

**ORDINANCE NO. 278**

**AN ORDINANCE OF BOX ELDER COUNTY, UTAH, AMENDING THE BOX ELDER COUNTY GENERAL PLAN BY ADOPTING THE BOTHWELL COMMUNITY PLAN; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON PUBLICATION AFTER FINAL PASSAGE.**

WHEREAS, the Box Elder County Planning Commission, after notice and public hearing as required by State law, has prepared and approved a community plan for the Bothwell Community Planning Area and recommended to the County Commission that the Box Elder County General Plan be amended to include the Bothwell Community Plan; and

WHEREAS, the Box Elder County Commission, after notice and public hearing as required by State law, has determined that the proposed amendment to the Box Elder County General Plan is in the best interests of the County.

**NOW, THEREFORE, the Box Elder County Commission hereby ordains:**

SECTION 1. General Plan Amended. The Box Elder County Commission hereby amends the Box Elder County General Plan by approving and adopting the Bothwell Community Plan, as detailed in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon publication after final passage.

**PASSED, ADOPTED AND ORDERED PUBLISHED this 7<sup>th</sup> day of December, 2004.**

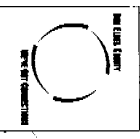
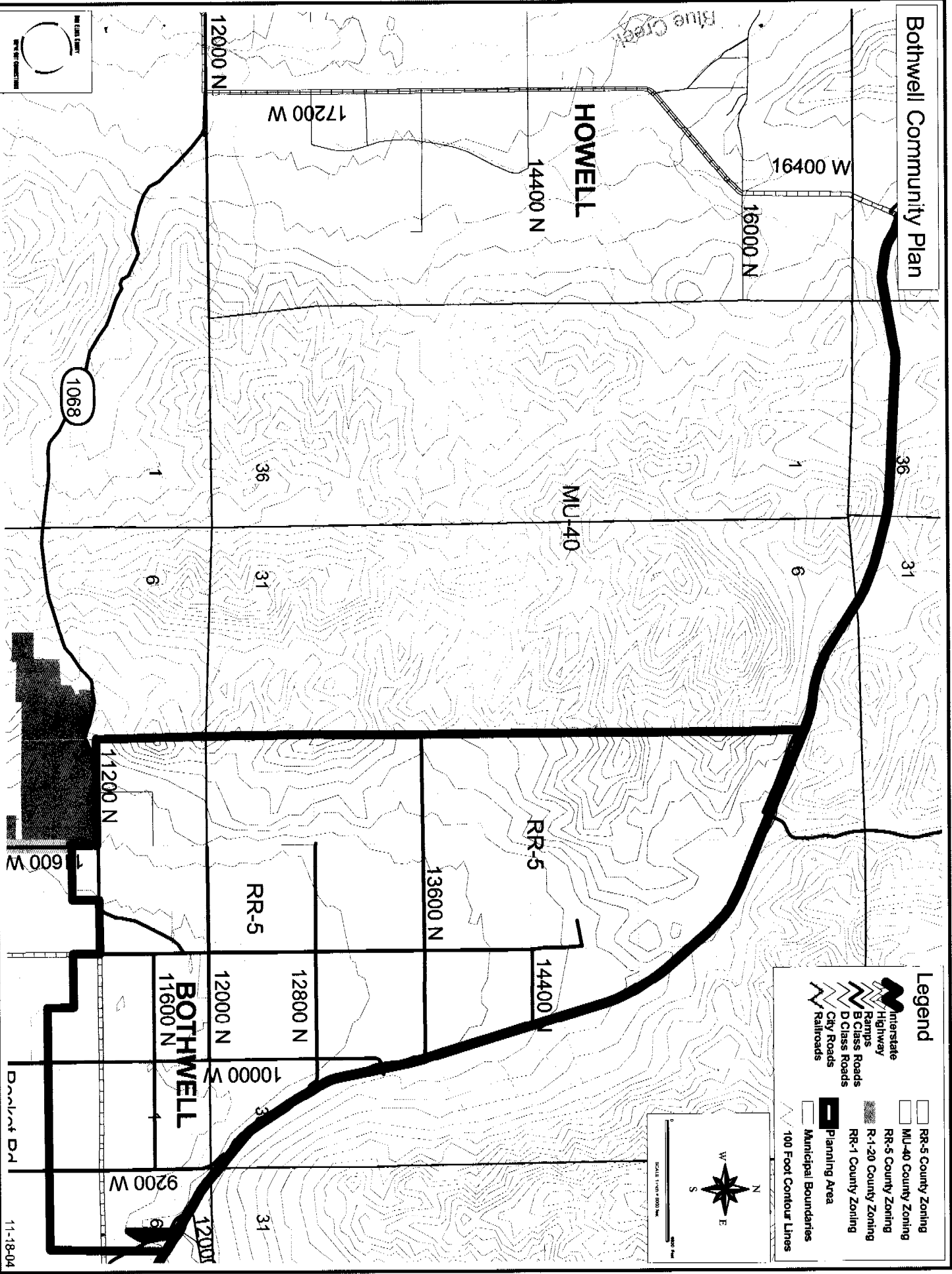
  
Suzanne Rees  
Box Elder County Commission Chair

# Bothwell Community Plan

### Legend

- Interstate Highway
- RR-5 County Zoning
- RR-40 County Zoning
- RR-5 County Zoning
- R-1-20 County Zoning
- RR-1 County Zoning
- Planning Area
- Municipal Boundaries
- 100 Foot Contour Lines

SCALE: 1 inch = 1000 feet



# Bothwell Community Plan

## Report from Pat Comarell, Planning Consultant

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### **Background**

The Planning Commission appointed eleven citizens to a Bothwell Community Plan Advisory Committee. Those individuals were:

Deloris Stokes	9220 W 11600 N	854-3920
Randy Marble	11005 N Wallace Lane	854-7422
James Bingham	10010 W 11600 N	854-3876
Tamera Newman	11495 N 10800 W	854-3854
Katherine Summers	9660 W. 11200 N	854-3376
Roger Fridal	621 E Main	257-3376
Lynn Rindlisbacker	10305 W 13600 N (801)	628-9015
Jill Christensen	11820 N 10000 W	854-3818
Krys Oyler	664 N 2300 W	279-5167
Floyd Egli	11680 N 9000 W	854-3849
Reese Anderson	9985 W 11600 N	854-3691

### *Alternate Member*

Eric Olsen 8825 W 11200 N 854-7402

Ms Stokes chose not to serve, and Mr. Egli, and Mr. Olsen were unable to attend regularly.

### **Summary of Meetings**

The table at the end of this memo indicates the various meetings and discussion topics that have been held regarding the Bothwell Community Plan. There were several key meetings:

- The group brainstormed what their concerns or fears were going into this process, and what information they would like (see list attached).
- Dr. Robert Oaks presented an analysis on that area in terms of water and soils. He felt that development would have little impact on the amount of water (as farming takes more water than households), and there would be areas that would be undevelopable or would need special engineering to address challenges with the soils (as it related to using

*Ann  
Helm  
Jensen*

septic tanks). He presented a great deal of scientific data to substantiate his conclusions.

- The Advisory Committee over several meetings discussed zoning options.

***Bothwell Community Plan*** The Advisory Committee's recommendations include the following:

- Move Community Plan boundary on the south end northward to the boundaries of the existing RR-5 zoning boundary. Also the east boundary between 10400 N (Rocket Road) and 11200 Northwestward to the RR-5 zoning boundary.
- Zone the area west and north of the existing RR-5 boundary to RR-5 to provide uniformity throughout the community
- Zone the mountains MU 40.

The final vote of the Bothwell Advisory Committee to zone the areas as outlined above and on the maps was 5-3 with one member absent.

***Minutes of these meetings are attached.***

## Bothwell Community Plan Log

10/23/03	Town meeting	Conducted by Planning Commission, presentation of background report and discussion of issues
12/4/03	Advisory Committee meeting	Discussion of plan framework, balancing tests, what the planning process is, and what is expected from committee members
1/8/04	Advisory Committee meeting	Discussion of what individuals fear, and information the committee wish to have
1/22/04	Advisory Committee meeting	Dr. Robert Oaks, geology, attended meeting to discuss environmental issues
2/5/04	Advisory Committee meeting	Discussion of various planning and zoning questions. Committee began to discuss possible zoning for the north end of Bothwell
2/26/04	Advisory Committee meeting	Continued to discuss zoning options and review the development process
4/1/04	Advisory Committee meeting	Continued to discuss zoning options and review the development process
4/8/04	Advisory Committee meetings	Discussed zoning options and compromised on R-3 in the area between 12800-12600 North, 10800 W to the freeway. Wanted to go out and talk with Bothwell Residents
5/6/04	Advisory Committee Meeting	All but two (one wanting 1 acre, another 5 acres) agreed to the 3 acres compromise. They decided d to present to Bothwell citizens and to the Planning Commission with two maps – one with R-5 or R-3 as options. The other areas which were originally included in the moratorium would be zoned A-20.

<b>5/29/04</b>	Presentation to Planning Commission	The Planning Consultant presented an overview of the Committee's discussion so far on the Community Plan
<b>5/15/04</b>	Committee meeting w/ the Plan Comm.	
<b>9/23/04</b>	Joint public hearing w/ Bothwell Adv. Com and Plan Comm.	
<b>10/14/04</b>	Bothwell Advisory Committee meeting	The Committee met to discuss the comments from the public hearing and to make adjustments in their recommendations
<b>10/21/04</b>	Continuation of public hearing of the Planning Commission	The Advisory Committee presented their final recommendations to the Planning Commission. The Planning Commission voted to recommend the proposed plan to the Box Elder County Commission for final approval.
<b>12/7/04</b>	County Commission	The Bothwell Community Plan was presented to the Box Elder County Commission for their consideration.

## **Bothwell Town Meeting Concerns**

**October 23, 2003**

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- Maintaining the agricultural atmosphere
- Zoning choices to provide lots for our children
- Amount of animals allowed on the acreage
- Availability of water
- Septic tanks vs. sewer system
- Septic tanks impact on water system
- Road systems
- Building on top of water sources
- Preserving of prime agricultural land
- Increased traffic
- Substantial developments may impact property rights, e.g., pumping
- Zoning options to provide choices

# **BOTHWELL COMMUNITY ADVISORY COMMITTEE**

## **Introduction at First Meeting, December 4, 2003**

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### ***Framework***

- Utah State Laws
- Federal Laws
- Court Cases
- Box Elder County General Plan

### ***Other Things to Consider***

- Balancing Tests
- Information you request or that is available
- Addressing your fears

### ***What is the Process***

- Advisory Committee determines their recommendations
- Advisory Committee presents recommendations to the Planning Commission
- Planning Commission holds a public hearing
- Planning Commission determines their recommendations to the County Commission: they may change, add to, or subtract from the Advisory Committee's recommendations
- County Commission makes the final decisions

### ***Parts of the Community Plan***

- Policies
- Zoning and zoning map
- Guidelines for the Future
- Action Items

### ***Plan and Zoning Changes***

- Anyone can ask for a change to the Community Plan and zoning at any time
- When such a request happens, notices go out to let you know of the proposed change
- The Planning Commission must review such changes and make their recommendations to the County Commission
- The County Commission makes the final decisions

### ***What is expected of you as a member of this committee***

- Basic courtesy
- Attend the meetings
- Share your perceptions, hopes and wishes for the community
- You will make every effort to reach consensus



**Bothwell Community Plan Advisory Committee**  
**Fears and Issues**  
**January 8, 2004**

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- **How to maintain the public trust**
  - Change of lifestyle – rural agriculture
  - Response to the petition that was signed requesting RR-5 zoning
- **Accuracy of the information presented** – before making a decision based on what some describe as fact, pursue more information to ensure that our assumptions are correct.
- **“Protection of personal property rights within planning for all concerned”**
  - How is this defined by the Committee –
  - What are the balancing tests in applying these to the Community Plan
- **Environmental**
  - Flooding problems
  - Building on the aquifer
  - Contamination of the aquifer by developments
  - Impacts of development on environment, e.g., wildlife
  - Impacts of septic tanks
- **Open Space** -- Preserve greenbelt
- **Water Rights**
  - Intrusion of salt
  - Over allocation
  - Possible actions by State Engineer
  - When the Water Conservation District started withdrawing water from smaller areas, what impact did it have on neighbors
- **Development Tools**
  - What is required of developments, e.g., geologic concerns, soil tests, road standards, bonding
  - How zoning works
  - Housing standards and family options
  - Other development tools
  - Code compliance
  - Number of animals allowed on one acre
- **Adequacy of infrastructure, e.g., roads, traffic patterns, sewers, irrigation systems**

## Bothwell Community Plan Advisory Committee

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At the Committee's meeting on **February 26<sup>th</sup>**, the Committee came to a preliminary consensus on the following:

- Improve certain collector roads (12000 N, 12800 N and 13600 N from 10800 West east to the frontage road) to provide travelers with several options to the frontage road in the hope that they will take these easier paths and not traverse through the heart of Bothwell and increasing traffic on 10800 West.
- The southern boundary was moved from Rocket Rod northward to follow the boundary line of the current RR-5 zoning. The Committee felt that the area between the RR-5 to Rocket Road really identified more with Thatcher.
- The existing RR-5 zoning would remain now and as the only option in the "Guidelines for the Future"
- The mountainous area on the west side of Bothwell should be zoned MU 160 now and in the future.

Also at this meeting on the 26<sup>th</sup>, the Committee discussed the plan and zoning that West Corinne had done, and asked to see the maps at their next meeting.

At this **March 11<sup>th</sup> meeting**, the staff presented the West Corinne maps: The areas to be zoned immediately, and the community plan map, which showed options for the future. The committee asked a dozen questions of why this or that was proposed for zoning the way it was, and the staff responded.

Once that discussion was concluded, Jill Christensen presented a paper entitled, "Zoning Proposal for Bothwell Pocket" (attached). This proposal was discussed and flowed into a discussion of how each person on the Committee viewed possible zoning. There appeared to be a consensus that:

- The part of Bothwell north of 13600 North should be zoned agriculture now with possible alternative zoning in the future. (Krys Oyler was not present at this meeting and they wanted his reaction before this became a definite recommendation).
- The Committee **does not favor** cluster housing or the use of Transfer of Development Rights.
- It is important that the development of the entire Bothwell pocket should have a continuity or uniformity about it so it comes together as a community.

**Discussion for the next meeting on April 1st.** The area of most concern and of which the Committee members had differing views was the area between 12800 – 13600 North. This area is where the soils are best for development, has strong water pressure, and the Committee will need to decide whether to provide several zoning options for the future.

**Moratorium extension.** The Committee also directed the Community Development Director to request the County Commission extend the moratorium for another six months to ensure this planning process is completed before any further projects be considered for development.

**Criteria for development.** One issue of rezoning to possible non-agricultural uses in the future is the timing of development. Options are given in “Guidelines for the Future,” but giving such options does not promise a rezoning when it is first requested. What criteria would be used to determine if the time is right for development? Staff is working on this, but a few items come quickly to mind:

- County services can be provided
- Review of possible environmental restraints, e.g., wetlands, floodplains, etc
- Water availability
- Ability to meet zoning requirements
- The area is in transition from agricultural use to other uses

## **Bothwell Community Plan Advisory Committee**

### **April 1, 2004**

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The meeting started with a overview of what was covered in the last meeting.

- Improve certain collector roads (12000 N, 12800 N and 13600 N from 10800 West east to the frontage road) to provide travelers with several options to the frontage road in the hope that they will take these easier paths and not traverse through the heart of Bothwell and increasing traffic on 10800 West.
- The southern boundary was moved from Rocket Rod northward to follow the boundary line of the current RR-5 zoning. The Committee felt that the area between the RR-5 to Rocket Road really identified more with Thatcher.
- The existing RR-5 zoning would remain now and as the only option in the "Guidelines for the Future"
- The mountainous area on the west side of Bothwell should be zoned MU 160 now and in the future.

The Committee as several questions:

- Once zoned, can one change to another zone? Yes, with an application to the Community Development Department. If the zone you request is not an alternative presented in the Community Plan, you must also request a plan amendment.
- Can the County zone a property to a zone that the landowners does not want? Yes, The County looks at the health, safety, and welfare of the entire community. If an owner does not want the zone, they can protest at the public hearing or later take the County to court.

The Committee was then asked to express what they thought the zoning in the various areas should be:

- **Roger Fridal** – When the committee started, he didn't like being dictated to. Now he sees that zoning won't affect very few in the middle of the valley – those who might one acre or two acre lots. He can deal with houses because he feels it is all about being good neighbors and he has not had any problems. He feels Lynn on his one-acre lots should be able to develop.
- **James Bingham** – He has supported the existing RR-5 zone in Bothwell. It has not shut off using the ground; we still have growth. If lot sizes were too

small, it would have a concentration which may lead to vandalism, trespassing, and moving agricultural equipment. It is hard to guarantee agriculture once this process gets started. Agriculture has to change and adapt, lose ability to adapt because frozen in the use. At the same time, that is part of the democratic and political process – Individual can choose where they live and that brings in new people.

- **Lynn Rindlisbacker** – His ground is not the best for agricultural use, so much sand. Agriculture takes more water than residential use. In the existing RR-5, homes get well water. Lynn’s property has a water line near it that he will extend to his property. He is building Ranchetts which need at least one acre.
- **Randy Marble** – He felt the property from 11600 W. west should be in agriculture or mixed use zone. He would like one-acre lots for his property on 10800 West.
- **Krys Oyler** – Krys was okay with mixed-use zone because he plans only to farm his land. The Staff suggested agricultural zoning which gives him more options to change uses if he needs in the future.
- **Reese Anderson** – He feels property owners have a right to farm. The discussion then moved into agricultural preservation areas.
- **Jill Christensen** – We have already lived with the restrictions of the RR-5. People who want to develop the land do not live here. Development is not worth the money.
- **Kitty Summers** – She likes the five acres and feels it works
- **Tamera Newman** – She also supports the five-acre zone. That is the zone people who live here want. Others should not change what we have long enjoyed. She, and those who have been calling her, still wants RR-5 zoning.

The Committee then discussed the plan options – what to recommend for now, and what for the future (“Guidelines for the Future” as part of the plan). The discussion went on for a while.

**Consensus so far:**

- All agreed that the area north of 13600 North should be agriculture zoning (A-20)
- Mountain area on the west side of Bothwell to be zoned mixed use (MU 160)
- Slope of hill east to existing RR-5 zone to be A-20
- Area between 12800 North to 12600 North and from I-15 to A-20 zoning on the west is still undecided.

## **Bothwell Community Plan Advisory Committee**

**April 8, 2004**

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The Committee met to discuss the zoning for the area between 12800 and 13600 North from the frontage road to the mountain.

Staff went described the differences between permitted, conditional, and nonconforming uses. The Committee asked questions about what was allowed in the various zones under consideration.

Krys Oyler expressed that he thought ½ acre is not large enough to have a house and a horse too. So the ½ acre lots become dust bowls. Krys also indicated that he would like MU 160 for his property in the northern part of Bothwell. Staff indicated they would put together a summary of what is allowed and the conditions of the MU 160 and A-20 zones for the next meeting.

Randy Marble raised a question about the area east of the mountain (on the west side of Bothwell) indicating that that area was not within the original community line presented at the town meeting and therefore those people did not comment at the town meeting. The Committee decided that there was no evil intent if the line was moved and if that area is to be zoned, it will be brought up at the public hearing so they can get the concerns of the property owners. The Committee asked that property owners be added to the map that already has some property owners listed.

Some Committee members felt it was not their right to tell others they could not move into Bothwell. Others responded that we are not telling people they can't come into Bothwell, but to come in on similar lot areas as those who are already have.

The Committee also discussed the interaction between farms and residential uses, and that farmers have a right to continue to farm (e.g., graze animals, spray crops, burn).

Staff asked if there was any way to compromise on zoning in this area. There was little response. At one point, one member indicated that maybe it was a standoff and two options be presented to the Planning Commission. Roger Fridal then expressed that surely as adults we can figure this out and asked the Committee whether they were willing to talk compromise. After some discussion, some said they could live with zoning of three acres, some comfortable with three acres if they could get one acre zoning in the future. Lynn Rindlisbacker indicated he needed one acre on his property on 0800 West, but would settle for two acres on his land on 12800 North. Those who were on the committee and had circulated a petition for the RR-5 zone indicated they could see a compromise might be needed, but they wanted to go back to talk with those who signed the petition (and whom the committee members felt they represented).

The meeting ended with three-acre compromise still on the table and the need to talk with members of the community about it. As yet, the committee has not confirmed the request of some to have one-acre lots now or in the future.

*Bothwell Community Plan Advisory Committee*

**Planning Consultant: Pat Comarell**

Meeting: May 6, 2004, Community  
Development Conference room, 6:30 p.m.

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**Background**

*At our last meeting, the Advisory Committee continued to talk about zoning alternatives. See notes attached.*

At the Committee's next meeting, the zoning discussion will continue with a focus on the area from 12800 to 13600 North.



**Bothwell Community Plan Advisory Committee**  
**May 6, 2004**

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At the last meeting, the committee discussed an option of RR-3. The committee members indicated they wanted time to go back and discuss these options with the citizens they represented. The Committee agreed to do that.

In the last few weeks, committee members did talk with members of the community. Jill Christensen indicated she could see a need for a compromise, but those she spoke with still want five acres. Kitty (Katherine) Summers concurred.

Tamera Newman presented paper regarding zoning feedback. Why northern zoned to more intense uses than those in the RR-5 to the south?

Lynn Rindlisbacker indicated he felt some on the committee need to look at private property rights and allow some to develop.

James Bingham indicated there needs to be uniformity of the zones.

Randy Marble felt there needed to be a balance between diversity versus uniformity. The majority should not try to intimidate others because they have other ideas for their land. He felt that violated his private property rights.

Roger Fridal indicated he felt those who do not live in the area under dispute should not dictate what the property owners of this land can do with it. It is like Tremonton telling Garland what to do.

The Committee felt that there was not going to be further progress on this plan and asked the planning staff to set up a meeting with the Planning Commission. They all agreed that two maps be presented indicating the differences of opinions on what the zoning should be.

The Staff indicated they would prepare the maps and talk with the Planning Commission regarding a joint session with the Commission and the Committee.

*Bothwell Community Planning Advisory Committee  
July 7, 2004*

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The staff gave an overview of the Bothwell issues to the Planning Commission on May 20, 2004. The Commission also was provided with the notes from the various meetings held by the Committee. At the request of the Committee at their last meeting, two maps were presented to the Commission illustrating the two perspectives of the Committee members. Once this was given, the Planning Commission scheduled a meeting with the committee for July 15<sup>th</sup>.

After this meeting, the Planning Staff received a letter (signed by most of the committee members) requesting an additional meeting (before they meet with the Planning Commission) to see if a consensus could be reached. The Planning Staff then sent out notices to the committee members of a meeting scheduled for July 7<sup>th</sup>, and postponed the meeting with the Planning Commission until the Committee felt they were ready with their final recommendations.

**As the meeting began, individuals expressed their views. These are summarized as follows:**

James Bingham – The area needs a zone that is fair to all. If the area solidifies two different areas, it would be worse of both worlds. The area needs uniformity on how to rules are applied.

Tamera Newman – What advantage is there for farmers? They will have to pay higher taxes.

Lynn Rindlisbacker – Once developed, the abutting land is worth more

James Bingham – That is your perspective, not all want to develop their land

Lynn Rindlisbacker – If they want to farm, ok, but others can do either

James Bingham – Your actions freeze options for others, i.e., the neighborhood will have less options

Kitty (Katherine) Summers – She does not want the property taxes to go up for those who choose not to develop

Lynn Rindlisbacker – But you would be taking my right to develop it

James Bingham – Develop has trickle down effects, e.g., new appraisals on uses increases values, then taxes and estate taxes

Lynn Rindlisbacker – Are you saying, you do not want value to go up?

Tamera Newman – We done want our costs to increase, e.g., inheritance taxes

James Bingham – It also increases capital gains taxes

Randy Marble – We just want to protect our right to develop in future

James Bingham – If agriculture does not work here, where is it applicable?

Lynn Rindlisbacker – Inheritance tax depends on how you set up your assets, e.g., Trusts

Randy Marble – Farming moves to better place to farm, urbanization put pressure on farming

Tamera Newman – Bothwell is fifteen square miles, the market not demanding development. Lynn knew from the beginning Bothwell did not want development

James Bingham – Bothwell does not have the water to develop further. To provide water for development would be increasing the charges for water – privatize the benefits

Lynn Rindlisbacker – That’s why they should charge impact fees

James Bingham – The water company already had to increase fees to meet EPA standards

Randy Marble – They may have other choices, i.e., Marble Hills has its own water system

Jill Christensen– We favored RR-5, but we have begrudgingly agreed to a compromise of RR-3. Lynn still wants RR-1 and has not made any concession (Lynn disagreed with this statement indicating he agree to RR-3 on his other parcel of land to the east.).

Roger Fridal – Why do people south of this area get to dictate to the property owners in this area how to use the land from 12800 North to freeway? Where is Bothwell?

Tamera Newman – The property owners in this area do not live in Bothwell and deciding what is best for our community

**James Bingham – Planning Commission needs some sense of what the committee felt. He made the motion to zone the area RR-3 from 10800 West east to I-15 and from 12800 North to 13600 North. The vote passed 5-3 with one absent.**

**Bothwell Advisory Committee**  
**October 14, 2004**

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A member of the Bothwell Advisory Committee asked the staff to call this meeting to see if the committee wanted to make any changes to their recommendations.

**Randy Marble** started by apologizing to anyone he might have offended with his comments. He values farmers and did not want to be seen as saying anything that didn't support them. He then went on to suggest the Committee recommend everything north of 12800 be rezoned to A-20 with RR-1 in the future. His concern was the amount of traffic in the area; the dust also is a problem. Also, the infrastructure will determine which land is the most valuable and ready for development.

**Jill Christensen** indicated that based on what the people said, she wants to honor their petition and recommend that whole area (north of 12800) be zoned to RR-5.

**Jim Bingham** indicated that he did not feel anyone packed the room for the public hearing. He feels they genuinely support the RR-5; at least 75-80% of the community. He stills feels there needs to be a uniformity throughout the pocket and it is clear the majority supports RR-5.

**Roger Fridal** indicated he thought Lynn Rindlisbacher has his rights that people are trying to hinder. Most who spoke do not live in the area they want zoned. The owners in the area of discussion (i.e., Krys Oyler and Jim Bingham) have supported the RR-5. It would be best not to infringe on private property owners rights and still do what is best for the community, but he does not know where the balance lies. He wants to keep his options open, not now but in 30-35 years when he wants to be able to sell his land. In his opinion, three acres is no different than five acres – it is too much for individuals to maintain, irrigate, or groom.

**Krys Oyler** was concerned that the valley be respected.

**Motion:** Randy Marble made the motion, seconded by Roger Fridal, to recommend zoning everything north of 12800 to A-20 with a future RR-1 option. This motion failed by a vote of 3-5, with Randy Marble, Roger Fridal, and Lynn Rindlisbacher voting for, and Tamara Newman, Jill Christensen, Kitty Summers, Krys Oyler and Jim Bingham voting against; Reese Anderson was not present.

**Motion:** Jill Christensen made the motion, seconded by Tamara Newman, to recommend zoning everything north of 12800 to RR-5. This motion passed by a vote of 5-3, with Tamara Newman, Jill Christensen, Kitty Summers, Krys Oyler and Jim Bingham voting for and Randy Marble, Roger Fridal, and Lynn Rindlisbacher voting against; Reese Anderson was not present.

Further discussion took place regarding the zoning for the mountain area, which the committee previously recommended as MU 160. **Jim Bingham, seconded by Kitty**

**Summers, made a motion** to recommend zoning this area as MU 40. This motion passed 6-1 (Lynn Rindlisbacher) with one abstention (Roger Fridal), and one absent (Reese Anderson).

**Randy Marble** asked the Committee if it would agree to recommend to the County Commission that the roads in the Bothwell area be improved as they are a health problem and are dangerous. There have been several turnovers. Others felt it was because of the speed some drive, and they did not want the roads improved as that might raise their property taxes.

The Committee then voted to adjourn.