

BOX ELDER COUNTY PLANNING COMMISSION MINUTES January 22, 2015

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 by a roll call, constituting a quorum:

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

the following Staff was present:

Steve Hadfield	Co Attorney
Marcus Wager	Planner
Scott Lyons	Planner
Elizabeth Ryan	Exec. Sec.

The following citizens were present:

Krys Oyler/Bothwell
Katherine Summers/Bothwell
Douglas Newman/Tremonton
Stan Hales, JR/Layton
Victoria Tennis/Bothwell
John Sager/Bothwell
Greg Marble/Bothwell
Fred Sorenson/Bothwell
John McGuire/Bothwell
(several others present, not recorded)

Lee Summers/Bothwell
Tamera Newman/Tremonton
Gregory Mauchley/Bothwell
Robin & Roslyn Lord/Bothwell
Jim Flint/Brigham City
Brenda Sager/Bothwell
Jerry Day/Bothwell
Buster Marble/Bothwell
Richard Nichols/Bothwell

The Minutes of the November 20, 2014 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes as written; seconded by **Commissioner Bonnie Robinson** and passed unanimously.

PUBLIC HEARINGS

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 time for questions/answers.

ORDINANCE TEXT AMENDMENT, Z14-015: TEXT CHANGE TO THE RR-5 AND RR-5* (MODIFIED) ZONES THROUGHOUT BOX ELDER COUNTY.

Staff explained that these changes in the RR-5 and RR-5* (Modified) Zones in the Bothwell area were originally proposed at the November 20, 2014 meeting followed by a work session/public meeting in December 2014. The changes that were discussed and worked on would be effective throughout Box Elder County as there are a few other RR-5 Zones, i.e. Harper Ward, Mantua, Deweyville, Bothwell and including the Bothwell RR-5* (Modified) zones. It is being proposed that the RR-5* (Modified) zone be eliminated in the lower Bothwell area, making the RR-5 zone uniform through the county. Staff reviewed the history behinds the Bothwell zones and noted that the comments received at these two meetings from the residents of the Bothwell area proved to be very helpful and [hopefully] have been included in the changes. Following is the proposed changes noting that the main concerns of the residents were 1) many uses were included in the 10th area [correctional institutions, etc], and it was purposed that some of these uses would be separated out and/or eliminated; 2) two-family dwellings in the 7th area which were allowed in one zone but not the other and that was taken out of both zones; 3) public riding stables in the 9th area where a number of residents stated that they already had such facilities on their property. It was decided that this is an agricultural use and should be permitted; 4) mobile homes for temporary uses in the 2nd area would be allowed in the RR-5 zone with the Conditional Use Permit. With the advice of the county’s legal counsel, it was also determined that any uses that would be more of an administrative decision were also eliminated as the Planning Commission acts as a legislative body in its functions/decisions.

	RR-5	RR-5-modified
Temporary buildings for uses incidental to construction work, including living quarters for guard or night watchman, which buildings must be removed upon completion or abandonment of the construction work.	Conditional Use Permit	Permitted
<u>Mobile homes for temporary living quarters and such other temporary uses found appropriate to the Planning Commission</u> and approved by the County Commission *Possibly removing “and such other temporary uses found appropriate to the Planning Commission”	<u>Conditional Use Permit</u>	
Farms devoted to raising and marketing chickens, turkeys, or other fowl or poultry, fish or frogs, mink, rabbits, including wholesale and retail sale.	Conditional Use Permit	Permitted
<u>Farms devoted to</u> Apiary’s and Aviary’s	Conditional Use Permit	Permitted
Forestry except forest industry	Permitted	Not Allowed
Agricultural Industry	Conditional Use Permit	Permitted
Two-Family Dwelling	Permitted	Not Allowed

Private park or recreational grounds or private recreational camp or resort, including accessory or supporting dwelling complexes and commercial service uses which are owned or managed by the recreational facility to which it is accessory	Conditional Use Permit	Not Allowed
Public stable, riding academy or riding ring, horse show barn or other equestrian facilities under single management	Conditional Use Permit Permitted	Not Allowed
Correctional institutions, public or quasi-public facilities, essential service facilities, airports, private schools (with a curriculum corresponding to public schools), churches, dams and reservoirs, cemeteries, railroad and utility lines rights of way, and substations.	Conditional Use Permit	Not Allowed
Wireless telecommunication towers, radio and television transmitting stations or towers (including repeating towers)	Conditional Use Permit	

Commissioner Laurie Munns then asked that Staff again review what is required and considered a Conditional Use. Staff replied by using the example of an agricultural industry use, such as a dairy or a feed lot, that use would be permitted, but the Planning Commission would be able to place certain conditions on the request in order to mitigate any adverse affects that it might have on the other residents of the area. For example, if the residents were to come out in objection to the use, the Planning Commission would be able to place conditions such as the hours of operation, increased traffic, smells generated by the use, etc.; just because the residents said that they did not want such a use/facility in their area it would not necessarily stop it from happening. Everything that can be done to help mitigate any of the negative effects worked out through the stipulated conditions.

Commissioner Desiray Larsen then opened the public hearing on this text amendment for the RR-5 and RR-5* (Modified) zones.

Mr. John Sager came forward with the attached comments he had prepared for the Commission.

RR-5 and RR-5 Modified

It is to be noted that the chart given to us reflects some of the Accessory Use differences between RR-5 and RR-5 Modified. In fact in Article 3 Zoning Districts, Paragraph 3-2-070 there are approximately some 60 listed Accessory Uses or Restrictions. In sub-paragraph 3-2-080-2.1, the minimum width in feet for any lot is 250 feet for RR-5 and 200 feet for RR-5 modified. This difference was not addressed in the chart given to us. In sub-paragraph 3-2-070-4.1.... the tilling of the soil, the raising of crops, horticulture and gardening require a conditional use permit in both RR-5 and RR-5 modified. In 7 of the Zoning Districts this activity is permitted. It would seem logical that these activities be permitted in a rural area without seeking a conditional use permit from the county.

The second observation I would like to make is the basic differences between Harper Ward and Bothwell. The Harper Ward RR-5 runs in a 6 mile stretch along State Highway 38 from Brigham City north to the Honeyville City Limits. The portion East of State Highway 38 is hillside. There are nice homes in this area and the views from these homes are great but the land would not lend itself to crop cultivation. I can fully understand why these people would desire to retain their rural environment. Along the west side of the highway the land continues to be essentially hillside for a short distant before leveling out west to the railroad tracks. The great proportion of the homes in the western part of Harper Ward is built within 100 yards of the highway along with most of the farm buildings. West of this strip is vacant land which appears to be used for forage crops and grazing. As we drove down Highway 38 yesterday, it appears that there was standing water in some locations. There is little evidence of infrastructure, roads, gas lines, utility poles etc. I wonder if the reason this area has escaped development is because of a high water table. Bothwell on the other hand has a developed system of roads and utilities. It has flat, fertile, irrigated land, some of the best around. This must be inviting to those outside the area as it could be developed easily. In summary both areas are uniquely different in topography but united in a desire to remain rural.

The third observation I would like to make is that RR-5 and RR-5 Modified are in equal standing under the law. RR-5 modified is not subordinate to RR-5 or its poor cousin. It would be equally efficacious to change RR-5 to RR-5 modified if the only reason is to make the zoning easier to manage.

My fourth observation is: it was the intent of the Bothwell Community and the land owners in the Bothwell pocket in 2004 to extend the zoning of Bothwell north into the Bothwell Pocket. I find that discussions of the extension included one set of boundaries which included the whole area. I recall vividly the night that the County Commissioners said in essence "let it be". There was a collective sigh of relief among the Bothwell Citizens in attendance. To a person we all believed that the Bothwell zoning was going to extended north. Mr. Theron Eberhart who served on the planning board for 12 years, felt that this was the case and was "astonished" when some time later he saw a zoning overlay with the Bothwell pocket being designated as RR-5. When he asked Kevin Hamilton, the county planner, what happened, there was no explanation.

I would strongly propose: That the Bothwell Zone RR-5 modified and the Bothwell Zone RR-5 be combined into a single RR-5 zone, with the restrictions and uses as designated in the current RR-5 modified, as was the original intent when the zone change occurred in 2004. Since the Harper Ward RR-5 area is much smaller and uniquely different than either of the Bothwell zones or a combined Bothwell RR-5, its zoning would remain as is without change. The two zones could be designated RR-5A and RR-5B and remain separate unless there is some significant overriding consideration such as a considerable savings to taxpayers. If it is for the sake of some minor changes or to avoid some slight inconvenience to the county, it would make a great deal of sense to adapt this proposal.

John D. Sagers
11516 North 9200 West
Tremonton, Utah
435-279-0422

Staff explained that the change to the zoning map would be a result of the change to the RR-5 and RR-5* (Modified) zones, thus eliminating the RR-5* (Modified) and the rules/regulations governing the RR-5 zone would then included the area currently RR-5* (Modified) as shown in 'pink' on the above map. One resident asked what the specific boundaries of the area were as those were unclear as it does not follow a road or canal, but answers were given as to property owners in the area, as well as the location of the Marble Hills Subdivision, which helped to answer those concerns.

Commissioner Laurie Munns then thanked the citizens for their comments as it makes the job of the Planning Commissioners easier when suggestions or comments are given instead of just remaining silent and letting the commissioner think that they were in agreement with any proposed changes.

Ms. Brenda Sager asked how far the current RR-5* (Modified) zone extended northward as she thought that most of the area north did not have a great many residents. The southern part of the Bothwell pocket was land more suited for farming, whereas the upper part was more for grazing animals.

Mr. Greg Marble has lived in Bothwell his entire life and said (as he had when the zoning was considered in 2004-6) that his property should not be included in either of the RR-5 or RR-5* zones as his property is quite different and could be used for development and the building of homes in the future.

The Public Hearing on the Zoning Map Amendment, Z15-001 was closed with a Motion by **Commissioner Jay Christensen** and seconded by **Commissioner Michael Udy**, unanimous.

UNFINISHED BUSINESS

ORDINANCE TEXT AMENDMENT, Z14-014: DEFINITIONS FOR HOUSEHOLD PETS AND REGULATIONS REGARDING THE NUMBER OF ANIMALS ALLOWED ON INDIVIDUAL PARCELS.

Staff explained that since the last meeting he had done some further research regarding the appropriate number of animals for one acre or smaller lots, including information from *Lyle Holmgren*, USU Extension Service, suggested that the AMU recommendations be used. Also the comments that had been received at the November meeting and at the December work session were taken into consideration.

Animals and Fowl for Recreation and Family Food Production: The keeping of animals on a lot or parcel for exclusive personal, non-commercial use, by persons residing thereon. Applicable to one (2) acre lots or smaller and the R-1-20 Zone.

TYPE	MAXIMUM PER ½ ACRE – ANY COMBINATION
Cows, Horses, Donkeys, and other large animals	1
Goats, Sheep, Llamas, Alpacas and other small animals	7
Chickens, Ducks, Pigeons	10

Rabbits, Hares	20
Apiaries, Aviaries	5 Hives

Household Pets: Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as which includes but is not limited to dogs, cats, rabbits, fowl and canaries' any other living animal considered to be a household pet; not to exceed a total of four (4) dogs or cats, four (4) rabbits, and six (6) fowl; the total number of pets shall not exceed ten (10). Household pets do but not include any animals which are likely to inflict harm or endanger the health, safety, or welfare of any person or property. This definition shall not include a sufficient number of dogs or cats as to constitute a kennel as defined in this Code.

Kennel: An establishment having four (4) five (5) or more dogs or cats for the purpose of boarding, keeping, breeding, buying, grooming, letting for hire, training for profit, or selling.

Commissioner Laurie Munns said that she was concerned about limiting the number of horses to one per half acre lot as usually those horses are stabled and more could [probably] be accommodated. Also, pigs/hogs were not mentioned in the table. Realizing that this was not a public hearing, it was suggested that if anyone had any comments that they felt would be helpful in adopting this text amendment, they were invited to come forward to address the planning commissioners.

Staff then reiterated that this table and the number of animals suggested was NOT for agricultural uses, but for family food production. As such, if animals are being raised for shows or fairs, they would not be subject to these restrictions.

Several individuals had suggestions and comments which the commissioners noted. Some of those included:

- 1) **Mr. John McGuire** thanked the commission for taking comments into consideration and noted that the number of cows/donkeys, etc had changed and he said that he could think of some of his neighbors that would be noncompliant with these numbers already.
- 2) **Ms. Victoria Tennis** talked about the difference between the number of horses that were allow in California (where she originated from) and that several horses were allowed there, but the difference was in addressing the waste generated by the animals. In most cases, if horses are being kept on smaller lots they are not there for the purpose of grazing but feeding by other means. She also noted that some animals are more odorous, i.e. pigs, than others and those numbers should be limited. She suggested that perhaps the county should move away from only looking at the size of the lot or the zoning area and take the density of the area into consideration.
- 3) **Mr. Richard Nichols** said he had not attended the other meetings and questioned why it mattered how many animals a person had on their property, especially when they lived in the county. He also felt that having regimenting like this would lead to unintended consequences. He would not care if his neighbor had 18 horses on a half acre, (though that would probably not happen.)

Commissioner Bonnie Robinson explained that this ordinance has been worked on for several months by staff and the planning commissioners and these numbers are geared mostly to areas of the county where there are subdivisions with one half to one acre lots, such as in South Willard. If someone were to put a lot of animals on a half acre in these areas, or five horses that were housed in close proximity to their neighbors then it might start to cause some problems within the subdivision.

- 4) **Mr. Fred Sorenson** said that he lives on a $\frac{3}{4}$ acre lot in Bothwell and does not raise any animals; however Bothwell is a farming community and if people move from a city or town out to this area they need to understand that as such this is where animals are likely to be kept. If they don't want to deal with the smells associated with animals then they shouldn't move to Bothwell in the first place. However, he also noted that if he were to sell his property at some time in future, the new owner might want to be able to have a few animals, such as two horses, he would not be able to do that according to this table. Did not like having all of these restrictions placed on them, just because someone might not like to hear the chickens housed next door.
- 5) **Ms. Victoria Tennis** said that she realized that this was for a zone that did not really apply to Bothwell; however having lived in more densely populated areas she asked where these numbers had come from and suggested that perhaps other areas outside of Utah be looked at and how they determine their numbers. She suggested that rather than taking the numbers from Utah that have been used for the past fifty years that those numbers be based more on animals per square feet rather than the amount of grass there is.
- 6) **Ms. Brenda Sager** was concerned with the number of feral cats and dogs that are dropped off in the community that the people from the city don't want to take care of any longer. Recommended that the number be kept as they are.

At this point, **Commissioner Desiray Larsen** said that no further comments would be taken and that the planning commissioners would now discussed this matter. She suggested that the number of horses be increased to two per half acre lot and that pigs/hogs also be included in this table. **Commissioner Laurie Munns** asked Staff if there were any setback requirements for pens or such that would house any of these animals and was told by Staff that there are some zones that require a 20 foot setback, but was not sure which zones that applied to. **Commissioner Bonnie Robinson** then said that she liked the idea of taking horses out and just having them as a separate category and the others could be left as they are. Staff then mentioned that this amendment and the numbers of animals would apply to the entire county, including lots in the Bothwell area that are one acre or less. Staff further stated that the commission could change that to apply to "zones and lots" of less than one acre; such as a RR-1 zone which is a rural residential one acre lot. **Commissioner Desiray Larsen** said that she liked that idea as there could be lots, such as in the case of **Mr. Fred Sorenson**, where the lot is smaller but is surrounded by larger lots/parcels and also that the density of the area should be taken into consideration instead of just the acreage. **Commissioner Kevin McGaga** then said that these numbers are provided as a matter of right, or permitted, and that perhaps the keeping of hogs/pigs or greater numbers of those animals in the table could be with a conditional use permit, especially in taking into consideration the density of the area. With this method some flexibility could be allowed by looking at the property and what is being purposed by its owner. By doing so, any adverse

affects could be mitigated. Again, Staff wanted to clarify that this text amendment and the limiting of the number of animals really affects the South Willard area of the county, where there are subdivisions of 30 plus lots of one half acre. (It was noted that there are several areas where public notices are placed so that all of the residents within the county can be notified of any upcoming meeting and changes regarding the zoning in the county, including a new WEB page that has been set up recently.)

A member of the audience then spoke up asking about the kennel regulations and after some discussion back and forth with Staff it was suggested that any concerns regarding those numbers be directed to Staff outside of this meeting. It was noted, however, that the numbers that constituted a kennel, either for dogs or cats, had been increased.

MOTION: A Motion was made by **Commissioner Laurie Munns** to Table this text amendment as there was still some work that needed to be done, as well as taking the density of an area into consideration, before the final proposal was submitted to the Planning Commission. Motion was seconded by **Commissioner Jay Christensen**, also stating that the density should be considered; as did **Commissioner Bonnie Robinson**; and passed unanimously.

NEW BUSINESS

ORDINANCE TEXT AMENDMENT, Z14-015: TEXT CHANGE TO THE RR-5 AND RR-5* (MODIFIED) ZONES THROUGHOUT BOX ELDER COUNTY.

Staff said that based on the information that had been presented at this meeting and the meeting in November and work session in December it was recommended that the Planning Commission forward a recommendation to the County Commission for approval of the Ordinance Text Amendment to the RR-5 and RR-5* (Modified) zones. **Commissioner Bonnie Robinson** said that she had looked at some of the items that John Sager had mentioned in his comments [specifically regarding the setbacks and frontage requirements in the two zones] and was told that once the two zones were combined the differences between the two zones would be dissolved and the RR-5 rules would apply. **Commissioner Laurie Munns** said that she also had some concerns regarding some other areas of the uses that were and were not permitted, specifically “having a garden.” There could also be some other areas that needed to be addressed before final passage. **Commissioner Jay Christensen** suggested that this item be tabled in order for the other areas of usages be reviewed, stating that some of the uses may be old and no longer applicable for the five acre zones.

MOTION: A Motion was made by **Commissioner Michael Udy** to Table the Ordinance Text Amendment, Z14-015, text change to the RR-5 and RR-5* (Modified) zones throughout Box Elder County. Motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

ZONING MAP AMENDMENT, Z15-001: RE-ZONE IN THE BOTHWELL AREA FROM THE RR-5* (MODIFIED) ZONE TO THE RR-5 ZONE.

MOTION: A Motion was made by **Commissioner Michael Udy** to Table the Zoning Map Amendment for the Rezone in the Bothwell area; Motion seconded by **Commissioner Kevin McGaha** and passed unanimously.

SUBDIVISION VACATE, SS15-001: TRIPLE S STORAGE (STAN HALES JR.); TO VACATE THE ROCKY POINT STORAGE CONDOMINIUM SUBDIVISION LOCATED AT 9150 SOUTH HIGHWAY 89 AND RETURN IT TO A SINGLE PARCEL.

Staff explained that the petition to vacate this subdivision was submitted by the new owners of the property. The subdivision was first applied for as The Rocky Point Storage Condominium Subdivision around 2008. That development never occurred and the new landowner does not want the sixteen small parcels. Vacating the subdivision would result in the property reverting back to one parcel.

MOTION: A Motion was made by **Commissioner Jay Christensen** to Approve vacating the Rocky Point Storage Condominium Subdivision. Motion seconded by **Commissioner Kevin McGaha** and passed unanimously.

SUBDIVISION AMENDMENT, SS15-002: JEFF MICHAELIS; TO AMEND THE BOUNDARY OF THE MICHAELIS SMALL SUBDIVISION LOCATED AT 13788 NORTH HIGHWAY 13.

Staff explained that this subdivision currently consists of one lot with a remainder parcel. The petitioners are requesting that the south and east boundary lines between lot 1, owned by Alex R. Curtis, and the remainder parcel, owned by Jeff Michaelis be amended. This is a recorded, platted subdivision and this change is required by state code that the subdivision be amended. On an item such as this, the Planning Commission act as the approving body and the request does not go before the County Commission. The new Plat has been signed by the two owners of the property. Staff recommended approval of the amendment.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to grant Approval to the Subdivision Amendment SS15-002 and that the new Plat is recorded. Motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

WORKING REPORTS

ORDINANCE TEXT AMENDMENT, Z15-002: PROPOSAL TO DISSOLVE THE BOARD OF ADJUSTMENT AND APPOINT A HEARING OFFICER.

Staff explained that this amendment is to dissolve the Board of Adjustment and appoint a Hearing Officer that would hear any petitions that are submitted regarding variances or rulings made by the Planning Commission that a petitioner may disagree with. There are nine sections in the Code where the Board of Adjustment is referred to. **Commissioner Michael Udy** asked who the Hearing Officer would be and was told it would need to be an impartial person that would be able to take into consideration the rules and regulations that govern any decisions, as

there are five criteria that need to be looked at when a matter would come before them. It would not need to be a citizen of the county, but perhaps a land use attorney or someone with background in planning. With a Board of Adjustment that is made up of citizens in the county, often times emotions come into play when hearing an issue. *County Attorney, Steve Hadfield* said that having a Hearing Officer helps to protect the County against legal issues that could occur. Staff explained that the nine areas where the Board of Adjustment is mentioned within the Code have been reviewed and corrected and this would come before the Planning Commission at the February meeting.

Commissioner Laurie Munns asked for an update on the landfill corridor and was told that a firm has been hired and has completed some work, but the first draft of the corridor map has not yet been submitted. When it is received it will be forwarded to the commission for their information. This will be only the first draft and changes will likely take place several times before a final corridor is submitted for the county's approval.

PUBLIC COMMENTS

JIM FLINT WITH HANSEN AND ASSOCIATES: SUBDIVISION CONCEPT PLAN DISCUSSION

This concept plan for the Mitton Peak Subdivision was first presented to the Planning Commission approximately one year ago and Mr. Flint was now presenting a new concept plan that had some changes on it that included smaller lots at the front of the subdivision with access from Highway 38 in the Harper Ward area. This new concept plan would now be considered a PUD (Planned Unit Development) and he was asking the commissioner for their reaction to the new layout. A formal application for a Conditional Use Permit would be submitted for the February meeting and the commissioner's approval.

The date for the annual dinner of the Planning Commissioner was set for Tuesday, February 10, 2015 at 6:00 p.m. at Maddox in Perry.

A **Motion** was made to adjourn at 9:03 p.m., unanimous.

Passed and adopted in regular session this _____ 19th day of February 2015 _____.

Desiray Larsen, Vice Chairman
Box Elder County
Planning Commission