

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES APRIL 15, 2010

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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	Member		
Desiray Larsen	Excused	Kevin Hamilton	Director
David Tea	Member	Elizabeth Ryan	Ex. Secretary
Jay Hardy	Member	Tamara Wright	Planner
Jay Christensen	Member	Steve Hadfield	Co. Attorney
Laurie Munns	Member		

**Chairman Richard Day** called the Planning Commission meeting to order at 7:04 p.m. The Minutes of the March 18, 2010 meeting were made available to the Planning Commissioners prior to this meeting and upon review two minor corrections were noted after which **Commissioner Chad Munns** made a Motion to approve the Minutes with corrections as mentioned; seconded by **Commissioner Jay Christensen** and passed unanimously.

### The following citizens were present:

Ryan Tingey/Willard Mayor	Randy Bowen/Beaver Dam
Angela & Ken Jones/Beaver Dam	Matthew Donthier/P&G-Corinne
Don Johnston/Tremonton	Jason Murray/Brigham City
Brad Duncan/Salt Lake City	Irene Rizza/Salt Lake City
Bill Armstrong/P&G-Corinne	Israel Reyes/P&G-Corinne
Jacob Hales/Perry	Burt Christensen/Corinne
Cade Christensen/Corinne	Joe Tomon/P&G-Corinne
Jay Aguilar/Willard City Planner	Joel Murray/Willard

## **PUBLIC HEARINGS**

**Chairman Richard Day** called for the public hearings on the agenda by informing the audience that each item would be handled separately, and that the time for the hearings was to allow the public the opportunity to voice any concerns and the Commissioners would listen to the comments and concerns, but this was not a questions/answer time.

## **P & G PAPER PRODUCTS COMPANY, Z10-001, TEXT AMENDMENT TO ALLOW FOR GEOTHERMAL EXPLORATION WITHIN THE GENERAL INDUSTRIAL DISTRICT.**

Procter & Gamble had made an application to change the text of the BECLUM&DC to allow for development of geothermal resources through production and reinjection wells allowed within the M-G zone as a conditional use. This type of exploration is highly regulated by the State of Utah engineer and this text amendment would allow “test wells for geothermal exploration within the M-

G zone as a permitted use.” Currently Article 3-4-070 [Regulations for Specific Uses] does not allow for geothermal exploration. There are two well sites that are proposed for exploration. **Matthew Donthier** (P&G representative) approached the Planning Commissioners stating that Procter & Gamble supports this text amendment. *“As many of you know, our vision for Procter & Gamble at the Box Elder site is a clear focus on sustainability. It is a real key driver at the site for us in making us competitive. This focus on sustainability and any opportunities we have in these opportunities, we’re excited at possibilities to be able to find opportunities for growth in that area and we look forward to supporting that in our vision as well; and we appreciate you and the time that you take to consider this text amendment.”*

No other 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.

**JOEL MURRAY, Z10-002; REZONE TO GRAVEL EXCAVATION OPERATION LOCATED AT APPROXIMATELY 1025 SOUTH 105 EAST IN THE WILLARD AREA OF BOX ELDER COUNTY.**

Staff discussed this re-zone application by Mr. Joel Murray. Mr. Murray had recently requested and was granted de-annexation from Willard City. The surrounding properties of this proposed gravel excavation site are zoned as R-1-20 and MU-160; however Staff was unsure as to the zoning of the properties located within the Willard City limits. According to Chapter 3-9 of the BECLUM&DC petitioners wanting to pursue a conditional use permit for mining, quarry, sand and gravel excavation operations must first request to have their property re-zoned to MG-EX, assuring that such operations do not impact adjoining uses and are not encroached by adjoining/surrounding non-compatible land uses. Gravel pit operations are regulated by DOGM and the petitioner has received their DOGM permit. The site of this operation would be in the area of Holmes Canyon and there is a haul road that currently leads to this area. **Chairman Richard Day** noted that he serves on a committee with Mr. Joel Murray [The Box Elder County/Willard City Flood Control], but did not feel that this was a conflict of interest. The public hearing was then opened and the following individuals approached the Commission.

**Ryan Tingey, Willard City Mayor:** *“My recommendation is we take a field trip. . . I think we ought to go down, you guys ought to see the site . . . you should look around at what maybe the impacts could be on the neighbors. I also would like you to look at maybe how they plan on moving the material out of the area down to Highway 89, and I just want you to come down and take a look at it and then see if it meets all of the criteria; if it doesn’t impact the community or the neighbors in the area down there. I would hope that we would be able to work together; we understand the need for sand and gravel, we also understand the need for people to get a fair and equitable use out of their property. So, anyway, with that if you have any questions for us, our planner is here and he can probably answer any technical questions on the area, if you guys have questions. Thanks.”*

**Chairman Richard Day** stated that at this time the Commissioners would not be asking any questions, but later in the meeting that may want to take that opportunity before making a motion of this issue.

**Jay Aguilar, Willard City Planner:** *“I just wanted to raise a couple of issues that I think you may want to look into. One of them is the de-annexation, and I don’t know if Tamara has gotten you any information on this, but it kind of creates a little peninsula . . . this de-annexation is pending final approval. . . so they aren’t actually part of the County yet. That is a big issue, and I’m not sure that you have jurisdiction over them at this point in time. The other one, is there is some question in my mind as to whether they are creating a little peninsula into the city, or into the county once they do detach . . . assuming they ultimately detach from the city. They are also in the process of de-annexing. The applicant plans on using an access road that runs through the city and there may be some question that the county might have and may want to get into a discussion with the city about the standards that the county would employ if this access road onto a highway were in the county,*

you might have some concern over that because of the grade where they're entering the highway at. They've made some efforts, assuming they're using the same standards that they used with us to try to mitigate those things, but there's still some questions on the part of both UDOT as well as citizens involved in this area that will be driving in this area as to how safe trucks coming into that area will be at the grade that they are coming off of down that road . . . a gravel road and I think the last 200 feet may be paved or surfaced in some way. There's a number of archeological digs up in the area. . . Petro glyphs that need to be addressed at some point as state history. This area is surrounded by residential zoning, and MU-40 which is a sensitive land area in Willard. The city also had a concern about the truckers that will access the gravel up in this area won't necessarily be directly associated with the company that's proposing this and so the questions as to how well maintained the vehicles will be should probably be addressed and who has authority over them. The mitigation amount that the DOMG has required is \$7,000, and the city has some questions as to whether that is enough money to mitigate the impact of this type of a use. Those are the comments that I have at this time. And I would concur that we would like to have you come down and take a look at it and to get a better feel as to whether this is an appropriate zone change in this part of the county and well as the City of Willard. Thank you."

**Joel Murray:** "I'm glad to be here tonight to address the Planning Commission. There seems to be a lot of discrepancies here between what has been approved so far and anyway . . . I don't see that there is anything that I've heard that has a lot of merit. Everything that I can tell you as far as the road, grades and everything else, we're quite a distance from a nearest neighbor and UDOT has already took a look at the traffic studies and all that in that area and deemed it safe and we have also gone beyond that call of duty . . . we've added a de-acceleration lane that we didn't need to do, just because I think that would be better. So we're not trying to scrimp the corner and run something through here. Also in the area of the proposed excavation, there is no Indian artifacts or anything else in that area . . . there is some higher on the mountain side up where the protruding rock has stuck out for eons of time . . . there's places you can go up half a mile and see where they've chiseled into the rock and all those sites are documented now and I don't think they've found any new ones in the last year or two and that's the last time when we applied in 2008 there was none in the area. Maybe, I don't know if there is anything else that I can address. We're going to go through the regulations with DOMG and what they'll be regulating us and so we plan to do exactly what is right for the community. Thank you."

**Jay Aguilar:** "We would suggest that the Planning Commission review the UDOT correspondence. It's our understanding that they've done an initial review and all that really means is that they've accepted an application and they've requested additional information from the applicants. So they haven't given a final approval . . . they've requested a . . . some buildable detail, some things like that. Again we would recommend that means to the appropriate review of this and coordination perhaps with UDOT as well as the state archeological specialist, Lori Hunsaker is the person who you would be able to get some feedback from as to whether or not there are some archeological sites of importance up there. Rocky Mountain Power actually had to be stopped for a while because they didn't identify the archeological sites up there and they're identified now and those were done by, I think, some private citizens that raised the awareness of the archeological experts of the state so they're identified now, but there's a large number of sites up there, and I think that their recommendation would probably be along the lines that any further disturbance up there needs to have some sort of oversight. Often what they do is they require third party experts to be part of the initial disturbance so that they can identify just what the archeological sites look like; as they're not always easy to identify to a layman. That's something that Rocky Mountain Power should have done and didn't do and had to be corrected on, and so I think it is a sufficient issue that needs to be looked at and evaluated at this time. Thank you."

**Jason Murray:** "I just wanted to point out that last week that I had Dana Dean, the mining, what would her position be . . . like kind of head honcho. I talked with her about this Indian artifact stuff and Dana Dean talked with the Hunsaker lady and tried to figure if there had been any more new sites. And I asked her, and she said 'no', and I said, I asked her if I was to apply for this same permit today has

*the process changed? Is there any further sites that would be on the registry and she said 'no', and so the letter I provided to the county is as up-to-date as they are aware of as to sites on this chippen range. I would just like to point out that the argument of the city planner and the fact that the land that the de-annexation is creating a peninsula . . . I would just like to touch on that. William Marsh there to the direct south has de-annexed two years ago. It's not recorded on the county, not recorded with the county; I don't know why . . . but the ball has been dropped and I don't understand what the big holdup is, but here's the . . . I have the finding of his court case that I got from across the street [referring to the U.S. District Court] that's very clear of what needed to happen, and it's got a few things that still need to be done . . . I don't know why they've dropped the ball on that, but I would just assume that it's Marsh trying to keep his options opened, something like that, I don't know. His reason for de-annexation was a water issue, but a . . . I would just like to take two seconds and tell you about the haul road we're proposing. We had Hansen's design that to Willard City standards as a subdivision. It would meet the grade requirements for a (county or city) subdivision. Now what that means is that it is greatly gentler on . . . it's got a lot gentler grade than we could have actually got away with is the best way to describe it. It doesn't go straight up the mountain; we put up a "S" curve in it. We've put an "S" curve in it to kind of eat up some of the switch-back, per say, to kind of mitigate the slope; and we have also addressed their concerns as far as, on that map there's a design for a retention pond at the bottom for catching the water. There's a provision for a run-away truck lane with a gravel de-acceleration spot. I'd just like to point out that the actual design and cuts that we're going to need to make into this in creating this road are an expense that we thought that we needed to provide to the community so to get off the mountain as safely as possible. And I thank you for your time."*

No other comments were received and a Motion was made by **Commissioner David Tea** to close the public hearing; seconded by **Commissioner Jay Hardy** and was unanimous.

**BURT CHRISTENSEN 1-LOT SUBDIVISION, SS10-003; LOCATED AT APPROXIMATELY 300 NORTH 6800 WEST IN THE CORINNE AREA OF BOX ELDER COUNTY.**

This petitioner is requesting a one-lot subdivision located in the RR-20 area southwest of Corinne. No comments were received and a Motion was made by **Commissioner Jay Christensen** to close the public hearing; seconded by **Commissioner David Tea** and was unanimous.

**ANGELA BOWEN-JONES 1-LOT SUBDIVISION, SS10-004; LOCATED AT APPROXIMATELY 16460 NORTH BEAVER DAM ROAD IN THE BEAVER DAM AREA OF BOX ELDER COUNTY.**

This petitioner is requesting a one-lot subdivision consisting of 2.21 acres located in the Beaver Dam area of the County that is currently zoned RR-2 (two acre minimum). No comments were received and a Motion was made by **Commissioner Jay Christensen** to close the public hearing; seconded by **Commissioner Chad Munns** and was unanimous.

**LAYNE JULANDER SUBDIVISION, 1-LOT SUBDIVISION, SS10-005; LOCATED AT APPROXIMATELY 3000 WEST 4600 NORTH IN THE BRIGHAM CITY AREA OF BOX ELDER COUNTY.**

This petitioner is requesting a one-lot subdivision consisting of 5.5 acres located east of the Bear River City area of the County that is currently zoned as RR-20 (1/2 acre minimum). Mr. Julander approached the Commissioners stating that his current home has recently sold and he is now needing to proceed with the building of this home. No other comments were received and a Motion was made by **Commissioner Jay Hardy** to close the public hearing; seconded by **Commissioner David Tea** and was unanimous.

**CHARLES EARL, CUP10-005; CONDITIONAL USE PERMIT FOR THE BUILDING OF A HOME ON PARCEL 06-027-0028 LOCATED IN THE COLLINSTON AREA OF BOX ELDER COUNTY.**

This petitioner is requesting a conditional use permit to construct a home in an area that is currently zoned as MU-40 (forty acres) in the Collinston area of the County. Access to the property is currently from an existing county road. No comments were received and a Motion was made by Commissioner Chad Munns to close the public hearing; seconded by Commissioner David Tea and was unanimous.

**JACOB HALES; SS10-006, SOUTH CHERRYWOOD ESTATES SUBDIVISION AMENDMENT TO LOT 2, LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.**

Staff explained that aspects of this subdivision stem back to November 2008 when Lot 2 of the South Cherrywood Estates Subdivision was divided into Parcel A and Parcel B. However that amendment was never recorded by the owners and since that time, Parcel A had been sold to a new owner, Jacob Hales. *Mr. Hales* is trying to sell this lot and subsequently the original amendment needs to be recorded before this sale can move forward.

*“Article 6-1-130 subsection E of Box Elder County Land Use Management & Development Code states, if the final plat has not been recorded within one year of the date of the preliminary plat approval by the Planning Commission, the preliminary plat must again be submitted to the Planning Commission for review and approval.”*

No comments were received and a Motion was made by Commissioner Laurie Munns to close the public hearing; seconded by Commissioner Jay Hardy and was unanimous.

**UNFINISHED BUSINESS -- NONE**

**NEW BUSINESS**

**P & G PAPER PRODUCTS COMPANY, Z10-001, TEXT AMENDMENT TO ALLOW FOR GEOTHERMAL EXPLORATION WITHIN THE GENERAL INDUSTRIAL DISTRICT.**

This petitioner has made an application to amend the BECLUM&DC, Article 3-4-070; Regulations for Specific Uses. P&G is requesting that the language be changed to include, *“Test wells for geothermal exploration within the (M-G) as a permitted use.”* This change would allow for test wells and exploration drilling for geothermal resources within that zone. The petitioner has also proposed that additional language be added; *“Development of geothermal resources through production and reinjection wells be allowed within the M-G zone as a conditional use.”* The petitioner is hoping that if geothermal resources are found on the property this will be a renewable resource that will support the manufacturing use by providing a source of renewable energy to the P&G plant. Staff explained that the drilling operation would include two vehicles, a generator, a drill rig and miscellaneous drilling equipment and facilities. There will be a temporary construction trailer located on the site and a self-contained sanitary facility will be provided. Access will be controlled by the contractor and all operations would follow OSHA guidelines and standards. Staff then read the Approval Standards<sup>i</sup> into the Minutes. Commissioner David Tea then asked the petitioner what their ultimate goal was with the exploration drilling. *Mr. Joe Tomon*, P&G Plant Manager said that if the drilling is successful they would hope to use the heat for the paper making process within the plant and be able to use as a renewable source of energy. The vision is to have

the site of this plant as self-sustaining as possible. Additionally, **Mr. Tomon** said that P&G is working very closely with the State of Utah as this is a highly regulated process and the state engineer will provide much of the information necessary for the drilling process regarding what can and cannot be done. Currently this is just for exploration to see if geothermal [may be] on the property, and in order to move forward a text amendment needs to be approved. Again, Staff stated that the petitioner is asking for an amendment to the text to allow for the two uses within the M-G zone and not for actual approval of a project at this time.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to forward the recommendation of the Planning Commission to the County Commission that the text of the BECLUM&DC [Article 3-4-070] be amended to 1) allow test wells for geothermal exploration as a permitted use within the General Industrial District (M-G) zone, and 2) allow for development of geothermal resources through production and reinjection wells as a conditional use for parcel #04-065-0008 containing 709.12 acres located at approximately 5000 North Iowa String Road; the site of the P & G Manufacturing Plant. Motion was seconded by **Commissioner David Tea** and passed unanimously with **Commissioner Jay Hardy** abstaining from the vote.

**JOEL MURRAY, Z10-002; REZONE TO GRAVEL EXCAVATION OPERATION LOCATED AT APPROXIMATELY 1025 SOUTH 105 EAST IN THE WILLARD AREA OF BOX ELDER COUNTY.**

This petitioner has requested an amendment to the Box Elder County Zoning Map to re-zone his property located in the South Willard area to the *Mining, Quarry, Sand and Gravel Excavation Zone, MG-EX*. Staff then read the Approval Standards into the Minutes<sup>ii</sup>. There were also letters received from MW Brown Engineering, INC., and the Box Elder County/Willard City Flood Control & Special Drainage District (attached to the official Minutes; Exhibit "A"). **Commissioner Chad Munns** asked the petitioner to come forward again in order to answer some questions of the Commission. **Commissioner Chad Munns** then asked how close the nearest home was to this proposed operation and **Mr. Joel Murray** replied that it is approximately 1700 feet away. The excavation will take place east of the canal and no mining will take place below (west) of the canal. **Jason Murray** then explained that the permit that has been obtained from the state is only for mining east of the canal and is classified as a 'small operation' (five acre) and is the only one of the permitted one of five acres or less in northern Utah, and does not allow mining below the canal. **Commissioner Jay Hardy** asked then that all they would be permitted to mine, as far as the State is concerned, with their permitting process, is five acres. **Mr. Joel Murray** said that there are about ten and a half acres east of the canal and only five acres can be opened at a time. The first five acres would need to be reclaimed before opening the next five. The entire ten acres can be mined and the half acre is not in the flood channel and it is proposed by the petitioner to have a fish pond put there. This [half acre] is the furthest east of the canal. At this point, **Chairman Richard Day** said that he was not sure that any action could be taken on this proposal until the de-annexation is recorded. Staff then asked to read comments that had been received from Steve Hadfield (County Attorney) as there was some concern as to whether or not this application could be heard because of the de-annexation being incomplete,<sup>iii</sup> referenced by Section 10-2-507(3) of the *Order and Decree of Disconnection*.

**Mr. Hadfield's** comments were that there were two options; the first option was "*to proceed with the application upon the condition that the 'disconnection' process is completed by Willard City. It should be noted that Section 0-2-507(3) provides that the disconnection is not effective until a 'Certificate of Disconnection' has been issued by the Lieutenant Governor's office. The other option*

would be to postpone the application process until after the 'Certificate of Disconnection' has been issued. This option would be more conservative, but would take into account the possibility that, for whatever reason, the disconnect does not become effective as anticipated."

**Chairman Richard Day** reiterated that it would be a good idea to visit the site and therefore be better able to determine what is there before making any final decision on this petition.

**Commissioner Chad Munns** then asked about the access road and that it would be traveling through the city and if that information was correct. **Joel Murray** stated that a portion of the road that meets with Highway 89 is still located within the Willard City limits as is his home; however Mr. Murray does own the property leading to the highway. Mr. Murray does have a permit from DOGM. Regarding the slope and the percentages, Mr. Murray said that most of it is at six percent (6%) from his home to the highway and then higher up it is eight percent (8%) with a couple of small areas where it may be ten percent (10%). The six percent was a requirement that UDOT needed for the first 300 feet of the road from the highway. The run-away ramp is higher up from the six percent grade [of the 300 feet] and is located before the "S" curve in the road before the longest descent to allow the driver [if it is felt that they are having trouble with the truck during the descent to the highway] to take the run-away ramp at that time. There were also some questions regarding the reference to Rocky Mountain Power and the archeology finds in the area, but that had been mentioned by Jay Aguilar. **Joel Murray** said that the recently installed power lines are on the east and west sides of the canal on his property. Additionally, **Mr. Murray** said that he has a permit for the crossing of the canal for this gravel operation. In regards to the archeology finds, **Mr. Murray** said that he thought the State's stand was referring to the alluvial fan, which is where this acreage is located and any artifacts would have been buried forty feet deep many years ago. Any existing petro glyphs would be located further east of this area in the hard rock area and **Jason Murray** mentioned that they would not be mining hard rock.

**Commissioner David Tea** mentioned that it appeared to be a fairly small operation with five acres being mined at a time and asked what the length of time this operation would span. **Mr. Murray** said that he thought it would probably be around eight years @ 100,000 ton per year. As to the dust being created by this operation, the petitioner said that the state engineer had told them that they would come visit once the mining had commenced to determine if further action needed to be taken regarding controlling the dust. At the conclusion of the discussion the following Motion was made.

**MOTION:** A Motion was made by **Commissioner David Tea** to table action on the Joel Murray Zoning Map Amendment [Murray Gravel Pit] until the de-annexation process is completed by the recording of the documents with both the State and County, changing the [Willard] City boundaries; allow Staff time to work with the State and the Department of Air Quality to determine if this will have any effect on the non-attainment designation from the EPA recently placed on Box Elder County; also to determine what, if any, impact this operation will have on adjacent property (regarding the zoning of that property as residential and the new MG-EX zone), if they will be harmonious with one another; request that the petitioner furnish another letter (newly dated) from the State archeologist as to any sensitive findings in the area of the proposed gravel operation; and that a site visit be scheduled for the Planning Commissioners to visit this area, as suggested by the Willard City Mayor and the Willard City Planner. Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

**BURT CHRISTENSEN 1-LOT SUBDIVISION, SS10-003; LOCATED AT APPROXIMATELY 300 NORTH 6800 WEST IN THE CORINNE AREA OF BOX ELDER COUNTY.**

Staff explained that this petitioner was asking for concept/preliminary/final approval for this one-lot subdivision to be located in the RR-20 zone area southwest of Corinne. Letters have been received verifying the availability of utilities to the site and the 100 foot frontage will be met; approval was then recommended.

**MOTION:** A Motion was made by **Commissioner Laurie Munns** to grant Concept/Preliminary/Final approval to the Burt Christensen 1-Lot Subdivision with conditions as outlined by Staff. Motion 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. Letters of approval from gas, electric, and/or other utility providers.
8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
9. Rural Road/Improvement Agreement
10. Financial guarantee for all required improvements not installed prior to recording of the subdivision.

**ANGELA BOWEN-JONES 1-LOT SUBDIVISION, SS10-004; LOCATED AT APPROXIMATELY 16460 NORTH BEAVER DAM ROAD IN THE BEAVER DAM AREA OF BOX ELDER COUNTY.**

Staff explained that this one-lot subdivision consists of 2.21 acres and is located in the Beaver Dam area where zoning is currently RR-2 (two acre minimum). The petitioner was requesting concept/preliminary/final approval at this time. Letters verifying the availability of utilities to the site have been received and culinary water will be provided via a private well. The necessary 250 foot of frontage has also been met; approval was then recommended.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to grant Concept/Preliminary/Final approval to the Angela Bowen-Jones 1-Lot Subdivision with the conditions as outlined by Staff. Motion was seconded by **Commissioner Jay Hardy** 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. Letters of approval from gas, electric, and/or other utility providers.
8. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
9. Rural Road/Improvement Agreement
10. Financial guarantee for all required improvements not installed prior to recording of the subdivision.

**LAYNE JULANDER SUBDIVISION, 1-LOT SUBDIVISION, SS10-005; LOCATED AT APPROXIMATELY 3000 WEST 4600 NORTH IN THE BRIGHAM CITY AREA OF BOX ELDER COUNTY.**

Staff explained that this one-lot subdivision will consist of 5.5 acres [to keep the property in greenbelt] and is located in the RR-20 zone southwest of the Corinne area. Letters have been received from the various utility companies verifying availability to the area and the 100 foot of frontage has been met. This is a corner lot and there will be two addresses assigned as (with corner lots) there are two front yards. The application has received notarized letters from Dewayne Julander and Joyce B. Julander, acknowledging each of their awareness of this subdivision. At this time concept/preliminary/final approval was recommended.

**MOTION:** A Motion was made by **Commissioner Jay Hardy** to grant Concept/Preliminary/Final approval to the Layne Julander 1-Lot Subdivision with the conditions as outlined by Staff. Motion was 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. Letters of approval from gas, electric, and/or other utility providers.
8. Compliance with all state and county subdivision regulations for which a specific variance has

not been granted.

9. Rural Road/Improvement Agreement
10. Financial guarantee for all required improvements not installed prior to recording of the subdivision.

**CHARLES EARL, CUP10-005; CONDITIONAL USE PERMIT FOR THE BUILDING OF A HOME ON PARCEL 06-027-0028 LOCATED IN THE COLLINSTON AREA OF BOX ELDER COUNTY.**

Staff reviewed the approval standards for this application stating, 1) *“the proposed single family dwelling has met BRHD standards; the proposed single family dwelling will have well water; and access is off of the County Road; 2) the proposed use will be compatible with the general plan, this Code, and the zoning district as the applicant complies with requirements and recommendations.”*

This petition is for a conditional use permit for the building of a single-family home on a parcel in the MU-40 zone with access off an existing county road in the Collinston area. Approval was recommended.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to grant approval for the Conditional Use Permit to Charles Earl for the purpose of building a single-family dwelling in the MU-40 zone, with conditions as outlined by Staff. Motion was seconded by **Commissioner Jay Hardy** and passed unanimously.

**Conditions of Approval:**

1. Enter into a Rural Road/Improvement Agreement
2. Compliance with all State, Federal and local regulations.
3. Compliance with requirements and recommendations from our County Engineer, ones & Associates.
4. Compliance with requirements and recommendations from County Road Department.
5. Compliance with requirements and recommendations from County Fire/Building Inspector, Andre Pommier.
6. Compliance with Article 2-2-100 of Box Elder County Land Use Management & Development Code.

**JACOB HALES; SS10-006, SOUTH CHERRYWOOD ESTATES SUBDIVISION AMENDMENT TO LOT 2, LOCATED IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.**

Staff again reviewed the history of this amendment that created the Parcel A and Parcel B of Lot 2 in the South Cherrywood Estates Subdivision in South Willard. Currently Jacob Hales is the owner of Parcel B and is in the process of selling it. Because the Amendment creating these two parcels was never recorded, it is necessary for the Planning Commission to give their approval again [as referenced by **Article 6-1-130 Subsection F** of the Land Use Code]. After discussing this matter and **Commissioner Chad Munns** asking **Steve Hadfield** (County Attorney) his opinion regarding amendment and that it had never been recorded back in 2008/2009 would the Planning Commission need to be readdressed it from the beginning, to which **Mr. Hadfield** replied, *“I don’t know the whole history behind it, but I do know there are some issues regarding representation that was made by the County before our time, things that were done; and I think this is an effort to bring those all to a close . . . without those, we’d probably be in a different spot saying let’s start over because that’s what the ordinance says. I can go back and look at the history a little bit; Tamara’s explained it a little bit to me, if you’d like me to do that, but I think that’s really the issue, there’s been some things done, it’s gone on for a long time and we’re just trying to bring it to a close”*

**Commissioner Chad Munns** then asked what the County Attorney's recommendation would be, "do we go forward and just let it go or do we go back and start over? **Mr. Hadfield's** said that his recommendation would be "and that's based on my discussion with Tamara, that we just go forward and finish it off." Including the conditions that were originally placed on the amendment during the November 20, 2008 meeting regarding the competition of the catch basin as mentioned by **Chairman Richard Day** and also concerns regarding the flag road on the south side of Parcel A and that it creates a lot of mud runoff when it rains, draining onto 875 West creating quite a mess. Staff mentioned that there is a note on the recorded Plat for the South Cherrywood Estates Subdivision stating that "lot owners are responsible to maintain storm drainage, access driveways, by culverts or waterways as approved by Box Elder County."

**MOTION:** A Motion was made by **Commissioner Jay Hardy** to approve the South Cherrywood Estates Subdivision Amendment to Lot 2 (creating Parcel A and Parcel B) with the conditions as outlined by Staff and that the conditions of the Motion made November 20, 2008 by (then) **Commissioner Jon Thompson** that the work be finished by Mr. Kirk Bailey on the catch basin located in the Vista View Estate Subdivision that services both South Cherrywood and Vista View Subdivisions be completed and the improvements accepted by the County Engineer and County Road Department Supervisor. Also the flag lot road on the south side of Lot 2 needs to be improved with gravel to help prevent the mud drainage during rain storms. Motion seconded by **Commissioner Laurie Munns** and passed unanimously.

**Conditions of Approval:**

1. Final acceptance of the catch basin improvements by the County Engineer and County Road Department; and
2. The flag lot road on the south side of Lot 2 needs to be improved with gravel to help prevent the mud drainage during rain storms
3. The following Staff's conditions
  - a) 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.
  - b) 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.
  - c) 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.**
  - d) 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.**

- e) 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.**
- f) 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.**
- g) Letters of approval from gas, electric, and/or other utility providers.
- h) Rural road/road improvement agreement.
- i) Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
- j) Financial guarantee for all required improvements not installed prior to recording of the subdivision.

**SURPLUS PROPERTY, PARCEL 03-112-0002, PROPERTY OWNED BY BOX ELDER COUNTY WITHIN THE INCORPORATED CITY LIMITS OF BRIGHAM CITY. (SITE OF THE OLD RACE TRACK/LANDFILL)**

This property is located within the city limits of Brigham City and is at the site of the old race track on the west end of Forest Street. *Mr. Kevin Hamilton* explained that Ruby Pipeline has proposed doing some improvements to the property to create sites for RV trailers for temporary living quarters for its workers. On the south side of this area there is a Trap Club and these RV sites could possibly benefit them once Ruby Pipeline is finished with its project in the County. Presently the County is looking to lease this property to Ruby Pipeline and needs the Planning Commission to determine if this is in conflict with the County General Plan.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to forward the finding of the Planning Commission that this lease of surplus property is not in conflict with the County General Plan as the property lies within the boundaries of Brigham City. Motion seconded by Commissioner David Tea and passed with **Commissioner Jay Hardy** abstaining from the vote.

**WORKING REPORTS**

**WORK SESSION FOR MAY 4, 2010 AT 6:00 P.M. TO FINISH WORK ON WIND ORDINANCE AND CHANGES TO ARTICLE 6, SUBDIVISIONS OF THE BEDLUM&DC.**

Staff requested that a Work Session be scheduled for Tuesday, May 4, 2010 in order to complete the changes to *Article 6, Subdivisions* and prepare an Ordinance to be submitted to the County Commission for approval and adoption. Staff will also be finalizing work on the County Wind Ordinance to be submitted to the County Commissioners. It was decided that a field trip would also be scheduled for this same day to allow the Planning Commissioners the opportunity to visit the site of the Joel Murray Re-zone for a gravel pit operation. The time was set for 5:00 p.m. to meet at the Courthouse on Tuesday, May 4, 2010 and travel to the Murray property located in the South Willard area of the County.

**FLAG LOT ORDINANCE, REVIEW, REVISE, & UPDATE.**

Upon review of the current “**Flag Ordinance**” Staff had determined that it is necessary to be updated. The current **Mobile Home Ordinance** needs to be reviewed and updated also and the definition for a “**temporary use**” needs to be established as currently there is none. There are also

some changes that need to be discussed regarding permitted and conditional uses within the **MU-40, MU-80, and MU-160** zones. Staff was asking for direction from the Commission to begin work on these three ordinances and having them classified as “pending ordinances” until the work is completed within the allotted six month period.

**MOTION:** A Motion was made by **Commissioner David Tea** to direct Staff to work on the above mentioned ordinances, definitions, and uses as discussed, to be reviewed by the Planning Commissioners at a later time [not at the May 4, 2010 Work Session]. This Motion would thus begin the time for a “pending ordinance” to begin. Motion was seconded by **Commissioner Jay Hardy** and passed unanimously.

## **PUBLIC COMMENTS – NONE**

A **Motion** was made by **Commissioner Jay Hardy** to adjourn at 8:49 p.m., unanimous.

Passed and adopted in regular session this 20th day of May 2010.

*Chad Munns*

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Chad Munns, Vice Chairman  
Box Elder County  
Planning Commission

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<sup>i</sup> A decision to amend the text of this Code is a matter within the legislative discretion of Box Elder County Commission.

1. Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan.
  - a. The proposed drilling and development of geothermal wells are very similar to “accessory uses” allowed under the Code and are consistent with the County’s General Plan.
  - b. Accessory Use which is defined to include renewable energy use on the same lot customarily incidental and subordinate to, the principle use or building
  - c. If geothermal resources are found as a result of exploratory drilling, on P&G’s property within the M-G zone, this renewable resource will support manufacturing (the principal use) by providing a source of renewable energy to the manufacturing plant also located within the MG-zone.
2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
  - a. The proposed use would be subordinate to the manufacturing facility located within the M-G zone.
  - b. The wells will be located outside of environmentally sensitive lands such as wetland areas. They will exist on sites that are approximately 200’ x 200’.
  - c. The drilling operations will include two (2) vehicles, a generator, a drill rig and miscellaneous drilling equipment and facilities. A temporary construction trailer will be located onsite. Self-contained sanitary facilities will be provided. Access to the site will be controlled by the drilling contractor and operations will follow OSHA standards.
3. The extent to which the proposed amendment may adversely affect adjacent property:

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- a. The proposed amendment will allow for geothermal exploration, production and re-injection on the applicant's property.
  - b. If successful, applicant will be able to generate power from a renewable energy resource to facilitate their manufacturing facility.
  - c. The State currently regulates development of geothermal resources to prevent adverse affects to adjacent property. The drilling and location of proposed geothermal exploration, production and re-injection wells would be conditioned upon approval by the Utah State Engineer. In addition, the appropriation and use of geothermal fluids must also be approved by the State Engineer. See Utah Code Ann § 73-3-8. The State Engineer requires any well drilled for discovery or production of geothermal resources to comply with well spacing rules set forth at R655-1-2.4. The well must be located 100 feet or more from and within the boundary of the parcel being drilled and 100 feet or more from a public road. Id. Well spacing programs can be approved to protect correlative rights, allow multiple use of land and to protect the environment. Id. The State Engineer cannot approve an application to appropriate geothermal fluids which will impair existing water rights. Utah Code Ann § 73-22-8.
4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.
- i. The current manufacturing facility resides on a 714 acres parcel. P&G proposes to conduct exploration drilling for geothermal resources at two well locations within the M-G zone. Well Number PGW1 will be located near the NE corner of the property. Well Number PGW2 will be located approximately 2500 feet to the southeast of PGW1. The construction of both well sites will be identical. Both temporary locations will be developed on P&G property on sites of approximately 200 x 200 feet in size. Base rock will be brought to the site, spread level and compacted. The center of the drill hole will be approximately 50 feet from the edge of the well site. Actual dimensions will be measured using GPS and provided following well spudding. Access for the proposed use is adequate as are sanitary services, site control and employee/contractor safety services. The well locations will be accessed by project vehicles from Wakegan Road. Vehicles will turn on to P&G property, cross the railroad tracks and then run parallel to the SE to Wakegan Road. Access will be from the NE corner of the property through the well sites. Each site will have an individual access road, with a loop to return and exit at the NE corner back onto Wakegan Road.

ii A decision to amend the text of this Code is a matter within the legislative discretion of Box Elder County Commission.

- 1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan.
  - a. The proposed amendment is required by Chapter 3-9 of the Box Elder County Land Use Management and Development Code, which was adopted by Ordinance 318 by Box Elder County Commissioners on September 29, 2009.
  - b. The County General Plan states, "Where feasible, commercial areas adjacent to municipalities should be annexed". This property, containing 36.56 acres has been ordered, adjudged and decreed to disconnect from Willard City.
    - i. Willard City must file Amended Articles of Incorporation with the Box elder County Recorder's office.
  - c. The General Plan states that gravel pit sites should be engineered and managed for environmental compatibility, aesthetics and reclamation.
  - d. The South Willard Community Plan states that South Willard Community representatives should work with gravel companies and the County to lessen the impact of truck traffic, dust, air quality, noise and light pollution.
- 2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
  - a. The County General Plan recognizes that commercial development often occurs along major thoroughfares, and adjacent to existing communities. Therefore, the County will work with affected municipalities to ensure that proposed development complements community aesthetics

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- and design standards.
  - b. The gravel pit site will be just east of the canal in the Holmes Canyon drainage, to remove some of the material that is in the flood channel.
  - c. There is an existing gravel pit, Parson's, approximately 2 miles south of proposed area.
3. The extent to which the proposed amendment may adversely affect adjacent property:
- a. The State currently regulates development of gravel pits to prevent adverse affects to adjacent property.
  - b. A Utah State Archeologist has made reference that a gravel pit in this area may endanger archeological sites in the vicinity. Their recommendation is to contact Lori Hunsaker with the State of Utah History Department.
4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.
- a. It has been determined any removal of material will create a detention basin or at least flatten the slope of the channel, either of which will reduce any storm flow.

<sup>iii</sup> “The Court orders that within thirty (30) calendar days of the entry of this Court’s Disconnection Order the municipality shall file Amended Articles of Incorporation with the Lieutenant Governor’s Office and the Box Elder County Recorder’s Office, as required under Subsection 10-2-507 U.C.A. In this connection the Amended Articles of Incorporation shall; a) describe the post disconnection geography of the municipality; and b) specify the post disconnection population of the municipality.”

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