

BOX ELDER COUNTY PLANNING COMMISSION MINUTES July 20, 2023

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

Mellonee Wilding	Excused
Jared Holmgren	Vice-Chair
Lonnie Jensen	Member
Steven Zollinger	Member
Bonnie Robinson	Member
Jed Pugsley	Member
Jennifer Jacobsen	Member
Vance Smith	Excused

the following Staff was present:

Scott Lyons	Comm Dev Director
Marcus Wager	Excused
Destin Christiansen	County Planner
Stephen Hadfield	Excused
Boyd Bingham	Excused
Diane Fuhriman	Executive Secretary

Vice-Chairman Jared Holmgren called the meeting to order at 7:00 p.m.

The Invocation was offered by Commissioner Bonnie Robinson.
Pledge was led by Commissioner Jared Holmgren.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the June 15, 2023 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Jed Pugsley to approve the minutes as written. The motion was seconded by Commissioner Jennifer Jacobsen and passed unanimously.

UNFINISHED BUSINESS -NONE

PUBLIC HEARINGS

Vice-Chair Jared Holmgren 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.

ORDINANCE TEXT AMENDMENT, Z23-011, Request for a text amendment to remove Exhibit A, New Road Standards 2014 from the Box Elder County Land Use Management & Development Code. ACTION

Staff stated the county is requesting to remove road standards from the county land use code. The Box Elder County Roads Department is in the process of developing a Public Works Standards Code where the new, proposed roads standards will be kept. The proposed amendment would affect Article 5: Exhibit A New Road Standards 2014 of the Box Elder County LUM&DC.

Staff read the standards for reviewing zoning text amendments from Section 2-2-080 from county code as they apply to this request:

- A. **Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;** The County's General Plan states we make sustainable, efficient, and convenient infrastructure choices that place Box Elder County and its communities in a strong position for the future.
- B. **Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;** This text amendment is simply transferring the location of where the road standards for Box Elder County are kept. The Planning Commission needs to decide if this amendment would be harmonious.
- C. **The extent to which the proposed amendment may adversely affect adjacent property;** The proposed amendment should not adversely affect adjacent property. The public hearing process may shed additional light on this subject.
- 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 text amendment should not have an effect on the adequacy of facilities.

The public hearing was then opened for comments.

Hearing no comments, a motion was made by **Commissioner Jed Pugsley** to close the public hearing on the Ordinance Text Amendment Z23-011. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

ACTION

Commissioner Jared Holmgren confirmed the request does not remove county road standards, but puts them under the jurisdiction of the road department. Staff stated this is a cleaner way to do this.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for application Z23-011, a request for a text amendment to remove Exhibit A, New Road Standards 2014 from the Box Elder County Land Use Management & Development Code and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Steven Zollinger** and passed unanimously.

CONDITIONS:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

ORDINANCE TEXT AMENDMENT, Z23-012, Request for a text amendment to add Section 5-1-370 Landscape Requirements, to the Box Elder County Land Use Management & Development Code. ACTION

Staff said the state has a program for current property owners to be reimbursed \$1.50 per sq. ft. for replacing lawn with water wise landscaping. The landscaping requirements set by the state must be added to the county land use code. Any new residential development shall comply with the following requirements:

- a. No lawn on parking strips or areas less than eight feet in width in new residential development.
- b. No more than 50% of front and side yard landscaped area in new residential developments is lawn. Lawn limitations do not apply to small residential lots with less than 250 square feet of landscaped area.

In new commercial, industrial, institutional, and multi-family development common area landscapes, lawn areas shall not exceed 20% of the total landscaped area, outside of active recreation areas.

Staff said this would add an enforcement element to the Planning & Zoning Department having to ensure this is enforced with new construction. However, it also opens up the opportunity for current landowners to be able to have access to more water-wise decisions.

Staff read the standards for reviewing zoning text amendments from Section 2-2-080 from county code as they apply to this request:

- A. **Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;** The County's General Plan states: "Communities are engaged in creating water-wise landscapes as a requirement for getting a building permit. Such ordinances usually specify a maximum amount of turf, and that rock mulches need to have defined amounts of shade through the planting of trees, and even more common is a prevention of vegetation in park strip areas except for appropriately sized trees. Leading edge communities are tying this conservation movement to Low Impact Development (LID) techniques to retain storm water on-site".
- B. **Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;** This text amendment would apply to all areas of unincorporated Box Elder County. The proposed amendment should be harmonious with the overall character of existing development.
- C. **The extent to which the proposed amendment may adversely affect adjacent property;** The proposed amendment should not adversely affect adjacent property. The public hearing process may shed additional light on this subject.

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 text amendment should not have an effect on the adequacy of facilities and services.

Staff feels the Planning Commission can recommend approval on this request if they so desire. Alternative options would be to have staff look at what landscaping requirements are currently on the books, or staff can continue to operate as usual.

The public hearing was then opened for comments.

Brodie Calder said he would look to approve this request as there is a major problem with water right now. He does not see a need for some of the portions needing to be 8 ft. or less on the residential side, it can be done with better landscaping options. He sees water conservation as being very helpful.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on Ordinance Text Amendment, Z23-012. The motion was seconded by **Commissioner Steven Zollinger** and passed unanimously.

ACTION

Commissioner Bonnie Robinson asked if clover would qualify as lawn. Clover requires less water, less mowing, and is still green. She asked if there are other ground covers that may be considered lawn.

Commissioner Steven Zollinger said there are all types of different landscaping including dry scape. Is the county going to try to limit people to this standard of landscaping?

Staff explained the limitations would be that residents could have lawn up to 50% of the front and side yards. They could put clover in 100% of the yard. This is not requiring they have lawn in the 50%, they can have lawn *up to* 50%.

Commissioner Steve Zollinger asked if someone has their own water well system and they want to plant more lawn or have an orchard type yard, what standard do we hold those landowners too? He asked if the county is compliant with the state now.

Staff explained it is voluntary on the part of the county to make this available to the public. It is voluntary for the public once it has been made available to them. It would be mandated for new construction.

Commissioner Bonnie Robinson said rock is an option but rock is so hot, plants are much cooler and help to clean the air. Staff said there is a statement in the County General Plan that if a landowner is going to use rock, they are required to have a certain amount of trees.

Commissioner Jed Pugsley verified the \$1.50 comes from the state and that this is front and side yards only with no regulations for back yards. He is concerned with locking in the whole county to these standards.

Staff explained from an enforcement standpoint, the Planning & Zoning Department would note on the building permit the landscaping requirements. At that point, staff would address the issues if our office received complaints from neighbors or from the water company.

Staff said the Planning Commission has multiple options with this text amendment. They can direct staff to take it back to the drawing board and come back with something more complete, or forward a recommendation of denial to the County Commission and let them decide if they want to approve or deny.

MOTION: A Motion was made by Commissioner Bonnie Robinson to table Ordinance Text Amendment Z23-012 a request to add Section 5-1-370 Landscape Requirements to the Box Elder County LUM&DC pending further review. The motion was seconded by Commissioner Jed Pugsley and passed unanimously.

NEW BUSINESS

LOOKOUT MOUNTAIN SUBDIVISION, SS23-010, Request for preliminary plat approval for a 10-lot phase 1 of a subdivision located at approximately 16250 North 6000 West in the Riverside area of unincorporated Box Elder County. ACTION

Staff said the applicants are requesting preliminary approval of the Lookout Mountain Subdivision Phase 1 plat. The proposed subdivision is for 10 new lots 1.75 acres in size. The existing parcel is 284.19 acres in size. The surrounding land uses are Agriculture and Rural Residential and the surrounding zoning is Unzoned. The county has received utility will-serve letters from Miller Gas, Rocky Mountain Power, and water rights for 20 dwellings have been approved by the Division of Water Rights. The water rights also include seven acres for irrigation and 100 ELUs (equivalent livestock units) for stock water. No plan for water rights and distribution have been established and submitted at this point in the project. The applicant will need to drill at least one well and test water quality and quantity prior to final plat approval. Staff has also received a feasibility letter from the Bear River Health Department. This feasibility letter is for a single conventional wastewater system to be installed to service a single family dwelling on each proposed lot.

Staff has received an updated plat from the applicant's surveyor and engineer. Staff is waiting on the geotechnical and soils report but all other concerns have been addressed.

Commissioner Bonnie Robinson asked is the proposed road paved or gravel? Staff said the road will be paved. The proposed cross-section will be 30 ft. of asphalt with rolled curb and gutter on both sides. There will be grates to filter the storm water to the proposed storm water management system. Commissioner Robinson asked if there is 7 acres of irrigation and 100 elu's, how will the water be distributed?

Developer Brodie Calder explained they will be single wells and explained the distribution for animal rights per elu, and culinary water. The residents will not be able to water everything. The reality is there are water issues all through the county and this is a dry farm area. The whole valley is shut down for more water drilling.

Commissioner Jennifer Jacobsen is concerned with runoff in the area. Since the second phase is not going to be done for a while, how do we make sure even more water is not going to get pushed into the area?

A discussion ensued with the applicant’s engineer Jim Flint, the commissioners, and staff regarding the plans for runoff concluding that when the first phase goes in, a berm will go up in the meantime behind where the second phase is going to be directing all on-site runoff to the drainage basin. **Commissioner Jacobsen** said this is a plan that can put some worries at ease for the neighbors in the area. A berm across is going to solve the problem because the runoff will follow all the way down to where the drainage is supposed to go.

MOTION: A Motion was made by **Commissioner Steven Zollinger** to approve application SS23-010, a preliminary plat for the Lookout Mountain Subdivision Phase 1 contingent upon the following conditions. The motion was seconded by **Commissioner Jed Pugsley** and unanimously carried.

CONDITONS:

1. Submission of a comprehensive geotechnical and soils report prepared by a qualified engineer.
2. Submission of proposed secondary water ownership and distribution.
3. Compliance with review and approval by the County Surveyor, Engineer, Roads Department, and Building Official.
4. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
5. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
6. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

WORKING REPORTS

Multi-Family Housing Language

Staff explained in April the Planning Commission requested to discuss Multi-Family Housing and whether or not it belongs in unincorporated Box Elder County. In April the language proposed was simple, it stated multiple family dwellings as defined in Chapter 1-3 are not allowed in unincorporated Box Elder County. This was placed into a pending ordinance moratorium in April, allowing up to 6 months to either approve or not approve something. Staff asked for additional direction on what the commission would like to do.

Staff read from the General Plan, which was adopted in January 2021, the “Guiding Principles” and “What do Box Elder County Residents Value”.

(See Attachment No. 2 – Excerpts from the General Plan.)

Commissioner Jed Pugsley asked what the definition of Multiple Family Dwellings is as stated in Chapter 1-3. Staff stated the definition is a building containing more than one (1) dwelling unit. This does not include accessory dwelling units, they are defined separately. Commissioner Bonnie Robinson asked if the county allows for internal accessory dwelling units. Staff explained the county started allowing external dwelling units approximately 10 years ago. The county building official was not on board with internal dwelling units because of the amount of building code requirements. Then a few years ago the state mandated internal dwellings units. Basement apartments are an internal ADU if they are on the same utilities and are a permitted use. If the building has separate utilities, it would be considered a duplex and considered multi-family housing. For an ADU the owner has to occupy one of the two units.

Staff explained duplexes, triplexes, four-plexes, and larger apartment complexes would be defined as multi-family dwellings. Staff was directed to look into restricting these dwellings in unincorporated Box Elder County based on the lack of infrastructure and the language in the General Plan but asked if the Planning Commission can think of circumstances where these dwellings should be allowed.

Commissioner Jed Pugsley said in an agricultural setting for certain circumstances, a duplex would not be that big of a deal. He could see more issues if the county goes with tri and four-plexes etc. He would like to see the definition of multi-family as three or more dwelling units.

Staff said historically there are a lot of zones that do not allow for duplexes and tri-plexes. Some of the larger zones such as A-20, MU-40 and MU-160, which are primarily agricultural zones, do allow for them. The assumption is it is for migrant workers and ranch hands. The code also allows for mobile homes for ranch hands. The reason detached ADU's were allowed is people would request to put a mobile home in their back yard for a mother-in-law apartment. These were temporary requests that became permanent problems. The ADU became a solution to having a mother-in-law apartment that was not a trailer and would become problematic.

There was a discussion on the lack of availability of affordable housing in Box Elder County which concluded with it being a separate issue from Multiple Family Dwellings.

Commissioner Jed Pugsley said there is talk of opening up a mine out west of Snowville. There will be 600 full-time workers by 2028. At some point these workers are going to have to live somewhere. He feels a lot of the housing will be in unincorporated Box Elder County.

Commissioner Steve Zollinger commented based on the information in the working report, he would like to have the language worked over a little more.

Commissioner Jennifer Jacobsen takes issue with keeping the agricultural character when there would be a ton of houses in one cluster. She would like to have language added for agricultural workers. She does not want to deter from that because it does promote agriculture.

Commissioner Jed Pugsley reiterated the idea of regulating multiple housing to start with three or more dwelling units and go from there. He does not think it is possible to regulate ones and twos. If water is going to be an issue and basement apartments are going to be an issue, why not let them be side-by-side vs. stacked on top of each other.

PUBLIC COMMENTS – NONE

Brodie Calder cautioned the commissioners as they are thinking about the multiple family housing, to consider the people's property rights. People bought their property assuming they have certain rights. This is going to be a zoning change which may restrict or reduce the value of property. As you are making these changes, recognize how you are going to affect and compensate those that are going to have their value changed.

ADJOURN

MOTION: A Motion was made by Commissioner Bonnie Robinson to adjourn commission meeting. The motion was seconded by Commissioner Steven Zollinger and meeting adjourned at 8:28 p.m.



Mellonee Wilding, Chairman
Box Elder County Planning Commission

FINDINGS SUPPORTING THE REMOVAL OF MFH FROM THE LAND USE CODE:

- **Box Elder County General Plan “Guiding Principles”.**
 - **Regional Cooperation.** Our County and its cities, towns, and communities proactively work in cooperation to take advantage of opportunities and address issues that affect all of us.
 - **General Growth Patterns.** We invest in our towns and cities that have served us well for generations. We encourage most new growth to happen in these communities, maintaining safe, vibrant, and prosperous places for future generations. We preserve and protect our agricultural and natural lands that surround our cities and towns. We encourage strategies that enable long-term agricultural pursuits and support our rural atmosphere.
 - **Agriculture & Rural Character.** Agriculture is an important part of our history, heritage, and economy, as well as an important part of our future. We actively preserve orchards and the small fruit industry as well as our farms and ranches.
 - Cluster development near cities to focus growth and protect remaining agricultural land from dispersed development.
 - Designate agricultural heritage areas to preserve options for large-acreage farming & ranching.
 - **Quality Neighborhoods.** We provide a variety of living options in our County and encourage the development of neighborhoods that will support residents with various incomes and through all stages of life. We protect opportunities to live in a rural atmosphere but focus most growth in new neighborhoods in our cities and towns.
 - **Downtowns & Mixed-Use Areas.** Supporting vibrant growth in downtowns and mixed-use areas enables outlying areas of Box Elder County to maintain a rural feel and our cities and towns to cultivate a lively small-town atmosphere. By focusing most of the County’s jobs, shopping, dining and significant residential growth in these areas rather than dispersing growth across our County, we enable the “hearts” of our various communities to thrive while preserving surrounding agricultural lands.

- **Box Elder County General Plan – What do Box Elder County Residents Value?**
 - **Agriculture Matters!** Agriculture in Box Elder County is a major industry and a key component to rural character - why people love living in the County. More than 90% of survey participants agreed “agriculture is an important part of our history, heritage and economy, as well as part of our future” and want to actively preserve orchards, the small fruit industry, and prime farmland for farming and ranching. As the County and its residents contemplate agricultural land preservation, they will need to acknowledge that property owners possess a “bundle of rights” that run with the land, including development rights, based on their zoning classification. Permanent preservation involves employing many strategies, including moving development rights and building them elsewhere, selling development rights, conservation easements, zoning for large agricultural parcels, etc. Some of these strategies require both a voluntary seller and a funding source, likely a public one.
 - **Mixed-Use Towns and Cities.** When asked about general growth patterns, 81% of survey participants identified a preference for a pattern that focused growth in towns and cities and reduced pressure on agricultural land. Historic population centers already contain a blend of uses and can be the focus of infill and redevelopment, which can provide space for fun shopping, dining, and entertainment areas and a focus for new residential growth and employment. A more focused approach to growth is also more efficient, as it requires fewer miles of roads and water/sewer lines. Initially that can reduce building costs (and therefore home sales prices), and, in the long term, it reduces the cost for governments to maintain infrastructure. Fewer miles of infrastructure likely means that fewer tax dollars will be required to pay for it.