

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES JUNE 17, 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	Vice Chairman		
Desiray Larsen	Member	Kevin Hamilton	Director
David Tea	Member	Elizabeth Ryan	Ex. Secretary
Jay Hardy	Excused	Tamara Wright	Planner
Jay Christensen	Member	Steve Hadfield	Co. Attorney
Laurie Munns	Member	Andre Pommier	Fire Marshall

**Chairman Richard Day** called the Planning Commission meeting to order at 7:07 p.m. The Minutes of the May 20, 2010 meeting were made available to the Planning Commissioners prior to this meeting and upon review a Motion was made by **Commissioner David Tea** to accept the Minutes as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

#### The following citizens were present:

Joel Murray/Willard	Jason Murray/Brigham City
Joe Barthold/Willard	Cornelius Bauman/Garland
Linda St Clair/Willard	Paul Roberts/Brigham City

## **PUBLIC HEARINGS**

**Chairman Richard Day** called for the public hearings on the agenda by informing those in attendance 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.

### **BEAR HOLLOW RANCH, SS10-008, PROPOSED NINETEEN (19) LOT SUBDIVISION AT PRIVATE WATER PARK LOCATED AT APPROXIMATELY 15000 NORTH 4000 WEST NORTHEAST OF GARLAND IN BOX ELDER COUNTY.**

Chairman Richard Day informed those present that this item was being removed from the agenda and as there was no one present to discuss any issues during the public hearing no further action was taken.

### **TEXT AMENDMENT TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE (BECLUM&DC, ARTICLE 3-2-070-7.1; CHANGING MU-160, MU-80, AND MU-40 FROM CONDITIONAL USE TO PERMITTED USE FOR A SINGLE FAMILY DWELLING.**

**Mr. Kevin Hamilton** spoke to the commissioners regarding this text amendment explaining that there have been some applications in the past from individuals wanting to build a single family dwelling on these larger parcels of land, i.e. MU-160; MU-80; and MU40. Currently a conditional use permit is required for such a dwelling. This text amendment would change that use from a conditional use to a permitted use in these zones. No comments were received during the hearing and a Motion was made by **Commissioner Laurie Munns** to close the hearing, seconded by **Commissioner David Tea** and passed unanimously.

**TEXT AMENDMENT TO THE BECLUM&DC, ARTICLE 5-1-150 REGULATING THE MINIMAL HEIGHT AND FLOOR AREA OF ACCESSORY BUILDINGS.**

**Mr. Hamilton** told the Commissioners that in the current Land Use Code, an accessory building is only allowed to be twenty (20) feet in height and one story. The recommendation at this time is to make that twenty (20) feet and eliminate the one story restriction.

**Joseph Barthold** addressed the Commissioners stating that his concern was the twenty feet maximum and where those measurements would be taken on the building to reach the twenty feet. He wants to construct an accessory building on his property and felt that a single story would be close to the twenty feet. **Mr. Barthold** had submitted a letter to Staff with some suggestions for the wording of this text amendment<sup>i</sup> and mentioned that currently there are many accessory buildings in the area where he lives that are higher than the twenty foot maximum. The plans that he has for his accessory building are twenty-three feet in height with a loft as he would like to have a place for his children to be able to gather outside of the main home, but not as living quarters. **Mr. Barthold** stated that when addressing these petitions for accessory buildings, the type, size, and height of the building should be compatible with the main dwelling and not overpower that structure.

No other comments were received and a Motion was made by **Commissioner Chad Munns** to close the hearing, seconded by **Commissioner Jay Christensen** and passed unanimously.

**TEXT AMENDMENT TO THE BECLUM&DC, ARTICLE 1-3-040 ENTITLED “DEFINITION”.**

Staff explained that currently in the Land Use Code article 2-2-110, entitled Site Plan, requires an application for any multiple-family residential use, any public or civic use, any commercial use or any industrial use, the Code does not address what constitutes a public or civic use, commercial use or industrial use. Staff is currently trying to research definitions for those uses and has only been able to find one for ‘commercial use’ at this time and was asking for assistance from the Commissioners in finding other definitions that would help in reviewing applications for site plans with these uses. When definitions are created we would add them to 1-3-040 entitled “Definitions.” No comments were received during the hearing and a Motion was made by **Commissioner Desiray Larsen** to close the hearing and seconded by **Commissioner David Tea**, passed unanimously.

**DRAFT TO UPDATE AND CLARIFY THE BECLUM&DC, ARTICLE 5-1-311 (FLAG LOT ORDINANCE #249).**

Staff explained that this is a review of the County’s Flag Lot Ordinance that was written and adopted in February 2001. In reviewing this ordinance it was found that there are some parts that have not been carried out in the past when approving a flag lot application. The ordinance also required that a ‘special provision application’ be used when requesting a flag lot and currently there is no such application. Staff had prepared an application and it was included in the commissioners’ packets.<sup>ii</sup> There were other issues in this ordinance that also needed addressing for updating and clarification. No comments were received during the hearing and a Motion was made by **Commissioner Jay Christensen**, seconded by **Commissioner David Tea** and passed unanimously.

**SITE PLAN, SS10-002, STURDY BUILT SHEDS, LOCATED AT APPROXIMATELY 14700 NORTH 6000 WEST IN THE GARLAND AREA OF BOX ELDER COUNTY.**

Staff explained to the Commissioners that this site plan is for a business that has been in operation for thirteen years, building Tuff Sheds. This property is located in the un-zoned area of the County and the petitioner had submitted an application for the building permit to construct a new single family home on the property. In the review process for this [building permit] application it was discovered that the business on this property was never reviewed, nor a site plan submitted and this application is currently completing that process to bring the business into compliance with the County's requirements. No comments were received during the hearing and a Motion was made by **Commissioner Chad Munns** to close the hearing, seconded by **Commissioner David Tea** and passed unanimously.

**UNFINISHED BUSINESS**

**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 reminded the Commissioners of the recent site visit to this property [on May 4, 2010] for a proposed gravel excavation operation. Mr. Joel Murray had requested de-annexation from Willard City and the documents have been filed with the State and County changing the Willard City boundaries. The process is now completed through the Lieutenant Governor's office and a copy of the documentation has been received. The other items that were of concern from previous meetings have also been addressed and Staff informed the Commissioners that some decision would now need to be made regarding this petitioner's request. The application was for approximately 38 acres with 10 of those acres being proposed for the gravel excavation operation. There were some concerns with the location of an existing home north of this area and the proximity of the road that would serve to move the gravel from the site to Highway 89. It was also found that this small operation would have no affect on the recent non-attainment designation currently placed on Box Elder County by the EPA. The petitioners were then asked to come forward to discuss this request with the Commissioners, especially the design of the road mentioned above.

**Joel Murray** told the Commissioners that the design of the road had been changed, moving it as far as possible so that it is now about half way between his home and that of the home to the north. He thought that Staff had been given a new drawing indicating that change. **Commissioner Jay Christensen** asked about the stockpiling of gravel and where that would be located on the property. During the visit to the site Mr. Murray had said that he hoped to stockpile the materials above [east of] the canal. There is approximately ten to ten and a half acres that is planned for the excavation of gravel. Jason Murray said that these piles could serve as buffers for the noise from the crushers and could even be better at reducing the noise if the pile were on the west side of the canal. **Commissioner Chad Munns** asked if the piles would be visible from the highway if they were on the west side, but the petitioners thought that the piles would probably have to be about thirty-five feet tall in order for it to be seen, but it was also pointed out that it would need to be a fairly large pile to help with the noise from the crusher(s). **Chairman Richard Day** asked if it would be possible to have the road from the excavation site on the south side rather than the north; however the petitioner said that was not a possibility due to the slope of the terrain. Some of the other questions that the Commissioners had would be addressed during the site plan review and more of the details of the operation and the location and construction of the road would be dealt with at that time. Staff pointed out that this petition was for the re-zone of the property in order for the excavation to occur at all. The Commissioners also asked if the re-zone was for the entire acreage or just for the part that would be included in the gravel operation. [**Joel Murray** informed the Commissioners that this neighbor to the north, Karla Parsons, has a 2/15 interest in this operation as the corner of the northeast part of the operation is located on her property.] **Commissioner Desiray Larsen** asked the petitioners if they preferred to have the entire acreage re-zoned or just the part that was for excavation. **Joel Murray**

said that some of the additional land would be nice to include in the re-zone in order for some stockpiling of materials; however **Jason Murray** pointed out that the acreage above the canal is the only part that has received the necessary permits for excavation. If mining were to take place west of the canal, additional permits would need to be obtained from the State and also from the County. At the conclusion of the discussion the following motion was made.

**MOTION:** A Motion was made by **Commissioner David Tea** to forward a recommendation to the County Commission to grant the re-zone of the Joel Murray property, east of the canal for the purpose of a gravel operation. Re-zoning the property west of the canal would be incompatible with the surrounding zoning at this time, which is currently zoned half acre residential. However, the County Commission may consider taking a point along the canal road that is furthest to the west and draw a straight line which would allow the petitioner some area for stockpiling of materials. Motion seconded by **Commissioner Chad Munns** and passed unanimously.

## **NEW BUSINESS**

### **TEXT AMENDMENT TO THE BOX ELDER COUNTY LAND USE MANAGEMENT & DEVELOPMENT CODE (BECLUM&DC), ARTICLE 3-2-070-7.1; CHANGING MU-160, MU-80, AND MU-40 FROM CONDITIONAL USE TO PERMIT USE FOR A SINGLE FAMILY DWELLING.**

Staff suggested at this time that action on this item be postponed for a month in order to allow staff the time to contact surrounding counties to see what they might have in their codes regarding development on these larger parcels for single family dwellings. It was also suggested that if the Commissioners had any suggestions that they report those to staff.

**MOTION:** A Motion was made by **Commissioner David Tea** to Table this text amendment, therefore, allowing staff the time to check with other counties to see what they may have that governs single family dwellings on larger parcels of land. Motion seconded by **Commissioner Jay Christensen** and passed unanimously.

### **TEXT AMENDMENT TO THE BECLUM&DC, ARTICLE 5-1-150 REGULATING THE MINIMAL HEIGHT AND FLOOR AREA OF ACCESSORY BUILDINGS.**

Staff explained that two building permits have recently been submitted requesting two story structures and the current BECLUM&DC does not allow for two story accessory buildings. (see below) Currently in many of the residential zones and multiple use zones, the maximum height for the main building/dwelling is set at thirty-five (35) feet, with the limit on accessory buildings set at twenty (20) feet. One of the requests for an accessory building is for a twenty-three (23) foot structure.

*Article 5-1-120, Exceptions to Height Limitations, which reads, "Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless, radio, or television masts, theatre lofts, silos, energy generation and conservation apparatus, or similar structures may be erected above the height limits herein prescribed. Nonetheless no space above the height limit shall be allowed for purposes of providing additional floor space, nor shall such increased height be in violation of any other ordinances or regulations of Box Elder County.*

*Article 5-1-150, Maximum Height and Floor Area of Accessory Buildings, which reads, "No building which is accessory to a one-family, two-family, three-family, or four-family dwelling shall be erected to a height greater than one (1) story or twenty (20) feet, whichever is lower, nor be higher, nor contain greater square foot floor area than the principle building to which it is accessory."*

In discussing this text amendment, Staff told the Commissioners that twenty-five feet for an accessory building was not excessive. Also, the issue of whether or not to allow more than one story in these accessory buildings was discussed. As there are currently a couple of applications for accessory buildings, Staff suggested a couple of recommendations to the Planning Commissioners. 1) to table this amendment and have Staff do some further research into what other counties have in their codes, or 2) a recommendation be forwarded to the County Commission amending the height of accessory building from twenty (20) feet to twenty-five (25) and staff would continue to work toward resolving the other issues that had been discussed, i.e., number of stories allowed; the height of these structures blocking other residences property [solar], etc. **Commissioner David Tea** felt that one of the main issues was not necessarily the height of the building, but the number of stories allowed. Staff did not feel that the stories were as much of a concern as the height at this time, as the stories would not be visible from the outside. However, again **Commissioner David Tea** stated that there is quite a difference between a barn with a hayloft and a garage with a second floor for living quarters. It was also suggested that the language still include the current setback requirements and that the accessory structure could not exceed the height or square footage of the main dwelling.

**MOTION:** A Motion was made by **Commissioner Chad Munns** to forward a recommendation to the County Commission that the maximum height of an accessory building be set at twenty-five (25) feet with no restriction on the number of stories in the accessory building, and include the current setback requirements and that the accessory structure could not exceed the height or square footage of the main dwelling. Staff would also work toward resolving the other issues that had been discussed. Motion seconded by **Commissioner Jay Christensen** and passed with **Commissioner David Tea** opposing the Motion.

**TEXT AMENDMENT TO THE *BECLUM&DC*, ARTICLE 1-3-040 TO ADD DEFINITION OF 'COMMERCIAL'.**

Staff suggested that the Planning Commissioners forward any recommendation that they may have regarding the definition of 'commercial' and 'industrial' to the planning office and that this item would be placed on the July 2010 agenda for further discussion at that time.

**MOTION:** A Motion was made by **Commissioner Jay Christensen** to table action of this text amendment and direct Staff to continue with researching definition(s) that would be suitable for these uses in the review of site plan applications. Motion seconded by **Commissioner David Tea** and passed unanimously.

**DRAFT TO UPDATE AND CLARIFY THE *BECLUM&DC*, ARTICLE 5-1-311 (FLAG LOT ORDINANCE #249).**

Staff informed the Commissioners that there is a lot that needs to be done to clarify this ordinance and suggested, again, that they submit any of their recommendations regarding this flag lot ordinance to the planning office. The updated draft would then be placed on the agenda for the July 2010 meeting. Also review of the proposed special provisions application would take place at that meeting.

**MOTION:** A Motion was made by **Commissioner David Tea** to Table action of this Flag Lot Ordinance update until the July 15, 2010 meeting. Motion seconded by **Commissioner Desiray Larsen** and passed unanimously.

**SITE PLAN, SS10-002, STURDY BUILT SHEDS, LOCATED AT APPROXIMATELY 14700 NORTH 6000 WEST IN THE GARLAND AREA OF BOX ELDER COUNTY.**

Staff reviewed the approval standards with the Commissioners adding that Dan Davidson from the Bear River Canal Company had requested that if the ditch that is located on this property continues downstream and serves other properties, the petitioner would need to maintain the easement and clean the ditch to prevent blockage. The petitioner had also submitted three options for future [shed] expansion of the **Sturdy Built Shed** operation and the location of the additional building would need to be finalized before approval for any expansion, and as a site plan approval is only valid for a one year period, the petitioner did not want to act on that issue at this time. This petitioner had recently applied for a building permit to construct a new home on the property and does not plan to expand the business at this time. When this building permit was submitted it was discovered that a site plan had never been submitted for approval before business commenced some thirteen years ago, and the petitioner is now trying to bring this into compliance with the County requirements and standards. **Commissioner David Tea asked** if it would be necessary for a fence to be placed along the ditch to restrict access, but as the ditch is dry most of the time, it was not deemed to be necessary. The County Engineer did not have any concerns with safety issues at this site either. **Andre Pommier**, County Fire Marshall said that when any expansion takes place there may not be sufficient fire flow protection to accommodate additional buildings and that issue would need to be addressed at that time.

**MOTION:** A Motion was made by **Commissioner Laurie Munns** to grant approval for the Site Plan of the existing Sturdy Built Sheds operation [which has been in business for thirteen years] and that the petitioner continue to secure the necessary permits and licenses for this business. Motion was seconded by **Commissioner Chad Munns** and passed unanimously.

**Conditions of Approval:**

1. Renew and maintain a current Business license with Box Elder County
2. Compliance with all State, Federal and local regulations.
3. Compliance with requirements and recommendations from our County Engineer, Jones & Associates.
4. Compliance with requirements and recommendations from County Road Department.
5. Compliance with requirements and recommendations from County Fire/Building Inspector.
6. Compliance with Article 2-2-100 of Box Elder County Land Use Management & Development Code.
7. Compliance with Article 2-2-110 of Box Elder County Land Use Management & Development Code
8. Any amendment to the approved site plan must come before the Box Elder County Planning Commission.

**WORKING REPORTS**

**FIVE C'S MOBILE HOME PARK IN SOUTH WILLARD**

The Planning Commissioners had recently made a site visit to this property where the petitioner, Jerry Cook, is seeking approval for the addition of RVs to his existing mobile home park. Staff is still waiting on some additional information from Mr. Cook. Mr. Cook had sent a letter following the site visit, and it was read into the Minutes.<sup>iii</sup> After the letter was read, **Commissioner David Tea** asked for some

clarification from the County Attorney [Steve Hadfield] as to whether or not Mr. Cook was changing the use of his property by adding the RV units as currently this mobile home park is a legal non-conforming use.

*Steve Hadfield's* response was "I think what he is saying is he's going to continue to use it as a mobile home park so he's not changing the use. He's just going to add some RV uses to it . . . it is an allowable change. The mobile homes are no longer allowed, so he couldn't add more mobile homes, but a recreational vehicle park is allowed so he can add them. He can't make them any more non-conforming . . . he can't add any more mobile homes . . . that would make it more non-conforming. He can make it less non-conforming without losing the non-conforming use. And that is essentially what he is doing. He is taking some mobile homes out of there, making it less non-conforming; still non-conforming because there are still mobile homes, and he's asking for permission to put the RVs in. RVs are allowed.

There are still other issues that will need to be addressed, i.e. the limit of the use of ninety (90) days for RVs, and that may need to be changed through changing the Code with a new ordinance.

**Commissioner David Tea** also asked about the screening that would be needed to separate the mobile homes from the RVs, and Staff noted that,

*"Ten recreational vehicles may be accommodated in an approved and licensed mobile home park, provided that;*

- a. The recreational vehicle park portion of the development is separated by screens from the area of mobile homes.*
- b. The recreational vehicle use area shall have direct access to a collector or arterial street.*
- c. Separate ingress and egress shall be provided for recreational vehicles when required by the Planning Commission."*

**Commissioner David Tea** then noted that the area for the RVs in this mobile home park will be in the middle with mobile homes on either side. It was then determined that the petitioner would probably have to have two barriers to screen both ends to separate them from the permanent mobile homes in the park.

**Commissioner Chad Munns** said that he had some concerns regarding the limit of ninety (90) days as recently the County had looked at approving other areas [for possible leasing of property] to allow for RVs to house various workers with different projects currently being done throughout the County. **Kevin Hamilton** said that if this was a concern of the Commissioners they may want to direct Staff to work on an ordinance that would address that issue and make the necessary changes to allow RV's a longer stay than thirty to ninety days as may currently be in the BECLUM&DC. **Commissioner Jay Christensen** mentioned again how the time limit would be enforced and who would do the enforcing. **Chairman Richard Day** felt that this was an issue that needed to be looked into as there are workers with the Ruby Pipeline and others that would be in the area longer than the ninety days and asked that Staff look into what is done in other area [incorporated] of the County, but as this was just a follow-up on the site visit and as the petitioner(s) were not present, no [final] decision would be made at this meeting.

### **MICHAEL MUNSEE'S STORAGE FACILITY IN SOUTH WILLARD**

A site visit was made to this facility also and Staff is waiting for some additional information from this petitioner. **Chairman Richard Day** had two concerns regarding this facility. 1) Fencing needs to be looked at as it has been required with other storage facilities that have been approved in the County, and 2) adequate lighting around the storage units. The water runoff at the site was also a concern, as there are some deep cuts in the pavement/road. The existing retaining wall and fence was also discussed and the setbacks that this petitioner is requesting. It was mentioned that the fence that is on an existing retaining wall has only been up for about forty-five days. Originally this 'wall' was for the foundation of additional storage units, according to **Chairman Richard Day**.

### **PUBLIC COMMENTS – NONE**

*Joseph Barthold* spoke with the Commissioners suggesting that when they consider the height of accessory buildings, they also look at the main dwelling and perhaps rather than restrict it at twenty-five feet, they may want to do a ‘plus or minus’ with the height of the main dwelling so that these accessory buildings are aesthetically pleasing in the neighborhoods. He mentioned that there are several homes in the area where he lives [in South Willard] where there are accessory buildings that are very large, one in particular that is larger than the main residential dwelling.

Staff reported that there will not be any work sessions in the month of July due to the two holidays and **Commissioner Laurie Munns** said that she would not be able to attend the July 15, 2010 meeting.

A **Motion** was made by **Commissioner Chad Munns** to adjourn at 8:31 p.m., unanimous.

Passed and adopted in regular session this 15th day of July 2010.

*Richard Day*

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Richard Day, Chairman  
Box Elder County  
Planning Commission

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- <sup>i</sup> Joseph Barthold letter
  - <sup>ii</sup> Special Provision Application (Flag Lots)
  - <sup>iii</sup> Jerry Cook’s letter