

BOX ELDER COUNTY

The Board of Planning Commissioners of Box Elder County, Utah, met in public session at the regular meeting place at the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah, at 7:30 p.m. on April 18, 1991.

The meeting was called to order by Chairman Richard Kimber with the following members present, constituting a quorum:

Richard Kimber	Chairman
Denton Beecher	Ex-Officio Member
DeVon Breitenbeker	Member
Lonnie Thorpe	Member
Junior Okada	Member
Steve Grover	Member

Absent:

Jon Thompson	Member
Allen Jensen	Ex-Officio Member
Marie Korth	Ex-Officio Member

The Minutes of February 21, 1991, were presented for approval. DeVon Breitenbeker made a motion to approve the Minutes as recorded. Steve Grover seconded. None opposed. The motion carried unanimously.

AGENDA (ATTACHMENT No. 1):

ROGER LEE, Neighborhood Concerns (Attachment No. 2):

Mr. Roger Lee, representing the neighbors of southeast Willard met with the Planning Commission to voice their concerns with the impact of the DN Land Development on their neighborhood. The concerns included: 1) Flood Control, 2) Noise, 3) Damage to the Mountainside, 4) Dust, 5) Safety to Their Children. Mr. Lee stated he would leave the first concern, flood control, to the experts who would speak later.

2) Noise: Mr. Lee stated the noise level was very extreme; he cited the rocks being dumped, the constant beeping of the equipment warning systems, and the hammering of the Jake brakes. He voiced extreme concern over the possibility of this being allowed on a seven-day-a-week, 24-hour-a-day basis and hoped this would not occur.

3) Damage to Foothills: Mr. Lee stated their group was very concerned because no reclamation had taken place. The Air Quality requirement was that each five acres of exposed area must be reclaimed

before any more extraction could take place. He stated they see no sign of reclamation. He further stated the pit is very visible from the highway. Mr. Lee felt the slope was far too steep for revegetation.

4) Safety of Children: Mr. Lee stated they were very worried about the excessive truck traffic so close to their homes. He stated the twenty conditions imposed on DN Land Development need to be reinforced by the county as promised. He also asked that the attached letter be made a part of the public record of this meeting.

WILLARD CITY: Various City Concerns:

Mayor Rod Mund and Mr. Earl Harlow appeared before the Planning Commission to make the Commissioners aware that the Flood Control District has some concerns, many of which were cited in their letter of February 8, 1990. Mr. Harlow presented a letter addressed to the Box Elder County Commission dated April 12, 1991 (Attachment No. 3) from the Box Elder County/Willard City Flood Control District and discussed it. As indicated in the letter, the Flood Control District was concerned about the lower containment basin spillway which has not been rip-rapped. Excavation and enlargement of the lower containment basin has not been inspected nor accepted by the Flood Control District. The upper containment basin has not been built. A low level outlet in the upper containment basin has not been designed or installed.

Mr. Harlow stated the flood channels leading to the lower containment basin have been obliterated or blocked. He also stated flood waters will not reach the lower containment basin because of noncompliance with Condition 4 and the developer's excavation plan.

Mr. Harlow recommended that because there had not been any action correcting the problems from last year, it is the opinion of the Flood Control Board that the permit be revoked until further date when these things can be corrected.

Mr. Mund referred to the attached letter dated February 8, 1990, from the District voicing many of the concerns and his follow-up letter from the County signed by Mr. Valentine. Their concern is that many of the things that he talked about in his letter have never materialized. Mr. Mund requested that if there is any written request to change or expand any of the conditions, that the Flood District and Willard City be given an opportunity to respond. Mr. Mund referred to

a reporting system that should have been put into effect, but nothing has been done; he felt there has been a lack of communication.

Mr. Beecher stated that he was not aware of the proper communication channel; he had been instructed by Bob Valentine to keep a record of inspections, but he stated he did not know he was to share the information with anyone other than the Planning Commission.

PERMIT #38 REVIEW:

Mr. Beecher stated six different inspections have been made at the site. He further stated the reports referred to in the letter of April 12 regarding presentations from Russell Brown and Keith Hansen were made without visits to the site. He stated he felt the District should inspect the site and submit to Mr. Neilsen what is necessary, and Mr. Brown should inspect it and either approve or disapprove it and also submit it to the Planning Commission as well as the Flood District. Mr. Beecher went through the letter and discussed each topic.

Mr. Mund asked Mr. Beecher if the channel leading to the lower containment basin had been constructed. Mr. Beecher informed Mr. Mund he had inspected the site today, and that the channel had been constructed and rip-rapped, coming around the south side of the stock pile. Mr. Beecher stated with reference to Item 3 of the letter he felt the flood waters would reach the lower basin; his only concern is that there might be some debris in addition to what there normally would have been because of the stock pile, etc.

Mr. Beecher stated that during the past year Mr. Nielsen was not in operation, and there was nothing to inspect. He checked on February 22, 1990; all of the items were still in compliance. He again checked on March 8, 1990; Mr. Nielsen was not working in the pit. Mr. Beecher stated Mr. Nielsen has not completed Phase I so reclamation cannot be started.

Mr. Beecher discussed the various items on the conditional use permit. Most of the items are in compliance or will be. Item No. 11, the basin to be deeded to the Flood District, has not been done. This is to be surveyed when the enlargement is completed and they would know the size of the area. Items 12 through 20; there have been no changes.

Mr. Beecher stated when he was at the site today there was no dust, as there has been sufficient moisture to keep it down. He stated he walked around and could hear the crusher, but it was not very loud; he could hear the traffic noise more from the highway.

Mr. Kimber asked Mr. Mund if there was any particular time of day when the noise level was most noticeable. Mr. Mund stated probably early morning or late in the day it was more noticeable. Mr. Thorpe questioned the five acre limit set by Air Quality and requested Mr. Beecher measure the land and see what is actually excavated. A lengthy discussion was held regarding communication, inspection, and the work being done at the pit.

Mr. Kimber recommended that the Commission receive the information we have from these gentlemen, take that under advisement, and review as it is needed; he requested some action.

Mr. Okada made a motion that at least three times a year Mr. Brown, the Engineer; Mr. Nielsen, the owner of the operation; Denton Beecher from the Planning Commission; Mr. Harlow from the Flood Control; and Mayor Mund from Willard City, meet at the site in May and October and sometime in between at the request of the Flood District, if and when it is requested. Mr. Thorpe seconded. None opposed. The motion carried unanimously.

Mr. Thorpe made a motion to table the matter of the review of Permit #38 until there is further information received. Mr. Grover seconded. None opposed. The motion carried unanimously.

ZONING LAWS REPORT: Denton Beecher:

Mr. Beecher reported he attended a seminar taught by Jody Burnett on Zoning Laws and Civil Liability Policies and Practices. He stated it was very interesting. He stressed decision making be based on a valid properly enacted comprehensive plan or Zoning Ordinance. Mr. Beecher stated we have done that. Mr. Burnett stressed the importance of record keeping and authenticity of records, etc., to maintain accurate Minutes and records for review. Mr. Beecher said it was very worthwhile and he gained a great deal from the seminar. Mr. Beecher will provide a summarization of the manual he brought with him to each of the members of the Planning Commission.

LIBRARY BOOKS, American Land Planning Law:

A company had sent Mr. Beecher an eight volume set of books, American Land Planning Law, which would cost \$550.00. It was suggested the County Attorney review the books and see if they are worthwhile. Mr. Beecher stated if the County does not want the books, the company will pay for the return shipping.

MOBILE HOMES vs. FIFTH WHEEL UNITS:

Mr. Beecher stated Ms. Charlotte Maguira has a fifth wheel unit in the 5-C's Mobile Home Park in South Willard. The Building Inspector has given her until May 15 to move the unit because it is not a mobile home. She feels she has complied with everything and that it should be allowed to stay in the mobile home park. The Building Inspector claims it is a recreational vehicle. The Mobile Home Ordinance says a recreational vehicle cannot be placed in a mobile home park on a permanent basis. Mr. Beecher stated he advised Ms. Maguira to contact the manufacturer to have them classify her fifth wheel unit as being equal to or the same as a mobile home. It must be 32 feet long and can be skirted and blocked up in order to meet our definition of a mobile home. It does meet those requirements. Attorney Jon Bunderson has been contacted, and he stated as far as zoning and our Ordinance, it is a mobile home.

Ms. Maguira needs to prove to the Building Inspector that it is a mobile home. Mr. Beecher stated his recommendation was to refer her back to the Building Inspector; and if she does not agree with his decision, she may appeal to the Board of Building Inspection Appeals. Ms. Maguira presented pictures showing the sewer hook-up, the electrical hook-up, and fifth wheel unit. Ms. Maguira discussed the fifth wheel unit, it is 35 feet; she is willing to do anything necessary to meet the requirements. Mr. Beecher stated the Mobile Home Ordinance says that recreational vehicles shall not be kept in a mobile home park for long periods of time. The question is: Is it a mobile home? Mr. Beecher stated it has all the requirements to be classified as a mobile home. Mr. Breitenbeker made a motion to refer Ms. Maguira to the Building Inspector, that this does meet the criteria of our Ordinance as a mobile home. Mr. Okada seconded. None opposed. The motion carried unanimously.

Mr. Darrell Nielsen requested an opportunity to address the Planning Commission. Mr. Nielsen stated he spent a number of hours at the pit with Denton Beecher, Bob Valentine, Kent Nebeker, Wayne Braegger, Russ Brown, and some others. They all approved the retention basin as being 100 percent OK. He stated they met with the State in the Willard City Hall. The State informed the Flood Control the overflow should be rip-rapped. He discussed the five acre requirement imposed by Air Quality, which is a dust control measure. Mr. Nielsen stated he is willing to meet with anyone at any time. He stated he felt he had done a very good job at the site and invited any of the Commissioners to inspect it at any time.

Mr. Kimber stated it is the intent of the Planning Commission to protect Mr. Nielsen as they address the concerns of the citizens, and there is an obligation to both. Mr. Beecher explained the method of reclamation and showed on a map where the work is being done. Mr. Kimber stated at the next meeting we need to have a report back and address and clarify the issues.

The meeting adjourned at 9:35 p.m.

Passed and adopted in regular session this 16th day of May, 1991.



Richard D. Kimber, Chairman

ATTEST:



Marie S. McKinnon
Recorder/Clerk Secretary

D.

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEETING PLACE; COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for 18 April 1991 at 7:30 P.M.
2. Notice given to the newspaper this 17 day of April , 1991 .
3. Approval of the minutes of 21 March 1991.
4. Scheduled Delegations:



B. Roger Lee : Neighborhood concerns.

C. Willard City: Various City concerns.

D. Permit #38 review.

E. Zoning Laws Report- Denton Beecher

F. Library Books , American Land Planning Law.

G. Mobile Homes vs. 5th Wheel units.

H.

I.

J.

5. Old Business

A.

B.

C.

D.

SOUTHEAST WILLARD NEIGHBORHOOD CONCERNS

Tonight I represent my neighbors in southeast Willard. We are concerned with the impact of DN Land Development on our neighborhood. Our concerns, which we have voiced seemingly in vain for some years now, have been proved valid in the last two years. The concerns include:

1. Flood control,
2. Noise,
3. Damage to mountainside (both now and in the future),
4. Dust,
5. Safety of our children.

We will leave our first concern in the hands of the experts, the flood board, but let there be no doubt, we worry about the flooding of our homes.

We feel we qualify as experts when it comes to our second concern, noise. We were informed when the Box Elder County Planning Commission issued the permit that the operation would be in a natural basin which would contain the noise. Anyone living in the southeast part of town can testify that such has not been the case. Even residents who live along the highway can hear from their yards every bucket of rock as it clanks down into the trucks, while those who live closer to the pit can't even enjoy their own property in peace when they are inside their houses with all the windows and doors closed. This is in addition to the constant beeping of the equipment warning systems and the hammering of the Jake brakes from the time the trucks leave the pit through their descent down the perilous grade to the highway. The thought of

this cacophony continuing through the night on a seven-day-a-week basis is alarming in the extreme, and we trust that you will not subject us to this additional hardship. We are grateful that you saw fit to prohibit blasting when the permit was first issued and are confident you are still aware of the hazard that blasting would pose, not only because of the increase in the noise level but also because of the active earthquake fault in that area.

The third concern of the neighborhood is the damage to our beautiful foothills. We were told by the planning commission that the gravel extraction would be obscured because of the contour of the hill, and that the amount of visual scarring would be substantially reduced because of the reclamation that must take place. Where is this reclamation? The air quality permit requirement was that each five acres of exposed area must be reclaimed before any more extraction could take place. However, the flood board was informed by their engineer that it appears the first phase has been exceeded, with no sign of reclamation. Not only is the hole very plainly visible from both highways no matter which direction you are traveling, but huge stockpiles adjacent to the pit further mar the once-beautiful mountainside.

Visual inspection by engineers and townspeople show that the slopes left by the gravel extraction operation are steeper than allowed, particularly one very steep area which is clearly visible from the highways and which, it appears, would be very difficult, if not impossible, to revegetate.

The fourth concern is dust. Dust from this particular pit has not been a great problem thus far only because the developer has

operated the KD pit instead during the drier summer months each year.

Our last concern is for the safety of our children. The excessive truck traffic so close to our homes scares us. We will do all we can to keep our children clear of the traffic. I just pray that no truck will have to use the runaway ramp which leads straight to Riley's back door.

These concerns are specified in the 20 conditions which you imposed on DN Land Development, and most are reinforced by the air quality permit. This means that both agencies have the responsibility to enforce compliance, rather than each agency supposing the other will take care of it, with the end result being no action from either one. We were assured time and again during the months the permit was under consideration that the conditions would be met or the permit would be revoked.

We expect you to control this gravel operation as you promised to do when Mr. Bob Valentine stated on July 25, 1989: "... The responsibility of policing and enforcing those restrictions is not partially with the county, but totally with the county...." Enforcing complete compliance with all the conditions imposed upon DN Land Development is the very least you owe the citizens of Willard as their public servants.

We respectfully request that this summary of neighborhood concerns--flood control, noise, damage to the mountainside, dust, and safety--be made a part of the public record of this meeting.



12 April, 1991
Box Elder County/Willard
City Flood Control District
Willard, Utah 84340

Box Elder County Commission
County Courthouse
01 South Main Street
Brigham City, Utah 84302

Gentlemen:

The Conditional Use Permit, Application No. 38, that Box Elder County has approved for D. N. Land Development is jeopardizing the Master Plan for flood control in the Cooks Canyon area. After hearing presentations from Engineers Russell O. Brown and Keith A. Hansen, it is evident that the excavation in the referenced area will cause flood waters to miss the lower containment basin. Conditions 4, 7, 11, and 14 imposed by the Box Elder County Planning Commission for the subject permit are being ignored. This Board has concerns as follows:

- 1) Excavation has proceeded into the Phase II area before any of the Phase I flood control measures have been completed.
 - a) The lower containment basin spillway has not been rip-rapped.
 - b) Excavation and enlargement of the lower containment basin has not been inspected nor accepted by the Flood Control District.
 - c) The upper containment basin has not been built.
 - d) A low level outlet in the upper containment basin has not been designed or installed.

- 2) Flood Channels leading to the lower containment basin have been obliterated or blocked.
 - a) The existing stock piles are blocking the south (main) flood channel leading to the lower containment basin.
 - b) The excavation has exceeded the Phase I area and has diverted the north flood channel preventing flood waters from reaching the lower containment basin.
 - c) The drainage from the frontal canyon to the south of the project has not been piped under the haul road to allow it to reach the lower.

- 3) Flood waters will not reach the lower containment basin because of noncompliance with condition 4 and the developer's excavation plan.

The current excavation has created a hazard that is interfering with the Flood District's master plan, and the excavation will not enhance, improve, or compliment the Flood District's plans or goals as required in Condition 7 of the referenced permit.

The Flood District has made the County Commission aware of many of these violations in a letter dated February 8, 1990 (letter attached). Because of repeated disregard for Flood District plans and goals, this board recommends the Conditional Use Permit No. 38 be revoked and all excavation activities cease immediately. Further, it is the opinion of the Flood Control District that Box Elder County and D. N. Land Development shall bear all responsibility for any flood damages in the Cooks Canyon area.

Sincerely,

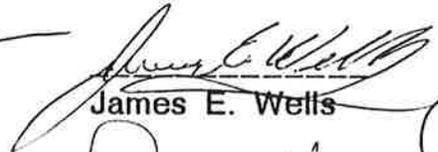
Box Elder County/Willard City Flood Control District



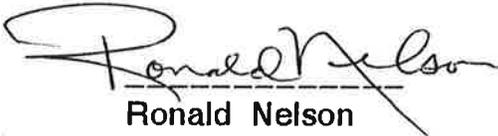
Todd W. Davis



Earl V. Harlow



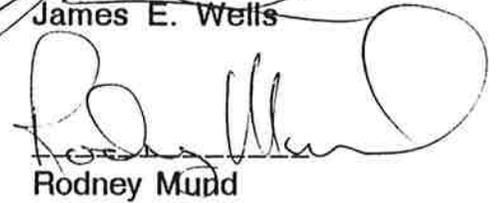
James E. Wells



Ronald Nelson



Bernall Wetzel



Rodney Mudd

cc: Box Elder County Planning Commission
Willard City

February 8, 1990

Box Elder County Commission
Robert Valentine, Chairman
County Courthouse
Brigham City, Utah 84302

Mr. Valentine,

When Darrell Neilsen was issued his conditional use permit for his gravel pit it was our understanding that he would have to meet the conditions specified on his permit, it has come to our attention that he has failed to do this in the following areas;

- (1) The enlargement of the Flood Control retention basin has not been enlarged to the proper specifications. It was our understanding that this was to be done before he could start any excavating. The enlargement has not been done and thus has resulted in a situation where run-off entering the basin could carry enough sediment to seriously deter the effectiveness of the Flood District facility.
- (2) The channeling of run-off water through the pipeline that runs under the road has been prevented due to an obstruction at both the bottom and the top of the line, due to Mr. Nielsen's excavating.
- (3) The upper flood channel has been obliterated so that any run-off water would cut through stock piles, and has virtually neutralized its effectiveness as a channel. This again is due to the excavation being done by Mr. Nielsen.
- (4) The Flood Control District has also asked Mr. Nielsen to supply plans and drawing for a low level outlet on the upper retention basin he plans. These have not been forth coming.
- (5) At the onset of granting a conditional use permit to Mr. Nielsen many promises were made by Mr. Nielsen and Box Elder County Planning Commission. One of the biggest concerns voiced by the Flood District and Willard City was that a project such as Mr. Nielsen's would take continuous monitoring and enforcement to insure complianice to the conditions and protection for the Flood Control Districts facilities and citizens. This has not been forth coming.

It is our suggestion that the county live up to these promises with this project and also the other projects operating in South Box Elder County of a similar nature.

Spring will soon be upon us and we expect your prompt response in dealing with this problem by March 1st. 1990.

The Flood Districts engineer and Willard Cities Engineer and Attorney are both extremely concerned about this situation. We were assured at

the outset Mr. Nielsen would live up to the conditions imposed or lose this this permit.

We anticipate that the county will live up to their obligations and rectify this problem with the Nielsen project and take an active interest in reviewing and insuring compliance with the other projects of a similar nature. Operating in the Districts area.

Sincerely

*original
Darrell*

Kent Nebeker, Chairman
Box Elder Count Willard City
Flood Control District

cc:Richard Kimber
Willard City
Denton Beecher
Russell Brown
Darrell Nielsen

enc (2)



CIRCA 1890's

Box Elder County,

STATE OF UTAH

COUNTY COMMISSIONERS
FRANK O. NISHIGUCHI
ROBERT G. VALENTINE
JAMES J. WHITE

OFFICERS

AFTON R. DARNELL, COUNTY TREASURER
ALLEN L. JENSEN, COUNTY CLERK
ROBERT E. LIMB, COUNTY SHERIFF
MARIE G. KORTH, COUNTY RECORDER
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR
CARLA J. SEORIST, COUNTY AUDITOR



CIRCA 1980's

February 23, 1990

Willard Flood District
c/o Mr. Kent Nebeker, Chairman
1200 North Main Street
Willard, Utah 84340

Dear Kent:

I wish to advise you of the action taken at the most recent Box Elder County Planning Commission Meeting held on 15 February at the Courthouse. In response to your letter of 8 February regarding the permit issued to Mr. Darrell Nielsen dba D&N Land Development, the action taken at the meeting was as follows:

First, a motion was made to advise Mr. Nielsen of the concerns of the Flood District and request a written plan be submitted to correct those deficiencies noted in the letter. That written plan was to be submitted within one week's time, which means it would be due to the Planning Commission by 22 February. As a follow-up to that, this plan would also include a schedule with which those activities and corrections should be accomplished.

In addition, the motion was further expanded to include the requirement that a checklist be prepared by Mr. Denton Beecher, the County Surveyor, to address the 20 restrictions upon this permit. He would then conduct a monthly inspection (as a minimum) of those concerns and record the conditions as noted during the inspection. This action will then create a permanent file of those inspections, the action taken, and those that require attention.

Kent Nebeker
February 23, 1990
Page Two

Also as part of the requirements, Mr. Neilsen, who was present, was advised that prior to any deviation from the imposed restrictions a request must be submitted to the Planning Commission in writing which would permit the Planning Commission to review and consider any changes to those restrictions. It is our belief that through this course of action all concerns regarding this permit as identified in your letter will be addressed and corrected in the most expedient manner. Should you have any question or desire any discussion of this matter please feel free to contact me.

Thank you very much.

Sincerely,

BOX ELDER COUNTY COMMISSION



Robert G. Valentine
Commission Chairman

RGV:spd

cc: Planning Commission Members
Darrell Nielsen
Rod Mund
Willard City