

MINUTES

BOX ELDER COUNTY

PLANNING COMMISSION

JANUARY 20, 2005



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

Richard Kimber	Chairman	<i>The following Staff was present:</i>	
Richard Day	Member		
Clark Davis	Member	Garth Day	County Planner
Ann Holmgren	Member	Elizabeth Ryan-Jepps	Dept Secretary
Jon Thompson	Member	Donnie Tarver	County Inspector
David Tea	Member	Amy Hugie	County Attorney
Theron Eberhard	Member	Pat Comarell	Planning Consultant

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

The *Minutes* of the regular meeting held on December 18, 2004 were made available to the Planning Commissioners prior to their meeting (December 18, 2004) for review. **Chairman Richard Kimber** asked for a Motion as to whether or not the *Minutes* of October 21, 2004 should be accepted as written. One word correction was noted after which **Commissioner David Tea** made the motion to accept the Minutes as written (with noted correction made) and submit to **Chairman Richard Kimber** for his signature. The motion was seconded by **Commissioner Richard Day** and passed unanimously.

Citizen Present for the Planning Commission Meeting and Public Hearing

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|---|--|
| Douglas S. Newman
11495 North 10800 West, Tremonton | Rod Mund
Willard |
| Kyle Hamblin
467 North 4000 West, West Point | Lee Summers
9660 West 11200 North, Bothwell |
| Dennis Spiers
2523 North HWY 89, Pleasant View | Katherine Summers
9660 West 11200 North, Bothwell |
| Vahl & Deborah Warren
270 E Lomond View Dr., Ogden | Karen Wikstrom
#24 South 600 East, Salt Lake City |
| Walt Heyman
6775 West 7300 North, American Fork | Georgia Sullivan
1881 East 3780 South, Salt Lake City |
| Brandon Willard
7145 North 6720 W, American Fork | Darlene & Larry Caldwell
741 Park Drive, Mantua |
| Mike & Debbie Wolf
9837 Petunia Way, Sandy | Alan Smith
302 South 800 West, Brigham City |
| Lynn Rindlisbacher
2785 West 9000 South, West Jordan | Steve Skinner
1870 West 2700 South, Syracuse |
| Judy Loveland
105 South 100 East, Willard | Justin Higby
6532 West 5800 South, Hooper |

MOTION: A Motion was made by **Commissioner Jon Thompson** to move the Mantua Public Hearing to the beginning of the Planning Commission Meeting. The motion was seconded by **Commissioner David Tea** and passed unanimously.

PUBLIC HEARING

RE-ZONE APPLICATION FOR THE BEN U. SMITH PROPERTY LOCATED AT 2020 SOUTH WILLARD PEAK ROAD, SOUTHEAST OF MANTUA

Staff explained that this petition to re-zone approximately 180 acres is located in the southwestern part of the Mantua area and is currently zoned MR-160. The petitioners are requesting that the property be re-zoned as RR-5. The usable portion of this property is NOT contiguous with Mantua Town; however it is adjacent to the Bruce Carr Subdivision, which is zoned as a P-Zone. The findings of the Staff were:

- ▶ The petition matches the current quality of public services through balanced growth and development
- ▶ The petitioner is requesting five acre zoning, thus protecting the rural, agricultural, mineral, wildlife and other traditional land uses of the area.
- ▶ The petition is from the landowner whom wishes to promote the development patterns consistent with, and sensitive to the resident preferences.

Chairman Richard Kimber opened the floor to any interested parties wishing to make a comment regarding this re-zone petition.

ALLEN SMITH: Parent's are landowners of the property being purposed for the re-zone. The property has been the family farm with apple orchards. A family interested in purchasing some of the property in order to relocate and build a home approached the landowners. The petitioners are interested and concerned with keeping the land with its current uses, but also allowing for homes to be built on five acre parcels.

DARLENE CALDWELL: Interested in purchasing the property and building a home on the five-acre parcel. The desire is to keep the property in good pristine condition. Also stated that the landowners (Ben Smith family) have other children that would like to be able to secure five-acre parcels sometime in the future for building homes or cabins. Have spoken with the surrounding neighbors and generally in favor of the re-zone on the approximately twenty acres, which could be developed. Most of the acreage in on the mountain/hillside and would be difficult to built on.

DEBORAH WARREN: Asked for clarification regarding how many of the acres would actually be able to be developed.

DENNIS SPIRES: Asked about the waste/sewage for this area petitioned for re-zone. There are a number of creeks that could be impacted with future development. Also asked who was responsible for maintenance of the road in the area.

Staff responded stating that the road is a County road and is maintained from the Mantua Town boundary south on Willard Peak Road by the County. The road in question is part Class D and part Class B and there are two different levels of maintenance on the road depending upon the location. The further up the road goes it is Class D, or recreational usage. The bottom part up to about Doc's Flat is Class B and should receive routine maintenance per staff's understanding. In regards to the waste/sewage issue, Staff stated that the Bear River Health Department determines whether or not there needs to be a well protection area on the property and also conducts perk tests in regards to the septic system. Mantua is connected to the Brigham City sewer system, but does not extend far enough to reach the proposed petitioned property for a connection to that sewer line. In the future it could be feasible, depending on the development patterns of Mantua. There is also the possibility that this property could be petitioned for annexation into the town of Mantua if the landowners were to make petition to Mantua for consideration.

LARRY CALDWELL: Mantua has been notified of the landowners desire to have this property re-zoned and by their absence at this Public Hearing it would indicate that Mantua is not opposed to the re-zone. Asked that the Planning Commissioner vote in favor of the petition.

Chairman Richard Kimber stated that the Planning Commission does not vote, but makes a recommendation to the County Commission regarding any re-zone issues.

DARLENE CALDWELL: Water will probably be provided by the city water system, thus eliminating the necessity for a well and a well protection area.

MOTION: A Motion was made by **Commissioner Clark Davis** to close the Public Hearing on the re-zone petition; seconded by **Commissioner David Tea** and passed unanimously.

At the conclusion of the Public Hearing, Staff made its recommendation that the property be re-zoned from MU-160 to RR-5.

MOTION: A Motion was made by **Commissioner Jon Thompson** for the Planning Commission to forward the Ben U. Smith re-zone petition, with its recommendation to re-zone the property from the current MU-160 zone to RR-5, to the County Commission for their consideration and approval. The motion was seconded by **Commissioner Theron Eberhard** and passed with six Commissioners in favor and **Commissioner Clark Davis** abstaining.

SUBDIVISIONS FOR APPROVAL

CONSENT AGENDA ITEMS -- NONE

NEW BUSINESS

SCENIC DEVELOPMENT INC., TWENTY-LOT SUBDIVISION, LOCATED AT OR ABOUT 13600 NORTH 10800 WEST IN THE BOTHWELL AREA.

This twenty-lot subdivision is located in the Bothwell area of the County. The proposal is for preliminary design review for Phase II, lots five through fourteen and Phase III, lots fifteen through twenty-four. This area was recently re-zoned as RR-5 (five acre minimum lot size) through the Bothwell Community Plan process. Each of the proposed lots is approximately one acre to one and a quarter acre, with the water provided by the Bear River Water Conservancy District. Phase I of this subdivision was approved in June 2003 and has been started, but has not yet been recorded or completed. Staff stated: *“Based on our current zoning, and the requirements of the subdivision procedures located in our Land Use Development Code, our recommendation is that the proposal be denied, based on the fact that it does not meet the minimum requirements of the Land Use Code.”*

Commissioner David Tea asked if it did not meet the requirements, why did the petition even come before the Planning Commission. Staff stated that because these two additional Phases were part of the concept plan that was submitted approximately two years ago, the petitioner requested that it now be brought back to the Planning Commission for their approval on the two phases that were included in the initial concept plan – Phase I having already been approved by the Planning Commission, as stated earlier.

Staff further stated: *“Typically, when a subdivision gets recorded, and the escrow gets put into place, there are two years from that point to get all of the improvement installed. Our Land Use Code talks about a year for the concept approval and preliminary approval from when they are good for. Another portion of our Land Use Code talks about when we do the P-Zone and it goes directly to a development, but it does not apply in this case; but it outlines two-year performance. Again, Phase I was actually adopted or approved by the County Commission in June, I believe, of '03; and again the problem that we've had thus far on the time frames is that it has not been recorded yet; so the two years for the development doesn't start yet, however I think there is an argument about the preliminary design . . . but there is no time outlined for the final.”*

Commissioner Clark Davis asked about what was approved in Phase I. Staff's answer: *“Phase I consisted of four lots located just north of the Phase II. There are also some significant engineering; there is the water line that needs to be brought down about a quarter mile [more like a half mile]. Again, we're waiting to get all of that in place so that the plat can be recorded. All the construction documents, final approval from the water company, all of the necessary improvements for the road, etc.”*

After the Planning Commissioner discussed this petition for several minutes the following motion was made in regards to its approval. Staff stated that the County Attorney had reviewed the Staff recommendation regarding this petition and concurred with the recommendation to deny the petition based on the proposal not meeting the minimum lot size as per the existing zone of RR-5.

The Petitioner, Mr. Lynn Rindlisbacher made the following comment regarding this petition:

I just wanted make a few comments . . . I don't know if some of you are surprised with this petition of twenty lots, but we have been patient for a year through two moratoriums, and we do feel like we have some conceptual rights, vested rights, and that we submitted this about seven-eight months ago, between moratoriums when there was no zoning in place; and it was sent back to me and three days after it was sent back to me then another moratorium was back in place to stop the subdivision, so we weren't able to resubmit until about a month ago, so ... I gave a letter to Garth, and I think that Amy has it also, that gives more details from our counsel regardingn our position (letter was included in packets that we mailed to the Planning Commissioners). As far as the Phase I, I just wanted to touch real quick to tell you that we have the money in our checking account [cash] we didn't take out a loan; we got approval from Bear River Water today, we should get a letter from them the first part of the week and the plans are already to go and we want to break ground as soon as possible...as soon as the weather... here in a month or six weeks we'll be breaking ground ... that's where we're at with Phase I. I didn't know what you would want to do tonight ... if you want to table it or recommend denial or approval, but we want to move forward so if you recommend denial we wanted to move forward with appeal to the Board of Adjustments. Anyhow, we would like to work it out somehow if we could.

Staff stated that if the Planning Commissioners recommend denial of the petition it would then go on to the County Commission and the Board of Adjustment would probably not hear this kind of appeal. It would go directly to the governing board of the County and then into the courts (probably the district court.)

MOTION: A Motion was made by **Commissioner Jon Thompson** to recommend denial of the petition based on the proposal not meeting the minimum lot size as per the existing code, which is RR-5 and other Land Use Code Development minimum requirements, i.e. the completion of Phase I. The motion was seconded by **Commissioner Richard Day** and passed with six in favor and **Commissioner Clark Davis** abstaining.

PACIFICORP CONDITIONAL USE APPLICATION, UTAH POWER & LIGHT SUBSTATION LOCATED IN THE BEAVER DAM AREA.

This petition is for a Conditional Use Permit for a Utah Power & Light Substation located in the Beaver Dam area. There are approximately 250 acres proposed in this site with current zoning as MU-40 and a power station is permitted within the MU-40 zone regulations. Mr. Mike Wolf was representing the petitioner at the meeting. Before the Planning Commission makes their recommendation to the County Commission there are several findings that were pointed out by Staff.

- ➔ Conditions relating to safety for persons and property
- ➔ Any environmental concerns
- ➔ Conditions relating to performance
- ➔ Whether or not a Public Hearing should be held by the Planning Commission
 - A Public Hearing would be mandatory if:
 - The Planning Commission determines that existing streets and thoroughfares are not suitable and adequate to carry anticipated traffic, and increased densities resulting from the proposed use may generate traffic in such amounts as to overload the street network outside the district.

- The Planning Commission determines that increases in miscellaneous traffic, light, odor, or environmental pollution generated by the proposed use may significantly change the intended characteristics of the area.
- The Planning Commission determines that the architectural design of the proposed use varies significantly from the architectural characteristics of the district in which such use is proposed.

Chairman Richard Kimber pointed out that this is not a new substation, but a relocation of an existing substation. Mr. Wolf stated that the objective is to upgrade the substation and move to a flatter area on the property. The overall upgrade of the system would be over an approximately twenty-year plan. **Commissioner Theron Eberhard** suggested that a map showing the exact location of the substation, along with any homes or other structures in the area (within about half a mile) be made available to the Commissioners for their review. It was also suggested that the Commissioners be able to see the proposed site, via a field trip, for this substation before the next meeting in February when a Public Hearing would be scheduled.

MOTION: A Motion was made by **Commissioner Clark Davis** to set a Public Hearing for February 17, 2005 at 7:00 p.m. Seconded by **Commissioner Theron Eberhard** and passed unanimously

WARD FAMILY RE-ZONE PETITION, 209 LOT SUBDIVISION LOCATED IN THE SOUTH WILLARD AREA WEST OF HIGHWAY 89.

At the December 2004 meeting the petition was brought before the Planning Commission as a conceptual review and re-zone plan to develop property in the South Willard area with 210 lots at quarter acre size. The current zoning for the area is R-1-20, which is approximately half-acre lots and because of that restriction, the conceptual plan was denied. Kyle Hamblin and Rick Carter, representing the petition, spoke with the Commissioners with a new concept plan to begin development with lots meeting the R-1-20 size requirements and when the sewer lines are brought in, then the lots would be reconfigured at quarter acre size. The development would start on the north section of the property and [they] asked if it would be open for discussion with the Commissioners, that they would agree to reduce the size of the lots once a sewer line is in. Staff stated that it is not the growth of the area that is in question, as there are several landowners in the South Willard area that are interested in developing property with the smaller lot sizes. A Town Meeting has been scheduled for February 10th to begin the process of the Community Plan for the area on both the east and west sides of Highway 89 in South Willard. The petitioners were concerned that once they had submitted a concept plan for half-acre lots and it was approved, they would not be allowed to change the plan to quarter acre lots. **Chairman Richard Kimber** told the petitioners that they could submit a petition with up to twenty-five lots for consideration at any given time and that would be dealt with by the Planning Commission as to whether or not it met with the current Zoning Regulations. Subsequently, once the Community Plan was adopted for the South Willard area, the Planning Commission would then consider any petitions based on the zoning regulations in place then, whether quarter acre, half acre, or five acre parcels were needed. No Motion was necessary as this was a discussion to gather information by the Petitioners with the Planning Commissioners.

BOX ELDER COUNTY SURPLUS PROPERTY

At their December meeting the Planning Commission considered the disposal of this surplus property, and at that time it was tabled. Staff reported that the property is just South of Bear River City, some thirty-nine acres currently owned by the County. It was also reported that in February 2003, the County Commission had sent a letter to Wayne Boyer (Deputy Sheriff) in Cache County regarding this property and the possibility of locating a training town/camp on this site. A concept plan was submitted as this site was centrally located and owned by the County, but no final approval was given to the proposal itself, but they were supportive of the concept of the training town/camp at that location if funding were available. **Commissioner Clark Davis** pointed out that because of the time needed in applying for grants, sometimes the process can take several months to complete. Staff stated that the letter supporting the possibility of this site being used was included with the grant application submitted by Cache County and since that time there has been no communication between Box Elder and Cache Counties as to whether or not a grant was given or if there is still interest in the location. **Chairman Richard Kimber** said that he could see no compelling reason not to refer this matter to the County Commissioner as surplus property. **Commissioner David Tea** suggested that Cache County be contacted as to whether or not there is still interest in this property for a training town/camp before disposal of the property.

MOTION: A Motion was made by **Commissioner Jon Thompson** to refer the disposal of this surplus property back to the County Commission; that they make the decision to dispose of this property as they see fit. Motion seconded by **Commissioner Theron Eberhard** and passed unanimously.

PUBLIC COMMENTS -- NONE

STAFF REPORTS

Mr. Garth Day spoke to the Commissioners regarding the development and community plan in the South Willard area. As there has been significant development pressure in South Willard, the Planning Office is starting the process for a community plan in the area. Consultant Pat Comarell has been working on the background work and a Town Meeting will be held on February 10, 2005 in the Willard Elementary School. One of the major landowners in the South Willard area is the White Family Farm, represented at this meeting by Georgia Sullivan and consultant Karen Wikstrom. In the past, the Planning Commissioners had heard from other large landowners from the South Willard area, i.e. Wadman Corporation and Randy Marriott. At this meeting, Ms. Sullivan and Ms. Wikstrom had a presentation regarding the proposed development on the White Family property. (A copy of the presentation is included with the official minutes.) Two representatives from Willard City (Judy Loveland and Rod Mund) were also present at the meeting, as Willard City has been conducting a sewer feasibility study, which could affect the area of South Willard.

Georgia Sullivan: The White Family property is located just north of the Weber/Box Elder County line on the east side of Highway 89. There were approximately 1400 acres and her grandparents farmed the property for many years. There have also been peach orchards and a gravel operation on the property over the years. In 1992, 600 acres were sold to Jack Parson Company and the remaining property is still owned by the family and farmed currently.

Karen Wikstrom: Talked about the planning approach being a fully integrated mixed-use and master-planned community. There are 850 acres to be developed with various housing types, business/commercial and open space. There were pictures of other community developments from areas around the country and also the Kennecott Daybreak Community. The planning process would include planning all of the area to make sure that everything would fit together as an integrated whole. There is a lack of infrastructure in the South Willard area and a community plan will also look at those issues, i.e. sewer, transportation, etc. The White Family would like to coordinate their planning of their property with that of Box Elder County Planning.

Commissioner

Richard Kimber: The vision and planning for the area of South Willard will come from the citizens of South Willard (and Willard) and the process will begin with the Town Meeting scheduled for February 10th.

Rod Mund:

Reported on the sewer feasibility study that is being done by Willard City. Sunrise Engineering is the consultant on the study for the City. Different options for treatments have been considered, with one of the options being connecting with the Central Weber Sewer District, thus running the lines through South Willard and having them connect. Because of the growth that is taking place in Willard City a special service district has been set up to help deal with the wastewater. The Willard City Council has commissioned the Waste-Water Special Service District to oversee the planning and feasibility of the sewer situation. There have been discussions in some preliminary meetings regarding the creation of a special service district along the lines of the flood control district [which has been quite successful in the South Willard area of the County]. Hopefully March/April will complete the study and a package will be presented to the City to help them in the decision making on this issue.

Judy Loveland:

A meeting with Mayor Christensen of Brigham City has also taken place to discuss the possibility of bringing sewer line north and connecting onto the Brigham City sewer. Still looking at all options at this point.

Pat Comarell suggested that the Planning Commissioners meet for a work session before the Town Meeting scheduled for February 10th. It was pointed out that the area of South Willard is very different from that of West Corinne or Bothwell, where those two areas have recently completed the Community Planning process. A work session was scheduled for 4:00 p.m. on February 3, 2005 in the Planning Office conference room.

A Motion was made by **Commissioner Ann Holmgren-Jensen** to adjourn the meeting at 9:23 p.m.

Passed and adopted in regular session this 24th day of February 2005.

Richard Kimber, Chairman
Box Elder County
Planning Commission