

# MINUTES

## BOX ELDER COUNTY PLANNING COMMISSION

### JULY 16, 2009

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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	<i>the following Staff was present:</i>	
Chad Munns	Excused		
Desiray Larsen	Member	Kevin Hamilton	Director
David Tea	Member	Elizabeth Ryan	Secretary
Jay Hardy	Member	Tamara Wright	Planner
Jay Christensen	Member	Steve Hadfield	Co. Attorney
Laurie Munns	Excused		

**Chairman Richard Day** called the Planning Commission meeting to order at 7:06 p.m. The Minutes of the June 18, 2009 meeting were made available to the Commissioners prior to this meeting and upon review; **Commissioner David Tea** noted that he and **Commissioner Jay Hardy** were listed as having been excused from the meeting, when in fact they were both in attendance. At that point **Commissioner David Tea** made a Motion to accept the Minutes correcting the attendance error; seconded by **Commissioner Jay Christensen** and passed unanimously.

The following citizens were present:

Bruce Beck/SLC	Bob Pierson/Taylorsville
Tex Couch/S Willard	Jake Larson/Garland
Susan Larson/Garland	Brian Rose/Willard
Danny MacFarlane/Providence	Jay Lynn Staheli/Garland
Laurie Staheli/Garland	Dale Barnett/South Willard
Wayne Buckley/Nish Rock Products	

#### **PUBLIC HEARINGS**

**Chairman Richard Day** informed those present that this was the time set for the public hearings on the various petitions on the agenda. The Commissioners would listen to the comments and concerns, but this was not a questions/answer time. The **Chairman** then called for the hearing of the first petition.

#### **CONDITIONAL USE PERMIT CUP09-016, TEX COUCH, REDUCTION OF SETBACK REQUIREMENTS IN THE R-1-20 ZONE; THE FARMS SUBDIVISION, SOUTH WILLARD, UT.**

Staff introduced this petition to the Planning Commission after which time Mr. Tex Couch told the

Commissioner that he was requesting a reduction in the setback requirements on the north side of his lot in the Farms Subdivision in South Willard in order to store hay for his two horses. He would build it to code and said that there were others in the area that had similar buildings, some built on the property lines. No other comments were received during the Public Hearing and a Motion was made by **Commissioner David Tea** to close the hearing; seconded by **Commissioner Desiray Larsen** and was unanimous.

**STAHELI ONE-LOT SUBDIVISION, SS09-007, LOCATED AT APPROXIMATELY 14760 NORTH 4400 WEST IN THE WEST GARLAND AREA OF BOX ELDER COUNTY, UT.**

This one-lot subdivision is located in an un-zoned area of the county and will consist of .81 acre. 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.

**LARSON FARM ONE-LOT SUBDIVISION, SS09-008, LOCATED AT APPROXIMATELY 14760 NORTH 4400 IN THE WEST GARLAND AREA OF BOX ELDER COUNTY, UT.**

This one-lot subdivision is located in an un-zoned area of the county and is two acres in size. No comments were received during the public hearing and a Motion was made by **Commissioner David Tea** to close the hearing; seconded by **Commissioner Jay Christensen** and was unanimous.

**TEXT AMENDMENTS TO THE LAND USE MANAGEMENT AND DEVELOPMENT CODE FOR BOX ELDER COUNTY, UT.**

**ARTICLE 1:**

- ◆General Provisions specifically **Article 1-1-060**. Organization of Code: Section E: Types of Regulations, to correct clerical errors within the section.
- ◆General Provisions specifically **Article 1-3-040**; definition changes.

Staff reviewed the proposed changes to **Article 1** as clerical errors have been found within the Article and also in the definitions. No comments were received. A Motion was made by **Commissioner Desiray Larsen** to close the hearing, seconded by **Commissioner David Tea** and was unanimous.

**ARTICLE 2:**

- ◆Administration & Enforcement specifically **Article 2-1-050**. Land Use Authority Section D: Powers and Duties; to clarify language within the section.
- ◆Administration & Enforcement, specifically **Articles 2-2-100 and 2-2-110**; Conditional Use Permits & Site Plan Review Section C and B respectively. To clarify the authority of the Zoning Administrator in the review process of these applications.
- ◆Administration & Enforcement specifically **Article 2-2-100**. Conditional Use Permit, Section K: Expiration. To exempt large scale utility projects from the expiration parameter.

Staff reviewed the proposed changes to **Article 2** and no comments were received. A Motion was made by **Commissioner David Tea** to close the hearing, seconded by **Commissioner Jay Christensen** and was unanimous.

**ARTICLE 6:**

- ◆Subdivisions; to clarify and update the ordinance to current development requirements and Utah State Code requirements.

Staff reviewed the proposed changes to **Article 6** stating that they have been working with the county engineer to bring this code up to comply with the State Code, but it is not ready for action to

be taken at this meeting. A question was presented by *Dale Barnett* asking what the significant changes to this ordinance were. Staff answered saying that once the changes were made another public hearing would be held to offer the public an opportunity to review the changes and make comments. A Motion was then made by **Commissioner Desiray Larsen** to close the hearing, seconded by **Commissioner David Tea** and was unanimous.

**ORDINANCE CREATING ZONE TO REGULATE: “CONSTRUCTION DEBRIS & MUNICIPAL SOLID WASTE” TO BE ADDED TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE, RESULTING IN THE REMOVAL OR LESSENING OF THESE USES AS ALLOWED IN ALL OTHER ZONES.**

*Mr. Hamilton* reviewed the proposed ordinance with the Commissioners stating that the new ordinance would restrict the use of construction debris, municipal solid waste and landfills, requiring petitioners to submit a rezone application for these uses on any properties, including the un-zoned areas of the County, as was recommended by the Planning Commissioners at a recent work session. No comments were received and a Motion was made by **Commissioner David Tea** to close the public hearing; seconded by **Commissioner Jay Christensen** and was unanimous.

**ORDINANCE CREATING ZONE TO REGULATE: “MINING, QUARRY, SAND, & GRAVEL EXCAVATION” TO BE ADDED TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE, RESULTING IN THE REMOVAL OR LESSENING OF THESE USES AS ALLOWED IN ALL OTHER ZONES.**

*Mr. Hamilton* explained that this ordinance has had a couple of changes from the initial draft that were suggested at a work session and a prior public hearing. One change eliminated “temporary landfills”; however they [temporary landfills] would need to be reviewed by the county engineer. This would allow the county road department the use of the smaller gravel pits that are located throughout the county that are used as emergency resources for road repairs. This would allow the road’s department to reopen these gravel pits with the approval of the county engineer. A comment was received by *Dale Barnett* asking if there was a county map that showed where mining and gravel pits were located in the county. *Mr. Hamilton* said that there is not a map and further explained that with the current ordinance commercial gravel pits could be located about anywhere in the county with a conditional use permit. This new ordinance would help to restrict that use as a petitioner would have to request that property be zoned or re-zoned to allow this use. The new ordinance would not affect existing gravel pit operations. No other comments were received and a Motion was made by **Commissioner Desiray Larsen** to close the hearing; seconded by **Commissioner David Tea** and was unanimous.

**UNFINISHED BUSINESS**

**CHRIS SORENSEN, SITE PLAN REVIEW SP09-001, SITE PLAN, FOR THE PURPOSE OF AN AGRICULTURAL MACHINE SHOP LOCATED AT APPROXIMATELY 13675 N 4400 W IN THE EAST GARLAND AREA.**

Staff told the Commissioners that Chris Sorensen’s site plan has been placed on hold at the request of the petitioner. No motion was needed.

**[BRIAN ROSE] VALLEY VIEW ESTATES PHASE II (SEVEN LOTS), APPLICATION SS08-012, LOCATED AT APPROXIMATELY 7150 SOUTH HIGHWAY 89 IN THE SOUTH WILLARD AREA. (CONCEPT EXPIRES 7-17-09)**

Staff told the Commissioners that the Valley View Estates Phase II (seven lots) had received preliminary approval in July 2008 and it would expire on July 17, 2009, the day after this meeting. The petitioner was asking that the Planning Commission re-approve the preliminary approval and he would be submitting application for final approval in time to be placed on the August 2009 agenda. Staff further said that there have been no changes to the subdivision plat that would affect the original preliminary approval. After some discussion, Commissioner David Tea suggested that the petitioner get new/updated letters verifying utility services to this subdivision.

**MOTION:** A Motion was made by Commissioner Desiray Larsen to grant Preliminary re-approval for The Valley View Estates Phase II Subdivision with the request that the petitioner secure new letters verifying the availability of all utilities and Health Department approval before moving forward to Final approval of the subdivision. Motion seconded by Commissioner Jay Christensen and passed unanimously.

**ORDINANCE CREATING ZONE TO REGULATE: “CONSTRUCTION DEBRIS & MUNICIPAL SOLID WASTE” TO BE ADDED TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE, RESULTING IN THE REMOVAL OR LESSENING OF THESE USES AS ALLOWED IN ALL OTHER ZONES.**

Mr. Hamilton told the Planning Commissioners that he was recommending that they forward their recommendation for approval of this new ordinance to the County Commission subject to review by the County Attorney with any corrections/clarifications to ensure that the new ordinance would be legally correct. Two zones created with this [new] ordinance are: 1) a construction debris overlay zone; and 2) a municipal solid waste zone. The current ordinance allows for these uses in many areas of the county with a CUP and the new ordinance would eliminate the current use in some zones which are currently in question, such as close proximity to residential areas.

**MOTION:** A Motion was made by Commissioner Desiray Larsen to forward a recommendation to the County Commission to adopt an ordinance creating a zone to regulate “Construction Debris & Municipal Solid Waste”, removing or lessening these uses in all other zones within the County. Motion seconded by Commissioner David Tea, passing with Commissioner Jay Hardy abstaining from the vote.

**ORDINANCE CREATING ZONE TO REGULATE: “MINING, QUARRY, SAND, & GRAVEL EXCAVATION” TO BE ADDED TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE, RESULTING IN THE REMOVAL OR LESSENING OF THESE USES AS ALLOWED IN ALL OTHER ZONES**

Mr. Hamilton told the Planning Commissioners that he was recommending that they forward their recommendation for approval of this new ordinance to the County Commission subject to review by the County Attorney with any corrections/clarifications to ensure that the new ordinance would be legally correct. The current ordinance allows for these uses in many areas of the county with a CUP and the new ordinance would help to regulate opening new mining, quarry, sand and gravel areas,

requiring a petitioner to have the property re-zoned for such uses, thus eliminating the current use in some zones which are currently in question, such as close proximity to residential areas.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation to the County Commission to adopt an ordinance creating a zone to regulate “*Mining, Quarry, Sand and Gravel Excavation*”, removing or lessening these uses in all other zones within the County. Motion seconded by **Commissioner David Tea**, passing with **Commissioner Jay Hardy** abstaining from the vote.

**EAST TREMONTON AG-PROTECTION PROPERTY, REMAINING [ACREAGE] FROM THE RECENT ANNEXATION OF THE BROUGH PROPERTY INTO TREMONTON CITY BOUNDARIES.**

The Planning Commissioners reviewed this at their June 18, 2009 meeting to determine if the remaining property in ag-protection that was not annexed into Tremonton City should remain in ag-protection. Approximately seventy (70) acres of the 1900 acres in the ag-protection zone were annexed into Tremonton City. Mr. Hamilton said that because the *(a) bulk of the property in the ag-protection area remains in the unincorporated area of the county; (b) is currently being used for agricultural production; (c) the area is currently un-zoned allowing for agricultural use; and (d) the major land use in the area has historically been and continues to be agricultural*, it was recommended that the Planning Commission submit a recommendation to the County Commission that this remaining property continue to be in ag-protection. (This recommendation was based on *Section 17-41-306, 17-41-307, and 17-41-305 of the Utah State Code.*) The County Commission would hold a public hearing regarding keeping this property in ag-protection.

**MOTION:** A Motion was made by **Commissioner David Tea** to forward a recommendation to the County Commission that this remaining acreage stay in agricultural protection status; seconded by **Commissioner Jay Christensen** and passed with **Commissioner Jay Hardy** abstaining from the vote.

**NEW BUSINESS**

**CONDITIONAL USE PERMIT CUP09-016, TEX COUCH, REDUCTION OF SETBACK REQUIREMENTS IN THE R-1-20 ZONE; THE FARMS SUBDIVISION, SOUTH WILLARD, UT.**

Staff reviewed this petition with the Commissioners explaining that Mr. Couch was petitioning to reduce the setback requirements on the north side of his property line in order to build a 27' X 18' pole barn. He recently had a vinyl fence put around the perimeter of his property and this building would sit next to some other structures that are currently built on his property. Staff then reported to the Commissioners that in reviewing this petition the three standards for approving a CUP for this use were not met. They included:

1. **Affirmative:** The proposed will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvement in the community, existing surrounding uses, buildings and structures;
  - a. Setbacks located three feet to the property line require fire-rating materials for buildings.

- b. Setbacks ensure general welfare of surrounding property owners.
- 2. **Negative:** The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community.
- 3. **Affirmative:** The proposed use is compatible with the General Plan, Article 3-7-080-6.2, and Article 2-2-100 – Conditional Use Permit of the *Box Elder Land Use Management and Development Code*.
  - a. Allowed by Conditional Use Permit in the R-1-20 zone.
  - b. Allowed for accessory buildings.

Mr. Couch then approached the Commissioners to discuss his request stating that there are others in his neighborhood and the subdivision that have “out buildings” that are close to or on property lines. He was only asking for the same consideration and approval. If denied he felt that he was being discriminated against. As Mr. Couch is a building inspector for Syracuse City, he said that he was just trying to follow the procedures and as there are no easements on his property his request was justified. His proposed building would be closed-in on three sides and built to whatever fire codes were required. Mr. Couch said that in working with the public in his job, he feels that there needs to be consistency in approving requests. County Attorney, Steve Hadfield said that the other(s) [out buildings] in the area of Mr. Couch’s home that are currently existing would need to be researched to see what approval they had been given and if those were not approved correctly or approved wrongly, it did not mean that doing so now [for Mr. Couch’s request] was the correct action to take.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to deny the CUP application for Tex Couch request to reduce the setback requirements based on the findings of Staff. Motion seconded by **Commissioner David Tea** and passed unanimously.

**STAHELI ONE-LOT SUBDIVISION, SS09-007, LOCATED AT APPROXIMATELY 14760 NORTH 4400 WEST IN THE WEST GARLAND AREA OF BOX ELDER COUNTY, UT.**

This one-lot subdivision will consist of .81 acre and is located in an un-zoned area of the county. Staff has received all letters verifying utilities and the property will front on 4400 West and recommended granting concept/preliminary/final approval for this petition.

**MOTION:** A Motion was made by **Commissioner David Tea** to grant approval to the Staheli One-Lot Subdivision with conditions of approval by Staff. Seconded by **Commissioner Jay Christensen** and passed unanimously.

**Conditions of Approval:**

- 1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.
- 2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of

the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Rural road improvement agreement.

8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

**LARSON FARM ONE-LOT SUBDIVISION, SS09-008, LOCATED AT APPROXIMATELY 14760 NORTH 4400 IN THE WEST GARLAND AREA OF BOX ELDER COUNTY, UT.**

This one-lot subdivision will consist of two (2) acres located in an un-zoned area of the county. Staff has received all letters verifying utilities and from the Health Department. Concept/preliminary/final approval was recommended by Staff.

**MOTION:** A Motion was made by **Commissioner Jay Christensen** to grant approval to the Larson Farm One-Lot Subdivision with conditions as set forth by staff. Seconded by **Commissioner Desiray Larsen** and passed unanimously.

**Conditions of Approval:**

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or

local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**

4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**

6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**

7. Rural road improvement agreement.

8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.

### **TEXT AMENDMENTS TO THE LAND USE MANAGEMENT AND DEVELOPMENT CODE FOR BOX ELDER COUNTY, UT.**

Staff told the Commissioners that as there is still work that needs to be done on revising the changes and updates to these Articles; it was recommended that they be tabled at this time.

#### **ARTICLE 1:**

◆General Provisions specifically **Article 1-1-060**. Organization of Code: Section E: Types of Regulations, to correct clerical errors within the section.

◆General Provisions specifically **Article 1-3-040**; definition changes.

**MOTION:** A Motion was made by **Commissioner David Tea** to Table action on **Article 1** changes; seconded by **Commissioner Desiray Larsen** and passed unanimously.

#### **ARTICLE 2:**

◆Administration & Enforcement specifically **Article 2-1-050**. Land Use Authority Section D;

Powers and Duties; to clarify language within the section.

♦Administration & Enforcement, specifically Articles **2-2-100** and **2-2-110**; Conditional Use Permits & Site Plan Review Section C and B respectively. To clarify the authority of the Zoning Administrator in the review process of these applications.

♦Administration & Enforcement specifically **Article 2-2-100**. Conditional Use Permit, Section K: Expiration. To exempt large scale utility projects from the expiration parameter.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to Table action on **Article 2** changes; seconded by **Commissioner David Tea** and passed unanimously.

**ARTICLE 6:**

♦Subdivisions; to clarify and update the ordinance to current development requirements and Utah State Code requirements.

**MOTION:** A Motion was made by **Commissioner Jay Christensen** to Table action on **Article 6** changes; seconded by **Commissioner Jay Hardy** and passed unanimously.

**WORKING REPORTS**

**UPDATE FROM BRUCE BECK, UTAH PYROTECHNICS, CUP03-009, LOCATED ON PARCEL 07-001-0014, (DONALD E. SCOTT LANDOWNER) SOUTHEAST OF PLYMOUTH.**

Bruce Beck was before the Planning Commissioners to report on the **Utah Pyrotechnics** site located outside of the Plymouth area. Mr. Beck said that this site is for amateur manufacturing of fireworks; a non-commercial enterprise. The BATF is currently renewing their permit and asked if they had ever reported to the Planning Commissioners as was stated on the [Administrative] CUP received five years ago. This site has been in operation since 2003 and the items that are manufactured there are discharged at amateur fireworks clubs, one of which is the **Western Pyrotechnics Association** and about three times a year there are events held; two in Lake Havaseau, another event is in the Delmar Dry Lake Bed in Nevada. The **Pyrotechnics Guild International** holds a convention once a year with a combination of both amateur and commercial manufactures setting off their fireworks. Fireworks that were made by Dr. Tom Miller at the **Utah Pyrotechnics** site have won the Grand Master Award over the past couple of years. No products are sold, only material purchased to make the fireworks as this is a hobby and not a commercial operation. The safety issues are regulated by the BATF and local authorities and after Mr. Beck finished with his update on this project site, **Commissioner David Tea** suggested that Mr. Beck get updated letters from the Health Department, the county fire marshal, and the county building department as there is really nothing that the Planning Commission had to regulate the [Administrative] CUP other than through these entities. **Chairman Richard Day** concurred as his main concerns were with the safety and security issues pertaining to this CUP. Mr. Beck asked that he be given the names of those he needed to contact in order to obtain the necessary letters.

**MOTION:** A Motion was made by **Commissioner David Tea** to request that Mr. Beck secure letters from the County Health Department, the County Building Department, and the County Fire Marshal indicating their review and approval of the Utah Pyrotechnics

site operation; motion seconded by Commissioner Desiray Larsen and passed unanimously.

The Planning Commissioners were reminded of a work session that would be held on Tuesday, August 11, 2009 to review the changes to the **Articles** of the *Land Use Development Code* that were discussed at this meeting along with any other items that may be included.

**PUBLIC COMMENTS – NONE**

A **Motion** was made by Commissioner David Tea to adjourn at 8:16 p.m., unanimous.

Passed and adopted in regular session this 20th day of August 2009.

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Richard Day, Chairman  
Box Elder County  
Planning Commission