

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES APRIL 19, 2012

---

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:

Chad Munns	Excused
Desiray Larsen	Vice Chairman
Kevin McGaha	Member
Michael Udy	Excused
Bonnie Robinson	Member
Jay Christensen	Member
Laurie Munns	Member

*the following Staff was present:*

Kevin Hamilton	Director
Elizabeth Ryan	Ex. Secretary
Scott Lyons	Planner
Steve Hadfield	Co. Attorney

## **The following citizens were present:**

Pat Garner/Collinston  
Debby Carter/Collinston  
Jim Murry/Collinston  
Jean P. Davis/South Willard  
Kent Davis/South Willard  
Dewain & Flo Loveland/South Willard  
Gay W Pettingill/South Willard  
Richard Woodland/Perry  
Jan Nielsen/South Willard  
Will Doutre/South Willard  
Tarlton McBride/Collinston  
Riana Jones/Collinston  
Kyle Potter/Collinston  
Troy Bird/South Willard  
Randy Marriott/South Willard

Paul Garner/Collinston  
Ken Love/ Collinston  
Vickie Maughan/South Willard  
Philip Davis/Willard  
Dale Zito/South Willard  
Steven Pettingill/South Willard  
Helen Pettingill/South Willard  
Mellonee Wilding/Willard  
R. Lowell Huber/Logan  
Sara Doutre/South Willard  
Kelly Lemmon/Collinston  
Dale Barnett/South Willard  
John Potter/Collinston  
Linda Zito/South Willard

**Vice Chairman Desiray Larsen** called the Planning Commission meeting to order at 7:02 p.m. The Minutes of the March 29, 2012 were made available to the Planning Commissioners prior to this meeting. A **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

## **PUBLIC HEARINGS**

**Vice Chairman Desiray Larsen** called for the public hearings on the agenda by informing those in attendance that each item would be handled separately, and that the time for the hearings was

to allow the public the opportunity to voice any concerns and that the Commissioners would listen to the comments and concerns, but this was not a questions/answer time.

**R. LOWELL HUBER, RE-ZONE Z12-002, RE-ZONE APPLICATION FOR PARCEL 06 033-0022 – 0024, APPROXIMATELY 2.71 ACRES FROM THE CURRENT RR-2 (RURAL RESIDENTIAL) ZONE TO M-G (GENERAL INDUSTRIAL) ZONE. RE-ZONE FOR THE PROPOSED USE OF A TOWING COMPANY AND STATE IMPOUND FACILITY AT APPROXIMATELY 14660 NORTH HIGHWAY 38 IN THE COLLINSTON AREA OF BOX ELDER COUNTY.**

*Scott Lyons, County Planner*, explained that this petitioner is requesting a re-zone to this area from the current RR-2 (Rural Residential two-acre lots) to M-G (General Industrial) zone. The area consists of two parcels equaling 2.71 acres and the petitioner anticipates using the property for a towing company and state impound site. The following comments were received:

**PAT GARNER** lives in Collinston approximately one and one-half miles from this proposed re-zone and asked that it be denied. <sup>i</sup> (see Attachment #1)

**TARLTON MC BRIDE**, also a property owner in this vicinity and President of the Collinston Water Company. He had concerns with the possibility of underground water contamination and it would greatly affect Wheatland Seed. The two existing building on the site would be adequate to house ten vehicles if that is all the petitioner is thinking would be there. Years ago the residents of this area put together a zoning plan and presented it to the County and it was approved and this is not the type of activity that they wanted in the area. <sup>ii</sup> (see Attachment #2)

**KELLY LEMMON** moved to this area about four years ago from the Clinton vicinity. He was opposed to this re-zone. Also had a number of reports regarding environmental issues from communities surrounding Hill Air Force Base, and likened it to what could possibly happen with a re-zone in this area. <sup>iii</sup> (see Attachment #3) Another concern was that of possible water contamination as the residents are on wells or springs in the area.

**KYLE POTTER** has a farm in the area and was also on the committee that worked on the zoning plan for this area (about sixteen or seventeen years ago) and thought that it was a good plan for Collinston. When the property being considered for this re-zone was owned by UDOT there was a great deal of salt runoff water that ended up on some of his property that resulted in about an acre that could not be farmed for some time. The residents have been trying to get the current owner to clean up the junk yard that is currently at this site as it has been operating in this RR-2 zone for a number of years and it is not an approved use currently. To the owner to court and even won that case; now changing the zoning would only open it up for a legal junk yard. Opposed to the re-zone.

**JIM MURRY** has only lived in the area for a short time as he is the [Brigham] General Manager for Wheatland Seed. They are the largest producer of organic flour in the country along with gluten free flour. He does water sample evaluation quite often and any contamination would be very detrimental to Wheatland Seed. Opposed to the re-zone.

**KEN LOVE** lives a short distance from this proposed re-zone and also was against the re-zone

for this property. When the current owner purchased this property he immediately started to fill it up with junk. In doing research in the county records, discovered that the property taxes have not been paid on one parcel since 2008 and the other parcel has penalties attached to it. Would really like to see the property cleaned up.

No other comments were received and a Motion was made by **Commissioner Laurie Munns** to close the public hearing; seconded by **Commissioner Bonnie Robinson** and was unanimous.

**RANDY MARRIOTT, RE-ZONE Z12-001, RE-ZONE APPLICATION FOR APPROXIMATELY 360 ACRES FROM THE CURRENT R-1-20 (RESIDENTIAL HALF ACRE) ZONE TO PROPOSED RR-2 (RURAL RESIDENTIAL TWO ACRE) AND/OR TEXT AMENDMENT TO ALLOW ANIMAL CLINIC AND TAXIDERMY IN THE RR-2 ZONE. RE-ZONE FOR THE PROPOSED USE TO ALLOW FOR AGRICULTURAL INDUSTRY, RECREATIONAL USE, TAXIDERMY, MEAT PROCESSING AND ANIMAL CLINICS. LOCATION OF PROPERTY IS APPROXIMATELY 8900 SOUTH 450 WEST IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.**

*County Planner, Scott Lyons* informed the Commissioners that this petitioner is requesting a re-zone for his property located in the South Willard area from the current R-1-20 (half acre residential) to RR-2 (rural Residential two-acre) zone. The property is located on the east side of Highway 89. The following comments were given:

**HELEN PETTINGILL** (see Attachment #4)<sup>iv</sup>

**GAY PETTINGILL** (see Attachment #5)<sup>v</sup> was concerned with the larger lot leading to residents having fruit trees on their property that would not be taken care of properly, leading to infestation of insects that could affect his orchards/crops. The larger lots could also result in people collecting junk on their property.

**KENT DAVIS** was the co-chairman of the South Willard Committee that worked on the plan for the area and thought that the plan that was adopted called for a higher density development in the 800 acres that is owned by Mr. Marriott. Had concern that the operation that is currently in the area is in non-compliance and not within the zoning regulations. The Bear River Water Conservancy District had planned to build a water storage/reservoir in this area that did not happen. No program has been submitted to handle the water runoff and there have been occasions when the canal in the area has overflowed. Some of the residents (two mobile home parks) close to this site are on wells and water could become contaminated with this operation. The South Willard Plan did have provisions in it for commercial operations along Highway 89, but meat processing would not be an approved operation. This plan has been in operation for several years now (since 2004). Opposed to the re-zone.

**DALE BARNETT** was also on the South Willard Planning Committee and referred to the developments that had occurred in the area with proper planning and dead end streets or no turn-around in neighborhoods. The plan that was adopted by the county helps to protect the residents in this area and this new zoning would go against the Plan. Also against the re-zone.

**MELLENIE WILDING** asked why a commercial zone was not being applied for with this operation. These two businesses/operations are currently in non-compliance with the existing code and the proposed use did not really fit in with the area's long-range plan. Against the re-zone.

**CARA WARREN** was also on the committee to work up a plan for South Willard and her main concern was preservation with open space and creating a walking trail that would connect with the Bonneville Shoreline Trail; also concerned with having hikers and hunters in the same areas sometimes unaware of each other. Against this re-zone petition.

**TROY BIRD** is the operator of the W.W. Meats at the site of this proposed re-zone. No slaughtering of animals is done at this site and there are no by-products here either. The slaughtering is done at a state licensed facility in Corinne. This is a wholesale business and all of the licenses are current. Also have the necessary permits from the agriculture department for this facility. Is aware of the problems with a slaughter house and it is in their best interest not to do that at this site. He would not want to live by a slaughter house and wouldn't want others to have to either. He is a hunter and a hiker and feels that guided hunts are safer for all involved. This facility would also bring in revenue to the Willard area. Both of the businesses at this site have the proper licenses and permits necessary for operation through the state or county. Asked that the re-zone be approved.

**JAN NIELSEN** did not feel that this type of business would fit well in the residential area as the zone currently regulates. Also was confused as to how business licenses are obtained in an area that is not zoned for a particular use. Against the re-zone.

**FLO LOVELAND** did not think that the granting of the re-zone would be good as the elk ranch and other associated facilities did not fit into the adopted plan for the area. Against the re-zone.

**SARA DOUTRE** has lived in the area for approximately eighteen months and appreciates the work that was done by the committee in creating a plan for the area. She too was opposed to the re-zone.

**PHILLIP DAVIS** wondered if there was a CUP for the business that is currently in this area. He lives close to this area and said that as this is in the unincorporated area of the county any revenue would go to the county and would be divided up amongst the county and not just the South Willard area. Also was curious as to how many jobs would be generated from this operation. Felt that there should be ways to enforce the current zone in the area as this is in non-compliance.

**WILL DOUTRE** wanted to go on record as opposing this re-zone. Felt that the petitioners were trying to establish a zone for what was already in place. Also mentioned the proposed re-zone petition in the Collinston area and that RR-2 zone is being abused there with the junk yard and those types of uses could possibly occur if this re-zone was approved.

**LINDA ZITTO** lives across of this elk ranch and the smell prohibits them from spending time outside in the summer. Asked how this operation was allowed to be created in the first place.

One day there was activity, the next there was elk and none of the residents were aware of what was taking place. Asked that the residents be given consideration, and that the re-zone be denied.

**VICKI MAUGHAN** concurred with the comments of others and did not want to see the re-zone granted.

No other comments were received and the Public Hearing was closed with a Motion by **Commissioner Jay Christensen** and seconded by **Commissioner Bonnie Robinson**, unanimous.

A short break was taken from 8:13 p.m. to 8:20 p.m.

## **UNFINISHED BUSINESS -- NONE**

## **NEW BUSINESS**

### **R. LOWELL HUBER, RE-ZONE Z12-002, RE-ZONE APPLICATION FOR PARCEL 06-033-0022 – 0024, APPROXIMATELY 2.71 ACRES FROM THE CURRENT RR-2 (RURAL RESIDENTIAL) ZONE TO M-G (GENERAL INDUSTRIAL) ZONE. RE-ZONE FOR THE PROPOSED USE OF A TOWING COMPANY AND STATE IMPOUND FACILITY AT APPROXIMATELY 14660 NORTH HIGHWAY 38 IN THE COLLINSTON AREA OF BOX ELDER COUNTY.**

*County Planner, Scott Lyons*, thanked the residents from the Collinston area that had voiced their concerns and opinions during the public hearing portion of this meeting as the effect that planning and zoning has on the residents of an area is important in the planning process. In the review process that planning staff looks at standards outlined in Section 2-2-080 of the BECLUM&DC finding the following:

- ▣ 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.

The planning staff, having reviewed these standards had made the recommendation that the Planning Commission forward a recommendation to grant the re-zone petition at this time. It was also noted that the Planning Commission should also take into consideration the comments that had been made in reaching their decision. **Vice Chairman Desiray Larsen** asked if the petitioner was present and if they would like to make any comments. To which, **Mr. R. Lowell Huber** addressed the Commission.

*Mr. Huber* said that he is a partner with David Grange in D.T. Heavy Towing, which is actually making this application for the re-zone. There was some concern from the residents that they were going to have wrecking yard at this site, but he assured them that was not the case. The current owner of the property is quite ill and they have approached him in wanting to purchase the property and get it cleaned up and then have a place in Box Elder County for an impound yard in able to expand into this county. They are not into towing of light vehicles, but rather heavy vehicles. They would be parking all of the vehicles that they could inside, but the larger trailers/vehicles would need to be outside. All of the trailers would be licensed, inspection and insured just as any farmer would need to do with his vehicles on his property. He would want to have a caretaker living on the site to be able to respond immediately and was not aware of the underground tank until this meeting, but the state would need to disclose any information regarding that; and he is state licensed to remove underground tanks. Gary Harris, with the State should be able to give some information regarding that. Mentioned the salt run-off from the materials stored there by the State and would need to do some testing to see if there is still salt there. Wheatland Seed does regular soil sampling and should be able to catch any possible salt/contamination early. All of the junk would be cleaned up as quickly as possible but they would not be asking for a CUP for a wrecking yard. As for the length of time the wrecked vehicles would be there it would depend; usually one day to a maximum of six months (but that would be a rare case). It would not a dismantling shop; would be insured and bonded. Have discussed with Deweyville the possibly of having water from them and not drilling a well. They have been in the wrecking yard and impound in Cache County for quite some time and have never on a complaint list there.

**Commissioner Jay Christensen** asked if they are submitted a site plan yet. *Kevin Hamilton* said that if the re-zone was granted then the petitioner would undergo a rigorous site plan review before, a CUP would be granted. There is nothing in the General Plan or the Code that would prevent the petitioner from selling the property and a new owner using the property for any other activity that is allowed in the zone. *Mr. Hamilton* suggested that the Commissioners may want to take a field trip to look at this site before granting approval.

**MOTION:** A Motion was made by **Commissioner Kevin McGaha** to Table this petition for a re-zone until more information could be obtained and that a field trip to the site be conducted. Also, would like [staff] to research to see if this use would be harmonious with the Collinston Plan. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

**RANDY MARRIOTT, RE-ZONE Z12-001, RE-ZONE APPLICATION FOR APPROXIMATELY 360 ACRES FROM THE CURRENT R-1-20 (RESIDENTIAL HALF ACRE) ZONE TO PROPOSED RR-2 (RURAL RESIDENTIAL TWO ACRE) AND/OR TEXT AMENDMENT TO ALLOW ANIMAL CLINIC AND TAXIDERMY IN THE RR-2 ZONE. RE-ZONE FOR THE PROPOSED USE TO ALLOW FOR AGRICULTURAL INDUSTRY, RECREATIONAL USE, TAXIDERMY, MEAT PROCESSING AND ANIMAL CLINICS. LOCATION OF PROPERTY IS APPROXIMATELY 8900 SOUTH 450 WEST IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.**

Scott Lyons, County Planner, said that he had also reviewed the land use ordinance standards in regards to this proposed re-zone application and found the following:

- ☼ Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;  
On September 5, 2006, the General Plan was amended to adopt the South Willard Community Plan. The South Willard Community Plan states:  
  
*"The Committee recommends the uses described below as appropriate for South Willard at this time and for the near future (next five years). In the future, the Committee realizes as the community needs change, the uses may need to be reviewed and uses be added to meet the desires of the community. That review of uses could come either from an advisory committee reviewing the whole plan or someone testing it by submitting an application for a different use.  
"Residential – Leave R-1-20 as is except where parcels fronting onto US-89 may be rezoned later as neighborhood commercial."*
- ☼ 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; and
- ☼ 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.

Upon review of the above standard, Staff found that the proposed re-zone application was not harmonious with the surrounding area and is not in line [specifically] with the County's General Plan. Due to these findings it was recommended that the Planning Commission forward a recommendation to the County Commission denying this re-zone application for the Marriott property in South Willard. Vice Chairman Desiray Larsen invited the petitioner to come forth with any comments that he would like to make concerning his application.

**Mr. Randy Marriott** said that there has always been livestock in this area and he considered the elk operation to be livestock. He is still interested in doing the Master Community Development in that area when the economic situation improves. Everything that is currently being done on the property is agriculture. He would like to be able to consider other options for this property and asked that his application be tabled at this time thus allowing him to consider other possibilities.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to Table action of the Randy Marriott Re-zone application in order for more information to be gathered and for the Commissioners to have the opportunity of taking a field trip to the site of these operations/businesses. Motion was seconded by Commissioner Laurie Munns and passed unanimously.

At the conclusion of the Motion, Mr. Kent Davis asked if another public hearing would be held in regards to this petition. If the petition for the re-zone does not change it would not be open to

another public hearing, however there would be a public hearing at the County Commission level.

## **WORKING REPORTS**

Kevin Hamilton talked briefly about the Planning Conference that would take place on Wednesday, May 2 and Thursday, May 3 in South Jordan and asked that any of the Commissioner that could attend to let the office know as soon as possible in order to get registration taken care of.

## **PUBLIC COMMENTS – NONE**

A **Motion** was made to adjourn at 8:50 p.m., unanimous.

Passed and adopted in regular session this 17 day of May 2012.

---

Chad Munns, Chairman  
Box Elder County  
Planning Commission

- 
- <sup>i</sup> Attachment #1 Pat Garner's comments to Planning Commissioners
  - <sup>ii</sup> Attachment #2 Tarlton McBride comments
  - <sup>iii</sup> Attachment #3 Kelly Lemmon comments (Hill Air Force Base Restoration Advisory Board)
  - <sup>iv</sup> Attachment #4 Helen Pettingill comments
  - <sup>v</sup> Attachment #5 Gay Pettingill (articles)