

BOX ELDER COUNTY PLANNING COMMISSION MINUTES MAY 19, 2011

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 constituting a quorum:

Richard Day	Chairman/Excused	<i>the following Staff was present:</i>	
Chad Munns	Vice Chairman		
Desiray Larsen	Member	Kevin Hamilton	Director
David Tea	Member	Elizabeth Ryan	Ex. Secretary
Ryan Tingey	Member	Scott Lyons	Planner
Jay Christensen	Member	Steve Hadfield	Co. Attorney
Laurie Munns	Member/Excused		

The following citizens were present:

Blaine Rupp/Tremonton	Pat Garner/Collinston
Suzanne Mitchem/Collinston	Wayne Ballard/Collinston
Rebecca Wolf/Sandy	Debbie Wolf/Sandy
Judy Leonhardt (Ralph & Shirlene Jones)/Collinston	
Stewart Grow/Peoa	Terry Reid/Ogden
Michael Wolf/Salt Lake City	George Humbert/West Ogden
Dakota Morrison/Brigham City	Andrew Morrison/Brigham City
Todd Hallock/Logan	Stephen Adams/East Garland
Craig Adams/Logan	

Vice Chairman Chad Munns called the Planning Commission meeting to order at 7:07 p.m. The Minutes of the April 21, 2011 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner David Tea** to accept the Minutes as written; seconded by **Commissioner Desiray Larsen** and passed unanimously.

PUBLIC HEARINGS

Vice Chairman Chad 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, but this was not a questions/answer time.

BEAR HOLLOW RANCH, SS10-008, PROPOSED NINETEEN (19) LOT SUBDIVISION AT PRIVATE WATER PARK LOCATED AT APPROXIMATELY 15000 NORTH 4000 WEST, NORTHEAST OF GARLAND IN BOX ELDER COUNTY. (PRELIMINARY APPROVAL)

This applicant is requesting preliminary approval for a 19 lot subdivision on a private ski lake located on SR 30 in the Collinston area. Concept approval was granted, and the applicant has been working with FEMA regarding the flood map designation for this area. That has now been resolved and a letter from FEMA has been received. No comments were made during the public hearing and a Motion was made by **Commissioner Ryan Tingey** to close the hearing; seconded by **Commissioner Jay Christensen** and was unanimous.

BEN LOMOND SUBSTATION, CUP11-005, EXPANSION OF THE BEN LOMOND SUBSTATION TO ADD A 345kV TO 138 kV TRANSFORMER AND ASSOCIATED STRUCTURES AND EQUIPMENT, LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

Rocky Mountain Power is requesting a conditional use permit to expand the Ben Lomond substation by adding a 345kV to 138kV transformer and associated structures and equipment at this site located in the South Willard area of the county to better serve the citizens of the area. No comments were received during the public hearing and a Motion was made by **Commissioner Desiray Larsen** to close the hearing; seconded by **Commissioner David Tea** and was unanimous.

JACK C. EVANS, Z11-001, RE-ZONE OF PARCEL 06-039-0028 FROM CURRENT MU-40 TO RR-2; LOCATED IN THE COLLINSTON AREA OF BOX ELDER COUNTY.

This property is divided by two zones, RR-2 and MU-40, and the applicant is requesting that all of the property be rezoned to RR-2. Staff was also recommending that additional parcels in the area be included in this rezone as they are also split by the two zones. **Blaine Rupp**, the owner of one of the other parcel(s) included in this rezone asked the Commission regarding the lots that are in an approved subdivision and thought that they were already zoned as RR-2. However, *Scott Lyons, County Planner*, said that with the research that he had done for this rezone request had found that those lots in the approved Countryside Subdivision had not gone through the rezone process even though the subdivision had been approved with 2 [plus] acre lots. Therefore this rezone would correct that and the property would be rezoned to the RR-2 officially. Another question was asked regarding the taxing of the property in the area and if this rezone would affect those that already have property in the Countryside Subdivision. This was a question that would need to be addressed by the County Assessor, Rod Bennett. No other comments were received and a Motion was made by **Commissioner Ryan Tingey** to close the hearing and seconded by **Commissioner Jay Christensen**, passed unanimous.

ELKHORN DEVELOPMENT, LLC; Z11-002, RE-ZONE FROM R-1-20 TO CG (COMMERCIAL GENERAL), LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY

This property is currently zoned R-1-20 in the South Willard area and is located between the railroad tracks and I-15 at approximately 8250 West. The petitioner is requesting the rezone in order to remove the “junk and debris” that is there and construct a billboard sign. No comments were received during the public hearing and a Motion was made by **Commissioner Desiray Larsen** to close the hearing; seconded by **Commissioner David Tea** and was unanimous.

UNFINISHED BUSINESS-- None

NEW BUSINESS

BEAR HOLLOW RANCH, SS10-008, PROPOSED NINETEEN (19) LOT SUBDIVISION AT PRIVATE WATER PARK LOCATED AT APPROXIMATELY 15000 NORTH 4000 WEST, NORTHEAST OF GARLAND IN BOX ELDER COUNTY. (PRELIMINARY APPROVAL)

County Planner, Scott Lyons reviewed this petition beginning with what was remaining for the preliminary approval of this subdivision.

- A. The location of this proposed subdivision was within a flood zone and it was necessary for the petitioner(s) to work with FEMA in being removed from that designation. That matter has been taken care of and a map showing the removal of the area was presented to the Commissioners.
- B. Another issue was that of the road design and flood and erosion protection in the area of the development. The proposed road design from the developer is currently a thirty (30) foot right-of-way, with twenty-two (22) feet of pavement and two ten (10) foot trail easements on either side of the road. However, the County road standards require a sixty (60) foot right-of-way with thirty (30) feet of pavement [for private roads that serve three or more lots].
 - i. Regarding the erosion protection, it was proposed that in the subdivisions' CC&Rs and recorded on the plat that language be included that would release the County from any liability that may occur in the development (regarding possible flooding).ⁱ
 - ii. In regards to the road design, Staff said that no final determination about the road design had been made and that the petitioner(s) have no vested rights regarding the road design at this time due to concept approval having been given before the county official road standards were passed and adopted in March of 2010.

Commissioner David Tea asked if there was another access to this development or only the one as indicated on the proposed drawing. Staff said that there is a secondary access that has been granted by an adjacent landowner for emergency use only.

Craig Adams, representing this development then approached the Commissioners to address their questions and concerns. Explaining that the development is located on the Bear River, Commissioner Ryan Tingey asked if it was still above water with the current run-off. Mr. Adams said that it was, explaining that in doing the excavation for the lakes the area was brought up by as much as twenty (20) feet in some areas. Vice Chairman Chad Munns said that he was confident that the issue of flooding had been adequately addressed for this time of year (spring/summer) but he still had concerns regarding possible ice jams in February that could cause problems. Mr. Adams responded saying that there is still a lower part where ice could collect, but that was in a part where no structures would be located. Also, lot 19 is located at the end of the development is where Mr. Adams is planning on building his residence.

Commissioner Ryan Tingey then asked about the road standard and if they [the developer] would be able to meet the requirements of the County. Mr. Adams said that the reason that the road was designed as it was originally was due to the fact that they were told (by former County Planning, Tamara Wright) at the time of the application that there were no county road standards that had been adopted. Further explaining that the road only accesses the development ending in a cul-de-sac at the end, they (the developer) felt that their proposed design was a good fit to service the development. The road will only service these nineteen (19) lots with no other property to add in the future. A number of meetings had been held with the County Engineer

and they were told that the proposed road design would be adequate for the development as it would be grandfathered in, and it was not until just recently, in the last week or so that the issue of meeting the road standard was even addressed. The only people that would have easements to the area would be the property (residents) owners and the utility companies. It will be gated at the entrance with pavement of twenty-six (26) feet to the turn-a-round tapering to the twenty-two (22) feet in front of the lots. **Mr. Todd Hallock** then approached the Commissioners saying that he had had a conversation with *Scott Lyons* the previous day and had the understanding that the road width and the right-of-way width was something that was still to be determined; that the county road standards came in after the initial concept plan had been presented and accepted (whether they have vested rights or not or if some sort of overlay would be granted), but that was still an issue to be discussed and resolved and that the request for tonight's meeting was for preliminary approval with the work-through on the road still to be handled before final approval given. There was still some discussion regarding the vesting of rights at concept level and *Kevin Hamilton, Director*, indicated that there were no vested rights at the concept level of approval. **Commissioner Ryan Tingey** agreed that until the issue of the road (standards) was agreed upon he would be more comfortable with tabling this preliminary approval. Again the issue of this never being a county road was brought up by the petitioner, but **Vice Chairman Chad Munns** felt that over time things could, and would, change and future development in the area could occur when those sitting on the planning commission at this time would no longer be involved, nor would these petitioners. Therefore it was necessary to take that possibility into consideration. At this point the petitioner(s) asked what would be accomplished by tabling this preliminary approval for another month, and the answer to that was to deal with the meeting of the county road standards before they (the developers) invested any more funds into the development of this project. **Mr. Hallock** then said that rather than table the application, he would like to see if approved with stipulations and that **Craig Adams** would probably agree that they would be able to work through this issue. The petitioner said that currently there is a fifty (50) easement available for the road with the thirty feet of actual roadway and twenty-two of pavement and the two ten foot trails on either side. With that much easement already, it would take some reworking of the road design, but it would probably be doable if they were ultimately required to meet the requirements of the adopted road standards; again concluding by asking that this not be tabled for another month. After some further discussion, **Commissioner Ryan Tingey** said that he would make a motion for preliminary approval with the conditions of the developer adhering to the adopted county road standards for this subdivision. Before the official motion was made, **Commissioner Desiray Larsen** asked about the dike that had been built up and if it had been constructed with an approved engineer's design. The petitioner responded saying that this was fill that had been brought in for the construction of the road-base and was not actually a dike.

MOTION: A Motion was made by **Commissioner Ryan Tingey** to grant Preliminary approval for the Bear Hollow Subdivision contingent upon compliance to the County Road Standard of sixty (60) feet wide with thirty (30) feet of pavement, supply the County with the necessary LOMAR and FEMA data, and any other Staff recommendations and conditions as outlined. Motion was seconded by **Commissioner David Tea** and passed unanimously.

Conditions of Approval:

1. Compliance with Article 5 of the BECLUM&DC
2. Compliance with requirements of the Box Elder County Engineer, Roads Department, Zoning Administrator, and the Bear River Health Department.

3. As no final determination regarding road design has been made, there are no vested rights regarding road design included in this preliminary approval.

BEN LOMOND SUBSTATION, CUP11-005, EXPANSION OF THE BEN LOMOND SUBSTATION TO ADD A 345KV TO 138 KV TRANSFORMER AND ASSOCIATED STRUCTURES AND EQUIPMENT, LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

Scott Lyons, County Planner, informed the Commissioners that this applicant [Rocky Mountain Power – PacifiCorp] is requesting a Conditional Use Permit in order to expand the Ben Lomond substation by adding a 345kV to 138kV transformer along with associated structures and equipment to better serve the citizens. This substation is located on parcels 01-048-0010 and 01-048-0007 north of the Box Elder County and Weber County boundary line. It will encompass approximately .64 acre at the existing site. Staff was recommending approval for this CUP.

MOTION: A Motion was made by **Commissioner David Tea** to approve the Conditional Use Permit for the expansion of the Ben Lomond Substation by Rocky Mountain Power – PacifiCorp, with the conditions as outlined by Staff; seconded by **Commissioner Desiray Larsen** and passed unanimously.

Conditions of Approval:

1. Compliance with Article 5 of the BECLUM&DC.
2. Compliance with Article 2-2-100, Conditional Use Permit, of the BECLUM&DC.
3. Compliance with requirements and recommendations of the Health Department, County Engineer, Building/Fire Inspector and Road Supervisor.

JACK C. EVANS, Z11-001, RE-ZONE OF PARCEL 06-039-0028 FROM CURRENT MU-40 TO RR-2; LOCATED IN THE COLLINSTON AREA OF BOX ELDER COUNTY.

Based on the information and the comments received during the Public Hearing, Staff recommended that the rezone for Jack Evans’ property be approved along with the additional eight lots in the area and forwarded to the County Commission. **Suzanne Mitchem**, one of the property owners mentioned that her lot and that of another two landowners are served by a spring located higher up on the property and if Mr. Evans were to do some development with this rezone, how would that affect this spring. Staff responded that when additional development occurred the issue of the culinary water supplied from this spring would be addressed. Additionally, Mr. Evans has been approached by an individual wishing to purchase ten acres, but in order to do so, this rezone is necessary to adhere to minimum legal parcel [lots]. **Commissioner Ryan Tingey** also mentioned that there are requirements through the State regarding well protection areas for wells and/or springs that supply culinary water.

MOTION: A Motion was made by **Commissioner Jay Christensen** to forward the recommendation of the Planning Commission to the County Commission in granting approval for the rezone of the property (Parcel 06-038-0028) owned by Jack C. Evans, along with the additional property included in Staff’s recommendation for rezoning. Motion seconded by **Commissioner David Tea** and passed with **Commissioner Ryan Tingey** abstaining from the vote.

Additional parcels to be included in rezone:

1. Parcel 06-039-0033
2. Parcel 06-039-0034
3. Parcel 06-039-0035
4. Parcel 06-039-0036

- 5. Parcel 06-039-0015
- 6. Parcel 06-039-0019

- 7. Parcel 06-039-0002
- 8. Parcel 06-039-0020

ELKHORN DEVELOPMENT, LLC; Z11-002, RE-ZONE FROM R-1-20 TO CG (COMMERCIAL GENERAL), LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

This applicant is requesting that this property which is currently zoned R-1-20 be changed to CG (Commercial General). Vice Chairman Chad Munns asked if the South Willard Community Plan had been reviewed or if members from that committee had been contacted regarding this proposed usage and zone change and if it was in harmony with the adopted plan. Scott Lyons, County Planner said that he had referred to the County General Plan and The BECLUM&DC but was not aware of the South Willard Community Plan, but would look into it. Commissioner Ryan Tingey asked if there was a nuisance ordinance for the county that could deal with the junk/debris that is currently collected on this parcel, but was informed that state code is referred to for those issues. This property is currently owned by the Corporation of the Presiding Bishopric of the LDS Church and Mr. Stewart Grow has offered to purchase this property and was acting on behalf of the Church in requesting this rezone. Mr. Grow did not have a problem with getting the property cleaned up, but in order to move forward (legally) he needs to be the owner of the parcel. His further intent is to put a billboard on this property. This property is difficult to access, thus making it unlikely that any development of a commercial venture could take place there. (Mr. Grow said that the person that has been putting items on this parcel is the son of the former owner and feels that he has the right to use this property as he wishes. However, according to Mr. Grow this is not the case any longer as this is now owned by the LDS Church.) Commissioner Ryan Tingey said that he felt a rezone could not be completed until the property were purchased and titled to Mr. Stewart Grow.

MOTION: A Motion was made by Commissioner Desiray Larsen to forward a recommendation to the County Commission to approve the rezone of Parcel 01-045-0115 from R-1-20 to CG with the following stipulations:

1. Direct Staff to review the South Willard Community Plan and contact member(s) from that Committee to see if this use is in compliance with the adopted Plan.
2. Mr. Grow needs to have proof of legal ownership of the property or notarized letter from the LDS Church indicating that they are aware of his intend to purchase and rezone the property.
3. The property needs to be “cleaned-up” prior to any construction taking place.

Motion was seconded by Commissioner Jay Christensen and passed with Commissioner Ryan Tingey abstaining from the vote.

WORKING REPORTS

Kevin Hamilton, Director, informed the Commissioners that there are several areas within the Code that have been targeted for revision; 1) Conditional Use Permit procedures, 2) Site Plan Permit procedures, and 3) the appeal authority. Currently the County does not have an appeal authority, which in the County Land Use Code refers to a Board of Adjustment. It was suggested that this be changed to a hearing officer, possibly an attorney that would be hired by the County. There was also some discussion regarding doing away with the concept approval as quite often it gives the developer the idea that once a project is given concept approval they have

vested rights. **Commissioner Ryan Tingey** felt that in order to receive preliminary approval there needs to be greater details presented by the petitioner(s).

Commissioner Ryan Tingey also talked with the Commissioners regarding the change in appointment to the Planning Commission. The [County] Commissioners have decided that the number of years that a person serves on any board or committee with the county will be limited to eight years, or two terms. (The Planning Commissioners serve for three year terms, thus they would be limited to three terms, or nine years.) **Commissioner Ryan Tingey** said that this will give others in the community/county the opportunity to apply to volunteer for these appointments. Due to this new decision, **Commissioner David Tea** would not be reappointed as he has served for close to twenty years on the Planning Commission. There were some concerns voiced by others on the Planning Commission that experience and knowledge will be lost by limiting these appointments of the commissioners as it takes a while to become familiar with the Code and the process of the Planning Commission. **Commissioner David Tea** asked if they would like any recommendations from him as to individuals that may be interested in representing the area of the county that he has over these many years. It was also stated that decisions are made regarding areas of the county that some (commissioners) may never have been to, and it has been nice to have representation from the various areas of the county on the Planning Commission for that reason.

PUBLIC COMMENTS – NONE

A **Motion** was made to adjourn at 8:28 p.m., unanimous.

Passed and adopted in regular session this 16th day of June 2011.

Chad Munns, Vice Chairman
Box Elder County
Planning Commission

ⁱ **Risk of Flooding. Each owner purchasing a Lot acknowledges the possibility of water from the lake and/or river rising onto the Beach Area or other area of the Lots and beyond because of unusually heavy rain, mechanical problems with the system providing water to the Lake or other causes, including but not limited to, erosion, and neither Declarant, Box Elder County, the Association, the Board, the Committee or any officer or director of the Association shall be responsible therefore or for any damage resulting there from, and each Owner assumes the risk thereof.**