

BOX ELDER COUNTY PLANNING COMMISSION AGENDA

February 16, 2017

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 C. Munns, D. Larsen, K. McGaha, M. Udy, L. Munns, B. Robinson, and M. Wilding)
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL** of the January 19, 2017 Planning Commission Minutes.
5. **PUBLIC HEARINGS - None.**
6. **NEW BUSINESS**
 - a. **VAC17-001, ROAD VACATE**; Vacate alley-way between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 N 5300 W in the Riverside area of Unincorporated Box Elder County. (**ACTION**)
 - b. **SPD 17-01 DISPOSAL OF SURPLUS PROPERTY**, alley-way between parcel numbers; 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County (**ACTION**)
 - c. **AS17-001, COLE SELMAN AGRICULTURAL SUBDIVISION**, located at approximately 11575 North 4400 West in the Tremonton area of Box Elder County dividing 2.15 acre with a single family dwelling off 9.36 acres leaving a 7.21 acre agricultural parcel. (**ACTION**)
7. **UNFINISHED BUSINESS**
 - a. **PROMONTORY POINT RESOURCES, SP16-001 & CUP16-002, SITE PLAN AND CONDITIONAL USE PERMIT** to construct a non-hazardous landfill to be located on Parcel 01-012 (**ACTION**)
8. **WORKING REPORTS**
9. **PUBLIC COMMENTS**
10. **ADJOURN**

BOX ELDER COUNTY PLANNING COMMISSION MINUTES January 19, 2017

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>following Staff member were present:</i>	
Chad Munns	Chairman	Scott Lyons	Com Dev Dir.
Laurie Munns	Vice-Chairman	Marcus Wager	Planner
Kevin McGaha	Excused	Elizabeth Ryan	Exec. Secretary
Michael Udy	Member	Steve Hadfield	Co. Attorney
Bonnie Robinson	Member	Jeff Scott	Co. Commissioner
Desiray Larsen	Excused	Bill Gilson	Co. Road Dept.
Mellonee Wilding	Member		

Prayer was offered by **Commissioner Laurie Munns**
Pledge was led by **Commissioner Bonnie Robinson**

The following citizens were present & signed attendance sheet

DeAnna Hardy/Brigham	Dennis Poulsen/Snowville	Tim T. Munns/Hansel Valley
Bob & Ronda David/Willard	Matt Prescott/Providence	Brent Rupp/Tremonton
Eythan Prescott/Providence	Jim Flint/Brigham	Brett Snelgrove/Salt Lake
Caleb Moore/Salt Lake	Chuck Earl/Fielding	Houston Earl/Fielding
Marta Earl/Fielding	David Lloyd/Brigham	Diane Fuhriman/Brigham
Pam Larkin/Willard	Jaxon Larkin/Willard	J D Anderson/Willard
Jerry Anderson/Willard	Jon Z. Thompson/Deweyville	Charlie Young/Promontory
Jim Thiros/Layton	Brandy Fowler/Willard	John J. Larkin/Willard
Taylor Anderson/Willard	Kevin Garn/Fielding	Chad Reid/Honeyville
Jason George/Honeyville	Brent Kelsey/Honeyville	Robert Adams/Brigham
LuAnn Adams/Brigham	Kris Udy/Promontory	Boyd Udy/Promontory
Randy Moulding/Faust Valley		Jim & Kathy Johnson/Willard
Blaine Rupp/Tremonton	Gabriel Blackhelm/Perry	Jerold Holmgren/Tremonton

The Minutes of the December 15, 2016 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to accept the Minutes with one change; seconded by **Commissioner Laurie Munns** and passed unanimously. **Commissioner Bonnie Robinson** also noted that the planning commission's secretary, Elizabeth Ryan, would be retiring and as this was her last meeting with the commission, wanted to extend recognition and thanks for her years of service.

Chairman Chad Munns informed those present that the Scott Marsh, Blue Ox Development re-zone in South Willard had been taken off of the agenda for this meeting at the request of the petitioner.

PUBLIC HEARINGS

Chairman Chad Munns called for the public hearings on the agenda by informing those in attendance that each item would be handled separately, and that the time for the hearings was to allow the public the opportunity to voice any concerns and that the Commissioners would listen to the comments and concerns. After the public hearing on an item the Planning Commissioners would then discuss and take action on the item.

BOB & RONDA DAVIS, Z16-013, RE-ZONE PROPERTY LOCATED AT APPROXIMATELY 1100 WEST 7800 SOUTH IN THE SOUTH WILLARD AREA FROM THE CURRENT A20 TO RR-2.

Staff told the commissioners that this petitioner was requesting a zone change for his property located on parcel 01-041-0028 in the South Willard area of the county, which is currently zoned as A-20 (agricultural 20 acre parcels) to RR-2 (rural residential two acre parcels). The property surrounding this parcel is also zoned as A-20 except for the area east of I-15 is zoned as R-1-20 (half acre building lots). Staff then referred to the review standards (as outlined in the BECLUM&DC Section 2-2-080 E) that are used when a zoning map amendment is requested.¹

- a. *“Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan.*
- b. *Whether the proposed amendment is harmonious with the overall character of existing development I the vicinity of the subject property.*
- c. *The extent to which the proposed amendment may adversely affect adjacent property.*
- 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”.*

Staff also noted that there is a South Willard Community Plan that was adopted some years ago and it states that the existing zoning in this area should remain as it is for the future. Currently this area and surrounding is a combination of residential, commercial with a livestock auction and agricultural. There was also some reservation regarding the roads and if they were adequate for servicing two acre zoning at this time. **Chairman Chad Munns** then opened the public hearing for any comments.

Mr. John W. Larkin from South Willard said that there are only a few houses in that area and that he and his family own the majority of the property noting that the area consists of quite wet ground to build houses on. He also feeds a lot cattle about two miles from this proposed zone change and there is land all around that he hauls manure on. He also noted that he buys a lot of agricultural products from Box Elder County and has many truckers that work for him and has spent a lot of money on agricultural equipment in the county. He did not want to see any of the area re-zoned to the RR-2 as it has been agriculture for many, many years and thought that it would not be a good idea to build houses there as there is no culinary water and did not think the land would perk very good for septic systems with the health department. He said that he has been there a long time and was opposed to the re-zone. The feed lot has been in the area since 1963 and they buy a lot of cattle in Box Elder

County and from around the country and those cattle are all processed at Hyrum Utah and there is a lot of commerce coming from the operation. He needs that yard to keep going and there are also ranches in Nevada that come here for finishing. They are a pretty big operation out there and if people are allowed to come in there will be problems with the agricultural part of it; airplanes flying to spray for pest control and hauling manure and the new auction barn that is located there. There were many other auction barns, but those are no longer around and this is the only one in Northern Utah. Although he said that he does not go to auctions, as he buys in truckloads, they are still a critical necessity for the smaller operations. On auction day there are a lot of trucks and trailers coming and going from this area. He pays a lot of taxes in the county and produces a lot of revenue for other people in the county and thought that the auction barn needed to be taken into consideration with the re-zone.

Mr. Bob Davis, the petitioner said that his family has been in this area for a long time, having had his grandfather building a home in Willard in 1861. He said that he didn't think that he was asking for anything that was breaking the law, but that if you have children then you need places for them to build houses. There are parcels that are two acres and six acres around his property and he didn't think there was anyone else there that owned a twenty acre parcel other than him and his wife. All the rest were owned by corporations. He said that they weren't wanting to change anything in the area other than to have a place for their kids to be able to build a home and not have to mortgage a lot of land with a house on it to the bank. That was the main objective of this request. In regards to the road, he felt that they were adequate and the health department would address the septic systems and what was required for them. They don't want to cause any problems to anyone else. There are provisions for water under the clean water act.

Ms. DeAnna Hardy, Brigham City quoted the Constitution of Utah saying "*Section 1. [Inherent and inalienable rights.] All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property,*"...had a hard time with citizens having to come and ask for permission to do what they wanted with their own property as long as it was not hurting anyone else. The people are losing the ability to govern themselves. We have to go before an appointed board as none on the planning commission were elected but appointed and that is another problem as there are elected representatives that people go before to ask, not for things like this, but she had a hard time with people having to ask for permission for a re-zone and permission for use of their land. She asked the commissioners to take that into consideration and to think about the individuals constitutional rights.

Mr. Taylor Anderson, with Anderson Livestock Auction wanted to clarify that there were no six acre parcels but that the smallest was thirteen acres on that side of the road and noted that John Larkin owns most of that property. Also, the only culinary water that is available is with wells and they need to be permitted properly, and not for forty houses or whatever may be going in there. He also said that they moved out into the country to get away from the houses because with the livestock auction there is a lot of noise, manure, flies and they are not bothering anyone. Bob Davis does have a duplex across from the auction barn that is on one of his twenty acre pieces and has been changed into a four-plex and that is

probably more than what is allowed in the area. He would hate to see it turn into a lot of houses where others are trying to make a living with agricultural uses. At the auction they are not selling commercial but livestock which is agriculture. Just want to make sure that they are protected in their uses also.

Mr. John J. Larkin, Jr., works in the family business in the area and was concerned with putting a lot of houses there, those residents would be bugging them; did not see that there was any protection for them to do what they have been doing for many years. If they didn't stand up and say that this re-zone wouldn't impact them it would be stupid on their part. There is not enough ground in that area to accommodate a lot of houses. It would be a trickle-down effect, with first having two houses and then pushing and pushing until the agricultural use is gone from this area. It is happening throughout the world and needs to be stopped now.

Ms. Ronda Davis, petitioner, said that they were asking for two acre agriculture lots in the re-zone.

The public hearing was then closed with a motion by **Commissioner Laurie Munns** and seconded by **Commission Bonnie Robinson**, passed unanimously.

ACTION: The Commissioners discussed the availability of water and also the road in the area of this re-zone. Mr. Bill Gilson, County Road Supervisor said that this road is more of a frontage road known as 1100 West and that Bob Davis is currently taking care of plowing any snow. It is a state road and falls within the public right-of-way. Commissioner Bonnie Robinson asked what would become of the road if the re-zone was approved, who would take care of it. This road can be accessed from a paved county road 7800 South and is in front of the auction barn. Staff said that the requested re-zone is RR-2 which is rural residential two acre lots. There would be a potential for 14 lots if approved and if approved for a subdivision roads would probably be part of that also. Any developer would be responsible for improvements to existing roads and new roads, bringing up to county standards. The road by the Anderson Livestock is currently a double-chip seal and has held up well. **Commissioner Mellonee Wilding** said that her main concern was with the overall character of the area and did not feel that this re-zone was conducive with the South Willard Plan. **Commissioner Laurie Munns** recalled that when Anderson Livestock was asking to locate in this area there were some issues with the duplex across the road and that they (Bob Davis) wanted to have a fence or some type of buffer that would help with the dust control generated by traffic coming to the auction weekly. Wondered if everyone that built a house in that area would request the same. Some other issues were brought up, but **Commissioner Chairman Chad Munns** said that they were not items that needed to be addressed when a re-zone, zoning map amendment was the request being considered. He also noted that people have the right to do what they want with their property as long as it does not interfere with others. Is this re-zone going to hurt the neighbor? *Mr. Davis* has the right to petition for this re-zone and other issues, i.e. water, septic, roads, etc. are not relevant to his request, but how it will affect his neighbors and their livelihood does. Referring to the South Willard Plan, it originally said that areas west of I-15 should remain as it was zoned with the A-20, but is that still relevant today with this request from *Mr. Davis*. **Commissioner Mellonee Wilding** was a member of the community plan for South Willard and noted that with the comments from the three neighbors present at this meeting and the

findings of the plan her response would be to deny the re-zone. Staff then noted that this is a legislative matter and would go to the county commission. Many things are looked at and this request adheres to the county code as reviewed by the planning staff, but a recommendation of the planning commission would be forwarded to the County Commission.

MOTION: A Motion was made by **Commissioner Laurie Munns** to recommend denial of the Bob & Ronda Davis Re-zone request Z16-013, based on the public input and the South Willard Community Planⁱⁱ and forward to the County Commission. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

THIROS JOINT VENTURE, Z16-012, ZONING TEXT AMENDMENT TO ALLOW RESIDENTIAL USE IN A COMMERCIAL ZONE LOCATED AT APPROXIMATELY 8823 SOUTH HIGHWAY 89 IN THE SOUTH WILLARD AREA.

Staff explained that this applicant was requesting a text amendment to Section 3-4-070, Regulations for Specific Uses of the BECLUM&DC by adding Section 3-4-070-3.4 regarding a dwelling unit for an on-site manager of a storage unit.ⁱⁱⁱ This addition would only be applicable to the C-E zone (Commercial Enterprise) that is located in the South Willard area of the county. It would be a permitted use within this [C-E] zone as storage units already require a conditional use permit. This request does meet all of the approval standards and is consistent with the goals and policies of the County's General Plan. The public hearing was then opened and the following comments received.

Ms. DeAnna Hardy, asked exactly what it was that was being regulated with this request and again expressed concern over what the government is regulating and telling landowners what they can and cannot do with their property. Opposed to all the government regulations.

Mr. Jim Thiros, owner of the storage units from Layton and noted that the [dwelling] unit was already in the building with power and a septic system and just needed to be finished. There have been issues with the fence being cut at the site and the county sheriff had been called out to the site. Wanted to have a resident on the site to help with that problem.

The hearing was then closed with a Motion by **Commissioner Bonnie Robinson** and seconded by **Commissioner Laurie Munns**. Unanimous.

ACTION: Staff then stated that it is quite common for dwelling units to be on site with storage units and recommended approval.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for a text amendment regarding Section 3-4-070, adding 3-4-070-3.4; Dwelling Unit for On-Site Manager for Storage Units based on Staff's findings and recommendations. Motion was seconded by **Commissioner Laurie Munns** and passed unanimously.

HOUSTON NEFF EARL & CHARLES L EARL, Z16-006, RE-ZONE PROPERTY LOCATED AT APPROXIMATELY 15455 NORTH 2400 WEST IN THE COLLINSTON AREA FROM THE CURRENT ZONE OF MU-40 TO RR-1.

Staff explained that this applicant was requesting that Parcel 06-027-0043 be re-zoned from MU-40 to RR-1 zone. There is currently a home located on the property and when it was built it was on a 100 acre parcel. It is surrounded mainly by agricultural use with another home to the south. The public hearing was opened.

Mr. Chuck Earl, owner of the property said that he built the home and has recently sold it to his son, but he cannot afford the entire forty acres and would like to have just one acre where the home is located. He said that he was not aware that by selling off the home and one acre he was creating an illegal subdivision. Can see where this is likely to occur in another part of the county and wants to get it taken care of now. (Another petition to be presented at this meeting is for an ag-subdivision on this property.)

Mr. Jim Flint, from Hansen & Associates, said that he does not even know Mr. Earl, but said that in principle this is a good idea. He thought that there was a law currently at the state legislature that would allow for this very thing where a piece of property can be divided from an agricultural property. For a mortgage to be taken out on the entire farm or agricultural property can create problems where an individual cannot afford having all of the property with the bank loan.

With no other comments, the public hearing was closed with a Motion by **Commissioner Michael Udy**, seconded by **Commissioner Bonnie Robinson** and was unanimous.

ACTION: Staff informed the commissioners that the law referred to by Mr. Flint was actually passed during the last session of the Utah Legislature. Before the ag-subdivision can be done the property needs to be re-zoned so that it meets criteria for the home on one acre. There were no objections from other property owners in the area.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for the zoning map amendment from the MU-40 to RR-1 zone, with the conditions of Staff. Motion seconded by **Commissioner Mellonee Wilding** and passed unanimously.

Conditions of Approval:

1. Compliance with Article 5 of the BECLUM&DC.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments of the BECLUM&DC.
3. This re-zone will also result in an ag-subdivision with the home separated on a one acre parcel from the remaining agricultural property.

TIMBER BOYS LLC; CUP16-005, CONDITIONAL USE PERMIT FOR GENERAL MANUFACTURING OF RAW TREES INTO FIREWOOD; LOCATED AT APPROXIMATELY 4780 N 6800 W [ON 4.86 ACRES] IN THE CORINNE AREA OF BOX ELDER COUNTY.

Staff informed the commissioners that this applicant was requesting a conditional use permit in order to manufacture raw trees into firewood on their property located in the West Corinne area.

Section 3-4-070-17 of the BECLUM&DC allows for wood and paper manufacturing operations as a conditional use. There were no comments made and the hearing was closed with a Motion by **Commissioner Laurie Munns**, seconded by **Commissioner Michael Udy** and was unanimous.

ACTION: **Chairman Chad Munns** asked the applicant what the hours of operation were and was told that currently they are on Friday and Saturday with the intent of being able to go to full time during the weekdays. The concern of the commission was that if they are operating full time there are no restroom facilities on the site at this time, to which the applicant replied that the plan was to have a portable unit on the site until a permanent building is constructed. There was also some concern regarding the entrance to the property from 6800 West and the plan there was to have eighty foot of compacted base rock. Staff said that there will need to be an updated site plan that addresses these issues and also that the culvert be constructed of reinforced concrete. The storage of the product will be outside but the applicants have plans to build kiln drying systems in the future. Procter & Gamble is to the north of this property and the nearest residence is probably one mile away.

MOTION: A Motion was made by **Commissioner Laurie Munns** to grant approval to the Conditional Use Permit for Timber Boys Manufacturing of raw trees into firewood with the conditions as outlined by Staff and other county reviewing departments. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

Conditions of Approval:

1. The recommendations from the county road supervisor be met for the road standards with the entrance from 6800 West and the reinforced culvert.
2. Adequate restroom facilities be located on the site, can be a temporary facility until a permanent structure is built.
3. Compliance with Section 2-2-100 of the BECLUM&DC.
4. Compliance with Article 5, Regulations of General Applicability, of the BECLUM&DC.
5. Compliance with all applicable County State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

SCOTT MARSH, (BLUE OX DEVELOPMENT), Z16-010, ZONING MAP AMENDMENT FOR PROPERTY LOCATED AT APPROXIMATELY 1120 SOUTH MAIN STREET IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. PROPERTY CURRENTLY UN-ZONED; PETITION TO CHANGE TO MG-EX ZONE TO MATCH ZONING OF PROPERTY DIRECTLY NORTH OF THIS LOCATION. ACTION **Removed from the agenda at the request of the petitioner.**

PROMONTORY POINT RESOURCES, SP16-001 & CUP16-002, SITE PLAN AND CONDITIONAL USE PERMIT TO CONSTRUCT A NON-HAZARDOUS LANDFILL TO BE LOCATED ON PARCEL 01-012-0160. ACTION

Staff informed the commissioners that this applicant was requesting a conditional use permit for the construction and operation of a non-hazardous landfill located on the southwest portion of the Promontory peninsula. The property consists of 2000 acres with 1000 being the landfill and the other 1000 as a buffer. There was a conditional use permit issued for this landfill in 2003 but they did not move forward at that time and are now reapplying. **Chairman Chad Munns** then opened

the public hearing and asked those that had comments to be brief and concise in their comments. He also noted that this area is already zoned for the proposed use as a landfill.

Mr. Brent Kinley, North Shore Rail Bio-Aonic Resources, referred to the earlier comment regarding that people should be able to do what they want with their property and he was in agreement with that, but other property owners also needed to be protected. *“Bio-Aonics is a mineral company that has ponds less than one thousand yards from this proposed landfill. These mineral ponds are vital to our livelihood out there and the influx of seagulls to a landfill causes contamination in those ponds. The other issue is, in their permit with the DEQ they need 30 million, or 17 million cubic yards of material to cap this landfill. This material was to come from, and it states in their plans for their landfill. It says that it is going to come from Little Valley; they are not the owners of Little Valley and we do not intend to sell them cover material for this landfill. We want that to be publically known. I have had the opportunity to sit with these guys in front of UP in meetings; to sit with them in our own office; these are gentlemen that have no character and more stories than Dr. Seuss. And I would ask this commission to deny this permit based on those facts and the fact that this is still in an ongoing legal proceedings. This property could be returned to property owners if the courts deem. So why are we trying to give them a conditional use permit for something that may not ever happen? The other thing we have overlooked is their plan to use the county road has been stated from Commissioner Summers to everybody that that road would not be used. There are bald eagle and golden eagle habitats one mile above and beside this landfill. Those eagles will go down, those golden eagles will go down and they will eat garbage and there is infectious diseases in garbage. There needs to be an environmental study done with the core of engineers, the DWR; none of this has even been done and we’re talking about giving them another conditional use permit. They got a conditional use permit once; it was based on using the rail, it was based on using the causeway. They were told no on both. Now they will tell you that they have been told yes, but they have been told no on both. So, until they get their ducks in a row, ya they should be able to do what they want, if the property is deemed theirs; and as long as us property owners out there....people drive out there and say there is nothing here. There is. There’s mineral ponds, there’s our operations, there’s cattle on that road. Redoing the country road out there and having trucks travel that road, how do the cattle get from one side to the other to water? They are talking it is \$18 million to do this county road; they need land acquisitions for fifty mile an hour curves on the road. They are drilling bores on their drilling don’t meet the criteria for the heavy of a truck. They don’t do it, it doesn’t do it. The engineering does not back it up. They use the same engineer we used on our project for our soil engineering. We’ve talk with them today. They don’t meet the criteria for trucks that weigh 45 ton, not 30 ton like they’re telling. Those garbage trucks and doubles are going to be 80,000 plus.”*

Ms. DeAnna Hardy, thought that it was important to mention that this is a public/private partnership and that is socialism. Socialism is anti-liberty. The citizens have already voted on having this landfill come into the county and they didn’t want everyone’s garbage being brought here. It is hard to understand why those voices of the citizens are being ignored. This is not the consent of the governed so it should not be taking place at all. Also in the Utah Constitution it says: Article XII, Section 20: *“It is the policy of the state of Utah that a free market system shall govern trade and commerce in this state”*, this is not a free market system, but government and private collusion, and it is wrong, it is anti-liberty and should be stopped.

Ms. Chris Udy, from Promontory said that many of the concerns that were mentioned by Brent are also concerns of others. She asked that the commission at least table this, as not all of the information has been presented to them. She did not think that all of the documentation had been provided in order for them to request this CUP. There are safety concerns with the road as when

the original CUP was passed it was for rail. There was one [county] commissioner that promised several residents that it would only be by rail and would not be on the public county road. So, either the commissioners have lied to us or ... well they've lied. Would ask that be investigated to know what is going to be required of that road. There has not been a safety study and the curves are sharp. She noted that there is a blind curve right by her home. The feed lot is on one side and the cattle are on the other. Children on 4-wheelers are on their family farm hauling hay across the road and if a semi truck with a double comes around a blind corner going 50 miles an hour, there is no way they will be able to stop, the road is not built for it. Drivers are not able to pass each other side-by-side on the road without going off into the gutter. Having twenty-five trucks on that road will change the lifestyle of those living there; and that number of trucks will increase. There are cattle out there and she was concerned for people and animals with the trucks on the road.

Mr. Chad Reed, also with North Shore Rail Services, thanked the commission for their service, noting that this is a tough job. He said that the North Shore Rail Services has been given approval to build a rail structure at Promontory and their property is right next to where the landfill will be and sharing the east border. Their concern is what type of waste will be brought into to landfill; municipal solid waste or as seen in some news articles, will it be sludge, coal ash, as either of those would pose a significant potential hazard to the personnel that would be working at the rail site. Coal ash can quickly turn to dust if not covered quickly and that would be harmful to animals and humans. If it is solid waste and not contained properly it becomes fugitive waste and gets into their facility then they would have to deal with it and could create a potential safety hazard with operating the rail service. Concerned with what PPR is developing as opposed to what has already been approved by the DEQ. *"If you review the current DEQ permit, their permit requires that PPR inbound the municipal waste into a facility, an indoor facility. That waste be off-loaded in that facility and be bundled before it is taken to the landfill site. That whole design concept was created to prevent fugitive waste escaping into the neighboring property, and potentially contaminating the property."* He was of the understanding that PPR had submitted an alternative plan that would allow them to bring in waste by trucks with trailers and those would be covered but the waste would be loose and when it was off-loaded it would have a chance of escaping. And even with fencing that would still create a potential for fugitive waste.

Ms. LuAnn Adams, was concerned with the road and who would be paying for it. The first phase will supposedly cost \$18 million and thought it would cost much more as there are 37 miles of road. The children living on that road are her grandchildren. Didn't want the tax payers to be responsible for the payment of the road.

Mr. Tim Munns, from Hansel Valley said that this area was zoned for a landfill, class 1 non-hazardous material about 10-12 years ago and it is probably going to happen. The job of the planning commission is to set the limits for the truck loads and the speed limits. He also has grandchildren that live along this road. This had been zoned for a landfill before the North Shore Rail Service and the bio resources, but it was to be by rail. Need to get together and get it coming across on the rail tracks; would seem to be the most economical and sensible way to do it. The road is a concern for all and who will be paying for it.

Mr. Jason George, also with North Shore Rail agreed that it has been permitted for a landfill use. Said that they have tried numerous times to work with this organization, and have a solution in place. There is a substantial amount of money that will be needed for the road improvements to this landfill; they have a rail spur that is going in on Promontory Point and they have provided a solution two years ago for them to work with us and they have been unwilling to work with North Shore.

Mr. Gabriel Blackhelm, from Perry said that it was interesting to hear the battle going on between agriculture and housing in the county, but he noted that Box Elder County has one of the prized treasures in all of the country being the north part of the Great Salt Lake and it is not something for financial gain.

Mr. Randy Moulding, from Faust Valley said that he was not against the landfill like many of those present as he was going to be coming back in a few months with his own landfill. However, he did feel that it was totally wrong for public funds to be used for a private industry. Eighteen million dollars will not be enough for the cost of the road. He thought it would be about one million per mile. It has been permitted before by rail and that was about sixteen years ago. The people that live along that road need to be considered and their lifestyle. Also felt that there is some confusion as to why the county keeps pushing this landfill and doing all that can be done to help them. Wanted to ask County Commissioner Jeff Scott to explain why they [the county] thinks this is the landfill that they need.

Commissioner Bonnie Robinson made a Motion for a short break at this time; 8:34 p.m. and the public hearing was suspended.

Chairman Chad Munns reconvened the public hearing at 8:40 p.m. for any additional comments.

Mr. Boyd Udy, manager of the Thiokol Ranch, said that there was a concern with the main water line to Thiokol as it is there by the road and if there is an accident the water would be condemned. Also, if the road needs to be widened, it would be difficult as the water line is right beside it and that line has been there for many years and this is a concern for Thiokol. The road is 24-25 feet wide and there are many places where the shoulder on the road is straight off on both sides. If there are two semis and one should tip over, there would be problems. Does not want to see anyone or anything getting hurt on the road. He also mentioned that there is another water line above the road that water Winnie Richmond's cattle and if it is damaged how would those animals get water. There are also some wetlands in the area and those have not been addressed but he felt like that should be, along with who will be responsible for the maintenance of the road if it goes through.

Mr. Jerold Holmgren, from Bear River City and Hansel Valley said that he does not want to see any of the Wasatch front's garbage dumped into Box Elder County. Does not care where it goes as long as it is not in Box Elder County. Understands that it is permitted, but also knows how landfills affect neighbors; how it has affected him and how he now looks at some people. Does not want Box Elder County to become Utah's garbage dump. If it were to go by rail, might be a better plan, but has seen pictures of garbage truck that have tipped over in the streets while being hauled and doesn't want that to happen here.

Mr. David Boyd, of Brigham City said that he has taken his family out to this area and thought that it was beautiful there. Needed to do whatever can be done to prevent this.

The public hearing was then closed with a Motion by **Commissioner Mellonee Wilding**, seconded by **Commissioner Bonnie Robinson** and was unanimous.

ACTION: County Road Supervisor, Bill Gilson addressed the commissioners saying that when the applicant originally came into the county he had concerns regarding the road like many that had been brought up; 1) that it would not be able to handle the proposed amount of traffic. For those that have maintained this road there is no questions that it will not be able to handle the traffic. 2) The safety of the

road, not only because the road has blind curves on it but there is twenty-three miles of pavement and the width of the road can narrow down to 18 to 20 feet wide and they don't want to have anyone hurt on this roadway. One thing that the road department did was to take core samples on the roadway that would raise flags if this roadway was going to fall apart. Didn't want to hinder businesses with a lot of bureaucracy, but this was a red flag that was brought up. When doing the initial review of the application and the project, they did try to give some feedback to the applicant telling them that the road was too narrow and would need a lot of infrastructure and the county should not be paying for those improvements. The estimated cost of over \$18 million didn't take into consideration any wetlands issues, right-of-way, etc. Since that time it has been looked at again and if it isn't a possibility to widen and build to a freeway, then do we look at it as a road for them to be able to get into the site and build this facility. The other option was to look at it as a minimal case of fixing portions of the road and then have them address the safety as far as the width of the road and how to make it safer. Another possibility would be to set the speed limit which would be mandatory, lowering the speed limit and also have special restrictions on their trucks as well as having pilot cars with the trucks traveling the road.

Chairman Chad Munns then asked if the applicant would also like to address that same issue for the commission and public.

Mr. Brett Snelgrove said that they have been working closely with Bill [road supervisor] and noted that there is a lot of emotion tied with this project. He was not part of the project that was presented in the past as his company purchased the project and can't change the past but to change what is done from here. They don't want to have the county pay for the road improvements. Are planning to put the funds needed for the initial improvements into an escrow account so that the county would be able to make sure that the project was done correctly and the road standards met. They would also work with the county to get bids and get the most economical means for the project. They are also concerned with the safety of humans and animals on this road and will have pilot cars and have temporary construction stop lights if necessary and there would be radio contact between the trucks and the pilot cars. They would not be hauling double trailers, but only single trailers.

Chairman Chad Munns then asked if there would be pilot cars 24/7 as there are many that use this road and travel is not just at a particular time of day.

Mr. Brett Snelgrove assured the commission that there would be enough distance between the pilot cars and the trucks for them to be able to indicate if there were other vehicles on the road and the truck would be able to pull over if necessary.

It was also asked why the rail was not being considered and used and Mr. Snelgrove said that they would like to use the rail but because of the time constraints on the project the rail was just not out there at this time, but anticipated that it would be. They are spending millions of dollars to improve the road, and they would like to go across the causeway, but now that option does not work. They would like to start construction and haul in waste and start a phased, short-term, mid-term, and long-term phase for the road so the minimum requirements are being met. We want to do the right thing and build a permanent landfill. We would like to be able to store some of the waste until there is a use for it, i.e. coal ash. We want to be a resource that the community will be able to use, such as having school classes visit the site and learn how landfills work. The initial [proposed] bond of \$1 million is just so they will be able to drive on the road now.

Commissioner Laurie Munns asked if they had any plans for the "fugitive" waste that would be coming into Box Elder County from the county line to the landfill site. **Mr. Snelgrove** said that per the DOT and DEQ requirements all of the waste would be covered and any fugitive waste would be picked up along the way.

Commissioner Laurie Munns then said that there was a lot of information to consider with this application and Motioned that this be tabled to give the commissioners more time and also suggested that a site visit be done to help them be more familiar with the area as many on the commission had never visited this area.

Chairman Chad Munns then asked, because of a prior question, if they had title to the land and **Mr. Snelgrove** said that they do have title and that the title and the deeds have all been put in their name. However, there is an appeal going on that has to do with some mineral rights, but nothing to do with the land itself.

Commissioner Bonnie Robinson asked about the material that was to be used in covering the landfill on a daily basis and **Mr. Caleb Moore**, an engineer on the project came forward to address that question. He said that all of the daily cover material would come from the site itself as it would be too expensive to bring in from somewhere else. There were also some concerns regarding whether or not an environmental study had been done and the applicant thought that one was done with the original application around 2008 and that there were no species to be impacted on the site. That study was conducted by another engineering firm and was approved by DEQ and could be given to any in the public that was interested. There were also questions regarding the location of the water line for ATK, but **Mr. Gilson**, road supervisor, was not sure of its location and, therefore, could not say whether or not it would be affected by widening and improving the road. The applicant also mentioned that for every ton of waste that is brought into the site there is a two dollar host fee attached, money that would go to the county to be used at its discretion.

As there were still some comments from the audience, **Chairman Chad Munns** decided to re-open the public hearing to let them voice their concerns.

Mr. Charlie Young, from Harper Ward said that he and others have livestock down along that road on both sides, with the water being on only one side and those animals cross the road to get to that water. If the road is paved they will probably have to also put up a fence and how would those animals be able to get from one side to the other. He did not think that should be his responsibility as they can now freely move from one side to the other. He was also concerned about any potential livestock that may be hit along that road. They have had sheep there and have lost several lambs due to the traffic on that road. A truck traveling at fifty miles an hour is likely to hit some of that livestock and who would be responsible for that.

Ms. Chris Udy then said that she did not think that they [the applicant] had met the burden of a need for this landfill. The reasons from the applicant included because it was zoned that way and that it had been approved before.

Mr. Brent Kinley said that at first it looked like the county would receive \$6 million for this project and now it has gone to \$500,000 in revenue. He also said that in the applicant's plan it states that they will be using "truck/trailer combinations," and as he is in the excavation business can only haul certain distances before having to use doubles to make money, and these guys cannot haul there by using singles. *"It will be singles today, but it will be doubles tomorrow, and that's how they've worked the whole time we have dealt with them. There might be some litigation on the property and they know that it is not on the minerals. They know that there was a five-year deal that if this wasn't up and running, they could ask for their property back. They asked for it back and they didn't give it. Let's let the courts decide whose property it is and then let's make the decisions."*

Ms. DeAnna Hardy said the constitution talks about a free-market system and this is not free-market and this is unlawful of the government to be doing this. This is a public, private

partnership and they will receive a tax exemption because they followed the government's guidelines and this isn't fair. This company should be respecting the citizen's voices as this was put on the ballot and the vote was "no" that we didn't want everybody's garbage in our county.

This second part of the public hearing was then closed with a Motion by **Commissioner Laurie Munns**, seconded by **Commissioner Mellonee Wilding** and was unanimous.

Commissioner Laurie Munns asked about the fencing laws in this area and it was thought to be "fence in."

MOTION: A Motion was made by **Commissioner Laurie Munns** to Table the Promontory Point Resources, SP16-001 and CUP16-002^{iv} in order to give more time to the Planning Commissioners to study the materials they had been given and that a site visit be scheduled for the commissioners, the road supervisor and any others that may need to visit the area to be more familiar with it and the issues surrounding the landfill. Motion was seconded by **Commissioner Michael Udy** and was unanimous.

NEW BUSINESS

AS16-011, EARL AG SUBDIVISION LOCATED AT APPROXIMATELY 15455 NORTH 2400 WEST IN THE COLLINSTON/BEAVER DAM AREA OF BOX ELDER COUNTY DIVIDING 1 ACRE WITH A SINGLE FAMILY DWELLING OFF 98.19 ACRES.

Staff reminded the planning commissioners that this ag-subdivision was discussed earlier with the re-zone of the parcel from MU-40 to RR-1. The applicant is now requesting that the home and one acre be divided from the remainder parcel of approximately 98 acres that will continue to be agricultural use. There was no further discussion and the following motion was made.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to approve the Ag-Subdivision separating the home and one acre of land from the remaining agricultural parcel if the re-zone is approved by the County Commission. Motion was seconded by **Commissioner Michael Udy** and was unanimous.

SP16-005, DESERT TECH TRAINING FACILITY LLC SITE PLAN, LOCATED AT APPROXIMATELY 22400 NORTH 9200 WEST, NEAR PLYMOUTH.

Staff told the commissioners that this petitioner was requesting a site plan for a firearms training facility to conduct training, to host training and events at this site located in the Broad Canyon area near Plymouth in the unincorporated area of Box Elder County. They were also told that this item had been presented back in 2012 as a temporary use permit and then again in 2014 as a temporary use permit and now as a site plan review that would allow for permanent use of the facility. When this was originally approved for a temporary permit there was some litigation regarding access to the property as the landowner had historic access to the property, but it was argued that it was only for agricultural access and use and not for any commercial use. That issue has recently been resolved by some exchange in ownership of land, but the resolution has not been recorded due to the death of one of the landowners. That issue is being taken care of; however there are other issues as the applicants would like to use the cabin that is northeast on the property to be used as a lodge for the people coming to the training for more than one day. In 2012 the temporary permit was issued for the facility but not for the cabin/lodge as there are a number of issues that need to

be resolved first; 1) there is no building permit for the building, and it was probably built without one being issued; 2) there is no septic permit from the Health Department and it is unclear if it meets the requirements; 3) the construction of the lodge is more for residential than for groups settings and would have other criteria that would need to be met for the building permit, i.e. ADA compliance, etc. as required for a commercial building permit. There are also some details that need to be resolved regarding access to the training facility and the lodge once the ownership is finally resolved; some of those issues had to do with the improvement of the road to the site. There are minimum standards that have to be met for emergency vehicles to access the site if necessary. With these issues that needed to be taken care of, Staff recommended tabling this application at this time.

MOTION: A Motion was made by **Commissioner Laurie Munns** to Table the Desert Tech Training Facility, LLC, SP16-005 until the applicant and Staff is able to work through the issues mentioned. Motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

UNFINISHED BUSINESS -- NONE

WORKING REPORTS

Chairman Chad Munns asked Staff to review the Resource Management Plan that is being required by the state for each county. Staff then informed the commissioners that the state has required each county to create a “resource management plan” that would outline 28 resources such as water, air, land use, wildlife, minerals, endangered species, irrigation, grazing, forestry, etc. It is quite specific and the state will give each county \$50,000 to create this plan. Box Elder County has contracted with a firm out of Logan that has worked on these type of projects before. One meeting has already been held for a steering committee and **Chad Munns** sits on that committee. There will be monthly meetings held and it is required by the Legislature that the plan come before this commission in May and the county commission by August. There will [probably] be an open house mid-February where suggestions can be made. This is for public lands only and how we [the county] want them to be administrated

PUBLIC COMMENTS

A **Motion** was made to adjourn at 9:36 p.m.; unanimous.

Passed and adopted in regular session this 16th of February 2017.

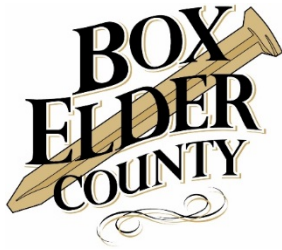
Chad Munns, Chairman
Box Elder County Planning Commission

ⁱ Staff’s findings regarding Section 2-2-080-E for Davis Re-zone.

ⁱⁱ South Willard Community Plan & Map

ⁱⁱⁱ 3-4-070. Regulations for Specific Uses/3-4-070-3.4

^{iv} Staff's findings on CUP16-002



PLANNING COMMISSION STAFF REPORT

Meeting Date: February 16, 2017

Agenda Item #: 6a

Application Type:

Road Vacate

APPLICANT(S):

Jeffrey John

PROJECT #:

VAC17-001

ADDRESS:

Approx. 15580 North
5300 West

PARCEL #:

06-046-0083, 06-046-0143

CURRENT ZONE:

Un-Zoned

TYPE OF ACTION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

The applicant is requesting to vacate an alley-way at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County. Attached is a map showing the proposed road vacate.

ANALYSIS

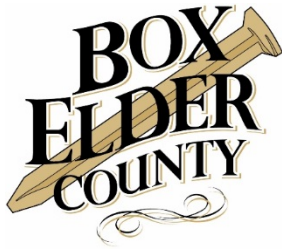
County Code:

Box Elder County Commission Policy #2003-01 governs road vacations. According to this policy, an application for a road vacation must be presented to the Planning Commission to receive a recommendation to be presented to the County Commission.

Land Use Ordinance Standards Review:

Box Elder County Commission Policy #2003-01 outlines the following standards when considering a road vacation:

1. Is there a prevailing public interest in keeping the road open; and
 - a. *There are no residences that use this road for access. Currently nothing is there.*
2. Does the proposed vacation substantially affect the County General Plan or the Transportation Plan of the County; and
 - a. *The proposed vacation does not affect the County's General Plan or Transportation Plan.*
3. Is the proposed vacation in compliance with all Box Elder County Land Use and Development Code requirements, State, Federal or other local regulations; and
 - a. *The proposed vacation is in compliance with all requirements and regulations.*
4. Will the proposed road vacation financially harm any landowner or stakeholder who may have an interest in the road; and
 - a. *The Public Hearing process is in place to help bring any evidence of harm to light.*
5. The County shall not vacate any other private interest within the right-of-way; and
 - a. *No other interests within the right-of-way are to be vacated.*
6. When considering the vacation of a deeded road as opposed to a right-of-use road, the provisions of the surplus property disposal policy shall be used; and
 - a. *The proposed road is a deeded road and does need to conform to the surplus property disposal policy.*
7. The petitioner will provide descriptions in a deeded right-of-way for all abutting owners who may



receive any ownership of the vacated road.

- a. *The petitioner will be supplying the descriptions, and the applicants are the only owners who abut the road to be vacated.*

FINDINGS:

Based on the analysis of the petition to vacate a Box Elder County Road, staff concludes the following:

1. Un-zoned areas allow for Road Vacations subject to approval by the Box Elder County Commission with a recommendation from the Planning Commission.
2. The petition is in compliance with the current Zoning provisions and County Road Vacate Policy.
3. Staff is waiting for the description of the road.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **staff recommends the Planning Commission forward a recommendation of APPROVAL for the road vacate with the following conditions:**

1. Staff receives the description of the road vacate.

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number VAC17-001, a road vacation between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County, and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

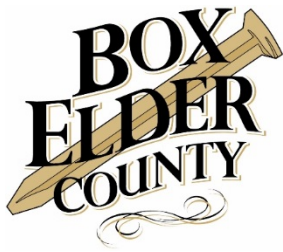
Table – “I move the Planning Commission table the review of application number VAC17-001, a road vacation between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County, to (give date), based on the following findings:”

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

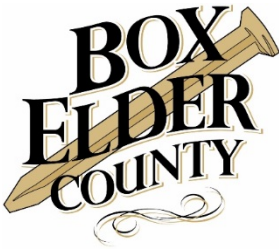
Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number VAC17-001, a road vacation between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County, based 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: February 16, 2017

Agenda Item #: 6b

Application Type:

Surplus Property Disposal

APPLICANT(S):

Box Elder County

PROJECT #:

SPD17-01

ORDINANCE:

County Policy #2000-01

TYPE OF APPLICATION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

Box Elder County is interested in transferring ownership of the alley-way between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County to Jeffrey John, who is the property owner on both sides of the alley-way.

ANALYSIS

County Policy:

Box Elder County Policy #2000-01 requires all surplus property disposal of real estate to be reviewed by the Planning Commission to ensure they comply with the General Plan, Land Use Management and Development Code and any other applicable ordinances. The Planning Commission shall submit their recommendation within 15 days of the date of decision.

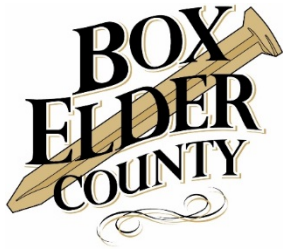
FINDINGS:

Based on the analysis and review of the proposed conveyance of County land to Jeffrey John, property owner who abuts both sides of the alley-way staff concludes the following:

1. The conveyance complies with the General Plan, Land Use Management and Development Code and any other applicable ordinances.
2. Staff can submit a recommendation to the County Commission on behalf of the Planning Commission within 15 days of the Planning Commission's action.

RECOMMENDATION

Based on the information presented in this report and application materials submitted, **staff recommends the Planning Commission forward a recommendation of APPROVAL to the County Commission.**



MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval regarding application number SPD17-01, surplus property disposal of an alley-way between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County to Jeffrey John, who is the property owner on both sides of the alley-way, and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

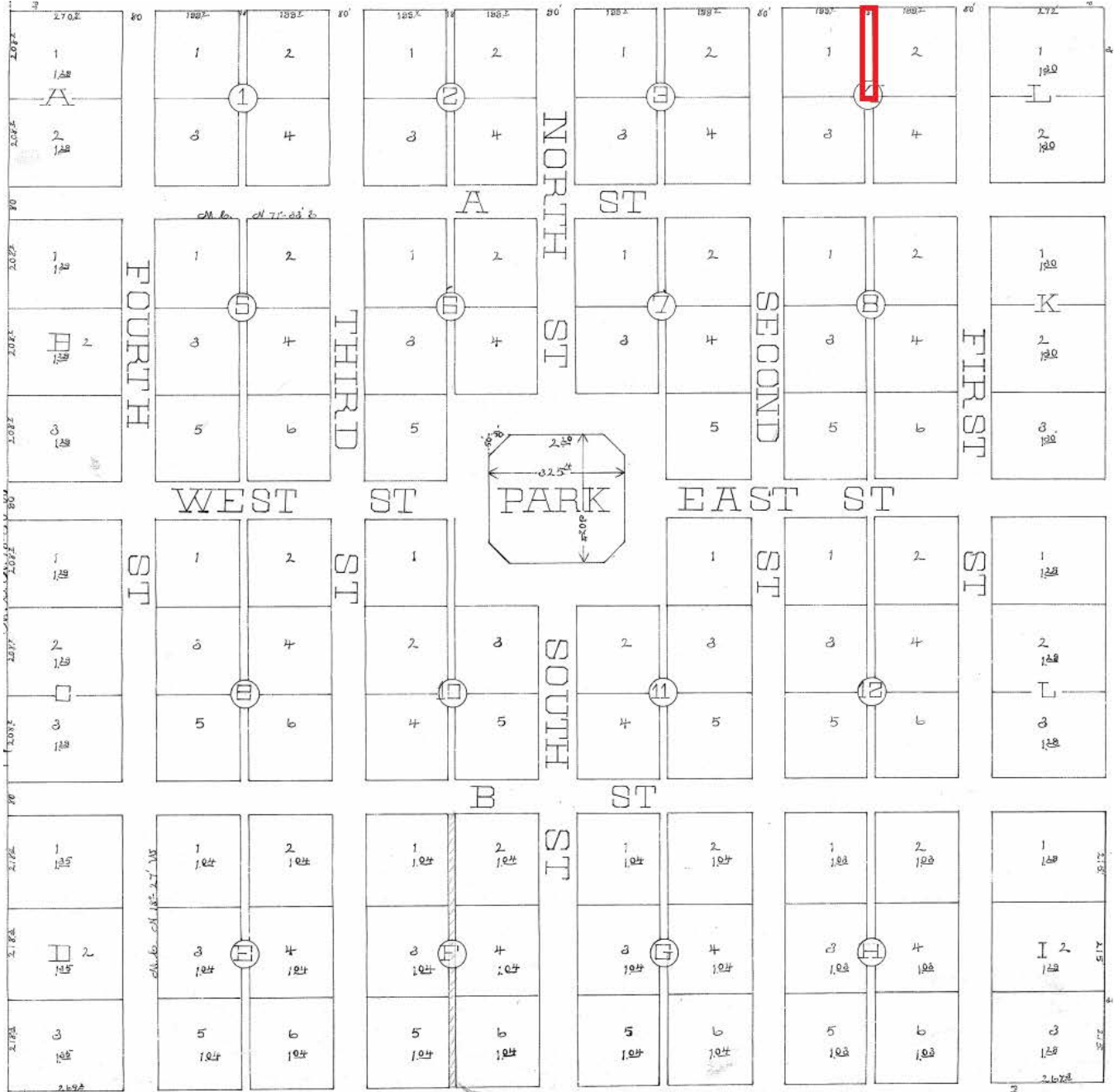
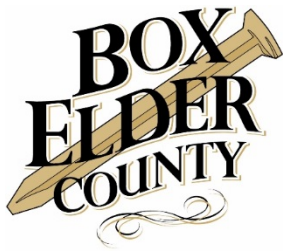
Table – “I move the Planning Commission table application number SPD17-01, surplus property disposal of an alley-way between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County to Jeffrey John, who is the property owner on both sides of the alley-way, 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...

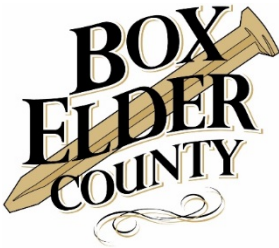
Denial – “I move the Planning Commission forward a recommendation of denial regarding application number SPD17-01, surplus property disposal of an alley-way between parcel numbers: 06-046-0083 and 06-046-0143 at approximately 15580 North 5300 West in the Riverside area of Unincorporated Box Elder County to Jeffrey John, who is the property owner on both sides of the alley-way, 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: February 16, 2017
Agenda Item #: 6c

Application Type:
Agricultural Subdivision

APPLICANT(S):
Cole Selman

PROJECT #:
AS17-001

ORDINANCE:
State Code 12-27a-605(5)

TYPE OF APPLICATION:
Administrative

REPORT BY:
Scott Lyons,
Comm. Dev. Director

BACKGROUND

The applicant/landowner is requesting an agricultural subdivision to separate his single family dwelling from his agricultural farm ground. The subdivision would create a 2.15 acre residential parcel and a 7.21 acre agricultural parcel.

ANALYSIS

State Code:

Utah State Code Section 12-27a-605(5) allows subdivisions to be exempt from plat requirements as long as they include agricultural land, a single family dwelling, and an ordinance is enacted at the County Commission level following Planning Commission approval.

Land Use Ordinance Standards Review:

Utah State Code 12-27a-605(5) outlines the following standards for review for agricultural subdivisions.

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:

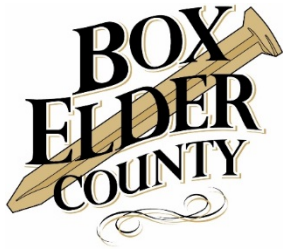
- a. Qualifies as land in agricultural use under Section 59-2-502; and
- b. Is not used, and will not be used, for a nonagricultural purpose;

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; and

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 as part of the ordinance process with the County Commission.

FINDINGS:

Based on the analysis of the agricultural subdivision application, staff concludes the following:

1. The Utah State Code allows for agricultural subdivisions subject to review procedures and approval of an ordinance by the County Commission with approval from the Planning Commission as well.
2. It is staff's opinion that the proposed agricultural subdivision meets all of the Approval Standards found in Section 17-27a-605(5) of the Utah State Code.

RECOMMENDATION

Based on the information presented in this report and application materials submitted, **staff recommends the Planning Commission APPROVE application AS17-001 the Cole Selman Agricultural Subdivision.**

MODEL MOTIONS

Approval – "I move the Planning Commission approve application number AS17-001, an agricultural subdivision with a single family dwelling, and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

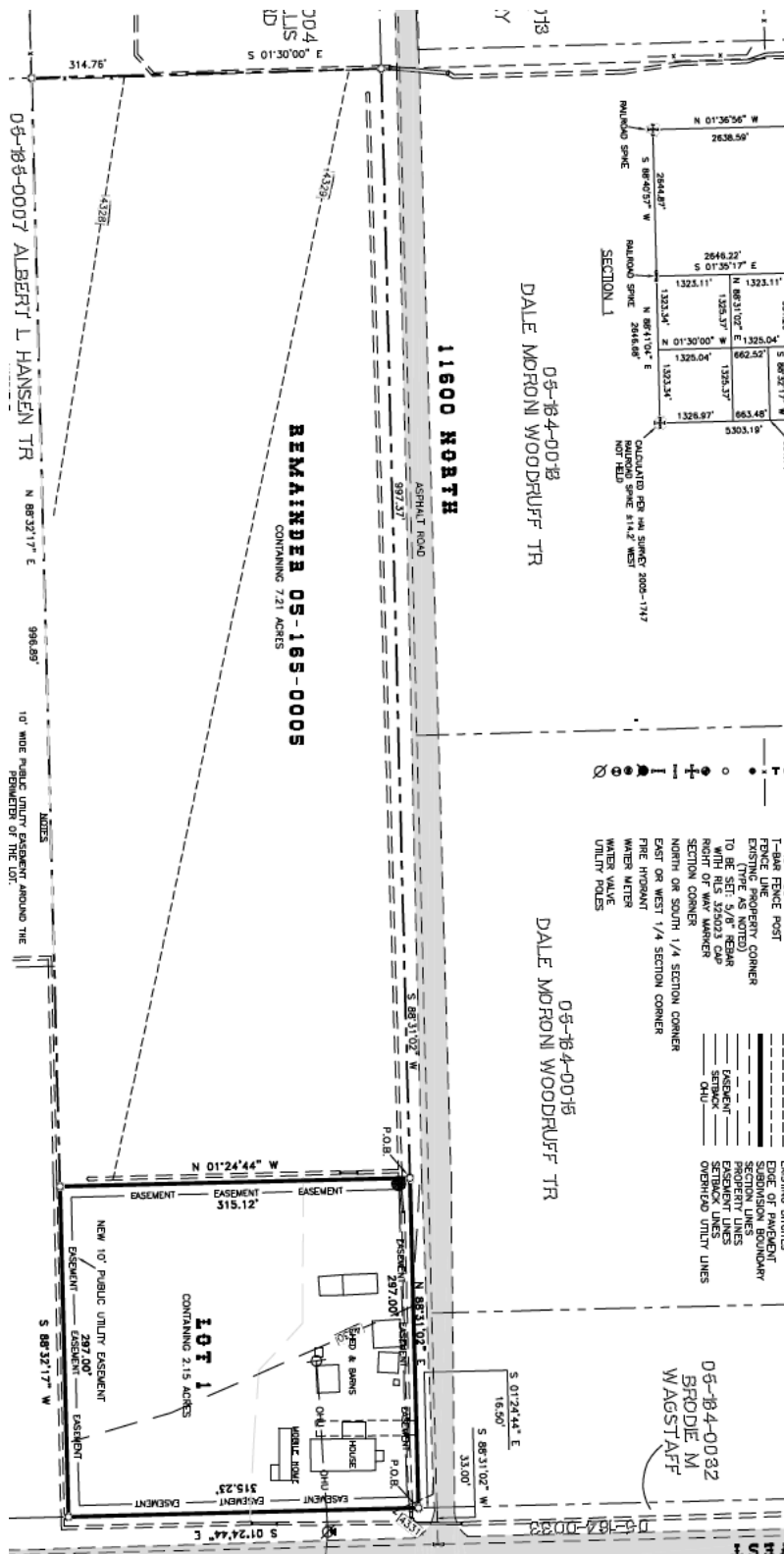
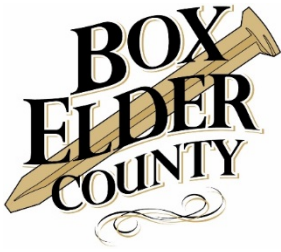
Table – "I move the Planning Commission table application number AS17-001, an agricultural subdivision with a single family dwelling, to (give date), based on the following findings:"

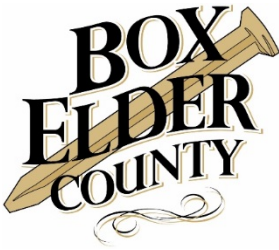
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – "I move the Planning Commission deny application number AS17-001, an agricultural subdivision with a single family dwelling, based on the following findings:"

1. List findings for denial...

Please feel free to contact Scott Lyons at 435-734-3316 if you have any questions.





PLANNING COMMISSION

STAFF REPORT

Meeting Date: February 16, 2017

Agenda Item #: 7a

Application Type:

Conditional Use Permit

APPLICANT(S):

Promontory Point Resources

PROJECT #:

CUP16-002

ZONE:

Solid Waste Zone

PARCEL #:

01-012-0160

TYPE OF ACTION:

Administrative

REPORT BY:

Scott Lyons,
Comm. Dev. Director

BACKGROUND

The applicant is requesting a Conditional Use Permit to construct and operate a non-hazardous landfill. The proposed location is the southwest portion of the Promontory peninsula (T6N R6W Sections 13, 24, 25 and T6N R5W Sections 18, 19, 30). The landfill received its original Conditional Use Permit in 2003, but after several years renewing it with the Planning Commission that permit expired. For that reason they are back requesting approval of a new Conditional Use Permit. (Maps and plans are attached)

ANALYSIS

County Code:

Land Use Management & Development Code Section 3-8-140(e) allows solid waste landfills as a conditional use. Conditional Use Permits are decided upon by the Planning Commission.

Land Use Ordinance Standards Review:

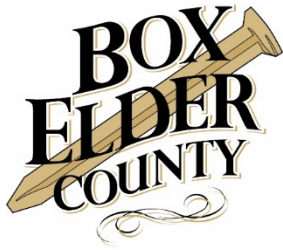
Box Elder County Land Use Management & Development Code section 2-2-100 outlines the following standards for review for Conditional Use Permits.

1. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
2. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;
3. The proposed use at the particular location is compatible with the intent, function and policies established in the general plan, this Code and the particular zoning district in which the use is proposed.

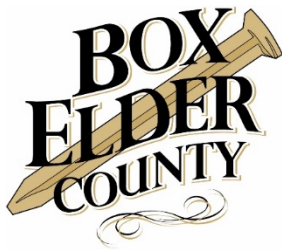
To be more specific, the code states the following factors should be reviewed and considered:

1. Conditions relating to safety of persons and property.
 - a. The impact of the proposed facility or use on the health, safety, and welfare of the County, the area, and persons owning or leasing property in the area.
Several plans are included in this report (Operations, Fugitive Dust, Fugitive Waste, Reclamation, etc.). Those plans outline steps to mitigate negative impacts, it is up to the Planning Commission to determine if they are sufficient.

PPR Response:



-
- *The engineering controls and operating procedures that will be implemented during construction, operation, and closure of the facility to protect human health and the environment are described in the attached Promontory Landfill Class I Landfill Application dated August 2008 under which a Conditional Use Permit was issued. A Permit Modification and Design Report Phase I Promontory Landfill May 2016 was prepared to reflect current engineering and design that will further enhance protection to human health and the environment, attached.*
 - *The two aforementioned reports also contain information that describe the geohydrologic assessment, land use compatibility, stormwater runoff, alternative waste handling plans, procedures for excluding non-acceptable waste, contingency plans for emergencies, training of personnel, etc.*
- b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.
The applicant has submitted an operations plan, a fugitive dust plan, a closure plan, and a mitigation agreement with the County Commission. These plans should cover proposed safeguards. Any adverse effects the Planning Commission can think of should be addressed with the applicant.
- PPR Response:*
- *The Operations Plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-1 to 5-13.*
 - *The Fugitive Dust Control Plan is provided as an attachment to this response. In summary measures will be taken during construction and operation of the site to prevent fugitive particulate matter from becoming airborne such as planting vegetative cover, providing synthetic cover, watering, chemical stabilization, wind breaks, or other equivalent methods or techniques.*
 - *The closure and post-plans are provided in Promontory Landfill Class I Landfill Application, August 2008, Pages 6-1 to 6-3 and in Appendix G of the Permit Modification and Design Report Phase I Promontory Landfill dated May 2016.*
 - *PPR met with Scott Lyons on December 14, 2016 and requested information on the process and requirements for a mitigation agreement. PPR will prepare and submit a mitigation agreement with the Board of County Commissioners upon receipt of the requirements for the mitigation agreement.*
- c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
None of the site is subject to flooding. Building elevations will be submitted at the time of building permit application. Grading plans are currently under review by the County Engineer. No PPR response required.
- d. Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.
This is something the Commission may want to address with the applicant. There are no specific requirements for this type of use. The state permit requires a 1,000-acre buffer area,
-



but no specific setbacks as to how that buffer is applied. The site plan shows the following setbacks from the solid waste cells to all property lines:

North: 9,000 feet

South: 1,000 feet

East: 1,600 feet

West: 1,000 feet

PPR Response:

- *The setbacks portrayed on the site plans may be moved or altered as approved by DEQ.*

- e. Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.

Staff has no evidence of the above listed or other natural hazards in the proposed area.

No PPR response required.

2. Conditions relating to the compatibility of the use.

- a. The suitability of the specific property for the proposed use.

Staff is not aware of any health, safety, or welfare issues that cannot be mitigated that affect the suitability of the proposed site.

No PPR response required.

- b. The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.

The surrounding development is currently agriculture, a gravel pit, and mineral extraction to the north and east. The west and south are railroad and the Great Salt Lake.

No PPR response required.

- c. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.

This could be considered subjective and the public hearing may provide more insight.

PPR Response:

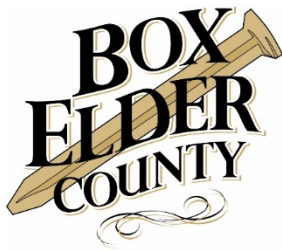
- *Significant research and investigation has been conducted to show that the facility will not be injurious to potential or existing development. Additionally, a permit to operate a Class I landfill along with a Conditional Use Permit were issued prior indicating that the facility was not deemed injurious.*

- d. The number of other similar conditional uses in the area and the public need for the proposed conditional use.

There are no other similar conditional uses in the area. The only other landfill in the County is the Little Mountain county owned landfill. Per county code the applicant "shall show a demonstrated need for the facility within Box Elder County."

PPR Response:

- *The following items support the need for a landfill in this area.*
 - *The county has rezoned the area to allow construction of the landfill.*



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- *The county has a prior Conditional Use Permit for this facility that has just expired, Promontory Landfill Class I Landfill Application dated August 2008, Appendix B.*
 - *The DEQ has permitted the facility and therefore, they saw a need for this facility.*

3. Conditions relating to health and safety.

These should be addressed in the operations, fugitive dust, contingency, and closure plans. These should also be addressed as part of the state permit.

PPR Response:

- *Information regarding health and safety can be found in the following documents and the respective pages.*
 - *Operations Plan - The Operations Plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-1 to 5-13.*
 - *Fugitive Dust - The Fugitive Dust Control Plan is provided as an attachment to this response*
 - *Contingency Plan - The contingency plan is provided as part of the Operation Plan in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-5 to 5-9.*
 - *Closure Plan - The closure and post-plans are provided in Promontory Landfill Class I Landfill Application dated August 2008, Pages 6-1 to 6-3 and in the Permit Modification and Design Report Phase I Promontory Landfill May 2016, page 2-4 and Appendix G.*
- *In addition to the inclusion of health and safety information in the above referenced documents, PPR will report any conditions that may endanger human health or the environment within 72 hours per 3-8-120 C. 4.*

4. Conditions relating to environmental concerns.

These should be addressed in the operations, fugitive dust, contingency, and closure plans. These should also be addressed as part of the state permit.

PPR Response:

- *In addition to the inclusion of health and safety in the above referenced documents PPR will report any conditions that may endanger human health or the environment within 72 hours per 3-8-120 C. 4.*

5. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district.

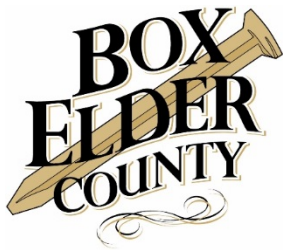
None.

No PPR response required.

6. The aesthetic impact of the proposed facility or use on the surrounding area.

The aesthetic impact of the landfill may be something to discuss with the applicant as well. This would be the time to decide if fencing, landscaping, tree screening, or any other measures are appropriate.

PPR Response:



- *PPR will maintain the site in a manner that is consistent with the natural landscape.*

7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.

A new water system is proposed on site. A new septic system is proposed on site. No information regarding power has been submitted. The county roadway (East Promontory Road) is proposed for access to the site. The applicant has been working with the county Road Supervisor on a phased improvement plan for the roadway. The Planning Commission has also been on a site visit to see the road condition.

PPR Response:

- *PPR is working with Rocky Mountain Power for the power to the site.*
- *The causeway will not be used for landfill operations; the county road will be used for access to the site. PPR is working with the county on a road improvement plan. A summary of which is attached to this letter.*

8. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.

These should all be addressed as part of the overall site plan. A detailed site plan has now been submitted and is under review by the County Engineer. Transportation access continues to be a discussion item as well.

PPR Response:

- *A site plan is provided as an attachment to this letter.*

9. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use.

These should be addressed as part of the site plan and other plans (operations, fugitive dust, mitigation, state permit).

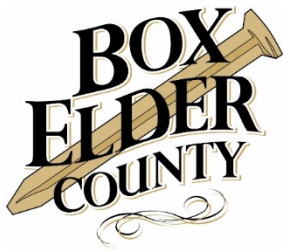
PPR Response:

- *Safeguards and procedures to prevent noxious or offensive omissions are provided in the Promontory Landfill Class I Landfill Application dated August 2008, Operation Plan Pages 5-1 to 5-13.*
- *A Fugitive Dust Plan has been prepared and enclosed with this submittal.*

Box Elder County Land Use Management and Development Code Section 3-8-120 requires the following of Conditionally Permitted facilities:

A. A conditional use permit shall be obtained prior to constructing or operating a solid waste facility within the Solid Waste Zone. No presumption of approval shall be made regarding an application. All applications for conditional use permits made to the Planning Commission shall include all drawings, maps, specifications, statements and records as required by the Box Elder County Land Use Management & Development Code and this chapter. Applications that are incomplete upon submission shall be returned to the applicant. The landowner and operator shall be responsible to insure all conditions are complied with.

PPR Response:



- Drawings, maps, specifications, statements, and records are provided as attachments to the letter.

B. Prior to any conditional use permit being issued, the applicant shall show a demonstrated need for the facility within Box Elder County.

PPR Response:

- *The county has rezoned the area to allow construction of the landfill and therefore, saw a need for the facility.*
- *The county has a prior Conditional Use Permit for this facility that has just expired, Promontory Landfill Class I Landfill Application dated August 2008, Appendix B.*
- *The DEQ has permitted the facility and therefore, they saw a need for this facility.*

C. All conditional use permits issued within a Solid Waste Zone shall be reviewed by the Planning Commission who shall impose such requirements and conditions as are necessary for protection of adjacent properties and the public welfare. As a minimum all conditional use permits shall have the following conditions:

1. The solid waste facility is permitted for ancillary and support facilities necessary to conduct its business such as offices, maintenance facilities, laboratories, records storage facilities, process stations and equipment, fuel and chemical storage, and support services to maintain a workforce.

No PPR response required.

2. The operator of the municipal solid waste facility shall maintain all facilities and activities in such fashion to assure conformity to all Box Elder County land use, health, building, plumbing, mechanical and electrical codes, National Fire Protection Association Standards (NFPA), and other County ordinances, rules and regulations.

No PPR response required.

3. Copies of the licenses and permits issued by the State of Utah, Department of Environmental Quality, Division of Solid and Hazardous Waste shall be filed with the County Department of Engineering. The facility shall not operate without the proper permits being in force.

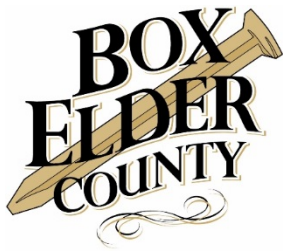
Copies of permits have been submitted.

4. The operator of the solid waste facility shall maintain a contingency plan and shall report to Box Elder County and the Bear River Health Department any conditions that may endanger human health or the environment. Any such information shall be reported orally as soon as practicable once the operator of the solid waste facility becomes aware of the circumstances of such incident and in writing within 72 hrs.

PPR Response:

- *The contingency plan is provided as part of the Operation Plan in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-5 to 5-9.*

5. The operator of the solid waste facility shall take all reasonable steps to minimize and correct any adverse impacts on the public health and environment. At a minimum, the operator may be required to address on-site monitoring; which may be required for assessment of impacts to air, water, soil, vegetation and public health exposures on all property under the control of the solid waste facility. Any air, soil or groundwater monitoring assessments shall be provided to the Box Elder County Community Development Department and the Bear River Health Department. Box



Elder County reserves the right to monitor and assess all subject properties that may be impacted at its discretion.

No PPR response required.

6. The operator of the solid waste facility shall allow Box Elder County or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
- enter at reasonable times upon the solid waste facility premises where a regulated facility and/or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - have access to copy any records that must be kept under the conditions of this permit;
 - inspect any facilities, equipment, practices, or operations regulated or required under this permit; and
 - sample or monitor for the purpose of assuring permit compliance or as otherwise directed by Box Elder County, any substances or parameters at any location.

No PPR response required.

7. The provisions of the permit are severable. If any provisions of the permit, or the application of any provision of the permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected.

No PPR response required.

8. The conditional use permit shall be reviewed upon any change in the facilities operation. Box Elder County, the landowner or the operator may review the permit at any time.

No PPR response required.

9. This conditional use permit is revocable by the Planning Commission at any time due to failure of the permittee to observe any condition specified or failure to observe other requirements of the Box Elder County Land Use Management and Development Code, the Box Elder County Code, or the Utah State Code.

No PPR response required.

10. If the conditional use permit is revoked, the operator must immediately suspend all waste acceptance and complete corrective actions. Any waste operations must be approved by the County Commission until a conditional use permit is approved.

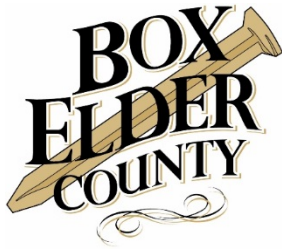
No PPR response required.

11. Loose materials shall be off-loaded in a covered structure to prevent fugitive waste from escaping into the landscape and off site. Bailed waste may be off loaded at the cell. The operator may submit an alternative plan and guarantee to be approved by the Planning Commission that will allow handling of loose waste without a covered structure for off-loading.

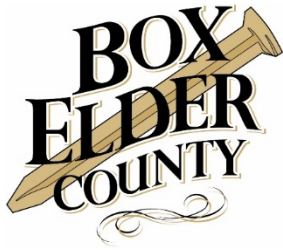
No structure for this purpose is shown on the site plan. Does this mean all waste coming to this facility is bailed?

PPR Response:

- The waste will be hauled to the site via trucks or transfer trailers. All trucks will be tarped, covered or enclosed and remain as such until the waste is off loaded at the working face.*



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12. The operator will submit a fugitive dust plan and guarantee to be approved by the Planning Commission that will insure containment of fugitive dust.
The Fugitive Dust Control Plan is attached.
13. Before startup, an operations plan shall be submitted to the Box Elder County Planning Commission for review. The plan shall be updated and reviewed every five years with the Box Elder County Planning Commission. Each five-year plan shall expire and all operation shall cease until a new plan is approved.
The Operations Plan is attached.
14. The landowner shall submit a State approved closure plan to Box Elder County which will include post-closure activities. 1 year prior to closure or at the time that the solid waste facility is 90% filled, whichever is earlier, the landowner shall submit an updated State approved closure plan to Box Elder County. Box Elder County must approve any changes before closure activities may begin.
The state approved Closure Plan is attached.
15. The operator and landowner of the solid waste facility shall comply with the licensing and inspection requirements of Box Elder County Code and the Utah State Code.
PPR Response:
- *PPR will comply with the licensing and inspection requirements of Box Elder County and the Utah State Code.*
16. All internal roads shall be constructed with a dust free surface or treatment.
PPR Response:
- *The internal roads will be constructed with a dust free surface or will be treated to reduce dust emissions.*
17. Any waste that is blown as a result of the transportation or processing of waste from the operation of the facility shall be cleaned up daily.
PPR Response:
- *The fugitive waste plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Appendix L.*
18. The construction drawings of cells shall be submitted to the Box Elder County Department of Engineering for approval prior to construction.
PPR Response:
- *The construction drawings of the cells are provided in Permit Modification and Design Report for Phase I of the Promontory Landfill Facility, May 2016.*
19. The operator of the solid waste facility shall complete a mitigation agreement with the Board of County Commissioners.
A mitigation agreement has not yet been submitted. The information requested in the response below was emailed to Ann Garner and Brett Snelgrove with PPR on December 21, 2016. The Mitigation Agreement was on the County Commission agenda for February 1st. At this time I do not know the outcome of that meeting/agreement.
PPR Response:
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- *PPR met with Scott Lyons on December 14, 2016 and requested information on the process and requirements for a mitigation agreement. PPR will prepare and submit a mitigation agreement with the Board of County Commissioners upon receipt of the requirements for the mitigation agreement.*
 - *The closure and post-plans are provided in Promontory Landfill Class I Landfill Application dated August 2008, Pages 6-1 to 6-3 and in the Permit Modification and Design Report for Phase I of the Promontory Landfill Facility, May 2016, Page 2-4.*
 - *A copy of the Payment Bond for the closure and post closure of the facility is attached to this submittal.*

20. The operator of the solid waste facility shall build a perimeter security fence of a sufficient size to prevent unauthorized access.

PPR response:

- *A perimeter fence of a height of at least five feet will be placed around the perimeter of the facility to prevent unauthorized access.*

FINDINGS:

Based on the analysis of the Conditional Use Permit application, staff concludes the following:

1. The Box Elder Land Use Management and Development Code allows for solid waste landfills in the SW Zone subject to Conditional Use Permit approval by the Planning Commission.
2. Some items in code Sections 2-2-100 (Conditional Use Permits) and 3-8-120 (Permitted and Conditional Uses in the Solid Waste Zone) have not yet been submitted for review. Specifically an approved Mitigation Agreement.
3. The County Engineer is currently reviewing the detailed site plan. The DWR is reviewing wildlife in the area based on public comment regarding raptors. The roadway continues to be a topic of discussion.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **staff gives the Planning Commission the following three options in the model motions section below:**

MODEL MOTIONS

Approval – “I move the Planning Commission approve application number CUP16-002, a Conditional Use Permit for construction and operation of a non-hazardous landfill, and adopting the exhibits, conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

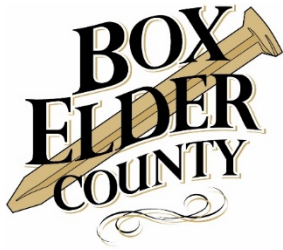


Table – “I move the Planning Commission table the review of application number CUP16-002, a Conditional Use Permit for construction and operation of a non-hazardous landfill, to (give date), based on the following findings:”

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 deny application number CUP16-002, a Conditional Use Permit for construction and operation of a non-hazardous landfill, based on the following findings:”

1. List findings for denial...

Some items or conditions to consider:

- Mitigation Agreement approved by the County Commission.
- Roadway Improvement Plan approved by County Road Supervisor and County Engineer and to your standards as the decision making body.
- Updated Site Plan approved by County Engineer and Planner.
- Local waste acceptance from residents? Class 1 landfills allow this. Is there any reason/need to prohibit it?
- Section 5-2 of the Operations Plan (page 67) – “Procurement of Waste Stream” – State permit states at least 25,000 tons annually is required prior to construction of facilities.
- Section 4 of the Fugitive Dust Plan mentions mining including blasting. This type of mining requires a state permit through the Division of Oil, Gas and Mining. Has this been acquired?
- Is the perimeter fence mentioned in 3-8-120(C.20) the same as the fence described in the Fugitive Waste Plan (Appendix L of the 2008 permit)? If so there is a height discrepancy.
- Section 5-7 of the Operations Plan (page 75) mentions that any contracts for alternative disposal locations will be negotiated prior to the facility operating. Has this taken place?
- Hours of operation?
- In a recent discussion I had with a state DEQ employee they mentioned that the state permit isn’t final until the following two items are completed:
 - PPR has contracts with local governments (city, county, SSD, etc.) in place, and;
 - PPR has financial assurance in place with the State.
- Is there any reason/need for the county to be included in the closure “final inspection” and have authority in the release of the financial assurance?

Your decisions and conditions as a Planning Commissioner:

Any condition can be applied as long as the Planning Commission can point to a specific standard in the CUP or Solid Waste ordinance.

The condition/mitigation must be proportionate to the detriment/negative impact the use would have.