

**MINUTES
BOX ELDER COUNTY
PLANNING COMMISSION
MARCH 24, 2005**



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

| | | | |
|-----------------|----------|---|------------------|
| Richard Kimber | Chairman | | |
| Jon Thompson | Member | <i>The following Staff was present:</i> | |
| Richard Day | Member | | |
| Clark Davis | Member | Garth Day | County Planner |
| Ann Holmgren | Member | Elizabeth Ryan-Jeppsen | Dept Secretary |
| David Tea | Member | Donnie Tarver | County Inspector |
| Theron Eberhard | Member | | |

Chairman Richard Kimber called the session to order at 7:03 p.m.

The *Minutes* of the regular meeting held on February 24, 2005 were made available to the Planning Commissioners prior to their meeting (March 24, 2005) for review. **Commissioner David Tea** suggested that some additional wording be included in the comments regarding the EMF's that was discussed by Mr. Steve Rush from Utah Power be included in the Minutes. Therefore the Minutes from the February 24, 2005 meeting were tabled for approval until the April meeting of the Planning Commissioners. The Motion to table was made by **Commissioner Jon Thompson** and seconded by **Commissioner David Tea**.

Citizen Present for the Planning Commission Meeting

| | |
|----------------------------|------------------------|
| John McGurie/Garland | Scott Grover/Tremonton |
| David Simmons/Plymouth | Kathleen Hanks/Ogden |
| Sherron J Simmons/Plymouth | Dixon Miller/Ogden |

SUBDIVISIONS FOR APPROVAL

CONSENT AGENDA ITEMS -- NONE

NEW BUSINESS

THE STEVENSON FARMS SUBDIVISION (27 LOTS) PHASE II, LOCATED AT OR ABOUT 10000 WEST 12250 NORTH IN THE BOTHWELL AREA.

Staff explained that this is Phase II of the Stevenson's Farms Subdivision in the Bothwell area. This Phase consists of twenty-seven lots and is currently zoned as RR-5 (five acre lots). The

improvements for Phase I of this development are not yet completed; this is only a conceptual review for Phase II. The County Ordinance limits the number of lots in a development to twenty-five, but this concept plan has twenty-seven lots; however, the twenty-five lots would end where there is no second egress and the developer would have to build the last two lots to meet with the 9200 West exit. Staff continued explaining that for the second phase to be considered for preliminary approval, the first phase would have to have 100% of the off-site improvements completed with the on-site improvements at seventy percent competition. One way to interpret that would be to consider that seven of the ten lots in Phase I have been built on; however when some of the lots are sold they are not built on until later (if at all, since one purchaser bought two of the lots and is only going to build on one of them). Other concerns of the Staff included:

- \\ The lot lines being radial; this is more important with smaller lots, but these lots are all at least five acres. (These lots will have at least 250 feet of frontage)
- \\ Make the interpretation that seven of the ten lots need to be sold, but not necessarily built on.
- \\ The Highline Canal and the Bear River Canal Companies need to be contacted prior to any further (preliminary or final) approval.
- \\ Documentation from all utilities needs to be provided.
- \\ Approval from the Bear River Health Department.

Suggestions made by the Planning Commissioners included:

- ☀ **Commissioner David Tea:** changing from twenty-seven to twenty-five lots, thus correcting the radial lot lines and solving the problem of only allowing twenty-five lots per phase; thus not setting a precedent for future developments.
- ☀ **Commissioner Theron Eberhard:** irrigation water needs to be sold with the lots as was done in Phase I. The infrastructure for the secondary water (from the Highline Canal) needs to be developed along with the other required infrastructures. Also on both ends of this development there are two narrow bridges and will probably have to be widened in the future due to the increased traffic flow.

After some further discussion between Staff and the Planning Commissioners it was determined that the County Attorney would be consulted regarding interpretation of the seventy percent competition requirement.

MOTION: A Motion was made by **Commissioner Clark Davis** to accept the concept plan for Phase II of the Stevenson's Farm Subdivision for review. The motion was seconded by **Commissioner Theron Eberhard** and passed unanimously.

MINOR ZONING UPDATES – BEAVER DAM; 900 NORTH IN BRIGHAM CITY AND THE (JACK'S) AIRPORT OVERLAY

Staff discussed the areas of the County that need to be addressed regarding some minor zoning updates. They included:

- **Jack's Airport Overlay zone:** an overlay petition was started to have the airport zoned and then Tremonton annexed much of the area that was in the overlay into its city. However the overlay to the northeast still needs to be considered.
- **The Beaver Dam area:** in about 1996 the area along Highway 30 was zoned as RR-2 for a distance of 400 feet extending on both sides of the road. The remaining area was zoned as MU-40. However there are still some existing homes in the area that are in the MU-40 area and should be in the RR-2 area. Since some residents are currently in the MU-40 area they would be considered as nonconforming and Staff recommended that the zoning of RR-2 be expanded to include those existing homes.
- **900 North in Brigham City:** (in the unincorporated portion of the County) the area is zoned as A-20 but it is really an industrial area and should be rezoned to conform to its current use.

Public hearings will need to be held, but it would be possible to include all three in the same meeting. **Commissioner Richard Kimber** suggested that Staff get a map of the proposed areas for the Commissioners to review before the time for a Public Hearing is set. Staff asked the Commissioners if there were any other trouble spots in the County that the Commissioners were aware of that could also be included in this process. None were mentioned. (No Motion was necessary)

DOVE CREEK AREA RE-ZONEPETITION FOR PROPERTY CURRENTLY ZONED MU-40 TO RR-10 IN DOVE CREEK LOCATED SOUTHWEST OF PARK VALLEY.

Staff reviewed the five maps included in the Commissioner's packets showing the Dove Creek Farms and Ranches and continued the discussion that began at the February 24th meeting in order to determine how to proceed regarding the zoning of the area. Staff stated that the Minutes of past meetings regarding the Dove Creek area (various phases) were reviewed and nothing was found indicating that a Home Owners Association was required as part of the approval process by the County. The HOA was implied but was not a condition of the approval; however the notes included on plat map *Sec. 36, T.13N, R.15W and Sections 1, 2, and 11, T.12N, R.15W. S.L.M* (applicable for all sheets) states:

1. *"The roads within the private road easements shown hereon are for the use of the lot owners within the subdivision of Dove Creek Farms and Ranches: and their guests and are not dedicated to Box Elder County. The County assumes no responsibility for the construction, maintenance or upkeep of said roads. Lot corners that fall within the private road easement will be marked with offset stakes as indicated on the map sheets. These offset stakes will be set at the intersection of the westerly and/or northerly easement lines with the lot lines, staking lines (see note 2) or other easement lines."*
2. *"The 15 foot access and utility easements shown hereon are for the installation and maintenance of utilities, for owner's access to the rear areas of lots and for use as pedestrian and equestrian pathways by the lot owners within the subdivision and their guests and are not to be blocked. Lot corners that fall within these easements will be marked by offset*

stakes set at the intersection of an offset line lying 8 feet westerly of the north-south lot lines with the east-west lot lines or the north lines of the private road easements.”

3. *“Liquid waste disposal shall be by means of individual septic tank systems or holding tanks. It shall be the responsibility of the lot purchasers to satisfy pertinent County and/or state regulations pertaining to the type of system used and its installation.”*
4. *“Tracts A thru F are reserved for possible future development.”*

The issue that still exists is that a majority of the lots within the Dove Creek area do not have access via an improved road or dedicated county road. The solution that was suggested by Staff (since the HOA was not a condition of the approval), was to not allow any further building permits (or use permits) be issued for lots within the Dove Creek area that do not have frontage or access on a dedicated county road. The only other way that a building permit could be issued would be for the (property) owner to improve a portion of the road leading to their property/lot to county standards and dedicate said road to the county. If the road is not to County standards it could cause a problem if an emergency vehicle needed to get to one of these lots on the unimproved roads. This could be an involved process if the lot owner’s property was two or three, or even several lots away from the county road. Staff also stated that it should not be necessary to re-zone the area since they (the lots) were created legally, but attaching some sort of notice to each of the lots stating that unless there is frontage on a dedicated county road, no building permit would be issued for that lot. This would enable the title insurance company to be informed in the future when additional lots are sold. The major property owner is still the developer with about fifty percent of the lots still in its possession. Staff concluded that it would be necessary to speak with a title company and also an attorney to determine how to stop the issuing of building permits. It will also take some action from the County Commission for final approval. Because all of the roads in the Dove Creek area are private roads, the County Code requires that the Planning Commission approve all private roads.

In conclusion, **Chairman Richard Kimber** stated: *“Could I suggest to the Commission that maybe we direct Garth to pursue this . . . I think we need a legal opinion relative to this issue and then pursue what you feel necessary and bring it back to us at a later meeting -- something’s got to be done for the safety of those people out there and not impose a tremendous burden on the County.”*

MOTION: A Motion was made by **Commissioner Clark Davis** to have Staff follow the advise/recommendation of **Chairman Richard Kimber** and pursue the matter further. The Motion was seconded by **Commissioner Jon Thompson** and passed unanimously.

The next item of business that Staff discussed with the Planning Commissioners was the Certified Citizen Planner Seminar being held either on April 7-8, 2005 in Payson or June 9-10, 2005 in North Salt Lake. **Commissioner Richard Kimber** indicated that he would be interested in attending the June meeting.

The last item discussed was the terms of the Planning Commissioners. Two of the Commissioner terms are currently in need of either reappointment or re-assignment. **Commissioner Ann Holmgren-Jensen’s** term expired in March 2004, as did **Commissioner Theron Eberhard’s** appointment.

Currently **Commissioner David Tea** and **Commissioner Jon Thompson's** terms expire this month, March 2005. Staff asked that those whose term had expired last March or this March to let either **Chairman Richard Kimber** or Staff know if they would like to continue serving on the Planning Commission. (No changes were made in March 2004 because of the re-zoning and planning for the Bothwell area that was in process.) The appointment term is for a three-year period.

PUBLIC COMMENTS

Kathleen Hanks: *"I've got two questions regarding Dove Creek -- and at the last meeting, someone on the board mentioned was there anyway to hold the developer responsible for upgrading these roads? I was just wondering if that was looked into? Also, you talked about going through the steps for regulating the building permits. To get to that point. . . I was just wondering what steps will have to be gone through so that I just know what the process is.*

Commissioner Clark Davis stated that was part of the research that was done by the Staff in preparation for this meeting and that the HOA was not part of the original approval conditions. Therefore all of the property owners, including the developer, are responsible for the improvement of the roads. As for the steps regarding the building permits, Staff will have to discuss that with legal council. The Planning Commission would not pursue the developer . . . that would be up to the residents. More research will need to be done before an ordinance is drawn up for that purpose. The next step is to find out what the legal steps are and then bring it back to the Planning Commission for more discussion. Staff stated that one of the first steps would be to determine which properties don't have adequate frontage on a dedicated county road.

Sharon Simmons: *"We're one of those interior lots, where we have to go past several other lots down to our place. The road, the excuse for a road is dismal, but how many lots is it down to our place? Eight? Something like that. I think that it is about a mile from the county road down to our place. We've just spent thousands of dollars to get our well in, we've been irrigating. . . my husband,. . . we were planning on building this year . . . we are kind of in a basket. With the HOA going away. . . what they've done is kind of, in my opinion on that is that how they have done it is illegal. . . but I don't have the money to fight them. We lived in Canada when we bought it (1977). When we bought it was totally represented different than it actually was. We were basically lied to. We were told that the roads would be put in, when we bought; actually the roads were in a lot better condition when we bought. Nothing has been done in the last twenty years.*

Staff stated that from the time that building permits are issued there is a time of 180 days and during that time some progress has to be made on the construction. There may be some landowners that already have permits issued to them and those landowners will be caught somewhere in the middle with all that is occurring regarding this issue.

The Planning Commission meeting was adjourned at 8:15 p.m.

Passed and adopted in regular session this 21st day of April 2005.

Richard Kimber, Chairman
Box Elder County
Planning Commission