MINUTES
BOX ELDER COUNTY
PLANNING COMMISSION
OCTOBER 21, 2004

The Board of Planning Commissioners of Box Elder County, Utah met in the County Commission Chambers at 7:00 p.m. The following members were present constituting a quorum:

		The following Staff was present:	
Richard Kimber	Chairman		
Richard Day	Member		
Clark Davis	Member	Garth Day	County Planner
Ann Holmgren	Member	Elizabeth Ryan-Jeppsen	Dept Secretary
Theron Eberhard	Member		
David Tea	Member	Amy Hugie	County Attorney
		Pat Comarell	Consultant
Jon Thompson	Excused		

Chairman Richard Kimber called the session to order at 7:00 p.m.

The ***Minutes*** of the regular meeting held on September 23 were made available to the Planning Commissioners prior to their meeting (October 21, 2004) for review. Chairman Richard Kimber asked for a Motion as to whether or not the ***Minutes*** of September 23, 2004 should be accepted as written. Commissioner David Tea pointed out a couple of words that needed to be corrected and the language regarding the "pros and cons" needed to be changed. Commissioner Theron Eberhard then made the motion to accept the Minutes as written (with noted corrections made) and submit to Chairman Richard Kimber for his signature. The motion was seconded by Commissioner David Tea and passed unanimously.

Citizen Present for the Planning Commission Meeting

James Bingham	10010 West 11600 North, Tremonton
Spencer White	1781 South 2000 East, Salt Lake City
Jill Christensen	11820 North 10000 West, Bothwell
Jody Burnett	Salt Lake City
Kitty Summers	9660 West 11200 North, Bothwell
Lee Summers	9660 West 11200 North, Bothwell
Doug Newman	11495 North 16800 West, Tremonton
Tamera Newman	11495 North 16800 West, Tremonton
Tamara Hed	10855 West 12800 North, Bothwell
Lynn Rindlisbacher	2785 West 9000 South, West Jordan

SUBDIVISIONS FOR APPROVAL

CONSENT AGENDA ITEMS

JASON ROSE, TWO-LOT SUBDIVSION, LOCATED AT 8260 NORTH 11600 NORTH IN THE THATCHER AREA.

This two-lot subdivision is located in a part of the County that is currently un-zoned and each lot is one-half acre. The petitioner has established proof of all utilities with water being provided by the Thatcher Penrose Water Company. As the petition appeared to be in accordance with the existing Zoning and Subdivision Requirements, Staff recommended granting Preliminary and Final approval at this time.

MOTION: A Motion was made by Commissioner Clark Davis to accept the Jason Rose Two-Lot Subdivision and submit to the Chairman for his signature. The Motion was seconded by Commissioner Richard Day and passed unanimously.

NEW BUSINESS

RENEWAL OF ENTERPRISE ZONE (FRUITWAY IN PERRY, WILLARD AND SOUTH WILLARD) RESOLUTION REVIEW – SUSAN THACKERAY

As Ms. Thackeray was not in attendance at the meeting, Commissioner Clark Davis addressed the Planning Commissioners regarding the purpose and intent of the Enterprise Zone. (A copy of the proposed Resolution along with accompanying information is included with the Official Minutes of this meeting.) Commissioner Davis stated:

> *"An Enterprise Zone in the State of Utah can be created for a period of five years; and there's a Fruitway Enterprise Zone that goes through Perry, Willard and South Willard that is due to expire this year and Susan is just trying to make application with the State of Utah to renew that designation for an additional five years so I don't think that it is a controversial issue and probably something that could have been on the Consent Agenda. I think that we ought to be in support of having Susan follow-up and apply for the renewal of the Enterprise Zone for the Fruitway in Perry, Willard and South Willard and I would make that in the form of a* ***Motion.***"

Commissioner Richard Day asked what the Fruitway accomplished. Commissioner Clark Davis responded by stating that "if you're designated as an Enterprise Zone, you receive the equivalent of … used to be the investment tax credit or ten percent credit for new job's creation or new infrastructure improvements, buildings, equipment, and I think it's three hundred feet each side of Highway 89. So if you're located in that area, for example with The Lodge construction, Maddox should have been able to qualify for a significant Enterprise Zone credit… a credit against the State of Utah tax … it's available for a five year period and a three year carry forward on the unused credit." Mr. Garth Day explained "we were able to slip the agricultural provision in there as well so that agriculture, for the purposes of the Enterprise Zone, is consider manufacturing." Commissioner

Clark Davis went on to explain some of the fruitstands along the highway have put in new infrastructure and have been able to apply for the credit against the State of Utah taxes and it has no impact upon the County other than to entice economic development within the County. Rather than delay acting upon this Resolution (due to Ms. Thackeray's absence at this meeting) Commissioner Clark Davis felt that with the timing of the application process, the Planning Commission should probably make their motion at this meeting.

MOTION: A Motion (see above) was made by Commissioner Clark Davis to have Ms. Susan Thackeray present the Resolution to the County Commissioners and proceed with the renewal of the application process for the Enterprise Zone in Perry, Willard and South Willard. The Motion was seconded by Commissioner Theron Eberhard and passed unanimously.

PLEASANT VIEW DELEGATION

Staff introduced the delegation from Pleasant View, regarding the development of the Randy Marriott property that crosses over the Weber/Box Elder County lines. ***Mr. Spencer White*** is a planner representing the landowner (Randy Marriott) and Mr. Jody Burnett, an attorney retained by Pleasant View City. At this point the floor was turned over to Mr. White, and he presented the conceptual plan for the development of Mr. Marriott's property comprising of approximately 370 acres; all of the property is located east of Highway 89. Mr. White and Mr. Marriott are currently working with Pleasant View City regarding a master plan for the property. Mr. White spoke about the Skyline Drive road that (hopefully) would continue on into Box Elder County and be a major collector with the possibility of two lanes of traffic in each direction. This development would house a variety of density with PRUDs, with six to eight dwelling units per acre and moving out to a lower density with two to four dwellings per acre. There would also be some commercial development, but at this time it is only being shown on the Pleasant View side of the conceptual plan. Mr. White also had pictures depicting what the neighborhood might look like, showing a village green with some possible [neighborhood] commercial venues around that area. There would also be duplexes, fourplexes, town homes, but the elevation would appear as single-family detached homes. The density of the homes would be between seven dwellings per acre; some quarter acre lots; some third acre lots; some half acre lots; and up to one and one and a half acre lots as the development steps up the hillside. With added flexibility in the plan there could be between 900 and 1200 units, resulting in a long build-out process. As trends change people are moving into the same size home but with smaller yards, having all of the amenities within the home itself. There would be small front yards with varied setbacks to breakup the street fronts. There would be neighborhood trail connections, front porches on the homes, the village green as a central focus and the multi-family residential that would appear to be single family residential in appearance. The plan for Skyline Drive is to have a planter strip in the middle with an additional ten to twelve foot paved path along the side for pedestrians, bicyclists, etc. Currently Skyline Drive ends at approximately 9th West in Pleasant View and there is a gap between North Ogden and Pleasant View City. The current road is a dirt road to the existing gravel pits in the area. As the topography of the area is slopped, Mr. Marriott is intending to continue digging out the gravel pits and in the process tier the slope in order to put in roads the housing developments over the next twenty-thirty years. The adjoining property owners have also been approached about the proposed development, i.e. the W. R. White's Farm, and the Wadman's property. (Wadman's property consists of approximately 250-

300 acres and White's Farm is around 500 acres.) Regarding sewer and water for the development, there would probably be two different lines connecting to the Weber Central Sewer District.
Mr. Jody Burnett represents local governments in land use and zoning matters, has been working with Randy Marriott and West Side Investments (the property owner to the west) regarding alternative access routes to gravel pits. Currently there are several temporary access and license agreements with four different property owners, including Mr. Marriott, Bona Vista Water Company, the Bureau of Reclamation (for the canal), Pacific Corp, and Questar. Access to these gravel pits has become an increasing public safety concern for Pleasant View City. Skyline Drive (or some variation of it) has been on the master plan for Pleasant View City as an extension road through Ogden and North Ogden for many years as an important arterial road for future development. ***Mr. Burnett*** continue to speak about the gravel pits and the annexation petition that was submitted about a year ago by Mr. Marriott (which was later withdrawn) and the proposal of the development which will cross over the Weber and Box Elder County lines. Currently Mr. Marriott is petitioning for his property [approximately 145 acres] in the unincorporated portion of Weber County to be annexed into Pleasant View City. Regarding the Skyline Drive road, ***Mr. Burnett***, as a representative of Pleasant View City, is negotiating with Mr. Marriott to potentially dedicate the entire right-of-way of the road (Skyline Drive Road) to the eventual width of about eighty feet, but having the city (Pleasant View) incur the expense of the improvements necessary for the road for heavy truck travel for the foreseeable future. As for Box Elder County's [BEC] roll in this process, Pleasant View City would be asking BEC to potentially accept the dedication of that right-of-way well in advance of any development taking place in BEC with the understanding that there would be an Interlocal Agreement negotiated between BEC and Pleasant View City, with Pleasant View City [PVC] being responsible for the maintenance of the road while it is being used for the heavy truck travel from the gravel pit operations. ***Mr. Burnett*** also spoke about the South Willard Community Plan and being able to help in that process in regards to water, sewer, and storm drainage issues. As of the 28th of September, the Pleasant View City Council had accepted Mr. Marriott's annexation petition for further review and held a public hearing before the PVC Planning Commission on October 7th to evaluate the General Plan of PVC and zoning text amendments. On November 4th another meeting is scheduled with PVC for other considerations regarding this petition.
Chairman Richard Kimber asked if a specific route had been determined for the Skyline Drive Road as that would be a major issue for Box Elder County and the residents of BEC to consider. ***Mr. Burnett*** responded by stating that currently the various issues are being addressed with the landowner (Mr. Marriott) through the engineer (Gardner Engineers) and planner Spencer White to deal with the grade issue of the property with the hope that the road would be on Mr. Marriott's property (which does cross over into BEC) and connecting to Highway 89 at a point designated by UDOT. Hopefully within the next month of or so, ***Mr. Burnett*** felt that the location of the road would be established and could be presented to the planning staff. Commissioner Clark Davis expressed concern regarding the municipal utility services since there is no incorporated area in South Willard. The Planning Commission is concerned about having the property owners, the developers, and the existing residents evaluate the desirability of an incorporation effort in South Willard.

UNFINISHED BUSINESS – NONE

(**Canyon View Estates** [Gordon Sleeman Construction] located at or about 7935 South Highway 89 in the South Willard area was removed from Agenda).

WORKING REPORTS

CONTINUATION OF PUBLIC HEARING REGARDING THE BOTHWELL COMMUNITY PLAN

Chairman Richard Kimber addressed the Planning Commissioners regarding the Public Hearing on the Bothwell Community Plan, which was held on September 23, 2004 in Tremonton City. Staff suggested that before the public hearing was formally closed a review of the meeting that was held by the Bothwell Community Planning Committee on October 14, 2004 should be presented. At that meeting it was recommended that the area originally planned to be zoned as MU-160 changed to MU-40, thus making that area a little less restrictive in the future. The other area under consideration would encompassed the rest of the area of the Bothwell Pocket (essentially everything north of 12800 North) and was recommended to be zoned RR-5.

Jill Christensen: presented *"Bothwell Community Planning Information"*, which had been compiled by the committee members and asked that they be included in the Minutes of the Planning Commission meeting.

Commissioner Clark Davis talked about why the Public Hearing was carried over to tonight's meeting as many of the residents present at the Public Hearing in September felt that all of the issues had been addressed and a consensus reached at that time. The purpose of keeping the hearing open until this time allowed for the additional input from the staff which was mentioned above, as well as the materials presented by Ms. Christensen. Commissioner Davis also quoted from the Minutes of the September 23rd meeting that, *"No decision would be made by the Planning Commission at this meeting and may not be made at the next meeting, depending on what input was received from the public."* Also, *"The next steps after tonight, the advisory committee may make additional changes. That happened when we did our West Corinne Plan; once the public came out and viewed it, they had some concerns, sent it back to the Committee...The Planning Commission will determine whether or not they wish to make changes to what's been recommended to the Plan. The Planning Commission is also here to hear your input; so based on what the advisory committee says, the Planning Commission has that option."* In Conclusion, Commissioner Davis said that it was in the best interest of the citizens of Bothwell to leave the Public Hearing open until this meeting on October 21, 2004.

Lynn Rindlisbacher: stated that not everyone [on the committee] agreed to the RR-5. The vote was 5-3. Regarding the acreage in the Bothwell area, there are 160 acres in Bothwell that were being proposed as RR-1 zone out of the total 10560 acres; 4160 acres are already zoned RR-5. The eighty acres owned by Marble's and the eighty acres owned by Rindlisbacher's comprises only about one and one half percent of the total land in the area zoned as one acre lots, leaving the remaining ninety-eight and one half percent as five acre lots (according to Mr. Rindlisbacher's calculations).

At this point Chairman Richard Kimber asked for a motion to close the Public Hearing.

MOTION: A Motion was made by Commissioner Clark Davis to close the Public Hearing on the Bothwell Community Plan. The motion was seconded by Commissioner David Tea and passed unanimously.

Having now received all of the input regarding the Bothwell Community Plan, Chairman Richard Kimber stated that this process has been a difficult one and that not all of the committee members have agreed, but his recommendation [as the Chairman of the Planning Commission] would be to accept the proposal for the five acre zoning in the Bothwell Pocket and forward it to the County Commission for their approval process. Commission David Tea asked about the rights of Mr. Rindlisbacher since he had applied for a subdivision before this plan for the Bothwell area began; what were his rights regarding vested rights, etc.; how did his application fit into the process? Staff responded by saying that Mr. Rindlisbacher currently has four lots that have been approved and recorded from that original petition; staff continued by saying that [in the opinion of the Planning office] conceptual approval does not equal vested rights. The decision that the Planning Commission makes should not be driven by threats of litigation. Staff then turned to the County Attorney (Amy Hugie) for response to the vested rights issue. Ms. Hugie agreed with the staff's recommendation of separating the two issues of vested rights vs. the planning process for the area. As for discussing vested rights, Ms. Hugie felt that subject should not be discussed in an open meeting. In conclusion, staff stated that if it is found that Mr. Rindlisbacher has vested rights, then he has vested rights and there is nothing that can be done about it, regardless of the decision that the Planning Commission makes in relation to the Bothwell Community plan and the RR-5 zoning. Chairman Kimber then asked for a motion on the Bothwell Community Plan.

MOTION: A Motion was made by Commissioner Theron Eberhard for the Planning Commission to recommend that the County Commission adopt the Bothwell Community Plan, as proposed by the Bothwell Community Planning Committee. (The Plan for the Bothwell area is all-inclusive on one map with no proposed future planning or zoning recommendations.) The motion was seconded by Commissioner Richard Day and passed with Commissioners Eberhard, Tea, Day, and Holmgren-Jensen voting affirmative; Commissioner Clark Davis abstaining until the County Commission discussed the issue.

Staff stated that the County Commission would also have to hold a Public Hearing and it would need to be noticed in the newspaper(s), along with a map of the area, for fourteen days prior to the hearing.

PUBLIC COMMENTS

Lee Summers: thanked the Planning Commissioners for their time and patience in regards to the planning process in the Bothwell area and was sorry for any hot feelings that may have come out during the process and offered an open apology for anything that may have been

misconstrued during the process by any of the committee members toward the Planning Commissioners or staff.

STAFF REPORTS

Staff spoke with the Planning Commissioners regarding the South Willard issue (and Pleasant View), as there are several other issues in regards to development of that area. Some of the items that the staff presented were:

- ⇨ Skyline Drive and where it would connect with Highway 89 (through UDOT approval)
- ⇨ A development agreement that PVC would probably want with BEC in having the two counties working together in the development of this area.
- ⇨ Sewer study for the area of South Willard. Currently Willard City is having a feasibility study done for a sewer that would pass through South Willard.
- ⇨ UDOT is looking at the reconstruction of the overpass and realigning that configuration there (Highway 89; I-80 and where Highway 89 splits.)
- ⇨ Other landowners wanting to develop their property, i.e. White's Farm, Wadman's, Ward's, and Marriott.
- ⇨ Water, storm water drainage issue, etc.
- ⇨ What is the roll of the County in this process as a lot of this is looking like a city and the planning of a city and the County is not in the business of developing a city.
- ⇨ Perhaps the development that is occurring in South Willard is more along the lines of urban [development and planning] with municipal services and not something to be handled by the County government.

As for the issue of South Willard incorporating, Commissioner Richard Day stated that there are two things that are necessary in order for that to go forward … *"a tax base in order to do that and the way that you get tax a base is to have sewer and high speed internet. And if you don't have those two you don't have anything to work with. …You've got growth coming, you've got the needs here, but we haven't got any kind of a tax base to support it. Brigham is just starting to get it (*high speed internet*); Perry doesn't have it."*
Commissioner Clark Davis asked who was responsible to pay for the growth that is coming. The County is not in a position to provide municipal services; the County is not in the utility business. Some of the developers are putting pressure on the Planning office for help with the development process regarding the infrastructure that is necessary for these new subdivisions, and Commissioner Davis felt that responsibility should be left to the developers. In agreeing with Commissioner Richard Day, Commissioner Davis stated, *"For the County to support these developments there needs to be an economic base, and there is none. When you start to allow developments in the unincorporated area and then all of a sudden, the roads become the responsibility of the County, the storm water, the garbage, the snow removal … all those things start becoming the responsibility of the County; we haven't generated any additional revenues to provide those services in the unincorporated areas; and single family doesn't do it."* Commissioner Richard Day stated that if you have sewer in the area then that gives a tax base to work with as it will bring light industry with

it to help offset the expense. *"The reality is, the Fruitway is history ...it's going away. The trees are going away and being replaced by homes ... either we replace them with homes or we replace them with some kind of businesses to help offset that* [expense]; *part of the plan will help do that but without sewer in there .... New agricultural development is not coming in.*

Planning Consultant Pat Comarell suggested that the Planning Commissioners look at some of the other developments that have taken place within the state and see what has worked there, i.e. South Jordan. It was also suggested that the Commissioners meet with all of the proposed developers of the South Willard area and see what all of them have planned for the infrastructure (and vision) of the area. Also the General Plan of the County needs to be re-worked, as some of it is too general. Also, the County has the right to say that they are not in the business of municipal services as other counties have done.

The proposed developments in South Willard are beginning to mushroom and there are no impact fees in place to help with future services, because there is no municipal entity established for a capital facility plan to evaluate what type of municipal services are necessary according to Commissioner Clark Davis. Therefore, *"these developers are getting a great break in terms of being able to make a profit on the development of their property without having to pay impact fees, without having to develop the infrastructure and it's going to come back to the County. Our silence on this issue is going to cost the County considerably long term, because ... they're going to say that the unincorporated areas are part of your* (the County's) *responsibility; that's what my property tax pays. We've got to do something now, we can't wait for another six month."* A moratorium may need to be place until some of these issues are resolved.

Commissioner David Tea asked if the Planning Commission could take a more active roll in determining where roads in the new subdivisions (in South Willard) would be placed. Instead of having the developer design the subdivisions around roads and streets that they purpose perhaps the Planning Commission should identify where the roads should be so that the roads joining two different subdivisions together would be more agreeable where they meet, even though [some of] those roads may cross over a landowner's property that may not be developing until sometime further in the future. At least the placement of those roads would be in the planning stage for future developments.

The Planning Commissioners also talked about a letter that they had received from one of the members of the Bothwell Community Planning Committee before adjourning the meeting. Ms. Comarell and the staff addressed that issue [of the letter] with the Commissioners.

A Motion was made by Commissioner Ann Holmgren-Jensen to adjourn the meeting at 8:34 p.m., seconded by Commissioner Theron Eberhard.

Passed and adopted in regular session this 16th day of December 2004.

Richard Kimber, Chairman
Box Elder County
Planning Commission

Box Elder County

We've Got Connections

Box Elder County Planning Commission

October 18, 2004

To: Box Elder County Planning Commission

From: Susan Thackeray, Project Coordinator

Subject: Enterprise Zone Redesignation for the Utah Fruitway Perry City, Willard City, South Willard (Box Elder County)

Attachments:

Draft Box Elder County Resolution

- Supporting Enterprise Zone application
- Authorizing Box Elder County Economic Development Office to submit application to State Dept. of Community and Econ Dev in behalf of Box Elder County and the Fruitway

Draft Proposal for Utah Enterprise Zone Designation

- Utah Fruitway (Perry, Willard and Box Elder County-South Willard)

Enterprise Zone State Tax Credits

- Job Creation Tax Credits
- Additional Tax Credits

Recommendation:

Box Elder County Planning Commission recommend to Box Elder County Commission to sign the Resolution for South Willard, Box Elder County.

BOX ELDER COUNTY
1 SOUTH MAIN
BRIGHAM CITY, UT 84302

RESOLUTION #_____

SUPPORTING THE SUBMISSION OF A PROPOSAL FOR REDESIGNATION OF THE UTAH FRUITWAY AS A UTAH ENTERPRISE ZONE:

WHEREAS, the Utah Fruitway is a Utah heritage treasure.

WHEREAS, the County Commission of Box Elder County is desirous of the Utah Fruitway continuing the status both for our community and the people of the State of Utah.

WHEREAS, the economic viability of the orchards, fields, fruit stands and small businesses along the Utah Fruitway is threatened.

WHEREAS, the designation of the Utah Fruitway as an Enterprise Zone will provide local businesses with a tool to help promote economic prosperity.

WHEREAS, the designation of an Enterprise Zone will not affect current Planning and Zoning ordinances.

NOW LET IT BE THEREFORE RESOLVED this ____ day of _____, 2004, that:

1. The Box Elder County Commission supports the submission of an application to designate all commercial, industrial and agricultural zoned areas in South Willard with the addition of 300 feet on either side of Highway 89 as Enterprise Zone.
2. The Box Elder County Economic Development Office is authorized to submit this application in our behalf.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2004.

_____
Suzanne Rees, Commission Chair

_____
LuAnn Adams, County Recorder

Proposal for Utah Enterprise Zone Designation
Utah Fruitway (Perry, Willard and Box Elder County)
January 2005 – December 2009

Proposed To: Jonnie Wilkinson

Utah Enterprise Zone Coordinator
324 South State Street, Suite 500
Salt Lake City, UT 84111

Proposed By:
Perry City Council
Willard City Council
Box Elder County for
South Willard
Box Elder County
Planning Commission

Local Contact:
Susan Thackeray
(435) 734-3397
beced@boxelder.com
(801) 538-8782

Background

The Utah Fruitway, comprised of Perry City, Willard City and South Willard (an unincorporated portion of Box Elder County), is one of Utah's most treasured heritage assets. Enterprise Zone designation was granted to the Utah Fruitway for 2000-2004. It is our understanding that many of the heritage businesses (fruit orchards) have taken advantage of the job creation tax credits and allowed several of these businesses to maintain their existence, grow and thrive, thus preserving some of Utah's and Box Elder County's heritage assets.

It is Box Elder County's hope that as the assets of the Utah Fruitway continue to be threatened due to economic instability and residential encroachment, the State of Utah will consider redesignating the Utah Fruitway as an Enterprise Zone. This application is jointly submitted by the three governmental entities and the Box Elder County Planning Commission in hopes that, through Enterprise Zone redesignation and the action of our many partners, the Utah Fruitway can continue its important role in Utah's culture for decades to come.

Public Hearings

This proposal was discussed in open meetings of the Perry City Council (Sept. 23, 2004), Willard City Council (Oct 14, 2004), Box Elder Planning Commission (October 21, 2004), and Box Elder County Commission (October 26, 2004) and was approved by the attached resolutions (Exhibit A). The proposal is also consistent with provisions of the Perry City, Willard City and Box Elder County General Plans, each of which was adopted after required public hearings. It is also consistent with the Box Elder County Economic Development Plan developed at a series of community meetings. The Bear River Association of Governments also conducted a series of public meetings in 1999 to determine future direction for the Utah Fruitway which determinations are consistent with this application.

Utah! Where ideas connect

Department of Community and Economic Development

Incentives

Enterprise Zone Tax Credits

The following tax credits may be claimed by eligible businesses locating or expanding in enterprise zones on state income tax forms:

JOB CREATION TAX CREDITS (may claim for up to thirty full time positions per tax year):

1. A $750 tax credit for each new full time position filled for at least six months during the tax year.
2. An additional $500 tax credit if the new position pays at least 125% of the county average monthly wage for the respective industry (determined by the Utah Dept. of Employment Security). In the event this information is not available for the respective industry, the position must pay at least 125% of the total average monthly wage in the county.
3. An additional $750 tax credit if the new position is in a business which adds value to agricultural commodities through manufacturing or processing.
4. An additional $200 tax credit, for two consecutive years, for each new employee insured under an employer sponsored health insurance program if the employer pays at least 50% of the premium.

OTHER TAX CREDITS:

1. A tax credit (not to exceed $100,000) of 50% of the value of a cash contribution to a 501(c)(3) private nonprofit corporation engaged primarily in community and economic development, and is accredited by the Utah Rural Development Council.
2. A tax credit of 25% of the first $200,000 spent on rehabilitating a building which has been vacant for at least two years, and which is located within an enterprise zone.
3. An annual investment tax credit of 10% of the first $250,000 in investment, and 5% of the next $1,000,000 qualifying investment in plant, equipment, or other depreciable property.

For more information about tax credits available under this program, contact Kim Ferrell, Utah State Tax Commission, Corporate Auditing, 210 North 1950 West, Salt Lake City, Utah 84134; Telephone (801) 297-4634, e-mail kferrell@utah.gov.

Copyright © 2004 State of Utah - All rights reserved.

Bothwell Advisory Committee

October 14, 2004

A member of the Bothwell Advisory Committee asked the staff to call this meeting to see if the committee wanted to make any changes to their recommendations.

Randy Marble started by apologizing to anyone he might have offended with his comments. He values farmers and did not want to be seen as saying anything that didn't support them. He then went on to suggest the Committee recommend everything north of 12800 be rezoned to A-20 with RR-1 in the future. His concern was the amount of traffic in the area; the dust also is a problem. Also, the infrastructure will determine which land is the most valuable and ready for development.

Jill Christensen indicated that based on what the people said, she wants to honor their petition and recommend that whole area (north of 12800) be zoned to RR-5.

Jim Bingham indicated that he did not feel anyone packed the room for the public hearing. He feels they genuinely support the RR-5; at least 75-80% of the community. He stills feels there needs to be a uniformity throughout the pocket and it is clear the majority supports RR-5.

Roger Fridal indicated he thought Lynn Rindlisbacher has his rights that people are trying to hinder. Most who spoke do not live in the area they want zoned. The owners in the area of discussion (i.e., Krys Oyler and Jim Bingham) have supported the RR-5. It would be best not to infringe on private property owners rights and still do what is best for the community, but he does not know where the balance lies. He wants to keep his options open, not now but in 30-35 years when he wants to be able to sell his land. In his opinion, three acres is no different than five acres – it is too much for individuals to maintain, irrigate, or groom.

Krys Oyler was concerned that the valley be respected.

Motion: Randy Marble made the motion, seconded by Roger Fridal, to recommend zoning everything north of 12800 to A-20 with a future RR-1 option. This motion failed by a vote of 3-5, with Randy Marble, Roger Fridal, and Lynn Rindlisbacher voting for, and Tamara Newman, Jill Christensen, Kitty Summers, Krys Oyler and Jim Bingham voting against; Reese Anderson was not present.

Motion: Jill Christensen made the motion, seconded by Tamara Newman, to recommend zoning everything north of 12800 to RR-5. This motion passed by a vote of 5-3, with Tamara Newman, Jill Christensen, Kitty Summers, Krys Oyler and Jim Bingham voting for and Randy Marble, Roger Fridal, and Lynn Rindlisbacher voting against; Reese Anderson was not present.

Further discussion took place regarding the zoning for the mountain area which the committee previously recommended as MU 160. **A motion** was made by Jim Bingham, seconded by Kitty Summers, to recommend zoning this area as MU 40. This motion passed 6-1 (Lynn Rindlisbacher) with one abstention (Roger Fridal), and one absent (Reese Anderson).

Randy Marble asked the Committee if it would agree to recommend to the County Commission that the roads in the Bothwell area be improved as they are a health problem and are dangerous. There have been several turnovers. Others felt it was because of the speed some drive, and they did not want the roads improved as that might raise their property taxes.

The Committee then voted to adjourn.

Bothwell Community Planning Information

1. Bothwell citizens have gone through the zoning process 4 times since the mid 1970's.

- Once in the late 1970's when the existing 5 acre zoning was adopted.
- Once in November of 1998 when a re-zoning application was filed to change the existing 5 acre zone to a 1/4 acre zone.
- Once in August of 2003 when a zoning application was made to zone the upper Bothwell pocket area to RR-5.
- In 2004 during the Bothwell Community planning process.

In each one of these instances, a lengthy process was followed in which many public meetings were held. In all cases the process included a at least one public hearing.

2. The vast majority of land owners in the Bothwell area have before and since the 5 acre zone was adopted wanted to maintain a rural environment in the area. The following statistics are from the minutes of cited meetings or other cited documents.

- The numbers are not known but in 1976 the County Commission determined that the majority of the land owners wanted RR-5 zoning. The Commission adopted the RR-5 zone.
- In the 1998 re-zoning public hearing 117 (70%) of the land owners signed and presented a petition to the county commission requesting them to leave the area zoned RR-5. The RR-5 zone was retained.
- In 2003 at the public hearing on the application to zone the north area of Bothwell to RR-5 zoning, 13 land owners expressed their opinion. 10 (77%) of the 13 expressed their desire for adoption of RR-5 zoning.
- On September 23 of this year, at the **public hearing** for the proposed Bothwell Community Plan **30** land owners or **77%** of the land owners in attendance expressed their desire to have the north area of Bothwell zoned RR-5.
- In **all meetings** including town meetings, puplic hearings and Planning commission meetings specific to the Bothwell Community plan, **75%** of land owners who attended desire 5 acre zoning.
- In all meetings regarding the **Krys Oyler Re-Zone** petition, **75%** desire 5 acre zoning. A total of 61 people attended these meetings.
- In all meetings regarding the **Scenic Development** 57 lot subdivision **80% are against that type of development** in the Bothwell area. A total of 65 people attended these meetings.

Bothwell Community Planning Information (con't)

3. The Planning commission has continuously encouraged citizens to get involved and let the Planning commission know what they want in their communities. The Commission has encouraged citizens to consider zoning so it has something to work with when applications come before the Commission which the citizens oppose. In fact, the County General plan mentions consideration of resident preferences in land use planning.

- In the Planning Commission meeting on February 20, 2003 Commissioner Thompson stated, "Each time there is an issue such as this development (referring to the Country Classic subdivision in the north area of Bothwell) , 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."
- The Land Use Element of the General Plan lists the following as a finding for land use decisions:

  "Promoting development patterns consistent with and sensitive to resident preferences."

4. After the public hearing for the Krys Olyer re-zone application, the Planning Commission decided it was a good time to go through the process of a community plan for the Bothwell area. The re-zone application was tabled to allow time for a Community Plan process.

- It was agreed that a 6 month moratorium on any new subdivision applications would be appropriate under the circumstances. The moratorium expired and had to be extended or another one adopted. It has or is about to expire again.
- The re-zone & planning process has been going on since May 2003. Citizens on all sides of this issue have had to attend many meetings to present their side of the issue and monitor the process.
- Part of this process will have to be repeated before the County Commission.
- This process needs to move forward to a conclusion as expeditiously as possible.
- Neither the citizens nor the Planning committee should be held hostage by the threat of a lawsuit. A community plan can be adopted regardless. At some later date if a court of law determines some apart of the plan to be illegal then the plan would have to accomodate by court mandate. If the issue is vested rights, the disputed parcels would be pre-existing non-conforming within whatever type of zone they are located since the court would be basically determining whether or not the parcels leagally existed before the zoneing was adopted.

Bothwell Community Planning Information (con't)

5. Bothwell land owners have attended the following meetings where **issues related to zoning** in Bothwell were discussed. In addition, the Planning Committee met many times during the 1 and 1/2 year time period. The numbers X/X/X represent the number of Bothwell landowners who attended the meeting.

The first number represents the number of people for 5 acre zoning.
The second number represents the number of people against 5 acre zoning.
The third number represents the number of people not committed one way or another or unknown.

May 22, 2003 **Krys Oyler Re-Zone petition received** by Planning Commission 14/5/2
June 19, 2003 **Krys Oyler Re-Zone petition discussed** in Planning Commission meeting 4/1/1
Aug 28, 2003 **Public hearing on Krys Oyler Re-Zone petition** 10/2/1
Sept 18, 2003 **Krys Oyler Re-zone petition discussed** in Planning Commission meeting 18/3/0
Oct 23, 2003 **Bothwell Town meeting** 24/4/7
May 20, 2004 **Bothwell Community plan presented** to Planning Commission
July 22, 2004 **Planning Commission discusses Bothwell Community Plan**. Schedules date for work session with Plan committee
Aug 19, 2004 **Report on work session with Plan committee presented** to Planning Commission
Public hearing date set. 5/0/0
Sept 23, 2004 **Public hearing** for Bothwell Community Plan 30/5/4

Statistical compilation:
105 (75%) of those attending these meetings were for RR-5 zoning
20 (14%) of those attending these meetings were against RR-5 zoning
15 (11%) of those attending these meetings were uncommitted or unknown

6. Bothwell land owners have attended the following meetings where **issues related to development** in Bothwell were discussed. In addition, the Planning Committee met many times during the 1 and 1/2 year time period.

___Jan 23, 2003 Planning Commission meeting. **Conceptual review** for Scenic Development 57 lot subdivision
Feb 20, 2003 Planning Commission meeting. **Preliminary review** for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision
March 20, 2003 Planning Commission meeting. **Preliminary review** for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision.
Apr 24, 2003 Planning Commission meeting. **Preliminary review** for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision
May 22, 2003 Planning Commission meeting. **Final review** for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision

Bothwell Community Planning Information (con't)

7. The Planning Commission has received input over a 2 year period of time where issues of development and zoning in the Bothwell area have been discussed via the following:

- Planning Commission meetings
- Work sessions with Planning Comittees
- Public hearings
- Town meetings
- Staff reports

Land owners are becoming weary participating and monitoring this process.

8. Legal issues regarding zoning

West's Encyclopedia of American Law is a premier reference encyclopedia used by legal authorities nationwide. Leading court cases and major statues defining current law are used comprehensively and provided to guide legal counsel. The quotes that follow are from the Encyclopedia in the section under Real Property, sub-heading Zoning.

A. Regarding zoning 80 acres owned by one individual RR-20 when that zone would be in the middle of a sparsely populated predominately agricultural area, the following is presented for consideration:

- "Individual pieces of property should not be singled out for special treatment."
- "The landowner cannot complain as long as power to zone is used in the public interest and for the general welfare of the community impartially and without compensation."
- "Zoning regulations must promote the good of all the people in the community rather than further the desires of a particular group."

B. Regarding zoning 80 acres RR-20 whether or not it is owned by one individual when that zone would be in the middle of a sparsely populated predominately agricultural area, the following is presented for consideration:

- Some factors normally considered to determine if a particular zone is reasonable are "the character of the neighborhood, the motion of the general public, the aesthetics of the area, use of nearby land."
- "Zoning laws help control population density and...helps assure property owners and residents that the characteristics of nearby areas will remain stable."

Bothwell Community Planning Information (con't)

9. Consideration for the community at large
    - It is a fact the quality of water from the Bothwell pocket aquifer will be safer the fewer septic systems it has located above it and will be increasingly jeopardized the more septic systems are located above it. If this were not the case, there would be no reason as some point of density to require a sewer system. This should be a concern for the major population areas of the county which are now or will someday receive water from the aquifer.

    - There is no compelling reason based on need to have small residential lots located in the middle of sparsely populated predominately agricultural area.
        1. There are many areas well suited for this type of development because adequate infrastructure either already exists or is eminent. Elwood and the south Willard area are prime examples of this.

        2. The residents of the West Corinne area recently adopted a community plan which provides hundreds if not thousands of acres of small residential lots.

Timeline

Jan 23, 2003

Petition for conceptual review for Scenic Development 57 lot subdivision in Bothwell presented to Planning Commission. Conceptual approval granted based upon specified concerns being addressed by the developer.

Feb 20, 2003

Petition for preliminary approval for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision presented to the Planning Commission. Preliminary review was tabled pending completion of specified requirements.

March 20, 2003

Continuation of preliminary approval for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision. Preliminary review was tabled pending completion of specified requirements.

Apr 24, 2003

Preliminary approval granted for Phase 1 (4 lots) of Scenic Development Country Classic Subdivision based on completion of specified requirements.

May 22, 2003

Krys Oyler Re-Zone petition submitted to Planning Commission for review. Petition accepted and public hearing set for 6-19-03

Phase 1 (4 lots) of Scenic Development Country Classic Subdivision final approval granted based on staff findings and completion within 2 years.

June 19, 2003

Krys Oyler Re-Zone petition discussed & tabled until next Planning Commission meeting.

Aug 28, 2003

Public hearing on Krys Oyler Re-Zone petition. Public hearing closed.

Sept 18, 2003

Moratorium recommended in Bothwell area for 6 months. Ordinance needed by County Commission.

Krys Oyler Re-Zone petition dies as Bothwell Community plan is started.

6 month limit in motion then if no plan adopted action reverts back to Planning Commission.

Oct 23, 2003

1st Bothwell Town Meeting

May 20, 2004

Bothwell Community plan outline presented to Planning Commission

July 22, 2004

Scheduled meeting Aug 5, 2004 for Bothwell Planning committee to present plan to Planning Commission

Bothwell area now in a second 6 month moritorium

Aug 5, 2004

Work session for Bothwell Planning committee to present plan to Planning Commission.

Aug 19, 2004

Report on work session with Bothwell Planning committee.

Public hearing on Bothwell Community plan set for Sept. 23, 2004

Sept. 23, 2004

Public hearing for Bothwell Community plan