

PLANNING COMMISSION MEETING

November 21, 1985

Meeting of the Box Elder Planning Commission held on Thursday, November 21st, 1985 at 7:30 p.m. Those members present were: Richard Kimber, Don Chase, DeVon Breitenbeker, Jon Thompson, Kent Newman and Denton Beecher. Excused from the meeting were Don Petersen and Jay R. Hirschi.

GRAVEL PIT CONDITIONAL USE PERMIT

Clive, Roger and Arnel Wells met with the Commission to find out the results of their request made in October to transfer the applicant from Grant Cook to the Wells'.

Denton Beecher read two letters written by County Attorney Jon J. Bunderson expressing his opinion on the subject. (COPIES 1 and 2). Don Chase expressed concern that the permit would be compatible with Willard City's desires. Roger Wells indicated they have been issued a permit from Willard City and that they have agreed upon many conditions. Each member of the Commission expressed his feeling that the permit should agree with Willard City's permit.

In agreement with Attorney Bunderson's opinion, not to attach more restrictions than were on the original, the Wells' stipulated that all conditions which exist in the Willard permit should be added to the County permit; also, that the area of the permit be changed to read ~~that portion located in the SW 1/4 of the NW 1/4 and the NW 1/4 of the~~ SW 1/4 of Section 24, T8N, R2W containing 80 acres. A motion was made by Don Chase to approve the transfer of the applicant from Grant Cook to Clive, Roger and Arnel Wells, and that the conditions of Conditional Use Permit No. 12 be changed to include all of the conditions of Willard City's permit, and the area change be added as suggested by the Wells'. The motion was seconded by Jon Thompson, with all members present voting in favor. The motion carried.

COUNTY ATTORNEY'S OPINION ON RECORDING DESCRIPTIONS

Denton Beecher read Attorney Bunderson's opinion (COPY 3) to the Commission for their information. The information was accepted and the Commission concluded to let the issue die.

TRAINING SESSION

Cindy Greenwood from BRAG was introduced and the meeting time was used as a training session to present the educational packages and training programs for local governments. Presented tonight was "THE PLANNING COMMISSION," and scheduled for December 19th, 1985 is "ZONING AND THE ZONING ORDINANCE". It was moved that the Commission invite the Board of Adjustment members to attend on December 19th, at 7:30 p.m.

Meeting adjourned at 9:30 p.m.

(INCL. #1)



CIRCA 1890's

Box Elder County,

STATE OF UTAH

COUNTY COMMISSIONERS

DON E. CHASE
GLEN R. CURTIS
JAMES J. WHITE

BRIGHAM CITY, UTAH 84302

OFFICERS

GLEN S. FIFE, COUNTY TREASURER
JAY R. HIRSCHI, COUNTY CLERK
ROBERT E. LIMB, COUNTY SHERIFF
MARIE G. KORTH, COUNTY RECORDER
JON J. BUNDERSON, COUNTY ATTORNEY
VON R. CURTIS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR
DORIS L. OLSEN, COUNTY AUDITOR



CIRCA 1980's

October 4, 1985

Denny Beecher
Box Elder County Surveyor
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Wells Gravel Pit--Conditional Use Permit

Dear Denny:

On behalf of the Planning Commission, you requested my opinion concerning the following situation.

Grant Cook was the Lessee of the Wells Gravel Pit located in the Willard area, and obtained a conditional use permit in his name. The conditional use permit was in effect for a period of time, and is still in effect. During that entire period of time, the gravel pit has continued to operate.

Mr. Cook is now, because of a court decision, no longer associated with the gravel pit and has no legal right thereto. Wells seeks to have the conditional use permit transferred to his name.

Our ordinance does not speak to the issue of the transfer of a permit. However, it would appear that a conditional use permit is issued to allow a particular use of a particular parcel of ground. It is not really a license to a particular person to do certain things with, to, or upon a particular parcel, but, rather, is a permit to allow the ground itself to be used in a particular manner.

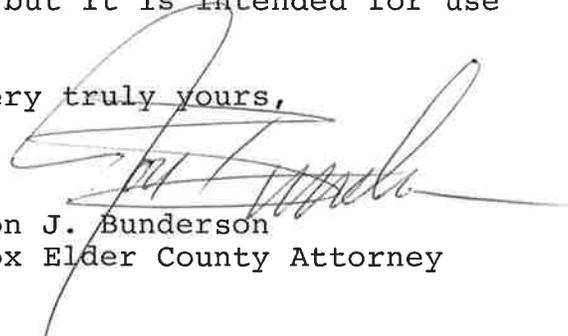
Thus, I think the permit, under our ordinance scheme, runs more to the ground itself than to the person to whom the permit was issued.

Copy 1

Absent any direction in our ordinance, and based upon the above analysis, it is my opinion that upon an application being made, the Planning Commission has the authority to change the name under which the permit is held. The person to whom the permit is issued should understand that he or she then becomes responsible to meet the conditions imposed.

I have directed this letter to you, but it is intended for use by the Planning Commission.

Very truly yours,



Jon J. Bunderson
Box Elder County Attorney

JJB:jh

(INCL. #2)



CIRCA 1890's

Box Elder County,

COUNTY COMMISSIONERS
DON E. CHASE
GLEN R. CURTIS
JAMES J. WHITE

STATE OF UTAH

BRIGHAM CITY, UTAH 84302
OFFICERS

GLEN S. PIPE, COUNTY TREASURER
JAY R. HIRSCHI, COUNTY CLERK
ROBERT E. LIMB, COUNTY SHERIFF
MARIE G. KORTH, COUNTY RECORDER
JON J. BUNDERSON, COUNTY ATTORNEY
VON R. CURTIS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR
DORIS L. OLSEN, COUNTY AUDITOR



CIRCA 1980's

October 4, 1985

Denny Beecher
Box Elder County Surveyor
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Wells Gravel Pit--Conditional Use Permit

Dear Denny:

I am giving you an opinion of your second question in this separate letter.

You had a second question concerning the Wells Gravel Pit, to wit, could you tack on other conditions at this point.

This document is intended to be an internal memorandum between you and I.

I think it is inconsistent to say that we can change the name because the permit runs to the use of the ground rather than to the individual responsible for the ground, and then turn around and say we can add new conditions.

If you follow what I mean, I really don't think we could force new conditions upon Wells. However, if he voluntarily assumes some new conditions or you propose some and he accepts them, I would see no problem.

Very truly yours,

Jon J. Bunderson
Box Elder County Attorney

JJB:jh

Copy 2

(INCL.#3)

Box Elder County,

COUNTY COMMISSIONERS
DON E. CHASE
GLEN R. CURTIS
JAMES J. WHITE



CIRCA 1890'S

STATE OF UTAH

BRIGHAM CITY, UTAH 84302
OFFICERS

GLEN S. FIFE, COUNTY TREASURER
JAY R. HIRSCHI, COUNTY CLERK
ROBERT E. LIMB, COUNTY SHERIFF
MARIE G. KORTH, COUNTY RECORDER
JON J. BUNDERSON, COUNTY ATTORNEY
VON R. GURTIS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR
DORIS L. OLSEN, COUNTY AUDITOR



CIRCA 1980'S

October 4, 1985

Mr. Denny Beecher
Box Elder County Surveyor
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Recording of Deeds which violate the subdivision ordinances

Dear Denny:

I have reviewed the copies of the correspondence provided me by you between the Weber County Planning Commission and Neal Smith and Doug Crofts.

According to Mr. Shirra, the Weber County Attorney's Office has told him that Section 17-27-21 could be interpreted to prevent the recording of any deeds.

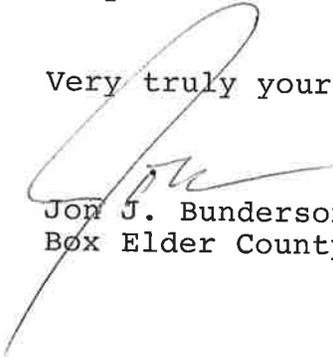
I simply and flatly do not agree. The statute prohibits the recording of certain particular defined types of documents (plans or plats), and a deed is something entirely different and could not, by any stretch of the imagination, be construed to be a quote "plan or plat".

I believe we have tried to change this problem in the past, and the Legislature has refused to make any change, which to some extent evidences a legislative intent to continue to allow the free recording of deeds, even if they may be in violation of a local subdivision ordinance.

Although you didn't ask, I also feel that Mr. Shirra's proposed restrictive covenant concerning agricultural use is stretching the law beyond the breaking point. I believe we could possibly require the filing of a sworn affidavit indicating that the division is strictly for agricultural use, but to require a restrictive covenant to be placed in

the deed is beyond the authority of the County, in my opinion.
I would be glad to discuss this with you further if you desire.

Very truly yours,



Jon J. Bunderson
Box Elder County Attorney

JJB:jh