
MINUTES
BOX ELDER COUNTY PLANNING COMMISSION
MARCH 15, 2001

The Board of Planning Commissioners of Box Elder County, Utah met in a Public Meeting at their regularly scheduled meeting, at the County Courthouse, 01 South Main Street in Brigham City, Utah at 7:00 p.m. on **MARCH 15, 2001**.

The following members were present constituting a quorum:

Richard Kimber	Chair
Jon Thompson	Vice-Chair
Stan Reese	Member
David Tea	Member (arrived 7:05 p.m.)
Royal Norman	Member
Theron Eberhard – excused	
Deanne Halling – excused	

The following Staff was present:

Garth Day	County Planner
Elizabeth Ryan-Jeppsen	Department Secretary

The following public was also present:

Karen M. Palmer –	D. Lyle Palmer Subdivision
Richard E. Day –	Willard Flood Control
Steve Pettingill –	Land owner, South Willard
Sam & ShaNee Boucher –	Norman one-lot Subdivision
Bruce Jones, Carson Jones –	Developer, Farms in South Willard Subdivision

The **regular session** was called to order by **Chairman Kimber** at 7:02 p.m.

APPROVAL OF MINUTES

The minutes of the regular meeting held on February 15, 2001 were reviewed by the members present

and a Motion was made by **Commissioner Norman** and seconded by **Commissioner Reese** to approve the Minutes and submit to the Chairman for signature.

SUBDIVISIONS FOR APPROVAL

NORMAN ONE LOT SUBDIVISION (SAM & SHANEE BOUCHER) AT OR ABOUT 6900 WEST 4000 NORTH IN WEST CORINNE.

Mr. Day stated that the name of this subdivision was recently changed to the Boucher Subdivision located in West Corinne on property that is currently unzoned and consisting of one acre. **Commissioner Tea** asked is the 4000 North road was paved, which it is, but has no curb & guttering. **Chairman Kimber** entertained a motion for the preliminary and final approval of this subdivision.

MOTION: A motion was made by **Commissioner Thompson** to grant the Boucher one lot subdivision preliminary and final approval and authorize the Chairman to sign. The motion was seconded by **Commissioner Tea** and unanimously passed.

BRUCE ZUNDEL ONE LOT SUBDIVISION, LOCATED AT OR ABOUT 22585 NORTH FRONTAGE ROAD IN THE PORTAGE AREA.

Mr. Day noted that this subdivision is located near the Washakie Dam Reservoir, south of Portage and north of Plymouth. The petitioner is refinancing his home and having to split off the 2.58 acres to satisfy the bank's requirements. The house already exists with all utilities in place, but because Mr. Zundel is splitting off a piece of property it falls under the subdivision ordinance as he is creating a new piece of land. **Commissioner Tea** asked about the pavement of the road in front of the home, wondering if it would fall under the requirement of having to pave [200 feet in each direction] of the house. Mr. Day stated that because this home is already an existing home, the paving requirement would not have to be upheld [because this building lot is already (and has been) in existence]. However, **Commissioner Tea** said that just because this was a lot with an existing home, it was still a subdivision by all means and purposes and wouldn't all the requirements for a subdivision be required. **Commissioner Kimber** stated that this is a technicality that has slipped by in the past and not recorded. Mr. Day referred to the next subdivision that would deal more directly with the paving issue. **Commissioner Reese** mentioned that he thought the road in front of the house was already paved from the old Plymouth station leading into the Portage area. He continued to say that it may have a few gravel spots along it but at one time was paved as it was an old highway.

MOTION: A motion was made by **Commissioner Reese** to grant preliminary and final approval of the Zundel One Lot Subdivision. The motion was seconded by **Commissioner Norman** and passed unanimously.

LYLE PALMER ONE LOT SUBDIVISION, LOCATED AT OR ABOUT 4925 WEST GUNSIGHT PEAK ROAD, NORTH OF PLYMOUTH.

Mr. Day explained that this subdivision has the asphalt issue; on an unzoned 2.46 acre lot located

outside of Plymouth on the Gunsight Peak Road which is presently a gravel road. The Land Use Code ordinance states:

“Where an existing road is the designated road and is a gravel road, the subdivider shall be required to improve the existing road to meet the design standards. The pavement shall be extended beyond the subdivision boundary in each direction a minimum of 200 feet or greater as determined by the Planning Commission to minimize the dust emissions. In order to protect the subdivider’s investment for the improved county road, the county shall impose an improvement fee to any owner of subdivider of land that is opposite this section of improved roadway. This fee shall be one half of the total improvement cost and shall be paid to the first subdivider if any additional subdivisions are created within a five (5) years period of when the original subdivision was approved.”

This ordinance came into effect before 1999 and there is a subdivision in the west Corinne area where a developer put in about five lots on a gravel road and did not do any improvements to the road and when people bought the lots and built homes there was a dust problem created by the traffic. The Planning Commission has the right to **recommend** to the County Commission that they waive certain requirements. If the Planning Commission decides that the petitioner does not need to asphalt the road then they must state specific reasons why that decision was made, along with good arguments because the ordinance is in place for a reason. The Planning Commission should either change the ordinance or enforce it strictly. It this was to be waived for a subdivision they would need to have triggers in place stating when this road would have to be paved in the future and who would be responsible for the cost. The builder or developer should build the road and not the County. The reason that it needs to be articulated is in case another such subdivision comes up and a new petitioner would refer back to a (Palmer) this subdivision where a road was not required. Would also note (protection) on the final Plat map if the road was waived.

At this present time there are no other houses along this road, but the problem is the dust that is created by traffic using the road. It was determined that this particular road went up into the mountain/hill and did not continue through and is mainly used by farmers getting to their livestock and four-wheelers. **Commissioner Norman** asked the petitioner, Karen Palmer, if it was their intent to have the commission require them to oil the road. Ms. Palmer’s response was “no” as the price of the road would probably take away from the funds allocated for the home. **Commissioner Tea** noted that the cost is approximately one dollar per square foot.

Commissioner Kimber asked Mr. Day if this Planning Commission could suggest to the County Commission waiving the requirement to pave this particular road with the stipulation that if further subdivisions/development should occur then all of the homeowners would have to comply and pay their equal share toward the road. However, **Commissioner Kimber** further noted that there would still need to be a safety valve in place regardless of the amount of time – 5-10-15-or 20 years – when another person may build along this road, so that each homeowner would pay their share. Mr. Day also suggested that a possible “rural road agreement” be drafted that would state a person realizes they are building on a dirt/gravel road and there may be dust occurring which would be their responsibility to rectify and not the County’s.

After much discussion regarding this issue, it was determined by the Commission that Mr. Day, **Commissioner Reese**, **Commissioner Tea** and a county road person would go to the site and survey the road to see if waiving the asphalt would be warranted and the specific reasons why this would be constituted. Therefore, **Commissioner Kimber** suggested that the petition be tabled until the survey of the road could be made.

MOTION: A motion was made by **Commissioner Thompson** to table the Lyle Palmer One-Lot Subdivision until the April 19, 2001 meeting in order to gather more information about the road and was seconded by **Commissioner Tea**. At the time of the April meeting the subdivision would then be subject to **preliminary** and **final** approval by the Planning Commission. (**Commissioner Thompson** noted to the petitioner that if the Planning Commission were to suggest to the County Commission waiving the pavement of the road, it would still be at the discretion of County Commission to approve or not.) The motion to table was passed unanimously.

KNUDSEN ONE LOT SUBDIVISION, LOCATED AT OR ABOUT 12000 NORTH 4925 WEST IN THE EAST GARLAND AREA.

Mr. Day suggested that the Commission grant only preliminary approval of this subdivision as the engineer had not been able to correct the red-lines on the map and the petitioners were out of town and could not be contacted. The property in un-zoned containing .75 acres, but an additional 16.5 feet on the 12000 north street would need to be dedicated to meet the current street standards and since Mr. Day had not been able to meet with the Knudsen's he did not feel that final approval should be granted at this meeting. The petitioner has established proof of all necessary utilities and water would be supplied by S & K Water Company. Also, there are some required signatures which are missing on the map and Mr. Day prefers to have those signatures in place before asking the Commission for final approval. (**Commissioner Reese** noted that this location is considered to be more in the East Tremonton area.)

MOTION: A motion was made by **Commissioner Thompson** for preliminary approval of the Knudsen Subdivision and was seconded by **Commissioner Norman**. Passed unanimously.

THE FARMS IN SOUTH WILLARD SUBDIVISION (PHASE I), LOCATED AT OR ABOUT 7300 SOUTH US HWY 89.

Mr. Day reminded the Commission that they had granted conceptual approval for the entire subdivision at their February 15, 2001 meeting. Mr. Day also recommended that the name of the subdivision be changed from "The Farms *at* South Willard" to "The Farms *in* South Willard" for better clarification.

On this Phase I of the subdivision, Lots 1, 2, and 13 are restricted, their only access being from the road within the subdivision and not allowed from HWY 89. Lot 13 was reconfigured to remove a small corner portion. There are three wells located within the confines of the proposed subdivision that provide irrigation water to the orchards owned by Pettingill's. Mr. Day was uncertain as to whether a well protection area is required for irrigation wells as it is for culinary water wells and will look into that matter. (Mr. Pettingill noted that he had been in touch with Bob Wilson from the Health Department and Mr. Wilson said it would be "*his desire not to locate any septic systems closer than 100 feet of a well*"). Because the wells are in the roads of the subdivision, it will be required that they are maintained with manhole covers and brought up to the standards allowing them in a road. The subdivision also has an ag-protection area adjacent to the north and is noted on the Plat. Phase I of this subdivision is currently being considered for preliminary approval as it meets all of the existing ordinances and zoning requirements. All lots are .5 acre or greater and have the necessary frontage requirements. Documentation has not yet been received from UDOT

concerning the road for the point of entry into the subdivision. All of the roads will be built to the County's standards (60 feet wide, cul-de-sacs are 50 feet wide) and will be turned over to the County. There will not be curb and guttering, but have a six foot shoulder with a barrow slope that handles drainage very well. At the completion of Phase III of this subdivision there will be a large detention basin in the northwest corner. There is a letter in the file from the Willard Flood Control granting preliminary approval for the developer's plan. Richard Day, representing the Willard Flood Control, stated that once a plan is received from the developer, the Flood Control Board would then take it to their engineers for approval and then would be submitted back to Garth Day's office and then to the Commission for approval.

After a question by **Commissioner Norman** regarding the access roads, Mr. Day stated again that there will be only one access road, the other road north of the Gate's property is already existing and will be for Pettingill's access to their orchards. (This particular access has been protected with a sixteen foot easement which the owners of the lots butting up to it will be required to comply with). There will probably be a deceleration lane for the subdivision coming from the north as per UDOT regulations.

Commissioner Kimber asked Mr. Steve Pettingill to go over the concerns that he had outlined in a letter dated February 9, 2001 to the Planning Commission. Mr. Pettingill's concerns were as listed below:

- a. As far as the long term planning for the wells located within the subdivision, Pettingill's did not want to continue with the liability of having to maintain the wells, i.e., cleaning or dealing with problems, such as sink holes that have occurred in the past. Mr. Pettingill noted that if a sink hole were to form, chances are that the developer would be gone from having anything to do with the subdivision. Mr. Day reiterated that since the wells are located in the road, the developer is responsible for them; he will need to engineer them to make sure that they will continue to work. Once the work on this particular phase is complete, there is a one year guarantee on the road. (Problems usually happen within that one year period, but if any problems were to come up later on, it would be the responsibility of the County to correct.) There was some question as to the number of flowing wells, whether one, two, or three. Mr. Pettingill noted that there is one well that had not been indicated on the map.
- b. Mr. Bruce Jones explained that, depending on how deep they would need to go into the wells, several rings would be put into place to stabilize them. Then gravel and clean, sizeable rocks to prevent a washing situation or the possibility of sink holes occurring. Right now the water comes almost to the surface and is piped out into a gravel bed and another diversion box which is located about five feet from the well. From there you can see the water flowing out. Mr. Jones felt that the lower the well could be allowed to drain it would probably also increase the water flow (volume). There is a fairly good slope on the road from the east boundary to the west boundary of the subdivision. Mr. Jones stated that he would like to go down as deep as possible to where the flow of the water begins to lay the pipe in to drain from the lowest point (with the approval of Pettingill's). Commissioner Norman asked if Mr. Jones would maintain an easement, which he would, and therefore allowing Pettingill's the right to go into that if the need should ever arise.
- c. Mr. Pettingill's main concern centered around a sink hole that occurred a number of year ago and the likelihood that it would happen again regardless of the precautions that we taken. This particular sink holes that he was talking about occurred over a period of three years and was extensive. He was hesitant to give approval to measures taken that may, or may not, work. He further stated that they would be willing to do whatever was necessary to

- disassociate themselves from any problems that might occur. **Commissioner Thompson** noted that any of these possible problems could happen at any time and if the subdivision were not to go in, then whose responsibility would it be to take care of the well(s) or sink holes?
- d. Mr. Jones stated that he believed that this particular sink hole happened before proper graveling had been put into place and the area had been stabilized. Now the water is being allowed to come up through the gravel and is being piped out. He also felt that he and his engineers had dealt with any possible circumstances that would occur. He said that if Pettingill's did not want to run the possibility of disturbing the sand he would be willing to have four or five foot layer of clean rock, stabilizing the well and allowing the water to continue to flow and then piping it up and out like a spring.
- e. Mr. Jones said that test holes had been done all the way down in the subdivision for the Board of Health and water was reached anywhere between eight and twelve feet.
- f. **Commissioner Thompson** asked Mr. Pettingill how he felt about the wells being turned into springs. Mr. Pettingill's response was that *"if the County wants to assume all liability of that well, that spring and their road, I don't think we have any problem with it, but I don't want to be one that's a party to this afterwards."* **Commissioner Tea** asked who did the State deem responsible? Mr. Pettingill's response was *"these are irrigation wells and they are discussed right here in Planning Commission; this is the only body that's really got any regulatory If water was denied, ya, it would be an issue, but as far as issues, problems come If it's a year from now, then we can go back on the developer, but like I say in long term aspects of this . . . I think what is happening is you're brokering with the developer, and you're partnering and saying 'I believe what you can do,' the County is putting in as good faith measure here as Pettingill's are, because they're goin' to be the ones that pay for it, I believe, 'cause I don't want to have anything to do with it, and so state here in Planning Commission."*
- g. Mr. Jones acknowledged that there was an issue there and due diligence needed to be extended, to an engineering input which they would do, but he also did not want to have the problem overstated which he felt was happening at this meeting. He did not feel that it would be an impossible thing to design and manage, but to do it under the direction of professional engineers.
- h. **Commissioner Thompson** asked about who would be responsible if one of the home built around the irrigation well were to fill up with water in the basement. Mr. Jones stated that they would be doing much of the building of the houses and appropriate measures would be taken such as *"perimeter drains around those homes, and there is enough slope that we can give it a positive daylight situation. So the other question is, are we going to get some kind of a river coming out of that well? Gushing out of the ground over to this . . . house and suddenly create a sink hole around the house? I think you folks are familiar enough with water and soil conditions, that that's not very probable. If there were a lot of water running in the ground, it's going to come to the surface. . . . It could find a way, but it could find a way in very small amounts; it could saturate if we didn't control all of it. Our footing drains would take care of that around the homes."*
- i. Mr. Pettingill broached the question that the developer drill a new well and provide them with the same amount of water they are now receiving and cap the wells that are in the

subdivision. **Commissioner Norman** stated that he didn't think the County wanted to accept the responsibility. Mr. Pettingill went on to say that if the developer drilled a new well on the Pettingill's property to deliver that amount of water, then they would "*absolve themselves from the property and the subdivision stands on its own, deals with the issues that are within the subdivision . . . if I was one of the property owners that was near one of those I wouldn't necessarily want to . . . you know, in all probability, nothing will happen, life will be good, but if that problem does exist it won't be good. All the liability issues, I don't want, I don't even want . . . like I said, I would be glad if the County assumed them all. All the wells are just a head scratcher as far as what to do with them, because their worth is only for farming.*" You could get a drink from them, but not for culinary use Mr. Pettingill did not think that they presented any worth there.

- j. Mr. Jones asked that he be able to evaluate Mr. Pettingill's proposal on the drilling of a new well to see if that would be possible. **Commissioner Kimber** was in agreement, feeling that might be a more economical avenue to pursue. Mr. Jones proposed that he would like to solve the problem either one or the other way because timing is a critical matter at this point; either with an engineering design statement that whatever standards need to be met are met and solved. He asked that the Planning Commission grant "*preliminary approval at this meeting, subject to a solution one of two ways, if the engineers are happy with the solution in place then we drill a well, one of the two we would go with. If we can't satisfy this body and Pettingill's with sufficient information from licensed engineers about the stabilization of this, then we'd agree to drill a well and that would solve your concerns.*"
- k. The final consensus was that the County, and Pettingill's, both, obtain legal counsel as to what their respective liabilities/responsibilities would be concerning these wells if problems that were discussed happened to occur.

MOTION: A motion was made by **Commission Thompson** that the preliminary approval for the Farms in South Willard, Phase I, be tabled until further information can be gathered and to give time to address all the issues brought before the Commission. Preliminary and Final approval at the next meeting (April 19, 2001) would be contingent upon these issues surrounding the wells (and any others that may or may not present themselves) and whether or not they were resolved satisfactory to this Commission – all of the issues. The Motion was seconded by **Commissioner Reese** and passed unanimously.

OTHER BUSINESS

COUNTY ROAD SHED, LOCATED ON STATE ROAD 30 AND 5400 WEST IN PARK VALLEY

Mr. Day stated that a public building required a Conditional Use Permit in this area, however the building is being used by the County and the Commission had already authorized construction of the building to begin. **Commissioner Norman** stated that it was not the County Commission that had authorized the construction, but the Municipal Building Authority. Mr. Day stated that it is the County Commission that has the final say in granting a CUP. **Commissioner Tea** asked if they should pose some restrictions on this particular CUP and also why was a CUP even required? Mr. Day answered in that because this area is

zoned RR-2, public facilities are a conditional use in that zone. **Commissioner Tea** then asked if there were any conditions that should be imposed in consideration of the citizens in the Park Valley area, i.e. landscaping (such as Walmart was required to do), any asphalt on the side of the road or would that be unrealistic? He then asked if the State had any requirements that would have to be followed. After much discussion it was decided that the following conditions be placed on this proposal:

1. Comply with County and State standards
2. Well protection, if there is one, to be shown on plat
3. Septic tank be authorized by the Health Department
4. Any necessary buffering (salt and sand areas) from adjoining neighbors to protect them

MOTION A motion was made by **Commissioner Reese** to grant the CUP for the construction of this project with the above mentioned conditions. It was seconded by **Commissioner Tea** and passed unanimously.

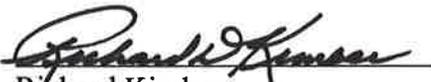
RUPP TRUCKING - CUP

Mr. Day stated that about one year ago a CUP was issued to Rupp Trucking for a hot plant in Collinston, which they have not used. The condition was that they had to go forth within one year or they would have to give this Commission, in writing, their intent to extend that permit. All of those conditions are still in place, but it has not been used to date. **Commissioner Kimber** said, that on the recommendation of Mr. Day, he felt that this extension for one year should be granted, retaining all of the conditions that were placed on the original permit.

MOTION A motion was made by **Commissioner Reese** to grant the extension of the Rupp CUP for one year and was seconded by **Commissioner Tea**. Passed unanimously.

A motion was made by **Commissioner Reese** to adjourn the meeting at 8:44 p.m. and passed unanimously.

Passed and adopted in regular session this 19th day of April, 2001.


Richard Kimber
Box Elder County
Planning Commission, Chair