

BOX ELDER COUNTY PLANNING COMMISSION MINUTES AUGUST 20, 2020

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:

<i>Roll Call</i>		<i>the following Staff was present:</i>	
Laurie Munns	Chairman	Scott Lyons	Comm Dev Director
Mellonee Wilding	Vice-Chair	Marcus Wager	County Planner
Kevin McGaha	Member	Steve Hadfield	County Attorney
Michael Udy	Member	Jeff Scott	Commissioner
Desiray Larsen	Member	Diane Fuhriman	Executive Secretary
Bonnie Robinson	Member		
Jared Holmgren	Member		

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

The Invocation was offered by Commissioner Jared Holmgren.
Pledge was led by Commissioner Michael Udy.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the July 16, 2020 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Bonnie Robinson to approve the minutes as written. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

PUBLIC HEARINGS

Chairman Laurie Munns explained public hearings provide an opportunity for the public to voice their concerns or approval on an item. In the meeting there is also unfinished business, public hearings, and new business. The unfinished business and new business provides opportunity for the commissioners to take action on an item. It is not a time for public comment or input. Although the commissioners may ask questions of the applicant during these times. If these guidelines are not followed, you will be asked to leave the meeting.

UNFINISHED BUSINESS

MOTION: A Motion was made by Commissioner Mellonee Wilding to un-table Application Z14-002, the Moulding Zoning Map Amendment. The motion was seconded by Commissioner Desiray Larsen and passed unanimously.

MOULDING ZONING MAP AMENDMENT, Z14-002, Request to rezone 225 acres of property located approximately 8 miles southeast of Snowville, to the MSW Zone to create a Class 1 landfill operation. ACTION

Staff explained the applicant is requesting that approximately 225 acres be rezoned from Unzoned to the MSW (Municipal Solid Waste) zone to allow his property to be utilized as a Class 1 landfill. This application first came before County Staff on April 18, 2014 and before the Planning Commission on May 15, 2014. A public hearing was held and the item was tabled. The item returned in June 2014 and was discussed by the Planning Commission and was again tabled until the August 2014 meeting. In August 2014 the Planning Commission held a work session and a site visit with the applicant, the applicant's engineer, and some public attended as well. The item returned to the Planning Commission on August 28, 2014 and was tabled without a date at the request of the applicant and his attorney. The Planning Commission desires to bring the application back as unfinished business as it has been tabled for a very long time.

Commissioner Laurie Munns invited Randy Moulding and his attorney Matt Wirthlin to the table for a discussion. Attorney Wirthlin said in order to run a Class I landfill a state permit is needed. The state process is extremely involved but in December of 2019 the state permit was issued. It passed some very specific guidelines. In the process of issuing the state permit all of the concerns raised by the public had been thoroughly addressed. There were concerns with groundwater issues, wildlife issues and other environmental concerns, but we have gone beyond what even the state requires.

Commissioner Jared Holmgren asked what has been done on the county level. Attorney Wirthlin responded there has not been anything done on the county level because we were going through with the state permit. If we could not get the state permit, this would have been a waste of everyone's time. Commissioner Jared Holmgren stated if there isn't proper zoning this is also a waste of time.

Randy Moulding verified the Commissioners had received letters of support. Attorney Wirthlin stated there is concern of a potential conflict of interest with the chairpersons husband. Commissioner Laurie Munns deferred to County Attorney Stephen Hadfield. Attorney Hadfield stated he had independent council look into the matter and it was determined there is no conflict of interest.

Commissioner Laurie Munn explained there was a work session held on August 5, 2020 to remind and inform the Commissioners of what had taken place 6 years ago. The meeting was properly published and anyone from the public could attend.

Commissioner Mike Udy had a question on the ground water at the August 5th meeting. He had read several different reports and was curious if the state had done their own water study during the permitting process. He had asked staff to contact the state to see if they did their own water study. Staff said they do not do their own water study, they take their information from existing studies that various state departments have done over the years.

Commissioner Jared Holmgren stated at the August 5th meeting the Commissioners also discussed the objections made at the public hearings that were held. The public does not want Weber, Davis and Salt Lake Counties' garbage brought this direction. He is not surprised the two letters of support come from outside of Box Elder County for them to bring their garbage here.

Commissioner Kevin McGaha recalled the Commissioners did do a site visit about 6 years ago. Some of the landowners in the area indicated flooding is a problem. There has been 4 ft. of water on at least 2 different occasions in the past 35 years that would inundate the area. The BRWCD submitted a letter opposing the landfill. **Commissioner Bonnie Robinson** stated she remembers the engineer for the landfill design stating landfills always leak. She has deep concerns about contamination of the water for a little valley that does not have a lot of other sources of water.

Commissioner Mellonee Wilding read from the county code from 2014 when this request was generated that states no new municipal solid waste zones or expansion of existing facilities shall be located within a ground water primary recharge area, anything located over a sole source aquifer, or any ground water classified as drinking water. She sees that as a problem before this ever got started regardless of whether we have a corridor or public opinion. This item was already in trouble based on the 1971 water study, the new one commissioned, and the letter from the engineers from the BRWCD. She agrees that water is central to this issue.

Commissioner Kevin McGaha recalled discussion regarding the existing capacity of the landfill presently in Box Elder County. There are cells that can be opened and it has a 100-year lifespan which is more than adequate.

Commissioner Desiray Larsen questioned what criteria the Planning Commission is responsible to look at; her understanding of the primary reasons are this is a legislative decision based largely on public input gathered at public hearings and personal knowledge of different avenues within county code. The item that stands out to her from Box Elder County LUM&DC Section 2-2-060-A is that findings should be based on reasonably debatable standards.

Staff stated 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 General Plan recommends that industrial development be located adjacent to major transportation corridors (railroads and roadways) and public utility/service areas. It is recommended that industrial areas, where feasible, be annexed to municipalities to help cover costs of local services. The County's zoning regulations also include the flexibility, as specific cases may require, to locate industrial uses adjacent to raw materials or in isolated locations to maintain public safety. Regardless of the location, industrial uses will occur in a manner sensitive to adjacent land uses and the environment, including water and air quality.*

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 predominantly agricultural.*

C. The extent to which the proposed amendment may adversely affect adjacent property; *and The proposed amendment will likely have an adverse effect on adjacent property. Despite being a public necessity landfills are generally considered a nuisance and devalue adjacent properties. The public hearing process brought forth additional concerns such as water contamination, blowing litter, smells, traffic, wildlife impacts, flooding, etc.*

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 use would have minimal, if any impact, on parks and recreation facilities, police and fire protection, schools, and storm water drainage systems. The applicant would need to prove water supplies as well as improve roadways in order to ensure these facilities are adequate to serve the project. Proof of these facilities is required prior to approval of a conditional use permit, site plan, development plan, or building permit.*

Commissioner Bonnie Robinson said there is definitely concern about water, litter, smells, traffic, and flooding. All of these things could be in opposition to the Planning Commission review standards; that seems to be enough for the commission to be highly concerned about approval.

Commissioner Mellonee Wilding stated petitions exist with more than 300 signatures in opposition to this proposal. Hansel Valley does not have that many citizens so this is an issue for the greater county area. It is not just a concern for the citizens of Hansel Valley. There was the water district in Snowville, the BRWCD, government leaders from Bear River and Tremonton expressing their concern. She feels this is a great concern to a lot of citizens.

Commissioner Jared Holmgren said there is a letter on file signed by every mayor in the county in opposition to this proposal.

MOTION: A Motion was made by Commissioner Jared Holmgren to forward a recommendation of denial to the County Commission with overwhelming opposition for application Z14-002, a zoning map amendment from the Unzoned to MSW zone based on the following findings: public opposition, aquifer recharge area issue, elevation of the watershed being prone to flash flooding, it is a known seismic zone, adverse effect on neighboring properties, property values and future growth of the area. The motion was seconded by Commissioner Mellonee Wilding and discussion followed.

AMENDMENT:

An amendment to the motion was made by Commissioner Mellonee Wilding to include that there is no existing need for an additional landfill in Box Elder County and residents have expressed their displeasure with the idea. The amended motion was seconded by Commissioner Jared Holmgren and passed unanimously.

SECOND AMENDMENT:

A second amendment to the motion was made by Commissioner Kevin McGaha to include that the proposal is not harmonious with the general plan and presentation of Box Elder County along the I-84 corridor not being pristine and beautiful.

MOTION: The original motion by Commissioner Jared Holmgren was amended to include both the amendment by Commissioner Mellonee Wilding as well as the second amendment by Commissioner Kevin McGaha. The motion was seconded by Commissioner Mellonee Wilding and passed unanimously.

PUBLIC HEARINGS

HIRSCHI CONDITIONAL USE PERMIT, CUP20-04, Request for a Conditional Use Permit for an Accessory Dwelling Unit, located at approximately 5305 West 17600 North in the Fielding/Riverside area of Unincorporated Box Elder County. ACTION

Staff stated the applicant is requesting a Conditional Use Permit for an Accessory Dwelling Unit on the property located at 5305 West 17600 North in the Fielding area. The existing home is 3200 square feet in size and the accessory dwelling unit is proposed to be 1260 square feet. The applicant will adhere to both sections of code that regulate Accessory Dwelling Units as a conditional use. The ADU could potentially be up to 1280 sq. ft., this is under at 1260 sq. ft. Also the ADU shall be compatible with the exterior color and materials of the principle dwelling, which will be looked at during the building permitting process. The applicant has stated they will use similar materials.

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

Hearing no comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Hirschi Conditional Use Permit, CUP20-04. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

ACTION

Staff recommends approval of the Conditional Use Permit.

MOTION: A Motion was made by Commissioner Mellonee Wilding to approve application CUP20-04 a Conditional Use Permit for an Accessory Dwelling Unit and adopt any conditions and findings of staff. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

SIMMONS ZONING MAP AMENDMENT, Z20-006, Request for a zone change from the RR-2 (Rural Residential 2 acres) zone to the RR-1 (Rural Residential 1 acre) zone, located at approximately 16230 North Beaver Dam Road in the Beaver Dam area of Unincorporated Box Elder County. ACTION

Staff stated the applicant is requesting that 3.45 acres be rezoned from RR-2 (Rural Residential 2 acre) to the RR-1 (Rural Residential 1 acre) zone. The applicant desires to build a second home on the property for a relative and is 0.55 acres short of the required minimum to have two lots in the current RR-2 zone. The surrounding areas zoning is RR-2 and RR-2/MU-40.

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

Hearing no comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Simmons Zoning Map Amendment, Z20-006. The motion was seconded by Commissioner Michael Udy and passed unanimously.

ACTION

Staff read the approval standards for zoning map amendments as follows:

A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan; The County General Plan states that County will encourage and support design and development strategies that preserve open space, particularly those developed to preserve agricultural land. It also states that future land use decisions will consider the following: maintaining the current quantity and quality of public services and facilities through balancing growth and development with facility/service capacity e.g. water, sewer, waste disposal, transportation and roads, law enforcement, emergency services; protecting rural, agricultural, mineral, wildlife and other County interests or traditional land uses; promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests. It is the County's position that future residential development should complement other County interests and be located in areas that are compatible with adjacent land uses.

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 predominantly rural residential. Along this stretch of Beaver Dam Road approximately 40% of the homes sit on parcels less than two acres in size.

C. The extent to which the proposed amendment may adversely affect adjacent property; and The proposed amendment will not likely have an adverse effect on adjacent property. There are many homes along the same stretch of road that sit on less than two acre parcels currently. 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. The proposed change would have minimal impact on parks and recreation facilities, police and fire protection, schools, and storm water drainage systems. Bear River Water Conservancy District recently upgraded their system in this area. Rocky Mountain Power also has infrastructure in this area. The applicant would need to prove water supplies as well as other utilities in order to ensure these facilities are adequate to serve the project. Proof of these utilities is required prior to approval of a subdivision or building permit.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for application Z20-006, a zoning map amendment from the RR-2 zone to the RR-1 zone and adopting the conditions and findings of the staff report. The motion was seconded by **Commissioner Desiray Larsen** and passed unanimously.

NEW BUSINESS

FREEMAN FARMS SUBDIVISION, SS20-023, Request for preliminary approval for a 20-lot subdivision located at approximately 10120 North 6800 West in Unincorporated Box Elder County. ACTION

Staff said the applicant is requesting preliminary approval of the Freeman Farms Subdivision plat. The proposed subdivision is 20 new lots ranging in size from about 1.5 acres to just under 2 acres and totals 34.31 acres in size. Adjacent land uses are Rural Residential/Agriculture to the north and west of the parcel, to the south is Industrial, and east is Agriculture. Access will be off 6800 West and there will be a new road designated as 10125 North. All applicable county departments have been reviewing the request and are working with the applicant's surveyor. A new plat was received today and there are construction drawings associated with the new road that staff is waiting on. Staff feels they are far enough into the application to recommend preliminary approval.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to approve the Freeman Farms Subdivision SS20-023 subject to the conditions and findings of staff. The motion was seconded by **Commissioner Jared Holmgren** and unanimously carried.

ROSE AGRICULTURAL SUBDIVISION, AS20-007, Request for approval for dividing a single family home off of agricultural land located at approximately 16390 North 4400 West in the Fielding area of Unincorporated Box Elder County. ACTION

The applicant is requesting an agricultural subdivision to separate the home from the agricultural land. The land is located in an unzoned area located at 16390 North 4400 West in Fielding area of

unincorporated county. Currently the parcel is 10.56 acres in size and the new parcel for the home would be 5.5 acres. The applicant has submitted a survey and the county surveyor has reviewed it.

Land Use Ordinance Standards Review:

Utah State Code 17-27a-605(1)(5) outlines the following standards for review for agricultural subdivisions

17-27a-605(1)(b) the proposed subdivision:

- A. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; *Yes.***
- B. Has been approved by the culinary water authority and the sanitary sewer authority; *Yes.***
- C. Is located in a zoned area; *Yes.***

D. Conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance. *Yes.*

17-27a-605(5)(a)

- A. The parcel contains an existing legal single family dwelling unit; *Yes.***
- B. The subdivision results in two parcels, one of which is agricultural land; *Yes.***
- C. The parcel of agricultural land:**
 - a. Qualifies as land in agricultural use under Section 59-2-502; and**
 - b. Is not used, and will not be used, for a nonagricultural purpose; *Yes.***
- D. Both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; *Yes.***
- E. The owner of record completes, signs, and records with the county recorder a notice:**
 - a. Describing the parcel of agricultural land by legal description; and**
 - b. Stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zone change permits another use.**

This is done with the Certificate of Approval from the Planning Commission.

MOTION: A Motion was made by Commissioner Jared Holmgren to approve application number AS20-007, an agricultural subdivision with a single family dwelling, and adopting the findings and conditions of the staff report and pending the updated legal description for the Certificate of Approval. The motion was seconded by Commissioner Kevin McGaha and unanimously carried.

ROCKET SOLAR LLC SITE PLAN, SP18-005, Request for an extension of approval for a solar farm located at approximately Golden Spike Dr. and HWY 83 in Unincorporated Box Elder County. ACTION

Staff explained the applicant is requesting a 2nd extension of approval for a Site Plan that was approved on January 17, 2019 and extended on November 21, 2019 for an 80 megawatt solar farm on 558 acres located at approximately Golden Spike Dr. and HWY 83. County Code Section 2-2-040-I allows for extensions of approval. The total period of time granted by any one (1) or more extensions for a given application shall not exceed twice the length of the original time period.

The applicant has had one extension and according to code, this time it would double the original time frame and would be their last extension. The new dates for the commencement of the project would be Jan 22, 2022 with substantial completion by Jan 22, 2024.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to approve the extension for application number SP18-005, a site plan for a solar farm and adopting any conditions and findings of staff. The motion was seconded by **Commissioner Mellonee Wilding** and unanimously carried.

STEEL SOLAR SITE PLAN, SP19-003, Request for an extension of approval for a solar farm located at approximately 6500 West 20800 North in the Plymouth area of Unincorporated Box Elder County. ACTION

Staff explained the applicant is requesting an extension of approval for a Site Plan that was approved on August 8, 2019 for an 80 megawatt solar farm on approximately 900 acres located at approximately 6500 West 20800 North. The new dates would be August 8, 2021 for commencement construction and August 8, 2023 for substantial completion.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to approve the extension of time for application number SP19-003, a Site Plan for a solar farm, adopting the conditions and findings of staff and Steel Solar shall provide appropriate warning signs be placed at the entrance and perimeter of the solar power plant project. The motion was seconded by **Commissioner Jared Holmgren** and unanimously carried.

WORKING REPORTS - NONE

PUBLIC COMMENTS - NONE

ADJOURN

MOTION: A Motion was made by **Commissioner Mellonee Wilding** to adjourn commission meeting. The motion was seconded by **Commissioner Jared Holmgren** and the meeting adjourned at 8:26 p.m.


Laurie Munns, Chairman
Box Elder County Planning Commission

