

PLANNING COMMISSION MEETING

September 19, 1985

Minutes of the regular meeting of the Box Elder County Planning Commission held Thursday, September 19, 1985, at 7:30 p.m.

Members present: Richard Kimber, DeVon Breitenbeker, Don Petersen, Jon Thompson, Kent Newman, and Thomas Mower.

Ex-officio: Denton Beecher and Jay Hirschi

Chairman Richard Kimber, conducting, called the meeting to order at 7:30 p.m. and asked for approval of the minutes of July 19, 1985. Motion was made by DeVon Breitenbeker that the minutes be approved as written. Motion was seconded by Jon Thompson, with all members voting in favor.

IOWA ESTATES MINOR SUBDIVISION FINAL APPROVAL

Denton Beecher reported that the Iowa Estates Minor Subdivision was presented for approval, but had not been approved or signed by the Health Department. During the past months, the Health Department has checked the area and has given septic tank approval for 5 lots with two-and-a-half to three-acre lots. Following the advice of Mr. Beecher, a motion was made by DeVon Breitenbeker to approve the 5 lots and authorize Richard Kimber to sign the final plat. Motion was seconded by Jon Thompson, with all voting in favor.

OWNERSHIP CHANGE TO A CONDITIONAL USE PERMIT

Clive, Arnell and Roger Wells met with the Commission to change the ownership of a conditional use permit which the County previously issued to Grant Cook in 1978, to operate a gravel pit. Roger Wells, spokesman for the group, said the leasor is no longer leasing the property and they would like to change the permit into the property owners name and to reduce the area size of the permit. Mr. Wells said Willard City issued a non-conforming conditional use permit for a gravel pit within the Willard City Limits on April 27, 1985. He said the permit is very restrictive regarding hauling etc. through the City limits. He said there are other permits operating in the general area and this is a request on an existing pit. He said they would not allow any operation from the South end of the property, but all would be from the North end because of flood control purposes. They would, therefore, request that the present permit (Number 12) issued to Grant Cook be changed to the owners of the property, which is the Wells family.

Richard Kimber said he is not opposed to the concept, but wanted to get legal opinion from the County Attorney regarding the transfer of a conditional use permit, or must a new one be issued. Motion was made by Don Petersen that this be done and authorize Denton Beecher to check with the attorney, and bring the matter before the Commission at the next meeting. Motion was seconded by DeVon Breitenbeker and approved.

FRANCIS & NADEL WHIT REQUEST FOR ZONE CHANGE

Mr. & Mrs. Francis Whit met with the Commission to request a zone change be made to their property from RR-10 to R-1-20, which property is located between Willard and Perry. Mr. Whit said there are no lots the size of the requirements in an RR-10 zone and he would like to sell a lot to his nephew. Mr. Whit presented an application with the signatures of his surrounding neighbors giving their approval.

DeVon Breitenbeker said it would involve a matter of spot zoning which would be in violation of the zoning ordinance, but he would be willing to go along with rezoning the total RR-10 area instead of the spot which he requests. Mr. Whit said he feels the whole zone could be changed because of the number of non-conforming lots in the area. Jon Thompson made a motion that approval be given by the Commission with a recommendation to the County Commissioners that a public hearing be held to amend the zoning ordinance from the present RR-10 zone to an R-1-20 zone with the petition being signed by a majority of the property owners within the zoned area as approved by Surveyor Denton Beecher. Motion was seconded by Don Petersen and approved.

GAY PETTINGIL REQUEST FOR ZONE CHANGE

Gay Pettingil met with the Commissioners to request a zone change be made on his property located south of Willard from an RR-5 zone to an R-1-20 zone, to allow him to sell ½ acre building lots. He said most of his land is on a hill and would only be suitable for residential lots. Mr. Pettingil presented a petition with several signatures from residents in the zoned area. DeVon Breitenbeker said this request is similar to the previous request by Mr. Whit and involves a matter of spot zoning. Mr. Breitenbeker therefore made a motion that Mr. Pettingil get a majority of the signatures in the RR-5 zoned area which joins an R-1-20 zone on the North and runs South to the County line, and East of the highway. After the signatures have been obtained as verified by Mr. Beecher, the request then be submitted to the County Commissioners to hold a public hearing. Motion was seconded by Kent Newman with all voting in favor.

SUMMER HILLS SUBDIVISION UP-DATE

Denton Beecher reported to the Commission that all the water checks built by Mr. Smedley in the Marble Hill Subdivision located West of Tremonton have been washed out by the previous flash flood. He said flash floods in the area are not uncommon and could cause much property damage which the County could be partly liable if developers are allowed to build in the area and do not develop satisfactorily to take care of the run-off water. Mr. Beecher said the flood water will follow its natural course and if a developer is allowed to build in its path, other means must be constructed which will adequately handle the water. At the present time this is not the case either above or below the road which runs along the property adjacent to the development. Richard Kimber said, what the Planning Commission must do is to make sure run-off water is taken care of and make the developer responsible to have his engineer design the development that will meet the approval of the County, before any approval to build is given.

RECORDING SUBDIVISION VIOLATIONS AND AG. LAND DIVISIONS

Mr. Beecher reviewed some literature from the Weber County Planning Commission which expresses the policy of the Planning Commission with regard to evident violations of the subdivision law. (Copy 1). Following a discussion, Mr. Beecher was authorized to follow through on the matter and keep the Commission informed.

No further business, meeting adjourned at 9:10 p.m.



WEBER COUNTY PLANNING COMMISSION

2510 Washington Blvd.

First Floor, Ben Lomond Plaza, Ogden, Utah 84401

(801) 399-8791

August 27, 1985

Onesco Engineering
105 Skyline Dr.
Brigham City, Utah 84302

SU: Recording Subdivision Violations and Agricultural Land Divisions.

Dear Neil:

I am enclosing a copy of correspondence to the County Recorder's Office which expresses the policy of the Planning Commission with regard to evident violations of the subdivision law as cited in 17-27-21 and 57-5-1 thru 5 UCA Annotated as amended. Section 17-27-21 in part states "It shall not be lawful to record any such (subdivision) plan or plat in the office of the County Recorder unless the same shall bear thereon the endorsement or otherwise the approval of such (Planning) Commission."

Based on this, we have requested the County Recorder's Office to refer to Planning, any documents submitted for recording which appear to constitute a division into 3 or more lots from an individual tract which existed when Weber County Subdivision Regulations became effective (January 11, 1952).

This also applies to agricultural tracts of over 5 acres. Heretofore this office has not required a certification of intent in the establishment of agricultural tracts as an exemption from a subdivision and have issued permits for dwellings on such tracts on the basis that a farm dwelling is an accessory use to agriculture.

It has been brought to our attention that this is a far too liberal, if not an incorrect, procedure. After careful review with the County Attorney, this office will now require that "bona fide divisions or partitions of agricultural land for agricultural purposes" (17-27-27) must document by deed restriction, this intent in order to be exempt from the Subdivision Regulations by executing a deed restriction (see sample copy). The County will not authorize any other use including residential construction or release the deed restriction until the normal requirements of complying with the County Zoning and Subdivision Ordinance have been met.

Also, up until recently, Weber County has accepted subdivision plats of less than 10 lots on existing streets, that were not prepared and certified by a registered land surveyor. Chapter 57-5-3 UCA as amended and Weber County Subdivision Regulations Section 4-E-d and Section 5-C-1g. provide for the subdivision plat to be certified by a registered land surveyor as to the accuracy of the plat.

Because of the increasing problem of deed descriptions not matching land occupation with land division; the problems of recording required utility and drainage easements etc. with metes and bounds descriptions etc; and considering the intent of the above statutes, the Planning Commission will now require that all subdivisions, including those of less than ten (10) lots on existing streets, must be surveyed and an accurate plat prepared by a registered land surveyor. It is our opinion that a subdivision plat cannot be accurate unless it is based upon an adequate land survey.

We are now proceeding to eliminate the County Subdivision Regulation provision which allows for approval and sale by metes and bounds of subdivisions of less than 10 lots on existing streets. We feel the cost of preparing a final plat for recording after a survey has been made is minimal and there are many benefits to a recorded final subdivision plat. The Planning Commission has approved this in concept and an ordinance amendment is being prepared.

If you have
land divisions, we
Ordinances relating

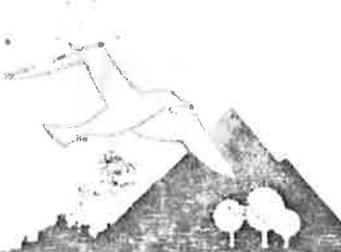
to
concerning about either of these two types of
make them aware of the County policy and
matter.

If you have any comments I would be pleased to discuss them with you.

Yours truly,
Graham Shirra

Graham F. Shirra
Director

GFS/jw



WEBER COUNTY PLANNING COMMISSION

2510 Washington Blvd.

First Floor, Ben Lomond Plaza, Ogden, Utah 84401

(801) 399-8791

TO: Doug Crofts, County Recorder
FROM: Graham F. Shirra, Planning Director
DATE: July 18, 1985

Graham F. Shirra

RE: Refusal to Record Subdivision Violations & Agricultural Land Divisions

Further to our discussion of 7/17/85, I am requesting that you instruct your staff not to record divisions of land transactions where it is obvious or even strongly suspected that a violation of the Subdivision Regulations of Weber County and State Law has taken place wherein 3 or more lots are being or have been created out of a larger parcel that existed in single ownership at the time the County Regulations came into effect in September 1952.

I make this request on the advice and with the approval of the Deputy County Attorney, Mr. Brent Johns who agrees that State Law (17-27-21 and 57-5-1 thru 5) provides that the division of parcels of land that existed as single ownerships as of September 1952, into 3 or more lots, plots, sites, etc., for the purpose, whether immediate or future, of sale or building development, constitutes a "Subdivision" and that the County Recorder should not record such division until an accurate map or plat has been approved by the Planning Commission and dedications accepted by the County Commission.

The Deputy County Attorney therefore, feels that it is proper for the County Recorder, when presented with documents for recording the division of a parcel into 3 or more lots whether at one time or cumulatively over a period of time, to refuse to record and direct the owner (seller) of the land to the Planning Commission so that he can follow the procedure for legally dividing the property.

Also, State Law and County Ordinance exempts from the requirements of the Subdivisions Regulations the division of agricultural land into agricultural parcels of 5 acres or more for the purpose of bona-fide agriculture. If the purpose is not for bona-fide agriculture, then the division into parcels of 5 acres or more would constitute a "Subdivision" and a plat approved by the Planning Commission would be required before recording.

Since the purpose of the land division is therefore the key as to whether a plat should be submitted to the County or not, it is important that this purpose be documented in order to establish the land division exemption from the County Subdivision Regulations. To accomplish this, we request that your office direct any party desiring to record 5 acre or more land divisions of 3 or more parcels to the Planning Commission so we can have them execute a covenant certifying that the divisions are for the prime purpose of agriculture and that nothing else is implied or intended and no right to build residential or other structures is guaranteed and that if a different use is proposed in the future or if the agricultural parcels are proposed for further division, then the requirements of the County Zoning Ordinance and Subdivision Regulations must then be adhered to. We would have them record this covenant so that it ran with each agricultural parcel so created.

GTS/jw

cc: Brent Johns
Planning Staff

RESTRICTIVE COVENANT
EXCLUDING THE NON-AGRICULTURAL
USE OF LAND

To the Public.

I the undersigned owner of property in Weber County, State of Utah,
which property is described as follows:

am dividing (have divided) the above described agricultural property
into "bona-fide agricultural parcels for agricultural development
purposes" only which division is allowed under Section 7-27-27 UCA 1953
as amended and Section 3A-3 and 3A-19 of the Weber County Subdivision
Regulations, without the necessity of filing and recording with the
County, an approved subdivision plat meeting all of the County
Subdivision Regulation requirements.

In so doing, it is acknowledged by me, my heirs, assigns and future
purchasers that the use of the agricultural parcels so created shall be
only for agriculture as defined in the Weber County Zoning Ordinance
and for the raising and grazing of animals and no other use is implied
nor intended and no right to construct residential or other
non-agricultural structures is guaranteed until and unless all the
requirements of the Weber County Zoning Ordinance and Subdivision
Regulations are complied with.

This covenant shall run with the land and shall not apply (1) to
those portions of the property contained in a properly approved and
recorded future subdivision plat, or (2) those portions of property
subsequently annexed into an incorporated city.

SIGNED _____ this _____
day of _____, 19_____.

Acknowledgement:

(1) On the _____ day of _____, 19_____, personally
appeared before me _____, the signer(a) of
the above instrument, who duly acknowledged to me that he/she executed
the same.

Notary Public

Residing at:
My Commission Expires:

(2) This covenant has been reviewed and acknowledged by Weber County
Planning Commission and a copy has been placed on file in its office.

Planning Director

Date

AGENDA

BOX ELDER COUNTY PLANNING COMMISSION

MEETING PLACE: COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

- I. Public agenda for Box Elder County Planning Commission meeting
scheduled for September 19, 1985 at 7:30 p.m.
- II. Notice given to newspaper this 18th day of Sept., 1985.
- III. Approval of minutes of July 18, 1985.
- IV. Scheduled Delegations:

- ~~1. Iowa Estates Minor Subd. final approval~~
- ~~2. Clive and Arnell Wells, Change ownership of a conditional use permit~~
- ~~3. Francis Whit, Zone change request~~
- ~~4. Gay Pettingil, Zone change request~~
- ~~5. Summer Hills Subdivision-Up-date~~
- ~~6. Letter from Weber Co. Re: Subdivisions~~ ← Auth Beecher follow

7. Flood Zones

- 8.
- 9.
- 10.

*Careful on Bldg Dept
in flood zones + flood
Houses are high enough
went effort,*

*Thru
↓
get copy of letter
from Beecher.*

V. Old Business

- 1.
- 2.
- 3.
- 4.
- 5.

AGENDA

BOX ELDER COUNTY PLANNING COMMISSION

MEETING PLACE: COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

- I. Public agenda for Box Elder County Planning Commission meeting
scheduled for October 17, 1985 at 7:30 PM p.m.
- II. Notice given to newspaper this 16th day of October, 1985.
- III. Approval of minutes of September 19, 1985.
- IV. Scheduled Delegations:
 1. Conditional Use Permit for Wells', Attorney Bundersons reply
 2. Summer Hills, Protective Covenants, Escrow & Title
 3. Attorney Bunderson's opinion on recording subdivisions
 - 4.
 - 5.
 - 6.
 - 7.
 - 8.
 - 9.
 - 10.

Meeting Cancelled.

V. Old Business

- 1.
- 2.
- 3.
- 4.
- 5.