

BOX ELDER COUNTY PLANNING COMMISSION AGENDA

March 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 February 16, 2017 Planning Commission Minutes.
5. **PUBLIC HEARINGS**
 - a. BRETT & MARIANNE CRAYNOR, Z17-001 ZONING ORDINANCE TEXT AMENDMENT CHAPTER 3-2-070 TO ALLOW RECEPTION/WEDDING EVENT CENTER. ACTION
 - b. LUMBERJACK REZONE, Z17-002 REZONE PROPERTY DE-ANNEXED FROM WILLARD CITY, PARCEL #: 02-055-0117; REQUESTING MG-EX ZONE. ACTION
6. **NEW BUSINESS**
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 01-012-0160 (ACTION)
8. **WORKING REPORTS**
9. **PUBLIC COMMENTS**
10. **ADJOURN**_____

BOX ELDER COUNTY PLANNING COMMISSION MINUTES February 16, 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>the following Staff was present:</i>	
Chad Munns	Chairman	Scott Lyons	Com Dev Dir.
Laurie Munns	Vice-Chairman	Marcus Wager	Planner
Kevin McGaha	Excused	Diane Fuhriman	Exec. Secretary
Michael Udy	Member	Steve Hadfield	Co. Attorney
Bonnie Robinson	Member	Jeff Scott	Co. Commissioner
Desiray Larsen	Member	Bill Gilson	Co. Road Dept.
Mellonee Wilding	Member		

Chairman Munns introduced and welcomed Diane Fuhriman as the new executive secretary for the Community Development Department.

Prayer was offered by **Commissioner Bonnie Robinson**
Pledge was led by **Commissioner Michael Udy**

The following citizens were present & signed attendance sheet ¹

Tim Brown/Murray	Brent Kenley/Ogden	Tim T. Munns/Hansel Valley
Brett Snelgrove/Layton	Jared Holmgren/BRC	Chad Reid/Honeyville
Blaine Rupp/Tremonton	Randy Moulding/Faust Valley	Brent Rupp/Tremonton
Robert Adams/Brigham	Jon Z. Thompson/Deweyville	Jeri Garn/Fielding
Gary Myers/Farmington	Caleb Moore/Diamond Bar CA	Bill Gilson/Co. Road Dept.

The Minutes of the January 19, 2017 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Laurie Munns** to accept the minutes; seconded by **Commissioner Bonnie Robinson** and passed unanimously.

PUBLIC HEARINGS - NONE

NEW BUSINESS

VAC17-001, ROAD VACATE; VACATE ALLEYWAY BETWEEN PARCEL: 06-046-0083 AND 06-046-0143 AT APPROXIMATELY 15580 N 5300 W IN THE RIVERSIDE AREA OF UNINCORPORATED BOX ELDER COUNTY.

Staff informed the commissioners the applicant is requesting to vacate an alleyway at approximately 15580 N 5300 W in the Riverside area. In 1894 a plat of Riverside was made showing alleyways in-between the blocks. In 1992, an alleyway by B-Street was vacated. County policy 2003-01 outlines the standards when considering a road vacate.

- 1. Is there a prevailing public interest in keeping the road open; and*
- 2. Does the proposed vacation substantially affect the County General Plan or the Transportation Plan of the County; and*
- 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*
- 4. Will the proposed road vacation financially harm any landowner or stakeholder who may have an interest in the road; and*
- 5. The County shall not vacate any other private interest within the right-of-way; and*
- 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*
- 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.*

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.

Commissioner Laurie Munns asked if the property to the south is owned by the same landowner. Staff replied the landowner only owns on the east and west sides of the alleyway.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation of approval to the county commission for application VAC17-001 for the road vacate for said property. The motion was seconded by **Commissioner Laurie Munns** and passed unanimously.

Conditions for Approval:

1. The applicant will provide a description of the vacated area.

SPD 17-01 DISPOSAL OF SURPLUS PROPERTY, ALLEYWAY BETWEEN PARCEL NUMBERS: 06-046-0143 AT APPROXIMATELY 15580 NORTH 5300 WEST IN THE RIVERSIDE AREA OF UNINCORPORATED BOX ELDER COUNTY

Staff explained any time the county has property to dispose of, the surplus property process needs to be followed. Box Elder County Policy 2000-01 requires the planning commission to look at the highest, most economic, and best use for the land. The property has not been used as a road for years. It is the opinion of the staff that deeding the road back to the property owner is the highest and best use of the property.

There was discussion on whether or not to recommend the county commission charge a dollar amount for the transfer of the property.

MOTION: A Motion was made by **Commissioner Laurie Munns** to forward a recommendation of approval regarding application SPD 17-01 surplus property of an alleyway located at approximately 15580 N 5300 W with a recommendation that the adjoining property owner pay \$1 for the property. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

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

Staff told the commissioners the applicant has submitted an application for an agricultural subdivision. The location of the subdivision is in East Tremonton and is an un-zoned area. The applicant owns approximately 9.36 acres and would split off approximately 2.15 acres around a home, leaving 7.21 acres as agricultural land.

Staff explained agricultural subdivisions are considered plat exempt subdivisions. Utah State Code Section 12-27a-605(5) states no subdivision plat is required but there are requirements in the code that need to be met in order for the agricultural subdivision to be approved. When there is a single family dwelling being split off from the agricultural land, a certificate of approval is approved by the planning commission and then an ordinance is approved by the county commission. The approval standards from state code are as follows: *the proposed subdivision is not traversed by the map lines of a proposed street as shown in the general plan or does not require the dedication of any land for street or other public purposes.*

Staff said the subdivision has been approved by the culinary water authority and sanitary sewer authority. The portion of land with the home already has culinary water and the septic system in place so approval from those entities is not necessary. The following standards for review from Utah State Code 12-27a-605(5) have all been met. *The parcel contains an existing legal single family dwelling unit; The subdivision results in two parcels, one of which is agricultural land; 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; 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.

Staff recommends the planning commission approve the agricultural subdivision and the certificate of approval be signed. An ordinance would then go before the county commission for final approval.

MOTION: A motion was made by **Commissioner Laurie Munns** to approve application AS17-001, the Cole Selman Agricultural Subdivision. The motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

UNFINISHED BUSINESS – PROMONTORY POINT RESOURCES

Staff reported Promontory Point Resources is requesting a conditional use permit to construct and operate a non-hazardous landfill on Promontory Point. The proposed location is the southwest portion of the Promontory peninsula (T6N R6W Sections 13, 24, 25 and T6N R5W Sections 18, 19, 30).

Chairman Chad Munns invited Brett Snelgrove from Promontory Point Resources and Engineer Caleb Moore, from Tetra Tech to come to the commission table for a discussion. **Chairman Chad Munns** said the biggest issue is the road and asked them what their vision is for getting in and out of the landfill property. **Mr. Snelgrove** stated they have been working with **Bill Gilson** from the county road department and proposed a phased implementation. With a phased implementation the minimum safety requirements are met and allows operations and hauling to begin even though the road needs improvements. We tied that into if tonnages or if increased traffic occurs, then additional improvements need to be made. At any time, if it is found the road is degrading quickly, improvements would be made at that point as well.

Chairman Chad Munns asked about pilot cars and inquired if it would be like a convoy of trucks. **Brett Snelgrove** explained it would probably be a combination of both in order to be able to limit the time on the road. We could stage them so all the trucks come out at the same time. That way we could bring them together and use one pilot car. CRS proposed signage for some of the corners to help slow traffic down. **Chairman Chad Munns** asked if the drivers would be contracted out. Mr. Snelgrove replied the drivers would be contracted out. **Caleb Moore** stated there would be stipulations in the contracts for safety.

The commissioners and Mr. Snelgrove review the report from CRS. **Chairman Chad Munns** asked if there is anything in the report they do not like. Brett Snelgrove said he is not aware of what the cost is with the \$5M bond and feels if they comply with 3.4M in an escrow account, the \$5M is excessive.

Commissioner Laurie Munns inquired if double trailers are being proposed. She also asked if the trash will be bailed or loose, and if loose will it be covered under tarp or contained.

Brett Snelgrove answered no double trailers will be used. The trash will not be bailed but will be tarped, covered and secured. In the fugitive waste plan there will be mobile and stationary fences around to help keep fugitive waste from blowing. There are trucks already traveling the roads and these practices of tarps and fencing are currently being used.

Commissioner Laurie Munns asked about a contingency plan. If there is an event that destroys the road and it will take 4-5 days to repair the road, do you have a plan of where the trash is going to go because the trash is not going to stop. She is also concerned with the time of day the trucks will be transporting trash; night time is a dangerous time to transport.

Brett Snelgrove said there are other solutions and options should something happen to the road. We also have agreements and work with other landfills if needed.

Caleb Moore stated 90% of the waste will come in before noon. The rest of the waste that trickles in will be done by mid-to-late afternoon. The landfill will stop accepting waste about an hour before dark. The landfill will be secured every night with soil and/or tarps on top of the waste.

Chairman Chad Munns asked if Mr. Snelgrove could explain more about each of the fences for those who were not in attendance at the site visit. **Brett Snelgrove** started with the interior fence stating the fence will range anywhere from a 15 ft. mobile waste fence that can be moved, up to a 40 ft. semi-permanent fence. That fence would go on the high-impact areas. After the semi-permanent fence there is 1000 acre buffer, there will be pickers and others to maintain the area daily. Around the perimeter there will be a 5 ft. fence marking the boundary line which will also help stop any other trash that goes out.

Chairman Chad Munns invited Road Supervisor Bill Gilson and CRS Engineer Gary Myers to the commission table for discussion.

Bill Gilson informed the commissioners an independent engineering firm was contracted to specifically look at the safety of the road and go over the recommendations made for minimum improvements. **CRS Engineer Gary Myers** said he has driven the road with Bill Gilson and took into account the existing conditions and the posted speed of the road. Those conditions were compared against what the American Association of State Highway and Transportation (AASHTO) requires and recommends for safe roadway travel. He directed the commission to review the report which shows ten (10) different locations that look to be a real concern. We have made recommendations for what we feel would be good improvements. He feels pilot cars are also a good idea. Mr. Myers recommends some horizontal curve signs with reduced speed plaques. The best and foremost thing to do is to increase the radius of those curves to get them to the recommended radius for what the posted speed is. With the allotted time frame, this is not feasible, so we are recommending the signage and speed reductions.

Bill Gilson said they also looked at core samples of what the pavement would hold up to when looking at the minimum of twenty-five (25) trucks per day. Originally the estimate to do a 3-inch overlay on approximately 20 miles of pavement came to about \$2.7M. For just the *minimum* needed improvements of recommendations from CRS Engineering, the new signage and installation, that number increased to approximately \$3.4M. These costs only reflect Phase 1. Mr. Gilson said the applicant would be required to wet and grade the road every year. Mr. Gilson said when they start using 35 trucks instead of the 25 used during Phase 1; they will look at implementing Phase 2 and doing more improvements to the road.

Chairman Chad Munns asked if Promontory Point LLC has met with North Shore Rail as discussed at the site visit. **Brett Snelgrove** said they have not met with them as of yet.

Commissioner Laurie Munns asked about the impact on the wildlife. She is concerned the wildlife will not be able to cross the chain link fences and will not be able to migrate the way they have always migrated.

Commissioner Desiray Larsen would like a work session to discuss this issue further. **Chairman Chad Munns** directed staff to find a day and time the commissioners can meet for a work session.

MOTION: A motion was made by **Commissioner Mellonee Wilding** to table the review for the CUP16-002 until the next commission meeting. **Commissioner Laurie Munns** seconded the motion and passed unanimously.

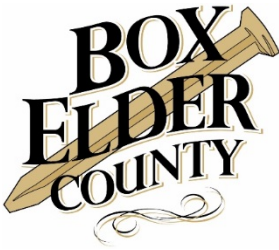
WORKING REPORTS -NONE

PUBLIC COMMENTS -- NONE

MOTION: A motion was made by **Commissioner Laurie Munns** to adjourn the February meeting at 8:08 p.m. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously. Passed and adopted in regular session this 16th day of March 2017.

Chad Munns, Chairman
Box Elder County Planning Commission

ⁱ Attendance List.



PLANNING COMMISSION STAFF REPORT

Meeting Date: March 16, 2017

Agenda Item #: 5a

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Bret & Marianne Craynor

PROJECT #:

Z17-001

ORDINANCE:

Chapter 3-2, Section 3-2-070

TYPE OF APPLICATION:

Legislative

REPORT BY:

Scott Lyons,
Comm. Dev. Director

BACKGROUND

The applicant is requesting a text amendment to Section 3-2-070 of Chapter 3-2: Multiple Use, Agricultural, and Rural Residential District. The current code does not allow reception, wedding, or event centers. The request would allow such a center to be located in the A-½ zoning district. The applicant has not stated whether the requested use would be a permitted use or conditional use, ultimately that decision would be up to the County Commission.

ANALYSIS

County Code:

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

Land Use Ordinance Standards Review:

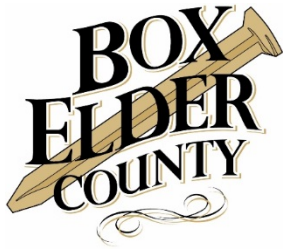
Box Elder County Land Use Management & Development Code section 2-2-080 outlines the following standards for review for zoning text amendments.

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

The County's General Plan states the following regarding commercial development:

"Due to its limited ability to provide municipal services, Box Elder County encourages commercial development to take place within or adjacent to existing communities or service areas. In areas where adequate services do not exist, the County encourages the development of commercial cores wherein several businesses can utilize a single self-contained water/wastewater systems or justify extending existing service lines. Where feasible, commercial areas adjacent to municipalities should be annexed.

The County recognizes the tax-base benefits that come from commercial development and will support appropriately designed and sited development along major thoroughfares and in unincorporated communities as long as adequate services can be provided and the location is compatible with desired growth patterns. The County will continue to allow the seasonal use of roadside fruit stands and



markets. It is the County's position that agriculture-associated businesses help maintain the County's rural atmosphere and reflect positively on the County and the agricultural industry.

Box Elder County recognizes that commercial development in the unincorporated areas often occurs along major thoroughfares, and adjacent to existing communities. In some cases, this development acts as the gateway to these communities. The County will work with affected municipalities to ensure that proposed development complements community aesthetics and design standards.

Outdoor advertising billboards and signs should be permitted in only very limited areas and should not be allowed within community centers or along highways or city entrances unless clearly justified as required in the public interest. Signs within commercial areas should be tasteful, limited in size, height, and movement, and generally placed flat against buildings. No signs should be permitted which conflict with safe traffic movement.

The County will also encourage the expansion of existing County industries through value-added programs. This activity may include revising existing land use ordinances to allow related businesses to locate in close proximity. An example would be locating a produce processing and packing plant adjacent to rail lines and agricultural land."

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

This text amendment affects only properties zoned A-½ and properties adjacent to those A ½ zones. There are only two properties in the county zoned A-½ are both are surrounded by A-20 zoning. The character of the area in both locations is predominantly agricultural with some sparse residential.

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

This is subjective. The proposed amendment would generate additional traffic that is not customary in a predominantly agricultural area. One could argue that the bird refuge is nearby and is somewhat of a commercial use that generates additional traffic as well.

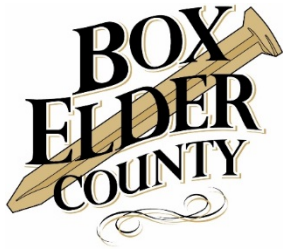
D. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

At this time the proposed amendment would apply to only two properties. The site plan review for an event center would address these services.

FINDINGS:

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

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a



recommendation from the Planning Commission.

RECOMMENDATION

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

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z17-001, a text amendment to Chapter 3-2: Multiple Use, Agricultural, and Rural Residential District of the Box Elder County Land Use Management & Development Code, and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

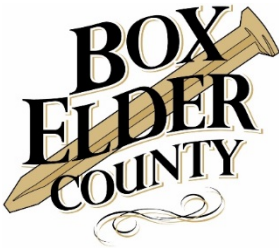
Table – “I move the Planning Commission table the review of application Z17-001, a text amendment to Chapter 3-2: Multiple Use, Agricultural, and Rural Residential District of the Box Elder County Land Use Management & Development Code, to (give date), based on the following findings:”

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 Z17-001, a text amendment to Chapter 3-2: Multiple Use, Agricultural, and Rural Residential District of the Box Elder County Land Use Management & Development Code, 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: March 16, 2017

Agenda Item #: 5b

Application Type:

Zoning Map Amendment

APPLICANT(S):

Aaron Jensen for
Lumberjack Quarry, LLC

PROJECT #:

Z17-002

ADDRESS:

1130 South HWY 89 in the
South Willard area

PARCEL #:

02-055-0117

CURRENT ZONE:

Un-Zoned

TYPE OF ACTION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

The applicant is requesting that Parcel 02-055-0117 have a zoning designation applied to it as it has recently been de-annexed from Willard City. When this happens, the property owner has the ability to request a specific zone be applied to the land. In this case the adjacent parcels are zoned MG-EX, R-1-20, and MU-160, this particular parcel is 34.73 acres so the MU-160 zoning designation does not make sense, thus one of the other two zones should be considered. The landowner's preference is MG-EX and that is why it is being evaluated first.

ANALYSIS

County Code:

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

Surrounding Land Use and Zoning:

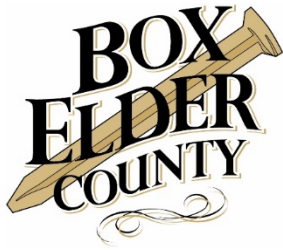
<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Mining/Residential	MG-EX/Willard City
South	Agricultural	R-1-20
East	Agricultural	MU-160
West	Agricultural/Residential	Willard City

Land Use Ordinance Standards Review:

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

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

The South Willard Community Plan addresses the area just south of this parcel as being R-1-20 and does not recommend anything other than this zoning designation for the future. However, the County's General Plan does state that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.



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

The area is a combination of residential, agricultural, and mining. Whether the proposed amendment is harmonious with the overall character of existing development is quite subjective. This point could be argued saying yes, it is harmonious due to there being MG-EX zoning just north of this parcel.

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

The proposed amendment may affect the values of 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.

With other residential, agriculture, and mining (zoning) already in place in this vicinity, it is likely the facilities and services intended to serve the subject property are adequate.

FINDINGS:

Based on the analysis of the zoning map amendment application request from being de-annexed from Willard City and having a zoning designation of MG-EX and a survey of the surrounding area, staff concludes the following:

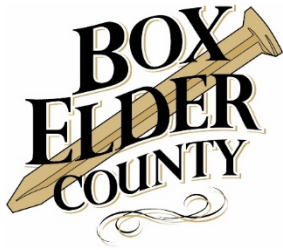
1. The Box Elder Land Use Management and Development Code allows for applying zoning designations on properties subject to zoning map amendment review procedures and approval.
2. It can be interpreted that the proposed map amendment meets the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.
3. This application is for a rezone from de-annexed to MG-EX; MG-EX is an existing zone in this area.

RECOMMENDATION

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

If a recommendation is forwarded to the legislative body staff recommends it be subject to the following conditions:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.



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3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z17-002, a zoning map amendment from de-annexed/un-zoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation) zone and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

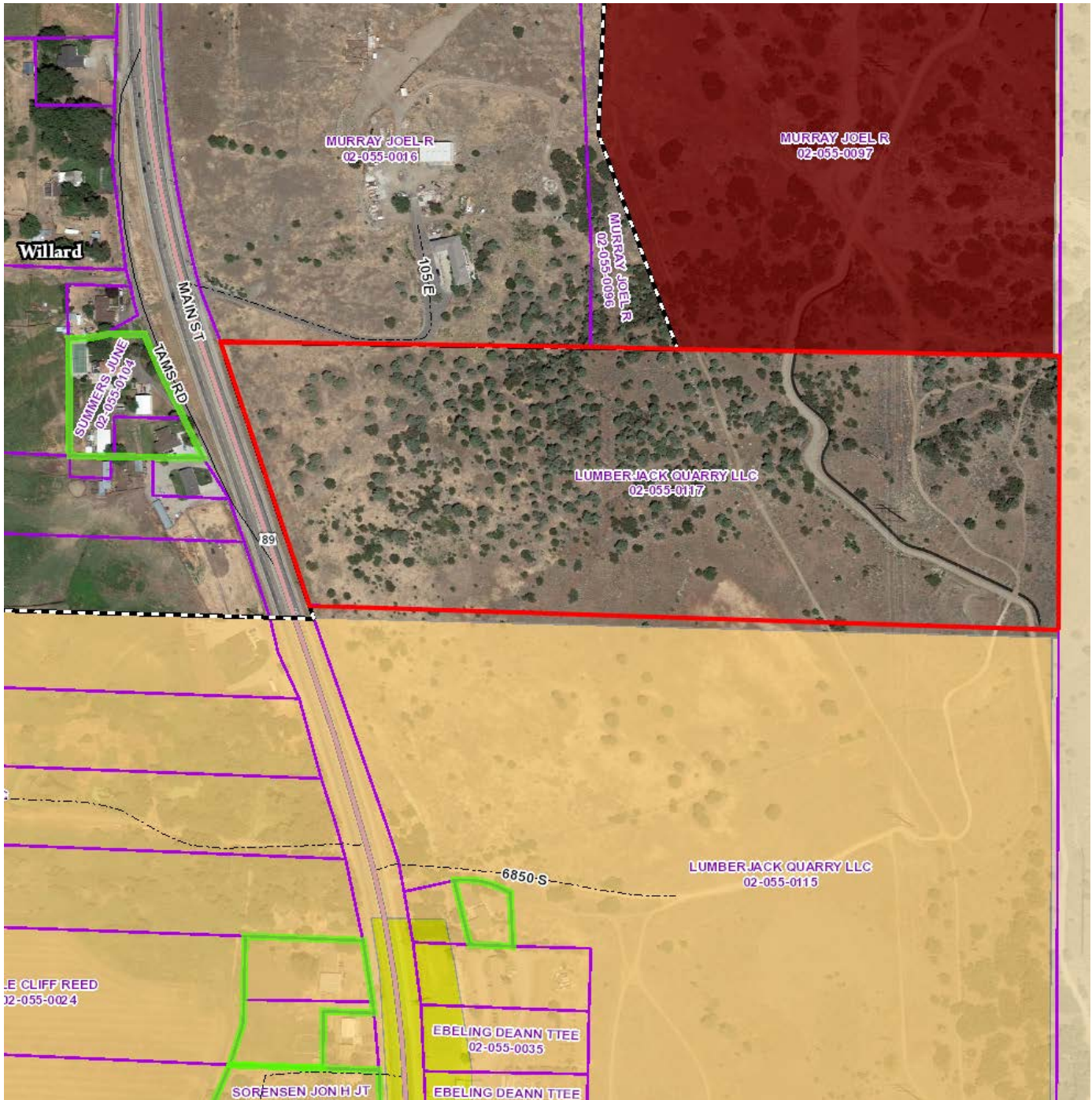
Table – “I move the Planning Commission table the review of application number Z17-002, a zoning map amendment from de-annexed/un-zoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation) zone to (give date), based on the following findings:”

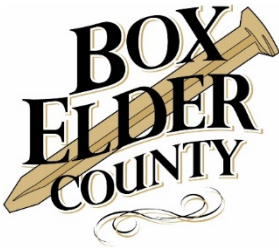
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z17-002, a zoning map amendment from de-annexed/un-zoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation) zone based on the following findings:”

1. List findings for denial...

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





PLANNING COMMISSION

STAFF REPORT

Meeting Date: March 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:

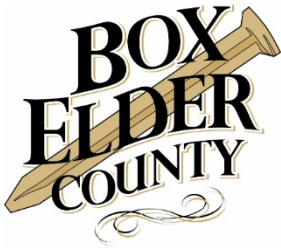
Box Elder County Land Use Management & Development Code section 2-2-100 outlines the following standards for review for Conditional Use Permits.

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.

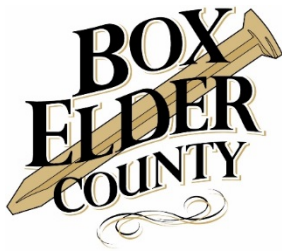
To be more specific, the code states the following factors should be reviewed and considered:

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:



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- *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:

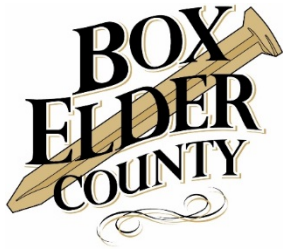
- Significant research and investigation has been conducted to show that the facility will not be injurious to potential or existing development. Additionally, a permit to operate a Class I landfill along with a Conditional Use Permit were issued prior indicating that the facility was not deemed injurious.*

- 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.

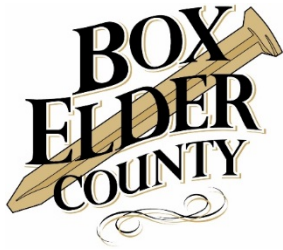
None.

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).

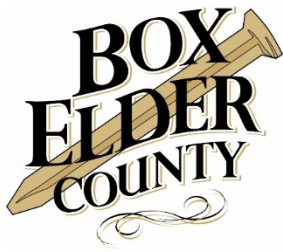
PPR Response:

- *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:



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- 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.

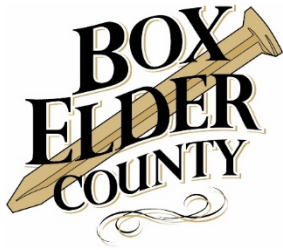
Copies of permits have been submitted.

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.

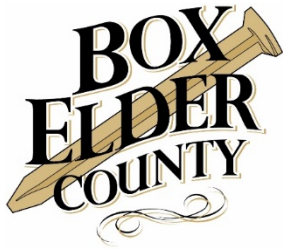
No PPR response required.

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.

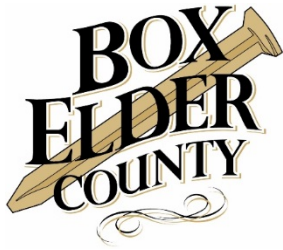
No structure for this purpose is shown on the site plan. Does this mean all waste coming to this facility is bailed?

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....

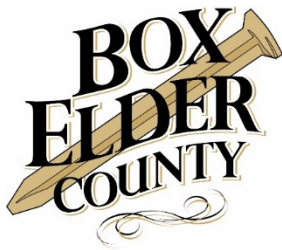


Table – “I move the Planning Commission table the review of application number CUP16-002, a Conditional Use Permit for construction and operation of a non-hazardous landfill, to (give date), based on the following findings:”

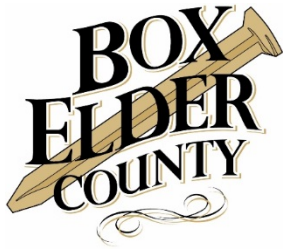
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

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 (on March 15th County Commission agenda).
- Roadway Improvement Plan approved by County Road Supervisor and County Engineer and to Planning Commission standards as the decision making body.
 - This could include the summary of the CRS study provided by Bill Gilson.
 - May include signage and all other recommendations made in the CRS study.
- Updated Site Plan approved by County Engineer and Planner.
- Convoys
 - What time of day?
 - Number of trucks per convoy?
 - Not passing each other on way in/out?
- Planning Commission review of the CUP in 1-2 years to determine if the CUP needs any modifications.
- Hours of operation?
- Damage to water lines along/under roadway, both culinary and stock. Who is responsible?
- Wildlife review from State (in process).
- Comply with all County, State, and Federal requirements.
- 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.
 - This is the 5-6 foot perimeter fence that was discussed in the work session. Does the new Operations Plan clarify this discrepancy?
- Section 5-7 of the 2008 Operations Plan (page 75) mentions that any contracts for alternative disposal locations will be negotiated prior to the facility operating. Has this taken place?



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- 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.