

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES FEBRUARY 20, 2020

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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:

<i>Roll Call</i>		<i>the following Staff was present:</i>	
Laurie Munns	Excused	Scott Lyons	Comm Dev Director
Mellonee Wilding	Vice-Chair	Marcus Wager	County Planner
Kevin McGaha	Member	Steve Hadfield	County Attorney
Michael Udy	Member	Jeff Scott	Commissioner
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 Bonnie Robinson.

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

See Attachment No. 1 – Attendance Sheet.

The Minutes of the January 16, 2020 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Jared Holmgren to approve the minutes as written. The motion was seconded by Commissioner Desiray Larsen and passed unanimously.

### **UNFINISHED BUSINESS- NONE**

### **PUBLIC HEARINGS**

Vice Chair 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.

**TEXT AMENDMENT, C-H (COMMERCIAL HIGHWAY) ZONE, Z20-002, request for a text amendment to allow motor vehicle sales as a permitted use in the C-H zone. ACTION**

Staff explained application Z20-002 is a text amendment request. Text amendments are allowed to be requested by property owners who are affected by a particular zone they own property within. This applicant is requesting Section 3-4-070-7.33, which addresses the retail sale of motor vehicles, be allowed as a permitted use in the C-H (Highway Commercial) zone. There are only two areas in Box Elder County zoned as C-H; one in South Willard and the other in Bothwell.

Staff then read the approval standards for text amendments 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 affects all areas of unincorporated Box Elder County where the C-H (Highway Commercial) zone exists or is approved in the future. The only current C-H zones in the county are along Hwy 89 in South Willard and a parcel adjacent to the frontage road and I-84 in Bothwell.
- 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 any more of a strain on any of these facilities than other uses already in the C-H zone.

The public hearing was then opened for comments.

Chad Anderson, applicant, and his son Errik Anderson handed the Commissioners a map of the zoning options in the South Willard Community Plan. Chad Anderson said the map states no changes in zoning with adoption of this plan. The resolution and adoption of the plan occurred September 5, 2006. There are several commercial properties within the South Willard Community Plan, three of which are C-H (Highway Commercial). The business of Karen's Kars was established in 2002, four years prior to the adoption of the plan. It is his opinion, it was a potential oversight that the C-H zone did not allow motor vehicle sales when the map shows a car dealership currently operating with a state license in the C-H zone, a ½-mile from his property.

*See Attachment No. 2 – Map A*

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on Text Amendment Z20-002. The motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the County Commission for application Z20-002 a text amendment to Section 3-4-070-7.33, allowing the retail sale of motor vehicles in the C-H (Highway Commercial) zone as a permitted use, and adopting any conditions and findings of staff. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

**SILVER EAGLE REZONE, Z20-003, Request for a re-zone from MU-160 to RR5 for 34.35 acres on parcel 03-064-0029 located at 1651 South Willard Peak Road in the Mantua area of Unincorporated Box Elder County. ACTION**

Staff stated the applicant is requesting his parcel of 34.35 acres located at 1651 South Willard Peak Road in the Mantua area be rezoned from MU-160 (Multiple Use 160 acres) to the RR-5 (Rural Residential 5 acres) zone. The 34.35 acres is a legal non-conforming parcel as it was created prior to the MU-160 zone was adopted in June of 1974.

The public hearing was then opened for comments.

Tyler Anderson, adjacent property owner, said about 90% of the property is a steep hillside with very little flat property other than a little bit along the Willard Peak Road. He then read a portion of county code regarding the Mixed Use zone. "Mixed Use zones provide a multiple use district to establish areas in mountains, hillside, canyon mountain valley, desert and other open spaces generally undeveloped lands where human habitation should be limited in order to protect land and other open space resources; to reduce unreasonable requirements for public utility and service expenditures through uneconomic and unwise dispersal and scattering of population; to encourage use of land, where appropriate, for forestry, grazing, agriculture, mining, wildlife habitat, and recreation; to avoid excessive damage to water sheds, water pollution, soil erosion, danger from brush land fires, damage to grazing and livestock raising, and to wildlife values; to avoid the premature development of lands by discouraging intensive development until the ultimate best use of the land can be recommended." Mr. Anderson said the land is a hillside that would be difficult to develop. There has been mining on the land in the past. His understanding is they would like to build 5-6 homes on the side of the mountain. He has a lot of questions he is concerned about.

Kyle Smith, adjoining property owner, said Mantua is experiencing explosive growth. He has spoken with several adjoining property owners who are concerned about what kind of development can go here since the property does not have water, sewer or gas. There is also a limited amount of flat ground to build a home on. With most of the property being on a hillside, he asked what is going to happen to the hillside. Mr. Smith stated this is a rural area and he is the 4<sup>th</sup> generation on this property. He does not want to see a development with a bunch of homes there. He likes the quiet area and having apple orchards and good views. He does not think there is a real plan going forward that is acceptable to the adjacent landowners of how this property should be used. Mr. Smith is leery of what is going to happen and thinks it is premature to decide the zoning.

Jonathan Carr adjacent property owner, stated if the zoning is changed to RR-5 and allows multiple homes on the property, that would also allow a lot more traffic on an already narrow road during

the winter. The road does not get plowed very wide and is not patrolled often. A lot of times the trailhead does not get plowed out so there is a lot of traffic on the road. People park on the side of the road which causes even more problems. It also makes it difficult for school buses to drop kids off. School buses cannot go past the trailhead. He is not concerned if just one home is built on the property, but multiple homes in the area would be a problem where the roads already have a hard time handling the traffic in the winter.

Jerry Paskett, adjacent property owner, agrees there is a very small amount of flat property for 35 acres. He is concerned there is no water, sewer, or natural gas at this property. He wonders if there is another plan lying in wait with the town of Mantua. It has been suggested the water from the new tank will run through this property and then the residents would be able to hook directly on to that water. He wants to know the master plan behind the zone change. He said the South Carr Subdivision has annexed into Mantua but receives no benefits from Mantua. He and Tyler Anderson's property is still county property. He questioned if an RR-5 zone is placed around our properties what is going to happen to our properties? Is there a bigger plan to annex some of these bigger county properties into Mantua? He stated this property was an old mining property and has heard there are some mine tailings there that are suspect to health risks. Mr. Paskett ask the Commissioners to please familiarize themselves with the property more than what is shown on a map.

Kurt Spiers, applicant, explained the property has been in his family since his grandpa owned it in 1936. His grandfather had the idea of actually going in and using the mine. That idea did not work out but his grandfather continued to pay taxes on the property year after year. His father took over after his grandfather passed and started farming the flat area. Mr. Spiers said his goal is to rezone to the RR-5 zone to make the property an attraction to sell. The MU-160 zone only permits the building of one home; one home for such a large parcel is not attractive to a developer. His goal is to sell the property and allow the developer to determine however many lots and homes they want. Mr. Spiers said he is working with Kyle and Alan Smith of Frizzin Acres regarding the 250 ft. frontage requirement to allow access to the homes by either purchasing land, or working out a boundary correction. He noted that neighboring parcels have already been subdivided and rezoned as RR-5 and would like the same right and consideration.

Hearing no further comments, a motion was made by **Commissioner Desiray Larsen** to close the public hearing on the Silver Eagle Rezone, Z20-003. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

## **ACTION**

**Commissioner Bonnie Robinson** asked what the terrain is like in the surrounding parcels zoned RR-5. She said those properties also look hilly on the map. She also inquired about county standards of building on a slope.

**Commissioner Mellonee Wilding** asked about different zones with different parcel sizes. Staff stated there is an RR-10 zone which would make 3 lots possible on the 34 acres and a A-20 zone which would leave it as one lot.

Staff stated the applicant's engineer sent over a conceptual drawing where the majority of the 5 acres is hillside and approximately a half-acre is flat ground that would be able to have a home on it. It would also meet the frontage requirements. The drawing has not been through the review process so the county would need to look at what portion of Willard Peak Road would need to be dedicated to the county as public right-of-way. Setbacks and clear view requirements would also need to be reviewed. These and other items would be reviewed as part of the subdivision phase not in this zone change phase.

Staff then read the standards for review for zoning map amendments as follows:

- A. **Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;** The County General Plan recommends the preservation of open space, hillsides, and prominent ridgelines. It also recommends that prominent ridgelines be identified in order to establish no development areas. To my knowledge this has never taken place.
- 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 mix of open space, hillside, and rural residential development. The current zoning requires 160 acres minimum to build a home, etc. The proposed zoning allows the development of 5 acre lots. The proposed parcel is currently bordered by RR-5 zoning on the south and west sides.
- C. **The extent to which the proposed amendment may adversely affect adjacent property;** and to our knowledge the proposed amendment would not have an effect on adjacent property. The public hearing process may shine additional light on this.
- 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.** As stated above, the proposed zoning change allows the same uses currently allowed in the area. The landowner/developer would be required to do a perc test and submit septic approval from the Bear River Health Department. Power is already in the area supplying to neighboring homes. Water is being proposed through the Town of Mantua via an agreement to provide space for a new town water tank and infrastructure on the property.

Staff has found the applicant has the right to request the rezone and it can be interpreted the proposed zoning map amendment meets the approval standards. The Planning Commission may forward a recommendation of approval to the County Commission. As this is a legislative decision, additional information may be taken into account such a public input, resident preferences, private property rights, and economic considerations.

**Commissioner Mellonee Wilding** stated it is difficult for her to hear people with 5-acre lots or smaller complain about a rezone to 5-acre lots or smaller.

**Commissioner Bonnie Robinson** commented that it is hard to say no to the zone change when the same zone is across the street and the terrain is very similar.

The commissioners acknowledged they are unfamiliar with the area. Commissioner Kevin McGaha suggested a site visit may be in order. He said the general plan requires the commissioners to look at identifiable features that may be necessary to protect open spaces etc., and feels a site visit would be beneficial.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to table Z20-003 the zoning map amendment from the MU-160 zone to RR-5 zone until the May Planning Commission meeting to allow for a site visit. The motion was seconded by Commissioner Desiray Larsen and passed unanimously.

## NEW BUSINESS

### **BROOKSIDE RANCHES SUBDIVISION, SS19-037, Request for preliminary approval for a 30-Lot subdivision located at approximately 13300 North East Garland Road (4400 West) in Unincorporated Box Elder County. ACTION.**

Staff explained the Brookside Ranches Subdivision is a proposed subdivision with 30 lots ranging in size from 0.65 to 8.57 acres. The total land encompassed in the subdivision is 39 acres. It is located in the East Garland area at 4400 West aka East Garland Road and is unzoned. The minimum lot size in unzoned areas is half-acre. The lot size in this subdivision averages over 1 acre. If lot size averages under 1 acre it is required to build to a more stringent road standard. If lot size averages over 1 acre, it is considered more rural and are allowed to build at County Road Standard #3 which requires 24 ft. of asphalt, 3 ft. of shoulder on each side, and a drainage swale on each side to handle storm water.

Staff said the subdivision has been through a few different department reviews. The applicant has been made aware of those reviews and the changes needing to be made. This is the preliminary stage, then a new submittal would come in as a final plat. There are some conditions that need to be met as part of this preliminary approval.

There was much discussion regarding the grade/slope of the road, the need for a guard rail, flood plain areas, and the plan for water and utilities.

**MOTION:** A Motion was made by Commissioner Kevin McGaha to approve Preliminary Plat Application SS19-037, Brookside Ranches Subdivision, subject to the 13 items listed on the Preliminary Approval Conditions submitted by staff and have staff investigate the necessity of a guard rail along the road and including proof of adequate water and utilities and adopting the conditions and findings of staff. The motion was seconded by Commissioner Jared Holmgren and unanimously carried.

#### **CONDITIONS:**

1. Compliance with all County Staff reviews and comments.
2. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
3. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

*See Attachment No. 3-Preliminary Approval Conditions*

**NELSON AGRICULTURAL SUBDIVISION, AS20-001, Request for approval for dividing agricultural land located at approximately 4856 North 3200 West in Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting an agricultural subdivision to separate 5 acres off a larger parcel located in the RR-20 zone in the Corinne area of Unincorporated Box Elder County. This process would create a legal agricultural parcel. The application meets the requirements of state code and staff recommends approval.

**MOTION:** A Motion was made by **Commissioner Jared Holmgren** to approve application AS20-001, an agricultural subdivision and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Kevin McGaha** and unanimously carried.

**MARZIALE AGRICULTURAL SUBDIVISION, AS20-002, Request for approval for dividing a home from agricultural land located at approximately 7280 West 9600 North in Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting an agricultural subdivision to separate a single family dwelling from agricultural ground. The parcels have already been split apart by deed only and are now considered illegal. Going through this process will make both of these parcels legal. The subdivision also meets all the requirements in Utah State Code Section 12-27a-605(1)(5).

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to approve application AS20-002 an agricultural subdivision with a single family dwelling and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jared Holmgren** and unanimously carried.

**FOREST STREET SURPLUS PROPERTY, Brigham City, Request to acquire 17 feet of parcel fronting on Forest Street for the purpose of a future widening. The two County parcels are located at 975 West and 893 West.**

It has been requested by Brigham City that the Box Elder County Commission send this property through the surplus property disposal process. Brigham City is interested in acquiring the north 17 feet of 975 West and 893 West of Forest Street in Brigham City. The city is proposing to acquire footage from all the landowners heading west between the Union Pacific right-of-way and 1200 West for a future widening of West Forest Street. County Policy 2000-01 is the Surplus Property Disposal Policy which requires the disposal of real estate to be reviewed by the Planning Commission to determine if it complies with the General Plan, the LUM&DC, and any other ordinances the Planning Commission oversees. The Planning Commission will then forward their decision to the County Commission with 15 days.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation of approval regarding application SPD20-01, surplus property disposal of the north 17 feet of 975 W and 893 W Forest Street in Brigham City and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Kevin McGaha** and unanimously carried.

**WORKING REPORTS - NONE**

**PUBLIC COMMENTS - NONE**

**CHANGE IN APRIL MEETING DATE**

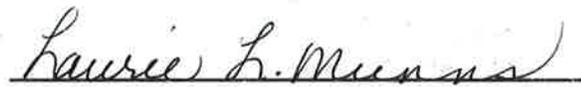
Staff stated the April 16, 2020 meeting date is the same date as the Republican Convention. It has been recommended to hold Planning Commission Meeting a week later on April 23, 2020.

**SITE PLAN VISIT**

Staff will send out a poll of various dates for the site plan visit to the Mantua area.

**ADJOURN**

**MOTION:** A Motion was made by Commissioner Jared Holmgren to adjourn commission meeting. The motion was seconded by Commissioner Bonnie Robinson and meeting adjourned at 8:24 p.m.



Laurie Munns, Chairman  
Box Elder County Planning Commission