

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES October 12, 2015

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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 by a roll call, constituting a quorum:

|                 |            |
|-----------------|------------|
| Chad Munns      | Chairman   |
| Desiray Larsen  | Vice-Chair |
| Kevin McGaha    | Member     |
| Michael Udy     | Member     |
| Bonnie Robinson | Member     |
| Jay Christensen | Member     |
| Laurie Munns    | Member     |

*the following Staff was present:*

|                |            |
|----------------|------------|
| Scott Lyons    | Planner    |
| Elizabeth Ryan | Exec. Sec. |

County Commissioner Jeff Scott

### The following citizens were present:

Greg DuPuis/Collinston  
Jennie Potter/Collinston  
Charlotte Nelson/Collinston  
Suzanne McBride/Collinston  
Landon Potter/Collinston  
Nate Nelson/Logan  
Val Stokes/Tremonton  
Garth M. Kidman/Beaver Dam  
Brittany Painer/Tremonton  
Tony Peterson/Deweyville  
Carrie Perry/Garland  
Wade Perry/Garland  
David Meircie/Garland  
Justin Earl/Garland

John Potter/Collinston  
Kyle Potter/Collinston  
Burke Jensen/Collinston  
Bill Gilson/Box Elder Road Dept.  
Tom Peterson/Box Elder Bldg. Off.  
Hugo Gonzalez/Brigham City  
Kelly Ann Wheatley/Logan  
Wayne Wheatley/Logan  
Hattie Perry/Cove  
Lyle Perry/Garland  
Robert D. Payne/Tremonton  
Morgan Lase/Garland  
Chuck Earl/Fielding  
Bret B. Earl/Fielding

## **PUBLIC HEARING**

**Chairman Chad Munns** informed those present that this public hearing was for Central Milling located in Collinston, Utah.

Staff presented the applicant's text amendment to the BECLUM&DC, Section 3-4-080-2.1 that is only applicable to the M-G zone. The Code currently states that in any zones within the county where there is a corner lot, it is considered to have two (2) front yards. The setback for the front of the property is 30 feet and in the M-G zone the side lot is set at 25 feet. The applicant is purposing a change to the setback on the side street from the current 25 feet to 10 feet. The reduction in the setback would still need to meet the clear view site distance at the intersection for traffic and that is set at 40 feet. The public hearing was then opened.

**Mr. Bill Gilson**, county road supervisor, addressed the commissioners and public first by reviewing the recent application to vacate the road to the north of the silos (14600 North) and since 1999 it had not appeared on the county road map. There was a public hearing on August 20, 2015 regarding vacating this road, which was tabled at that time; and then again at the September 17, 2015 meeting where a Motion was made to recommend to the county commission that this road remain a county road and accordingly be placed back on the county road map. He also said that if this road remains a county road, Wheatland Seed should cover the cost of signage for “no parking” at the site of the new silos and that car would be towed if parked there which would limited the clear view site triangle.

**Mr. Tony Petersen**, representing Wheatland stated that the land directly north is owned by the railroad and they would be leasing it in order to create an area for trucks to turn around. Their main concern is for the safety of the residents and also that of their employees and truck drivers. The historical use of the road has been looked at and it was determined that the width of the road is 30 feet and by asking for the setback to be reduced they will be able to build new silos on their property. There is still a clear line of view from the silos and that would remain.

**Ms. Suzanne McBride** Collinston resident and had a problem with the way things were being handled. 1) When Wheatland expanded north 10-15 years ago they were dumping materials on property owned by the railroad, unknown by the railroad [according to Ms. McBride]. 2) They (McBrides’) had an Ag lease agreement with the railroad, but that lease was negated as the railroad was leasing to Wheatland. 3) Would there be trucks parked in front of her home as they have in the past making it difficult to see any traffic on Highway 38. Said that there are grain trucks parked on the north and south now. 4) Was also still wondering what was happening with the vacating of 14600 North and should that issue be resolved before moving forth with this request of an amendment.

**Mr. Lyle Perry**, Vice President of Central Milling and said that they were looking at giving up some of their property as it goes to the center of the road (14600 N) and if it is vacated then this would not be an issue. When the property was originally purchased that road was about 19 feet wide. They are not increasing the footprint, but want to be able to finish the project with the construction of the additional bins/silos. They want to be good neighbors.

**Mr. Kyle Potter** referred to the road and that it had been a county road for a long time and there was never any junk dumped on one side. He said that in order to develop property to the west there needs to be a 60 foot wide right of way, but discussing the road was getting off the subject of the amendment that was requested. He had checked with Cache County and the setback in there code are 30 feet for everything. When Box Elder County adopted the 25 foot setback it was to ensure the safety of its residents. It is necessary to be able to see any approaching trains on the track and also any trucks. He was concerned that if the setback was changed it might set a precedent for other areas in the county; he wanted to see Wheatland succeed that it is a good business and a benefit to the farmers in this county.

**Mr. Greg DuPuis** is a school bus driver in this area and travels on this road four times a day and with the additional bins it will be even more difficult to see the trains approaching or traffic from

the highway. Even though there are signs and signals at the railroad tracks, they are sometimes not working properly and can be misleading.

**Ms. Charlotte Nelson** presents comments from other residents and property owners that were unable to attend this meeting.<sup>1</sup> Their main concern was safety and visibility. Reminded the commissioners that there is already a subdivision in this area with one home and the access to that home was taken away when Wheatland came to the area. Her family had granted an easement to the subdivision in order for the DuPuis' to get to their home.

**Mr. Chuck Earl** from Fielding informed the commissioners that there is never a train on the first set of tracks [heading west] other than for moving train cars. This business is good for the county and is a big supporter of the county fair. In regards to the ownership of the road he noted that he owns property to the center of a county road and pays taxes on that property; Wheatland also pays taxes on that [road] property and the county willingly takes that tax money in. He then asked where does the setback begin; is it at the edge of the property line or at the center of the road? He could not see a problem with the additional buildings.

**Mr. Garth Kidman** asked if there was another road that could be used if this one was vacated. He thought that there was an old road that when north and south connecting to Highway 30. (Was informed that road had been vacated some time ago)

**Mr. Brett Earl** said that he has hauled several thousand truckloads of grain out of this area and his main objective was to not block the road and said that Wheatland's main objective is to not block the road and to get along with the residents of Collinston. He has driven to other areas around the country where the roads are in much worse conditions than at this site and he could not remember there ever being an accident here. This company has helped numerous farmers in this county and brought millions of dollars into the county.

**Mr. Al Stokes** has an office in the Wheatland building and has a background in trucking for about ten years over the 48 lower states. He has seen every type of conditions some better and some far worse. It is necessary for a driver to be alert when approaching this particular intersection (as all intersections are potentially dangerous); he didn't feel there was an enormous issue at this project site. People just need to be cautious. Wheatland supports this county and offers employment; he looked on the county website and under economic development it states that the county seeks to further economic activity with agribusinesses and other business that support agribusiness. He concluded with saying he was in favor of the amendment change.

**Mr. Landon Potter** wonder if this was changed in this area it would also change for all M-G zones in the county and would that be a good idea at this time. It is necessary to look to the future and any development that could occur in this area that would result in increased traffic. Also, other companies that may come into the county building on corner lots and this change in the setbacks would then apply at other locations in the M-G zone.

**Mr. Tony Peterson** again reminded everyone that this is not a 66 foot road and never will be, as it is not possible to take land from either Wheatland or the railroad. It has been determined that this is a 30 foot road. He didn't want to cause a fight about this road, but want all to be informed about the road and they don't want to vacate it. If those that own property in this area want to

develop in the future then they would be the ones to give up land for a road and not Wheatland or the railroad. Again, he reminded everyone that this was about the text amendment and not the road issue. They are looking to put new bins on land that is already theirs. He noted that there are four other companies [that were not at this meeting, because they didn't care] with M-G zone; Procter & Gamble, Grover Excavation, Hillside Recycling, and Rupp's Trucking. Procter & Gamble being the only other one located on a corner lot.

**Mr. Kyle Potter** said that no one could state the width of the road other than a judge. Everyone (property owners) owns land on dedicated county roads. The issue of vacating this road will go before the county commission in November for final determination, and again this meeting is about the change in the setbacks.

**Ms. Carrie Perry** wanted to speak about the issue of the bus and said that she had been a school teacher for a number of years. She noted that by law, school buses have to stop at all railroad crossings, open the bus door and listen for a train; not just rely on any signals at the tracks.

**Mr. Tony Peterson** noted that when Mr. DuPuis drives the bus on this road there are not any children on it at this particular crossing. When this property was first purchased there was a steel bin on the northwest corner that was removed along with old buildings. They will be putting a new bin at that location.

**Ms. Hattie Perry** is the office manager for Wheatland and stated that they have no control over where the trucks park. They come in and unload and then are supposed to leave.

No other comments were made and a Motion was made by **Commissioner Desiray Larsen**; seconded by **Commissioner Kevin McGaha** and was unanimous.

## **ACTION**

**Chairman Chad Munns** asked staff about the discussion with the county attorney regarding the legal width of the road and what was determined. Staff reported that in regards to the vacating this road it was recommended not to be vacated and will go before the county commission on November 4, 2015. At that time from a case law standpoint, the prescriptive right of way use is determined by historical use. A judge is the only one that can make final decision, however. Currently it was determined to be a 30 foot wide road [possibly between 24-30 feet] and it is currently being engineered by Johnson Engineering. If either Wheatland or residents of Collinston have issues with the road and the right of way, they would have to take that case to court for a judge to determine. When asked about setbacks in other counties staff informed the commissioners that in **Cache County** in similar zones it is 30 feet on corner lots. In **Davis County** there are no requirements for side yard setbacks; however, the front yard setback is 25 feet and *"when a lot abuts a street or alley on either side or the rear, a yard of not less than fifteen (15) feet shall be provided on the street or alley side."* In **Morgan County** it is like Box Elder County with a corner lot having two front yards and 25 feet as the setback. In **Tooele County** the setback requirements are established with a conditional use permit, *"except that no commercial building shall be located closer than 50 feet to any residential district boundary line or to any street line which continues as frontage into a residential district, and providing they do not encroach on any easement."* As far as the other M-G zones in the country, staff named the others that would be affected by this amendment change; 1) Central Milling (Wheatland), 2)

Blaine Rupp (also on Highway 38), 3) Grover Excavating and Hillside Recycling (on Highway 38), Procter & Gamble (on Iowa String), and 4) Lewis Cabinets (in the Thatcher area), and any future zoning of M-G or development is that zone. It was also noted that the Procter and Gamble property is not a corner lot; however there is a private drive/road to the north of their property.

**Commissioner Desiray Larsen** for clarification regarding the definition of two front yards for corner lots and if it currently applied to the entire county; this was answered in the affirmative. It was also asked if (regardless of the recommendation made for this amendment) this item would also be on the same county commission agenda as that of the road vacate. Staff said that this amendment would be eligible for the county commission agenda of October 21, 2015.

**Commissioner Bonnie Robinson** asked if it would be easier for Wheatland to ask for a variance instead of a code amendment and staff responded by saying that for a variance there are stricter requirements that have to be met in order to be granted.

**Commissioner Laurie Munns** wondered if conditions could be set in changing the text of the code, but **Chairman Chad Munns** said that the planning commission only makes a recommendation to the county commission, as the legislative body, and it is their final decision to make as to approve or reject. A public hearing is not required at the county commission level, but they may have one, in which case it would have to follow the requirements for the noticing requirements. There were some questions regarding the speed limit on this road (14600 North), but no one was sure what it was. Staff said that he had been in contact with UDOT and they had been working with Wheatland during the past three-four years when they applied for their conditional use permit, but was not sure what contact had taken place since that time regarding this new project. Wheatland has an approved site plan and the county would consider this an amendment to that site plan. **Chairman Chad Munns** then asked about the standards that are to be reviewed by the planning commission and the county commission when a text amendment is purposed. They are:

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
- C. The extent to which the proposed amendment may adversely affect adjacent property; and
- D. 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.

These standards were discussed, with safety being a concern and the site of view triangle. The county's general plan suggests that manufacturing business be located in the more rural or agricultural areas of the county and this site currently is. **Commissioner Jay Christensen** said that he has more of an issue with (safety) site view in Brigham City with the trees located along Main Street, but wasn't suggesting that those trees be removed; and **Commissioner Michael Udy** said that the site distance at the Collinston located is closer to 60+ feet. In considering future development that had been mentioned by one of the landowners, the issue of the road and the width would fall to the developer and other options could be considered. **Chairman Chad Munns** took some quick measurements on the proposed plat and said that he came up with approximately 110 feet for the site of the first railroad track. At the conclusion of the discussion the following motion was made.

**MOTION:** A Motion was made by **Commissioner Michael Udy** to forward a recommendation to the County Commission for approval of the text amendment, Z15-014, Central Milling (Wheatland), reducing the side yard setbacks from the current twenty-five (25) feet to ten (10) feet on the side yard of a corner lot in the M-G zone. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

**Commissioner Laurie Munns** wanted to make sure that the safety issues were addressed by Wheatland and that proper signage is installed, i.e. “stop ahead” and that posting of the required speed limit and that staff work with the county road department regarding these issues. Also any trucks delivering would not park and obstruct the view of traffic. **Commissioner Kevin McGaga** supported the motion saying that keeping the site triangle was important and seemed to be what many jurisdictions were now using.

### **PUBLIC COMMENTS**

*Ms. Suzanne McBride* asked where the site triangle was determined and measured from as it you cannot see to the south with the bins that are currently there. (The bin that is currently there is a recycle bin.) The site is also different depending on the vehicle that a person is in, whether a car or a truck that sits up higher.

*Mr. Robert Paine* the CFO for Central Milling noted that this is not a big company but is an employee owned company with stock [ESOP]. There are 30-40 employees that work for Wheatland and they just want to be a good neighbor in the area. Part of what they do is concerned with food safety and also physical safety and if it is necessary to do with “no parking” signs, painting lines for parking, placing mirrors where necessary to aid in being able to see approaching vehicles.

*Mr. Lyle Perry* said there was no reason that parking stalls could not be painted on the asphalt to indicate where the drivers were to park as well as no parking areas marked clearly.

*Mr. Greg DuPuis* said that there always seemed to be train cars parked on the tracks adding to the difficulty of seeing oncoming traffic and if there is a semi-truck parked there also it is even more difficult to see around. He also hoped that there would not be additional problems with snow and its removal.

A **Motion** was made to adjourn at 8:00 p.m., and was unanimous.

Passed and adopted in regular session this 22<sup>th</sup> day of October 2015.

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Chad Munns, Chairman  
Box Elder County  
Planning Commission

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<sup>i</sup> Comments from Tarlton McBride; Charlotte Nelson; Leo Ericksen; Joy Ericksen-Sadler; Suzanne McBride