

BOX ELDER COUNTY PLANNING COMMISSION AGENDA

May 18, 2023

Agenda review with Planning Commissioners at 6:00 p.m.

1. **CALL TO ORDER 7:00 p.m.** (County Commission Chamber Room, Main Floor)
 - a. Roll Call (Commissioners S. Zollinger, B. Robinson, M. Wilding, J. Holmgren, J. Pugsley, V. Smith, J. Jacobsen, and L. Jensen)
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL of the April 20, 2023 Planning Commission Minutes.**
5. **UNFINISHED BUSINESS - NONE**
6. **PUBLIC HEARINGS**
 - a. **ORDINANCE TEXT AMENDMENT, Z23-005, Request for a text amendment to Section 1-3-040, Definitions, Section 3-4-080-2, Commercial & Manufacturing Frontages and Setback Distances of the Box Elder County Land Use Management & Development Code.**
 - b. **ZONING MAP AMENDMENT, Z23-006, Request for a zone change of 31.34 acres from A-20 (Agricultural 20 acre) to RR-20 (Rural Residential 20,000 sq. ft.) located at approximately 5200 West 4800 N in the Bear River area of Unincorporated Box Elder County.**
 - c. **ORDINANCE TEXT AMENDMENT, Z23-007, Request for a text amendment to Chapter 6-1, Subdivisions, to change verbiage regarding wells in the Box Elder County Land Use Management & Development Code..**
 - d. **ORDINANCE TEXT AMENDMENT, Z23-008, Request for a text amendment to Article 5: Exhibit A, New Road Standards 2014 of the Box Elder County Land Use Management & Development Code to allow a 70' entrance for heavy trucking operations.**
7. **NEW BUSINESS**
 - a. **NONE**
8. **WORKING REPORTS**
 - a. **S-3 Sign Overlay Zone**
9. **PUBLIC COMMENT**
10. **ADJOURN**

BOX ELDER COUNTY PLANNING COMMISSION MINUTES APRIL 20, 2023

The Board of Planning Commissioners of Box Elder County, Utah met in the Box Elder County Commission Chambers at 7:00 p.m. The following members were present by a roll call, constituting a quorum:

Roll Call

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

the following Staff was present:

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

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

The Invocation was offered by **Commissioner Bonnie Robinson**.
Pledge was led by **Commissioner Jed Pugsley**.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the March 16, 2023 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Jed Pugsley** to approve the minutes as written. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

UNFINISHED BUSINESS -NONE

PUBLIC HEARINGS - NONE

NEW BUSINESS

SITE PLAN REVIEW, SP23-001, Request for Site Plan approval for a flower and Christmas tree farm located at approximately 5695 West 6400 North in the Bear River City area of Unincorporated Box Elder County. ACTION

Staff explained the applicant is requesting site plan approval for an agritourism business. The proposed use includes professional photography opportunities, a U-Pick flower operation, and a

Christmas tree farm. The site would be available for scheduling for photographers year round. The main seasons would be summer (July through mid-September) for the U-Pick flower operation and winter (mid-November through December) for the Christmas tree operation. The U-Pick operation is planning to sell tickets in two-hour blocks with up to 50 tickets sold for each block. The Christmas tree operation would be open to the public for tree sales. The site is on approximately 18.76 acres and currently used for agriculture. The surrounding land use is Agriculture and Rural Residential; the surrounding zones are Unzoned. There is one home on the property, and one home to the west. The home has an existing septic system and water is provided by West Corinne Water Company. When the future barn/ADU is constructed, utilities for that use will be reviewed during the building permit process.

Staff stated Box Elder County Land Use Management & Development Code Section 2-2-20.D.2.c allows agritourism operations as a permitted use in unzoned areas subject to Site Plan approval.

Staff read Section 2-2-090 which outlines the standards for approval for permitted uses 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. *Whether the proposed use/design conforms to development standards is still being reviewed by the County Roads Supervisor and County Building Official.*
- C. The proposed use shall conform to all applicable regulations of general applicability and regulations for specific uses set forth in this Code. *This is still under review.*
- D. The proposed use shall conform to any other applicable requirements of Box Elder County Ordinances. *This is still under review.*
- 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 is proposing all lighting must be directed downward and be hooded in order to prevent light pollution onto neighboring properties and all signage must be in conformance with Chapter 5-3 of county code. The County Engineer and Fire Marshal have reviewed and approved the proposed site plan. The County Roads Supervisor and County Building Official are currently reviewing the proposed site plan.

MOTION: A Motion was made by **Commissioner Jared Holmgren** to approve the application SP23-001, a Site Plan for an agritourism business and adopting the conditions and findings of staff, including approval of the Road and Building Departments and the Health Department regarding sanitation. The motion was seconded by **Commissioner Jed Pugsley** and unanimously carried.

CONDITIONS:

1. Compliance with Section 2-2-090, Permitted Use Review, of the Box Elder County Land Use Management & Development Code.
2. Compliance with Section 2-2-120, Site Plan Review, of the Box Elder County Land Use Management & Development Code.

3. Compliance with input from the Road Supervisor regarding ingress/egress on the county road, the Bear River Health Department regarding restrooms/public health, as well as final review/approval by the County Building Official.
4. All lighting must be directed downward and be hooded in order to prevent light pollution onto neighboring properties.
5. All signage must be in conformance with Chapter 5-3, Sign Regulations, of the Box Elder County Land Use Management & Development Code. Signage as required by the state of Utah.
6. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
7. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

SURPLUS PROPERTY DISPOSAL, SPD23-02, Request for a transfer of property located at approximately 200 South and 1300 West in Brigham City. ACTION

Staff stated Brigham City has proposed a transfer of property with Box Elder County located at approximately 1300 West and 200 South for a regional storm detention basin. The surplus property would consider transferring ownership of the property south of the Walker parcel and allowing for a storm water easement across and along 1400 West. Brigham City is proposing a lot line adjustment of the parcels to accomplish the transfer of the property. The Redevelopment Agency Board has directed staff to start the request through the surplus property disposal process.

Staff explained all surplus property disposal of real estate is to be reviewed by the Planning Commission to ensure the request complies with the General Plan, the Land Use Management & Development Code and any other applicable ordinances. The Planning Commission needs to submit their recommendation to the County Commission within 15 days of the date of decision.

MOTION: A Motion was made by **Commissioner Jed Pugsley** to forward a recommendation to the County Commission that the County General Plan, the County Land Use Code, and any other applicable ordinances they are aware of are not applicable to the proposal. The motion was seconded by **Commissioner Jared Holmgren** and unanimously carried.

WORKING REPORTS

Multiple Family Dwellings

Multiple family dwellings as defined in Chapter 1-3 are not allowed in unincorporated Box Elder County. This affects the following sections of code as well: 5-1-080, 3-2-070-7, and 5-1-070.

Staff said there was good discussion in the pre-meeting regarding multiple family dwellings. **Commissioner Jennifer Jacobsen**, who was unable to attend tonight's meeting, would like to have any necessary changes made to the code to reflect that Mutli-Family housing not be allowed in unincorporated areas of Box Elder County. She feels they should be kept in the surrounding cities that can support those types of housing requirements.

Commissioner Vance Smith would like to see if there could be some options with separate utilities for duplexes. **Commissioner Mellonee Wilding** would like to require the property owner to live in one of the units.

Agricultural Subdivisions

Staff report: Discussion and proposal to amend Chapter 6-3. Currently agricultural subdivisions are being taken advantage of and creating short-term problems and long-term costs to county taxpayers. The only agricultural subdivisions we see that aren't problematic are those splitting the home off the ag land. This is usually done after a parent passes. The main problem we are seeing is developers dividing a larger ag parcel into several smaller ag parcels. They go this route because they only have to provide a legal description. They do not have to provide any improvements, utilities, etc. Based on state code these parcels cannot be used for a "nonagricultural purpose", but the new buyer of the land then goes through a 1-lot subdivision process in order to make their parcel buildable. For example, this turns what should have been a 17-lot subdivision with road improvements, utilities, etc. into 17 1-lot subdivisions (or more) with none of the necessary improvements.

Some options staff has considered are:

Eliminate agricultural subdivisions except for those splitting a home off the ag parcel.

Create a specific agriculture zone that doesn't allow for any development. Require the applicant to zone the property as such as part of the ag sub approval. State code and our code then require the property "will remain as land in agricultural use until a future zoning change permits another use." This makes the transition from ag use to development a legislative decision.

Staff explained they are trying to keep a tax burden from being placed on the general residents of Box Elder County. We don't want to abandon agriculture subdivisions altogether because they serve a purpose.

Commissioner Jed Pugsley asked about placing deed restrictions on the remainder parcel to keep it agricultural. Staff stated that is what is happening now. If they go through the buildable subdivision process as opposed to the subdivision process, we allow them to convert it. We could say once the agriculture subdivision is done, we could put a deed restriction on it for a certain amount of time. That alone could discourage someone from buying it with the intent of converting and building on it within 2 years.

Commissioner Vance Smith thinks we need to focus more on burdening the subdivision and building process rather than burdening the agriculture subdivision process. A twenty foot all surface emergency road is required regardless of how far down the road they are. We still have to require that an ambulance and a fire truck can get to them.

Staff said the difficulty is the rational nexus says we can only require them to improve the frontage in front of them to one of the county road standards, depending on what the County Road Supervisor requires. So when the other parcels develop, the road could turn into a zebra of asphalt and road base. The road supervisor is very opposed to this because it will crumble, and running a snow plow down the road would not be good for the asphalt or the snow plow.

Staff said one option would be the deed restriction with a time frame on it. Staff is unsure how the county commission would react, but staff will look into it and bring this item back to the next meeting on how the county used to do rural road agreements. The county would basically do a restriction along with the approval of the subdivision that would say whenever the owners or the county deemed the road needs to be improved to this standard, then the owners are responsible to pay for their portion.

PUBLIC COMMENTS – NONE

ADJOURN

MOTION: A Motion was made by Commissioner Jared Holmgren to adjourn commission meeting. The motion was seconded by Commissioner Bonnie Robinson and meeting adjourned at 7:52 p.m.

Mellonee Wilding, Chairman
Box Elder County Planning Commission

PLANNING COMMISSION

STAFF REPORT

Meeting Date: May 18, 2023

Agenda Item #: 6a

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Box Elder County

PROJECT #:

Z23-005

ORDINANCE:

Section 1-3-040

Section 3-4-080-2.1

TYPE OF APPLICATION:

Legislative

REPORT BY:

Destin Christiansen,

BACKGROUND

The applicant is requesting a text amendment to create a definition for non-functional frontage due to topography or other legal or practical reasons as well as creating setback distances that would be categorized with the new definition. The proposed amendment would affect section 1-3-040 (Definitions) and section 3-4-080-2.1 (Commercial & Manufacturing frontages and setback distances) of the Box Elder County Land Use Management & Development Code (see end of report for proposed changes).

ANALYSIS

County Code:

The Box Elder Land Use Management & Development Code 2-2-080(C) allows a property owner to apply for and request an amendment to the text of the Box Elder County Land Use Management & Development Code. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-080 outlines the following standards for review for zoning text amendments.

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

The County's General Plan states that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;

This text amendment would apply to all commercial and manufacturing zones of unincorporated Box Elder County that would have "nonfunctional frontage" as proposed. The Planning Commission needs to decide if this amendment would be harmonious.

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

The proposed amendment could adversely affect adjacent property with the proposed allowance of buildings set at a zero setback. The public hearing process may shed additional light on this subject.

D. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

The proposed text amendment should not have an effect on the adequacy of facilities.

STAFF REVIEW:

As staff reviewed the proposed language, some of the concerns that we discussed are:

1. Regardless of any granted access, all other frontage would be considered non-functional frontage.
2. If any slope meets the minimum requested (5' rise over 20' run), all frontage is considered non-functional frontage.
3. As to proposal #2, this one appears to want to use another's property to be used as a setback distance for an applicant's property...likely to produce concerns and questions. It also indicates that this would be implemented where frontage is considered non-functional frontage; however, based on the proposals, it seems that, aside from any access granted, everything would be considered non-functional frontage.
4. As to proposal #3 (table addressing reduced setbacks), we feel that 0' does not provide for the buffer that setbacks are expected to provide on a property line.
5. As proposed, this language would likely produce interpretation and/or potential enforcement issues where every property and situation is different.
6. It seems that for the commercial/manufacturing zones, the proposed language would essentially create non-functional frontage wherever access wouldn't be used or has been denied. All setbacks would then be reduced to 0'.

FINDINGS:

Based on the analysis of the ordinance text amendment application, staff concludes the following:

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. The Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and a review of areas, staff feels the Planning Commission should forward a recommendation of denial to the County Commission. As this is a legislative decision, additional information may be taken into account such as public input, resident preferences, private property rights, economic considerations, etc.

If a recommendation of approval is forwarded to the County Commission, staff recommends it be subject to the following conditions:

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

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z23-005, an ordinance text amendment adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – “I move the Planning Commission table the review of application number Z23-005, an ordinance text amendment to (give date), based on the following findings:”

1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z23-005, an ordinance text amendment based on the following findings:”

1. List findings for denial...

Please feel free to contact Destin Christiansen at 435-695-2547 if you have any questions.

Existing Definition of Frontage in the Box Elder Land Use Development and Management Code:

Frontage: All property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts, or that common line between a lot and a public street. Street lines across which access is denied or cannot be had because of topography or for other reasons shall not constitute frontage for purposes of this Code.

Applicant’s original PROPOSED Text Amendments:

Proposal #1: The inclusion of a definition for “Nonfunctional Frontage” in Code Section 1-3-040 (Definitions). The proposed language for this inclusion would read as follows:

Frontage, Nonfunctional: For purposes of this Code, street line frontage across which access may be denied, limited, or cannot be had because of topography or for other legal or practical reasons, such as street access restrictions by County or Utah Department of Transportation access management, shall not constitute frontage, as that term is defined herein.

-OR-

Proposal #2: The inclusion of language in the existing definition of “Frontage” in Code Section 1-3-040 to address situations, where due to topography or restricted access, there exists a gap, larger than twenty feet between the property line fronting a street and the travel way of that street. The proposed language for this inclusion would read as follows:

When there is more than twenty (20) feet from the property line fronting a street to the travel way of the adjoining street, then the space between the property line and the travel way shall be counted towards the required setbacks contained in code section 3-4-080-2.1.

-AND/OR-

In addition to either Proposal #1 or Proposal #2, the inclusion of language regarding the setback requirements for nonfunctional frontage in the table contained in code section 3-4-080-2.1 that lists the minimum depth and/or length for yards in the zoning districts regulated by the Box Elder County Code. The proposed language shall incorporate the existing side yard setback requirements for all other zones and shall designate the nonfunctional setback for the CE zone to 0’. The proposed language would appear as follows:

	C-N	C-S	C-H	C-G	M-FP	M-G	C-E
Frontage, Nonfunctional (must comply with Section 5-1-180)	10	10	10	10	10	10	0

Applicant’s UPDATED PROPOSED language after comments from County Staff:

Proposal #1: The inclusion of a definition for “Nonfunctional Frontage” in Code Section 1-3-040. The proposed language for this inclusion would read as follows:

Frontage, Nonfunctional: For purposes of this Code, street line frontage across which access may be denied, limited, or cannot be had because of topography or for other legal or practical reasons, such as street access restrictions by County or Utah Department of Transportation access management, shall not constitute frontage, as that term is defined herein. **Street line frontage will be determined as nonfunctional frontage if the slope across any portion of the frontage is in excess of five (5) feet in height for each twenty (20) feet in horizontal distance measured from the property line to the travel way. If the County or Utah Department of Transportation has limited access to one vehicular access point, street line frontage outside of the site triangle of the granted access would be nonfunctional, regardless of topography.**

Comment 1 to Proposal #1: In circumstances where access cannot be had across street line frontage due to slope, the determining factor that would convert “frontage” into “nonfunctional frontage” would be a slope in excess of 5 feet of height for each 20 feet in horizontal distance. For example, if you have 200 feet of frontage, the entirety of the frontage will be considered nonfunctional frontage if any portion of the frontage has a slope in excess of the amount described above, would be considered nonfunctional frontage.

Comment 2 to Proposal #2: In circumstances where the County or UDOT has only provided one access point, the remaining portion of street line frontage outside of the site triangle for the allowed access would be considered nonfunctional, regardless of topography. For example, if a 35 foot access is allowed, the frontage outside of the site triangle of that access will be considered nonfunctional, regardless of topography.

Proposal #2: The inclusion of language in the existing definition of “Frontage” in Code Section 1-3-040 to address situations, where due to topography or restricted access, there exists a gap, larger than twenty feet between the property line fronting a street and the travel way of that street. The proposed language for this inclusion would read as follows:

Where street line frontage is determined to be nonfunctional frontage and ~~When there is~~ there exists more than twenty (20) feet from the property line fronting a street to the travel way of the adjoining street, then the space between the property line and the travel way shall be counted towards the required setbacks contained in code section 3-4- 080-2.1.

Comment 1 to Proposal #2: This code amendment would have limited applicability as it would apply only to frontage that is considered to be nonfunctional frontage (i.e. frontage across which access may be denied, limited, or cannot be had because of topography or for other legal or practical reasons) and to property where there is more than 20 feet between the property line and the travel way of the adjoining street. In those limited circumstances, the twenty feet of available property would provide a significant buffer that, if not counted towards the required setbacks, would unfairly burden the affected property owner and impose on them a much larger effective setback than those whose frontage is not limited by topography

or denied access. In the event of a road expansion, the County, UDOT, or other municipality could address buildings that are potentially in the way in the same way that they do with other buildings that are in the way of public roadway expansion projects: through the eminent domain process.

Proposal #3: The inclusion of language regarding the setback requirements for nonfunctional frontage in the table contained in code section 3-4-080-2.1 that lists the minimum depth and/or length for yards in the zoning districts regulated by the Box Elder County Code. The proposed language shall incorporate the existing side yard setback requirements for all other zones and shall designate the nonfunctional setback for the CE zone to 0'. The proposed language would appear as follows:

		C-N	C-S	C-H	C-G	M-FP	M-G	C-E
	Frontage, Nonfunctional (must comply with Section 5-1-180)	10 0	10 0	10 0	10 0	10 0	10 0	0

Comment 1 to Proposal #3: In order to have uniformity among the zones, the setbacks for nonfunctional frontage will be the same for all zones.



PLANNING COMMISSION STAFF REPORT

Meeting Date: May 18, 2023

Agenda Item #: 6b

Application Type:

Zoning Map Amendment

APPLICANT(S):

Chad Hardy

PROJECT #:

Z23-006

ADDRESS:

Approximately: 5200 W
4800 N

PARCEL #:

04-088-0005

CURRENT ZONE:

A-20

TYPE OF ACTION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

The applicant is requesting that parcel 04-088-0005 (30.29 acres) be rezoned from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone. The parcel is in the Bear River City area and the applicant has been through the annexation petition process with Bear River City.

ANALYSIS

County Code:

Land Use Management & Development Code 2-2-080.C allows a property owner to apply for and request a re-zone subject to zoning map amendment approval by the County Commission with a recommendation from the Planning Commission.

Surrounding Land Use and Zoning:

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Agricultural	A-20
South	Agricultural	RR-20
East	Agricultural	A-20
West	Agricultural	A-20

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-060-A states that zoning map amendments are a legislative proceeding. Per said section:

Decisions regarding a legislative application 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.

Box Elder County Land Use Management & Development Code section 2-2-080-E outlines the following standards for review for zoning map amendments.

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.

In the West Corinne section of the plan, it states: 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 scattered. The Planning Commission needs to decide if an RR-20 zone could be considered harmonious.

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

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 adequacy of facilities is in this area for the RR-20 zone.

FINDINGS:

Based on the analysis of the zoning map amendment application request for the re-zone of the subject parcel from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone and a survey of the surrounding area, staff concludes the following:

1. The Box Elder Land Use Management and Development Code allows for the re-zone of properties subject to zoning map amendment review procedures and approval.
2. The Planning Commission will need to determine if the proposed map amendment meets the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use



- Management and Development Code.
- 3. This application is for a rezone from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **the Planning Commission has three options to forward as a recommendation to the County Commission.** As this is a legislative decision additional information may be taken into account such as public input, resident preferences, private property rights, economic considerations, etc.

If a recommendation of approval is forwarded to the legislative body staff recommends it be subject to the following 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.

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z23-006, a zoning map amendment from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – “I move the Planning Commission table the review of application number Z23-006, a zoning map amendment from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone to (give date), based on the following findings:”

1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z23-006, a zoning map amendment from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone based on the following findings:”

1. List findings for denial...

Please feel free to contact Marcus Wager at 435-734-3308 if you have any questions.





PLANNING COMMISSION
STAFF REPORT

Meeting Date: May 18, 2023

Agenda Item #: 6c

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Lynn & Micah Capener

PROJECT #:

Z23-007

ORDINANCE:

Chapter 6-1, Subdivisions

TYPE OF APPLICATION:

Legislative

REPORT BY:

Marcus Wager,
Sr. County Planner

BACKGROUND

The applicant has requested consideration that a text amendment be made to amend Sections in Chapter 6-1, Subdivisions, in the Box Elder County Land Use Management & Development Code. (See attachment for proposed amendment)

ANALYSIS

County Code:

Land Use Management & Development Code 2-2-080.C allows a property owner to initiate proposed amendments to text of the Box Elder County Land Use Management & Development Code. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-080 outlines the following standards for review for zoning text amendments.

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan;**
The General Plan states: “Box Elder County understands that future development is most likely to occur in areas where adequate services are available. The County does not support extending services through or into areas that have not been identified for future development. With respect to responsible land use planning and efficient resource use, it is the County's preference that growth and development take place within existing communities or in unincorporated areas within which adequate services are or may be made available.”
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;**
This text amendment would apply to all areas of unincorporated Box Elder County where a well would be considered, the Planning Commission needs to decide if this amendment would be harmonious.
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**
Whether the affect is adverse is possibly subjective and up to adjacent property owners. The public hearing process may shed additional light on this subject.
- D. The adequacy of facilities and services intended to serve the subject property, including, but not**

limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

The proposed text amendment would likely not have an effect on the adequacy of facilities.

Staff Review: Staff's interpretation of our Code is that it requires the developer or subdivider to drill a well or test well for testing prior to subdivision approval (below are the sections of Code that deal with this):

6-1-130(f): Adequate water pressure report... (If on a well I assume this is required for sprinklers? Well log shows GPM and drawdown.)

6-1-130-D(1): Sufficient supply of culinary and secondary water. (A developer can provide "paper water", but can this be reviewed/proven without a well being drilled? Well logs show GPM and drawdown, etc.)

6-1-240-F(2): An approved culinary water supply... (Approved by who? What is considered "approved" when it comes to wells? Is "paper water" approved by the Division of Water Rights sufficient?)

6-1-240(J): Water in sufficient quantity is the obligation of the developer. Requires 250 gallons per person, per day. (How is this determined without a well log?)

6-1-240-K(2): Well requirements (c) Testing - All costs of testing must be covered by the developer. (This doesn't clearly say the developer has to drill and test a well, but seems heavily implied.)

The County Attorney agrees with staff and stated the following: They do not specifically state that a well has to be drilled prior to subdivision approval, but it is clear that the information required for approval (water pressure, sufficient supply, etc.) is not available unless or until a well is actually drilled. The argument that we don't require the same thing from culinary water suppliers (without requiring an actual connection to be installed) is not persuasive because all of this information is currently available from the existing culinary water suppliers before any connections are installed.

FINDINGS:

Based on the analysis of the ordinance text amendment application, staff concludes the following:

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. The County has historically concluded (through Code) that developers should be responsible for a lot to be ready for development.
3. The Box Elder County General Plan states: "With respect to responsible land use planning and efficient resource use, it is the County's preference that growth and development take place within existing communities or in unincorporated areas within which adequate services are or may be made available".
4. The Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and a review of areas, staff recommends the Planning Commission forward a recommendation of denial to the County Commission. *As this is a legislative decision additional information may be taken into account such as public input, resident preferences, private property rights, economic considerations, etc.*

If a recommendation of approval is forwarded to the County Commission staff recommends it be subject to the following conditions:

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

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z23-007, an ordinance text amendment adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – “I move the Planning Commission table the review of application number Z23-007, an ordinance text amendment to (give date), based on the following findings:”

1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z23-007, an ordinance text amendment based on the following findings:”

1. List findings for denial...

Please feel free to contact Marcus Wager at 435-734-3308 if you have any questions.

Proposed Text Amendment:

If public water is not available and a private well is required - Buyers will be required to drill the well and test the water prior to the occupancy permit being issued. Subdivider may subdivide the lot and sell the lot with proper notice per 6-1-060E & 6-1-240O to buyer or builder.

Reasoning from the applicant:

1. Subdivider has no idea what buyer is going to do with the lot or if they even build on it at all, or what water requirements might be required.
2. Developer does not know where to place the well on the lot to allow for the proper distance from the septic system and other potential conflicts.
3. Requiring the well to be drilled and tested prior to subdivision not knowing whether the subdivision is approved, possible, or meets the code is unrealistic for a buyer.
4. Well drillers have taken a substantial amount of time to schedule to drill a well. The subdivision could be happening simultaneously.
5. As it says in 6-1-060E "It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed."
6. As it says in 6-1-240O "It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed."

6-1-060-E:

It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed, basic improvements are adequate to render the subdivision habitable which improvements shall include paved streets, road base, or other acceptable hard surface and adequate water and water pressure for fire protection are available. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed.

6-1-240-O:

Building Permits Required. It shall be unlawful for any person to receive a building permit for a lot within a subdivision until water, sewer, storm drainage and all other required underground utilities located under the street surfaces within the subdivision are installed, inspected and approved by the County for the entire subdivision, and all streets in the subdivision are rough graded. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable which improvements shall include paved streets, road base or other acceptable hard surface approved by the County Engineer. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed.

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: May 18, 2023

Agenda Item #: 6d

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Jim Flint

PROJECT #:

Z23-008

ORDINANCE:

Article 5: Exhibit A New Road Standards 2014

TYPE OF APPLICATION:

Legislative

REPORT BY:

Destin Christiansen,

BACKGROUND

The applicant is requesting a text amendment to allow a 70' entrance for commercial heavy trucking operations. The proposed amendment would affect Article 5: Exhibit A New Road Standards 2014 of the Box Elder County Land Use Management & Development Code.

ANALYSIS

County Code:

The Box Elder Land Use Management & Development Code 2-2-080(C) allows a property owner to apply for and request an amendment to the text of the Box Elder County Land Use Management & Development Code. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-080 outlines the following standards for review for zoning text

amendments.

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;**
The County's General Plan states that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;**
This text amendment would apply to any type of proposed heavy truck operation in unincorporated Box Elder County. The Planning Commission needs to decide if this amendment would be harmonious.
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**
The proposed amendment should not adversely affect adjacent property. The public hearing process may shed additional light on this subject.
- D. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.**
The proposed text amendment should not have an effect on the adequacy of facilities.

FINDINGS:

Based on the analysis of the ordinance text amendment application, staff concludes the following:

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. The Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and a review of areas, the Planning Commission should forward a recommendation to the County Commission. As this is a legislative decision, additional information may be taken into account such as public input, resident preferences, private property rights, economic considerations, etc.

If a recommendation of approval is forwarded to the County Commission, staff recommends it be subject to the following conditions:

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

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z23-008, an ordinance text amendment adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – “I move the Planning Commission table the review of application number Z23-008, an ordinance text amendment to (give date), based on the following findings:”

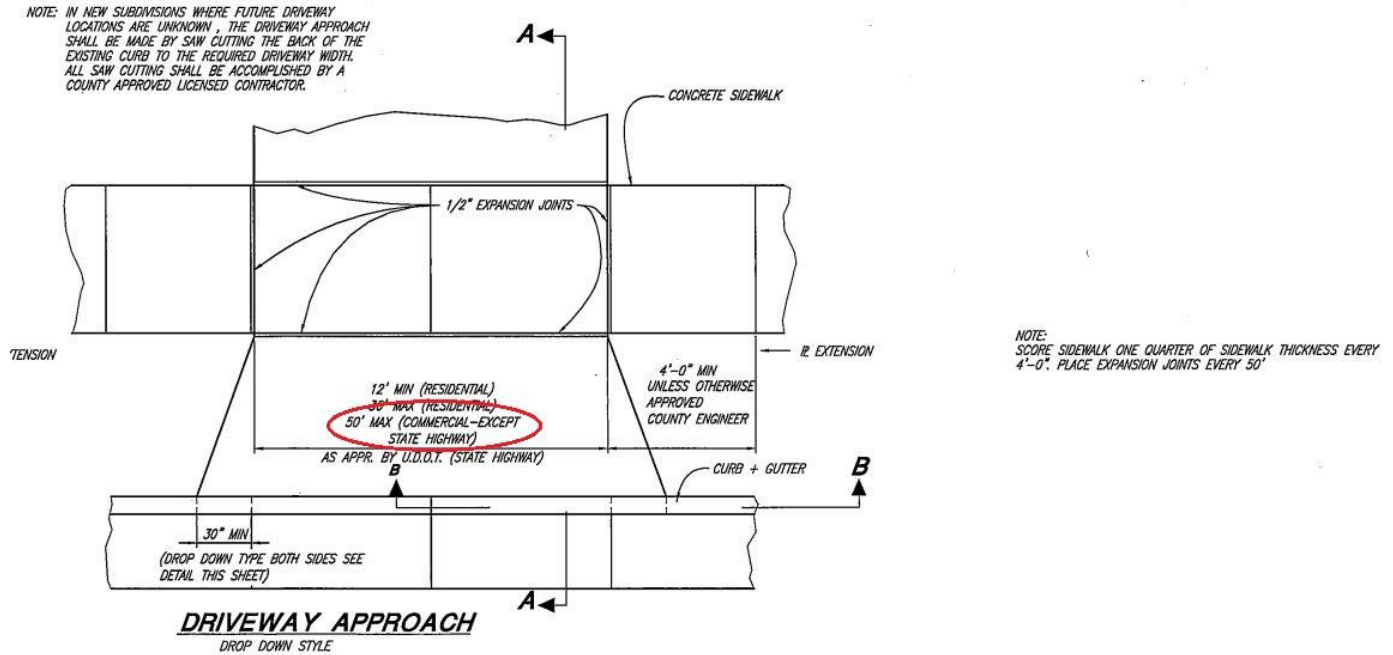
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z23-008, an ordinance text amendment based on the following findings:”

1. List findings for denial...

Please feel free to contact Destin Christiansen at 435-695-2547 if you have any questions.

CURRENT Driveway Approach Standard:



PROPOSED Driveway Approach Standard:

Inclusion of language into Driveway Approach detail that would say, "70' (Heavy Truck Traffic Areas)."

APPLICANT'S purpose of ordinance text amendment request:



Hansen and Associates, Inc.
Consulting Engineers & Land Surveyors

April 21, 2023

Re: Text Amendment - 70-foot entry for trucks

Currently Box Elder County has a road standard that has a maximum commercial driveway entrance width of 50 feet (attached). There's no explanatory code language, just the depiction in the road standards.

The proposed text/drawing amendment isn't to remove the 50-foot parameter but to allow a 70-foot opening under certain conditions and projects subject to heavy truck traffic. The proposed wording is:

70' (Heavy Truck Traffic Areas)

The reasoning is that standard semi-trucks (approximately 73 feet long) have an outer pivoting turning radius of 46 feet. Most entrances along County roads from the edge of pavement to the right-of-way line have a distance of only around 20 feet, which self-limits the turning radius. Off-site, along the County road, this causes trucks to naturally swerve into the on-coming traffic to not clip landscaping and entrance improvements. On-site, the 46-foot radius compels trucks to swerve into the outbound lane of the 50-foot entrance. Weather and other factors compound the issue.

The proposal isn't for retail enhancement but for legitimate heavy truck traffic areas.

Thank you for considering this request.

Respectfully,
HANSEN & ASSOCIATES, Inc.
Jim Flint, PE / PLS

Commissioners, at your request from the March Planning Commission meeting, attached is the map of the S-3 sign zone. Basically, it starts around Forest Street in Brigham City and goes North up I-15 all the way to the Idaho border near Portage. It also follows I-84 from where it splits off I-15 all the way to the Idaho border near Snowville. Below is the verbiage from the email (that was read in the meeting) I got from Tom Stephens. Basically, we are just wondering if you as a body feel it is necessary to do anything at this point. Let us know what you think.

Thanks much for the information. To give you some background, I have been working with Scenic Utah (scenicutah.org) on billboard issues here in Utah.

We very much recommend that your S-3 Sign Overlay Zone be amended to prohibit billboards – and we suggest that this be an urgent issue, as billboard companies continually search for willing property owners to do business with, especially along our interstates, and they find them.

Realities in dealing with billboards:

1. Municipalities earn very little or no direct tax revenue from billboards, as they are taxed as business personal property and are fully depreciated down to zero value at the end of 20 years.
2. Billboards here in Utah are essentially permanent structures, as state code governing outdoor advertising grants numerous super rights to billboard companies that preempt local decision-making, making it next to impossible to get rid of a billboard once a sign permit application has been received by your office.
3. Due to state code eminent domain language favoring billboards, neither the County nor the owner/lessor of the land will ever be able to remove a billboard without paying hundreds of thousands of tax or private dollars to the billboard owner. I can offer a recent, documented experience of one Utah municipality as to the exorbitant cost of a billboard removal, if you would like.
4. billboard land lease provisions makes terminating a lease very difficult – if not impossible. Even when the lease is successfully terminated, the billboard owner has the right to move the billboard to any commercial or industrial zone (regardless of whether billboards are prohibited in that zone), within a mile of its original location.
3. The County's conditional use permit requirement offers zero protection. State code conditional use language effectively makes it impossible to deny a billboard conditional use permit.
4. Perhaps most important, large billboards detract from the scenic beauty Box Elder County residents and visitors would otherwise enjoy.

