

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES January 21, 2016

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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	<i>the following Staff was present:</i>	
Desiray Larsen	Vice-Chair/Excused	Scott Lyons	Planner
Kevin McGaha	Member	Marcus Wager	Planner
Michael Udy	Member		
Bonnie Robinson	Member	Elizabeth Ryan	Exec. Secretary
Jay Christensen	Member	Jeff Scott	Co. Commission
Laurie Munns	Member	Steve Hadfield	Co. Attorney

### The following citizens were present:

Matt Ruder/Thatcher	Dustin Ericson/Logan
Jason Evans/Meridian, ID	Josh Skidmore/Taylor
Jim Flint/Brigham City	Nathan Smith/Thatcher
JC Mickelson/Nephi	

The Minutes of the December 17, 2015 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to accept the Minutes as written; seconded by **Commissioner Kevin McGaha** and passed unanimously.

## **PUBLIC HEARINGS**

**Chairman Chad Munns** 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 that the Commissioners would listen to the comments and concerns. After the public hearing on an item the Planning Commissioners would then discuss and take action on the item.

### **NEBONET/NATHAN J SMITH, CUP15-011, CONDITIONAL USE PERMIT FOR LOCATION OF WIRELESS INTERNET ANTENNA STRUCTURE AT APPROXIMATELY 10885 NORTH WALLACE LANE (MARBLE HILLS) IN BOTHWELL AREA OF BOX ELDER COUNTY.**

Staff explained that this petitioner was requesting a Conditional Use Permit to install an antenna structure for wireless internet connection to be located on his property on the west hillside of Marble Hills Subdivision. There has been a smaller antenna on the roof of the home for approximately eight years and the capacity is maxed out at this time. They (the wireless

provider) would like to be able to offer service to more residents in this and the surrounding area. The public hearing was opened and the following comments were given.

**Mr. Dustin Ericson**, an attorney representing Mr. Matt Ruder the next door neighbor to this site, wanted to inform the commissioners that the BECLUM&DC currently deals more with wireless phone towers and not towers that deal with internet service. This type of tower requires a CUP, but this structure is already being constructed before the application for the CUP was applied for. Another problem with this structure is that it is being placed on a wind turbine that is already located on the property with a permit and Nebonet wants to put this device on that existing structure. There may be some structural issues that need to be looked at with this new device being added. It appears that this application is asking more for forgiveness than permission by having already started work on this structure. He had some pictures<sup>i</sup> that showed where the Marble Hills water company is located and the pump house. It is a utility owned by all of the residence of Marble Hills. The location of the pump house is approximately the same elevation as the site where Nebonet is co-locating on the existing wind turbine. It was suggested that perhaps locating the wireless tower where the pump house is located might be a better solution as it is already a utility site for the area.

**Mr. J.C. Mickelson**, representing Nebonet, said that there have not been any structural changes to the wind turbine with the additions of the wireless antenna. He said that they are open to other locations for this antenna as long as there is a line of site that is not blocked by any structures, mountains, trees, etc. He said that the usage in the area has changed with more people using the internet on a daily basis whether for employment, entertainment or for school work. There are a significant number of residents in this area that have asked for the upgrading to help facilitate the increased usage. He apologized for not having applied for the permit before the work was started, but after realizing this error, all work has stopped at this site. What has been completed could easily be taken down in a day.

**Mr. Matt Ruder**, neighbor to this site said that they purposely purchased their lot on the backside of the development as there would not be development around them. He wondered if Nebonet could purchase a lot in order to locate the wireless antenna; he was concerned that if this structure is allowed then more wireless structures, such as a Verizon tower, could locate there also.

**Mr. Nate Smith**, landowner where this wind turbine and the Nebonet antenna is being located said that this antenna would benefit him and his family greatly as he works from home with two different jobs. He said that he had spoken with several of the other residents of Marble Hills and many were in favor with only Mr. Ruder being against it.

No other comments were given and the hearing was closed with a Motion by **Commissioner Laurie Munns**; seconded by **Commissioner Bonnie Robinson** and passed unanimously.

#### **ACTION:**

Staff said that his office had received several letters that were in favor of this CUP and that this is an administrative action, meaning that the Planning Commission will be enforcing the existing code. Some of the letters<sup>ii</sup> that were received were more informative than others as they elaborated on the service they currently have and service they have had in the past. **Chairman Chad Munns** felt that the two codes [wind turbines and wireless cell towers] needed to be looked at to see if this application would need to have two permits. Staff then read from the code stating that the “Wind Ordinance Code has section that basically reads *any physical modification to any*

*existing and/or previously permitted large wind energy system that materially increases the size and/or type of wind turbines or other equipment shall require a new permit. Replacement of an already permitted turbine with a similar size and height will not require a new permit.* By this definition it would require a new permit. Based on the drawings that have been submitted and how the antenna would be attached to the wind turbine, staff felt that the turbine had not been modified in the sense that the support pole had not been drilled in to, the pad had not been drilled in to, but as was pointed out during the public hearing the antenna would be relying on the wind turbine for wind loads, etc. The plans had been reviewed by the County Building Official and the conclusion was that it was a modification to the existing wind turbine and engineering would be needed to show that the turbine could handle the additional load.

**Commissioner Laurie Munns** asked about the code that was referred to during the public hearing and did it include this type of equipment. Staff said that particular part of the code talks about telecommunications and television towers and they are conditional use permits, but there is also a section of the code that refers to essential services facilities with the definition including utilities, phone, basically a very broad definition and it does not specifically mention wireless internet. This shows that the code is somewhat dated as it does not mention internet, but now internet could be considered as an essential service because the phone and television can be run over the internet. It was then asked if anyone from the planning office had been to the site to look at this turbine and antenna. Staff said that they had been past the area, but were not physically on the property where it is located. Following Staff reviewing the setback requirements and other options that are available for this petitioner the following motion was made.

**MOTON:** A Motion was made by **Commissioner Bonnie Robinson** to Table action on this petition to allow the petitioner time to return with other options for location of the antenna. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

**SKIDMORE TRANSPORTATION SERVICES, INC., Z15-017, RE-ZONE FROM RR-20 TO C-G (GENERAL COMMERCIAL); LOCATED AT APPROXIMATELY 2260 WEST HIGHWAY 13 IN THE BRIGHAM CITY AREA OF BOX ELDER COUNTY.**

This petitioner was requesting a re-zone for his property from the current RR-20 (Rural Residential 20,000 sq. ft. lot) to G-G (General Commercial). This property is located just outside of Brigham City limits. The public hearing was opened and the following comment was made.

**Mr. Josh Skidmore** [the petitioner] said that the four parcels to be re-zoned fall within the County's General Commercial Plan and he was asking for the re-zone in order to allow for some different development options in the future. Some of the property is owned by Brown Bear Investments LLC and has been annexed into Brigham City, but these parcels cannot be annexed in due to other landowners having property in the county at this location that are not being annexed. The public hearing was closed with a Motion by **Commissioner Bonnie Robinson**, seconded by **Commissioner Michael Udy** and passed unanimously.

**ACTION:**

Staff said that historically this property has been used for commercial use as it is and it is close to the freeway entrance and exits. Brigham City future land use maps shows this area as general commercial so if in the future it were to annex into Brigham City it would meet the zoning. When asked why he did not annex all of his property into Brigham City, **Mr. Skidmore** said that if he were to annex all of his property it would force Mr. Jensen to also annex his property, which he does not want to do.

**MOTION:** A Motion was made by **Commissioner Laurie Munns** to forward a recommendation to approve the re-zone for Skidmore Transportation from RR-20 to C-G with any conditions as outlined by staff. Motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

**Conditions for Approval:**

1. Compliance with Article 5 of the BECLUM&DC.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the BECLUM&DC.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**MERCURY TOWERS, LLC., CUP15-007, CONDITIONAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITY LOCATED ON STATE OF UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, T09N R15 0W.**

Staff explained that this applicant was requesting a Conditional Use Permit to construct a telecommunication facility off Highway 30 in the western part of Box Elder County. This was the first of four applications for towers that were being proposed. The area would be enclosed with a fence. All of the requirements have been met. The public hearing was then opened.

**Mr. Jason Evans**, representing Mercury Towers, said that this was an aggressive plan for placing towers out in this area over the next year. These towers will help to provide service along Highway 30 outside of Park Valley. There is already access to these areas and utilities are available.

The public hearing was closed with a Motion by **Commissioner Jay Christensen**, seconded by **Commissioner Bonnie Robinson** and was unanimous.

**ACTION:**

**Commissioner Bonnie Robinson** asked about the railroad bed road at the location of CUP16-007, but it was determined that this was not a railroad, but just a road.

**MOTION:** A Motion was made by **Commissioner Laurie Munns** to approve CUP16-007 for Mercury Towers; seconded by **Commissioner Kevin McGaha** and was unanimous.

**Conditions for Approval**

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.

3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**MERCURY TOWERS, LLC., CUP15-008, CONDITIONAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITY LOCATED ON STATE OF UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, T08N R18 0W.**

This was the second proposed tower for the area along Highway 30. No comments were given and the public hearing was closed with a Motion by **Commissioner Bonnie Robinson**; seconded by **Commissioner Kevin McGaha** and was unanimous.

**ACTION:**

**MOTION:** A Motion was made by **Commissioner Michael Udy** to grant approval to CUP16-008; seconded by **Commissioner Kevin McGaha** and passed unanimously.

**Conditions for Approval**

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**MERCURY TOWERS, LLC., CUP15-009, CONDITIONAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITY ON KUNZLER RANCH LLC, T13N R14W SECTION 17 IN THE PARK VALLEY AREA OF BOX ELDER COUNTY.**

This tower would be constructed on the Kunzler Ranch property and meets all of the requirements. No comments were given and the public hearing was closed with a Motion by **Commissioner Laurie Munns**, seconded by **Commissioner Jay Christensen** and was unanimous.

**ACTION:**

**MOTION:** A Motion was made by **Commissioner Jay Christensen** to approve CUP16-009 for Mercury Towers; seconded by **Commissioner Kevin McGaha** and passed unanimously.

**Conditions for Approval**

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**MERCURY TOWERS, LLC., CUP15-010, CONDITIONAL USE PERMITS FOR WIRELESS TELECOMMUNICATIONS FACILITY ON LAZY EIGHT LAND & LIVESTOCK, T13N R12W SECTION 25 IN THE PARK VALLEY AREA OF BOX ELDER COUNTY.**

This tower will also be located just off Highway 30 and meets the requirements. No comments were given and the public hearing was closed with a Motion by **Commissioner Kevin McGaha**; seconded by **Commissioner Jay Christensen** and was unanimous.

**ACTION:**

**MOTION:** A Motion was made by **Commissioner Kevin McGaha** to grant approval for CUP16-010; seconded by **Commissioner Laurie Munns** and passed unanimously.

**Conditions for Approval**

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**UNFINISHED BUSINESS--NONE**

**NEW BUSINESS--NONE**

**WORKING REPORTS**

**Chairman Chad Munns** felt that another work session was not necessary regarding the PUD Ordinance. **Commissioner Laurie Munns** asked what the major differences were between the old ordinance and what had been discussed during the work session. Staff said that one of the changes had to do with what was considered as developable land. The other difference was in the definition of the open space and what was the percentage required.<sup>iii</sup> Staff said they would send the commissioners another copy that would show the changes from the old to the new with red-lines.

**PUBLIC COMMENTS -- NONE**

A **Motion** was made to adjourn at 8:27 p.m., unanimous.

Passed and adopted in regular session this 18<sup>th</sup> day of February 2016.

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Chad Munns, Chairman  
Box Elder County  
Planning Commission

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- <sup>i</sup> Pictures noting the site of wireless tower and water pump house
- <sup>ii</sup> Letter from residents of Marble Hills Subdivision
- <sup>iii</sup> Chapter 4-3 (proposed PUD overlay)