

BOX ELDER COUNTY PLANNING COMMISSION MINUTES JUNE 20, 2024

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

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| Mellonee Wilding | Chairman |
| Jed Pugsley | Excused |
| Lonnie Jensen | Member |
| Bonnie Robinson | Member |
| Jared Holmgren | Member |
| Jennifer Jacobsen | Member |
| Vance Smith | Alternate/Member |

the following Staff was present:

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

Chairman Mellonee Wilding called the meeting to order at 7:00 p.m.

The Invocation was offered by Commissioner Vance Smith.

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 May 16, 2024 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Jared Holmgren to approve the minutes as written. The motion was seconded by Commissioner Jennifer Jacobsen and passed unanimously.

UNFINISHED BUSINESS

LOOKOUT MOUNTAIN SUBDIVISION PHASE 2, SS24-005, Request for preliminary plat approval of a 10-Lot phase 2 subdivision located at approximately 16250 North 6000 West in the Riverside area of Unincorporated Box Elder County. ACTION

Staff explained this request came before the Planning Commission in April. A motion was made to table the item based on the plat not meeting code requirements. One requirement was the maximum block length. The applicant then requested a variance from the County Hearing Officer to allow for a longer block length. A hearing was held and the County Hearing Officer denied the request. The basis for his decision was the applicant could redesign the subdivision to comply with the land use code. The new layout bumps the future right-of-way further north between lots 10 and 11 and closes off the 60 ft. future right-of-way at the south end.

Staff said reviews have been sent to the applicant and passed along to his engineer. Some of the items from those reviews still need to be taken care of. Staff will make the applicant aware of what needs to be done to become compliant with county code. The commission has the option to table the request and have the applicant resolve the items or approve the request with the unresolved items as conditions of approval and direct staff to ensure those conditions are met.

MOTION: A Motion was made by **Commissioner Jared Holmgren** to approve Application SS24-005, a preliminary plat for the Lookout Mountain Subdivision Phase 2, located in Unincorporated Box Elder County and adopting the exhibits and findings of the staff report and upon all conditions being met. The motion was seconded by **Commissioner Lonnie Jensen** and unanimously carried.

CONDITIONS:

1. Submission of a current title report for Phase 2.
2. Compliance with review and approval by the County Surveyor, Engineer, Fire Marshal, Planning & Zoning, Roads Department, and Building Official.
3. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
4. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
5. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

PUBLIC HEARINGS

Chairman Mellonee Wilding 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.

ZONING MAP AMENDMENT, Z24-007, Request for a zone change of 6.0 acres from Unzoned to RR-1 (Rural Residential 1 acre) located at approximately 6581 N 6800 W in the West Corinne/Bear River area of Unincorporated Box Elder County. ACTION

Staff explained county code allows a property owner to request a rezone subject to approval by the County Commission with a recommendation from the Planning Commission, which is based on the following “reasonably debatable” standard.

- The decision-making authority shall determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare.
- In making such determination, the decision-making authority may consider the following: (1) Testimony presented at a public hearing or meeting; and (2) personal knowledge of various conditions and activities bearing on the issue at hand, including, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and

housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the County.

- The decision-making body should state on the record the basis for its decision.

Staff read the standards for reviewing zoning map amendments as they apply to this request 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 states: This plan suggests that most growth should occur in the cities and towns. The County can adopt policies to encourage that to happen but must continue to recognize private property rights and coordinate with the incorporated communities. The area is not zoned. Although there is an argument for properties to remain unzoned, which is mostly a property rights discussion, the possibility of unwanted and incompatible uses is highly likely in areas that lack zoning. To the south of the subject property (West Corinne area), existing zoning is a combination of rural residential, 20-acre agricultural, and larger MU-40 zones. The MU-40 allows for additional business uses that the other zones do not accommodate. The Box Elder County vision suggests continuing the agricultural heritage of the area, allowing for some flexible lot sizes through rural residential clustering, and expanding the industrial/warehousing uses in the area. Future Land Use: as part of the agricultural heritage area, large lot zoning should remain, to encourage continued agricultural activity. Irrigation capabilities, culinary systems, and water rights should be studied to assure the current system can serve the area in the future.
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;** The area is mainly agricultural uses with some residential homes (south and east) along 6800 West. The Planning Commission needs to decide if an RR-1 zone could be considered harmonious.
- C. The extent to which the proposed amendment may adversely affect adjacent property;** This is unknown. The public hearing process may bring forth additional information.
- 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.** It is unknown what the extent of the adequacy of facilities is in this area but water may be a limiting factor.

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

Hearing no comments a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Zoning Map Amendment Z24-007. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

ACTION

Commissioner Bonnie Robinson believes subdivisions belong in the cities, but realizes this property is Unzoned and the applicant can choose to request the zone change. The water supply is not an issue as long as the land continues to be farmed, but when the property is subdivided into individual lots, is when available water supplies will need to be addressed.

MOTION: A Motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the County Commission for application Z24-007, a zoning map amendment from Unzoned to RR-1 (Rural Residential 1 acre) and adopting the conditions and findings of staff. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

CONDITIONS:

1. Compliance with Section 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 5 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.

ZONING MAP AMENDMENT, Z24-008, Request for a zone change of 49.70 acres from Unzoned to RR-1 (Rural Residential – 1 acre) located at approximately 7931 W 10400 N in the Tremonton area of Unincorporated Box Elder County. ACTION

Staff explained County Code 2-2-080.C allows a property owner to apply for and request a zone change. The zoning on the surrounding properties is Unzoned and the surrounding land uses are Agricultural and Rural Residential.

Staff read the standards for reviewing zoning map amendments as they apply to this request 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 states: This plan suggests that most growth should occur in the cities and towns. The County can adopt policies to encourage that to happen but must continue to recognize private property rights and coordinate with the incorporated communities.

The area is not zoned. Although there is an argument for properties to remain unzoned, which is mostly a property rights discussion, the possibility of unwanted and incompatible uses is highly likely in areas that lack zoning.

Future Land Use: In Tremonton City's Integrated Land Use Plan (passed in August, 2023), it currently reserves the long term future use (20-50 years) of this area as "single-family residential (low to medium density)".

B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property; The area is mainly agricultural uses with some residential homes (north and south) along 10400 North and 10000 North. The Planning Commission needs to decide if an RR-1 zone could be considered harmonious.

C. The extent to which the proposed amendment may adversely affect adjacent property;
This is unknown. The public hearing process may bring forth additional information.

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. It is unknown what the extent of the adequacy of facilities is in this area but water may be a limiting factor.

The public hearing was then opened for comments.

Lloyd Wood has a farm on 10000 West and stated the road is not adequate for the traffic that is there now. Years ago Road Supervisor Johnny Collum tarred the dirt road. Since then, the road has had only one coat of tar and chippings. There has been no asphalt put on the road and it is only about 25 ft. wide. The residents push snow across the road onto his frontage, the wind blows the drifts out across his fields and winterkills his crops. Mr. Wood said there is no drinking water available in the area. He has a well on his property but any wells issued from here on will be protested. He thinks regardless of the properties being in greenbelt, with development, taxes will go up. He is also concerned with the retention ponds and would like to know what the plan is for water run-off. He does not want it running across his property. Mr. Wood would like it on record, he is against the zone change.

Brandon East farms 40 acres to the west of the property being discussed. He has the same concerns as Mr. Wood. He farms for a living and has run from subdivisions his whole life. If a subdivision shows up with houses next to him, he would be afraid to light a fire to burn his ditch, or spray his fields with crop protection products. Development makes his job difficult. He believes in private property rights but developers create subdivisions and then leave. They do not have to deal with the long-term repercussions. Mr. East said if there is going to be houses on one-acre lots, he would like to see a fence put there to at least keep trespassers off his property. There are dangerous agricultural activities going on and he does not want the liability of people trespassing on his property. He would like to see this kept agricultural and let the farmers make food for the country.

Jeff John, applicant, explained why he is doing this zone change. If he wants to give his kid an acre of ground to build a house he can do so. Every farmer in the area has given their kids an acre of ground. He knows a lot of unincorporated Box Elder County has the potential to be zoned, and a lot of the land is being saved for agricultural use. A lot of the agricultural use could be zoned A-20 which means no subdividing anything less than 20 acres. Right now he just wants to rezone, there is no application for a subdivision. He has 58 acres he just wants to be able to do what he wants with it in the future as far down as one-acre lots. By doing this he is making the zone more restrictive. He is bumping up restrictions, not planning a subdivision.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Zoning Map Amendment, Z24-008. The motion was seconded by **Commissioner Vance Smith** and passed unanimously.

ACTION

Commissioner Bonnie Robinson explained if the applicant chose to, he could submit an application for a ½-acre lot subdivision. The Planning Commission would not be able to stop it.

Commissioner Mellonee Wilding added that the commission would not have a choice if someone in an Unzoned area submitted a request for a Maverick, or anything else allowed in an Unzoned area. She said the applicant zoning his property is more restrictive and protects area residents better than what it does now.

Commissioner Bonnie Robinson said she is a fourth generation farmer on her family farm and loves the agriculture life. She suggested to those who love agriculture as she does, to zone their land as Agricultural. If an application for a subdivision comes in and the surrounding land is zoned Agricultural, the Planning Commission has the recourse to say the subdivision is not harmonious with the overall character of existing development. Commissioner Robinson also suggested putting land in an Agricultural Protection Area. These areas allow farmers to continue to farm and burn the ditches and bale at night. Ag Protection Areas protect farmers from frivolous lawsuits and complaints from neighboring subdivisions, basically stating “we were here first”.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for application Z24-008, a zoning map amendment from Unzoned to the RR-1 (Rural Residential - 1 acre) zone and adopting the conditions and findings of the staff. The motion was seconded by **Commissioner Lonnie Jensen** and passed unanimously.

CONDITIONS:

1. Compliance with Section 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 5 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.

NEW BUSINESS

VACATE COUNTY ROAD, VAC24-01, Request to vacate a right-of-way alley in the center of Block G between 15200 N and 15300 N in the Riverside area of Unincorporated Box Elder County. ACTION

Staff said this request is in the Historic Riverside area. The original Riverside plat had alleyways 18 ft. in width and ran north to south between the blocks. The property owners on Block G have requested the alleyway be vacated giving the property owner on the west an additional nine feet and each of the five property owners on the east an additional nine feet.

Staff explained County Commission Policy 2003-01 governs road vacations. The policy states an application for a road vacation must be presented to the Planning Commission. A recommendation is then forwarded to the County Commission. A public hearing will be held at the County Commission level and a final decision would be made on the road vacation. Staff read the standards

from Policy 2003-01 outlining the standards when considering a road vacation as they apply to this request:

1. **Is there a prevailing public interest in keeping the road open;** To staff's knowledge this portion of right-of-way alley has never been used for public access. It was platted in 1894, but has historically been used as private property.
2. **Does the proposed vacation substantially affect the County General Plan or the Transportation Plan of the County;** The Transportation section of the County's General Plan states the following regarding roadway design: The proposed vacation does not affect the County's General Plan or Transportation Plan.
3. **Is the proposed vacation in compliance with all Box Elder County Land Use and Development Code requirements, State, Federal or other local regulations;** The proposed vacation is in compliance with all requirements and regulations.
4. **Will the proposed road vacation financially harm any landowner or stakeholder who may have an interest in the road;** All landowners directly fronting on the proposed right-of-way alley have signed the application. Adjacent landowners have been noticed of the public hearing. The public hearing process is in place to help bring any evidence of harm to light.
5. **The County shall not vacate any other private interest within the right-of-way;** No private interests within the right-of-way are to be vacated. Private access within the right-of-way would become a civil issue between landowners if the application is approved by the County Commission.
6. **When considering the vacation of a deeded road as opposed to a right-of-use road, the provisions of the surplus property disposal policy shall be used;** The proposed vacate is not a deeded road and does not need to conform to the surplus property disposal policy.
7. **The petitioner will provide descriptions in a deeded right-of-way for all abutting owners who may receive any ownership of the vacated road.** The petitioners have supplied the descriptions. The descriptions have been reviewed by the County's Recorder/Surveyor office and require revisions by the applicant.

MOTION: A Motion was made by **Commissioner Jennifer Jacobsen** to forward a recommendation of approval to the County Commission for Application VAC24-1, a right-of-way alley vacation located at Block G of the Riverside Plat between 15200 North and 15300 North in the Riverside area of unincorporated Box Elder County, and adopting the conditions and findings of the staff report. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

8400 W AMEND AND EXTEND SUBDIVISION, SS24-015, Request for preliminary plat approval of a new 5-Lot subdivision located at approximately 10100 North 8400 West in the Tremonton area of Unincorporated Box Elder County. ACTION

Staff explained the 8400 West Subdivision is an existing subdivision consisting of 3 lots. The subdivision is being amended by adding an additional 5 lots which extends the property line on lot 3. The surrounding land uses are Agriculture and Rural Residential, the surrounding area is Unzoned. Access would be by 8400 West. Staff has received utility will-serve letters and the

feasibility letter from the Bear River Health Department. The County Surveyor has requested changes to street and lot addressing, the storm water infrastructure, and the owners dedication. The County Engineer has requested changes to storm water infrastructure and roadway profile design, and a geotechnical report. The Fire Marshal has requested updated locations for fire hydrants. Planning & Zoning requires a geotechnical and soils report based on the county's public works standards and the subdivider must work with USPS for location and type of mailboxes with the location being shown on the plat.

Staff stated the current plat does not comply with county development standards. The main reason being the storm water infrastructure being an easement on one of the existing lots as opposed to being a separate parcel that the road department can easily access and maintain.


MOTION: A Motion was made by **Commissioner Bonnie Robinson** to table Application SS24-015, a preliminary plat for the 8400 West Amend and Extend Subdivision, located in unincorporated Box Elder County for up to 6 months allowing time for the submission of a geotechnical report and review and approval from the County Surveyor, Engineer, Fire Marshal, Planning & Zoning, Roads Department, and Building Official. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

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 Lonnie Jensen** and meeting adjourned at 8:12 p.m.


Mellonee Wilding, Chairman
Box Elder County Planning Commission

