

PUBLIC HEARINGS

VALLEY VIEW ESTATES SUBDIVISION, PHASE II, LOCATED AT OR ABOUT 7150 SOUTH 600 WEST IN SOUTH WILLARD.

Staff gave an overview of this subdivision after which time the Public Hearing was declared opened. There were no comments regarding this matter and the Public Hearing was closed with a motion by **Commissioner Richard Day** and seconded by **Commissioner Jon Thompson**; passed unanimously. Because of various items still missing from the petitioner's file staff recommended tabling any further action on this subdivision until the requirements listed in sections 3.3 and 3.4 of the LUMDC have been met. (The petitioner was not present at this meeting.)

HANSEN SHEEP CO., GRAVEL PIT, CONDITIONAL USE PERMIT, LOCATED IN TOWNSHIP 12N, 2W, SECTIONS 21 & 22 IN THE COLLINSTON AREA.

Staff reviewed the findings for this proposed gravel pit to be located in the Collinston area.

- The site is fairly remote and will be accessed by a gravel county road, accessed by State Highways 30 and 38. It does not appear that the excavation will impact residential uses with the possible exception of a dwelling located approximately 100 yards from the road on the petitioner's property that will access the excavation. According to the petitioner this dwelling is not inhabited and only used occasionally by its owner.
- An environmental impact study as called for in the Section 3.3.1.2 of the Land Use Management and Development Code (LUMDC) was not required prior to concept approval being granted.
- Excavations are regulated by Section 7.6 of the LUMDC.
- The site has not been evaluated by the County Engineer, nor has the petitioner submitted an engineered site design plan.

The Public Hearing was opened and the following comments were made:

Marie Hansen Christensen spoke of the history of the area where this proposed gravel pit is to be located. Ms. Christensen is an owner of property that would be affected by this petition. It is a place where her family has been able to go for peace and solitude and used for recreation by various family members. There is a stream running through the property and would be affected by this gravel pit. (A letter accompanies these Minutes.) Also, Ms. Christensen did not believe that the right-of-way through this property and road included hauling of gravel. She was also concerned about the gate being (left) opened for the purpose of this site. **Keith Christensen** outlined the area of the proposed gravel pit on the map that was presented by Staff.

Carolyn Hansen Brady is the owner of one of the properties north of the proposed pit and also owns the farm access road that would be used for the gravel pit. Ms. Brady also gave a history of the area and was concerned that having a paved road would invite outsiders and possibly destroy the area. This ranch/farm is currently being operated by Jerry Richards.

Scott Christensen (son of Marie Christensen) questioned the issue of easement and right-of-way and exactly what it meant and if it were fully understood. An attorney, Roger Henderickson, has studied the easement that was gifted to the original three sons (Dwight, Lorenzo, and Winn) and the 1936 right-of-way across this property was for the driving of sheep and limited to that

use and not for vehicles to use. (A copy of that letter is included with the official Minutes of this meeting.) That right may have been vested solely in Winn Hansen and may have even expired upon his death. Has this easement completed its cycle of life? It is a single lane road that has been used over the years in intermittent use so it may not have prescribed right-of-use for the past 20 years. This road cannot be changed by its use or intensity. A gravel pit would be landlocked in this area. The gravel could be produced, but it would not be able to be trucked out of the area.

Staff stated that the County Attorney would have to take a look at the issue of easement and right-of-way before knowing if it was pertinent to this petition.

Christina Allen Brady (daughter-in-law) expressed concern over the environmental impact and the air quality issues if this gravel pit were to go forward. Ms. Brady did not believe that any studies or approvals had been submitted to date, but believed that the gravel pit would increase the overall levels of the air quality and other environmental concerns. Also the issue of how the dust would be handled had not been covered, nor what sort of burden this pit could add to the County. Although UKON Water had sent a letter to the petitioner, the issue of where the water would ultimately come from was not addressed.

Ryan Brady (Carolyn Brady's son) referred to the two-page brief that was submitted by the petitioner (Scott Hansen) and stated that there is already a gravel pit close to the Dairy Valley Road to transport gravel from that site for the proposed improvements on Highway 30. He did not believe that two gravel pits are necessary in this corner of the county. Also stated that Dairy Valley Road is a narrow road, making it difficult for two cars to pass one another, making it very difficult for gravel trucks to pass. Mr. Brady also expressed hope that the Planning Commissioners would not make a hasty decision regarding this petition, as there are other sources of gravel than from this proposed site.

Keith Christensen referred to the letter of Scott Christensen and said that this area where the road to the gravel site is located drops some 180 feet and the road would need to be improved in order to handle the traffic of gravel trucks. There would need to be a run-away ramp for the trucks and did not feel that it would be a tax benefit for the county. He was extremely opposed to this gravel pit petition.

Jerry Richards (acting as a representative of the LDS Church) stated that there is a church owned girl's camp in the area of this proposed pit and that camp is used extensively during the summer months each year. Creating more traffic on the Dairy Valley Road would add to the likelihood of increased accidents and possible safety issue for the girl's camp. Mr. Richards is also a stockholder in the UKON Water Company and spoke of the two springs located downhill from this site. He, also, did not believe that Scott Hansen's right to water extended beyond the watering of his livestock.

Brian Shaffer from the UKON Water Company talked about *Ordinance 216* (attached), which addresses the drinking water source protection. Read the following: *"The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply to the residents of Box Elder County who receive water for culinary and domestic use from public water systems in the County by the establishment of drinking water source protection zones."* Also referred to a letter of agreement between UKON Water and Scott Hansen (attached). There are currently four

springs and one well all located within zone 4; therefore if the petitioner were able to meet the conditions of the Ordinance UKON could “live with the gravel pit operation there, but not until these conditions are met.” Presently they are providing the water [only] for Mr. Hansen’s sheep.

Lisa Christensen (granddaughter) talked about the area and the aforementioned elevation of the proposed site. Did not think that another gravel pit needed to be created, as there are already too many places where silence has been interrupted by progress.

Rodney H. Brady (Carolyn Brady’s husband) felt that all points addressing this petition had already been addressed, but wanted to go on record as opposing this petition and that it should be declined by the Planning Commission.

Scott Hansen (petitioner) stated that there are gravel trucks already using the road that was referred to by many of those making comments. Did not know that there would be so much opposition as he thought this was an out of the way spot. As for the road issue, the road is already established; it is not a single lane and trucks are already using this road. It is a gravel road and in some areas it is narrow. The County does not give permits for gravel pits; those are regulated by the State and MSHA (Mining Safety Health Administration). Air quality and water are all monitored by the State and MSHA to make sure there are no problems. The County’s purpose is to know who is operating any given gravel pit and whom they are taxing. The County also controls the zoning in any given area. This area is zoned as MU-40 and gravel pits are a conditional use within that area. If the residents of the area don’t want a gravel pit in this area they need to go through the re-zone process to protect the area. This meeting tonight was not shutting Mr. Hansen down from operating a gravel pit; it was just limiting him to his existing gravel pit already in operation in the area. Mr. Hansen did not think that a lot of water would be necessary for the few weeks when it would be needed. In regards to the right-of-way concerning the road, Mr. Hansen had not fully researched that topic but understood that it was an easement across Carolyn Brady’s property and has been used for many years. Thought that the easement issue would hold up in his favor through the courts if necessary. In conclusion, Mr. Hansen asked that the Chairman consider tabling this issue at this point in time.

With no further comments being made a Motion to close the Public Hearing at 8:27 p.m. was made by **Commissioner David Tea** and seconded by **Commissioner Theron Eberhard**.

Chairman Richard Kimber asked Staff for their recommendation regarding this petition. Staff recommended that as the petitioner had not submitted the required documentation outlined in the Land Use Development Code for the County regarding Conditional Use Permits for a gravel pit, that the petition be table for 30 days to enable the petitioner to secure those documents from the EPA and also grading plans for the site. Also this petition could be tabled indefinitely until the EPA documents were secured. Staff referred to *Section 3.4.3.4 through 3.4.3.4.4* of the Box Elder County Code.

3.4.3.4 The Planning Commission shall approve only those preliminary design plans which the Commission finds:

3.4.3.4.1 To be developed in accordance with the intent, standards, and criteria specified in this Code and other applicable regulations.

3.4.3.4.2 To conform to an approved Concept Plan

3.4.3.4.3 To create no substantial financial hardship to the County

3.4.3.4.4 To create no substantial environmental consequence which will adversely impact upon adjacent properties and the health, safety, or welfare of the inhabitants of the county when weighed against the positive impacts of such development.

Scott Hansen (petitioner) stated that it would be much longer than the proposed 30 days for his engineering firm to be able to supply those required documents for this petition. Would probably not have them until sometime in the fall and asked that the petition be tabled indefinitely at this time.

MOTION: A Motion was made by **Commissioner Jon Thompson** to Table the application for the Conditional Use Permit for the Hansen Sheep Co., Gravel Pit; seconded by **Commissioner David Tea** and passed unanimously.

A short five-minute break was taken at 8:38 p.m.

NEW BUSINESS

NISH ROCK PRODUCTS LLC, CONDITIONAL USE PERMIT, LOCATED NORTH OF THE PLYMOUTH AREA.

Staff explained that this petitioner is seeking site approval for the expansion of an existing gravel pit. The findings of the Staff included:

- An environmental impact access as called for in the Section 3.3.1.2 of the Land Use Management and Development Code (LUMDC) was not required prior to concept approval being granted.
- Section 7.6 of the LUMDC regulates excavations.
- The County Engineer has not evaluated the site, nor has the petitioner submitted an engineered site design plan.

Commissioner Theron Eberhard asked about the scope and size of the existing pit and what the expansion would encompass. One of the petitioners, Wayne Buckley, was present at the meeting and explained that the existing pit consists of approximately 109 acres and there is an addition 600 acres available for purchase. At this point it is not known whether or not the land would be suitable for gravel excavation. If so, there would probably be only about 80 acres that would be added to the existing pit. The petitioners are looking for approval from the Planning Commission before going forward with the purchase of this property. A soil investigation report has been done on the 80 acres adjacent to the existing pit and it was found to be favorable for gravel, but that additional acreage would not be needed for another five years. The petitioners were looking for approval for the entire area. However, Staff explained that CUP permits are only good for one year beyond the approval date. **Commissioner David Tea** suggested that the petitioner reduce the size of the expansion to eliminate the possibility of additional gravel pit operators wanting to open pits on other parts of these 600 acres. Perhaps expanding to 80 acres at a time and then closing one area before opening another part of the property would be more acceptable to the Commission.

MOTION: A Motion was made by **Commissioner David Tea** to accept the concept plan for expansion of the Nish Gravel Pit and that the petitioner follow-up with the findings/recommendations of the Staff listed above and the suggestions of the Planning Commissioners. Motion was seconded by **Commissioner Jon Thompson** and passed unanimously.

CASTAGNO ONE-LOT SUBDIVISION, LOCATED AT APPROXIMATELY 38370 WEST HIGHWAY 30 IN THE SNOWVILLE AREA.

Staff explained that this one-lot subdivision is located in an un-zoned area of the County and is regulated by Section 3.2 (Concept Plan) and Section 7.7 (Subdivisions) of the Land Use Management and Development Code. The petitioner has submitted proof of all utilities and it was recommended that approval be subject to all technical requirements of the LUMDC being submitted, reviewed and approved by the County Staff prior to the subdivision being submitted to the County Commission for their approval. It was also recommended that a deferral agreement regarding the curb, gutter and sidewalk be signed by the petitioner(s).

MOTION: A Motion was made by **Commissioner Theron Eberhard** to accept the concept plan for the one-lot subdivision of the Castagno Subdivision and set a Public Hearing for the April 19, 2007 Planning Commission Meeting. Motion seconded by **Commissioner Richard Day** and passed unanimously.

ROCKET ROAD THREE-LOT SUBDIVISION, LOCATED AT APPROXIMATELY 10000 WEST ROCKET ROAD, SOUTH OF THE BOTHWELL AREA.

This three-lot subdivision is located in an area of the County that is currently un-zoned and the lots range in size from 0.57 to 0.67 acre. Staff explained that this one-lot subdivision is located in an un-zoned area of the County and is regulated by Section 3.2 (Concept Plan) and Section 7.7 (Subdivisions) of the Land Use Management and Development Code. The petitioner also needs to establish availability of water and approval from the Health Department for the septic system. Proof of all utilities must also be submitted before final approval will be granted. Staff recommended approval subject to all necessary LUMDC requirements being met and reviewed before submitting to the County Commission for their approval. It was also recommended that a deferral agreement regarding the curb, gutter and sidewalk be signed by the petitioner(s).

MOTION: A Motion was made by **Commissioner Theron Eberhard** to accept the concept plan for the Rocket Road Three-Lot Subdivision, with the remainder parcel, and set a Public Hearing for the April 19, 2007 Planning Commission Meeting. Motion seconded by **Commissioner Jon Thompson** and passed unanimously.

FERRIN SORENSEN ONE-LOT SUBDIVISION (WITH TWO REMAINDER PARCELS) LOCATED AT APPROXIMATELY 13600 NORTH 4400 WEST, NORTH OF THE GARLAND AREA.

Staff explained that this petitioner is requesting this one-lot split of 0.86 acre, which will front the north side of 13600 North. This will result in two remainder parcels of 12.22 acres and 19.43 acres. Staff explained that this one-lot subdivision is located in an un-zoned area of the County and is regulated by Section 3.2 (Concept Plan) and Section 7.7 (Subdivisions) of the Land Use Management and Development Code. There is a home currently located on the lot that is to be split, currently housing farm workers. Scott Grover, representing the petitioner, was present at the meeting and explained the purpose of this petition. Mr. Sorensen has a buyer for the two-remainder parcels. [Mr. Sorensen] basically wants to sell the farm without the property where the house is

located. Staff recommended approval subject to all necessary LUMDC requirements being met and reviewed before submitting to the County Commission for their approval. It was also recommended that a deferral agreement regarding the curb, gutter and sidewalk be signed by the petitioner.

MOTION: A Motion was made by **Commissioner Jon Thompson** to accept the concept plan for the Ferrin Sorensen One-Lot Subdivision with the remainder two parcels and set a Public Hearing for the April 19, 2007 Planning Commission Meeting. Motion seconded by **Commissioner Richard Day** and passed unanimously.

DIAMOND “S” RANCHETTES SUBDIVISIONS, LOCATED AT APPROXIMATELY 16800 NORTH 5600 WEST IN THE RIVERSIDE AREA.

Staff explained that this proposed 46-lot subdivision will cover an area of approximately 75 acres in an area of the County that is currently un-zoned and each lot would be about one acre. Staff stated the following findings concerning this petition.

- Concept approval for properties in the un-zoned area of the County is regulated by Section 3.3 (Concept Plan) and Section 7.7 (Subdivisions) of the Land Use Management and Development Code (LUMDC).
- The submitted concept plan does not address all of the items listed under Section 3.3 of the LUMDC (Concept Plan). While some items may not apply, the availability of urban services such as police and fire protection should be given a more thorough consideration prior to concept approval being granted.
- A market analysis required under Section 3.3.1.8 LUMDC was not submitted.

The petitioner also needs to provide proof of all services, i.e. utilities, water, septic, etc.; the petitioner indicated that they are currently working on getting those letters of availability. The petitioner has also spoken with the County Fire Marshal and Sheriff and because the property is located within the County those services would be provided. Ben Johnston, of Johnston Engineering, representing the petitioner was present at the meeting and discussed this concept plan with the Commissioners. **Commissioner David Tea** expressed some concern over the 60-foot wide strip of land located on the east side of the property between the existing canal and 16800 North; would this strip result in a weed patch? At the conclusion of the discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Theron Eberhard** to accept the concept plan for the Diamond “S” Ranchettes Subdivisions for review by the County Engineer and set a Public Hearing for the April 19, 2007 Planning Commission Meeting. Motion seconded by **Commissioner Richard Day** and passed unanimously.

POINT LOOKOUT ESTATES SUBDIVISION, LOCATED AT APPROXIMATELY 18400 NORTH 5200 WEST IN THE PLYMOUTH AREA.

This proposed 65-lot subdivision is located in an area of the County that is currently un-zoned and the proposed minimum lot size would be one-half acre. Ben Johnston, representing the petitioner, addressed the Planning Commissioners regarding this petition and answered questions regarding the canal that borders this subdivision on the north. There was also some concern regarding the seven lots that would be located on the southwest area of the subdivision where there is a slope of the

property. As this was submitted for concept review at this time, the petitioner has not yet submitted verification for all urban services and utilities, but the petitioner has been working toward getting those letters. There are two proposed roads that would access this subdivision and will need to have approval from UDOT. Staff recommended requiring an environmental impact study on this subdivision due to the canal and the slop of the property. Staff further recommended tabling this petition until the petitioner addresses all items lists under Section 3.3 of the LUMDC.

MOTION: A Motion was made by **Commissioner Jon Thompson** to accept the concept plan for the Point Lookout Estates Subdivisions for review by the County Engineer and an environmental impact study for the site being submitted. Motion included setting a Public Hearing for the April 19, 2007 Planning Commission Meeting. Motion seconded by **Commissioner Theron Eberhard** and passed unanimously.

UNFINISHED BUSINESS -- None

WORKING REPORTS

A work session is scheduled for Tuesday, April 10, 2007 with Pat Comarell and Karen Wikstrom.

PUBLIC COMMENTS -- None

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Commission Jon Thompson made a motion to adjourn the Planning Commission meeting at 9:45 p.m.; seconded by **Commissioner Theron Eberhard**.

Passed and adopted in regular session this 19th day of April 2007.

Richard Kimber

Richard Kimber, Chairman
Box Elder County
Planning Commission