

BOX ELDER COUNTY PLANNING COMMISSION MINUTES NOVEMBER 15, 2018

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>	
Laurie Munns	Excused	Scott Lyons	Com Dev Dir.
Mellonee Wilding	Vice-Chair	Marcus Wager	County Planner
Kevin McGaha	Member	Brian Duncan	Deputy County Atty.
Michael Udy	Excused	Jeff Scott	Excused
Desiray Larsen	Member	Diane Fuhriman	Executive Secretary
Bonnie Robinson	Member		
Jared Holmgren	Member		

Vice-Chair Mellonee Wilding called the meeting to order at 7:00 p.m.

The Invocation was offered by Commissioner Desiray Larsen.
Pledge was led by Commissioner Kevin McGaha.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the October 18, 2018 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 as written. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

UNFINISHED BUSINESS - NONE

PUBLIC HEARINGS

M2M Trucking LLC Conditional Use Permit, CUP18-005, Request for a home trucking business at approximately 13505 North 3100 West in the Collinston area of Unincorporated Box Elder County.

Staff stated this request is for a conditional use permit for a home business located at 13505 N 3100 W in the Collinston area. The applicant owns a small transportation company, M2M Trucking LLC., which consists of 4 tractor-trailer trucks. They are currently building a home at the address and would like to live in the home and operate the business from the property. The zoning in this area is RR-2 (Rural Residential-2 acre) and this property is 2 ½ acres in size. This

application is an administrative application and the request is for an existing use (home business) in an existing zone (RR-2). In some administrative applications public input is taken into consideration but public clamor has no effect during an administrative hearing. The land use code has set forth definitions and standards for the review of this type of application. Staff then read the definition of a home business and the standards for review as follows:

“A business that manufactures or provides a service for agricultural and residential uses with fewer than 10 employees and that is incidental and secondary to the use of the structure or dwelling for residential purposes and does not change the current character of the dwelling or neighborhood.”

- 1. The business manufactures or provides a service for agricultural and residential uses;*
- 2. The business employs fewer than 10 employees;*
- 3. The business is incidental and secondary to the use of the structure or dwelling for residential purposes, and;*
- 4. The business does not change the current character of the dwelling or neighborhood.*

Staff said the following is also required for a conditional use permit:

- 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 then read the following letters received from residents who were unable to make it to the meeting but requested they be read to be on record.

I am sending in this email as I will not be able to attend the Thursday 11/15/18 meeting. This is in regards to CUP 18-005 M2M Trucking LLC.

I had to give this request a lot of thought as I feel that we should be able to pursue our lives as we desire. That is in relation to work & home. Initially I was going to vote in favor of M2M's CUP, but after having the experience of them and their business these past several days I am opposed to granting the CUP. I moved here for the rural lifestyle. For the peace and quiet and to enjoy viewing the expanse & valley before me. This small street has always been residential, we may have industry around us but not right in front of us. They are building what looks to be a beautiful home, but it is overshadowed by 3-4 18 wheelers, They did initially have the rigs parked at the back of their lot, but recently moved them up front right along the road. It has changed the whole character of our area. And what is the future for them? I am concerned that a large structure will be erected to work on these trucks, adding more trucks, does 10 employees=10 rigs? What about the diesel fumes emitted as these trucks warm up. And isn't there a weight limit for driving on this road?

Respectfully,
Suzanne Mitchem

We are unable to attend the meeting tonight but wanted to voice our opinion. We chose to live in the country for the peace and quiet of country living and feel that a trucking business next door will have a negative impact upon that.

James and Karaleen Parkinson

The public hearing was then opened for comments.

Pat Garner has lived in Collinston for 17 years. She said the part of Collinston that is about 2 ½ miles long and follows along Highway 38 and includes the loop on 3100 West is not a small, quiet, country residential neighborhood and never has been. The southern part of Collinston is a very mixed group of uses. Agriculture and gravel pits were first. There were a few century-old farms there and then as everybody moved in and liked the area, they started the residential. She said she was one of the first ones with a newer house 17 years ago. On the 2 ½ mile stretch on the north end where the junk yard is, another trucking company stages their trucks there. On the west side of Highway 38 is Central Milling which has expanded drastically in the last few years and took the view of everyone along Highway 38 and 3100 West. In addition, a home was torn down and Stokes Trucking took it over and has many semi-trucks parked on both the north and south. Continuing to the south is a livestock truck washout in the RR-2 zone. The washout is not used by just one company, many stock trucks use the washout all hours of the day and night. To the south and west of the washout is Landis Gravel Pit which has also expanded and runs quite a few semi-trucks also. Across Highway 38 is Rupp's Pit, a huge gravel pit which has expanded and has potential to continue to expand.

Ms. Garner said all these business and agriculture have heavy equipment that is very noisy and a lot of the equipment have alarms going off every time they back up. Day and night there is more noise in Collinston than most other unincorporated areas of Box Elder County because of the close mix of residential and non-residential activities. Their days start at sun-up or before and last until after the sun goes down. The trucks line the road trying to get into Central Milling to load and unload especially during their harvest time. She said the trains in the area also add to the noise. There are also many home businesses along 3100 West. With the expansion of both business and residential uses it starts to push on what ideas make a good neighbor. There is no perfect place but Collinston is a good place to live. While the noise has increased and the businesses are growing, we do not regret moving there. We should have done our own due diligence when we first moved there. Ms. Garner does not oppose the M2M Conditional Use Permit.

Brian McNelly, applicant, has been trucking since he was 21 years old. He said he tries to be respectful and tries not to hurt anything or ruin anybody's property or his property. He said he did not do his homework when they bought their lot. His realtor knew what he does to make a living and asked if the property was big enough to put his trucks on. It was and so they bought it. He plans to spend \$400,000 to \$600,000 to improve the lot. The house is not even half-done yet and he has people saying they do not like the way things are being done. His trucks were parked neatly in the back but were moved because winter is coming and he does not have time to get the back of the lot ready so nothing gets stuck or sinks. One of the trucks is a spare truck that never leaves the lot unless he needs it for something, and one of the trucks houses all their belongings. His plan is to have a shop in the back for three trucks and trailers to fit in.

Mr. McNelly said he has never paid into Social Security but if he can get enough money built up, his wife will be set. He is not asking his neighbors to be sympathetic and if this does not work out, he will pay someone to store his trailers. He said if the citizens thinks his trucks are obnoxious, he has 8 children and 11 grandchildren and 8 siblings between he and his wife, so when there are family get-togethers *that* is obnoxious with a lot of noise and a lot of cars. His week generally starts on Monday at 8 a.m. and he does not return home until Saturday. There are only 2 trucks that will be moved. His employee would leave on Monday, get home on Wednesday during the day and would leave again on Thursday morning and get back again on Saturday.

Mr. McNelly does not want to become a mean, angry neighbor. He did not mean to stir up a bunch of problems. He apologizes to his neighbors but feels he is not devaluing the neighborhood or the environment. All modern equipment since 2012 has exhaust controls. They are not polluting the air. Mr. McNelly thanked the commissioners for their time.

Richard Garrett, Collinston, has lived in the area for 5 years. When he bought his home he did his due diligence to find out what he could and could not do. He learned a long time ago, ignorance is no excuse. Many business ventures were mention by Pat Garner, the only two on his road are Robert's Construction and Jensen's Blacksmith Shop. The truck washout does not affect him because it is not on his road. He is concerned if the road was designed to support continuous flow of traffic in and out. He has observed the vehicles but has not seen a vehicle parked there with a load on. This is not a huge concern to him but said one of the things to consider is does it change the current character of the neighborhood. He said we are not an industrial neighborhood, yes we have the train but the train has been there a long time and there is nothing we can do about it.

Mr. Garrett stated M2M previously operated out of Thatcher and was a good neighbor. No one had any complaints and there was generally only one truck there. He thinks the county's definition of a home business needs to be updated. It's pretty wide open. He said by the county's definition he could petition to build a saw mill on his property, hire up to nine people, and since it is lumber, that by definition is agriculture regulated by the department of agriculture. The problem with granting a conditional use permit is once a permit is granted then the commission is bound to grant any other permits of a similar nature otherwise you are going to get sued for discrimination. He cautioned the commissioners to be very careful in what they are doing with this. His biggest concern is this could change the nature of our neighborhood on 3100 North. He believes a person should be able to use their property but there are zoning laws for a reason and he hopes this can be resolved without anybody having hurt feelings but he would ask the commission to not grant the exemption based on changing the neighborhood.

Kristy Ballard, Collinston, lives directly across the street from Angie and Brian. She has nothing against trucking and has a grandfather who owns a small trucking business in Idaho. She does not believe a trucking company belongs in her neighborhood because he would have to travel his truck down a small narrow road. She lives next door to Rupp's Trucking but their access is to the highway, as does Stokes Trucking and Central Milling but this company would have to travel a residential road. She would like to keep the neighborhood more rural and does not want the character of the neighborhood changed.

Dillon Oyler, Collinston, feels he did not do his due diligence when he bought his property. He was the first one to buy one of the lots and helped the realtor write the covenants so this kind of stuff would not happen. He feels for the applicant but needs to protect his investment and do what is best for his family. He shares the property line with the applicant and his biggest concern is when the trucks have ran for a while it wakes his 5 month old daughter from her sleep. He is also concerned with safety for his small family and changing the character of his current neighborhood and the narrow road he lives on. The other businesses in the area have access to the major highway.

Mr. Oyler said his father-in-law is a rancher in Rich County and owns a 2300-acre ranch and has agricultural trucks hauling cows in and out all the time but he stores his trucks on an appropriate piece of property where it is not affecting his neighbors or the characteristic of his neighborhood. He respects what Mr. McNelly does and knows the job needs to be done but he wants to protect his investment, his family, and his neighbors. If the time comes when he needs to sell his property and the trucking company is next to it, it is going to affect the ability to resell or devalue the home.

Kelly Lemon, read the letter he submitted prior to the meeting in case he was unable to attend.

Dear Planning Commission,

My name is Kelly Lemmon. My wife Connie and I live at 13984 N. 3100 W. Collinston, Utah. I am writing in opposition to the request made by M2M Trucking for a Conditional Use Permit to run a trucking business from the lot they are currently building a residence on. Several years ago, this area was zoned RR2 (rural residential, 2 acre minimum lot size). The requested use is not currently permitted in county code for this zoning. We built our home in Collinston 10 years ago. Since that time, there have been 12 homes built or started on 3100 W in Collinston. Of the 12 homes, 11 have been started within the past 18 months. The point here is that this area is rapidly becoming a residential neighborhood. While I feel we are a welcoming community, a trucking business at this location is not compatible with what the community is becoming. Several of these new homes are in close proximity to the requested site. The families living in these homes have young children which raises safety concerns with large truck traffic. In addition, quality of life will be impacted with the resulting noise, dust, sight, etc. The county road (3100 W.) is not designed for repeated heavy usage. Two years ago, as the current growth began to take place and concerns were raised, the Box Elder County Planning Commission recommended that the residents of Collinston put together a Master Plan for what we would like our community to be and look like as the growth takes place. Meetings were held, a committee of residents formed, surveys put out to residents and landowners with the results being compiled and put into a draft form which was then submitted in early 2018 to the Box Elder County Planners. While this community master plan has not yet been finalized, it does reflect the desires and will of the residents. I believe this should have bearing on the decision to be made as whether to approve or not. We are not opposed to a trucking business in Collinston but feel there are other locations that are a better fit and more compatible based on zoning and current uses, etc.

Thank you,

Kelly Lemmon

Hearing no further comments a motion was made by **Commissioner Desiray Larsen** to close the public hearing on the M2M Trucking LLC Conditional Use Permit, CUP 18-005, the motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

ACTION

Commissioner Mellonee Wilding noted homebased businesses are allowed in this zone. She said at this point the commissioners need to decide if this business meets the criteria defined as:

1. *The business manufactures or provides a service for agricultural and residential uses;*
2. *The business employs fewer than 10 employees;*
3. *The business is incidental and secondary to the use of the structure or dwelling for residential purposes, and;*
4. *The business does not change the current character of the dwelling or neighborhood.*

Commissioner Desiray Larsen feels the decision will be based mostly on criteria #4.

Commissioner Bonnie Robinson stated trucks obviously make the sound and sound does travel. She understands when living in an agricultural area, they bale all night and haul the hay away on big trucks. So there are definitely sounds already existing there where it relates to agriculture.

Commissioner Desiray Larsen mentioned the road and the ability to handle truck traffic.

Commissioner Mellonee Wilding said if it is an agricultural zone surrounding the property, the road already has that kind of traffic on it.

Staff stated they have reached out to the county road supervisor for information on the road but has not heard back.

Commissioner Desiray Larsen questioned how change of value of property can play into this decision. Staff replied as far as the definition of the business, it would not play into it. If it was determined the business meets the definition of a home business, then the commission would move into the conditions set forth by a conditional use permit. Those conditions bring up the impact on surrounding properties.

Commissioner Kevin McGaha stated since the decision is going to turn on whether or not this changes the current character of the neighborhood or dwelling, and because the commission has received conflicting information, he would like to do a site visit and look at the area. He feels the maps shown tonight does not provide quite enough information for the commission to make the decision. He would also like to hear back from the county road supervisor about the condition of the road.

Commissioner Jared Holmgren said the commission has heard there is any number of new homes going up in the area in the last 18 months. It sounds to him like the current character of the neighborhood is changing anyway. He would also like to go look at the area.

MOTION: A Motion was made by Commissioner Jared Holmgren to table the CUP18-005 a request for a home trucking business in Collinston until the commission can have a work session and a site visit. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

NEW BUSINESS

DON MILLER SUBDIVISION VACATE, SS18-028, Request to vacate the Don Miller Subdivision located at approximately 17350 North 6000 West in the Fielding/Riverside area of Unincorporated Box Elder County.

Staff said the applicant is requesting to vacate seven lots. The original subdivision was created on May 14, 2018, the owners now wish to vacate the entire subdivision and put the parcels back into one parcel. The surrounding land use is agricultural and unzoned. Access to all lots were approved on 6000 West and if this subdivision is vacated the remaining lot will access off of 6000 West. All utilities were approved with the original subdivision. All setbacks can be met for the unzoned area. As per state code sections 17-27a-608 and 609 a subdivision can be vacated by the county commission with an ordinance as opposed to a subdivision plat. The planning commission must make a recommendation to the county commission. The proposed subdivision vacate complies with the subdivision regulations of Box Elder County and the State of Utah. Staff recommends the planning commission recommend approval to the county commission. In addition, staff recommends adding "vacating the subdivision improvement agreement" in the motion.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the county commission for the Don Miller Subdivision Vacate, SS18-028 and that the subdivision improvement agreement is a part of that vacate and adopt any conditions and findings of staff. The motion was seconded by **Commissioner Desiray Larsen** and unanimously carried.

MILLER AGRICULTURAL SUBDIVISION, AS18-007, at approximately 17350 North 6000 West in the Fielding/Riverside area of Unincorporated Box Elder County.

Staff stated the applicant is requesting an agricultural subdivision to separate a single family dwelling located at approximately 17350 North 6000 West in the Fielding/Riverside area. The subdivision would create .98 acre residential parcel and a 30.668 acre agricultural parcel. Utah State Code Section 17-27a-605(1)(5) allows subdivisions to be exempt from plat requirements as long as they include agricultural land and a single family dwelling. Staff then read the standards for review for agricultural subdivisions as follows:

Subsection (1)(b)

- A. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; Yes.*
- B. Has been approved by the culinary water authority and the sanitary sewer authority; Yes.*
- C. Is located in a zoned area; and Yes.*
- D. Conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance. Yes.*

Subsection 5:

- 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.*

Staff said based on the analysis of the agricultural subdivision application, staff concludes that Utah State Code allows for agricultural subdivision subject to review procedures and approval of an ordinance by the county commission with approval from the planning commission as well. It is staff's opinion that the proposed agricultural subdivision meets all the approval standards found in Section 17-27-a-60(1)(5) of the Utah State Code. Staff recommends approval.

MOTION: A Motion was made by Commissioner Desiray Larsen to approve the Miller Agricultural Subdivision, AS18-007. The motion was seconded by Commissioner Kevin McGaha and unanimously carried.

ZILFI AGRICULTURAL SUBDIVISION, AS18-008, at approximately 61200 West 5600 North – South of the Park Valley area of Unincorporated Box Elder County.

Staff said the applicant is requesting an agricultural subdivision to separate 160 acres off a 640-acre parcel. This is correcting something already done in 2006. It was not uncommon in 2006 for people to create illegal parcels. The applicant stated he contacted the planning and zoning office at the time and was told it was fine and he could move forward with deed because it met zoning. State code says otherwise. It is now being proposed the 160 acres be split off from the larger 640-acre piece.

Staff said the same standards of review apply to this subdivision.

A. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; Yes.

B. Has been approved by the culinary water authority and the sanitary sewer authority; Yes.

C. Is located in a zoned area; and Yes.

D. Conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance. Yes.

(2)(a)(ii) the new owner of record completes, signs, and records with the county recorder a notice:

A. describing the parcel by legal description; and

B. stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

Staff's finds the state code allows for this subdivision and this proposal meets the approval standards. Staff recommends the planning commission approve Application AS18-008.

MOTION: A Motion was made by Commissioner Kevin McGaha to approve the Zilfi Agricultural Subdivision, AS18-008. The motion was seconded by Commissioner Jared Holmgren and unanimously carried.

DISPOSAL OF SURPLUS PROPERTY, at approximately 300 North 1500 West on parcel #: 05-173-0035 a 0.1447 acre parcel owned by Box Elder County within the Tremonton City boundary.

Staff said the county has a surplus property disposal policy. The policy requires the planning commission to review the disposal of any land and make a recommendation to the county commission within 15 days. Staff thinks the subdivision was surveyed and when created it left a sliver of land. The sliver of land then went to tax sale and reverted to the county for ownership. Burton Wood Investments approached the county commission and requested to purchase the piece of property.

MOTION: A Motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the county commission regarding Application SPD18-01 Surplus Property Disposal of a strip of land in the Tremonton area and adopting any conditions and findings in the staff report. The motion was seconded by Commissioner Jared Holmgren and unanimously carried.

WORKING REPORTS - NONE

PUBLIC COMMENTS - NONE

DISCUSSION

Home Businesses

Staff inquired if the planning commission desires to make a motion for staff to address home businesses.

MOTION: A motion was made by Commissioner Desiray Larsen that staff look into the definition of home businesses in the county. The motion was seconded by Commissioner Kevin McGaha and unanimously passed.

Site Visit – Conditional Use Permit

Staff inquired if the planning commission would like to have a work session when at the site visit. It was agreed to combine them together. Staff will create a poll to send to the commissioners to find a date for the site visit.

ADJOURN

MOTION: A Motion was made by Commissioner Bonnie Robinson to adjourn commission meeting. The motion was seconded by Commissioner Desiray Larsen and meeting adjourned at 8:32 p.m.


Mellonee Wilding, Vice-Chairman
Box Elder County Planning Commission