**BOX ELDER COUNTY**
**November 18, 1993**

The Board of Planning Commissioners of Box Elder County, Utah, met in regular session in the Commission Chambers of the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah, at 7:00 p.m. on November 18, 1993.

The meeting was called to order by Acting Chairman Jon Thompson, with the following members present, constituting a quorum:

| | |
|---|---|
| Allen Jensen | Commissioner, Member |
| Jon Thompson | Member |
| Steve Grover | Member |
| Louis Douglas | Member |
| Denton Beecher | Ex-Officio Member/Surveyor |

Excused:

| | |
|---|---|
| Richard Kimber | Chairman |
| David Tea | Member |
| Marie Korth | Ex-Officio Member/Recorder/Clerk |

**APPROVAL OF MINUTES:**
Acting Chairman Thompson presented the Minutes of October 21, 1993, for approval. Mr. Grover made a motion to approve the Minutes of October 21, 1993. Commissioner Jensen seconded. None opposed. The motion carried.

**AGENDA: (Attachment No. 1)**

**ZONE CHANGE REQUEST:**
**Bruce Carr Property in Mantua: (Attachments No. 2 & 3)**
Mr. Beecher stated Mr. Bruce Carr has filled out an application for amending the Box Elder County Zoning Ordinance as per Sections 1.11 and 3.1 of the Box Elder County Land Use Management and Development Code. It is Mr. Carr's desire to change the land to five acre zoning to conform with property in the city limits of Mantua. Along with the application was a petition (attached) signed by Mr. and Mrs. Carr, and Mr. Carr's daughter, Heidi Houghtalen. The property description was included in the petition. In addition the names of all of the property owners within 400 feet were listed. Also presented were envelopes addressed to the property owners and a notice (attached) to be prepared for a zoning amendment public hearing. Mr. Beecher explained the location of the affected property on the ownership map.

Mr. Beecher stated when Mr. Carr applied for a building permit for his daughter, he was told the home could not be built.

Because the property is in an MU160 zone a piece could not be sold; however, this could be done as multiple dwellings under single ownership. Mr. Carr did this so the home could be built. He has since deeded the acre of ground to his daughter. Mr. Carr would now like to have a five acre zone created. Mr. Beecher suggested to Mr. Carr that he deed the entire piece to his daughter which would make it a legal non-conforming parcel. Mr. Beecher said he felt zoning the five acres for the requested purpose would create spot zoning. This would not be in harmony with the General Plan; it would have to be amended to show development. He said the other solution would be to annex the property into Mantua. Mr. Beecher recommended leaving the property as it is.

Commissioner Jensen made a motion that Mr. Beecher notify Mr. Carr that he has two alternatives: 1) to deed the property in question to his daughter and son-in-law and/or if that is not acceptable to him to 2) approach Mantua City for annexation. Mr. Douglas seconded. None opposed. The motion carried.

MR. Bruce Carr later arrived at the meeting and expressed his concerns regarding the decision of the Planning Commission approved earlier in the meeting. A discussion was held exploring various solutions to the problem. Mr. Carr stated he did not want his property annexed into Mantua and explained his reasons. Mr. Beecher suggested Mr. Carr deed the entire acreage to his daughter and son-in-law with the stipulation that when things are settled they deed him back the acreage in excess of five acres. Mr. Carr stated this would be agreeable to him.

Commissioner Jensen made a motion to amend the original motion and as a substitute Mr. Carr will deed to his daughter and son-in-law all of his property that lies within Section 34 Township 9 North Range 1 West. Mr. Grover seconded. None opposed. The motion carried.

**MINOR SUBDIVISIONS:**

**Althea Wilcox Minor Subdivision:**

Mr. Beecher stated the Althea Wilcox property is located north of Fielding on 4400 West. He said Mrs. Wilcox would like to sell an existing home and create a new lot from the parcel in question. It is an existing home with all of the utilities. Mr. Beecher stated he did not have the original plat for signature, but the Planning Commission could pass a motion to conditionally approve it.

Commissioner Jensen made a motion to approve the Althea Wilcox Minor Subdivision based on the condition that the Health Department's signature on the mylar be obtained and to authorize the Chairman to sign it. Mr. Grover seconded. None opposed. The motion carried.

**Judy Taylor Minor Subdivision:**

Mr. Beecher presented the Judy Taylor Minor Subdivision on 6000 West north of Garland. Mrs. Taylor would like to create three lots. She has submitted a permit signed by the Health Department for a residence at approximately 14700 North. Mr. Grover asked if the size of the lots would necessitate putting in curb and gutter. Mr. Beecher replied, yes.

Mr. Grover made a motion to table the matter until next month so the rest of the information can be obtained and that Mr. Beecher inform Mrs. Taylor the lots are smaller that 120 feet; therefore, curb and gutter and sidewalks would have to be put in. It would be the recommendation of the Planning Commission the lots not be so small. Mr. Douglas seconded. None opposed. The motion carried.

**Don C. Anderson Minor Subdivision:**

Mr. Beecher presented the Don C. Anderson Minor Subdivision located about 1-1/2 miles east of the Bear River High School. He explained the location on the map. Mr. Anderson would like to subdivide the property into three lots. The request would be for an approved private access. The ordinance says, "a lot may be generated on a dedicated street or an approved private road approved by the Planning Commission and the County Commission."

Mr. Beecher recommended one of the stipulations be that the county will not take care of any maintenance or snow removal at any time and that it shall be the sole responsibility of the property owner. He said there is an existing road that goes along the bank of the canal. Mr. Beecher recommended a 33 foot right of way be held, not just a narrow strip to provide for utilities, maintenance, etc.

Mr. Beecher stated in the Notes it says "lots three and four are to be retained by the owner; lot four shall not be sold without first granting an easement for access purposes over and across lot three. Culinary water will be supplied by Garland City; proof of same will be required for approval by the Bear River Health Department. Sewer is to be approved by the Health Department; drainage shall be approved by the county."

Mr. Beecher said the statement "above ground water of the homes above or equal to the road will not be the responsibility of the county." Therefore, the county will not be responsible for any flooding because of the way homes are built.

Commissioner Jensen made a motion to approve the Don C. Anderson Minor Subdivision and that Note 2 be corrected to change the Bear River Health Department to Box Elder County, that the road shall always be maintained by the property owners, and that a "right of way shall always be maintained" be placed on the plat. Mr. Grover seconded.

**LETTER FROM WILLARD/BOX ELDER FLOOD DISTRICT: Attachment No. 4)**

Mr. Thompson presented a letter from the Willard/Box Elder Flood District. Mr. Grover made a motion to accept the letter from the Willard/Box Elder Flood District into the Minutes. Mr. Grover seconded. None opposed. The motion carried.

**OLD BUSINESS:**

**Leter from Jon Bunderson: (Attachment No. 5)**

Mr. Beecher read a letter from Attorney Jon Bunderson relative to the Safe Drinking Water Association's request. It was addressed to Alan L. Sullivan of Vancott, Bagley, Cornwall & McCarthy. Mr. Beecher stated in the last meeting Mr. Petersen was directed to make a formal application; that has not been done. Mr. Thompson stated according to Mr. Petersen it is his intention to proceed with the application.

**SUMMONS AND PETITION:**

**Box Elder County/Willard Flood District:**

Mr. Thompson presented a Summons and Petition filed by the Box Elder County/Willard City Flood District vs. the Box Elder County Planning Commission and requested it be received and to proceed with the answer from the Box Elder County Attorney, Jon Bunderson, within the time limit stipulated by law. The Summons was discussed.

Passed and adopted in regular session this 16th day of December, 1993.

Richard D. Kimber, Chairman

ATTEST:

Marie G. Korth
Recorder/Clerk

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 November 18, 1993 at 7:00 P.M.

2. Notice given to the newspaper this 17 day of Nov. , 1993 .

3. Approval of the minutes of October 21 1993.

4. Scheduled Delegations:

   A. Zone Change Request - Bruce Carr

   B. Althea Wilcox Minor Subd.

   C. Judy Taylor Minor Subd.

   D. Don C. Anderson Minor Subd.

   E. Letter from Willard - Box Elder Flood District

   F.

   G.

   H.

   I.

   J.

5. Old Business

   A.

   B.

   C.

   D.

ATT 1

723-5353 Carr's
723-3369 Houghtaler

# APPLICATION FOR AMENDING THE BOX ELDER COUNTY ZONING ORDINANCE

Fee Paid_____ Submission Date 11/10/93

As per Sections 1.11 and 3.1 of the Box Elder County Land Use Management and Development Code.

I (We) the undersigned resident(s) do hereby petition to the Box Elder County Commission for a zone change effecting the following property:

| PARCEL NO | DESCRIPTION |
|---|---|
| 03-060-0039 | BEG AT A PT 112.2 FT E OF NW COR OF NW/4 OF SEC 34 T9N R1W SLM. E 581 FT N 363 FT, N 83*40'E 1438.8 FT, S 14*45'W 190.7 FT S 29*35'W 379.5 FT, TH S 40*45'W 466 FT, S 50*30'W 660 FT, S 69*W 627 FT, N 21*31'W 1074.5 FT TO BEG. BEING IN SEC 27 & 34 T9N R1W SLM. LESS: THAT PART WITHIN CITY. CONT 21.46 ACRES M/L |

Description of the change desired and reasons therefore:

We wish to change this land to 5 acre zoning so it is the same as adjacent property (parcel # 03-060-0034) owned by us and in the city limits of Mantua.

Signature of petitioner(s) Date_____

W Duce Carr
Geralyn G. Carr
Heidi M Houghtaler

ATT 2

SUPPORTING DOCUMENTS TO ACCOMPANY A PETITION
FOR A ZONE CHANGE PETITION

3.1.3.3 A Vicinity Plan

3.1.3.4 Names of all owners of subject property

M. Bruce Carr.
Carolyn C Carr.
Heidi Houghtaler

3.1.3.4.1 Names of all owners within 400 feet of subject property boundary when an identified property is the specific beneficiary.

Bill Jeppsen, Kent Jeppsen, Mike & Susan McDonald, Box Elder State, Eagle Mining Ben & Karen Smith, William Packer. & assoc.

3.1.3.5 A sufficient number of plain white legal size envelopes, addressed to required recipients and with proper postage affixed.

3.1.3.6 Place posters provided by the County at all corners of the property, and every 400 feet of frontage on any road.

COUNTY COMMISSIONERS
R. LEE ALLEN
ALLEN L. JENSEN
JAMES J. WHITE

BOX ELDER COUNTY
STATE OF UTAH

OFFICERS
CARLLA J. SECRIST, COUNTY AUDITOR-TREASURER
MARIE G. KORTH, COUNTY RECORDER-CLERK
ROBERT E. LIMB, COUNTY SHERIFF
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR

# NOTICE

# A ZONING AMENDMENT

# IS PROPOSED FOR

# THIS PROPERTY.

**HEARING DATE_____ HEARING TIME _____**

**HEARING LOCATION _____**

**BOX ELDER COUNTY COMMISSION**

801-734-2031
01 SOUTH MAIN BRIGHAM CITY, UTAH
84302

ATT 3

BOX ELDER COUNTY/WILLARD CITY
FLOOD CONTROL DISTRICT
P.O. BOX 286
WILLARD , UTAH 84340

Box Elder Planning Commission
Box Elder County Courthouse
Brigham City, Utah 84302

November 8, 1993

Dear Planning Commission:

This letter is in response to Mr. Kimber's request that our Flood Control District Board send written comment with regard to statements made by Chairman Ron Nelson before the commission on October 21, 1993. We hereby answer this request and once again express our concerns with the D.N. Development excavation. It is apparent that this operation has not followed the plans as approved by the County Planning Commission in March 1989. Further the developer has substantially deviated from the conditions of the conditional use permit and is in violation thereof.

We have identified and communicated several violations to your commission some of the major ones being: excavation is carved very steeply into the mountain side and there is indication that it has not been kept or restored to the required grade; revegetation (including top soil and reseeding) has not been evidenced or completed; existing stockpiles in the south flood channel are extremely large and are blocking the channel leading to the lower flood retention basin; a diversion channel north of the pit has been constructed in an attempt to keep flood waters from going directly into the pit (detention basin) and subsequently proceed through the pit to the lower retention basin.

In our opinion deviations and violations are placing citizens and property below this site in grave danger from the potential hazards of flooding. We request that the Planning Commission issue a Cease and Desist Order immediately until this operation is in compliance with the terms of the use permit within a reasonable time and before moving into phase II.

These measures are considered essential in preserving the health, welfare and safety of the lives and property of the citizens of Box Elder County and Willard City within our jurisdiction. Enclosed is a letter dated August 25, 1989 signed by some of those concerned.

Sincerely Yours,
B.E. County/Willard City Flood
Control Board and Chairman

Ronald R. Nelson

Copy: Michael Z. Hayes
Lisa R. Schlottman
Attorneys at Law

RECEIVED
NOV 16 1993
Planning Commission Clerk
RECORDER/CLERK

ATT 4

August 25, 1989

Box Elder County/Willard City Flood District
Mr. Wayne Braegger and Board Members
Willard, Utah 84340

Re: DN Land Development Cook Canyon Project

Gentlemen:

This letter is to reinforce the grave concerns which we have with this project, which have been mounting since the public meeting with Box Elder County Commission in June.

Incomplete plan submittals and conflicting engineering data, along with unanswered questions of who would be responsible for enforcement of the county flood ordinances, has caused much unrest. Who is to check compliance with the flood ordinances?

We, as the persons whose property and lives will be threatened by manmade intervention in the flood channels east of Willard, are asking if the Box Elder County/Willard City Flood District board members or their engineer, Russ Brown, are now approving the current excavations of DN Land Development.

Reports from the on-site visit of August 7, 1989, confirm your statements of May 15 and 21, 1989, that indeed excavation is taking place in the main flood channel. This fact has also been recognized by Mr. Nielsen's engineers. If this main channel is not restored, the flood waters could be diverted toward the access road, where they will flow down to Highway 89, resulting in extensive property damage and possible loss of life on the highway. Another possibility is that the flood waters could flow toward the open canal and deposit rock and debris, causing canal failure and more devastation.

We have been made aware that the location of the main flood channel is in error on the developer's plans for this project. misleading all parties reviewing them. Has this created liability for those reviewers? What has the flood district or its members done to investigate this matter? Has Russ Brown looked into the situation to determine potential flood danger or reason for concern on the part of the district?

Many years and many thousands of tax dollars have been spent to establish the present level of flood control. The current activities of the developer could ruin all the good that you have accomplished since the flood district was organized.

The citizens of Willard City as well as every person traversing State Highway 89 look to your members as the body entrusted with FLOOD PREVENTION and FLOOD PROTECTION in this critical location.

If your members allow the district's existing basins to be enlarged to accommodate Mr. Nielsen's gravel excavations above them, the prospect of spending untold tax dollars to maintain larger basins is a matter of added concern. Any individual's or company's promises to maintain the district basins even during the entire life of the project would not be acceptable unless bonding was set at several million dollars to cover disastrous flooding or mudslides should they occur.

This district should be aware that the public which opposed the project in general, more strongly opposes support of a PRIVATE project by enlargement of PUBLIC facilities which will forever after be maintained by the TAXPAYERS because the private project has destroyed our natural flood protection.

The public is also concerned about the amount of time and money the flood district and its engineers have spent trying to analyze the inadequate plans submitted by the developer. We are also concerned that we will be asked to contribute more taxpayer dollars to extend bonding to pay for flood facilities now being threatened by the developer.

Because of the many unanswered questions and the admitted lack of communication between DN Land Development, Box Elder County, Willard City, and the Flood District, we strongly believe that our property and our lives are currently in jeopardy, and we hereby petition the Box Elder County/Willard City Special Flood Control District to act upon this matter through a formal resolution as follows:

RESOLUTION #_____

Whereas, The safety of all citizens is a primary concern of all Box Elder County/Willard City Flood Control District Board members;

Whereas, The matter of flood prevention east of Willard City is a matter of grave concern and an identifiable safety hazard;

Whereas, Many organizations and citizens have established laws setting standards of flood protection;

Whereas, The Box Elder County Ordinances require that areas of special concern regarding flood protection do require specific conditions to be met before construction of any kind proceeds;

Whereas, The Box Elder County/Willard City Flood Control District Board did file a letter of complaint with Box Elder County on May 15 and May 21, 1989, wherein they charged flood concerns were not being met by D.N. Land Development and further that all excavation being conducted in the south flood channel should cease immediately;

Whereas, The current excavation has violated Box Elder County Conditional Use Permit #38; however, the Box Elder County Planning Commission and the Box Elder County Commissioners have not acted upon the May 15 and May 21, 1989 complaint of the Flood District, the very agency entrusted with flood protection and flood prevention; and

Whereas, The Cook's Canyon main flood channel is now impacted by current excavation which has not been approved by the Flood District, thereby subjecting Willard City residents to immediate danger from the manmade hazard should flash flooding occur; therefore, be it

Resolved, That this Flood Control District send Chairman Wayne Braegger, Engineer Russell Brown and District member Rod Mund to Jon Bunderson, Box Elder County Attorney, urging Box Elder County to provide immediate protection through the revocation of Conditional Use Permit #38 for the safety of Willard City residents and all persons traversing Utah State Route 89 in the direct path of this imminent flood danger.

Enclosed are signature-ready copies of this RESOLUTION. As heads of households responsible for the safety of our families, we urge you to act upon our petition immediately.

Sincerely,

Todd Davis 230 S 300 E Willard
Wilbur A Beaman 480 S 200 E
Jack Peterson 658 So main
Jim B Shandrew 180 So 100 East
Charles O. Paul 747 So. main
Ilene Tucker - 679 S. Main
John P. Riley 180 E 600 S
Will Anderson 575 So. 200 E.
Dennis Jeppson 565 So 2nd E
Gary Wilson 190 So 3rd EAST
Sandra Carlson
Audrey W Priebe 399 So main Willard
Wallace E Johanson 525 So main Willard ut
Isabelle A. McNeely 355 So Main Willard, ut
Roger T Lee 235 E 200 S WILLARD, UT
Jay Shelley 525 So. 200 E Willard
Earl Van Halen 485 So. 200 E. Willard
Walter Summers 265 E 300 So.
Charlene Deem Rees 335 So Main
Randy Keyes 325 S. Main
Douglas C. Beck 75 E. 300 S.

Rhea Butler 275 So. 100 E.
[illegible] 255 So 100 E
Evelyn Talbot 231 S. 100 E
Billy H. Prescott 228 S. 100 EAST
Craig L Weaver 255 So. 200 E.
[illegible] 235 So Main
Dorothy Barrey 205 S. 2nd E
Ramon G. Mayer
Christine D Holt 275 E 200 S
Donald C Hardy 190 E 200 S
[illegible] 550 So. 200 E.
[illegible] 375 So Main
[illegible] 345 So Main
[illegible] 490 S MAIN
Marietta Wallace 200 S. 255 East
Judy D Stevens 250 E. 200 So.
Lauri Raedel 260 So. 3rd E.
[illegible] 505 So 200 E.

cc: Willard City Mayor, Willard City Council, Willard City Engineer, Willard City Attorney, Attorney LaVar Stark

Denton Beecher

CIRCA 1890's

# Box Elder County, STATE OF UTAH


COUNTY COMMISSIONERS
R. LEE ALLEN
ALLEN L. JENSEN
JAMES J. WHITE

OFFICERS
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JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR

CIRCA 1980's

November 9, 1993

COPY

Alan L. Sullivan
VANCOTT, BAGLEY, CORNWALL & McCARTHY
50 South Main
Salt Lake City UT 84101

Re: Our File: Landfill - Cnty Misc. '93
Your Client: Safe Drinking Water Association
(Reggie Petersen)

Dear Alan:

I enjoyed our meeting on November 4; I felt it was very useful for both of us to talk about the issues in this case, and it was good just to see you.

You left me with three questions, which I answered for you on November 5, in our telephone conversation.

First, there is no 1976 Code; it is a 1974 Code, a copy of which you will find enclosed.

Regarding the Planning Commission's actual decisions upon the two petitions filed by Mr. Petersen, enclosed you will find copies of the approved minutes of the September 16 meeting, and the preliminary, unapproved minutes of the October 21 meeting. As we discussed, I think it would be appropriate for you to assist Mr. Petersen in obtaining some sort of firm and final decision from the Planning Commission regarding the two separate legs of the respective petitions.

Regarding the alleged conflict between Chapters 1 and 3 of the 1992 Zoning Code, we discussed the Zoning Administrator's interpretation of those separate chapters. Chapter 1 is not as well drafted as it should be, since it should refer to the

ATT 5

requirements of Chapter 3, an issue which I brought to the attention of the Zoning Administrator. However, he has the authority to make some interpretation like that, as does the Planning Commission, and I support them in the interpretation rendered. I believe it is reasonable and consistent.

Very truly yours,

Jon J. Bunderson

JJB:vll
Enclosures
cc: Denton Beecher