

BOX ELDER COUNTY PLANNING COMMISSION MINUTES September 15, 2016

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

| <i>Roll Call</i> | | <i>following Staff member were present:</i> | |
|------------------|------------------|---|-----------------|
| Chad Munns | Chairman/Excused | Scott Lyons | Com Dev Dir. |
| Laurie Munns | Vice-Chairman | Marcus Wager | Planner |
| Kevin McGaha | Member | Steve Hadfield | Co. Attorney. |
| Michael Udy | Member | Elizabeth Ryan | Exec. Secretary |
| Bonnie Robinson | Member | Com. Jeff Scott | |
| Desiray Larsen | Member | | |
| Mellonee Wilding | Member | | |

Prayer was offered by Community Development Director *Scott Lyons*.

Pledge was led by **Commissioner Michael Udy**.

The following citizens were present

| | |
|---------------------------------|-----------------------------------|
| Robert Spjute/ Salt Lake City | Zac Sparrow/Salt Lake City |
| Robert Wilkerson/Salt Lake City | Thomas Borteeh/Salt Lake City |
| Tim Hawkes/Centerville | Jim Flint-HAI/Brigham City |
| Brent Kenley/ | Thomas Rasband/ |
| Paul T. Hales/ | Darren Eyre/Salt Lake City |
| Kerry Zundel/Tremonton | Gilbert D. Miller/Bear River City |
| Jack Haywood/Salt Lake City | Nefi Garcia/Murray |

A Motion was made by **Commissioner Desiray Larsen** to amend the order of the public hearings on the agenda by having the **TRIGON, SP16-004**, site plan for a proposed C-store to be located in the South Willard area to be heard first and then followed with the public hearing for the **NORTHSHORE RAIL SERVICES, LLC.**, road vacate. Motion seconded by **Commissioner Mellonee Wilding** and was unanimous.

The Minutes of the August 18, 2016 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to accept the Minutes as written; seconded by **Commissioner Desiray Larsen** and passed unanimously.

PUBLIC HEARINGS

Vice-Chairman Laurie Munns called for the public hearings on the agenda by informing those in attendance that each item would be handled separately, and that the time for the hearings was to allow the public the opportunity to voice any concerns and that the Commissioners would listen to the comments and concerns. After the public hearing on an item the Planning Commissioners would then discuss and take action on the item.

TRIGON, SP16-004, SITE PLAN FOR A PROPOSED CONSTRUCTION OF A C-STORE LOCATED AT APPROXIMATELY 8720 SOUTH HIGHWAY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. ACTION

Background on this site plan was offered by Staff member, *Marcus Wager* stating that this is for a convenience store to be located in the South Willard area of Box Elder County. This site plan is currently going through the review process by the various county departments. The area is part of the Enterprise Zone and is zoned for commercial use. The areas around this site are zoned as agriculture to the north and east; commercial to the south; and residential to the east and west. All of the setbacks can be met. Access to the property is from Highway 89 on both the east and west sides of the property.

No comments were given on this site plan and a Motion was made by Commissioner Michael Udy to close the public hearing, seconded by Commissioner Kevin McGaha and was unanimous.

ACTION

Staff member, *Marcus Wager* explained that there is an existing well to the west of this property and wells in zone 1 have a protection zone, in this case a 100 foot radius around the well and “just about nothing can go in that.” However this property is located in zone two and in the county ordinance it states that in the “prohibited area” septic tanks and underground fuel tanks are prohibited; however there is a septic tank located on this property that has been there for quite some time, possibly before the well was drilled and if it were to increase in size that could present a problem. Also in the county ordinance in Permitted Uses, Subsection Cⁱ it does allow for “these things to go in if the design standards are implemented for the specific use and that will prevent contamination discharges to ground water.” There have been extensive talks with State Division of Drinking Water and they stated that, as far as the septic tank...”there are no requirements in the source protection rule that apply to septic tanks in Zone Two for wells that are existing. Wells that are existing...in 1993 they [the State] came up with these zones for well protection. Since this well was in place before 1993 it is referred to as an unprotected source.”ⁱⁱ Basically they are saying that this rule does not apply in zone two. Also, “as far as underground storage tanks that are proposed with the fuel tanks...they are regulated by the Division of Environmental Quality and there are really tight, strict controls on those and they do not consider the underground storage tanks uncontrolled because of the restrictions placed on them; therefore they are considered to be controlled.” Therefore, staff member, *Marcus Wager* said that it would be up to the Planning Commission as to whether or not this could/would cause contamination into the ground water as stated in the county’s ordinance. Staff member, *Marcus Wager* further stated that since there was already a septic tank being used on the property the staff member, *Marcus Wager* was comfortable with allowing it; and with the tight regulations on the underground storage tanks, we’re comfortable with that as was the State.

Commissioner Laurie Munns asked if there were any questions or comments and then asked

what the well water was used for. Staff member, *Marcus Wager* said that it provides water for approximately 45 trailers located in a mobile home park west of this site. They also have an emergency connection for the Bear River Water Conservancy District. Staff member, *Marcus Wager* also stated that the existing septic system would be upgraded to better serve the new “C” store. **Commissioner Bonnie Robinson** referred to a letter that had been received from the BRWCD and it was read into the Minutes.ⁱⁱⁱ Staff member, *Marcus Wager* then read from Ordinance 216 (which was referred to in the BRWCD letter) saying:

“In addition to the permitted uses specified in Paragraphs 5(a) and 5(b) herein, certain of the uses prohibited in Zones Two, Three, and Four pursuant to Paragraph 6 herein may be allowed in Zones Two, Three, and Four, respectively, if design standards are implemented for the specific use that will prevent contaminated discharges to ground water.” Ordinance 216, 5 (c)

Commissioner Laurie Munns then asked if this would be a recommendation to the County Commission or approval only by the Planning Commission. Staff member, *Marcus Wager* then said that this was an approval that would be from the Planning Commission and did not need to go before the County Commission. Community Development Director, *Scott Lyons* then said that there were additional items relating to this site plan that are currently being reviewed others, mainly the engineer. The engineer for the developer was present and could discuss those issues. Staff member, *Marcus Wager* then reviewed the list of items from the County.

1. The name of the project is currently under “Beckstead” and needs to be changed to Willard ‘C’ Store.
2. There needs to be a six foot fence on the south side property line.
3. A tabulation table for the acreage and everything that exists on the site.
4. The elevations don’t show colors, and that is required by the County Code.
5. Needs to show the lighting on the building.

The list from the County Engineer included:^{iv}

1. *The grading plan doesn’t have proposed contours to show how the existing and proposed grading tie together.*
2. *ADA/safety concerns regarding the building ingress/egress and sidewalk ramp.*
3. *Detention pond questions*
4. *Where is the replacement absorption bed location?*
5. *It appears the telephone line is off of this property and hence will require an easement.*
6. *The Keystone wall details are signed and sealed by a Missouri PE in 2002. Please update.*
7. *The Plans and the Drainage Report should be signed and sealed.*
8. *You must meet 0.2 cfs/ac, minimum. County Engineer can require a lower release rate.*
9. *What discharge rate will your proposed 4” pipe have? Have you considered an orifice plate instead?*
10. *See attached redlined report for additional minor comments/questions. (these were*

available to be reviewed if the commissioners wanted to do so.)

As this site is located on UDOT road, the petitioner has been in contact with them and they are working on the re-striping for ingress/egress. It was then asked if the detention pond was sufficient for this site plan and proposed use. Staff member, *Marcus Wager* said that had been noted and was currently being addressed.

Commissioner Laurie Munns then referred to the list from the County Engineer and asked if the commission should wait until some of those items had been taken care of. However, Community Development Director, *Scott Lyons* said that a list like that was not uncommon [as many were minor] and that when an updated plan is submitted most [if not all] would have been taken care of. The main item was the storm drainage basin; there is an updated plan for that and would probably be good to have the South Willard Storm Drainage District review it as well.

Commissioner Bonnie Robinson then noted that there were no comments given during the public hearing portion and often times that helps the commission in the review and decision portion of the meeting.

Commissioner Kevin McGaha said that since the State did not have any concerns with the septic or the expanded septic, it was ironic that the more regulated fuel tanks would be an issued [technically] for the county's ordinance and the state doesn't have any concerns with that either. As this seems to fall under the "exception" in the ordinance [216] it would allow the planning commission to grant approval as the regulations on the fuel tanks makes it likely that no contamination will be able to get into the water. As the State has provided their opinion that neither the septic nor the fuel tanks would be an issue, and County Ordinance 216 allowing for an exception, if those are taken into consideration, along with the fact that the property owner wasn't given any notice when that protection area was established, otherwise they may have asserted their rights, it would allow the commission enough reason to allow them to move forward with the project.

Commissioner Mellonee Wilding then said that she was still not comfortable with the storm water issue and that there were no representatives from the SWSDD to address that issue.

Commissioner Bonnie Robinson then asked if the SWSDD had been notified of this proposed site plan or the meeting and was told "no" but staff would be sending out information to them. With that, then it might be OK to postpone action and tabling until the next month's meeting.

Commissioner Mellonee Wilding then asked who would be responsible for maintaining the drainage basis and CDD, *Scott Lyons* said that this was the first one that he had dealt with that wasn't within a subdivision, and those are dedicated to the drainage district for liability and maintenance issues. On this one, however, the owner could continue to maintain it and an easement could be given to the drainage district if the district wanted to take over the care and maintenance of it. It is usually the petitioner's engineer that determines if the size of the basin is large enough to handle the run-off on the property for its proposed use. It would then be reviewed by the County's Engineer to make sure it would be adequate. The county has not yet seen the updated plans that would show this basin on them.

Mr. Jim Flint from Hansen & Associates addressed the commission saying that they were only seeing one page of an eleven page plan and the commissioners did not have the grading and drainage plan to review. He said that many of the issues that had been listed by the County and the County's Engineer had already been addressed, and as far as the drainage issue, there was piping that would go from the northern part to a trench drain in the parking lot and that

everything was being piped and more controlled and the calculations have been done to raise the outflow by one inch. They were waiting for the outcome of this meeting to resubmit all the updates. Everything that has been talked about is really of a minor nature. The grading and drainage are extremely detailed with underground piping and catch basin; taking an uncontrolled environment and making it better through good design. The water would flow to the southwest to the pond and there is a four inch pipe [that could be reduced to a two inch if recommended by the County Engineer] to capture it and there would also be an overflow at the southwest corner of the property. The water runoff has always collected on the southwest corner of the property. *Mr. Bill Gilson*, County Road Supervisor asked about the water draining from the highway and that everything that would be captured in the pond would just be from the parking lot of the business and not from the highway. *Mr. Flint* said that was correct and that drainage from the highway would not be going through this property as it could be overwhelming and that there is extensive highway widening plans and the improvements will go 700 feet south and about 800 feet north as well as improving the southbound lane that will have a deceleration lane. They met with UDOT and got their plans approval before they proceeded any further; there will also be a left hand turn lane that will lend tremendous enhancement to the area. The drainage on the highway will continue to go as it has; and on the property, through the drainage and grading plan with pipes all will get to the drainage pond. *Mr. Bill Gilson* then said that from everything that he had seen with the proposed improvement to the highway and the proposed improvements to the property, all will help with the drainage in his opinion. *Mr. Flint* then said that one of the obstacles with this property is the size and it is only about .6 of an acre and not a major commercial area. Then in referring to the well protection requirements the state requires that anyone wanting to use a well for public (water) purposes has to file a source protection that is a 328 page report that was filed in 2005 and in 2010. Then tabulation is conducted of all the neighbors within about a mile and the information is put into a report and that is the end of the(ir) duty. The irony of this is, in some areas and interpretations, “can a well on an off-site... can a person drill a well and condemn all of their neighbor’s because of a well drilled on their property ?” Common sense says that just because a report was filed you can’t take away all the development rights as well as informally change the general plan and zoning maps, none of which shows up on a title report. In the very report that was filed, it was declared that there was an existing well and septic system on this property. Therefore, if they were concerned about their well being contaminated provisions should have been taken at that time. The environmental health department regulates and governs septic systems; we are over 100 feet from the well and will build an upgraded system that will have another layer of protection. He then referred to County Ordinance 216 and that things are mitigate-able, and these things can be mitigated, i.e. underground storage tanks and septic systems.

Commissioner Kevin McGaha then asked if the staff had any issues with the drainage and CCD, *Scott Lyons* said that it was an issue that needed to be worked out through the engineers and if the commissioners wanted that to be dealt with before moving forward with their motion, then it could be tabled with the alternative being to make it a condition that has to be approved by the county engineer and by the drainage district; and as with most conditions, staff would ensure that was resolved before issuing any permits.

As this is on private property, **Commissioner Desiray Larsen** asked if it was typical to get the approval of the drainage district first. The answer was ‘no’ if on private property, but the county

engineer would still review and ensure it. **Commissioner Desiray Larsen** then said that she did not think it needed to be a condition for any approval.

MOTION: A Motion was made by **Commissioner Michael Udy** to grant approval to SP16-004 Site Plan subject to the conditions listed and discussed by Staff and also notification to the South Willard Storm Drainage District and their approval; noted by **Commissioner Laurie Munns** that approval from the SWSDD was not necessarily needed for approval of this plan, but that the county engineer would need to approve of the drainage plan. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

Conditions of Approval:

1. Compliance with Section 2-2-090 of the BECLUM&DC.
2. Compliance with Article 5, Regulations of General Applicability, of the BECLUM&DC.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
4. Addressing the zone protection area problem.
5. Notification to the South Willard Storm Drainage District of the proposed plan and drainage/catch basin.
6. The five items listed by county planning staff be addressed and corrected/changed as necessary.
7. List of ten concerns from the county engineer as previously outlined be addressed and corrected/changed as necessary.
8. All items to be satisfied before issuing of any necessary permits

NORTHSHORE RAIL SERVICES, LLC. ROAD VACATE A PORTION OF ROAD AT APPROXIMATELY 18400 WEST EAST PROMONTORY ROAD AT THE SOUTHERNMOST END OF PROMONTORY POINT. ACTION

Staff member, *Marcus Wager* said that this applicant is requesting to vacate a portion of a road [East Promontory Road] at the very south end of Promontory Point. Earlier in the year this same applicant had presented a site plan to the Planning Commission for a new rail spur and at that time it was noted that the road would need to be relocated. This is not a road that is going to be taken away, but will be relocated and that new road will then be dedicated back to the county. The commissioners were then referred to the map included in their packets that showed the section of road being proposed for vacation. This is all within Northshore's property that they own on Promontory Point. The public hearing was then opened at this point.

Mr. Gilbert Miller, from Bear River City, asked that the dedication of the new future road be recorded before this portion of road is vacated in order to assure public access right-of-way through the entire properties. He did not want the benefit of one property owner to jeopardize the benefit to all of the other property owners out on Promontory Point.

Mr. Robert Spute, from law firm Shumway Van and was representing the Great Salt Lake Brine Shrimp Cooperative which collects brine shrimp off of the Great Salt Lake and operate off of Promontory Point with a couple of harbors located there for them to operate their business; and, because of this operation they use that road that is being proposed for vacation. It will be

difficult for the cooperative to continue their business if this road is gone. The biggest concern is if the road is vacated and then the other one not built, that would hinder their harvesting as the season begins in October. He was also concerned with the amount of notice that was given regarding these proceedings as they had only had a couple of days, which was not enough to get pertinent comments together. They had submitted two GRAMMA requests and also wanted to know why this road vacation was going to happen. They were grateful for the quick response from the county but as the Cooperative had been in conversation with Northshore regarding this new rail spur and where it will be located. During these negotiations with Northshore they had been told that if they did not agree with this road be vacated then they, Northshore, would vacate another portion of the road that would essentially shut down the Cooperative as they would not be able to get to the area that they use on a regular basis. This has made them very nervous and concerned as this could lead to more roads vacating to come. Regarding the notice of this hearing, they were concerned that there were so many others that did not know of this proposed action until just a day or two prior to the meeting and they have not have the opportunity to talk with the engineer or others that they need to in order to understand if this road is going to also meets their needs. This road is also used quite often to go to the northern harbor and depending on how things go in the future with the Great Salt Lake, and how the water is regulated, they could be using this northern harbor even more. During the brine shrimp season this road is used heavily with trucks traveling over it and they were concerned that the road being put in its place would have the right grade, is it the right quality, something that can be used in the winter months, and if it is not, then their business would be crippled. In principle they were not opposed to the movement of this road, only that if this road is vacated, will the new road be built, and right in the middle of the brine shrimp season the road will be closed, no new road will be provided and they would not be able to operate. He, too, felt that the new road should be built before this one was vacated.

Mr. Robert Wilkinson, an attorney with Anderson, Wall & Wilkinson which represents one of the nearby property owners, GWSC Properties, LLC which owns about 160 acres west of this property and expressed much the same concerns mentioned before, 1) never received notice of the hearing (one of the owner's sons had been traveling in the area and saw a sign about the proposed vacation of the road, about a week to ten days prior. They were not opposed to what was being done in concept, but asked that the road not be vacated until the new one was built and dedicated and that the new road be able to handle the same type/kind of traffic as currently. He noted that the current road is relatively flat and that the new road has grades of about six percent (6%) in the western area and five percent (5%) on the eastern area. With a gravel road that steep in the winter would there be safety issues with semi-trucks in the area or heavy machinery being moved through the area? They just wanted to make sure that the new road would be able to handle all of the same type of traffic that it currently does.

Mr. Darrin Eyre, a professional engineer that is helping Northshore with this project mentioned that the list of items/concerns from the earlier meeting in April regarding the grade, materials, etc.; all of those have been addressed so in general the road width will be wider than it is currently and will meet the requirements of the county road department and UDOT. The curve will be bigger in radius lengths than the existing curves; the grades are either equal to or less than other sections of the road outside of the Northshore property, while the road through the Northshore property is relatively flat. The road in the east and west of the property are actually

steeper than the proposed road grade and will be flatter than other sections that are travelled. It was not their plan to have the old road vacated before the new one is ready to be dedicated [and staff would probably talk more about that]. The road design has been approved by the planning staff, the county road department, and the county engineering department. The site has been visited by all those mentioned and there were no concerns, but the plan would be to get the new road built first per the design that has been approved and then execute the dedication and vacation plats at the same time so that there is a continuous flow by all citizens that need access.

Mr. Thomas Bosteel, general manager of the Great Salt Lake Brine Shrimp Cooperative said that their concern was that they were not part of the process and had not been informed about it; and were not aware of the information that had just been given by the engineer for the Northshore project. This stretch of road has been used by the cooperative and its members for a very, very long period of time and is essential to the brine shrimp operation. This road is used to move the brine shrimp harvest, the brine shrimp eggs; to move boats and other equipment, personnel, fuel, water, food, anything that is needed is moved along this road. The harvest starts on October first and continues through January thirty-first. During the peak of the harvest, eight to ten semi trucks can travel across this road, as well as other two ton trucks and pickup trucks. As the proposed new road will have steeper grades than this existing one, it will be more difficult to navigate; however even with that they were not opposed in principle to having the road vacated, but there were two conditions 1) that the alternative road be constructed, and 2) that the new road is engineered in such a way to ensure safety during the winter when trucks are travelling across them.

Mr. Tim Hawkes, general counsel for the Great Salt Lake Brine Shrimp Cooperative said that given the short notice they had to really scramble in order to respond and have talked with their lawyers, engineers and they have only been able to go with partial information as getting information back has not been very quick. He then read a letter from their engineer at Great Basin Engineering, Inc.^v; this letter was based on information that they had with the initial preliminary plans and not the later full plans that were described by Mr. Darrin Eyre. Great Basin did see the full plans recently, but they were still standing by this letter dated September 12, 2016. He concluded by mentioning that they had not been aware of the meeting that took place in April 2016 and that many would not have been aware of this one had it not been for someone travelling in the area [at Promontory] and seeing the sign that was posted out there. There has been a long history and tension associated with this in the past between parties involved and with not getting proper notice there has been a lot of concern. He hoped that the commission would make sure that others that use this road would not be harmed because of this proposed change.

Mr. Zac Sparrow, with Smith Hartvigsen, PLLC and represents Promontory Point Resources who are currently under contract to purchase Promontory Landfill of approximately 2000 acres just west of where this road is proposed to be vacated. He, too, said that their concern was that this road would be vacated before the new one was built and dedicated. Also expressed that this could be a public concern and not just a private one as landfills are used for the public and any harm to the road would impact that public use.^{vi}

Mr. Bill Gilson, County Road Supervisor said that when this change in the road first came to the county he had some concerns with the design plans and the curve of the road going up the hill. He visited the site with several others and made some suggestions and Northshore has taken those suggestions into consideration and the design has been changes; and now he has no issues with the road being moved and felt that it would be good for future use and able to handle vehicles at a 55 MPH limit. He also said that it would be necessary for the new road to be completed and dedicated so that there would not be any interruption with public passage on this road.

Mr. Paul Hales said that he owns about 280 acres out on the Promontory peninsula and was concerned about what was really taking place with the road dedication and vacation. The change has since been better explained, but he wondered how long with stretch of road was going to be and was also concerned that there not be any interruption with public travel on the road.

Following the comments, a Motion was made by **Commissioner Bonnie Robinson** to close the Public Hearing, seconded by **Commissioner Desiray Larsen** and was unanimous.

ACTION

Staff member, *Marcus Wager* said that in clarifying the notification of this meeting and public hearing, a sign had been placed at the site on Promontory and the necessary notices were in the two local newspapers to meet the requirements. As far as recommendation of this proposal, the only concern was that the change in roads would not cause interruption with the public use (as was voiced by several others prior during the public hearing). The commissioners then discussed the length of the road, which was about one mile long; whether or not a bond would be required; if the new road would be in use for any length of time (weeks, etc.) before the other one would be vacated. In regards to a bond being placed on the construction of the road, the commissioners were told that a bond would be in place during the construction [amount of 120% of the cost of the new road] and when the road is completed a portion of the bond, 100% would be released leaving the 20% during a warranty period (usually one year) to cover any additional costs should there be any problems with the road. At the conclusion of the warranty period, the remaining bond would then be released. During that year time of the warranty the road should see a significant amount of truck traffic that would indicate any problems.

Commissioner Kevin McGaha asked what the reason was for the change in the location of the road and was told that in order to accommodate the location for a new rail spur the road needed to be relocated. This new rail spur will have about 136 [train] cars coming into the area to be loaded with gravel and those cars would block roads for a time during the loading process. It was also mentioned that Northshore would be doing all of the work and also pay for the expenses.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval for VAC16-001, Northshore Rail Services Road Vacate as outlined on the vacation plat and that special consideration be given to the new road being constructed and that it be dedicated and made available for public travel so that there is no interruption for public or business access at this site; and also that a bond be in place. Motion seconded by **Commissioner Desiray**

Larsen, stating that this would item would appear on the County Commission agenda for its October 5, 2016 meeting. If there were any other concerns from the public they were encouraged to contact Staff in the Planning Department prior to that 10-5-16 meeting. Motion passed unanimously.

Conditions of Approval:

1. A bond secured for the cost of the new road plus an additional twenty percent.
2. The road built to the standards of the County Road Department and County Engineer.
3. The old, existing road would not be vacated until this new road is completely finished and dedicated to the county for public use, to eliminate any interruption in public travel.

NEW BUSINESS

ROAD DECICATION, NORTHSHORE RAIL SERVICES, LLC, RE-ROUTING A SECTION OF ROAD AT PROMONTORY TO MAKE WAY FOR CONSTRUCTION OF RAIL SPUR AND LOOP TRACK.

Staff explained that this is the new section of roadway that is proposed to replace the one being vacated. The new road will be built by Northshore Rail Services and will be dedicated to Box Elder County upon completion to be used and maintained as a public right-of-way.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation of approval to the County Commission for the Northshore Rail Services, LLC road dedication. Seconded by **Commissioner Kevin McGaha** and passed unanimously.

TECHNOLOGY ASSOCIATES, DAKOTA HAWKS, CUP14-003, SIX MONTH EXTENSION FOR INSTALLATION OF WIRELESS COMMUNICATION FACILITY AT APPROXIMATELY 11483 WEST 12000 NORTH IN THE BOTHWELL AREA OF BOX ELDER COUNTY.

Staff explained that this Conditional Use Permit for a cellular tower in the Bothwell area received approval in September 2014 and is now set to expire. The applicant is requesting an extension of six months to finalize the installation of the tower. Some site work has been completed but the tower, however, is not completed.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to approve the six month extension for Technology Associates, CUP14-003; seconded by **Commissioner Mellonee Wilding** and passed unanimously.

AS16-007, CALDER AG SUBDIVISION, LOCATED AT APPROXIMATELY 4542 WEST 14800 NORTH IN THE GARLAND AREA OF BOX ELDER COUNTY OF APPROXIMATELY 10 ACRES.

Staff explained that this agricultural subdivision is all of Lot 2. The applicant is proposing to split this lot creating Lot 2 and a remainder parcel. Lot 2 will be accessed by a 66 foot strip that could be a road in the future. Lot 2 will be approximately 7 acres with the remainder parcel consisting of approximately 8.5 acres. This property is located in an un-zoned area of the county outside of Garland.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to grant approval to the Calder Ag Subdivision, AS16-007; seconded by **Commissioner Desiray Larsen** and passed unanimously.

AS16-008, COOMBS AG SUBDIVISION, LOCATED AT APPROXIMATELY 16800 NORTH 5200 WEST IN THE FIELDING AREA OF BOX ELDER COUNTY OF APPROXIMATELY 94 ACRES

Staff explained that this applicant is proposing to subdivide approximately 94 acres into a 93 acre parcel and a one acre remainder parcel. The property is located in an un-zoned area of the county.

Motion: A Motion was made by **Commissioner Bonnie Robinson** to grant approval to the Coombs Ag Subdivision, AS16-008; seconded by **Commissioner Kevin McGaha** and passed unanimously.

AS16-009, CREEKSIDE AG SUBDIVISION, LOCATED AT APPROXIMATELY 8985 WEST 10400 NORTH (ROCKET ROAD) IN THE BOTHWELL AREA OF BOX ELDER COUNTY OF APPROXIMATELY 10 ACRES.

Staff explained that this petitioner is requesting this agricultural subdivision in order to create a separate parcel at the location of a shop that is on this property. This is an agricultural building that they would like to sell. There were some questions regarding what type of building needed to be on property in order for it to qualify for an agricultural subdivision. Staff said that the code does not really specify exactly what type of building, home, shop, garage, etc. has to be on the property in order to qualify. The following from the Utah State Code was then read:^{vii}

“Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

- (i) The parcel contains an existing legal single family dwelling unit;*
- (ii) The subdivision results in two parcels, one of which is agricultural land;*
- (iii) The parcel of agricultural land:
 - (A) Qualifies as land in agricultural use under Section 59-2-502; and*
 - (B) Is not used, and will not be used, for a nonagricultural purpose;**

In addition the request would also need to meet the requirements of the county, i.e. setbacks, minimum acreage, minimum width, etc. As this property is located in an un-zoned area some of those requirements are not necessary; however, the “*parcel contains an existing legal single family dwelling*”, results in this request not meeting the requirements. The Commissioners then brought up the previous request for the Coombs Ag Subdivision and whether or not it met the necessary requirements for this type of subdivision.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to Deny the Creekside Ag Subdivision, AS16-009 as it does not meet the requirements as outlined in the Utah State Code as there is not a single family dwelling unit located on it. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

RESCIND MOTION: A Motion was made by **Commissioner Bonnie Robinson** to repeal the prior Motion for the Coombs Ag Subdivision, AS16-008, and Deny the subdivision as it does not meet the requirements of the Utah State Code requirements of having an existing single family dwelling unit on the property. Motion seconded by **Commissioner Mellonee Wilding** and passed unanimously.

UNFINISHED BUSINESS

Commissioner Laurie Munns asked that Staff look into the Code to see if there is a deadline for any items that may have been tabled to be brought back to the Planning Commission for action. Also to review the Code in regards to the number, if any, of times that a petition may be granted an extension. **Commissioner Desiray Larsen** asked if the language in the Code could be looked at in regards to vacating and then dedicating a road at the same time. Staff replied that usually vacating a road and then dedicating a road in the same location/vicinity usually does not happen as it did in this case, and that they are two separate requests.

WORKING REPORTS -- NONE

PUBLIC COMMENTS -- NONE

A **Motion** was made to adjourn at 9:04 p.m., unanimous.

Passed and adopted in regular session this 17th day of November 2016.

Chad Munns, Chairman
Box Elder County
Planning Commission

ⁱ Ordinance No. 216

ⁱⁱ E-mails from Kate Johnson

ⁱⁱⁱ BRWCD letter

^{iv} Dana Q. Shuler Memo/Jones & Associates

^v Letter from Great Basin Engineering, Inc

^{vi} Letter from Smith Hartvigsen, PLLC

^{vii} Utah Code, Chapter 27A/17-27a-S605