

submit to the Chairman for his signature. The motion was seconded by Commissioner Thompson and passed unanimously.

SUBDIVISIONS FOR APPROVAL

CONSENT AGENDA ITEMS

THE TWIN LAKES ONE-LOT SUBDIVISION, LOCATED AT OR ABOUT 14100 NORTH 3100 WEST IN THE COLLINSTON AREA.

This one lot subdivision is located in an area of the County that is currently zoned RR2 (two acre minimum lot size). This lot is two acres. The petitioner has established proof of all utilities with water service being provided by a well, which is located on the property. As the petition is in accordance with the existing subdivision ordinances and Zoning requirements, Mr. Day recommended that the Planning Commission grant Preliminary and Final approval at this time.

MOTION: A motion was made by Commissioner Thompson to grant preliminary and final approval to the Twin Lakes One-Lot Subdivision and submit to the Chairman for his signature. The motion was seconded by Commissioner Eberhard and passed unanimously.

THE TYSON RICHARDS ONE-LOT SUBDIVISION, LOCATED AT OR ABOUT 16020 NORTH 4400 WEST IN THE FIELDING AREA.

This one-lot subdivision is located in an area of the County that is currently un-zoned and consists of one acre. The petitioner has provided proof of all utilities with water service provided by the UKON Water Company. As the petition appears to be in accordance with the currently existing subdivision ordinances and Zoning requirements, Mr. Day recommended that the Planning Commission grant Preliminary and Final approval at this time.

MOTION: A motion was made by Commissioner Thompson to grant preliminary and final approval for the Tyson Richards One-Lot Subdivision and submit to the Chairman for his signature. The motion was seconded by Commissioner Eberhard and passed unanimously.

As there were several individuals present that were interested in the Scenic Development Subdivision (Country Classic), it was decided that this petition item would be moved up in the agenda for review at this time. Chairman Kimber asked for a Motion to move this petition item up on the agenda for review at this time. The Motion was made by Commissioner Thompson and seconded by Commissioner Davis with all in favor.

UNFINISHED BUSINESS

SCENIC DEVELOPMENT, INC. (COUNTRY CLASSIC SUBDIVISION PHASE I) FOUR-LOT SUBDIVISION, LOCATED AT OR ABOUT 10880 WEST 12800 NORTH IN THE BOTHWELL AREA

This item was before the Commissioners for their preliminary review. At the Planning Commission meeting held in January the conceptual plan for this entire subdivision was review by the Commission. The name that the developer has chosen for this subdivision is "County Classic Subdivision" and this is Phase I of that development. The property is currently in an un-zoned area of the County. The first phase of this development consists of four lots with each lot consisting of one acre. Mr. Day told the Commission that the petition appears to be in accordance with the existing subdivision ordinances and Zoning requirements in place at this time and the Bear River Water Conservancy District has stated that it will provide water for these four lots. (The remaining lots in this subdivision will be reviewed by the BRWCD for water availability when submitted by the developer.) Mr. Day went over his findings regarding this four-lot subdivision with the Commissioners and those findings included the following:

- ▶ the petition is in the vicinity of an Agricultural Protection zone and must be properly noted on the plat
- ▶ engineering cost estimates for improvement along 10800 West need to be submitted prior to final approval (improvements to include any utilities in road, any road base to bring road up to County standards and a two and one-half inch asphalt surface
- ▶ the developer needs to address the surface drainage and flooding that occurs in the area of the subdivision. A storm water report from the petitioner's engineer has been received and it is currently under review by the Planning Office
- ▶ the BRHD has NOT submitted their feasibility for the sanitary sewer; all individual septic tanks need to be approved by the BRHD prior to individual building permits and will be noted on the plat
- ▶ The petitioner must submit an Escrow Agreement and Development Agreement to the Planning Office prior to final approval
- ▶ Access to each lot is the responsibility of the individual lot owner and will be so noted on the plat
- ▶ 10800 West is NOT a fully dedicated street/road. The developer is required to dedicate the street to a standard of sixty-six feet
- ▶ all documentation from the required utilities regarding availability of service has NOT been received as of this meeting, i.e. gas, power, telephone

At the conclusion of Mr. Day's comments, **Commissioner Eberhard** asked about the road being paved with only four lots being developed at this time. Is it required that the road be paved in front of these four lots with the paving continued as each phase of the development is approved? Currently there is no pavement on this road for approximately a half mile before the point at which the development begins. Mr. Day stated that the decision for the paving of the road was up to the

discretion of the Planning Commission. Mr. Day told the Commission that there were a couple of options in regards to this item. 1) the requirements for paving the road could be waved until more of the lots were developed. The developer would be subject to an agreement under the Rural Road Agreement. **Commissioner Eberhard's** concern was that the developer would develop these first four lots and then in another year do another four lots and decide to stop the development. If the road were not paved prior to this, where would the County and this [Planning] Commission be? 2) Mr. Day stated that the County Surveyor and engineers have recommended that the Planning Commission require the asphalt on this street at the onset of the development. There is also concern regarding 12800 North Street as it is not paved and should the Commission require the developer to pave that road as well? These items need to be considered by the Planning Commission. **Commissioner Eberhard** had also asked Mr. Day to supply a map with the wells located which are close to this development for the Commission to review so that those water sources would not be jeopardized with this development. There are three wells in the area that have applied for source protection; the #1 East Well; #2 West Well and the BRWCD Newman Well. It appeared that the "cones" from these three large wells are away from the proposed development area and would not be affected. At this point, **Chairman Kimber** asked the Commissioners if there were any other concerns that they wanted to address at this time. Mr. Day mentioned the drainage (flooding or run-off) that occurs along 10800 West; it is a natural drainage and was probably the concern of the residents in the Bothwell area. **Commissioner Eberhard** told the Commission that the water that comes out of the White's Valley area travels down this road [10800 West].

Chairman Kimber also acknowledged those in the audience that were present because of this subdivision petition and stated that this [meeting] was **NOT** a public hearing, however if the Commissioners wanted the opportunity to get input from those present they could do so. **Commissioner Thompson** made a **Motion** that the Commission hear any input [for or against] that those present might have in regards to this petition. **Commissioner Holmgren** seconded the **Motion** and it was passed unanimously. **Chairman Kimber** asked that the comments be kept concise and not repetitive.

Ⓟ **Scott Newman** had concerns with the water drainage in the area and possible floodwaters. He said that any floodwaters would also flood the proposed eighty acres of this development. He was also concerned about having septic systems above the drinking water source; eventually it would reach the drinking water. Mr. Newman is a farmer in the Bothwell area and felt that new homes in the area would affect the water pressure in the area. Mr. Newman also had a booklet that he presented to the Commission for their review showing photographs (most taken within the last week, or within the last two-three years) of the area during the times of flooding.

Ⓟ **Krys Oylet** had concerns regarding the water that runs off of his land and would the homeowners in this development be able to come to him when their property is flooded. Ninety percent of the water run-off comes from his place with the other ten percent from White's Valley. He further stated that in the first part of June 2002 his culinary water well was dry and as he has the third permit for water in that area enabling him to shut others down if need be (his understanding from the State). He was also concerned about vehicles on his property [four-wheelers/trucks] while trying to investigate the water run-off from White's Valley. He did not want the traffic on

his property. He did not think that two and a half inches of asphalt on the road would be sufficient for the traffic flow – it would not last.

Mr. Day stated that the County Engineering Standards for the County roads require two and a half inches of oil [asphalt] on top. If the road is properly engineered and constructed with eighteen inches road base and eight inches of engineered fill, then the two and a half inches of asphalt meets the County standards. Mr. Day also stated that if an engineering study were done regarding the water run-off it would be done with aerial photos and topography of the land and not vehicles traveling over the property. There was more discussion regarding this issue between the farmers and Mr. Day. **Commissioner Davis** intervened at this time stating that the purpose was to hear concerns and not have a debate over issues.

James Bingham, *President of Bothwell Water & Cemetery Corp*, is in charge of the water for most of the Bothwell community. His concerns were with the water supply for the area in the Bothwell pocket and the impact on the BRWCD well. As a landowner he was also concerned with the issue of flooding in the area. The cemetery in Bothwell was washed out about fifteen years ago in Bothwell because of flooding. There was a flood on the east side of the valley that washed across the interstate. There have been days with four inches of water that will cause flooding. Also, as *President of the Highland Canal Company*, **Mr. Bingham** has seen water running along the road, which has not been addressed by the County and is a major issue. In the 1980's there was significant flooding when there was rain on top of frozen ground. If the County is going to allow development in these areas it will need to address these issues, because residential development will not tolerate the [flood] waters as well as agricultural. The other problem that he spoke of was that when the County paves a road it increases the elevation of the road, which results in a high point with lower points on each side of the road for water to flow down.

Val Lewis was concerned about the dedication of the road by the developer who would dedicate thirty-three feet on his [the developed] side. Where would the other thirty-three feet [to make the necessary total of sixty-six feet] come from? Would the County be able to take away property from landowners on the other side to make-up the remaining feet? **Mr. Lewis** referred to the existing road as being a "goat trail." Mr. Day stated that the County could only make the petitioner develop in front of his property, and not the entire sixty-six feet of road. When asked about the County's right to take property from a landowner in order to build a road, Mr. Day stated that issue was not something that this Commission (Planning) deals with.

Roger Frida felt that the area is a nice agricultural valley and would like to see it remain as such. He was concerned with the activities of the farmers in the area and what effect it would have on the new homeowners when they [the farmers] are burning their fields, watering fields with large sprinklers, working in the middle of the night, etc.

Katherine Summers asked about the study on the water [flooding] in the area and would houses be allowed to go in before the study was complete. Mr. Day stated that the need for a study in the area is necessary whether or not there are any homes there. These are two issues; the storm water study needs to be done regardless of whether there are any homes in the area or not. Homes would just be in the way, but because

of the current zoning (or lack thereof) this Commission does not have the necessary tools to prevent the developer from doing what he wants with his land. The development is required to be able to handle its own storm water. This is a requirement before any final approval is given to the petitioner to start development.

At this point **Chairman Kimber** thanked those that offered their concerns, adding that it is difficult for the Planning Commission to weigh individual rights and property [owner] rights in areas where there is **NO** zoning to regulate what can and cannot be developed and to what extent. **Commissioner Thompson** added that each time there is an issue such as this development, there are a lot of people that attend the Planning Commission meeting concerned with getting the proposed development area zoned so that [development] could be prevented. However, when it comes right down to the issue of zoning the public does not want to go in that direction [zoning]. This leaves the Commission [again] without the necessary tools that are needed.

Lynn Rindlisbacher, the developer/petitioner spoke at this time. He was somewhat dismayed that this meeting had resulted in a public hearing. He felt that ninety-five percent of the concerns that were voiced had nothing to do with the development. The conceptual plan for this development was approved and at this time he was petitioning for the first four lots and not the entire fifty-seven, which seemed to be the concern of those present in the audience. **Mr. Rindlisbacher** also stated that he was aware of the water along 10800 West and that the development would take care of the water within its development area. He further stated that most of the run-off water is along the west side of the road and his development is on the east side. He was also of the understanding that the paving of the road (from the previous meeting) would not have to be done at the onset of the development. He asked the Commission if the paving of the road could be waved until phase II of the development, as the first phase is the most expensive to get underway; he would be willing to sign any agreement with the County Attorney to that effect. There are utilities and electricity to the area and he is in the process of obtaining phone service and gas or propane. He further stated that as a former farmer, he is sensitive to the issues raised by the farmers in the area and the agricultural protection zone would be recorded on the plat map. Buyers of these lots would be made aware of the conditions in the area in regards to the farming in the area. Also he wanted to do what needed be done to control the dust in the area of the development. He also brought up the eight-lot subdivision that is across the street from his proposed development and there is no paving on the road in relation to that development. (Mr. Day pointed out that this eight-lot subdivision was done under the minor subdivision rules, which are no longer being used.) **Mr. Rindlisbacher** stated that he has a contract with the BRWCD to supply the water for these first four lots and if the BRWCD well is infringing on the water rights of others in the area, then that is an issue separate from his development. He felt that he had everything in line for approval from the Planning Commission at this time and asked for their approval.

At the conclusion of **Mr. Rindlisbacher's** statements, Mr. Day said that his office had not yet received all necessary letters regarding the utilities available for the development. Mr. Day also said the *Rural Road Agreement* could be used for the purpose of paving the road; he also felt that the

Commission should require some sort of a performance bond to guarantee that the funds would be available for the improvements in future phases. *Ag-Protection Zone Ordinance* is a state law and would be added to the individual plats for the phases and also would be noted on the individual titles for the property. Mr. Day further stated that in the three years that he had been with Box Elder County he had not encountered any problems with ag-protections. **Chairman Kimber** asked for clarification regarding the ag-protection areas located by this development and Mr. Day said that they are not necessarily contiguous land parcel around the development, but may be scattered throughout the area.

Commissioner Davis asked **Mr. Rindlisbacher** how many lots would be developed in the second phase. **Mr. Rindlisbacher's** reply was about another four or five.

MOTION: A motion was made by **Commissioner Davis** based on the findings of the Planning Staff that the County Classic "A" Subdivision Phase I (four-lots) be tabled until the Planning Office receives verification of the items mentioned by Mr. Day. The motion was seconded by **Commissioner Thompson** and passed unanimously.

NEW BUSINESS

LANDFILL AT PROMONTORY POINT, TWO THOUSAND ACRE; CONDITIONAL USE PERMIT

This Conditional Use Permit for a landfill at Promontory Point consists of approximately 2000 acres located on the west side of the peninsula. The area is currently un-zoned. Mr. Day presented his findings to the Commission, including "the purpose of this Conditional Use Permit process of the County is to promote the health, safety, convenience, and general welfare of the present and future inhabitants of the County. The land use code provides sufficient flexibility to allow this type of use. The overall goal of the process is to protect the County and the neighboring uses. It is important to remember this area is un-zoned." Mr. Day also presented a list of concerns that would assist the Planning Commission in formulating their finding to be present to the County Commission. The topics of those findings included:

1. Conditions relating to safety for persons and property
2. Conditions relating to health and sanitation
3. Environmental concerns
4. Conditions relating to performance

(A full outline of these headings are available in the *Land Use Management and Development Code* manual, Chapter 7)

Also, the Planning Commission [or County Commission] may consider holding a public hearing to receive input regarding this conditional use permit for the landfill. Mr. Day then introduced those present representing the Promontory Landfill. The petitioners had a Power Point presentation that Mr. Mark Easton went through with the Commissioners that outlined their goals and purpose

regarding this landfill petition. A [paper] copy of that presentation accompanies these Minutes [Attachment A]

At the conclusion of the Power Point presentation there was some discussion between the Commissioners and the representatives of the landfill. Mr. Day recommended that the Planning Commission do the following regarding this petition:

- a. Set a public hearing for March 20, 2003 at 6:30 p.m. prior to the scheduled Planning Commission meeting to receive input relating to the proposal;
- b. Submit the proposal to the BRHD for their review prior to any type of approval;
- c. Have the County receive verification from the State DEQ regarding its review of the project; and
- d. Have the project scheduled on the next meeting's agenda (March 20, 2003) for preliminary approval after findings have been addressed.

It was determined that a public hearing should not be set until the petitioners had received the approval of their permit from the State of Utah Department of Environmental Quality. (A public hearing notice must be placed in the local newspapers at least fourteen days prior to the hearing)

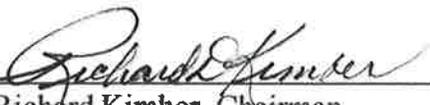
MOTION: A motion was made by **Commissioner Davis** that the public hearing for the Conditional Use Permit of the Promontory Landfill be scheduled not less than fourteen days following notification of the first response of the permit from the State DEQ; (therefore the public hearing being scheduled for the 20th of March 2003 would be contingent upon that response [or set the hearing fourteen days after receipt of that response]). (Mr. Day noted that response would need to be received by February 26, 2003 in order for the notice to be publicized for the required fourteen days prior to the hearing). The motion was seconded by **Commissioner Thompson** and passed unanimously.

Pat Comarell presented the "action map" [Attachment B] of the West Corinne area to the Commissioners. This map was for their consideration to be used at a town meeting in discussing zoning in West Corinne. The members of the commission discussed the various areas of the map and the proposed zoning. It was then determined that the first Town Meeting should be set for a Thursday following a regular Planning Commission meeting. This would enable the Commissioners to go over any remaining details that they felt were needed associated with the upcoming town meeting. The location for the meeting would probably take place in the Corinne Elementary School as it was thought to be the best place for such a gathering. The tentative date for this meeting was set for April 24th, thus allowing two more regular meetings of the Planning Commission and also allowing sufficient time for the staff to get mailings sent out and any remaining necessary paperwork completed.

MOTION: A motion was made by **Commissioner Holmgren** to hold the first Town Meeting regarding the proposed zoning in West Corinne on April 24, 2003 at 7:00 p.m. in the Corinne Elementary School. The motion was seconded by **Commissioner Thompson** and passed unanimously.

A motion was made to adjourn the meeting at 10:24 p.m. by **Commissioner Eberhard** and seconded by **Commissioner Davis**; all concurred.

Passed and adopted in regular session this 20th day of March 2003.


Richard Kimber, Chairman
Box Elder County
Planning Commission