

**MINUTES  
BOX ELDER COUNTY  
PLANNING COMMISSION  
MAY 20, 2004**

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The Board of Planning Commissioners of Box Elder County, Utah met in the County Commission Chambers of the Historic County Courthouse, 01 South Main Street, Brigham City, Utah at 7:00 p.m., **APRIL 15, 2004**. The following members were present constituting a quorum:

Richard Kimber	Chairman
David Tea	Member
Jon Thompson	Member
Richard Day	Member
Clark Davis	Member
Ann Holmgren	Member
Theron Eberhard	Excused

*The following Staff was present:*

Garth Day	County Planner
Elizabeth Ryan-Jepps	Dept Secretary
Amy Hugie	County Attorney
Pat Comarell	Consultant

The **session** was called to order by **Chairman Richard Kimber** at 7:03 p.m.

The **Minutes** of the regular meeting held on April 15, 2004 were given to the Planning Commissioners prior to their meeting (May 20, 2004) for review. **Chairman Richard Kimber** asked for a Motion as to whether or not the **Minutes** should be accepted as written. **Chairman Kimber** pointed out a few words in the Minutes that needed to be corrected and **Commissioner Richard Day** stated a correction that needed to be made on one of the Motions, after which time **Commissioner Jon Thompson** made the motion to accept the Minutes with the correction made and submit to **Chairman Kimber** for his signature. The motion was seconded by **Commissioner Clark Davis** and passed unanimously.

**SUBDIVISIONS FOR APPROVAL**

**CONSENT AGENDA ITEMS**

**LAYNE T. SUMMERS ONE-LOT SUBDIVISION, APPLICATION SS04-009, LOCATED AT OR ABOUT 12430 WEST FAUST VALLEY ROAD.**

Mr. Garth Day stated that there was an update on this subdivision application which would allow for granting of **Preliminary** and **Final** approval at this time. The petitioner had established proof of all utilities and also authorization for the sewer on the property and a permit for a well. Although **Commissioner Theron Eberhard** was not present at this meeting, he had submitted a question to the staff prior to the meeting asking if this subdivision was “*not within the boundaries of the Bothwell Planning Area?*” Staff responded that this subdivision is outside of the Bothwell Planning Area as it

is located further west of the western boundaries. This property is currently un-zoned and contains 6.5 acres. Commissioner Jon Thompson asked about the various easements (roads) on the property and the Petitioner responded by stating that Easement "A" is owned by Boyd Marble and that the County had put the road in for access to Mr. Marble's property. Easement "B" is used by the Petitioner's father to load cattle; Easement "C" accesses a field on the upper portion of the property by the Petitioner's father.

**MOTION:** A Motion was made by Commissioner Jon Thompson to grant Preliminary and Final approval for the Layne T. Summers One-Lot Subdivision and authorize the Chairman to sign. The Motion was seconded by Commissioner Richard Day and passed unanimously.

## **NEW BUSINESS -- NONE**

## **UNFINISHED BUSINESS**

### **TWIN FALLS PHASE II SUBDIVISION, APPLICATION SS04-008, LOCATED AT OR ABOUT 7700 SOUTH 1100 WEST IN THE SOUTH WILLARD AREA.**

This petition is for Final approval of Phase II of this subdivision. The property is currently zone R-1-20 and the petition appears to be in accordance with the existing subdivision ordinances and Zoning Requirements. This Phase of the development contains eleven lots. This property is NOT in the vicinity of an agricultural protection area, which was originally thought to be the case. It was stated that a fence should be required along the west side of the development and around the detention basin located on the west end of Lot 22. It has been determined that this detention basin will be dedicated to the Willard Flood Control District and will be so noted on the final plat. There is also a "hammerhead" turn-around located on the west end of 7950 South Street. Mr. Garth Day stated that the detention basin would be dedicated as part of the final subdivision plat as parcel "A". The petitioner will also need to have the financial guarantee complete before receiving final approval from the County Commission and recording of the plat.

**MOTION:** A Motion was made by Commissioner David Tea to grant Final approval of the Twin Falls Phase II Subdivision and submit to the Chairman for his signature. The Motion was seconded by Commissioner Richard Day and passed unanimously.

## **WEST CORINNE COMMUNITY PLAN**

Ms. Pat Comarell asked Mr. John Ferry if he would like to address the Planning Commissioners regarding the outcome of the Town Meeting and Public Hearing that had been held concerning the zoning and planning in the West Corinne area. Mr. Ferry stated that the map that was used indicating the proposed zoning (Map A) was corrected except for the area indicated by the gray color should actually be green (agricultural area) and would have a "hatched" line indicating that this property would be considered for future industrial/commercial zoning [as a guideline]. (A copy of the two maps, A & B, are included with these Minutes.) Mr. Garth Day stated that it was the landowner of this particular piece that had requested that it be considered for future commercial

zoning. Staff went on to say that the wishes and concerns of the property owners were taken into consideration in determining the proposed future zoning. It was also stated that this 'final' proposed map is quite different from the first map that was presented at the Public Hearing held in March 2004. Many of the landowners indicated that they wanted their property included in the pink area [representing half acre]. Mr. John Ferry stated that the landowners could control the destiny of their land and *"that half acre zone gave those property owners the greatest amount of freedom as possible then it clicked; it wasn't a restriction, but an entitlement to do what they wanted with their property."*

At this time, Mr. Garth Day stated that the Public Hearing, which began on March 25, 2004, should be closed.

**MOTION:** A Motion was made by **Commissioner Clark Davis** to close the Public Hearing on the West Corinne Community Plan; seconded by **Commissioner Jon Thompson** passing unanimously.

Once the Public Hearing was closed, **Chairman Richard Kimber** said that the Commission was ready to receive action on this item.

**MOTION:** A Motion was made by **Commissioner Jon Thompson** to recommend approval for the West Corinne Community Plan with the gray area on the map to be changed to indicated green (agriculture) with future consideration of commercial/industrial zoning; also the intersection of Promontory Road and Iowa String Road be shown as future consideration for commercial zone. The recommended approval also includes adoption of the proposed zoning maps and written policies, which accompany the plan. This recommendation is consistent with the West Corinne Community Planning Committee, which was established to create the plan and this Planning Commission is supportive of their efforts in establishing this plan to be forwarded to the Box Elder County Commission for their consideration and approval. This plan and recommendation is also consistent with the County's General Plan. The Motion was seconded by **Commissioner David Tea** and passed unanimously.

In his absence, **Commissioner Theron Eberhard** submitted the following concerns/comments regarding the West Corinne Community Plan and they are included with these Minutes.

*"The West Corinne Community Plan Land Use Policies states, 'Zoning should reflect the prevailing character of an overall district or neighborhood to the largest extent possible. Districts determined to be in transition should be given special consideration.' It is my opinion that the proposed zoning ignores the prevailing character of the area, which is agricultural/rural. I believe the area proposed to be RR-20 on Map A is too large. Furthermore, the areas identified on Map B as ½ and 1 acre for future consideration will help speed the use of agricultural land for residential housing. After the implementation of the proposed Plan, the availability of residential real estate in the West Corinne area will speed the change and eventual destruction of the current 'prevailing character' of the area."*

**MOTION:** A Motion was made by Commissioner David Tea to thank the West Corinne Planning Committee for a “job well done” and release them at this time. The Motion was seconded by Commissioner Ann Holmgren and passed unanimously.

Commissioner Clark Davis requested that any members of the West Corinne Community Planning Committee that would be available, attend the County Commission meeting when this plan is presented to the County Commission. Commissioner Davis asked County Attorney Amy Hugie to have this matter placed on the agenda for the County Commission meeting scheduled for May 25, 2004, at which time the date will be set for the public hearing regarding approval of this plan. (The date for the public hearing will probably be set for June 29, 2004 at 10:00 a.m. in the County Commission Chambers.)

At this point in the meeting, Commissioner Clark Davis referred to the Closed Executive Session that was to have taken place prior to the opening of the Planning Commission Meeting. That meeting was cancelled; however, the Commissioner asked that at the conclusion of Ms. Comarell’s comments regarding the Bothwell Community Plan update that the commission move into a Closed Executive Session for a short time allowing Commissioner Clark Davis time to report on some matters pertinent to this Planning Commission. Commissioner Clark Davis presented this to the Commissioners in the matter of a Motion, which was seconded by Commissioner Jon Thompson and passed unanimously.

### **BOTHWELL COMMUNITY PLAN**

Mr. Garth Day spoke to the Planning Commissioners about the possibility of having the members of the Bothwell Community Planning Committee meet with the Planning Commission in an open discussion regarding the findings of their committee. It was determined that those Committee members would be invited to attend the planning meeting regularly scheduled for June 17, 2004. At that point the Staff turned the floor over to Ms. Comarell to go over the map outlining the findings of the Bothwell Community Planning Committee. Two of the members of the Committee were present at this meeting; Tamera Newman and Katherine Summers. Ms. Comarell referred to the displayed map and noted the various areas and what the zoning represented. A report of the Bothwell Plan is included with these Minutes. After Ms. Comarell discussed the findings of the Planning Committee with the Commissioners it was determined that the Planning Commissioners would meet with the members of the Bothwell Community Planning Committee on June 17, 2004 at 6:00 p.m. before the regularly scheduled meeting at 7:00 p.m. After the meeting on the seventeenth, a public hearing will be scheduled for the members of the community to have the plan presented to them by the Committee and the Planning Commission.

### **PUBLIC COMMENTS**

Upon hearing no comments from the public, Commissioner Clark Davis made a **MOTION** that the Commission move to a Closed Executive Session at 8:07 p.m.; seconded by Commissioner Jon Thompson and passed unanimously.

Commissioner Clark Davis made a MOTION to move out of the Executive Session at 8:44 p.m. in order to close the Planning Commission meeting; seconded by Commissioner David Tea and passed unanimously.

A Motion was made by Commissioner Ann Holmgren to adjourn the meeting at 8:45 p.m., all concurred.

Passed and adopted in regular session this 22nd day of July 2004.

  
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Richard Kimber, Chairman  
Box Elder County  
Planning Commission

# West Corinne Community Proposed Zoning

# Map A

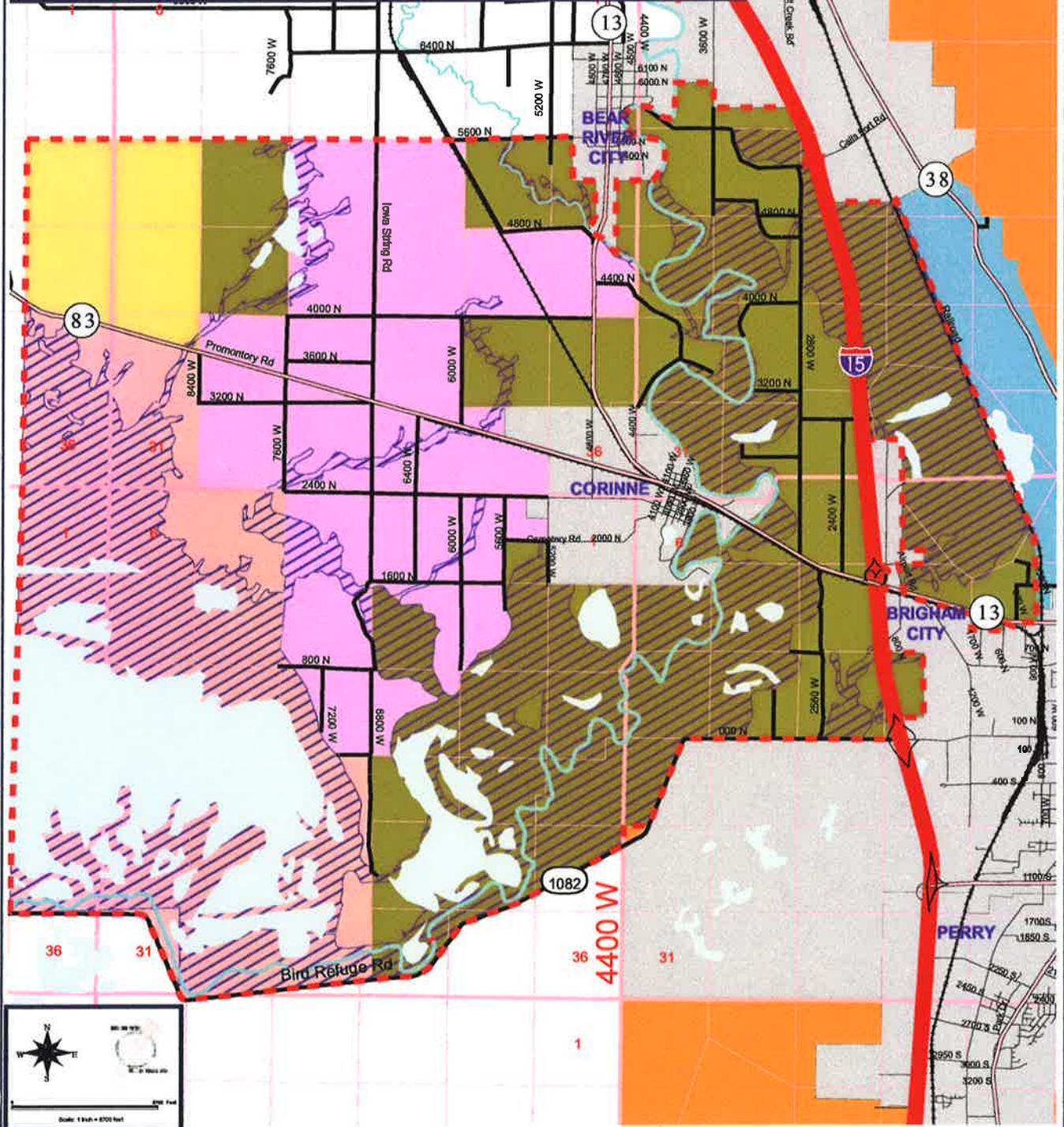
- Current Zoning**
- MU-160 (Multiple Use - 160 acre lots)
  - RR-5 (Rural Residential - 5 acre lots)

- Possible Zoning**
- Proposed MU-40
  - Proposed A-20
  - Proposed RR-20
  - Proposed MU-160

Proposed Sensitive Areas Overlay

- Transportation**
- Interstate
  - Highway
  - On/Off Ramp
  - County Roads
  - City Roads
  - Railroads

- Planning Area
- City Boundaries
- Water





# Bothwell Community Plan

## Report from Pat Comarell, Planning Consultant

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### **Background**

The Planning Commission appointed eleven citizens to a Bothwell Community Plan Advisory Committee. Those individuals were:

Deloris Stokes	9220 W 11600 N	854-3920
Randy Marble	11005 N Wallace Lane	854-7422
James Bingham	10010 W 11600 N	854-3876
—Tamera Newman	11495 N 10800 W	854-3854
—Katherine Summers	9660 W. 11200 N	854-3376
Roger Fridal	621 E Main	257-3376
Lynn Rindlisbacker	10305 W 13600 N (801)	628-9015
Jill Christensen	11820 N 10000 W	854-3818
Krys Oyler	664 N 2300 W	279-5167
Floyd Egli	11680 N 9000 W	854-3849
Reese Anderson	9985 W 11600 N	854-3691

### *Alternate Member*

Eric Olsen 8825 W 11200 N 854-7402

Ms Stokes chose not to serve, and Mr. Egli, and Mr. Olsen were unable to attend regularly.

### **Summary of Meetings**

The table at the end of this memo indicates the various meetings and discussion topics that have been held regarding the Bothwell Community Plan. There were several key meetings:

- The group brainstormed what their concerns or fears were going into this process, and what information they would like (see list attached).
- Dr. Robert Oaks presented an analysis on that area in terms of water and soils. He felt that development would have little impact on the amount of water (as farming takes more water than households), and there would be areas that would be undevelopable or would need special engineering to address challenges with the soils (as it related to using

septic tanks). He presented a great deal of scientific data to substantiate his conclusions.

- The Advisory Committee over several meetings discussed zoning options.

***Bothwell Community Plan*** The Advisory Committee's recommendations include the following:

- Move Community Plan boundary on the south end northward to the boundaries of the existing RR-5 zoning boundary.. Also the east boundary between 10400 N (Rocket Road) and 11200 North westward to the RR-5 zoning boundary.
- Zone the area west of the RR-5 boundary to the mountains as Agriculture 20 for full length of the north-south boundary.
- Zone the mountains MU 160.
- Zone the area north of 12600 N as Agriculture 20.
- For the area for between 12800 N-12600 N, two options are presented: RR-5 and RR-3.

All but two (one wanting 1 acre, another 5 acres) agreed that zoning this area 3 acres was a good compromise, however, two individuals who could see the need for compromise at R-3 felt they represented those who signed the petition requesting RR-5, so they would need to stay with that until the option of RR-3 was presented to Bothwell citizens for discussion.

- ***Guidelines for the Future*** – RR-3 for Roger Fridal's property along 10800 W be zoned RR-3 (to be zoned A-20 for the present).

***Minutes of these meetings are attached***

## Bothwell Community Plan Log

10/23/03	Town meeting	Conducted by Planning Commission, presentation of background report and discussion of issues
12/4/03	Advisory Committee meeting	Discussion of plan framework, balancing tests, what the planning process is, and what is expected from committee members
1/8/04	Advisory Committee meeting	Discussion of what individuals fear, and information the committee wish to have
1/22/04	Advisory Committee meeting	Dr. Robert Oaks, geology, attended meeting to discuss environmental issues
2/5/04	Advisory Committee meeting	Discussion of various planning and zoning questions. Committee began to discuss possible zoning for the north end of Bothwell
2/26/04	Advisory Committee meeting	Continued to discuss zoning options and review the development process
4/1/04	Advisory Committee meeting	Continued to discuss zoning options and review the development process
4/8/04	Advisory Committee meetings	Discussed zoning options and compromised on R-3 in the area between 12800-12600 North, 10800 W to the freeway. Wanted to go out and talk with Bothwell Residents
5/6/04	Advisory Committee Meeting	All but two (one wanting 1 acre, another 5 acres) agreed to the 3 acres compromise. They decided d to present to Bothwell citizens and to the Planning Commission with two maps – one with R-5 or R-3 as options. The other areas which were originally included in the moratorium would be zoned A-20.

	Presentation to Planning Commission	
	Final action of the Plan. Commission	
	Action by County Commission	

## **Bothwell Community Plan Advisory Committee Fears and Issues**

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- **How to maintain the public trust**
  - Change of lifestyle – rural agriculture
  - Response to the petition that was signed requesting RR-5 zoning
- **Accuracy of the information presented** – before making a decision based on what some describe as fact, pursue more information to ensure that our assumptions are correct.
- **“Protection of personal property rights within planning for all concerned”**
  - How is this defined by the Committee –
  - What are the balancing tests in applying these to the Community Plan
- **Environmental**
  - Flooding problems
  - Building on the aquifer
  - Contamination of the aquifer by developments
  - Impacts of development on environment, e.g., wildlife
  - Impacts of septic tanks
- **Open Space** -- Preserve greenbelt
- **Water Rights**
  - Intrusion of salt
  - Over allocation
  - Possible actions by State Engineer
  - When the Water Conservation District started withdrawing water from smaller areas, what impact did it have on neighbors
- **Development Tools**
  - What is required of developments, e.g., geologic concerns, soil tests, road standards, bonding
  - How zoning works
  - Housing standards and family options
  - Other development tools
  - Code compliance
  - Number of animals allowed on one acre
- **Adequacy of infrastructure, e.g., roads, traffic patterns, sewers, irrigation systems**

# Bothwell Community Plan Advisory Committee

March 11, 2004

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At the Committee's meeting on **February 26<sup>th</sup>**, the Committee came to a preliminary consensus on the following:

- Improve certain collector roads (12000 N, 12800 N and 13600 N from 10800 West east to the frontage road) to provide travelers with several options to the frontage road in the hope that they will take these easier paths and not traverse through the heart of Bothwell and increasing traffic on 10800 West.
- The southern boundary was moved from Rocket Rod northward to follow the boundary line of the current RR-5 zoning. The Committee felt that the area between the RR-5 to Rocket Road really identified more with Thatcher.
- The existing RR-5 zoning would remain now and as the only option in the "Guidelines for the Future"
- The mountainous area on the west side of Bothwell should be zoned MU 160 now and in the future.

Also at this meeting on the 26<sup>th</sup>, the Committee discussed the plan and zoning that West Corinne had done, and asked to see the maps at their next meeting.

At this **March 11<sup>th</sup> meeting**, the staff presented the West Corinne maps: The areas to be zoned immediately, and the community plan map, which showed options for the future. The committee asked a dozen questions of why this or that was proposed for zoning the way it was, and the staff responded.

Once that discussion was concluded, Jill Christensen presented a paper entitled, "Zoning Proposal for Bothwell Pocket" (attached). This proposal was discussed and flowed into a discussion of how each person on the Committee viewed possible zoning. There appeared to be a consensus that:

- The part of Bothwell north of 13600 North should be zoned agriculture now with possible alternative zoning in the future. (Krys Oyler was not present at this meeting and they wanted his reaction before this became a definite recommendation).
- The Committee **does not favor** cluster housing or the use of Transfer of Development Rights.

- It is important that the development of the entire Bothwell pocket should have a continuity or uniformity about it so it comes together as a community.

**Discussion for the next meeting on April 1st.** The area of most concern and of which the Committee members had differing views was the area between 12800 – 13600 North. This area is where the soils are best for development, has strong water pressure, and the Committee will need to decide whether to provide several zoning options for the future.

**Moratorium extension.** The Committee also directed the Community Development Director to request the County Commission extend the moratorium for another six months to ensure this planning process is completed before any further projects be considered for development.

**Criteria for development.** One issue of rezoning to possible non-agricultural uses in the future is the timing of development. Options are given in “Guidelines for the Future,” but giving such options does not promise a rezoning when it is first requested. What criteria would be used to determine if the time is right for development? Staff is working on this, but a few items come quickly to mind:

- County services can be provided
- Review of possible environmental restraints, e.g., wetlands, floodplains, etc
- Water availability
- Ability to meet zoning requirements
- The area is in transition from agricultural use to other uses

# **Bothwell Community Plan Advisory Committee**

**April 1, 2004**

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**The meeting started with a overview of what was covered in the last meeting.**

- Improve certain collector roads (12000 N, 12800 N and 13600 N from 10800 West east to the frontage road) to provide travelers with several options to the frontage road in the hope that they will take these easier paths and not traverse through the heart of Bothwell and increasing traffic on 10800 West.
- The southern boundary was moved from Rocket Rod northward to follow the boundary line of the current RR-5 zoning. The Committee felt that the area between the RR-5 to Rocket Road really identified more with Thatcher.
- The existing RR-5 zoning would remain now and as the only option in the "Guidelines for the Future"
- The mountainous area on the west side of Bothwell should be zoned MU 160 now and in the future.

**The Committee as several questions:**

- Once zoned, can one change to another zone? Yes, with an application to the Community Development Department. If the zone you request is not an alternative presented in the Community Plan, you must also request a plan amendment.
- Can the County zone a property to a zone that the landowners does not want? Yes, The County looks at the health, safety, and welfare of the entire community. If an owner does not want the zone, they can protest at the public hearing or later take the County to court.

The Committee was then asked to express what they thought the zoning in the various areas should be:

- **Roger Fridal** – When the committee started, he didn't like being dictated to. Now he sees that zoning won't affect very few in the middle of the valley – those who might one acre or two acre lots. He can deal with houses because he feels it is all about being good neighbors and he has not had any problems. He feel Lynn on his one acre lots should be able to develop.

# ***Bothwell Community Plan Advisory Committee***

***April 8, 2004***

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The Committee met to discuss the zoning for the area between 12800 and 13600 North from the frontage road to the mountain.

Staff went described the differences between permitted, conditional, and nonconforming uses. The Committee asked questions about what was allowed in the various zones under consideration.

Krys Oyler expressed that he thought ½ acre is not large enough to have a house and a horse too. So the ½ acre lots become dust bowls. Krys also indicated that he would like MU 160 for his property in the northern part of Bothwell. Staff indicated they would put together a summary of what is allowed and the conditions of the MU 160 and A-20 zones for the next meeting.

Randy Marble raised a question about the area east of the mountain (on the west side of Bothwell) indicating that that area was not within the original community line presented at the town meeting and therefore those people did not comment at the town meeting. The Committee decided that there was no evil intent if the line was moved and if that area is to be zoned, it will be brought up at the public hearing so they can get the concerns of the property owners. The Committee asked that property owners be added to the map that already has some property owners listed.

Some Committee members felt it was not their right to tell others they could not move into Bothwell. Others responded that we are not telling people they can't come into Bothwell, but to come in on similar lot areas as those who are already have.

The Committee also discussed the interaction between farms and residential uses, and that farmers have a right to continue to farm (e.g., graze animals, spray crops, burn).

Staff asked if there was any way to compromise on zoning in this area. There was little response. At one point, one member indicated that maybe it was a standoff and two options be presented to the Planning Commission. Roger Fridal then expressed that surely as adults we can figure this out and asked the Committee whether they were willing to talk compromise. After some discussion, some said they could live with zoning of three acres, some comfortable with three acres if they could get one acre zoning in the future. Lynn Rindlisbacker indicated he needed one acre on his property on 0800 West, but would settle for two acres on his land on 12800 North. Those who were on the committee and had circulated a petition for the RR-5 zone indicated they could see a compromise might be needed, but they wanted to go back to talk with those who signed the petition (and whom the committee members felt they represented).

- **James Bingham** – He has supported the existing RR-5 zone in Bothwell. It has not shut off using the ground; we still have growth. If lot sizes are too small, it would have a concentration which may lead to vandalism, trespassing, and moving agricultural equipment. It is hard to guarantee agriculture once this process get started. Agriculture has to change and adapt, lose ability to adapt because frozen in the use. At the same time, that is part of the democratic and political process – Individual can choose where they live and that brings in new people.
- **Lynn Rindlisbacker** – His ground is not the best for agricultural use, so much sand. Agriculture takes more water than residential use. In the existing RR-5, homes get well water. Lynn’s property has a water line near it that he will extend to his property. He is building Ranchetts which need at least one acre.
- **Randy Marble** – He felt the property from 11600 W. west should be in agriculture or mixed use zone. He would like one acre lots for his property on 10800 West.
- **Krys Oylar** – Krys was okay with mixed use zone because he plans only to farm his land. The Staff suggested agricultural zoning which gives him more options to change uses if he needs in the future.
- **Reese Anderson** – He feels property owners have a right to farm. The discussion then moved into agricultural preservation areas.
- **Jill Christensen** – We have already lived with the restrictions of the RR-5. People who want to develop the land do not live here. Development is not worth the money.
- **Kitty Summers** – She likes the five acres and feels it works
- **Tamera Newman** – She also supports the five acre zone. That is the zone people who live here want. Others should not change what we have long enjoyed. She, and those who have been calling her, still want RR-5 zoning.

The Committee then discussed the plan options – what to recommend for now, and what for the future (“Guidelines for the Future” as part of the plan). The discussion went on for a while.

**Consensus so far:**

- All agreed that the area north of 13600 North should be agriculture zoning (A-20)
- Mountain area on the west side of Bothwell to be zoned mixed use (MU 160)
- Slope of hill east to existing RR-5 zone to be A-20
- Area between 12800 North to 12600 North and from I-15 to A-20 zoning on the west is still undecided.

The meeting ended with three-acre compromise still on the table and the need to talk with members of the community about it. As yet, the committee has not confirmed the request of some to have one-acre lots now or in the future.