

BOX ELDER COUNTY PLANNING COMMISSION MINUTES May 16, 2013

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:

the following Staff was present:

Chad Munns	Excused		
Desiray Larsen	Vice Chairman	Scott Lyons	Planner
Kevin McGaha	Member		
Michael Udy	Member	Elizabeth Ryan	Ex. Secretary
Bonnie Robinson	Member		
Jay Christensen	Member		
Laurie Munns	Member		

The following citizens were present:

Andy Teeter/Thatcher	Lanny Lewis/Thatcher
Brett Lewis/Thatcher	John Young/Brigham City
Blake Bickmore/Layton	

The Minutes of the April 18, 2013 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to accept the Minutes; seconded by **Commissioner Laurie Munns** 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.

PRIVATE CAPITAL GROUP, Z13-003, RE-ZONES THE UPPER PORTIONS OF PARCELS 04-002-0016; 04-002-0017; AND 04-002-0009 LOCATED OFF OF HIGHWAY 38 IN THE HARPER WARD AREA FROM THE CURRENT MU160 TO RR-5.

Staff explained that this petition is to re-zone three parcels located in the Harper Ward area that currently have two zones on each of the parcels. The lower portion is zoned RR-5 and the upper portion is MU-160. The petition is to re-zone all to RR-5. No comments were received during the public hearing and a Motion was made by **Commissioner Laurie Munns** to close the hearing; seconded by **Commissioner Jay Christensen**, passed.

ZONING MAP AMENDMENT, Z13-004, LANNY LEWIS, PETITION TO REZONE PARCELS FROM R-1-8 TO M-G WHERE LEWIS CABINET IS LOCATED AT APPROXIMATELY 10300 NORTH HWY 102 IN THE THATCHER AREA OF BOX ELDER COUNTY.

Staff explained that this petition is to re-zone several parcels from the current R-1-8 to M-G in order for the petitioner (*Mr. Lanny Lewis*) to expand his current cabinet manufacturing operation in the Thatcher area of the county. The acreage is approximately 1.3 acres. *Mr. Lewis* came before the Commissioner saying that he has been in this location for about 20 years and had purchased two additional lots in the subdivision (of Sagebrush Circle) in order to begin his business at that time. He further said that he had contacted the county five months ago and was told that the expansion of his business would not be a problem; however with the conversation over the phone Staff misunderstood that *Mr. Lewis* was expanding on the existing buildings that are currently non-conforming to the area and zone. When *Mr. Lewis* applied for a building permit it was discovered that the use and zone were not in compliance with the county land use code. Currently it is classified as a legal non-conforming use; however a non-conforming use cannot be made more non-conforming, which resulted in the re-zone of the property being necessary. *Mr. Lewis* felt that he had obtained all of the necessary permits in the past and that the county had made mistakes in the past regarding his business. He further said that his company employs about thirty people and he pays approximately \$20,000 a year in property tax and \$15,000 in sales tax each month and the county would miss that if he were to move his business elsewhere. *Mr. Lewis* had a letter from the residents in the area that were in favor of this expansion and *Mr. Andy Teeder*, a neighbor in Sagebrush Circle, told the Commissioners that he and the other neighbors in the area supported the expansion of this business. At the conclusion of the comments a Motion was made by **Commissioner Michael Udy** to close the public hearing, seconded by **Commissioner Kevin McGaha**, passed.

SUBDIVISION AMENDMENT, SS13-004, LANNY LEWIS, PETITION TO REMOVE LOTS 7, 8, AND PART OF LOT 10 FROM THE SAGEBRUSH CIRCLE SUBDIVISION LOCATED AT APPROXIMATELY 10300 NORTH HWY 102 IN THE THATCHER AREA OF BOX ELDER COUNTY.

This subdivision amendment is also for the Lanny Lewis property located in Sagebrush Circle and with the proposal to expand his business it is necessary to remove two of the lots and a portion of a third lot from the subdivision. These lots would then be joined together to create one lot and allow for the expansion of the building(s) would then be able to meet the necessary setback requirement of the land use code. No comments were received and a Motion was made by **Commissioner Laurie Munns** to close the hearing, seconded by **Commissioner Bonnie Robinson**, passed.

A MOTION was made by **Commissioner Laurie Munns** to move the unfinished portion of this meeting to after the New Business had been completed. Motion seconded by **Commissioner Kevin McGaha** and passed unanimously.

NEW BUSINESS

PRIVATE CAPITAL GROUP, Z13-003, REZONE THE UPPER PORTIONS OF PARCELS 04-002-0016; 04-002-0017; AND 04-002-0009 LOCATED OFF OF HIGHWAY 38 IN THE HARPER WARD AREA FROM THE CURRENT MU160 TO RR-5.

Staff reviewed the options available to the Planning Commissioners in making their decision regarding this petition, which included, *Tabling the application; Denying the application based on determining that the amendment was unable to comply with any of the approval standard in Section IV of the staff report (found in the BECLUM&DC Section 2-2-080); or Approval based on compliance with Section 2-2-080, Compliance with Article 5 of the BECLUM&DC; Compliance with all applicable county, state and federal laws regulating the proposed use, etc.* **Mr. John Young**, a neighbor next to this proposed re-zone was asked to approach the commissioners and he was concerned with this land being developed next to him and the impact that it would have on the water source that services his property and that development above the canal might be difficult. Above the canal the terrain is quite steep and, also there are new power lines in the area and may not be acceptable for development under them. **Blake Bickmore**, representing the Private Capital Group, addressed Mr. Young's concerns stating that at this time they (the group) was only seeking rezoning of the area and if/when development were proposed issues concerning the canal, power lines, the water spring would then be addressed as they would want to have a desirable development for the area. As the property is now, it would not be able to be developed except for possibly one home on each of the parcels, and the group would like to have it consistent with the 5 acre zone. Staff explained that there are similarities with the RR-5 and the MU-160 zone with the biggest difference being that of density. Currently the lots would be considered as legal nonconforming as none of them meet the 160 acre. It was also unclear at this time just how many lots could/would be created under the five acre zone. **Commissioner Kevin McGaha** then said that this application is for the proposed zone change and that the commissioners needed to look at the criteria for that change at this time and not be concerned about possible development in the future.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to forward a recommendation of approval for Private Capital Group zoning change to the County Commission for their consideration based on the application meeting the standards as outlined by Staff and in the BECLUM&DC Article 2-2-080. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

ZONING MAP AMENDMENT, Z13-004, LANNY LEWIS, PETITION TO REZONE PARCELS FROM R-1-8 TO M-G WHERE LEWIS CABINET IS LOCATED AT APPROXIMATELY 10300 NORTH HWY 102 IN THE THATCHER AREA OF BOX ELDER COUNTY.

Commissioner Jay Christensen and **Commissioner Michael Udy** asked to be excused from discussion regarding this petitioner's application. Staff reviewed the options available for the Planning Commission regarding action on this application which included: Tabling the application; forwarding a recommendation of Denial to the County Commission stating that the proposed amendment was unable to comply with any of the standards as outlined in the staff report; or recommending Approval based on the standards outlined in the staff report which include:

1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;
2. Whether the proposed amendment (zone) 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, storm

water drainage systems, water supplies, and waste water and refuse collection.

After reviewing the standards, visiting the site and discussing the zone change with the County Attorney, Staff recommended that the petition for the re-zone be Denied. The proposed zone change from the current R-1-8 (residential) to M-G (General Manufacturing) would permit the petitioner to expand his current facility with the addition of a warehouse. However, the new zone would also include other uses, i.e. *smelting, salvage yards, petroleum refining, blasting, etc.* that may not be suitable for a residential neighborhood. Mr. Lewis' business has been in operation before the zone went into effect in the mid-1990's. **Commissioner Desiray Larsen** asked about the history of other permits with dates, permits, etc., but that information was not available for review at this meeting. Staff stated that it was unclear as to what departments and/or staff reviewed any applications and how those approvals were given. **Commissioner Laurie Munns** asked if the zone was approved and sometime in the future Lewis Cabinets was no longer in business how would the neighbors feel about the new uses that would be permitted under this change. **Mr. Andy Teeder**, a neighbor to this property, felt that those other allowed uses [included in the M-G zone] were not really of a concern and that the progress of the existing business and its addition to the community were of more value than what might happen in the future. **Commissioner Kevin McGaha** then asked if there were any other options for the petitioner and the possibility of changing the text within the Code that would allow for mill work in other [less intense] areas than just in the M-G zone. Staff said that the General Plan and Code would need to be reviewed to determine where it would be best for such an option. The commissioners discussed other options with the petitioner and what was the future of the business. **Mr. Lewis** said that his home is located in front of the business and the probability of a family member taking over the business in the future is a definite possibility and felt that it would be there for some time. **Mr. Lewis** also said that at the time the zoning was put in place, he informed the landowner that he had intentions of expanding his business in the future regardless of the zone. It was also noted that the property to the east of this site is currently un-zoned and would allow for someone to petition the county for some of the less desirable uses that would be allowed in the M-G zone without having to go through the process of changing a zone. At that time the following motion was made.

MOTION: A Motion was made by **Commissioner Laurie Munns** to forward a recommendation of approval for the zone change for the Lanny Lewis property located in the Thatcher area. Motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

SUBDIVISION AMENDMENT, SS13-004, LANNY LEWIS, PETITION TO REMOVE LOTS 7, 8, AND PART OF LOT 10 FROM THE SAGEBRUSH CIRCLE SUBDIVISION LOCATED AT APPROXIMATELY 10300 NORTH HWY 102 IN THE THATCHER AREA OF BOX ELDER COUNTY.

Mr. Lanny Lewis is working with Hansen & Assoc. in getting a plat for this property to take care of the issues with the lots that are being vacated and combined; therefore the following motion was made.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to Table action on the Subdivision Amendment for the Lanny Lewis property until the plat is received by Staff. Motion seconded by **Commissioner Bonnie Robinson** and passed with Commissioners Jay Christensen and **Michael Udy** abstaining from the vote.

UNFINISHED BUSINESS

PENDING ORDINANCE, ACCESSORY DWELLING UNITS, NEW ORDINANCE (SECTION 5-6) TO ADDRESS THE ADDITION OF ACCESSORY DWELLING UNITS TO ARTICLE 5: REGULATIONS OF GENERAL APPLICABILITY OF THE BECLUM&DC.

ACCESSORY DWELLING UNITS, ZONING TEXT AMENDMENT: AMEND SECTION 3-2-070-7; 3-3-070-3, AND 3-7-070-3 ALLOWING ACCESSORY DWELLING UNITS AS A CONDITIONAL USE IN ALL ZONES THAT ALLOW SINGLE FAMILY DWELLINGS.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to Table action on the pending ordinance regarding Accessory Dwelling Units and the Accessory Swelling Units, Zoning Text Amendment until the June 20, 2013 meeting; seconded by **Commissioner Jay Christensen**, passed unanimously.

WORKING REPORTS

County Attorney Steve Hadfield was excused from this meeting, therefore his presentation and discussion regarding code of conduct, conflict of interest and ethics for planning commission members will be placed on the agenda at a future date.

The planning commissioners asked that the training date for them be placed on the agenda at a later date; August/September to set a date and time after the summer season has passed. Staff would be arranging for a representative from the State to come for this training once that is decided.

PUBLIC COMMENTS -- NONE

A **Motion** was made to adjourn at 8:28 p.m., unanimous.

Passed and adopted in regular session this 20th day of June 2013.

Chad Munns, Chairman
Box Elder County
Planning Commission