) how would re-zoning this area affect the long term zoning in the Bothwell area. (Chairman Kimber explained that during this Public Hearing the comments would be taken into consideration, but no discussion would take place until later in the meeting.) Mr. Nichols was not opposed to the business of Mr. Evans or the growth of the business, but wanted to be able to control future business coming into the area.

Joan Evans presented a picture of the area where the re-zone is being purposed. The expansion of the shop would be in the general location of the existing building, but would cross over into the RR-5 acre. The building would not be close to the Stevenson's Subdivision.

Nate Marble stated that his property borders the Evans property where the re-zone is being requested, and there are a couple of other homes in the vicinity, but did not think it would be a hindrance to the Bothwell Pocket area. As a representative of Chanshare Sod Farms, he also stated that they have called upon Mr. Evans' business in the past for help with repairing machinery, and that the sod farm was not opposed to the zoning change. Also noted that the noise of the sod trucks probably awakens more residents than the noise of the Evans business.

Sam Hansen has about 70 acres around the re-zone area and also seven lots in the Stevenson's Subdivision and didn't see a problem with granting the re-zone request.

Lee Summers asked why there needed to be a re-zone in the first place; can't the business just be expanded without re-zoning the property. He was concerned that re-zoning would open up the area for more re-zone requests in the future for additional commercial use. Overall, he was not opposed to Mr. Evan's expanding his business. He asked if Mr. Evans were to build a hay barn would that be allowed. The answer was a hay barn would be built but once it is used for commercial reasons, it would not be allowed in the current zone. Mr. Summers felt that Brandon deserves the opportunity to expand and grow with his business.

Staff explained that if Mr. Evans were to expand his business without re-zoning the property, it would fall into a category that would not be allowed in the area as it is currently zoned. If this re-zone is granted then future re-zone requests would have to be treated likewise in granting approval. If this business were limited to that of serving farmers, then the expansion would probably not have to have a re-zone, but the zoning ordinances needs to be followed for the good of all citizens.

Victoria Tenner was concerned that granting the change would then open up the area for many other requests that would have to be handled similarly; did not feel that industrial type business would be in the general welfare of the Bothwell community. If Mr. Evans business is growing then why not move it to another area where there are commercial uses already?

Amanda Nielsen said that she had lived in the Bothwell area for a number of years and there are already businesses next to the Stevenson's Subdivision, such as home based businesses like hair salons.

Clay Oyler is an employee of this existing business and lives in Bothwell on 10000 West. He said that when the Stevenson's Subdivision was first proposed, people of the area were against it also. The residents of Bothwell are a close knit group and Mr. Evans was not asking to re-zone the entire area, but only a small area of five acres. The farmers in the area are not against the re-zone or Mr. Evans' business, as many call upon them for repairs, and it is not the intent to re-zone the entire area.

Eli Anderson stated that he believed property owners should have certain property rights and the commission(ers) should support this request.

Brandon Evans concluded the discussion by asking that if the expansion that he was currently seeking was already in place and his business (buildings) already in the area, would those new residents have moved there, as many of the residents in opposition were newer members of the community.

The Public Hearing was closed by a Motion from **Commissioner Clark Davis** and seconded by **Commissioner Theron Eberhard**, unanimous.

NORTHERN UTAH REGIONAL LANDFILL AUTHORITY (NURLA), APPLICATION CUP07-013, LOCATED AT THE LITTLE MOUNTAIN SITE, 9595 WEST 6800 NORTH IN THE TREMONTON AREA; REGIONAL LANDFILL.

Staff reviewed the site of the existing landfill at the Little Mountain site and the changes that would occur if approved as a regional landfill. The existing landfill is un-lined and with the approval of a regional landfill it would require lining and would have to adhere to more stringent state regulations and requirements for licensing. Time was then turned over to **Nathan Rich**, representing NURLA and the proposed expansion for this site. Mr. Rich had a handout regarding the frequently asked questions of the Northern Utah Regional Landfill Authority (attached). NURLA is an inter-local entity trying to consolidate waste from several counties to an environmentally sound location for a landfill. This could potentially be a "win-win" situation for all of the counties involved by taking advantage of lower costs. What is being proposed is a modification of the existing site of the Box Elder County landfill. The current landfill is sufficient for a small community and is unlined, but with the expansion, NURLA

would expand the footprint of the landfill. The location of this site is good because of its proximity to the other counties, but it is also well-screened and would not be visible to the surrounding areas. Staff concluded by stating that this is already an approved use for the area and the Commissioners are just setting the conditions for the use as a regional landfill. The Public Hearing was opened and the following comments (paraphrased) were received.

Tim O'Shaughnessy, a resident of Bear River City, was concerned that very little information had been available until this meeting concerning this proposed landfill. He wondered if this decision had already been made, or is it open for suggestions at other locations. (Staff again clarified that this is an approved use as a conditional use at the existing site.) Mr. O'Shaughnessy also questioned why this area was being considered and not areas in the other counties; was it due to the price of land? He did not want to have Box Elder the recipient of other county's trash. The population of the other counties is growing; as is Box Elder County, and does Box Elder want to be the trash can for them?

Susan Kinsella wondered if recycling was being considered with the expansion of the site as a regional landfill.

Lisa O'Shaughnessy (recently moved here from Colorado Springs) expressed concern over the potential smell that would be emitted by the expansion of the site and also what having a large landfill in this area would do to the property values. Was the county going to help those whose land values declined due to the landfill? She pointed out that Logan has problems with its landfill and the smells that come from it. Did not think that the public nor Commissioners had any idea the smell that would come from such a site. She did not think that those living in close proximity to the regional landfill would even be able to give their property away after a regional landfill was approved.

Betty Rae McMurtrey was also concerned that this was just being brought to the public now and understood that this area was zoned for trash, but why did it have to take trash from the other counties. Box Elder County is a large county and an alternative site could be found that would be further away from the cities and surrounding residents.

Martin Sohold (of Mantua) felt that from listening to the comments that they were quite typical of emotional reactions. Stated that he was familiar with the existing site and was there when it was built; has watched its development and has known about the possible expansion for a number of years as it had been highly publicized. Several other sites had been looked at both within and outside of Box Elder County. Was pretty much in favor of joining with this alliance and using the landfill for what it was intended to be used; mostly municipal solid waste, mostly residential as most commercial waste goes to private landfill sites. Aware that the current landfill has done some limited recycling and would suggest that more be considered in the future as the landfill expands to help extend the life of the landfill. The site of the Cache Valley landfill is in the middle of Logan and rises up where the Little Mountain site is well hidden in sight and odor, and revenue could be made from a regional landfill.

Eli Anderson (former State Legislator): *"I'd like to give you a little background information on the landfill at Little Mountain. Several years ago there was a proposed landfill in White's Valley, and the County Officials lost control of being able to govern themselves on that piece of property, and it had to go to the State Legislature to try to find an alternative site. I was the chairperson of a task force that went out and looked at other landfills; the site on Little Mountain was one of our three top sites that was picked by this legislative committee, and we had several public hearing meetings and travelled throughout the County looking at those sites. Box Elder County was able to obtain this site. . . in fact this committee had even negotiated the price for Box Elder County. We were able to get away without putting in a liner because Box Elder County was a low volume. . . it was going to take care of the citizens of Box Elder County for a long long time. At the point we're at today I have some concerns that history may be repeating itself. The County got into a situation where they were unable to govern themselves. Right now we have an outside organization called NURLA, and they're wanting to get a*

conditional use permit from you people to expand that landfill and bring their garbage in. That brings some real concerns for the landfill on Little Mountain as well as the people of Box Elder County; and when you put liners in it costs more to dispose of your garbage. I have some concerns that soon that landfill site will be full and then what's it going to cost our citizens to get rid of their garbage? It will have to be trucked greater distances and the citizens of Box Elder County will have to pay that price. The other problem we have here is with NURLA taking control of this -- we have outside counties deciding what is going to happen in Box Elder County and Box Elder County has lost their ability to govern. Now Box Elder County is part of this, but they're outvoted by all of the other counties. There are some real big red flags here and I would urge caution of this committee and the precedence that they are setting here. The other thing . . . I got on the internet trying to find information on permitted solid waste landfills, and I got a list that DEQ has and I think that this committee should be aware that the landfill doesn't even show up on this list . . . I think we need to find out why it's not on this list. So I'd like to present this as a piece to be looked at . . . there may be something that has been overlooked and there may be some problems there concerning that landfill. You may want to look into that and make sure that we have an acceptable permit for that landfill in Box Elder County. Thank you."

Curtis Marble was curious as to whether a study had been done regarding the truck traffic that would be generated with the creation of the regional landfill and also the site of the new Proctor & Gamble plant that would both be accessed via the Iowa String Road, as well as the Wal-Mart Distribution Center and other traffic in the Corinne area. Had UDOT been informed and they (UDOT) are usually four years behind in taking care of problems.

Art Danielson was also concerned about the truck traffic that is in the area now and wondered what had happened to the proposed regional site at Little Valley or Promontory that was being looked at a few years ago. (The Commission was not aware of what had happened to that potential site.)

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

WASATCH WIND, APPLICATION CUP07-014, LOCATED IN THE GROUSE CREEK AREA OF T21S 14N, 17W, FOR THE LOCATION OF A MET TOWER.

This petition was for a MET tower in the un-zoned area of Grouse Creek/Yost to measure wind speed to generate [possible] power from the site. Christine Michael, representing Wasatch Wind out of Heber City, Utah, addressed the Commissioners and said that the tower would be approximately 60 meters or 200 feet high and would have the capacity of about 90 megawatts of electricity; Wasatch Wind is interested in seeing if this would be a viable site for a wind tower. Several years ago there was a MET tower located on the site and showed high potential for development. Ms. Michael had not been to the proposed site herself, but said that it would need to be accessed about every month except during the winter months. **Commissioner Jon Thompson** asked if the wind tower would be generating electricity was there a transmission line in that area. **Chairman Kimber** thought that the closest transmission line was probably about two/three miles away. The Public Hearing was then closed with a Motion by **Commissioner Clark Davis**, seconded by **Commissioner Richard Day**, unanimous.

VALLEY COMMUNITY L.L.C. (PEGGY & BILLY CHADWELL) RE-ZONE APPLICATION SS07-015 FROM RR-1 TO COMMERCIAL SHOPPING OR HIGHWAY COMMERCIAL IN THE PARK VALLEY AREA.

This petition was requesting rezoning of property in the area between Park Valley and Rosette from the current RR-1 and MU-40 to Commercial shopping District/Highway Commercial for the possible location of a general store. The petitioner addressed the Commissioners saying that there is no commercial business in the area currently and it is a two hour drive to the closest grocery store. They are proposing a more convenient stop for those travelers going to Nevada or Idaho. The property is owned by D. Kunzler and would be leased by the Valley CommUnity LLC. At this time the type of structure had not been determined as they were going through the re-zone process and hoped that in the future they would also be able to locate a small gas station at the site along with the general store. No other comments were received and the Public Hearing was closed with a Motion by Commissioner Jon Thompson and seconded by Commissioner Chad Munns, unanimous.

HOLMGREN/KINSELLA TWO-LOT SUBDIVISION, APPLICATION SS07-027, LOCATED AT APPROXIMATELY 6685/6731 NORTH HWY 102 IN THE THATCHER/PENROSE AREA.

The petitioner addressed the commission explaining that this two-lot subdivision, located in the Penrose/Thatcher area would share a common access from State Highway 102 and that there is an existing home on the smaller lot of .64 acre. The petitioner will be building a new home on the six acre lot and believed that all of the necessary paperwork had been submitted for approval of the petition. No other comments were received during the hearing and it was closed with a Motion by Commissioner Jon Thompson, seconded by Commissioner Clark Davis, 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 after the public hearing held on September 20, 2007 the petitioner had changed his request to re-zone the property from the current A-20 to RR-2 (two acre lots) The Public Hearing was opened and the following comments were received.

Dewayne Julander said that by changing his request to RR-20 he felt that this would keep his property consistent with other property in the area.

Tom Davis was still concerned with re-zoning to two acre lots and was more in favor of five acre lots and that the zone should be consistent throughout the area; maybe even the County. Questioned as to why the zone was A-20 in the first place. If the zone is changed to two acre lots then others would have to be given the same consideration with future requests that might be received.

Dewayne Julander said that he was requesting the two acre zone to accommodate for the layout of his property and some of the area would not meet the five acre zone when split. His grandson is interested in purchasing the existing farm house and does not want to have five acres of land with it.

Justin Ross felt that zoning to five acre lots would be more in line with the rest of the area, i.e. Bothwell and Honeyville.

Dot Huggins asked that the letter that was given to the County Commissioners and Planning Commissioners be entered into the record. (letter is attached)

Crystal Ross lives in the area and was in favor of the five acre zone; also wondered why all of the 66+ acres had to be re-zoned and not just part of the property.

Terri Julander is currently living in the Shane Reed home and just wanted to be able to build a home and doesn't need five acres with a house.

Shelly Bywater was concerned about the growth that might occur with the change in the zone.

Dave Christy thought that Julander's grandson should be able to build a home on the family property.

Betty McMurtrey asked if Mr. Julander had other children that he wanted to give land to in order to build homes. Why was the location of the canal stopping him from doing so? Some of them might want five acres.

Dewayne Julander purchased this property in 1973-74 and thought that he had some [property] rights, but they were being stripped away over the years. His intent was always to be able to keep his family close with this property.

The Public Hearing was closed with a Motion by Commissioner Clark Davis, seconded by Commissioner Chad Munns, unanimous.

AMENDMENT/CHANGES TO THE BOX ELDER COUNTY LAND MANAGEMENT & DEVELOPMENT CODE

Staff explained that these are changes (Chapter 20 to Chapter 3-7) and that he was not asking for a recommendation tonight, but will discuss those recommended changes at a later time or in a work session.

COMMON CONSENT

HOLMGREN/KINSELLA TWO-LOT SUBDIVISION, APPLICATION SS07-027, LOCATED AT APPROXIMATELY 6685/6731 NORTH HWY 102 IN THE THATCHER/PENROSE AREA.

This two-lot subdivision is located in an area of the County that is currently un-zoned at approximately 6685/6731 North Highway 102 in the Thatcher/Penrose area. Lot one will have six acres and lot two .64 acre. The two lots will share an access road. The petitioner has supplied letters from the utilities, water and health department. Staff recommended granting approval subject to the conditions of approval listed.

- ◇ Letter of approval from culinary water provider (Thatcher/Penrose Water District)
- ◇ Approval from the Health Department for the septic system
- ◇ Letter from the Box Elder County Fire Marshal
- ◇ Approval from the County Engineer
- ◇ Letters from the various utility servers
- ◇ Compliance with all state and county subdivision regulations

MOTION: A Motion was made by **Commissioner Clark Davis** to grant approval of the Holmgren/Kinsella Two-Lot Subdivision subject to the conditions listed above. Seconded by **Commissioner Jon Thompson** and passed unanimously.

UNFINISHED BUSINESS -- NONE

NEW BUSINESS

BRANDON D. EVANS RE-ZONE, APPLICATION SS07-025, LOCATED AT 10900 NORTH 10000 WEST IN THE TREMONTON AREA FROM RR-5 MODIFIED TO GENERAL INDUSTRIAL DISTRICT.

Staff explained that the Bothwell Community Plan states that “Zoning should reflect the prevailing character of an overall district or neighborhood to the largest extent possible. Districts determined to be in transition may be given special consideration. Commercial and manufacturing land uses should be located on collector and arterial streets avoiding local streets which serve residential zones. Access to these uses also should avoid local streets within residential zones.” Brandon Evans is requesting re-zoning of the property where he intends to expand his current business. The change in zoning would be from the current RR-5 Modified to M-G General Industrial. The property immediately to the south of Mr. Evans’ property is un-zoned. The petitioner is still in the planning stages of this proposed expansion to his business. **Commissioner Theron Eberhard** questioned where the water source for the business expansion was coming from [as no water permits are being given out in the Bothwell area currently] and also if there was any requirement for water to accommodate fire protection; also concerned that this request was a spot zone. **Commissioner Eberhard** read from a summary check list from a public policy brief from the Michigan State University Extension Service [from a State and Local Government Specialist] which stated, “*can your zoning accommodate the request through a special use permit of a PUD?*” **Commissioner Eberhard** further stated that he was not ready to make a decision on this request until some further research had been done to look at Utah’s findings concerning such spot zoning issues. Staff replied that as a commercial building it may be required to have sprinklers in the new building; as for the spot zoning issue, it would only be considered as such if other petitioners in the area were not given the same consideration with their requests for a re-zone. **Commissioner Chad Munns** asked what percentage of the work done by the petitioner was agricultural. The petitioner responded by saying that not to the extent that it could be classified as an agricultural business, but many farmers may not know that he does repair work on farming equipment. During the Public Hearing many of those present were not against the business of Mr. Evans, but questioned why the re-zone was necessary. **Commissioner Clark Davis** suggested that perhaps an update to the Bothwell Community Plan be considered. After some further discussion, the following motion was made.

MOTION: A Motion was made by **Commissioner Jon Thompson** to Table the request by Brandon Evans for a re-zone of the property until further study can be done and other alternatives considered. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

NORTHERN UTAH REGIONAL LANDFILL AUTHORITY (NURLA), APPLICATION CUP07-013, LOCATED AT THE LITTLE MOUNTAIN SITE, 9595 WEST 6800 NORTH IN THE TREMONTON AREA; REGINAL LANDFILL.

Commissioner Theron Eberhard asked if there was any basis for denying this CUP for the regional landfill. Staff replied that the nearest home to the location of the landfill is approximately two/three miles away and as the area is currently un-zoned the petitioner did not have to come to the County for approval but would only have to meet the requirements and regulations for the necessary state permits to acquire licensing. **Commissioner Richard Day** asked if there were any water wells within the area of

the proposed landfill that would be impacted. Nathan Rich told the Commissioners that test wells had been drilled to the depth of 300 feet and no water was found. The issue of the smell coming from the landfill was talked about during the Public Hearing and the current landfill manager, Gina Allen said that the area is covered daily and there is really no smell emitted. A regional landfill would also be covered each day; also there is more responsibility with a regional [larger] landfill. Currently only bulk metals and batteries are being recycled, but more recycling could be done if it were cost effective in the future. **Commissioner Clark Davis** stated that he acts as the representative of NURLA for the County and that the concern of the County is to have control [of any landfill in the County] and that the current landfill could possibly be lost due to the rising costs. Therefore, joining with other communities/counties would help with those costs. The quality of the landfill would be improved with the lining, which is not currently a requirement. NURLA had done some study in looking at other areas. Davis County (or Wasatch Integrated) owns property at White's Valley. Box Elder County seemed to be a better location for the regional landfill. **Commissioner Chad Munns** asked about the traffic concerns especially with the news of the P & G plant going in along the Iowa String Road. Staff said that the traffic impact would be more along 6800 North, but **Commissioner Theron Eberhard** felt that the traffic coming through Corinne would have a large impact on the area. Commissioner Clark Davis said that the projected trips from the large trucks would not be happening overnight, but would be over the next several years. Cache County would be in the next three years and Davis County eight years out. As for the concern regarding the drop in land value, Gina Allen said that the property around the landfill of the Wasatch Integrated area (Hill Air Force Base) has property values increasing with \$400,000 homes in the area.

MOTION: A Motion was made by **Commissioner Jon Thompson** to recommend granting the Conditional Use Permit to NURLA for the regional landfill with the conditions for approval outlined by Staff. *1) Compliance with all requirements and recommendations of the state and/or county engineers; 2) compliance with all state and federal regulations regarding the location and operation of a solid waste landfill; and 3) traffic impact study on 6800 North if recommended by county engineer.* (The impact [cost] on the roads caused by the additional truck traffic will be covered by the [NURLA] participating counties.) Motion was seconded by **Commissioner Richard Day** and passed unanimously.

WASATCH WIND, APPLICATION CUP07-014, LOCATED IN THE GROUSE CREEK AREA OF T21S 14N, 17W, FOR THE LOCATION OF A MET TOWER.

From the discussion and information gathered during the Public Hearing the following motion was made.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant approval of the Conditional Use Permit for the Wasatch Wind Met Tower with the condition that if a light is required by state regulations, a light will be attached to the top of the tower. Motion was seconded by **Commissioner Clark Davis** and passed unanimously.

VALLEY COMMUNITY L.L.C. (PEGGY & BILLY CHADWELL) RE-ZONE APPLICATION SS07-015 FROM RR-1 TO COMMERCIAL SHOPPING OR HIGHWAY COMMERCIAL IN THE PARK VALLEY AREA.

The site of this property is along Highway 30 between Park Valley and Rosette. The petitioner is requesting a rezone in order for a general store and small gas station to be located on property that will be leased from the M. Dee Kunzler & Son Ranches Ptrshp. The standards for approval outlined by Staff included:

1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;
2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
3. The extent to which the proposed amendment may adversely affect adjacent property; and
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, stormwater drainage systems, water supplies, and waste water and refuse collection.

Chairman Richard Kimber asked the petitioner about the source for the water at the proposed location. The petitioner responded saying that either a water well or tanker trucks hauling water in for storage was being considered. Any springs that are in the locale are at too great a distance to bring to the site and are mostly used for irrigation. Following the discussion, Staff said that this was more of a legislative decision to be made by the Planning Commission.

MOTION: A Motion was made by **Commissioner Jon Thompson** to approve the re-zone application for Valley Community L.L.C (M. Dee Kunzler property) from the current RR-1 and MU-40 to C-S Commercial Shopping District [or C-H Highway Commercial District]. Motion was seconded by **Commissioner Clark Davis** 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 originally had requested that the property be rezoned from the current A-20 to RR-20, but had now resubmitted the application requesting the zone be changed to RR-2 (two acre lots). **Commissioner Theron Eberhard** felt that this was a "prime example of spot zoning" and that it did not meet the general plan of the West Corinne area with rezoning only the 66+ acres of Mr. Julander's property, but would fit better if a larger area (and more landowners involved) were being considered for rezone. **Commissioner Clark Davis** stated that when the A-20 was adopted for the area it was done with the understanding that individual landowners could petition for rezoning of the[ir] property. **Chairman Richard Kimber** further stated that the zoning was not "etched in granite" but could be changed as landowners requested in the future. Many of the other (adjacent) lots to this proposed rezone are three acres or less as was pointed out during the Public Hearing and Staff recommended approval of the request with the conditions of approval being:

1. Wetland, floodplain, ground water and geo-tech reports showing the area of the property that is suitable for building.
2. Each lot in any subdivision of the property to have a minimum of 2 acres of property that is not in wetlands, floodplain or slope failure potential.
3. Adequate water for culinary and fire suppression uses before subdivision approval.
4. Detailed verification that the items listed under number 4 of the standards for approval have been addressed prior to approval of any subdivision on the property.

and also the “*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, stormwater drainage systems, water supplies, and waste water and refuse collection*” also be taken into consideration. The Commissioners also discussed the amount of frontage that should be required for any lots (created) along 4600 North and 2800 West Streets. Before the final motion was made, **Commissioner Theron Eberhard** again referred to material concerning “spot zoning”.

“If you are charged with making land use decisions on behalf of your community and a claim of spot zoning is raised you should run through the following list of considerations. Is the ‘spot’ in question small and discrete compared to the surrounding area? Does the spot involve one landowner or one parcel? Is the spot whether on the map as initially adopted or a request for rezoning inconsistent with surrounding uses or the surrounding zoning? Is the request for use consistent with your master plan map? In the absence of a master plan does the request make sense in light of the overall planned zoning? Would the denial of the request, i.e. refusal to create a spot preclude the property’s use for any purposes to which it is reasonably adapted? The granting to a particular parcel of land, the classification concerning its use differs from the classification of other land in the immediate area, spot zoning is invalid because it amount to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district and is therefore a deviation from the comprehensive plan.”

Staff concluded by saying that though some of the statements read by **Commissioner Eberhard** may apply, Michigan law may be quite different than Utah law and that the County Attorney should look into the actual laws affecting Utah’s “spot zoning.” Staff further stated that denying this request without a letter from the County Attorney stating that this was in fact ‘spot zoning’ according to Utah law would not be recommended. From the material read by **Commissioner Eberhard**, it was concluded that the statement referring to “*one landowner or one parcel*” would make this petition qualify according to the material quoted.

MOTION: A Motion was made by **Commissioner Jon Thompson** to approve the rezone request for the Dewayne Julander property from the current A-20 to RR-2 with the stipulations and conditions outlined by Staff and that all [created] lots have at least two acres of land that are not wetlands or sloped areas; also the lots are required to have at least 200 feet of frontage along the existing streets (or more frontage if required by the Code). Motion was seconded by **Commissioner Chad Munns** and passed with **Commissioner Theron Eberhard** opposing.

WORKING REPORTS

The additional items that were to be discussed will be placed on the next work session to be scheduled in November.

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 29th day of November , 2007

Richard Kimber, Chairman
Box Elder County
Planning Commission