

BOX ELDER COUNTY PLANNING COMMISSION MINUTES NOVEMBER 19, 2020

The Board of Planning Commissioners of Box Elder County, Utah met via a Web/Teleconference 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 Mellonee Wilding.

Citizens attended via electronic link access.

The Minutes of the August 5, 2020 Work Session were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Mellonee Wilding to approve the minutes as written. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

The Minutes of the October 22, 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 Michael Udy and passed unanimously.

The Agenda of the November 19, 2020 meeting was made available to the Planning Commission prior to this meeting and upon review a **Motion** was made by Commissioner Bonnie Robinson to approve the agenda. The motion was seconded by Commissioner Desiray Larsen and passed unanimously.

UNFINISHED BUSINESS - NONE

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.

ZONING MAP AMENDMENT, Z20-009, Request for a zone change for 66.71 acres from MU-160 (mixed use 160 acres) and RR-5 (rural residential 5 acres) to RR-5 (rural residential 5 acres), located at approximately 4575 North 1000 West on parcel: 04-035-0021 in the Harper Ward area of Unincorporated Box Elder County. ACTION

Staff explained the applicant is requesting 66.71 acres be rezoned from MU-160 (Multiple Use 160 acres) and RR-5 (Rural Residential 5 acres) to just the RR-5 zone.

Staff reviewed the guidelines for rezones from Section 2-2-080-E of the Box Elder County LUM&DC as follows:

Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan; The County General Plan states the 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: a) 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; b) protecting rural, agricultural, mineral, wildlife and other County interests or traditional land uses; c) promoting development patterns consistent with, and sensitive to, resident preferences; and d) 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 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 and agricultural uses. Along this stretch of Hwy 38 most of the homes are located along the highway frontage, with a few exceptions.

C. The extent to which the proposed amendment may adversely affect adjacent property; It is debatable if adjacent property owners would be adversely affected. The Harper Ward area has stated in the past that they are in favor of 5-acre zoning. 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 utilities that would service this area are mostly along Hwy 38 and 4575 North/1100 West – it would be the developer's responsibility to extend any services/utilities that would be needed for a development of any size.

Staff indicated the main problem with this property is it would require at least a 60 ft. right-of-way for any development over 1 additional home. Currently there is one home (Ryan Jones) that has a 20 ft. right-of-way access. This was done before our current road standards were adopted. At this point, there could be 1 more home if that access was increased to at least a 30 ft. right-of-way, but if more homes were to be built, a 60 ft. right-of-way would be required.

Any future development would have a few options and all contingent on other property owners. The first would be where the 20 ft. right-of-way currently exists. The two homes near Highway 38 would still need to meet setbacks if additional right-of-way is to be purchased there. Staff is unsure if there is enough room at this location. A second option would be through what is now owned by Karl Bodily. This option would require the Cedar Springs PUD subdivision to be amended to provide for a right-of-way through it. The last option would be to continue 1100 West to the North, then East through the Treir Allen property, then back South into the applicants property.

Staff emphasized that any of these options would require the cooperation of neighboring land owners. If the developer cannot find a way to get a right-of-way up to this property, they would not be able to develop it.

The public hearing was then opened for comments.

Shawn Bingham stated he does not want a lot of development in the area. There is no access, no water, and no sewer, so there would be a lot of homes on septic tanks above existing homes. The Multiple Use zone that it is now, is what it needs to be and is not suitable for housing. There is wildlife and agriculture there now and the Multiple Use zone protects those and keeps them from being developed. The access will also increase traffic going past his house on an undeveloped road creating dust. There is no benefit to the surrounding landowners. When subdivisions move in the farmers move out. People want to get out of the city but don't like the smell of the country. He said it is the farmers who end up leaving and with no farms - no food. No habitat - no wildlife. The bench area is a winter range for deer herds and if housing is developed, there is no place for the deer herds to go. Mr. Bingham restated he is against any housing development there.

Tamara Forsyth echoes what Mr. Bingham said. She said it is her understanding developing the dirt road that runs along her property would eat into her property and would reduce her property to below the zoning requirements. She is also concerned with development affecting her well-water.

Treir Allen said there are some delicate waterways going through the property being discussed that would be affected by changing to 5-acre parcels. There are also waterways with wells and a spring piped through that property. He said there are springs and wells fed to his home which would be affected by any septic systems. He is against this process because these things would affect his family. There are also delicate power lines through the area. It seems every time there is a cloud in the sky, the power goes out. If more home are connected there will be more power outages.

Ryan Jones' main concern is putting the cart before the horse by changing this to 5-acre residential lots without any access. Until adequate access is confirmed he feels RR-5 is the wrong way to go. There are also two water lines feeding several homes there and the piping has been there since 1944. He feels these issues need to be addressed for the people who depend on those water lines coming through. He said he has tried to get a well permit for the last two years because Bear River Water has not been able to provide water from mid-July to mid-September. He has had to put in a SIS pump to reach down the pike and pull it up because the pressure drops when everyone is watering lawns. If more homes are added there will be more problems with getting water to them.

Dixie Rasmussen stated she is against this. She has a well on the property where the easement would be which would be adversely affected if the road is put through there.

Ray Blanchard commented about the utilities; he sees trying to get utilities up to the property as a disaster. The bridge over the canal leading to 1100 West is crumbling. Any more traffic on the road is going to cause the bridge to collapse. Snow removal is also going to be a problem. He does not see how it would ever be done by the county without taking someone's property to get the snowplow trucks up there. He agrees with those who have spoken before and feels it is a bad idea.

Staff read an email submitted by Merlin and Jeanine Mitchell as follows: Having followed future Box Elder County development plans and having participated in recent surveys, I am opposed to this rezone. As Planning Commission members, you represent planning decisions for the benefit of Box Elder County as a whole. This potential rezone has many disadvantages for neighbors and for the county with virtually no benefit unless increased taxes are considered the sole benefit. The disadvantages include increased traffic on a dirt road and Highway 38, dust generation emanating from a dirt road, right-of-way issues, sewage effluent running downhill, lack of water provided by BRCD, loss of open space, loss of wildlife habitat, etc. Please maintain zoning requirements as presently constituted for the benefit of Box Elder County and its residents. Please let me know if additional input is required.

Jared Clark addressed the concern of being forced to give up some land in order to give access for any development. He does not think that is the way it works. He said one of the biggest concerns in developing this property is it has no access and there is no way to force anyone to give it access. This should not be a concern for any of the neighboring property owners. If the parcel could be broken into smaller parcels there is the possibility of getting an easement and being able to use the property for something. Land could be exchanged to compensate for any land given up for an easement. Access cannot be forced but could open some doors for people to get some extra land in exchange for an easement or to allow access to occur. There are 240 acres above this parcel that are landlocked. By allowing this land to be used, the landlocked parcel could be used as well. This land is next to a wildlife preserve in the sense the Wellsville Mountains are protected. There are also 5-acre lots on all sides of this property. He thinks trying to preserve this parcel as an 80-acre parcel when everything around it is less than that shows favoritism to this particular parcel. He has a will-serve letter from the Bear River Water Conservancy District based on the condition the developer would need to create all the infrastructure. As a condition of any development the county would require the infrastructure to be upgraded and the road to be improved, but he does not think these are issues for a rezone discussion. He feels the waterways and sewer issues would also be better discussed during the subdivision process. He said this property is a unique situation and could be more than it currently is and we are just asking the Planning Commission for the opportunity.

Ryan Adams has property bordering the acreage being discussed. He farms full time and is very passionate about farming and ranching. He feels the zoning and what his forefathers went through developing springs, and what was done to protect agriculture and wildlife needs to be preserved, and echoes what others have said in that regard. Mr. Adams referred to what Jared Clark mentioned about property owners potentially gaining from this rezone but he wants to protect the land he already has. Protecting ranching is a precious thing to him. The Harper Ward Irrigation Company

was also mentioned and the availability of water. That water is very valuable to the crops. If wells are drilled there, who is to say that won't tap into aquifers and affect our springs. He has been told by Rocky Mountain Power the grid along Highway 38 is at maximum capacity. He emphasized protecting agriculture and the zoning that has been put in place for protection. He opposes the rezone and thinks there are better places to develop. He feels like we would be going backwards if they go forward with this.

Ryan Jones asked about a different zoning. If Mr. Hawker is concerned about doing something with less than 160 acres which is required in the MU-160 zone, what about an A-20 zone or some other zone to be able to do something with the property?

Hearing no further comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on Zoning Map Amendment Z20-009. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

ACTION

Staff explained county code allows for rezones. If this were to be rezoned it would still have to go through the approval process for subdivisions, additional property would need to be acquired for road access for this parcel, and all the utilities i.e. power, water, and gas would need to be brought to the development at the developer's expense. Staff has provided the Commissioners with three options to either recommend approval, table, or denial.

Commissioner Bonnie Robinson asked about the slope of the property. Jared Clark could not recall the exact slope of the property but said he talked to a civil engineer who said the road would need to run north to south to stay within the gradation requirements for roads.

Commissioner Laurie Munns asked how many acres of the parcel are currently in the RR-5 zone? Staff replied the total acreage of the parcel is 66.71 and because there are two zoning designations on this parcel, whichever zoning designation has the bigger percentage of the parcel, rules the whole parcel. Regardless of how much RR-5 is on the parcel currently does not matter because MU-160 rules the whole parcel.

Commissioner Bonnie Robinson asked if there was a road standard regarding the number of homes and the road being paved or if it can remain a gravel road? Staff said if the road is coming off a paved road then it has to be paved, if the road is coming off a gravel road the road can be gravel.

Commissioner Mellonee Wilding stated people are afraid of having their property taken but it does not work that way with subdivisions. The developer has to get the access, the county is never coming in to take it for a right-of-way. Staff said the County is not interested in eminent domain.

Commissioner Laurie Munns asked if this is the time to do a rezone? She is concerned there is no access and deferred to staff to verify if the commissioners do the rezone and then the access, or does the commission table it until access is made? She is unsure what direction to go at this point.

County Attorney Stephen Hadfield said it could go either way. A rezone could happen before development and the development figured out later. However approval standards refer to adequacy of facilities including roads and electricity as a basis for a rezone. It could be said that is one of the factors and that factor is not met, or the rezone could be done and allow all the problems to be worked out when the development goes in. The drawback to that is if the rezone is allowed and the development is not going in, then the question becomes why was the rezone done in the first place. If it is decided the rezone should not happen it needs to be based upon a reasonably debatable standards.

Commissioner Mellonee Wilding verified if the rezone is denied the developer can get access and then come back before the commission. Staff replied the developer would have that option but if they were to ask for a RR-5 rezone again, they would have to wait 6 months.

Commissioner Mellonee Wilding said the rezone is in harmony with the surrounding properties and utilities are already there. Everything else is within the parameters of what the Commission normally approves but access is a serious concern. She feels it is putting the cart before the horse and would be irresponsible of the Commission to approve a zoning change in the middle of nowhere because nothing can be done with any of the lots.

County Attorney Stephen Hadfield asked staff to clarify if one more home is built is the 20 ft. access sufficient or is it already insufficient for access. Staff said 20 ft. has not been sufficient since 2010 when the county adopted the new road standards. The home there was built before 2010 but the road is not sufficient for even one more home to be built.

MOTION: A Motion was made by Commissioner Mellonee Wilding to table Application Z20-009 a zoning amendment from MU-160 to RR-5 and give 6 months to the applicant to resolve the concerns of water, road slope and access, (which plays into the review requirement of are services available adequate for the zoning change). The motion was seconded by Commissioner Bonnie Robinson and passed unanimously.

NEW BUSINESS

HARVEST POINT ESTATES SUBDIVISION, SS20-034, Request for Preliminary approval for a 20 lot subdivision located at approximately 10400 North 7600 West in Unincorporated Box Elder County. ACTION

Staff said the applicant is seeking preliminary plat approval. There are 20 new lots being proposed ranging in size from 0.80 acres to 14.42 acres. The two existing parcels total 150.24 acres. The subdivision would leave two large interior parcels for agricultural use. The new lots would front on 10400 North and 10000 North. The area is Unzoned and minimum parcel size is ½-acre. Surrounding land use to the north, south and east is Rural Residential/Agriculture and to the west is Agriculture. Letter for all the utilities have been submitted and the applicant owns sufficient water through the West Corinne Water Company. Staff is waiting for a ground water report as well a water pressure report but is comfortable with the Planning Commission approving the preliminary plat subject to the conditions listed in the staff report.

MOTION: A Motion was made by Commissioner Jared Holmgren to approve the Harvest Point Estates Subdivision SS20-034, a preliminary plat for the Harvest Point Estates Subdivision and adopting the conditions and findings of staff. The motion was seconded by Commissioner Kevin McGaha and unanimously carried.

CONDITIONS:

1. Compliance with all County Staff reviews and comments.
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. Submittal of groundwater report and water pressure report.
5. Compliance with County Engineer, Fire, Roads, Planning & Zoning requirements as part of Final Plat.
6. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits,

ROCHE SUBDIVISION FIRST AMENDMENT, SS20-037, Request for an amended subdivision approval located at approximately 11185 West 10400 North in Unincorporated Box Elder County. ACTION

Staff explained the applicant is requesting to amend the Roche Subdivision with the approval of the Roche Subdivision First Amendment. The original subdivision was recorded on July 7, 2016. The owners now wish to have the back section of the property in agricultural use only and not be a part of any lot. This amendment also squares up some of the property lines between the parcels. The reason this cannot be done through an agricultural subdivision is because it was done as a subdivision originally and as such the subdivision has to be amended. Surrounding land use to the north and west is Rural Residential/Agriculture, to the south and east is Agriculture. Access would be maintained along 10400 North or Highway 102. Any future change in use will require a permit from UDOT. Utilities to the property currently exist and were approved as part of the original subdivision and all setbacks are currently being met. This amendment will not change the future ability to meet setback requirements. This proposal has been through all applicable county departments and is ready to be approved by the land use authority which in our case for amended subdivisions is the Planning Commission.

MOTION: A Motion was made by Commissioner Bonnie Robinson to approve Application SS20-037, amending the Roche Subdivision and adopting the conditions and findings of staff. The motion was seconded by Commissioner Mellonee Wilding and unanimously carried.

WORKING REPORTS – NONE

PUBLIC COMMENTS - NONE

ADJOURN

MOTION: A Motion was made by Commissioner Bonnie Robinson to close the November 19, 2020 Planning Commission meeting. The motion was seconded by Commissioner Desiray Larsen and meeting adjourned at 8:36 p.m.


Laurie L. Munns
Laurie Munns, Chairman
Box Elder County Planning Commission