

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES DECEMBER 19, 2024

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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  
Jed Pugsley  
Lonnie Jensen  
Bonnie Robinson  
Jared Holmgren  
Jennifer Jacobsen  
Vance Smith

Chairman  
Vice-Chair  
Member  
Member  
Excused  
Member  
Alternate/Member

*the following Staff was present:*

Scott Lyons            Comm Dev Director  
Marcus Wager        County Planner  
Destin Christiansen   County Planner  
Stephen Hadfield     County Attorney  
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 Jed Pugsley.

Pledge was led by Commissioner Jennifer Jacobsen.

**The following citizens were present & signed the attendance sheet**

See Attachment No. 1 – Attendance Sheet.

The Minutes of the November 21, 2024 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**

**HAWK WAY BENCH SUBDIVISION, SS24-025, Request for preliminary approval of a 10-Lot subdivision located at approximately 4700 North 950 West in the Brigham City area of Unincorporated Box Elder County. ACTION**

Staff said this application has come before the Planning Commission in two prior meetings. In the most recent update the County Surveyor questioned if the roads are public or private roads. The applicant has verified the roads will remain private. County Road Supervisor Darin McFarland said he would like to see rolled curb and drainage installed to collect storm water and protect the edge of the road. Issues from reviews by the County Engineer, Fire Marshal, and Planning and Zoning have all been resolved.

Staff stated the location of the two water lines still in question from last month have been located and added to the plat so they can be avoided by any construction. Staff is comfortable with the approval of the preliminary plat.

**MOTION:** A Motion was made by **Commissioner Jed Pugsley** to approve application SS24-025, a preliminary plat for the Hawk Way Bench Subdivision located in Unincorporated Box Elder County and adopting the exhibits, conditions and findings of staff. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

#### **CONDITIONS**

1. Compliance with the requirement from the County Road Supervisor to install rolled curb and associated drainage.
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 asked those in attendance to please keep comments concise. If you agree with what has already been said, you may just state that you agree as a matter of record. The Commissioners will not answer questions during the public hearings but will be taking copious notes and will address those concerns later.

#### **ZONING MAP AMENDMENT, Z24-018, Resident request for a zone change of 95 acres from Unzoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation) located on the Promontory peninsula of unincorporated Box Elder County. ACTION**

Staff stated applicant is requesting parcels 01-122-0008, 0009, 0010, 0011, 0012,0013, and 0036 (approximately 95 acres) located in the Promontory Range area be re-zoned from Unzoned to the MG-EX (Mining, Quarry, Sand, & Gravel Excavation) zone. The surrounding land use is agriculture with mining to the south.

Staff explained the Commissioners decision shall be based on the “reasonably debatable” standard, as follows:

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:

**A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;** Though included as part of the plan area of the General Plan, the County's General Plan makes no specific reference as to how the Promontory Range area should be zoned. The General Plan does state that future land use decisions should enhance our towns and cities, focusing most of the growth there and that decisions should support our farmers and ranchers in their agricultural stewardship.

**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 commercial (landfill, mineral ponds) and mainly agricultural uses. Whether the proposed zoning map amendment is harmonious with the overall character of existing development is quite subjective. The Planning Commission needs to decide if an MG-EX zone could be considered harmonious.

**C. The extent to which the proposed amendment may adversely affect adjacent property;** This is unknown; however, due to the remoteness of the area, the proposed amendment should not likely affect the values or other factors of adjacent property. 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.** Due to the lack of road infrastructure, it is likely that gravel/mining trucks would have a negative impact on the existing roads in the area.

The public hearing was then opened for comments.

Paul Hales, applicant, gave a brief history of the use of the property.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on Zoning Map Amendment Z24-018. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

## ACTION

Commissioner Bonnie Robinson asked about the impact on existing roads. Road supervisor Darin McFarland said the road is not structurally sound for hauling gravel. The road would need to be improved to meet county standards.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the County Commission for application Z24-018, a request for a zone change of 95 acres from Unzoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation) located on the Promontory peninsula of unincorporated Box Elder County and adopting the conditions and findings of staff. The motion was seconded by Commissioner Jed Pugsley and passed unanimously.

### **CONDITIONS:**

1. Compliance with the requirement from the County Road Supervisor that road infrastructure be added/assessed at the Conditional Use Permit stage.
2. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
3. Compliance with Chapter 3-9, Mining, Quarry, Sand, & Gravel Excavation Zone, of the Box Elder County Land Use Management & Development Code.
4. Compliance with Article 2-2-080, Zoning Map and Text Amendments, 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.

## **ORDINANCE TEXT AMENDMENT, Z24-020, Resident request for a text amendment to Section 5-1-360, Annexation Policy of the Box Elder County Land Use Management & Development Code. Proposal to modify the area where the annexation policy applies.**

### **ACTION**

Staff stated a group of residents from the Harper Ward area of the county are proposing a text amendment to Section 5-1-360, Annexation Policy, of the Box Elder County Land Use Management & Development Code. The residents have concerns regarding the existing policy. They propose to modify the language with the intention of continuing city/county coordination for growth on jurisdictional borders, and within utility service areas, but limit urban growth into rural areas.

Staff said following this public hearing, a second public hearing is scheduled for an amendment to the county annexation policy requested by the county. Staff will briefly touch on that request also with the goal being clarification, not confusion.

Staff explained the county cannot take action on a proposed land-use application or legislative application within unincorporated Box Elder County, except for building permits not using municipal utilities. If a resident lives in unincorporated county but is within a city's annexation area and is requesting to build a home or a shop, but is not using any city utilities or water, he is not required to go through the annexation process. Two items that would trigger having to apply for annexation are land-use applications and legislative applications. A land use application could

be a resident looking to develop his property. He may have one parcel he wants to split into five developable lots to build five homes on; or he may want to develop his land into a commercial or industrial business. Legislative applications could be a rezone where a resident wants to change the zoning of his property from RR-5 (Rural Residential 5 acre) zoning to RR-1 (Rural Residential 1 acre) zoning. Currently a rezone application would trigger the annexation policy if the property is within a city's annexation area and requires him to request annexation into the city. Some cities in the county do not have planned annexation areas defined. If a resident is within a half-mile of that city or town and is building a house or shop using city utilities, he is required to request annexation into the city. These are the three bullets triggering the annexation policy. This request is trimming the triggers down to two.

Staff showed the current annexation policy and the modifications received by the residents:

Proposed Community Development Application

I propose that County Ordinance 5-1-360 Annexation Policy, be changed as follows:

~~Deleted text is red and struck through.~~ Added text is highlighted and underlined.

#### 5-1-360 Annexation Policy

The Box Elder County Commission, Planning Commission, or Community Development Office shall not take action on any proposed Land Use Application or Legislative Application within unincorporated Box Elder County (except building permits that are not using municipal utilities) if the Land Use Application or Legislative Application is meets either of the two following criteria:

- ~~Located within any municipal annexation policy plan as defined in Utah Code 10-2-401.5, or~~ The property of the proposed application shares a property boundary with any municipality's incorporated boundary, or
- ~~Located within ½ mile of any municipality incorporated boundary, if a municipality does not have an annexation policy plan boundary, or~~
- If a development, improvement, or building lot will be using any utility provided by a municipality.

If the proposed Land Use Application or Legislative Application meets any of the above criteria, the developer shall provide the applicable municipality(s) with a Notice of Intent to File a Petition (Utah Code 10-2-403 (2) (a) (i)) and thereafter work with the County Clerk to meet all the noticing requirements contained in Utah Code. Upon the County Clerk providing the applicable municipality with the certification of complying with the Notice of Intent to File a Petition, the developer shall petition the municipality for annexation. If the municipality(s) rejects the petition for annexation, the developer shall provide signed documentation to the Community Development office from the municipality(s) showing the municipality's rejection of an annexation petition. After such documentation is received, the Land Use Application or Legislative Application may move forward.

No municipality shall complete island annexations without providing utility infrastructure to the subject property upon annexation.

Any Land Use Application or Legislative Application using a municipality's utilities cannot have a higher density than that allowed by the municipality providing the utilities.

All applications shall be subject to the time limits set forth in Section 2-2-040(K), Substantial Action Required and Section 2-2-040(L), Expiration of Application of the Box Elder County Land Use Management and Development Code.

Staff said the exception of building permits not using municipal utilities is still in place, but trims it down to properties sharing a boundary with municipalities. Any area beyond that would no longer trigger the policy. Residents of Harper Ward are concerned Brigham City will be annexing properties 2 miles away from Brigham City if the current policy is triggered. The second one is if the development, improvement, or building lot will be using any utilities provided by the municipality, then the annexation policy would be triggered as well. Their proposal states no municipality shall complete island annexations without providing utility infrastructure to the subject property upon annexation. If a resident were to voluntarily request annexation one mile north of town, they could still voluntarily request annexation into the city.

The public hearing was then opened for comments.

David Griffith, Harper Ward, stated Harper Ward is in Brigham City's annexation zone for the future. By county ordinance if residents apply for a land-use application or legislative application it is a requirement to petition Brigham City for annexation. Island annexations are allowed and Brigham City has said all annexation petitions will be accepted, The resulting outcome is eventually all of Harper Ward will be annexed into Brigham City in a patchwork fashion piece by piece. Zoning is still to be determined. We as the citizen of Harper Ward object to the current situation and are the residents who signed the petition to be submitted into the record. We support the proposed annexation text amendment. We are committed to preserving our agricultural heritage and maintaining the rural character of the lifestyle of Harper Ward. We strongly oppose mandatory annexation requirements linked to land-use applications which force us into the city. We wish to live under county ordinances, not city ordinances. We wish to retain the 5-acre minimum zoning which currently exists. We oppose becoming part of Brigham City. We do not want high density subdivisions in Harper Ward. The proposed ordinance text amendment supports our wishes and is compatible with the County General Plan. It encourages retention of heritage, is harmonious with the character of the existing development and geography that are the mountains, marshes, and the agricultural activities surrounding us. This proposal does not adversely affect adjacent properties and maintains the existing rural character and lifestyle. As mentioned, residents are submitting this petition to show our support for the proposed annexation text amendment. It is a brief petition. It reads exactly that we are committed to preserving our cultural heritage and maintaining the rural character of our community. To give an idea of the scope of our support, the petition is signed by 77 Harper Ward adult residents. To give a sense for the unity of our residents, of the 50 homes visited by three people, 41 homes have one or two adults who signed the petition. This result reflects a desire shared by a majority of respondents to a previous countywide survey to keep the area rural. I've been told that if we become part of Brigham City we will still have our five-acre zoning, so it will be okay. This view misses the most important points that we want to continue to do what we want on our land. This is about being free to continue to live a rural lifestyle and not be forced into a city with more restrictive ordinances, with its increased living density and all of its associated issues. Mr. Griffith thanked the Commissioner for their consideration and asked for their support.

*(See Attachment No. 2 – Signed Petition )*

Reed Young echoes Mr. Griffith's comments. He stated Brigham City plans to try to zone along the railroad as heavy industry which would go against the agricultural and rural lifestyle the residents wish to maintain.

Shellie Thornley also agrees with Mr. Griffith's comments. Many of the residents of Harper Ward were at the meeting when Brigham City introduced their plan to annex, which was a shock to most of the residents. One of the problems was the residents had no one to represent their interests. The city seemed very determined to follow their plan to annex. She said they moved to the country for a reason and does not want to become a part of Brigham City.

David Yates did not sign the petition even though he has concerns with the annexation process. He is not in favor of 5-acre zoning. He said it prevents us from having our children be able to build on our land. The island annexation would give residents the option to have their children build, but he still has concerns with restrictions which may come with annexing into the city.

Brodie Calder does not support the proposed text amendment. He feels the county was right in helping these areas annex because infrastructure is a major problem within the whole county. The cities are where they are wanting their growth to expand from. He recommended keeping the half-mile away so the infrastructure is pushing forward. He understands Harper Ward residents do not want the growth but a lot of the water in the area is supplied by Brigham City as well as the utilities. Brigham City parks and recreation are also being used by the residents of Harper Ward. These things have an impact on Brigham City but the city is not able to capitalize on the tax revenue.

Justin Stark lives on the north edge of the annexation project. He thinks he speaks for a lot of Box Elder County residents who have the ability to be self-employed on their property owning livestock and different agricultural enterprises. Most of those enterprises do not require a business permit in unincorporated county. If residents were in Brigham City limits, certain business permits would need to be maintained. While he agrees the city should be able to capitalize off the businesses run in the city limits, he prefers a smaller government situation where he does not have to ask the government to be able to add livestock shelters or barns, or a small shop without having to do more than the regular county permitting process. He thinks there is value in annexation to an extent, but to annex one property at a time is not the best way to go about it.

Paul Munns is speaking as a third-generation farmer in Harper Ward, who is currently raising the fourth generation and is in favor of this text amendment. He feels the agricultural heritage of our county has value. It is going to be dang tough to maintain that heritage if we get rezoned to smaller than five-acre lots. He feels for the people who want to have a kid or two to come build a house on one acre, but we live in a rural area for reason, especially in today's world where the majority of people are increasingly disconnected from their food supply. It has been said by Brigham City leadership if the cities and municipalities are not involved in the direction of the growth and development of these annexation zones, things will get western. Mr. Munns said he believes the county employees working in the Planning and Zoning department along with the Planning Commission, are more than capable of managing the growth and development of the county. Annexing islands sounds like it would get much more western and make less sense than a slow, gradual, well-reasoned expansion of city boundaries. Once we lose agricultural and rural heritage we are not going to get it back, once it is gone, it's gone. He is in favor of the text amendment.

Greg Woodward has lived at 3700 North Highway 38 for about 30 years. He explained he is a self-employed artist who enjoys wildlife and the rural atmosphere of the area. He would hate to think he has to get permits to weld or other things he does for his art. He would like to keep things the way they are.

Shawn Thornley is in favor of the amendment to the ordinance. He lives in Harper Ward because he does not want to live in the city. He said Brigham City seems to have tunnel vision and is hell-bent on making Harper Ward ¼ acre lots like the rest of the Wasatch Front. He has contacted the Brigham City Council members but has not received a response from any of them. The intention of the city is clear, they will annex anything they can annex. Brigham City is not handling annexations the way other municipalities are in the county which is on a case by case basis and whether it makes sense to annex. Mr. Thornley thanked the Planning Commissioners for their service to the county.

Mike Timothy stated he does not have as much history here as some, but he helped build the house at 2978 North Highway 38 in 1970 so he has a 50 year history of being in the area. He explained he was in the military and on active duty in San Diego and said if anything ever gets so bad as I-5 in San Diego he was going to move. He was living in Kaysville at the time and now Kaysville is as bad as I-5 in San Diego so he moved to Harper Ward from Kaysville. Mr. Timothy said he used to access Highway 38 without much ado regarding traffic, now he waits in his driveway to get on the Highway. He moved here for a reason and he applauds the Planning Commission for wanting to make a statement and move more orderly. He would like his lifestyle maintained until he gets through his golden years

Dale Richards said the city is talking about rezoning to ¼-acre lots. If that happens there will need to be sewer and in order to have sewer, there will need to be a lift station which will cost hundreds of thousands of dollars. The residents will be the ones to cover the cost. He said he just wants things to stay the same.

Commission Boyd Bingham recently attended a UAC (Utah Association of Counties) meeting. The Speaker of the House, Mike Schultz was also there. Commissioner Bingham asked him “With all that is being talked about having a place for children to live, what are you going to do to protect agriculture in the state Utah?” Mr. Schultz stopped for a minute and replied, “that is your job”. Zoning is intended to be done on a local level to protect the rights of the people. Commission Bingham thanked the Planning Commission for what they do.

Staff explained the original policy was adopted in February of 2023. When the original language was drafted, staff had gone through multiple drafts knowing the language would directly impact their cities and sent the language out to the mayors. Staff wanted to do the same thing this time and sent the language to the mayors, along with some background and history, to see if there was any feedback. Staff received feedback from Willard Mayor Travis Mote, Tremonton Mayor Lyle Holmgren, Fielding Mayor Chuck Earl and Derek Oyler, Brigham City Finance Director.

*(See Attachment No. 3 – Letters.)*



Justin Stark said one thing to be considered is some residents have large animal waste to deal with. He has a compost pile in his back yard. He also own a house in Willard with a 2-horse limit on the ¾-acre parcel. He said he guesses if they had horse manure buildup in Willard, the city would have some sort of rule as to what he should do with it. It would be difficult to maintain the situation with the city imposing how to take care of the waste. He deals with a lot of animal owners in municipalities throughout the Wasatch Front and animal waste is one thing they have a challenge with. He asked the planning commission in going through some of the options the county may have, to keep that in mind. Mr. Stark liked the Mayor of Tremonton's comments regarding landowners being clear out of the boundary. If he has the potential or the ability to go to the city and discuss potential annexation, or if he wants to make a change to his property and file for a permit, he should be able to maintain the right to go to the city and debate that with them and decide if annexation is a good fit for his property or not. He said Brigham City's response was he would not have that choice. So if the county has the ability to leave some leeway in there with like what the Tremonton Mayor wanted to say, he thinks that would probably appease most of the residents on the boundaries of the potential annexation route.

Ralph Orton has concerns with the wording from Brigham City's proposal. When talking about services provided, unless something has changed in the last few years, there are mutual agreements where the services are all interconnected. That would mean in affect, the city could take whatever they wanted.

Hearing no further comments, a motion was made by **Commissioner Jed Pugsley** to close the public hearing on Ordinance Text Amendment, Z24-020. The motion was seconded by **Commissioner Jennifer Jacobsen** and passed unanimously.

## **ACTION**

**Commissioner Mellonee Wilding** thanked those in attendance for their comments. She said the 5-acre minimum is not an issue at this meeting. If residents are concerned about islands of annexation, write your legislators. The decision to allow islands was made by the legislature and the Planning Commission has to abide by the law.

**Commissioner Jed Pugsley** asked if Harper Ward has a community plan. He would like to see the residents come together as a community and have specific outlines for the Planning Commission to abide by. Other areas in the county like the town of Fielding have taken the opportunity to look into community plans. If the residents want to keep Harper Ward the way it is, a community plan goes a long way to help the Planning Commission make decisions.

**Commissioner Jed Pugsley** asked if a resident of Harper Ward wanted to build a riding arena, can the applicant recommend a motion of denial to Brigham City because he is just fulfilling the paperwork requirements and does not want to be annexed into Brigham City. Staff said the applicant has the ability to recommend denial.

Staff explained if the request was for a commercial for-profit riding arena, the application would trigger the policy. In that case the applicant would go to Brigham City and submit their petition for annexation to be in compliance with the policy. The applicant could state he is checking a box

he is required to check, but does not want to be annexed into Brigham City. The decision would be up to Brigham City. Staff said according to state code on an island annexations, if a city approves an annexation petition that creates an island, the petition has to come before the County Commission for approval also. Both the city and the county would have to agree and be approved by both parties.

**Commissioner Bonnie Robinson** asked staff to jump ahead to the next agenda item and explain the county's proposal.

Staff said land use code is a living document. When a portion of code is adopted, staff may find what was researched and adopted has flaws. Staff goes about correcting those flaws over time. This is essentially what happened with this policy. Recently staff found one of the flaws when Willard City contacted the office about an accessory dwelling unit. ADU's require a conditional use permit, so this policy was triggered. Accessory dwelling units are generally only allowed to be 40% of the size of the main dwelling and are required to be connected to the utilities of the main dwelling, not on separate meters. When the ADU triggered the policy the applicant went to Willard City to petition for annexation. Willard City said this makes no sense, they should not have to go through this process. Staff took the opportunity to look through code and find other things to be exempted from this policy.

**Commission Vance Smith** asked what triggered this concern in Harper Ward. Staff said a meeting was held in Brigham City as the city is updating their general plan. Harper Ward residents were there to discuss future land use in the Harper Ward area.

**Commissioner Jed Pugsley** understands the Harper Ward issue and protecting agriculture but this policy would apply to the entire county. He recommended this application be tabled so a community plan may be developed for the area. A community plan would give the Planning Commission a better look into what the citizens would like instead of blanketing something for the entire county based off one area.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to table the review of application Z24-020, a request for a text amendment to Section 5-1-360, for up to 6 months allowing time to refine the wording of the annexation policy of the Box Elder County LUM&DC and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jennifer Jacobsen** and passed unanimously.

**ORDINANCE TEXT AMENDMENT, Z24-019, County request for a text amendment to Section 5-1-360, Annexation Policy of the Box Elder County Land Use Management & Development Code. Proposal for exemptions to the policy. ACTION**

The public hearing was opened for comments.

Reed Young said without modification to the ordinance it forces any land use change to petition for annexation. Because the focus is on ¼-acre and ½-acre lots, he said those of us who have more than 5 acres and want to subdivide our land to give some to our children, would be forced to apply for annexation into Brigham City. Brigham City has stated no matter the opinion of the landowner,

the city will accept all petitions for annexation. The Brigham City Mayor has stated once they have annexed 50% of land mass within the annexation zone, or one-third of the tax value of the land, the city has the ability to force annexation of the entire annexation zone. He feels this is a violation of his personal property rights. Mr. Young said he is for the portion of the amendment stating any zoning map amendment outside of a half-mile radius of existing municipal boundary does not force anyone to petition for annexation.

Staff clarified the proposal from the county is all of items A through G are exemptions to being forced to petition annexation. Someone with a one lot subdivision wanting to split it into two lots would no longer be forced to petition for annexation. This would be the same with the home occupations, accessory dwelling units, swimming pools, home-based kennels, and conditional use permits. All of those are now exempt from being force to petition for annexation.

### **5-1-360. Annexation Policy. (Ordinance 573)**

#### **A. Requirements.**

1. The Box Elder County Commission, Planning Commission, or Community Development Office shall not take action on any proposed Land Use Application or Legislative Application within unincorporated Box Elder County (except building permits that are not using municipal utilities) if the Land Use Application or Legislative Application is:
  - a. Located within any municipal annexation policy plan as defined in Utah Code 10-2-401.5, or
  - b. Located within ½ mile of any municipality incorporated boundary, if a municipality does not have an annexation policy plan boundary, or
  - c. If a development, improvement, or building lot will be using any utility provided by a municipality.
2. If the proposed Land Use Application or Legislative Application meets any of the above criteria, the developer shall provide the applicable municipality(s) with a Notice of Intent to File a Petition (*Utah Code Ann. §10-2-403(2)(a (i))*) and thereafter work with the County Clerk to meet all the noticing requirements contained in Utah Code. Upon the County Clerk providing the applicable municipality with the certification of complying with the Notice of Intent to File a Petition, the developer shall petition the municipality for annexation. If the municipality(ies) rejects the petition for annexation, the developer shall provide signed documentation to the Community Development office from the municipality(ies) showing the municipality's rejection of an annexation petition. After such documentation is received, the Land Use Application or Legislative Application may move forward.
3. If the proposed Land Use Application or Legislative Application meets any of the above criteria, the developer shall provide the applicable municipality(s) with a Notice of Intent to File a Petition (*Utah Code Ann. §10-2-403(2)(a (i))*) and thereafter work with the County Clerk to meet all the noticing requirements contained in Utah Code. Upon the County Clerk providing the applicable municipality with the certification of complying with the Notice of Intent to File a Petition, the developer shall petition the municipality for annexation. If the municipality(ies) rejects the petition for annexation, the developer shall provide signed documentation to the Community Development office from the municipality(ies) showing the municipality's rejection of an annexation petition. After such documentation is received, the Land Use Application or Legislative Application may move forward.

4. Any Land Use Application or Legislative Application using a municipality's utilities cannot have a higher density than that allowed by the municipality providing the utilities.
5. All applications shall be subject to the time limits set forth in Section 2-2-040(K), Substantial Action Required and Section 2-2-040(L), Expiration of Application of the Box Elder County Land Use Management & Development Code.

**B. Exemptions.**

1. The following Land Use Applications and Legislative Applications are exempt from the requirements listed in subsection "A" of this section and are NOT required to go through the annexation petition process with a municipality:
  - a. 1-Lot Subdivisions that are not adjacent to a municipal boundary and are not using municipal utilities.
  - b. Accessory Dwelling Units (internal and detached) in which there are no municipal utility services to the parcel or lot.
  - c. Home Occupations
  - d. Swimming Pools  
Home-Based Kennels
  - e. Conditional Use Permits for temporary buildings and mobile homes for uses incidental to construction work or temporary living quarters in which there are no municipal utility services to the parcel or lot.
  - f. Any zoning map amendment outside of a ½ mile radius of an existing municipal boundary.

Mike Timothy mentioned it has been said the city wouldn't take services out too far because the expense is too much. He said his experience in Harper Ward is money doesn't really matter to the federal government, they'll get it from the guy. We will all bear the burden.

Shaun Thornley agrees with all the exemptions in the proposed language and any other exemptions which would allow him not to be forced into asking Brigham City for annexation.

Hearing no further comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Ordinance Text Amendment, Z24-019. The motion was seconded by Commissioner Vance Smith and passed unanimously.

**ACTION**

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to table the review of Ordinance Text Amendment Z24-019 a request for a text amendment to Section 5-1-360, for up to 6 months allowing time to refine the wording of the annexation policy of the Box Elder County LUM&DC and adopting the conditions and findings of staff. The motion was seconded by Commissioner Vance Smith and passed unanimously.

**NEW BUSINESS**

**THE GATHERING PLACE SITE PLAN, SP24-005, Request for site plan approval of a gathering place barn located at approximately 4542 W 14800 N in the East Garland area of Unincorporated Box Elder County. ACTION**

Staff explained the applicant is requesting approval for a Site Plan for a Gathering Place Barn on 6 acres located in the East Garland area. The surrounding land use is Agriculture and Rural Residential. The surround zoning is Unzoned.

Staff read the standards of approval as they apply to this request:

- A. The proposed use shall be allowed as a permitted use in the applicable zone.** Yes
- B. The proposed use shall conform to development standards of the applicable zone.** The review process is currently underway, once finished the development will conform.
- C. The proposed use shall conform to all applicable regulations of general applicability a regulations for specific uses set forth in this Code.** The review process is currently underway, finished the development will conform.
- D. The proposed use shall conform to any other applicable requirements of Box Elder County Ordinances.** The review process is currently underway, once finished the development will conform.
- E. If the proposed use is located on a lot or parcel which has been subdivided without County approval a subdivision plat shall be approved and recorded as a condition of approval.** N/A

Staff said access to the property is obtained via 14800 North, an existing county road. Staff recommends approval with the condition of complying with all comments from staff.

**Commission Bonnie Robinson** is concerned with a county dirt road being used for commercial use. Road Supervisor Darin Mcfarland said the road is gravel and not very wide. It would not be ideal commercial use. If this was a new subdivision a different standard might be required.

Staff explained a site plan is different from a subdivision or access to a gravel pit where an administrative conditional use permit is required. There are standards that can be applied to certain things such as roads. A site plan is different unless there is some detrimental affect needing to be fixed where conditions can be imposed.

**MOTION:** A Motion was made by **Commissioner Jed Pugsley** to approve application SP24-005, a request for site plan approval of A Gathering Place Barn located in the East Garland area of Unincorporated Box Elder County and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

**CONDITIONS:**

1. Compliance with all comments from Staff.
2. Compliance with Section 2-2-090 of the Box Elder County Land Use Management & Development Code.
3. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

**CEDAR RIDGE SUBDIVISION PHASE 2, SS24-030, Request for preliminary approval of a 4-Lot subdivision located at approximately 3250 W Crest View Avenue, in the Deweyville area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting approval of the Cedar Ridge Subdivision Phase 2 preliminary plat. The proposed subdivision is for 4 new lots approximately 1 to 1.77 acres in size with a .19 acre parcel for a storm water basin. The existing parcel is approximately 5.89 acres in size, there will be no remainder parcel. The surrounding land use is Agriculture and Residential. The surrounding zoning is MU-40 and RR-1. Staff is awaiting an updated plat and feels comfortable all the requirements will be satisfied for the preliminary application.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to approve application SS24-030, a request for preliminary approval of a 4-Lot subdivision located in the Deweyville area of Unincorporated Box Elder County and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jed Pugsley** and unanimously carried.

**CONDITIONS:**

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

**THATCHER HILLS SUBDIVISION, SS24-032, Request for preliminary approval of a 27-Lot subdivision located at approximately 11600 W 10400 N in the Thatcher area of Unincorporated Box Elder County. ACTION**

Staff said the applicants are requesting preliminary approval of the Thatcher Hills Subdivision preliminary plat consisting of three (3) phases located in the Thatcher area of unincorporated Box Elder County. The proposed subdivision is for 27 new lots total, averaging 1.06 acres in size each. The proposed lots combined are 28.66 acres in size. The surrounding land use in Agriculture and Residential. The surrounding zoning is A-20, R-1-8, RR-1, R-1-20, and Unzoned.

Staff explained there have been discussions trying to figure out whether to focus on phase 1 for the preliminary application, or all phases. In talking with Jim Flint from Hansen & Associates, the application will be for all phases. Staff will need some updates done to the master plan plat before being sent out for a good solid review. Staff is also waiting for a geotechnical report. Staff also received a letter from Trevor Nelson, General Manager Bear River Canal Company. The letter addresses issues staff will be addressing during the final plat application state.

*(See Attachment No.4 – Canal Company Letter.)*

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to table application SS24-032 a request for preliminary approval of a 27-lot subdivision located in the Thatcher area of Unincorporated Box Elder County for up to 6 months to wait for reviews on all phases, and for the Geotechnical Report. The motion was seconded by **Commissioner Jennifer Jacobsen** and unanimously carried.

**J&N and M&H AGRICULTURE PROTECTION AREA, AP24-01, Request for an agriculture protection area on multiple parcels located in the West Corinne area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting to establish an Agriculture Protection Area on 674.27 acres across multiple parcels in the West Corinne area. The parcels are as follows: 03-161-0042: .796 Acres; 03-161-0074: 33.81 Acres;

Staff explained Utah State Code 17-41-303 outlines the following standards for review for the creation of Agriculture Protection Areas as follows:

**A. The effect of the creation of the proposed area on the planning policies and objectives of the county;** At this time, the County has nothing in place promoting or restricting the creation of Agriculture Protection Areas. The one aspect of Agriculture Protection Areas that affects county planning is that the county cannot change the zoning of or a zoning regulation affecting land within a protection area without written approval from all landowners within the protection area that is affected by the change.

**B. Analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;**

**a. Whether or not the land is currently being used for agriculture production;** State code defines agricultural production as: Agricultural production means production for commercial purposes of crops, livestock, and livestock products. Agricultural production includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator. It looks as though all parcels with the exception of one are being used for agriculture production. Parcel 03-161-0042 appears to be an access lane (image below).

**b. Whether or not the land is zoned for agricultural use;** All parcels are zoned RR-20. While this zone allows for general agriculture, it does not allow for agricultural industry.

**c. Whether or not the land is viable for agricultural production;** Three of the parcels are less than five acres in size. Historically 5 acres has been the cutoff used for agricultural protection areas as well as agricultural subdivisions. According to BEC Ordinance 556, Section 2, any area in an agriculture protected area must have 5.5 continuous acres.

**d. The extent and nature of existing or proposed farm improvements;** All parcels have some sort of feed area, outbuilding, or crop on the property, with some of the parcels having a home on the property as well.

**e. In the case of an agriculture protection area, anticipated trends in agricultural and technological conditions applicable to the use of the land in question.** This is something with which Planning Commissioners familiar with agricultural production may be more familiar.

**C. Recommends any modifications to the land to be included in the proposed agricultural protection area;** The Planning Commission must determine if all parcels should be included in the proposed agriculture protection area.

**D. Analyzes and evaluates any objections to the proposal;** Dennis and Celeste Patterson have submitted an objection letter. It is quite detailed, the Planning Commission should review this letter and use it as evidence if the Planning Commission so chooses to forward a recommendation of denial.

*(See Attachment No.5 –Objection Letter.)*

**E. Includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.** This recommendation must come from the Planning Commission to the County Commission.

Following the Planning Commission motion, staff will prepare a recommendation to the County Commission on behalf of the Planning Commission.

The Commissioners reviewed the objection letter and while being sympathetic to the issues pointed out in the letter, the commission concluded this request meets the standards for the creation of an Agricultural Protection Area.

**MOTION:** A Motion was made by **Commissioner Jed Pugsley** to forward a recommendation to the County Commission to accept the proposal to create Agriculture Protection Area AP24-01 in multiple parcels in the West Corinne area in unincorporated Box Elder County. The motion was seconded by **Commissioner Jennifer Jacobsen** and unanimously carried.

#### **WORKING REPORTS - NONE**

#### **PUBLIC COMMENTS**

Dennis Patterson, author of the objected letter, commented on the Agricultural Protection Area. Unfortunately, the recording of his comments is inaudible.

Randi Smith, addressed the issue of the commercial road for the Gathering Place Barn. She said it was not too long ago all of his neighbors were upset with concerns of being able to drive their farm equipment on the road. There is farm equipment going up and down the road all the time. She feels commercial parking is not an issue.



**ADJOURN**

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to adjourn commission meeting. The motion was seconded by Commissioner Vance Smith and meeting adjourned at 10:02 p.m.

  
\_\_\_\_\_  
Mellonee Wilding, Chairman  
Box Elder County Planning Commission

## PLANNING COMMISSION MEETING

Thursday December 19, 2024

*Please sign & pass along to others*

NAME	ADDRESS	AGENDA ITEM
David Griffith	3485 N. Hwy 38, B.C.	6b
Terrie Griffith	3485 N Hwy 38	6b
Lisa Boyce	1725 N. Hwy 38	6B
Andrew Boyce	1725 N. Hwy 38	6B
Kory Wayment	4577 N Hwy 38	5A
Paul T. Hales	119 E. 200 S. Pleasant Grove <sup>89062</sup>	6A
Shelie Thornley	3365 N. Hwy 38 BC	6b
Katherine Timothy	2978 No. Hwy 38 BC	6b
Billy McFarland	2935 N. Hwy 38 BC	6b
Kelly McFarland	2935 N Hwy 38 BC	6b
Elgin Moore	3565 N Hwy 38 BC	6b
Brandon Hess	3535 N Hwy 38 BC	6b
Kriston Hess	3535 N. Hwy 38 BC	6b
Justin Stark	3985 N Hwy 38	6b
Reid Young	3976 N Hwy 38	6b
Nicole Young	3976 N. Hwy 38	6b
Mike Timothy	2978 N Hwy 38	6b
Dale Richards	3015 N Hwy 38	6b
CHARLEY / OULDS	2790 NO. HWY # 38	6b

**PLANNING COMMISSION MEETING**  
**Thursday December 19, 2024**

*Please sign & pass along to others.*

NAME	ADDRESS	AGENDA ITEM
Douglas Adams	2141 N. Hwy 38	6D
Barbara Adams	2141 N Hwy 38	6b
Jeremy Bischoff	3445 N Hwy 38	6b
Paul Morris	2271 N Hwy 38	6B
Bruce Evans	3425 N. Hwy 38	6B
Jacob Balls	3405 N. Hwy 38	6B
Kristin Balls	3405 N. Hwy 38	6B
Shaun Thornley	3365 N Hwy 38	6b
MAKAYLA THORNLEY	3365 N Hwy 38	6B
Logan Castillo-Rivera	3365 N Hwy 38	6B
Rebecca Thornley	3365 N Hwy 38	6B
Blaze Woodard	3700 N Hwy 38	6B
Daria McFoutan	5730 W 8000 Rd	5, 7a, 7b, 7c, 7d
Boyd Bingham	3525 W 8000 N Honeyville	
David Yates	3880 N. Hwy. 38, Brigham City	
JIM FLINT	538 N. MAIN, BRIGHAM CITY	7A, 7C
DAVID Z THOMPSON	12475 N. Hillcrest Dr - Dewey	
Brodie Calder	4542 W 14800 N Grand, UT	7A, 6B/C
Dmy Rupp	330 E. 700 S. Hyde Park	

## PLANNING COMMISSION MEETING

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NAME	ADDRESS	AGENDA ITEM
Randy Moulding	13133 W. Faust Valley Rd. <sup>TIRE member</sup>	
Ralph Orton	3450 W Hwy 38 <sup>PO Box 840</sup>	6b
Mozelle Orton	PO Box 840	6b
Heather Young	2947 No. Hwy 38 <sup>Brighton 84302</sup>	6B
Calvin K. WARD	3410 N. Hwy 38 <sup>84302</sup>	6B
William W. Smithey	2505 N. Hwy 38	6B

## **Box Elder County Annexation Ordinance Change Petition**

**December 2024**

We are committed to preserving our agricultural heritage and maintaining the rural character of our community. We strongly oppose mandatory annexation requirements linked to land use change applications which force us into the city. We are in favor of retaining the current five acre minimum zoning in areas where it already exists and oppose becoming a part of Brigham City.

Box Elder County Annexation Ordinance Change Petition Signature Page

No.	Printed Name	Address	Signature
1	David Griffith	3485 N. Hwy 38, B.C.	David Griffith
2	Terrie Griffith	3485 N Hwy 38, B.C.	Terrie Griffith
3	Brandon Hess	3535 N Hwy 38, B.C.	Brandon Hess
4	KRISTON HESS	3535 N. HWY 38, B.C.	KRISTON HESS
5	Jeremy Bischoff	3445 N Hwy 38 BC	Jeremy Bischoff
6	Callie Bischoff	3445 N HWY 38 B.C.	Callie Bischoff
7	Morelle Postridge Orton	3450 N. Highway 38	Morelle Postridge Orton
8	Ralph Lee Orton	3450 N. Highway 38	Ralph Lee Orton
9	LADD WALKER	3780 N Hwy 38	Ladd Walker
10	Craig Warden	3780 N Hwy 38	Craig Warden
11	Greg Woodard	3700 N Hwy 38	Greg Woodard
12	Susan Woodard	3700 N. Hwy 38	Susan Woodard
13	Elgin Moore	3565 N Hwy 38	Elgin Moore
14	Brooke Moore	3565 N Hwy 38	Brooke Moore
15	Justin Starik	3985 N Hwy 38	Justin Starik
16	Jacob Balls	3405 N. Hwy 38	Jacob Balls
17	Kristin Balls	3405 N Hwy 38	Kristin Balls
18	Bruce Evans	3425 N Hwy 38	Bruce Evans
19	Kim Evans	3425 N. Hwy 38	Kim Evans
20	Shelby Evans	3425 N. Hwy 38	Shelby Evans
21	Garrett Evans	3425 N. Hwy 38	Garrett Evans
22	Dawna Roskelley	3733 N Hwy 38	Dawna Roskelley
23	Calvin K. WARD	3410 N. Hwy 38	Calvin K. Ward
24	Cathy W Ward	3410 N Hwy 38	Cathy W Ward







Box Elder County Annexation Ordinance Change Petition Signature Page

No	Printed Name	Address	Signature
1	MONTE MUNNS	2245 N. Hwy 38	Monte Munn
2	Karen Munn s.	2245 N Hwy 38 BC	Karen Munn
3	Kelly McFarland	2935 N Hwy 38 B	Kelly McFarland
4	Billy McFarland	2935 N. Hwy 38 BC	Billy McFarland
5	R. Bret Langford	2865 N. Hwy 38	R. Bret Langford
6	Austin Lund	1910 N Hwy 38	Austin Lund
7	Shelly Zollinger	1755 N Hwy 38	Shelly Zollinger
8	Dale Zollinger	1755 N Hwy 38	Dale Zollinger
9	Braquel Brinkerhoff	2350 N. HWY 38	Braquel Brinkerhoff
10	Jason Brinkerhoff	2350 N. Hwy 38	Jason Brinkerhoff
11	Marilyn Hunsaker	2330 N Hwy 38	Marilyn Hunsaker
12	Michael S. Hunsaker	2330 N Hwy 38	Michael S. Hunsaker
13	Taleas Nelson	2815 N Hwy 38	Taleas Nelson
14	JASON NELSON	2815 N HWY 38	Jason Nelson
15	Rebecca Rees	2190 N HWY 38	Rebecca Rees
16	Paul Buck	2331 N Hwy 38	Paul Buck
17	DOUG ADAMS	2141 N. Hwy 38	Doug Adams
18	Barbara Adams	2141 N Hwy 38	Barbara Adams
19	A Grant Christiansen	1555 N 170 E HC	A Grant Christiansen
20	Amy Boyce	1725 N Hwy 38	Amy Boyce
21	Lisa Boyce	1725 N Hwy 38	Lisa Boyce
22	PAUL MUNNS	2271 N. Hwy 38	Paul Munn
23	Mandy Munn	2271 N Hwy 38	Mandy Munn



Scott Lyons &lt;slyons@boxeldercountyut.gov&gt;

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## Annexation Policy - Proposed Changes

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Mon, Dec 9, 2024 at 6:46 PM

Scott

Thanks for sending this out. I cannot make the meeting on the 19th due to Willard City meetings. Please take this as my public comment.

I think the county's proposed changes make sense. They would relive the cities and counties of the small annexation requests that really don't make sense.

I have concerns with the resident's proposed changes. We have been annexing based on the existing ordinance for 2 years now. Willard now looks like a checker board. It will take some time to get infrastructure ran and operated throughout. Between the city and developers it will happen. As it stands I think that Willard and south Willard will eventually become one unified city. The resident's proposal would throw us into chaos. Infrastructure and services would always be a mix of city and county. The city already provides a great deal of emergency services, park, and civic activities to South Willard. I believe it is in the best interest of Willard if we keep progressing toward unification. I Reccomend that the county does not adopt the resident's proposal.

Mayor Mote

[Quoted text hidden]

Att. #3



Scott Lyons &lt;slyons@boxeldercountyut.gov&gt;

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## Annexation Policy - Proposed Changes

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Mon, Dec 16, 2024 at 3:02 PM

Hi Scott,

I spoke with our planner and city manager, and they are both happy with the proposed amendments.

Lyle

[Quoted text hidden]

[Quoted text hidden]

<County proposed changes to annexation ordinance.pdf><Resident proposed changes to annexation ordinance.pdf>

Mayor Holmgren and Planner Jeff Seedall called me on the phone following this email. Following questions and answers regarding the residents' proposed amendment they stated that they are fine with both amendments, but would support something basic like "if the property is not adjacent to the city/county border, but is only a few parcels away the landowner should be required to go to the city and discuss annexation. No formal petition is required, but the city could then decide to work with them or provide the county a letter stating they are not interested in annexation at this time."



Scott Lyons <slyons@boxeldercountyut.gov>

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## No. We don't have any thing

1 message

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Tue, Dec 17, 2024 at 6:44 PM

Thanks  
Chuck  
Fielding Mayor  
Sent from my iPhone



Scott Lyons <slyons@boxeldercountyut.gov>

## Annexation Policy - Proposed Changes

Fri, Dec 13, 2024 at 4:26 PM

Scott,

Please see proposed amendments and comments to the annexation policy changes.

County proposed changes:

- Under A.1.c. – “If a development, improvement, or building lot will be using any utility **or service** provided by a municipality.” There are many “non-utility” services provided by municipalities that are not provided by the County. When development occurs in the unincorporated County, this service demand is increased with no offsetting revenue to pay for the services and these increased costs are born by the taxpayers of the municipality. This includes police, fire, ambulance, EMS, library, parks and recreation, senior centers, swimming pool, golf course, and other services.
- Under B. Exceptions – Add the following
  - “h. If a municipality has included land use guidance for the unincorporated areas within its annexation boundary, any proposed rezone or development activity shall be consistent with the land use, density, design and other criteria established by the municipality for the municipality’s zoning district or districts most closely related to the general plan land use designation.”

Resident proposed changes:

- The same comments apply to this proposed change as to the County proposed change. The first bullet point should remain as currently drafted in the County’s policy, i.e. the policy applies to properties located within any municipal annexation policy plan as defined in Utah Code 10-2-401.5, and not simply to properties that share a boundary
- Under 5-1-360 “If a development, improvement, or building lot will be using any utility **or service** provided by a municipality. The sentence regarding island annexations should be stricken. These properties are not treated any differently than properties within the municipality. In Brigham City, for example, there are properties that are connected to septic tanks and not the City’s sewer system due to distance to the nearest sewer main. At such time as a sewer main is placed within a certain distance of the property, the property must connect to the sewer main.

General comments:

- Counties are not designed or intended to provide the many municipal services the cities are design to provide. Continuing a pattern of development in the unincorporated County that creates areas with significant development increases the cost of services for municipalities near the development. Within the municipality, the city’s tax levy offsets the cost of these services. Annexation of new development addresses this inequity in financing public services.
- Requiring new development to be consistent with the municipality’s land use, density, design, and other criteria ensures that when the developed properties are surrounded by development, they will fit seamlessly into the municipality’s fabric of development. Without this requirement, it is likely that the

municipality will have to bear additional costs when the developed properties are eventually incorporated into the city.

Thanks

Derek

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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**Re: Moulding - 11600 West**

1 message

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**Trevor Nielson**

Thu, Jan 16, 2025 at 3:27 PM

Dear Jim and Destin,

Jim, thank you for reaching out. After reviewing the attached documents. We feel that your work addresses the concerns outlined in our comment concerning this subdivision. I have included Destin from planning and zoning on this e-mail so that this might serve as the written confirmation of our concern being addressed. Destine please place this in the file as our response and thank the planning commission for their time and consideration. Thanks again to you both.

Sincerely,

Trevor Nielson

General Manager

Bear River Canal Company

[275 N 1600 E](#)[Tremonton, UT 84337](#)

1/13/2025 11:11 AM MST Jim Flint &lt;jimf@haies.net&gt; wrote:

Trevor,

Randy Moulding is proposing a 3-phase master plan for developing lots predominantly along the east side of 11600 West. We heard that BRCC desired verification that Lot 26 wouldn't be encroaching on the canal, for 50 feet from the center of the Canal. Attached is exhibit with aerial background. The County is requesting that we get a communication from BRCC stating concurrence that the proposed lot is an appropriate distance from the center of Canal – could you prepare that? Of course feel free to call anytime. Thanks.

Jim Flint

Att. # 4

Box Elder County Commission  
c/o Box Elder County Clerk  
Main at Forest  
Brigham City, Utah 84302

*Sent by Email: tgibson@boxeldercountyut.gov*

November 22, 2024

Dear Box Elder County Commission:

We appreciate the opportunity to submit the following objection to the November 7, 2024 “Notice of Proposal For Creation of An Agricultural Protection Area” (Proposal). We own and farm the property immediately adjacent to one of the primary dairies supported by the parcels submitted for the Agricultural Protection Area (APA). We have farmed our property since 1997. Our biggest concern is that the applicant is using the APA to continue treating his dairy operation adjacent to our property as a toilet for 7,000 cows. The operation trucks up to forty large loads of manure every day through the community from other dairy operations to the applicant’s manure/compost piles approximately 800 feet from our family’s farm. This presents substantial public health and safety risks for the local community.

The County Commission should deny the Proposal based on the applicant’s current non-conformance with existing zoning laws by running a massive animal feeding operation in a rural, residentially zoned area; and by failing to abide by the appropriate number of driveways, creating unsafe driving conditions on 6400 West where the operator has unofficially taken over the road despite its residential status as feeder road to the main highway. Moreover, the parcels should not be afforded APA protection because they do not contribute to a county-defined agriculture, and one parcel is too small to be considered for APA protection. An APA is inappropriate for this applicant for the foregoing reasons:

**I. The current intensive animal feeding operation does not comply with existing RR-20 zoning.**

The existing zoning is RR-20, which is residential with limited agriculture. In Box Elder County, a property zoned RR-20 can only have 8 cows per 2 acres. Box Elder County Land Use Management & Development Code, Article 1,1-3-5. The purpose of the land use zoning is to: “promot[e] the health, safety, welfare,. . . including, among other things, the lessening of congestion in the streets, securing safety from fire and other dangers, protecting the tax base[.]” *Id.* at 1-1-030.

However, the animal feeding operation associated with these APA parcels does not comply with the existing zoning laws and has greatly expanded since 2004 when the area was rezoned RR-20 in the 2004 West Corinne Community Plan. *See* Exhibit A, Photos Harper Dairy from 2004 and 2023. The animal feeding operation’s 2016-2021 Nutrient Management Plan, attached as Exhibit



B, indicates that there are 1,000 lactating dairy cows, 400 dry cows, and 500 heifers on the property and receives waste and dead animals for another 5,000 cows. The operation is far exceeding the limitations of its zoning. As shown in photos of the property in Exhibit A, the animal feeding operation has grown exponentially since 2004 when the area was zoned RR-20, expanding its operations to include at least four, multi-acre retention ponds (and a new retention pond west of 6400 West this year, near our stables, not yet on map) and miles long rows of crap hauled in and piled up to compost. As discussed more below, this scale of animal feeding operation directly harms neighbors within a quarter mile and up to three miles away.

By allowing far more cows than is permissible under the existing land use code, the applicant is undermining the purpose of the land use code by creating a public health and safety hazard in the community and reducing our property value.

**II. The current intensive animal feeding operation does not comply with the use of the public road as it creates a public safety and health hazard.**

The West Corinne Community Plan specifies that “Commercial and manufacturing land uses should be located on collector and arterial streets, avoiding local streets which serve residential zones. Access to these uses also should avoid streets within residential zones.” West Corinne Community Plan at 1. The County Land Use Code specifically addresses the number of driveways a property can have: “Not more than two (2) driveways shall be used for each one hundred (100) feet of frontage on any street.” County Land Use Code at 5-2-050(B)(1).

The dairy operations associated with the parcels at issue in this APA proposal have created serious and ongoing issues for the neighbors seeking to use the public road. 6400 West is a residential street going through a residential zone that feeds onto the highway. Yet, the animal feeding operation has 13 driveways including private entrances that are used daily within 300 feet of road frontage. This is over double the number of driveways allowed under existing zoning. The dairy’s trucks feed cows four times a day or more, meaning that a large feed truck leaves the public road, then pulls forward and backs up leaving the premises and reentering 6 times each, four times per day. They do not pull through.

These trucks block the road and back down the road multiple times day and night, leading to road safety concerns for neighbors and travelers, resulting in large amounts of manure on the road. Tractors haul in compost, haul in straw, and haul out manure. These tractors push feed up to the cows between feedings using 6400 West for access. Deliveries, a parking lot (prohibited in RR-20), and more road entrances occur on the west side of the public road.

In addition to non-compliance with county zoning, the applicant’s number of driveways do not comply with best management practices for preventing bird flu. For example, for health reasons and biosecurity, the United States Department of Agriculture has asked dairies to have one entry point, limit the number of visitors, and have a line of separation. *See* Exhibit D, APHIS Recommendations regarding Bird Flu in Livestock.

Moreover, trucks carry feed for the cattle, manure, and dead animals to this facility. When the manure dries on the pavement, it becomes dust from the passing traffic. The manure rows/compost yard have extreme wind erosion, which has detrimental effects for public health. *See Exhibit C* (finding that dairy operations expose nearby homes to ammonia and other particulate matter at high levels within a quarter mile of the industrial feeding operations.)

**I. The Land Use code defines these properties as “Agricultural business” and not “agriculture.”**

The County Land Use Code specifically highlights the difference between “agriculture” and “agriculture industry,” calling the latter: “An industry or business involving agricultural products in packaging, treatment, sales, *intensive feeding*, or storage. Typical uses include animal feed yards, fur farms, *commercial milk production*. . . .” County Land Use Code at 1-3-4 (emphasis added). The state of Utah considers the Harper Dairy a concentrated animal feeding operation. The County Code very specifically cites “Agriculture” as: “The production of food through the tilling of the soil, the raising of crops, gardening and horticulture for personal use or sale, breeding and raising of domestic animals and fowl, except household pets, and *not including any agricultural industry or business.*” County Land Use Code at 1-3-4.

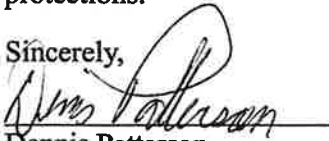
Based on the definition of agriculture and agricultural business in the county land use code, the existing parcels proposed for APA protection that contribute to the intensive animal feeding operation should be denied protections because they do not fall under the county’s definition of agriculture.

**II. Not all the parcels proposed meet the five-acre minimum threshold.**

In past applications for APAs, the Box Elder County Commission has established that APA parcels must be a minimum of five-acres. In the present proposal, the applicant has at least one parcel that is non-contiguous and does not meet the five-acre minimum threshold. The County Commission should at a minimum deny protections to this parcel based on size.

**III. Conclusion**

As a fifth-generation, lifelong farmer and wife, we appreciate the designation of APAs to benefit our community’s agricultural heritage; however, the current parcels proposed for an APA do not benefit our county’s agriculture, increase road traffic in residential area, and benefit one animal feeding operation that has failed to comply with county zoning laws and falls outside the definition of agriculture in the county land use code. The County Commission should deny these parcels APA protections.

Sincerely,  
  
Dennis Patterson  
West Corinne, Utah

  
Celeste Patterson  
West Corinne, Utah

# EXHIBIT A



# EXHIBIT B

## Nutrient Managements Plan (NMP) Harper Dairy

**Purpose:** To provide the site specifications necessary to properly utilize manure generated on the Harper Dairy owned and operated by Mitch Hancock, and to prevent the degradation of soil, water, air, plant, and animal resources. To meet the objectives of the dairy, get the most value from their manure, and to stay in compliance with current state and national regulations.

**Farm/Facility:** Harper Dairy  
2225 N 6400 W  
Corrine, Utah 84307

**Owner Operator:** Mitch Hancock, NooSun Dairy L.C.

**Farm Headquarters Latitude and Longitude:** 41.545968, -112.167894

**Plan Period:** March 2016 to March 2021

Watershed 106010204

### Certified Conservation Planner

I certify that I am a Natural Resources Conservation Service (NRCS) approved certified planner qualified to review and approve nutrient management plans (NMPS) for compliance with NRCS NMP planning practices and NRCS standard practices. I certify that the NMP developed for the facility submitting this NOI for permit coverage complies with parts VII, VIII, IX, XI and XII of the CAFO permit and all applicable NRCS practice standards, including Practice 590 and UMARI. The NMP, if fully implemented, will be in accordance with all NMP permit requirements and all applicable NRCS practice standards for the facility.

I approve the nutrient management plan for the facility seeking permit coverage under this NOI.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_ Certification Credentials: \_\_\_\_\_

### Owner Operator

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed this system, or those persons directly responsible for gathering the information, the information submitted to us, is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine or imprisonment for knowing violations.

Signature: \_\_\_\_\_ Date \_\_\_\_\_  
Name: Mitch Hancock

### 3.2 Generation Storage and Transfer of Manure and wastewater

#### Generation:

The Harper Dairy has the capacity for 1,000 lactating dairy cows, 400 dry cows and 500 heifers. There are currently storage facilities for the solid manure that is produced. The majority of the manure and liquid produced passes thru a sloped screen separator making it possible to recycle and re-use the solids thru the composting facility for bedding. The liquids are stored in one of three evaporative lagoons. In years of excess moisture, the water is moved through a series of irrigation ditches and flooded onto ground owned by the dairy. If needed, storage facilities are large enough to store all of the solid manure that is produced for a period of 150 to 180 days. Manure is applied to approximately 218 acres of farm land. Liquid manure water is stored in three lagoons; the North Lagoon has a capacity of 281,750 cu/ft and the South Lagoon with a storage capacity of 260,000 cu/ft and the East Lagoon with a storage capacity of 101,250 cu/ft. This is a total of 4,774,452 gallons. There are also four concrete solid storage facilities with a total of 208,000 cu/ft. There is also a concrete staging pad with three walls with a capacity of 16,800 cu/ft of storage. The 1,000 lactating dairy cows will produce approximately 10 gallons of waste water per animal per day to be stored in the lagoon. The lagoon needs to accommodate 150 days of storage or 150 days x 10,000 gallons or 1,500,000 gallons. The mortality compost site is 430' x 600' and uses a large amount of manure in the composting process.

As per the Hazardous Waste permit that is maintained by the dairy, all composting takes place on this facility on 7.5 acres of dairy owned land. The field is diked in order to manage all water runoff. Any water that is gathered is pumped into adjacent wastewater lagoons. All three dairy facilities use compost bedding for animals. The Harper Dairy accepts roughly 20,000 tons of solid/semi solid manure that is windrowed and composted to acceptable temperatures, then returned to each of the three dairies for bedding. The solid manure is moved by way of semi-trucks that are weighed and calibrated. The windrows also receive approximately 5,000 tons of liquid manure from slingers, aiding in maintaining proper moistures and temperatures in the windrows. The compost facility will produce approximately 8,000 tons of compost per year, that if not used for bedding will be sold to neighboring farmers.

The estimated area of the hard surface drainage around the lagoon is 72,800 sq ft. This calculation assumes all buildings and rainfall are diverted away from the lagoon. Careful diversion of all clean water will improve the operation of the lagoon and ensure compliance with the terms of the permit.

A 25 year storm event (2.5 inches in 24 hours) will produce about 15,166 cu/ft of water or 112,233 gallons of additional runoff. The lagoon is 42,000 sq ft requiring approximately 4 inches of storage. Including normal rainfall of 9 inches for the winter period the lagoon capacity will handle all of the milk house waste, and hard surface runoff leaving a free board of over 1 foot (13.9 inches).

#### Storage:

With proper management the storage facilities at the Harper dairy are adequate for the 150 to 180 day required storage period. The dairy will compost at least 25 percent of the solid manure produced on the dairy and use the majority of that for bedding. Local farmers will use excess compost for application on their fields. The dairy will provide a manure test and a letter indicating the responsibility to properly utilize the compost and manure that is removed. The dairy plans to develop the market for these nutrients and organic matter with the large irrigated and dry farming area of the county.

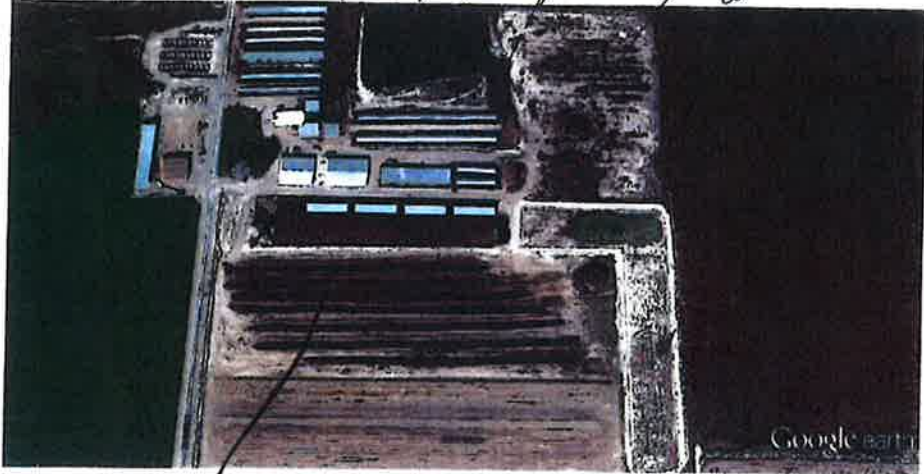
#### Collection/Transfer:

The manure will be scraped daily from the corrals and walkways into the solid waste structures and sloped screen separator. The solid manure from open corrals also contains some straw bedding material. Solid manure will be hauled from the storage structures directly to the composting area when conditions are appropriate. During other times, solid manure will be hauled as needed from the storage structures to a manure staging area, where it will be separated or stored until conditions are appropriate for composting land application. All manure, compost, or

wastewater transfers will be recorded and included on the manure transfer forms to be submitted to DWQ on an annual basis for each recipient of manure, etc.

The milk house is currently washed after every milking to clean up the facility. The milk house wash water and liquid manure will be piped into the storage bunker. Only chemicals approved for dairy use in cleaning and disinfection will be allowed to enter the storage tank.

Harper Dam 2  
 Bunker  
 Lagoon  
 Bunker  
 Mortality Compound



Compound 10 acres - 1100 ft x 400

North Lagoon 350 wide x 230  
~~230~~ 3.5 ft w 1 ft freeboard

Dry Lot 600 x 150 - 3 acres (400 animals 505 days)

Ds1 Bunker 1 90' x 300' ft x 4 ft

Ds2 Bunker 2 170 x 60 x 4 ft.

Storage Lagoon 2 ft w 1 ft freeboard

Lagoon 3 1000 x 130 ft.

Mortality Compound ~~400~~  
 150 x 600

X Concrete pad 60 x 70 - 3 sides 4<sup>th</sup> wall

	Yds	ft	ft
Fact	900	1400	
"	100	1000	
Dry	400	1400	
Highways	500	200	

# EXHIBIT C

Williams et al. *Environmental Health* 2011, **10**:72  
<http://www.ehjournal.net/content/10/1/72>



ENVIRONMENTAL HEALTH

RESEARCH

Open Access

## Airborne cow allergen, ammonia and particulate matter at homes vary with distance to industrial scale dairy operations: an exposure assessment

D'Ann L Williams<sup>1\*</sup>, Patrick N Breyse<sup>1,2</sup>, Meredith C McCormack<sup>1,2</sup>, Gregory B Diette<sup>1,2</sup>, Shawn McKenzie<sup>1</sup> and Alison S Geyh<sup>1</sup>

### Abstract

**Background:** Community exposures to environmental contaminants from industrial scale dairy operations are poorly understood. The purpose of this study was to evaluate the impact of dairy operations on nearby communities by assessing airborne contaminants (particulate matter, ammonia, and cow allergen, Bos d 2) associated with dairy operations inside and outside homes.

**Methods:** The study was conducted in 40 homes in the Yakima Valley, Washington State where over 61 dairies operate.

**Results:** A concentration gradient was observed showing that airborne contaminants are significantly greater at homes within one-quarter mile (0.4 km) of dairy facilities, outdoor Bos d 2, ammonia, and TD were 60, eight, and two times higher as compared to homes greater than three miles (4.8 km) away. In addition median indoor airborne Bos d 2 and ammonia concentrations were approximately 10 and two times higher in homes within one-quarter mile (0.4 km) compared to homes greater than three miles (4.8 km) away.

**Conclusions:** These findings demonstrate that dairy operations increase community exposures to agents with known human health effects. This study also provides evidence that airborne biological contaminants (i.e. cow allergen) associated with airborne particulate matter are statistically elevated at distances up to three miles (4.8 km) from dairy operations.

### Background

The United States has witnessed the industrialization of the dairy industry over the last 40 years [1]. As a result, larger dairy facilities are now concentrated into fewer regions around the nation. The US Department of Agriculture (USDA) reports that between 1970 and 2000 the number of dairies nationwide decreased from 650,000 to 90,000. However, the number of dairy cows only declined from 12 to nine million while the average herd size increased 500% [1]. Though dairies are found in all 50 states, over a third of the all dairy animals are currently found in only two states [2]. For the purposes of

this paper industrial scale dairies will be defined as operations that house over 500 animals.

Industrial food-animal production (IFAP) facilities are often located within or close to communities and reports of odors and concerns about health effects are common [3-5]. A number of airborne contaminants are produced by IFAP facilities, many which are unregulated. These include biological and biogenic aerosols, and gases such as ammonia, methane, and hydrogen sulfide. Unlike industrial sources, little is known about the airborne emissions from IFAP or potential community exposures. This is in part due to the virtual absence of agricultural air emission regulations and rural monitoring programs [6-9]. A Workgroup on Health Effects of Airborne Exposures from Industrial Scale Animal Operations concluded that there is a lack of data on community exposure to and health effects of odors and

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# EXHIBIT D



Animal and Plant Health Inspection Service  
U.S. DEPARTMENT OF AGRICULTURE

## Influenza and Biosecurity: Not Just for the Birds

Highly pathogenic avian influenza (HPAI) is a very contagious and often deadly respiratory disease of poultry, such as chickens, turkeys, and geese. It is often spread by wild birds and can make other animals sick too.

You can protect your birds and other animals from HPAI with good biosecurity. Simply put, biosecurity refers to everything people do to keep diseases away from animals, property, and people.



### Limit visitors

- Only allow people on farm who need to be there.
- Use only one entrance and exit for the farm.
- Keep a record of all farm visitors.



### Keep germs away

- Give visitors disposable shoe covers to wear on the farm.
- Keep a separate pair of boots for use on the farm around your animals.
- Use a footbath with a disinfectant solution (4 ounces of bleach in 1 gallon of water) to clean footwear before entering the farm.
- Spray disinfectant on all vehicle and trailer tires before returning to the farm.
- Don't borrow tools or equipment from other farms.
- Don't use untreated water from ponds or streams.



### Avoid mixing species

- Keep other animals and strangers off the property.
- Keep livestock and pets away from birds, including bird feed, litter, or equipment.
- Keep birds out of animal pens and barns.
- Keep all wild animals (including rats and mice) away from bird and livestock areas.



### Look out for sick animals

Check animals regularly for the following signs of illness:

- Coughing (“barking”), sneezing, or trouble breathing
- Discharge from eyes or nose
- Difficulty moving, walking, or standing upright
- Lack of appetite
- Severe illness in multiple animals
- Sudden or unexplained deaths



### If your animals look sick, take action!

Isolate sick animals and report them to your veterinarian and/or State and Federal animal health officials.

Your veterinarian will determine if your animals might have HPAI. They may contact the U.S. Department of Agriculture or your State Animal Health Official to test your animals.



Learn more about stopping avian influenza: [aphis.usda.gov/animalhealth/defendtheflock](https://aphis.usda.gov/animalhealth/defendtheflock)

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