BOX ELDER COUNTY
PLANNING COMMISSION MINUTES
OCTOBER 18, 2018

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		the *following Staff was present*:	
Laurie Munns	Chairman		
Mellonee Wilding	Vice-Chair	Scott Lyons	Com Dev Dir.
Kevin McGaha	Member	Marcus Wager	County Planner
Michael Udy	Member	Steve Hadfield	County Attorney
Desiray Larsen	Member	Jeff Scott	Commissioner
Bonnie Robinson	Member	Diane Fuhriman	Executive Secretary
Jared Holmgren	Member		

Chairman Laurie Munns called the meeting to order at 7:00 p.m.

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

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the September 20, 2018 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.

MOTION: A Motion was made by Commissioner Michael Udy to approve the October 18, 2018 agenda. The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

UNFINISHED BUSINESS - NONE

PUBLIC HEARINGS

Chairman Laurie Munns 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.

DAWSON CONDITIONAL USE PERMIT, CUP18-003, Request for an accessory dwelling unit at approximately 7485 S 425 W in South Willard area of unincorporated Box Elder County.

Staff stated the applicant has requested a conditional use permit for an accessory dwelling unit. The applicant has an existing garage. He is seeking to convert a portion of the garage for a mother-in-law apartment. Staff then reviewed the approval standards for a conditional use permit as follows:

1. Conditions relating to safety of persons and property.
    a. The impact of the proposed facility or use on the health, safety, and welfare of the County, the area, and persons owning or leasing property in the area.
    b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.
    c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
    d. Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.
    e. Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.
2. Conditions relating to the compatibility of the use.
    a. The suitability of the specific property for the proposed use.
    b. The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.
    c. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.
    d. The number of other similar conditional uses in the area and the public need for the proposed conditional use.
3. Conditions relating to health and safety.
4. Conditions relating to environmental concerns.
5. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district.
6. The aesthetic impact of the proposed facility or use on the surrounding area.
7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.
8. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.
9. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use.

Staff said these things should be taken into account when reviewing a CUP. When a use has been deemed a conditional use in a zone, it has been accepted that use can exist there. If any negative impacts come from the use, conditions can be placed to mitigate those negative impacts. When the accessory dwelling unit ordinance was adopted, these types of standards were reviewed and addressed with regard to building elevation, grading plans, preventing and minimizing flood and water damage. In this scenario specifically, this garage has existed for several years and has not shown any issues. In the accessory dwelling unit ordinance it states no new utilities would be provided or attached to the accessory dwelling unit, it would be required to be attached to the main dwelling. The accessory dwelling cannot be split off from the main dwelling it must remain with the main dwelling. One other requirement is it be no larger than 40% of the square footage of the original structure. This meets that requirement, the proposed finished portion of the garage would be 1050 square feet which is approximately 33% of the main dwelling. The other main requirement is the owner must live in one of the two units at all times. This is to prevent communities from becoming rental communities. If approved, the homeowner will record an affidavit in the recorder's office stating they will live in one of the two units at all times.

Commissioner Laurie Munns verified if the home is sold the condition stays with the dwelling.

The public hearing was then opened for comments.

Brent Dawson, owner/applicant, said the property is a little bit bigger than a half-acre, it is .63 acres. He said he intends to maintain the property and all the facilities himself.

Hearing no further comments a motion was made by Commissioner Mellonee Wilding to close the public hearing on the Dawson Conditional Use Permit, CUP18-003, and the motion was seconded by Commissioner Kevin McGaha and passed unanimously.

ACTION

Commissioner Laurie Munns said Section 5-6-060 of the Box Elder County LUM & DC outlines the development standards for accessory dwelling units and asked if the applicant has had the opportunity to review the standards. Staff stated the development standards were provided to the applicant and have been reviewed.

Commissions Mellonee Wilding asked if the standards are not met, how is that handled on the county level? Staff indicated the county has the same enforcement process for everything. In a scenario like this where the standards are so black and white, the building permit would not be issued until the standards are met. If a standard is not met after a building permit has been issued such as the homeowner moves out and both units become rentals, our office would send the homeowner a letter referencing the code in violation and stating they have ten days to contact us. When they contact our office a timeline is set up in order to bring things back into compliance. If the timeline is not met, other ways of enforcement such as a notice of non-compliance is recorded against the property making it difficult to sell the property and no building permits can be issued.

MOTION: A Motion was made by Commissioner Jared Holmgren to approve application CUP18-003 a Conditional Use Permit for an accessory dwelling unit and adopting the exhibit, conditions and findings of the staff report. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

PETTINGILL CONDITIONAL USE PERMIT, CUP 18-004, Request for temporary living quarters for H2A workers located at approximately 7745 S Hwy 89 in the South Willard area of unincorporated Box Elder County.

Staff stated this conditional use permit is for a temporary living quarters in the South Willard area for H2A workers. The proposal is to have the living quarters behind the current warehouse. The applicant provided the following statement for the reason for the CUP. *"Because of agriculture labor shortage that we have been experiencing we would like to create an area for temporary housing for H2A workers. The plan includes an area sufficient to accommodate two trailer houses. The existing housing is on its own septic tank. We propose to add another septic system to the north of the proposed area. Potable water will be served by an existing hookup. Power will be supplied by an existing residential meter. H2A workers require no parking because they are guest workers with no cars."*

Staff reviewed the following factors with the commissioners:

1. Conditions relating to safety of persons and property.

a. The impact of the proposed facility or use on the health, safety, and welfare of the county, the area, and persons owning or leasing property in the area.

Any perceived impacts should be mitigated through conditions on the proposed use.

b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.

Any adverse effects the commission can think of should be addressed with the applicant.

c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.

This would be reviewed as part of a building permit process.

d. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure public safety.

Setbacks for the R-1-20 zone for residential structures are:
Front: 30 feet
Side: 15 feet
Rear: 30 feet
If the planning commission determines increased setbacks are necessary these setbacks would be enforced during the building permit process.

e. Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.

This is reviewed as part of the building permit process.

2. Conditions relating to the compatibility of the use.

a. The suitability of the specific property for the proposed use.

Staff finds no health, safety, or welfare issues affecting the suitability of the proposed site so long as the permittee meets all required conditions set forth in the conditional use permit.

b. The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.

The surrounding development is mainly agricultural and residential, the zoning map as well as General Plan do not show any future changes to that. Staff believes the proposed use can coexist with existing uses in the area if conditions are met and maintained by the owner.

c. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.

Staff has no evidence of this.

d. The number of other similar conditional uses in the area and the public need for the proposed conditional use.

To staff's knowledge this site currently has living quarters. The public need is subjective.

3. Conditions relating to health and safety.

The following are conditions staff feels are necessary relating to health and safety:

1. Living quarters must meet all current building codes

2. Septic permit to be obtained (this will be done at the building permit process).

Any additional adverse effects the commission can think of should be addressed with the applicant.

4. Conditions relating to environmental concerns.

Any adverse effects the commission can think of should be addressed with the applicant.

5. Conditions relating to compliance with intent of the general plan and characteristics of the zone district.

See conditions 1 & 2 above as this will maintain compliance with characteristics of the zone.

6. The aesthetic impact of the proposed facility or use on the surrounding area.

Any adverse effects the commission can think of should be addressed with the applicant.

7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.

These utilities are available in the area. These are required as part of the building permit process.

8. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.

These will be reviewed as part of the building permit process

9. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use.

Staff has no evidence that these residential structures would violate this criteria.

Any adverse effects the commission can think of should be addressed with the applicant.

The public hearing was then opened for comments. There were no public comments.

Hearing no public comment a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Pettingill Conditional Use Permit, CUP 18-004. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

ACTION

Staff explained the Box Elder County LUM&DC allows for mobile homes to be temporary living quarters in the R-1-20 zone and feels the proposed CUP can conform to all the requirements in the code if all the following conditions are met.

1. Compliance with Section 2-2-100 of the Box Elder County Land Use Management & Development Code.
2. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
3. Living quarters must meet all current building codes
4. Septic permit to be obtained (this will be done at the building permit process).
5. The temporary living quarters will be removed when the use changes from fruit farm to something else.

Commissioner Laurie Munns said even if it stays as a fruit farm and the housing is not being used for H2A laborers, she is not in favor of them being used as rentals. Staff said this concern can be made as an additional condition.

Steven Pettingill, applicant, said he does not want to put too many people in a small house. If he can get temporary housing, he feels it would be better to only put four people in instead of six. He feels the workers would have better living conditions if given more room. Mr. Pettingill stated there is power from the house and another breaker box would be put in to supply power to the units. A separate septic tank will also be put in.

MOTION: A Motion was made by Commissioner Bonnie Robinson to approve the Pettingill Conditional Use Permit, CUP 18-004 with the conditions listed by staff and with the additional condition that the temporary housing be used for H2A workers only. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

ALLRED ZONING MAP AMENDMENT, Z18-011, Request to rezone 94.58 acres from A-20 (Agriculture 20 acres) Zone to RR-2 (Rural Residential 2 acres) Zone located at approximately 11800 North 3600 West in the Collinston area of unincorporated Box Elder County.

Commissioner Michael Udy recused himself from the discussion and decision as he has interest in the project.

Staff explained there are 4 parcels within the application that are being requested to be rezoned from A-20 (Agriculture 20 Acres) to RR-2 (Rural Residential 2 Acres). The Parcels range in size as follows: 05-019-0006 – 9.98 ac.; 05-019-0008 – 18.93 ac.; 05-019-0038 – 8.38 ac.; 05-023-0009 – 57.29 ac. 3 of the 4 parcels are less than the 20 acre minimum size but they were split off before the zoning and subdivision laws were put in place, therefore they are legal. The surrounding land use to the north and south is A-20; to the east is RR-2 and west is un-zoned.

Staff then reviewed the guidelines for rezones as follows:

A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;

The County's General Plan makes no reference as to how specific areas should be zoned. It does state that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.

There is a Collinston Community Plan in the works that the community members have come up with that calls for nothing less than 2 acre zoning being allowed in the Collinston area, this application is in compliance.

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 combination of agricultural uses and residential homes with both A-20 and RR-2 zones. Whether the proposed amendment is harmonious with the overall character of existing development is quite subjective. This point could be argued saying yes it is harmonious due to there being several other existing residential dwellings in the area, but on the other hand the majority of the area is used as agriculture.

C. The extent to which the proposed amendment may adversely affect adjacent property; and

This is subjective. Residential uses do tend to bring additional traffic. They also tend to bring higher property values. 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.

The facilities and services are not currently at the property but should be able to be extended at the time the applicant desires to develop the property.

The public hearing was then opened for comments.

Curtis Norr, adjoining property owner, said he is not opposed to the RR-2 zone. He is here to protect his interest as an agricultural operator. He has a dairy in the area. He wants the commissioners to be aware that a huge section of one parcel adjoining the river is in the flood plain. The Allred family has approached him about a single family dwelling in the area. They were concerned about how they could get water and power and proposed purchasing a right-of-way through his property. He is here to voice his rights and protection as an adjoining property owner.

Landon Allred, D&G Allred Ventures LLC, stated the main reason for the rezone is they are wanting to build on the larger parcel of 57 acres. The biggest hurdle is no bank wants to loan on a

piece of property even up to 20 acres. Mr. Allred said even though they already own the land they are having a hard time trying to get a construction loan. Our immediate interest in filing this rezone is to hopefully help the process of being able to build a lot faster and get the construction process started with getting the lending for the home loan.

Hearing no further comments a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Allred Zoning Map Amendment Z18-011, the motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

ACTION

Staff explained their findings as follows:

1. The Box Elder Land Use Management and Development Code allows for a rezone subject to zoning map amendment review procedures and approval.
2. It can be interpreted that the proposed map amendment meets the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.
3. This application is for a zoning designation from A-20 to RR-2.
4. This application is aligned with the Collinston Community Plan.

MOTION: A Motion was made by Commissioner Kevin McGaha to forward a recommendation of approval to the county commission for the Allred Zoning Map Amendment Z18-011 subject to conditions by staff. The motion was seconded by Commission Jared Holmgren and unanimously carried.

NEW BUSINESS - NONE

WORKING REPORTS – NONE

PUBLIC COMMENTS - NONE

ADJOURN

MOTION: A Motion was made by Commissioner Jared Holmgren to adjourn commission meeting. The motion was seconded by Commissioner Michael Udy and meeting adjourned at 7:55 p.m.

Mellonee Wilding

Laurie Munns, Vice Chairman
Box Elder County Planning Commission