

PLANNING COMMISSION MEETING

November 15, 1984

Minutes of the regular meeting of the Box Elder County Planning Commission held Thursday, November 15, 1984 at 7:00 p.m.

Members present were: Richard Kimber, J. Glen Nelson, Kent Newman, Devon Breitenbeker, Don E. Chase.

Excused: Jay MacFarlane

Ex-officio: Denton Beecher

Chairman Kimber called the meeting to order, asked for a motion to approve minutes of October 18, 1984 meeting. Devon Breitenbeker made the motion the minutes of October be approved, seconded by J. Glen Nelson, voting unanimous.

Inasmuch as the Dove Creek Farm & Ranches, Unit 1, Block 5 subdivision was on the agenda later, Denton Beecher read a letter of recommendation from Attorney Bunderson regarding resetting another hearing for the representatives of said subdivision because there had been some misunderstanding about them being on the agenda at the October meeting. They did not realize they were on the agenda and when they did not show, the Planning Commission had made a ruling. Because of this misunderstanding, Attorney Bunderson recommended they be given another time so their time is for 7:30 p.m. this date. In the event they do not show this time, the Commission said the ruling of October 18, 1984 meeting would stand.

BANKRUPTCY COURT ACTION (Parcel of land held by Federal Land Bank in Bothwell)

Commr. Chase reported a parcel of land obtained by the Federal Land Bank in Tremonton through bankruptcy action had been divided by the court into two parcels - 39 acres and 1 acre with a house on it in a 5 acre zone. The Federal Land Bank manager had contacted Commr. Chase to see if it was legal to sell the two pieces as designated by the court. Commr. Chase contacted Attorney Bunderson but the attorney could not find anywhere in the state statutes that stated the court could or could not do this. He recommended the Planning Commission make the parcels legal non-conforming pieces. Devon Breitenbeker said he was surprised the court could circumvent the circumstances of the ordinance. Denton Beecher said the court does similar orders in dividing estates. The Commission discussed the issue and decided to make the pieces legal non-conforming, but then contact the court and ask them to be aware of zoning ordinances before dividing property. Commr. Chase made the motion the Commission declare it a legal non-conforming piece and then contact the court and ask them, that in future cases, please find out if there is zoning in the area before dividing parcels of land. Devon Breitenbeker seconded the motion, passed unanimously.

DOVE CREEK FARMS & RANCHES, UNIT 1, BLOCK 5

Maxine Hanks, Larry Hanks and Attorney Brian C. Johnson appeared before the Commission. Attorney Johnson said they are there mainly for the last phase of Dove Creek Farm & Ranches review. Atty. Johnson said back in September of 1981, Mr. Hanks received preliminary plat approval and had 18 months to bring back to Commission the final stage. The area was rezoned on October 5, 1982 from 5 acre parcels to MU 40 acre parcels. The Hanks asked for an extension of time in March of 1983 and was given one year. They were notified in March of 1984 the extension was up and now they would have to resubmit a new preliminary and start all over,

and now they are governed by the new zoning - MU 40 acres. He explained Lincoln Hanks died during the 18 month period and Larry did not fully understand all he needed to do until it was too late and there was not enough time left to accomplish this. Also, because they were granted an extension, they assumed they were still under the RR 5 acre zoning. They had requested 2 variances from the ordinance because of the location of the subdivision. He wanted to present two questions. 1. What is the zoning there now in relation to Hank's subdivision. 2. Can the Hanks ever satisfy the variance restrictions to make this project viable. He then quoted a lawsuit "Western Land Equities vs Logan City" in 1980 wherein the company had made considerable progress, then the zoning had been changed, but because of the progress, they were entitled to operate under the first zoning. He felt the Hanks had done this and should be under the old zoning of 5 acres because of vested rights. He said the project would not be a burden on the county. Larry Hanks said the merits of the variances had never been discussed, he felt they were turned down for other reasons. He said curb and gutter should not be required because of the size of the lots. Raft River Electric Co. had advised him not to put utility lines underground because of freezing conditions. He felt blacktopping was not necessary as long as the roads were graded and made self draining. He said that is the way the county road bordering the property is maintained. He would have to declare in a property statement to buyers that these roads could become very muddy and with the possibility of not being able to be travelled upon due to weather conditions. Mr. Beecher said some of the concerns of the Commission previously were: 1. Continuation of first project by developing as to its completion as per the ordinance before starting another one. 2. The development of the first one has not been done as had been told to the Commission it would be. 3. Lack of utilities at that/<sup>time</sup>(power has since been brought to subdivision edge). 4. Culinary water - letter from State Engineer left several concerns. 5. Type of streets - school bus would be asked to travel these which is added expense to County - streets needed to be well maintained so bus would not get stuck. 6. Five acre lots would double density of the former subdivision and require many more services. Also snow removal would be expected by county. Chairman Kimber said the Commission will take all this under advisement for one month, get some questions answered about vested rights from the county attorney and also if the Commission can legally let them proceed under a 5acre zone when it is now MU 40 acres and put the Hanks on the agenda for meeting in December. Devon Breitenbeker made the motion the commission table the matter for one month to find out whether they have vested rights or if they do not. Motion seconded by Glen Nelsen, voting unanimous. Commr. Chase was asked to contact County Attorney Bunderson and obtain a written opinion as to the matter. Motion seconded by J. Glen Nelson, voting unanimous.

BARFUSS RANCHETTES MINOR SUBDIVISION

Glenn Barfuss presented a preliminary plat, gave a letter from State Engineer's office regarding water (copy attached). He has been working with the health department on field drains as water table is very high but the Health Department is going to approved it. The buyers will need to apply for their own permit to dig wells for culinary water and well will have to be 200 feet from field drain. He will give 1 rod to widen county <sup>road</sup> and when it is dedicated <sup>formaly</sup> to the county. All information shall be on the plat. Commr. Chase made motion approval be granted on condition he makes all corrections to satisfy Mr. Beecher as per ordinance and homes to be set back for widening of road to 66 feet and to authorize the chairman to sign plat after

approval of Mr. Beecher. Kent Newman seconded motion, voting unanimous.

NORTH RIDGE ESTATES MINOR SUBDIVISION

Don Southwick presented his plan for preliminary approval. Stated sketch plan had been approved as a minor subdivision which is located 2½ miles west of the Bear River High School. He is going to make a holding pond on one lot for storm drain water in that area. The pond will be maintained by the owner of the large lot. Drain fields will be shallow because of a hard pan 4 feet below surface and they cannot be closer than 100 feet from wells. J. Glen Nelson made the motion the plat be approved and the chairman be authorized to sign same. Kent Newman seconded, voting unanimous. Mr. Beecher will present the plat to the County Commission the next Tuesday after the chairman has signed it and get their approval of said subdivision.

TABBS MINOR SUBDIVISION

Ralph Jones presented the preliminary plat of said subdivision. Mr. Beecher explained some discrepancies in the description and send them to their engineer to get them corrected. He did not have time to go over water drawing, as it was left just today, but will do so. J. Glen Nelson made the motion that when the plat meets all requirements, it be approved and authorize the chairman to sign same. Kent Newman seconded, voting unanimous.

DARRELL NIELSEN GRAVEL PIT REQUEST

Mr. Nielsen was unable to attend and had asked Mr. Beecher to present the following. The Bureau of Reclamation will be shoring up the Willard Bay Dike because of the rising of the Great Salt Lake. His gravel pit is a possible site to haul from for this rip rap material. He has talked with Willard City for their permission if the Bureau should chose his site. The Bureau of Reclamation has toured the flood control district in Willard and South Willard for 3 or 4 possible locations to obtain this material. The Commission decided they will insist that the flood district's plan be adhered to and Willard City's approval be presented in writing before any approval will be given. It was reported the study of the B.E. County/Willard City Flood Control & Drainage Special Service District has been adopted by both the Box Elder County Commission and the flood district board.

THOMAS THORPE - HARPER AREA

Mr. Beecher reported to the Commission on a follow-up of October 18, 1984 minutes wherein the Commission approved a private road if it conforms with the county ordinances. Mr. Beecher indicated to the Commission that a private road may be approved by the Commission. Also that no improvements will be performed by the county and that no snow removal will be performed by the county and that Mr. Thorpe will gravel his private road sufficient to handle his traffic. Mr. Beecher also showed the plot plan which Mr. Thorpe submitted.

Meeting adjourned at 9:10 p.m.

Respectfully submitted by Betty Jensen



STATE OF UTAH  
NATURAL RESOURCES & ENERGY  
Water Rights

Scott M. Matheson, Governor  
Temple A. Reynolds, Executive Director  
Dee C. Hansen, State Engineer

55 East First North • Logan, UT 84321 • 801-752-8755

November 15, 1984

Box Elder County Commissioners  
Box Elder County Courthouse  
Brigham City, UT 84302

Re: Proposed Subdivision of Glenn Barfuss in the  
Northeast-Quarter of the Southwest-Quarter  
of Section 15, T11N, R3W, SLB&M.  
(1-1/2 mile SW of Tremonton)

Dear Sirs:

Mr. and Mrs. Glenn Barfuss met with me to discuss the options of supplying water for a mini-subdivision that Mr. Barfuss is proposing. Because of Mr. Barfuss' time table in developing this subdivision, I determined that the best possible option for water development would be for the purchasers of each parcel of land to file an application for their intended uses.

At this point in time, I do not anticipate any major protest of water appropriations for domestic type uses in this area; however, I feel that the purchaser of each lot should be aware that any applications to appropriate water they make will be subject to the statutes of the State of Utah, and that the major water resource in the area is found at a depth from 0 - 25 feet.

Any other questions about the availability of the water resource, by the Box Elder County Commissioners or purchasers of the property, should be directed to the Northern Area Office of the State Engineer in Logan, Utah.

Sincerely,

Robert M. Fotheringham, P.E.  
Acting Northern Area Engineer

RMF:hw



CIRCA 1890'S

# Box Elder County,

STATE OF UTAH

BRIGHAM CITY, UTAH 84302

## OFFICERS

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 JAY R. HIRSCH, COUNTY CLERK  
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 DENTON BEECHER, COUNTY SURVEYOR  
 DORIS L. OLSEN, COUNTY AUDITOR

COUNTY COMMISSIONERS

DON E. CHASE  
 GLEN R. CURTIS  
 JAMES J. WHITE



CIRCA 1980'S

August 20, 1984

Brian C. Johnson  
 Attorney at Law  
 Suite 1300  
 185 South State Street  
 Salt Lake City, Utah 84111

Re: Dave Creek Farms & Ranches Unit 5

Dear Brian

Denny Beecher has asked me to respond to your letter of August 3rd, and this is just a note to let you know that from hereon it appears that it would be more productive if you and I communicate directly with each other rather than through Mr. Beecher. It appears that legal issues are now surfacing.

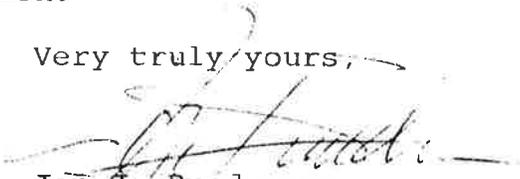
I am going to read your case, and I will be back to you as quickly as I can.

Off the top of my head, it would appear to me that even though you may have, as you claim, obtained a "vested right", that right was waived or expired because of the lapse of time.

Any property type right can be waived by failure to timely comply with procedural requirements.

In any event, I will be in touch.

Very truly yours,



Jon J. Bunderson  
 Box Elder County Attorney