

BOX ELDER COUNTY PLANNING COMMISSION MINUTES AUGUST 17, 2017

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:

<i>Roll Call</i>		<i>the following Staff was present:</i>	
Chad Munns	Excused	Scott Lyons	Excused
Laurie Munns	Vice-Chairman	Marcus Wager	Planner
Kevin McGaha	Excused	Diane Fuhriman	Exec. Secretary
Michael Udy	Member	Steve Hadfield	Co. Attorney
Bonnie Robinson	Member	Jeff Scott	Co. Commissioner
Desiray Larsen	Excused		
Mellonee Wilding	Member		

The Invocation was offered by **Commissioner Bonnie Robinson**
Pledge was led by **Commissioner Mellonee Wilding**

The following citizens were present & signed the attendance sheet

(See Attachment No. 1 – Attendance Sheet.)

The Minutes of the June 15, 2017 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to approve the minutes with the following change: add Deputy County Attorney Brian Duncan as being in attendance, the motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

PUBLIC HEARINGS

Vice-Chairman Laurie 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.

MARK STOREY, CUP17-002 Conditional Use Permit for an Accessory Dwelling Unit located at 5590 North Calls Fort Road (ACTION).

Staff said the applicant is requesting a CUP for an accessory dwelling unit. County records show the existing home is 2430 sq. ft. and the proposed accessory dwelling unit is 836 sq. ft. which meets the 40% size requirement. The property is in the RR-20 Zone which allows for the conditional use permit of accessory building units.

Vice-Chairman Laurie Munns asked for comments from those in attendance.

Mark Storey, applicant, said the reason for the addition is to take care of his wife's ageing parents. He has been working with Scott Lyons and Marcus Wager in drawing up the plans.

Hearing no further comments Commissioner Bonnie Robinson made a motion to close the public hearing for the Mark Storey, CUP17-002. The motion was seconded by Commissioner Mellonee Wilding and the public hearing closed.

ACTION: Staff read the reviewing standards for a conditional use permit as follows:

1. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
2. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;
3. The proposed use at the particular location is compatible with the intent, function and policies established in the general plan, this Code and the particular zoning district in which the use is proposed.

Staff added to be more specific, the code states the following factors should be reviewed and considered:

1. Conditions relating to safety of persons and property.
 - a. The impact of the proposed facility or use on the health, safety, and welfare of the County, the area, and persons owning or leasing property in the area.
There should be no impact.
 - b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.
Any adverse effects the Commission can think of should be addressed with the applicant.
 - c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
This information will be reviewed during the building permit process.
 - d. Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.
The ADU will meet the setback requirements of the RR-20 zone.
 - e. Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.
Staff has no evidence of the above listed or other natural hazards in the proposed area.
2. Conditions relating to the compatibility of the use.
 - a. The suitability of the specific property for the proposed use.
Staff finds no health, safety, or welfare issues affecting the suitability of the proposed site.

- b. The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.
The surrounding development is agriculture to the north, south, east, and west with some rural residential mixed in.
 - c. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.
Staff has no evidence of this.
 - d. The number of other similar conditional uses in the area and the public need for the proposed conditional use.
To staff's knowledge there is one other approved ADU in the Harper Ward area. There may be properties with a primary dwelling and mobile home or trailer on the same property. The goal of the ADU ordinance was to allow a more permanent structure to take the place of the trailers that often end up being a blight to the community and an enforcement issue with the county.
3. Conditions relating to health and safety.
No impact.
 4. Conditions relating to environmental concerns.
No impact.
 5. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district.
None.
 6. The aesthetic impact of the proposed facility or use on the surrounding area.
Staff has no evidence of this. This is subjective.
 7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.
These are required as part of the building permit process.
 8. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.
These are required as part of the building permit process.
 9. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use.
N/A

Staff said the Box Elder County Land Use Management and Development Code Section 5-6-060 outlines the development standards for accessory dwelling units and this request meets all of the standards.

Commissioner Laurie Munns asked if there are any questions the commissioners have for staff or the applicant regarding setbacks. There were no questions and staff recommended approval.

MOTON: A motion was made by Commissioner Bonnie Robinson to approve CUP17-002, conditional use permit for the accessory dwelling unit with conditions outlined by staff. The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

STEVE BURT/BRIAN & STACIE NELSON, Z17-016 Zoning Map Amendment, Proposed zone change for one acre at approximately 250 North 3000 West from A-20 to RR-1 (ACTION)

Staff informed the commission of the approximate location of the requested zoning amendment from Agricultural 20-acres to the Rural Residential 1-acre zoning. To the north, south, east and west is all agricultural zoning mixed with a few homes.

Vice-Chairman Laurie Munns opened the public hearing for public comment.

Brian Nelson, applicant, said they are requesting the re-zone to build a family home.

With no other comments being heard Commissioner Mellonee Wilding made a motion to close the public hearing for the Z17-016 Zoning Map Amendment. The motion was seconded by Commissioner Udy and the public hearing closed.

ACTION: Staff reviewed the standards from Box Elder County Land Use Management & Development Code section 2-2-080-E as follows:

A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;

The County's General Plan makes no reference as to how specific areas should be zoned. It does state that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;

The area is a combination of residential and agricultural uses. Whether the proposed amendment is harmonious with the overall character of existing development is quite subjective. This point could be argued saying yes, it is harmonious due to there being existing residential uses.

C. The extent to which the proposed amendment may adversely affect adjacent property; and

The proposed amendment shouldn't affect the values of adjacent property. The public hearing process is in place for this information to come to light.

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.

With Brigham City, other residential and agricultural uses already in place in this vicinity, it is likely the facilities and services intended to serve the subject property are adequate.

Commissioner Laurie Munns questioned if the parcel would still stay within the 20-acre zoning with the 1-acre removed. Staff replied the parcel would comply.

MOTION: A motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the county commission for the Z17-016 Zoning Map Amendment with the conditions outlined by staff. The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

TEXT AMENDMENT, Z17-017 Text amendment to Chapter 5-1, Regulations Applicable to All Zones, Setback and Frontage Regulations, of the Box Elder County Land Use Management & Development Code (ACTION)

Staff said there is nowhere in the code that sets any standards for setbacks, or frontage or width requirements for the un-zoned areas. Staff pointed out in Section 5-1-070 it is being proposed to add in width/frontage regulations and setback regulations to the un-zoned areas. Since the un-zoned areas can be as small as a ½ acre, the regulations were taken from R-1-20 and RR-20 for the un-zoned areas. The reason staff is looking to do this is if in the future someone puts their home too close to the road, which they can go down to 5 ft. at this point, and the road needs to be widened, the county would end up paying for the home and the parcel instead of just some of the front of the parcel.

Vice-Chairman Laurie Munns opened the public hearing for public comment. There were no comments.

With no comments being heard Commissioner Mellonee Wilding made a motion to close the public hearing for Text Amendment Z17-017 to Chapter 5-1. The motion was seconded by Commissioner Robinson and the public hearing closed.

ACTION: Staff reviewed the standards from Box Elder County Land Use Management & Development Code section 2-2-080-E as follows:

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;**
The proposed amendment is consistent with the 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;**
This text amendment would affect all unincorporated areas of Box Elder County that are un-zoned.
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**
The proposed amendment should not adversely affect adjacent property.
- 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.**
The proposed amendment should not put a strain on any of these facilities.

Commissioner Bonnie Robinson feels it will be safer with the homes not being so close to the road. She has buildings close to the road on her property and when she is driving the tractor it is difficult to see the oncoming traffic.

Commissioner Laurie Munns asked if it is 63 ft. set from the property line, what if there is not a road. Staff explained if there is enough width of right-of-way, then it calculates at 30 ft. from the property line. When there is not enough width of right-of-way, then it calculates from the center line of the road 63 ft. because that gives 33 ft. of right-of-way potential in the future and a 30 ft. setback.

Commissioner Mellonee Wilding questioned how much of the county is currently un-zoned. She is concerned with areas like Park Valley and Promontory. If this zoning had been in place before, we would have the width to make a road where no one ever thought there would be a need for a wide road. We never know when development is going to come and where.

Commissioner Laurie Munns lives in unincorporated Box Elder County and does not have a problem with the zoning requirements. She asked if someone new comes in to build, can they apply for a variance.

Staff replied they can but would have to meet the five strict criteria.

Staff informed the commissioners since there is no section of code for un-zoned areas, the fire code has been used which states there needs to be 5 ft. if they are not going to fire rate. If they do fire rate, they can go right to the property line.

MOTION: A motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval of Z17-017 Text amendment to Chapter 5-1, Regulations Applicable to All Zones, Setback and Frontage Regulations to the county commission with any conditions staff may have listed. The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

NEW BUSINESS

JON SORENSEN, SS17-015, Collinston Ranchetts 4 – Lot Subdivision located at approximately 13855 North 3100 West in the Collinston area (ACTION)

Staff said the property in question is surrounded by agricultural zones. The access will be via county road 3100 West which has 66 ft. of right-of-way. Setbacks can be met in the RR-2 Zone. The applicant stated today the geotechnical report is very close to being done. The water will come from the Bear River Water Conservancy District. The updated plat was received and has been sent out for review. The GIS department has some concerns to be worked out. Staff said Road Supervisor Bill Gilson has a concern regarding the drop-off on 3100 West. Staff read Bill Gilson's comments: *My main concern would be the construction of the driveway approaches on to the county road. Each driveway will need a large amount of gravel for the approach. We do not want the driveway so steep that residents will have difficulty coming up on to the county road in the winter time without getting a run at it. We need the approach level enough that they can come to a stop and check traffic and be able to pull out onto the road safely.*

Staff is still active in the review process of the subdivision. Once the comments received have been taken care of, this will be forwarded to the county commission for final approval.

MOTION: A motion was made by Commissioner Mellonee Wilding to approve the application of SS17-015, Collinston Ranchetts 4 – Lot Subdivision located in the Collinston area with conditions and reviews proposed by staff. The motion was seconded by Commissioner Bonnie Robinson and passed unanimously.

AMY RUPP, AS17-002, Agricultural Subdivision located at approximately 8990 West 10400 North in the Bothwell area. (ACTION)

Staff stated the area is un-zoned and the agricultural subdivision would create a 2.443 acre residential parcel on the road and a 5-acre agricultural parcel. Utah State Code Section 12-27a-605(5) allows subdivisions to be exempt from plat requirements as long as they include agricultural land, a single family dwelling, and an ordinance is enacted at the county commission level following planning commission approval.

Staff read the standards for review from Utah State Code 2-27a-605(5) as follows:

- A. The parcel contains an existing legal single family dwelling unit;
Yes.
- B. The subdivision results in two parcels, one of which is agricultural land;
Yes.
- C. The parcel of agricultural land:
 - a. Qualifies as land in agricultural use under Section 59-2-502; and
 - b. Is not used, and will not be used, for a nonagricultural purpose;
Yes.
- D. Both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and
Yes.
- E. The owner of record completes, signs, and records with the county recorder a notice:
 - a. Describing the parcel of agricultural land by legal description; and
 - b. Stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zone change permits another use.

This is done as part of the ordinance process with the County Commission.

Staff stated the applicant is buying a 5-acre parcel from her neighbor and wants it to be designated as agricultural as she does not want anyone else to build next to her. Staff recommends approval.

MOTION: A motion was made by Commissioner Mike Udy to approve application AS17-002 an Agricultural Subdivision The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

UNFINISHED BUSINESS – NONE

WORKING REPORTS

Water Protection

Staff stated when the convenience store in South Willard went through, it was a big mess. The state has a new model ordinance regarding water protection. We would like to update our ordinance to reflect what the state has as a model ordinance. The ordinance should also be applicable to wells created after the 1993 deadline when all the rules took effect. Staff would like to add to the ordinance that whoever is making a well has to get land agreements from their neighbors. The current ordinance limits what can be done in the Zone 2 area. If someone puts a well in and the neighbor is in Zone 2, a land use agreement with the neighbor is not required because of our ordinance. Staff thinks it is unfair a well can be put in which would limit what the neighbor could do with their land.

Staff informed the commission there are two types of wells, the existing wells which were done before 1993 and new wells. This ordinance should only apply to new wells but right now it applies to everything. This is one of the changes staff would like to make.

Staff stated they are not aware of the requirements for a well at the state level but people do need a well permit.

Commissioner Laurie Munns explained why people put a protest on someone digging a well. It is not so much not wanting the well, but for protecting their water and well.

Staff agreed and said this is one of the reasons for people to have an agreement with their neighbors prior to digging the well. Staff said in Zones 3 & 4 the new state ordinance guideline does not address these zones and states it is optional to put these in our ordinance.

County Attorney Stephen Hadfield explained when the Willard C Store went in, Zone 2 was in place for well protection. The neighbor updated his well with the state which changed the well protection zones and even though the change was properly noticed, people in the area were unaware the well protection zones had been changed. The Willard C Store wanted to put in a septic tank and underground fuel tanks but could not because of the well protections zones. This ordinance update will help avoid these problems.

Staff asked the commission if they would like them to move forward with the ordinance update.

Commissioner Laurie Munns said with the advice from legal counsel, and the way staff feels about it, and to be in compliance so there is no confusion between the state and county, she thinks the ordinance update needs to be pursued.

PUBLIC COMMENTS –NONE

MEETING SCHEDULE CHANGE

After a brief discuss it was decided the October 19, 2017 Planning Commission Meeting be moved to the following week, October 26, 2017.

ADJOURN

MOTION: A motion was made by Commissioner Mellonee Wilding to adjourn the August 17, 2017 meeting at 8:04 p.m. The motion was seconded by Commissioner Bonnie Robinson and passed unanimously.

Passed and adopted in regular session this 21st day of September 2017.



Chad Munns, Chairman
Box Elder County Planning Commission