

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES NOVEMBER 18, 2021

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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:

*Roll Call*

Mellonee Wilding	Chairman
Jared Holmgren	Vice-Chair
Kevin McGaha	Excused
Michael Udy	Member
Steven Zollinger	Member
Bonnie Robinson	Member
Laurie Munns	Member

*the following Staff was present:*

Scott Lyons	Comm Dev Director
Marcus Wager	County Planner
Destin Christiansen	County Planner
Steve Hadfield	County Attorney
Jeff Scott	Commissioner
Diane Fuhriman	Executive Secretary

Chairman Mellonee Wilding called the meeting to order at 7:00 p.m.

The Invocation was offered by Commissioner Michael Udy.  
Pledge was led by Commissioner Bonnie Robinson.

**The following citizens were present & signed the attendance sheet**

See Attachment No. 1 – Attendance Sheet.

The Minutes of the October 7, 2021 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**

Chairman Mellonee Wilding explained public hearings provide an opportunity for the public to voice their concerns or approval on an item. In the meeting there is also unfinished business, public hearings, and new business. The unfinished business and new business provides opportunity for the commissioners to take action on an item. It is not a time for public comment or input. Although the commissioners may ask questions of the applicant during these times.

**DAVIS CONDITIONAL USE PERMIT, CUP21-006, Request for a Conditional Use Permit for a family cemetery, located at approximately 7105 West 00 North in the West Corinne area of Unincorporated Box Elder County.**

Staff explained the applicant is requesting a Conditional Use Permit to locate a family cemetery on their property. The property is located at 6800 West 00 North in the West Corinne area and is zoned MU-160. The portion the cemetery would occupy is approximately 2600 sq. ft. of the 8-acre parcel. The zone to the north is RR-20 with the land use as Agriculture; to the east, south, and west is zoned MU-160 with Wetlands/hunting as land use.

Staff read Section 2-2-100, which outlines the standards for review for conditional uses as follows:

1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
6. Modifications to signs and exterior lighting to assure proper integration of the use.
7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space.
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

Staff explained based on mapping, environmental impact should not come into play because the location for the cemetery does not fall under wetlands or a flood plain delineation. In order to delineate where the cemetery is on the parcel, fencing could be put in place. The applicant has proposed plans for fencing in that area.

The public hearing was then opened for comments.

Hearing no comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on Conditional Use Permit, CUP21-006. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

## **ACTION**

Staff stated cemeteries are governed by state code. County Attorney Anne Hansen has reviewed the code and submitted recommendations for conditions of approval.

Commissioner Bonnie Robinson asked for the definition of family. Staff stated there is a definition of family from the Box Elder County Land Use Code that is applied to housing to regulate single-family housing vs. multi-family housing that reads as “One individual, or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include four, but not more than four, non-related persons living with the residing family. The term ‘family’ shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group”.

County Attorney Stephen Hadfield said there are several definitions of family depending on context. Until the County passes an ordinance specifically for cemeteries there is no definition for family in this regard.

Commissioner Mellonee Wilding feels having no sale of burial plots as a condition is more important. Staff agreed stating if plots are not being sold, people would be more selective of who may be buried with their family on sacred ground.

**MOTION:** A Motion was made by Commissioner Laurie Munns to approve CUP21-006, a Conditional Use Permit for a family cemetery and adopting the exhibits, conditions, and findings of staff, and the first half of condition #2 requiring a map be recorded with the County showing the location of the cemetery, and the addition of a fence delineating the location of the cemetery. Commissioner Jared Holmgren seconded the motion and it passed unanimously.

## **CONDITIONS:**

1. The cemetery is for family, non-commercial, use only. No sale of burial plots to the public.
2. The property owner be required to record a map with the county showing the location of the cemetery on the property to ensure notice to others in the future or require subdividing the portion of the parcel with cemetery to dedicate it solely for that purpose.
3. The property owner be require to create a dedicated access easement from the location of the cemetery to the nearest public road to ensure continued future access to the burial site.
4. If there are potential environmental impacts or concerns (floodplains, water sources, etc.) the burials be required to include a casket and vault.

5. Compliance with Article 5 of the Box Elder Land Use Management & Development Code.
6. Compliance with Article 2-2-100, Conditional Use Permit, of the Box Elder County Land Use Management & Development Code.
7. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.

**KING TEMPORARY USE PERMIT, TUP21-002, Request for a Temporary Use Permit for a temporary truck parking area, located at 12270 Canal Bank Rd. in the Tremonton area of Unincorporated Box Elder County.**

Staff stated the applicant is requesting a Temporary Use Permit to install an 8” gravel (road base) parking area for truck trailers on the property. The parking area would consist of 51 parking stalls. The hours requested would be 24 hours as there would be some overnight parking. The approximate number of parked vehicles is 30-45 per historical usage. There would be no structures on site and the improvements would be limited to the gravel (road base) parking lot area. The surrounding land uses are Agriculture/Rural Residential, Industrial, and Freeway/Agriculture. The surrounding zone is Unzoned with Tremonton City to the East.

Staff outlined the standards for review for Temporary Use Permits as follows:

- a. Will not, under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;
- b. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the County;
- c. Will not conflict with construction or development in the public right-of-way or at public facilities;
- d. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the County;
- e. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the temporary use is located; and
- f. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the Box Elder County ordinances.

The public hearing was then opened for comments.

Jim Flint, applicant, said this is a companion project to what the Planning Commission considered last month. He would like everyone to know this is a serious endeavor involving hundreds of thousands of square feet and hundreds of thousands of dollars.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the King Temporary Use Permit, TUP21-002. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

## **ACTION**

Staff explained the Box Elder County LUM&DC Code allows for Temporary Use Permits for up to two years subject to Planning Commission approval and meets the approval standards found in Section 2-2-160. Staff recommends approval.

**MOTION:** A Motion was made by **Commissioner Jared Holmgren** to approve application TUP21-002, a request for a Temporary Use Permit for a temporary truck parking area and adopting the conditions and findings of staff as well as a 6-month time frame. The motion was seconded by **Commissioner Laurie Munns** and passed unanimously.

## **CONDITIONS:**

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-160, Temporary Use Permit, 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.

## **NEW BUSINESS**

### **ASTLE AGRICULTURAL SUBDIVISION, AS21-008, Request for approval for an agricultural subdivision located at approximately 5000 W 12800 N in the Garland area of Unincorporated Box Elder County. ACTION**

Staff explained the applicant is requesting an agricultural subdivision to separate 18.94 acres for agricultural use from the existing 20.13 acres. An existing single family home will remain with the 1.19 acres. Both of the proposed parcels meet the zoning requirements for the area and the 18.94-acre parcel meets the minimum acreage to qualify as an agricultural parcel. The land is located in the East Garland area and is Unzoned. This process would separate the home and create one legal parcel designated for agricultural use. Staff recommends approval.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to approve application AS21-008 an agricultural subdivision and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Michael Udy** and unanimously carried.

### **LOXNBOX STORAGE, SP21-004, Request for approval of a storage facility located at approximately 5242 West 10800 North in the Tremonton area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting Site Plan approval for approximately 412 storage units on approximately 4.31 acres located at 5242 W 10800 N in Tremonton. Surrounding land uses are

Agricultural/Rural Residential. Surrounding zones are Unzoned. County code allows for storage buildings as a commercial use in unzoned areas as a permitted use subject to site plan approval.

Staff received an updated construction packet that is currently being reviewed by all applicable departments. Staff recommends approval subject to compliance with all comments from Box Elder County staff.

Trevor Nelson, Bear River Canal Company has a concern with the canal company easement. There is no concern with the type of development or its use but it does encroach on a 150' wide easement being 75' of the centerline of the canal. This development has fencing and drainage as well as hardscape that is going to be in the canal easement. He is concerned if a major adjustment needs to be made to the canal, the infrastructure would need to be removed. A previous property owner granted or sold the easement to the canal company and future property owners are bound by that. Mr. Nelson asked that this be redrawn so the structures are not within the 75 ft. He is willing to work with the applicant to see a way to go forward with compatible uses. The canal company needs to be able to service the canal and has a property interest in the easement. He asked the Planning Commission to withhold a favorable recommendation allowing time to work with the applicant.

Jim Flint, Hansen & Associates, stated fire protection is coming from Tremonton City. They have an on-site water right for a well. On the east side of the property there is an existing irrigation ditch that will be undergrounded. He feels it is an over exertion of an easement on the part of the Bear River Canal Company. He thinks this is a legal matter; the subdivision has been platted and approved. The exertion is there cannot be an easterly fence, which for a storage unit complex is a huge security matter. A gate could be placed on the northeast corner and on the south side to provide access to the canal company. Mr. Flint said historically the pathway on the west side of the canal, which is outside of the platted subdivision boundary, is what has been used for a long time. The 150' easement was for construction, operation and maintenance. He feels it is an overreach for the canal company to go onto this property and claim that a fence cannot be put up that is not disturbing their existing access they have used forever. There has not been anything in the last 100 years that has induced on this property a need to traverse over the westerly access. Mr. Flint feels it is a private matter that needs to be worked through.

County Attorney Stephen Hadfield said this is a civil matter that needs to be worked out between the two parties. The item can be tabled to allow time for the parties to work it out.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to table the review of SP21-004, for a period of up to 6 months to allow time for the canal company to work with the landowner and to receive pending staff reports. The motion was seconded by Commissioner Jared Holmgren and unanimously carried.

## **WORKING REPORTS**

### **Confined Animal Feeding Operation (CAFO's) – Discussion**

Staff Scott Lyons said based on what they found out about CAFO's, the county should comply, even though the Act states "any county that *wishes* to restrict large CAFOs within its borders".

Local animal feeding operations are very mild, the ones referred to in the Act are owned by either national companies or Chinese companies that have 2500 – 5000 pigs in one building.

Commissioner Laurie Munns is concerned with hobbling our local, smaller operations when setting down rules. She thinks we need to be very careful of what we do here as not to damage our base in order to protect people from China.

Staff Destin Christiansen said there is a number of recommendations the state requires the County to look into.

*(See Attachment No. 2 – CAFO Act-Requirement Section.)*

Commissioner Mellonee Wilding needs a clear definition of a CAFO. Where does it cross the line?

Commissioner Laurie Munns does not have a working knowledge of CAFOs. She would like more information from the larger feeding operations. She directed staff to talk with Representative Ben Ferry and the FSA to gather more information.

Commissioner Jared Holmgren said one of the things instigated in a county in Southern Utah, where their main source of agriculture income is hog farms, is they need to be 10 miles away from the closest resident to build a hog farm. Someone found a place to build one and then were not allowed to populate it. He does not want anyone telling anyone that cannot raise livestock. Box Elder County is an agriculture county. He would rather have the pigs than people.

County Commissioner Jeff Scott said Senator Sandal and Representative Ferry are the sponsors of SB 130, which created the CAPO ordinance. He suggested staff contact them. If the County does not decide what our CAPO ordinance is going be the state will decide for us.

Staff will talk to Representatives Larkin, Sandal and Ferry, and Jim Hall at FSA. Staff will also find out about how Cache County runs the facility in Benson and will clarify the definition of “water”. Staff will have the GIS department start mapping areas for geographic and topo data.

### **Home Businesses – Discussion**

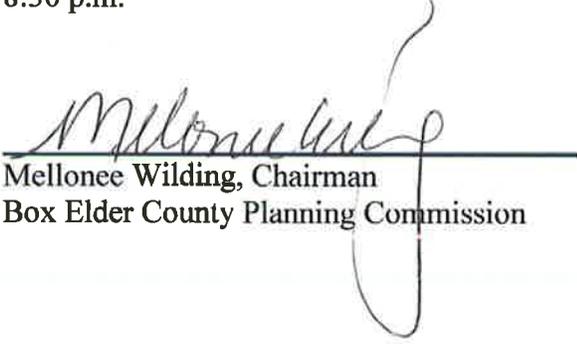
Staff asked for direction from the Commission on Home Businesses. The existing ordinance allows up to nine employees. The original definition was quite broad stating if a service was being provided to residential or agriculture, but what staff has been seeing is a lot of industrial type services. Home Occupations does not allow for outside employees, it only allows for family members. Staff is looking at lowering the number of employees and the types of businesses allowed and spelling it out more specifically.

Commissioner Mellonee Wilding thinks trucking companies ought to be outside of the realm of a home business. Staff said there is a repair shop in Harper Ward under a Home Occupation not a Home Business as he no employees but he has 40 cars on the lot instead of the 4 cars allowed under a Home Business. It can be a regulation nightmare. Commissioner Wilding feels we need to significantly narrow the definition of a Home Business and it needs to fit the character of the business better.

**PUBLIC COMMENTS - NONE**

**ADJOURN**

**MOTION:** A Motion was made by Commissioner Laurie Munns to adjourn commission meeting. The motion was seconded by Commissioner Jared Holmgren and meeting adjourned at 8:30 p.m.



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Mellonee Wilding, Chairman  
Box Elder County Planning Commission



# **Large Concentrated Animal Feeding Operations (CAFO) Act**

## **Summary:**

SB 130 passed in the 2021 General Session, codified as Utah Code 17-27a-1101-1104 called the Large Concentrated Animal Feeding Operations (CAFO) Act.

It requires that by February 1, 2022, any county that wishes to restrict large CAFOs within its borders must designate geographic areas for the use.

## **Requirements:**

1. Counties to pass an ordinance amending its zoning map to include an overlay zone where large CAFOs may be located as conditional uses.
2. Set forth the application requirements and procedures including any fees and administrative remedies.
3. Proposed area(s) zoned cannot be based solely on setbacks, but also must consider the following five mandatory (but not exclusive) criteria:
  - a. The distance (in feet) from various population-dense uses (1-residential zones, 2-health care facilities, 3-public areas, 4-education institutions, 5-religious institutions, 6-commercial enterprises, 7-municipal boundaries, 8-state or county highways or roads)
  - b. Prevailing winds
  - c. Topography
  - d. Economic benefit(s) to the County
  - e. Access to transportation, water, and power infrastructure.

## **Staff considerations:**

1. Amending the “agriculture” definition to exclude CAFOs. Clarify “agriculture industry” definitions to include CAFOs.
2. Approved waste discharge methods as well as approved on-site waste storage methods.

3. Distances based off of animal type.
4. Setback distances to natural water sources, wetlands, rights-of-way, etc.
5. Use of digestibles for odor control (feed management).
- 6.