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# BOX ELDER COUNTY PLANNING COMMISSION AGENDA

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November 17, 2016

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 September 15, 2016 Planning Commission Minutes.
5. **PUBLIC HEARINGS**
  - a. DAVID Z. THOMPSON; Z16-007, ORDINANCE TEXT AMENDMENT TO CHANGE THE MINIMUM FRONTAGE REQUIREMENT IN THE RR-1 [BECULM&DC] 3-2-080-2.1, FROM 200 FEET TO 145 FEET. ACTION
  - b. ORDINANCE TEXT AMENDMENT, CHAPTER 2-2: ADMINISTRATIVE AND DEVELOPMENT REVIEW PROCEDURES. UPDATING NOTICING REQUIREMENTS FOR PUBLIC MEETINGS AND PUBLIC HEARINGS. ACTION
  - c. ORDINANCE TEXT AMENDMENT, CHAPTER 3-9: MINING, QUARRY, SAND & GRAVEL EXCAVATION ZONE (MG-EX) AND CHAPTER 4-8: LANDFILL & LAND EXCAVATION OVERLAY. AMENDING LANGUAGE REGARDING MAXIMUM SLOPES TO DEFAULT TO STATE REGULATIONS. ACTION
  - d. LCS HOLDINGS LLC; CUP16-004, CONDITIONAL USE PERMIT FOR MILLWORK TO EXPAND THE CABINET MANUFACTURING SITE PLAN LOCATED AT APPROXIMATELY 10255 NORTH 11600 WEST IN THE THATCHER AREA OF BOX ELDER COUNTY. ACTION
6. **NEW BUSINESS**
  - a. **AS16-009, JEONA MARBLE AG SUBDIVISION**, located at approximately 3780 West 16000 North in the Fielding area of Box Elder County dividing 1 acre with a single family dwelling off 17.71 acres.
7. **UNFINISHED BUSINESS**
8. **WORKING REPORTS**
  - a. **TEXT AMENDMENT:** Section 2-2-100 Conditional Use Permit
  - b. **TEXT AMENDMENT:** Section 2-2-120 Site Plan Review
9. **PUBLIC COMMENTS**
10. **ADJOURN**\_\_\_\_\_

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES September 15, 2016

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

Prayer was offered by Community Development Director *Scott Lyons*.

Pledge was led by **Commissioner Michael Udy**.

### The following citizens were present

Robert Spjute/ Salt Lake City	Zac Sparrow/Salt Lake City
Robert Wilkerson/Salt Lake City	Thomas Borteeh/Salt Lake City
Tim Hawkes/Centerville	Jim Flint-HAI/Brigham City
Brent Kenley/	Thomas Rasband/
Paul T. Hales/	Darren Eyre/Salt Lake City
Kenny Zundel/Tremonton	Gilbert D. Miller/Bear River City
Jack Haywood/Salt Lake City	Nefi Garcia/Murray

A Motion was made by **Commissioner Desiray Larsen** to amend the order of the public hearings on the agenda by having the **TRIGON, SP16-004**, site plan for a proposed C-store to be located in the South Willard area to be heard first and then followed with the public hearing for the **NORTHSHORE RAIL SERVICES, LLC.**, road vacate. Motion seconded by **Commissioner Mellonee Wilding** and was unanimous.

The Minutes of the August 18, 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 as written; seconded by **Commissioner Desiray Larsen** and passed unanimously.

## **PUBLIC HEARINGS**

Vice-Chairman Laurie 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.

**TRIGON, SP16-004, SITE PLAN FOR A PROPOSED CONSTRUCTION OF A C-STORE LOCATED AT APPROXIMATELY 8720 SOUTH HIGHWAY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. ACTION**

Background on this site plan was offered by Staff member, *Marcus Wager* stating that this is for a convenience store to be located in the South Willard area of Box Elder County. This site plan is currently going through the review process by the various county departments. The area is part of the Enterprise Zone and is zoned for commercial use. The areas around this site are zoned as agriculture to the north and east; commercial to the south; and residential to the east and west. All of the setbacks can be met. Access to the property is from Highway 89 on both the east and west sides of the property.

No comments were given on this site plan and a Motion was made by Commissioner Michael Udy to close the public hearing, seconded by Commissioner Kevin McGaha and was unanimous.

**ACTION**

Staff member, *Marcus Wager* explained that there is an existing well to the west of this property and wells in zone 1 have a protection zone, in this case a 100 foot radius around the well and “just about nothing can go in that.” However this property is located in zone two and in the county ordinance it states that in the “prohibited area” septic tanks and underground fuel tanks are prohibited; however there is a septic tank located on this property that has been there for quite some time, possibly before the well was drilled and if it were to increase in size that could present a problem. Also in the county ordinance in Permitted Uses, Subsection C<sup>i</sup> it does allow for “these things to go in if the design standards are implemented for the specific use and that will prevent contamination discharges to ground water.” There have been extensive talks with State Division of Drinking Water and they stated that, as far as the septic tank...”there are no requirements in the source protection rule that apply to septic tanks in Zone Two for wells that are existing. Wells that are existing...in 1993 they [the State] came up with these zones for well protection. Since this well was in place before 1993 it is referred to as an unprotected source.”<sup>ii</sup> Basically they are saying that this rule does not apply in zone two. Also, “as far as underground storage tanks that are proposed with the fuel tanks...they are regulated by the Division of Environmental Quality and there are really tight, strict controls on those and they do not consider the underground storage tanks uncontrolled because of the restrictions placed on them; therefore they are considered to be controlled.” Therefore, staff member, *Marcus Wager* said that it would be up to the Planning Commission as to whether or not this could/would cause contamination into the ground water as stated in the county’s ordinance. Staff member, *Marcus Wager* further stated that since there was already a septic tank being used on the property the staff member, *Marcus Wager* was comfortable with allowing it; and with the tight regulations on the underground storage tanks, we’re comfortable with that as was the State.

**Commissioner Laurie Munns** asked if there were any questions or comments and then asked what the well water was used for. Staff member, *Marcus Wager* said that it provides water for approximately 45 trailers located in a mobile home park west of this site. They also have an emergency connection for the Bear River Water Conservancy District. Staff member, *Marcus Wager* also stated that the existing septic system would be upgraded to better serve the new “C” store. **Commissioner Bonnie Robinson** referred to a letter that had been received from the BRWCD and it was read into the Minutes.<sup>iii</sup> Staff member, *Marcus Wager* then read from Ordinance 216 (which was referred to in the BRWCD letter) saying:

*“In addition to the permitted uses specified in Paragraphs 5(a) and 5(b) herein, certain of the uses prohibited in Zones Two, Three, and Four pursuant to Paragraph 6 herein may be allowed in Zones Two, Three, and Four, respectively, if design standards are implemented for the specific use that will prevent contaminated discharges to ground water.”* Ordinance 216, 5 (c)

**Commissioner Laurie Munns** then asked if this would be a recommendation to the County Commission or approval only by the Planning Commission. Staff member, *Marcus Wager* then said that this was an approval that would be from the Planning Commission and did not need to go before the County Commission. Community Development Director, *Scott Lyons* then said that there were additional items relating to this site plan that are currently being reviewed others, mainly the engineer. The engineer for the developer was present and could discuss those issues. Staff member, *Marcus Wager* then reviewed the list of items from the County.

1. The name of the project is currently under “Beckstead” and needs to be changed to Willard ‘C’ Store.
2. There needs to be a six foot fence on the south side property line.
3. A tabulation table for the acreage and everything that exists on the site.
4. The elevations don’t show colors, and that is required by the County Code.
5. Needs to show the lighting on the building.

**The list from the County Engineer included:<sup>iv</sup>**

1. *The grading plan doesn’t have proposed contours to show how the existing and proposed grading tie together.*
2. *ADA/safety concerns regarding the building ingress/egress and sidewalk ramp.*
3. *Detention pond questions*
4. *Where is the replacement absorption bed location?*
5. *It appears the telephone line is off of this property and hence will require an easement.*
6. *The Keystone wall details are signed and sealed by a Missouri PE in 2002. Please update.*
7. *The Plans and the Drainage Report should be signed and sealed.*
8. *You must meet 0.2 cfs/ac, minimum. County Engineer can require a lower release rate.*
9. *What discharge rate will your proposed 4” pipe have? Have you considered an orifice plate instead?*

10. See attached redlined report for additional minor comments/questions. (these were available to be reviewed if the commissioners wanted to do so.)

As this site is located on UDOT road, the petitioner has been in contact with them and they are working on the re-striping for ingress/egress. It was then asked if the detention pond was sufficient for this site plan and proposed use. Staff member, *Marcus Wager* said that had been noted and was currently being addressed.

**Commissioner Laurie Munns** then referred to the list from the County Engineer and asked if the commission should wait until some of those items had been taken care of. However, Community Development Director, *Scott Lyons* said that a list like that was not uncommon [as many were minor] and that when an updated plan is submitted most [if not all] would have been taken care of. The main item was the storm drainage basin; there is an updated plan for that and would probably be good to have the South Willard Storm Drainage District review it as well. **Commissioner Bonnie Robinson** then noted that there were no comments given during the public hearing portion and often times that helps the commission in the review and decision portion of the meeting.

**Commissioner Kevin McGaha** said that since the State did not have any concerns with the septic or the expanded septic, it was ironic that the more regulated fuel tanks would be an issue [technically] for the county's ordinance and the state doesn't have any concerns with that either. As this seems to fall under the "exception" in the ordinance [216] it would allow the planning commission to grant approval as the regulations on the fuel tanks makes it likely that no contamination will be able to get into the water. As the State has provided their opinion that neither the septic nor the fuel tanks would be an issue, and County Ordinance 216 allowing for an exception, if those are taken into consideration, along with the fact that the property owner wasn't given any notice when that protection area was established, otherwise they may have asserted their rights, it would allow the commission enough reason to allow them to move forward with the project.

**Commissioner Mellonee Wilding** then said that she was still not comfortable with the storm water issue and that there were no representatives from the SWSDD to address that issue.

**Commissioner Bonnie Robinson** then asked if the SWSDD had been notified of this proposed site plan or the meeting and was told "no" but staff would be sending out information to them. With that, then it might be OK to postpone action and tabling until the next month's meeting.

**Commissioner Mellonee Wilding** then asked who would be responsible for maintaining the drainage basis and CDD, *Scott Lyons* said that this was the first one that he had dealt with that wasn't within a subdivision, and those are dedicated to the drainage district for liability and maintenance issues. On this one, however, the owner could continue to maintain it and an easement could be given to the drainage district if the district wanted to take over the care and maintenance of it. It is usually the petitioner's engineer that determines if the size of the basin is large enough to handle the run-off on the property for its proposed use. It would then be reviewed by the County's Engineer to make sure it would be adequate. The county has not yet seen the updated plans that would show this basin on them.

**Mr. Jim Flint** from Hansen & Associates addressed the commission saying that they were only seeing one page of an eleven page plan and the commissioners did not have the grading and drainage plan to review. He said that many of the issues that had been listed by the County and the County's Engineer had already been addressed, and as far as the drainage issue, there was

pipng that would go from the northern part to a trench drain in the parking lot and that everything was being piped and more controlled and the calculations have been done to raise the outflow by one inch. They were waiting for the outcome of this meeting to resubmit all the updates. Everything that has been talked about is really of a minor nature. The grading and drainage are extremely detailed with underground piping and catch basin; taking an uncontrolled environment and making it better through good design. The water would flow to the southwest to the pond and there is a four inch pipe [that could be reduced to a two inch if recommended by the County Engineer] to capture it and there would also be an overflow at the southwest corner of the property. The water runoff has always collected on the southwest corner of the property. *Mr. Bill Gilson*, County Road Supervisor asked about the water draining from the highway and that everything that would be captured in the pond would just be from the parking lot of the business and not from the highway. *Mr. Flint* said that was correct and that drainage from the highway would not be going through this property as it could be overwhelming and that there is extensive highway widening plans and the improvements will go 700 feet south and about 800 feet north as well as improving the southbound lane that will have a deceleration lane. They met with UDOT and got their plans approval before they proceeded any further; there will also be a left hand turn lane that will lend tremendous enhancement to the area. The drainage on the highway will continue to go as it has; and on the property, through the drainage and grading plan with pipes all will get to the drainage pond. *Mr. Bill Gilson* then said that from everything that he had seen with the proposed improvement to the highway and the proposed improvements to the property, all will help with the drainage in his opinion. *Mr. Flint* then said that one of the obstacles with this property is the size and it is only about .6 of an acre and not a major commercial area. Then in referring to the well protection requirements the state requires that anyone wanting to use a well for public (water) purposes has to file a source protection that is a 328 page report that was filed in 2005 and in 2010. Then tabulation is conducted of all the neighbors within about a mile and the information is put into a report and that is the end of the(ir) duty. The irony of this is, in some areas and interpretations, “can a well on an off-site..., can a person drill a well and condemn all of their neighbor’s because of a well drilled on their property ?” Common sense says that just because a report was filed you can’t take away all the development rights as well as informally change the general plan and zoning maps, none of which shows up on a title report. In the very report that was filed, it was declared that there was an existing well and septic system on this property. Therefore, if they were concerned about their well being contaminated provisions should have been taken at that time. The environmental health department regulates and governs septic systems; we are over 100 feet from the well and will build an upgraded system that will have another layer of protection. He then referred to County Ordinance 216 and that things are mitigate-able, and these thing can be mitigated, i.e. underground storage tanks and septic systems.

**Commissioner Kevin McGaha** then asked if the staff had any issues with the drainage and CCD, *Scott Lyons* said that it was an issue that needed to be worked out through the engineers and if the commissioners wanted that to be dealt with before moving forward with their motion, then it could be tabled with the alternative being to make it a condition that has to be approved by the county engineer and by the drainage district; and as with most conditions, staff would ensure that was resolved before issuing any permits.

As this is on private property, **Commissioner Desiray Larsen** asked if it was typical to get the



approval of the drainage district first. The answer was ‘no’ if on private property, but the county engineer would still review and ensure it. **Commissioner Desiray Larsen** then said that she did not think it needed to be a condition for any approval.

**MOTION:** A Motion was made by **Commissioner Michael Udy** to grant approval to SP16-004 Site Plan subject to the conditions listed and discussed by Staff and also notification to the South Willard Storm Drainage District and their approval; noted by **Commissioner Laurie Munns** that approval from the SWSDD was not necessarily needed for approval of this plan, but that the county engineer would need to approve of the drainage plan. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

**Conditions of Approval:**

1. Compliance with Section 2-2-090 of the BECLUM&DC.
2. Compliance with Article 5, Regulations of General Applicability, of the BECLUM&DC.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
4. Addressing the zone protection area problem.
5. Notification to the South Willard Storm Drainage District of the proposed plan and drainage/catch basin.
6. The five items listed by county planning staff be addressed and corrected/changed as necessary.
7. List of ten concerns from the county engineer as previously outlined be addressed and corrected/changed as necessary.
8. All items to be satisfied before issuing of any necessary permits

**NORTHSHORE RAIL SERVICES, LLC. ROAD VACATE A PORTION OF ROAD AT APPROXIMATELY 18400 WEST EAST PROMONTORY ROAD AT THE SOUTHERNMOST END OF PROMONTORY POINT. ACTION**

Staff member, *Marcus Wager* said that this applicant is requesting to vacate a portion of a road [East Promontory Road] at the very south end of Promontory Point. Earlier in the year this same applicant had presented a site plan to the Planning Commission for a new rail spur and at that time it was noted that the road would need to be relocated. This is not a road that is going to be taken away, but will be relocated and that new road will then be dedicated back to the county. The commissioners were then referred to the map included in their packets that showed the section of road being proposed for vacation. This is all within Northshore’s property that they own on Promontory Point. The public hearing was then opened at this point.

**Mr. Gilbert Miller**, from Bear River City, asked that the dedication of the new future road be recorded before this portion of road is vacated in order to assure public access right-of-way through the entire properties. He did not want the benefit of one property owner to jeopardize the benefit to all of the other property owners out on Promontory Point.

**Mr. Robert Spute**, from law firm Shumway Van and was representing the Great Salt Lake Brine Shrimp Cooperative which collects brine shrimp off of the Great Salt Lake and operate off of Promontory Point with a couple of harbors located there for them to operate their business; and,

because of this operation they use that road that is being proposed for vacation. It will be difficult for the cooperative to continue their business if this road is gone. The biggest concern is if the road is vacated and then the other one not built, that would hinder their harvesting as the season begins in October. He was also concerned with the amount of notice that was given regarding these proceedings as they had only had a couple of days, which was not enough to get pertinent comments together. They had submitted two GRAMMA requests and also wanted to know why this road vacation was going to happen. They were grateful for the quick response from the county but as the Cooperative had been in conversation with Northshore regarding this new rail spur and where it will be located. During these negotiations with Northshore they had been told that if they did not agree with this road be vacated then they, Northshore, would vacate another portion of the road that would essentially shut down the Cooperative as they would not be able to get to the area that they use on a regular basis. This has made them very nervous and concerned as this could lead to more roads vacating to come. Regarding the notice of this hearing, they were concerned that there were so many others that did not know of this proposed action until just a day or two prior to the meeting and they have not have the opportunity to talk with the engineer or others that they need to in order to understand if this road is going to also meet their needs. This road is also used quite often to go to the northern harbor and depending on how things go in the future with the Great Salt Lake, and how the water is regulated, they could be using this northern harbor even more. During the brine shrimp season this road is used heavily with trucks traveling over it and they were concerned that the road being put in its place would have the right grade, is it the right quality, something that can be used in the winter months, and if it is not, then their business would be crippled. In principle they were not opposed to the movement of this road, only that if this road is vacated, will the new road be built, and right in the middle of the brine shrimp season the road will be closed, no new road will be provided and they would not be able to operate. He, too, felt that the new road should be built before this one was vacated.

**Mr. Robert Wilkinson**, an attorney with Anderson, Wall & Wilkinson which represents one of the nearby property owners, GWSC Properties, LLC which owns about 160 acres west of this property and expressed much the same concerns mentioned before, 1) never received notice of the hearing (one of the owner's sons had been traveling in the area and saw a sign about the proposed vacation of the road, about a week to ten days prior. They were not opposed to what was being done in concept, but asked that the road not be vacated until the new one was built and dedicated and that the new road be able to handle the same type/kind of traffic as currently. He noted that the current road is relatively flat and that the new road has grades of about six percent (6%) in the western area and five percent (5%) on the eastern area. With a gravel road that steep in the winter would there be safety issues with semi-trucks in the area or heavy machinery being moved through the area? They just wanted to make sure that the new road would be able to handle all of the same type of traffic that it currently does.

**Mr. Darrin Eyre**, a professional engineer that is helping Northshore with this project mentioned that the list of items/concerns from the earlier meeting in April regarding the grade, materials, etc.; all of those have been addressed so in general the road width will be wider than it is currently and will meet the requirements of the county road department and UDOT. The curve will be bigger in radius lengths than the existing curves; the grades are either equal to or less than other sections of the road outside of the Northshore property, while the road through the



Northshore property is relatively flat. The road in the east and west of the property are actually steeper than the proposed road grade and will be flatter than other sections that are travelled. It was not their plan to have the old road vacated before the new one is ready to be dedicated [and staff would probably talk more about that]. The road design has been approved by the planning staff, the county road department, and the county engineering department. The site has been visited by all those mentioned and there were no concerns, but the plan would be to get the new road built first per the design that has been approved and then execute the dedication and vacation plats at the same time so that there is a continuous flow by all citizens that need access.

**Mr. Thomas Bosteel**, general manager of the Great Salt Lake Brine Shrimp Cooperative said that their concern was that they were not part of the process and had not been informed about it; and were not aware of the information that had just been given by the engineer for the Northshore project. This stretch of road has been used by the cooperative and its members for a very, very long period of time and is essential to the brine shrimp operation. This road is used to move the brine shrimp harvest, the brine shrimp eggs; to move boats and other equipment, personnel, fuel, water, food, anything that is needed is moved along this road. The harvest starts on October first and continues through January thirty-first. During the peak of the harvest, eight to ten semi trucks can travel across this road, as well as other two ton trucks and pickup trucks. As the proposed new road will have steeper grades than this existing one, it will be more difficult to navigate; however even with that they were not opposed in principle to having the road vacated, but there were two conditions 1) that the alternative road be constructed, and 2) that the new road is engineered in such a way to ensure safety during the winter when trucks are travelling across them.

**Mr. Tim Hawkes**, general counsel for the Great Salt Lake Brine Shrimp Cooperative said that given the short notice they had to really scramble in order to respond and have talked with their lawyers, engineers and they have only been able to go with partial information as getting information back has not been very quick. He then read a letter from their engineer at Great Basin Engineering, Inc.<sup>v</sup>; this letter was based on information that they had with the initial preliminary plans and not the later full plans that were described by Mr. Darrin Eyre. Great Basin did see the full plans recently, but they were still standing by this letter dated September 12, 2016. He concluded by mentioning that they had not been aware of the meeting that took place in April 2016 and that many would not have been aware of this one had it not been for someone travelling in the area [at Promontory] and seeing the sign that was posted out there. There has been a long history and tension associated with this in the past between parties involved and with not getting proper notice there has been a lot of concern. He hoped that the commission would make sure that others that use this road would not be harmed because of this proposed change.

**Mr. Zac Sparrow**, with Smith Hartvigsen, PLLC and represents Promontory Point Resources who are currently under contract to purchase Promontory Landfill of approximately 2000 acres just west of where this road is proposed to be vacated. He, too, said that their concern was that this road would be vacated before the new one was built and dedicated. Also expressed that this could be a public concern and not just a private one as landfills are used for the public and any harm to the road would impact that public use.<sup>vi</sup>

**Mr. Bill Gilson**, County Road Supervisor said that when this change in the road first came to the county he had some concerns with the design plans and the curve of the road going up the hill. He visited the site with several others and made some suggestions and Northshore has taken those suggestions into consideration and the design has been changes; and now he has no issues with the road being moved and felt that it would be good for future use and able to handle vehicles at a 55 MPH limit. He also said that it would be necessary for the new road to be completed and dedicated so that there would not be any interruption with public passage on this road.

**Mr. Paul Hales** said that he owns about 280 acres out on the Promontory peninsula and was concerned about what was really taking place with the road dedication and vacation. The change has since been better explained, but he wondered how long with stretch of road was going to be and was also concerned that there not be any interruption with public travel on the road.

Following the comments, a Motion was made by **Commissioner Bonnie Robinson** to close the Public Hearing, seconded by **Commissioner Desiray Larsen** and was unanimous.

### **ACTION**

Staff member, *Marcus Wager* said that in clarifying the notification of this meeting and public hearing, a sign had been placed at the site on Promontory and the necessary notices were in the two local newspapers to meet the requirements. As far as recommendation of this proposal, the only concern was that the change in roads would not cause interruption with the public use (as was voiced by several others prior during the public hearing). The commissioners then discussed the length of the road, which was about one mile long; whether or not a bond would be required; if the new road would be in use for any length of time (weeks, etc.) before the other one would be vacated. In regards to a bond being placed on the construction of the road, the commissioners were told that a bond would be in place during the construction [amount of 120% of the cost of the new road] and when the road is completed a portion of the bond, 100% would be released leaving the 20% during a warranty period (usually one year) to cover any additional costs should there be any problems with the road. At the conclusion of the warranty period, the remaining bond would then be released. During that year time of the warranty the road should see a significant amount of truck traffic that would indicate any problems.

**Commissioner Kevin McGaha** asked what the reason was for the change in the location of the road and was told that in order to accommodate the location for a new rail spur the road needed to be relocated. This new rail spur will have about 136 [train] cars coming into the area to be loaded with gravel and those cars would block roads for a time during the loading process. It was also mentioned that Northshore would be doing all of the work and also pay for the expenses.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval for VAC16-001, Northshore Rail Services Road Vacate as outlined on the vacation plat and that special consideration be given to the new road being constructed and that it be dedicated and made available for public travel so that there is no interruption for public or business access at this site; and also that a bond be in place. Motion seconded by **Commissioner Desiray**

**Larsen**, stating that this would item would appear on the County Commission agenda for its October 5, 2016 meeting. If there were any other concerns from the public they were encouraged to contact Staff in the Planning Department prior to that 10-5-16 meeting. Motion passed unanimously.

**Conditions of Approval:**

1. A bond secured for the cost of the new road plus an additional twenty percent.
2. The road built to the standards of the County Road Department and County Engineer.
3. The old, existing road would not be vacated until this new road is completely finished and dedicated to the county for public use, to eliminate any interruption in public travel.

**NEW BUSINESS**

**ROAD DEDICATION, NORTHSHORE RAIL SERVICES, LLC, RE-ROUTING A SECTION OF ROAD AT PROMONTORY TO MAKE WAY FOR CONSTRUCTION OF RAIL SPUR AND LOOP TRACK.**

Staff explained that this is the new section of roadway that is proposed to replace the one being vacated. The new road will be built by Northshore Rail Services and will be dedicated to Box Elder County upon completion to be used and maintained as a public right-of-way.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation of approval to the County Commission for the Northshore Rail Services, LLC road dedication. Seconded by **Commissioner Kevin McGaha** and passed unanimously.

**TECHNOLOGY ASSOCIATES, DAKOTA HAWKS, CUP14-003, SIX MONTH EXTENSION FOR INSTALLATION OF WIRELESS COMMUNICATION FACILITY AT APPROXIMATELY 11483 WEST 12000 NORTH IN THE BOTHWELL AREA OF BOX ELDER COUNTY.**

Staff explained that this Conditional Use Permit for a cellular tower in the Bothwell area received approval in September 2014 and is now set to expire. The applicant is requesting an extension of six months to finalize the installation of the tower. Some site work has been completed but the tower, however, is not completed.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to approve the six month extension for Technology Associates, CUP14-003; seconded by **Commissioner Mellonee Wilding** and passed unanimously.

**AS16-007, CALDER AG SUBDIVISION, LOCATED AT APPROXIMATELY 4542 WEST 14800 NORTH IN THE GARLAND AREA OF BOX ELDER COUNTY OF APPROXIMATELY 10 ACRES.**

Staff explained that this agricultural subdivision is all of Lot 2. The applicant is proposing to split this lot creating Lot 2 and a remainder parcel. Lot 2 will be accessed by a 66 foot strip that could be a road in the future. Lot 2 will be approximately 7 acres with the remainder parcel consisting of approximately 8.5 acres. This property is located in an un-zoned area of the county outside of Garland.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to grant approval to the Calder Ag Subdivision, AS16-007; seconded by **Commissioner Desiray Larsen** and passed unanimously.

**AS16-008, COOMBS AG SUBDIVISION, LOCATED AT APPROXIMATELY 16800 NORTH 5200 WEST IN THE FIELDING AREA OF BOX ELDER COUNTY OF APPROXIMATELY 94 ACRES**

Staff explained that this applicant is proposing to subdivide approximately 94 acres into a 93 acre parcel and a one acre remainder parcel. The property is located in an un-zoned area of the county.

**Motion:** A Motion was made by **Commissioner Bonnie Robinson** to grant approval to the Coombs Ag Subdivision, AS16-008; seconded by **Commissioner Kevin McGaha** and passed unanimously.

**AS16-009, CREEKSIDE AG SUBDIVISION, LOCATED AT APPROXIMATELY 8985 WEST 10400 NORTH (ROCKET ROAD) IN THE BOTHWELL AREA OF BOX ELDER COUNTY OF APPROXIMATELY 10 ACRES.**

Staff explained that this petitioner is requesting this agricultural subdivision in order to create a separate parcel at the location of a shop that is on this property. This is an agricultural building that they would like to sell. There were some questions regarding what type of building needed to be on property in order for it to qualify for an agricultural subdivision. Staff said that the code does not really specify exactly what type of building, home, shop, garage, etc. has to be on the property in order to qualify. The following from the Utah State Code was then read:<sup>vii</sup>

*“Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:*

- (i) The parcel contains an existing legal single family dwelling unit;*
- (ii) The subdivision results in two parcels, one of which is agricultural land;*
- (iii) 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;**

In addition the request would also need to meet the requirements of the county, i.e. setbacks, minimum acreage, minimum width, etc. As this property is located in an un-zoned area some of those requirements are not necessary; however, the “*parcel contains an existing legal single family dwelling*”, results in this request not meeting the requirements. The Commissioners then brought up the previous request for the Coombs Ag Subdivision and whether or not it met the necessary requirements for this type of subdivision.

**MOTION:** A Motion was made by **Commissioner Desiray Larsen** to Deny the Creekside Ag Subdivision, AS16-009 as it does not meet the requirements as outlined in the Utah State Code as there is not a single family dwelling unit located on it. Motion was seconded by **Commissioner Mellonee Wilding** and passed unanimously.

**RESCIND MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to repeal the prior Motion for the Coombs Ag Subdivision, AS16-008, and Deny the subdivision as it does not meet the requirements of the Utah State Code requirements of having an existing single family dwelling unit on the property. Motion seconded by **Commissioner Mellonee Wilding** and passed unanimously.

### **UNFINISHED BUSINESS**

**Commissioner Laurie Munns** asked that Staff look into the Code to see if there is a deadline for any items that may have been tabled to be brought back to the Planning Commission for action. Also to review the Code in regards to the number, if any, of times that a petition may be granted an extension. **Commissioner Desiray Larsen** asked if the language in the Code could be looked at in regards to vacating and then dedicating a road at the same time. Staff replied that usually vacating a road and then dedicating a road in the same location/vicinity usually does not happen as it did in this case, and that they are two separate requests.

### **WORKING REPORTS -- NONE**

### **PUBLIC COMMENTS -- NONE**

A **Motion** was made to adjourn at 9:04 p.m., unanimous.

Passed and adopted in regular session this 17<sup>th</sup> day of November 2016.

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Chad Munns, Chairman  
Box Elder County  
Planning Commission

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<sup>i</sup> Ordinance No. 216

<sup>ii</sup> E-mails from Kate Johnson

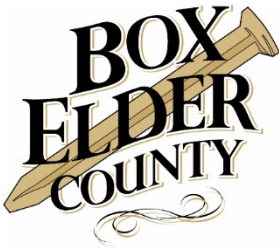
<sup>iii</sup> BRWCD letter

<sup>iv</sup> Dana Q. Shuler Memo/Jones & Associates

<sup>v</sup> Letter from Great Basin Engineering, Inc

<sup>vi</sup> Letter from Smith Hartvigsen, PLLC

<sup>vii</sup> Utah Code, Chapter 27A/17-27a-S605



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## PLANNING COMMISSION STAFF REPORT

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Meeting Date: November 17, 2016

Agenda Item #: 5a

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**Application Type:**

Ordinance Text Amendment

**APPLICANT(S):**

David Z. Thompson

**PROJECT #:**

Z16-007

**ORDINANCE:**

Section 3-2-080-2.1

**TYPE OF APPLICATION:**

Legislative

**REPORT BY:**

Marcus Wager,  
County Planner

**BACKGROUND**

The applicant is requesting that a text amendment be made regarding Section 3-2-080-2.1, Width and Frontage Regulations (RR-1 box only) of the Box Elder County Land Use Management & Development Code. (See attachment for proposed verbiage)

**ANALYSIS**

**County Code:**

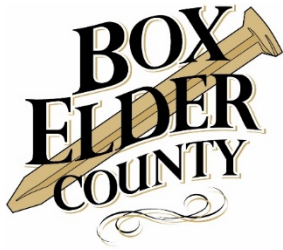
Land Use Management & Development Code 2-2-080.C allows a property owner or agent of a property owner to initiate amendments to text of the Box Elder County Land Use Management & Development Code. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

**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 proposed amendment is consistent with the goals, objectives, and policies of the County's General Plan.
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;**  
This text amendment would affect areas in Collinston, Park Valley, South Willard, and South of Bothwell-Thatcher/Penrose area (map attached at the end of this report).
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**  
The proposed amendment should not 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.**  
The proposed amendment should not put a strain on any of these facilities.





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## **FINDINGS:**

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

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. It is staff's opinion that the proposed text amendment meets all of the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.
3. It is also staff's opinion that the frontage requirement be brought down further to 120 ft. within the RR-1 Zone. There are so few areas throughout the County that have the RR-1 Zone designation. It does not make sense to have such a stringent regulation that is only 50 ft. less than 5 and 2 acre zoning. Staff realizes the applicant is requesting the reduction to 145 ft. but we do support if the Planning Commission so desires to recommend to the County Commission to have that reduction go down to 120 ft.

## **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 forward a recommendation of approval to the County Commission, application number Z16-007, a text amendment regarding Section 3-2-080-2.1 Width and Frontage Regulations 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....

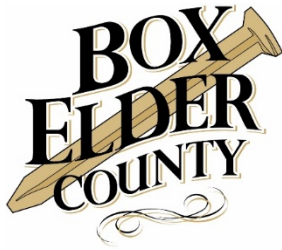
**Table** – “I move the Planning Commission table the review of application number Z16-007, a text amendment regarding Section 3-2-080-2.1 Width and Frontage Regulations of the Box Elder County Land Use Management & Development Code, to (give date), based on the following findings:”

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 Z16-007, a text amendment regarding Section 3-2-080-2.1 Width and Frontage Regulations 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 Marcus Wager at 435-734-3308 if you have any questions.

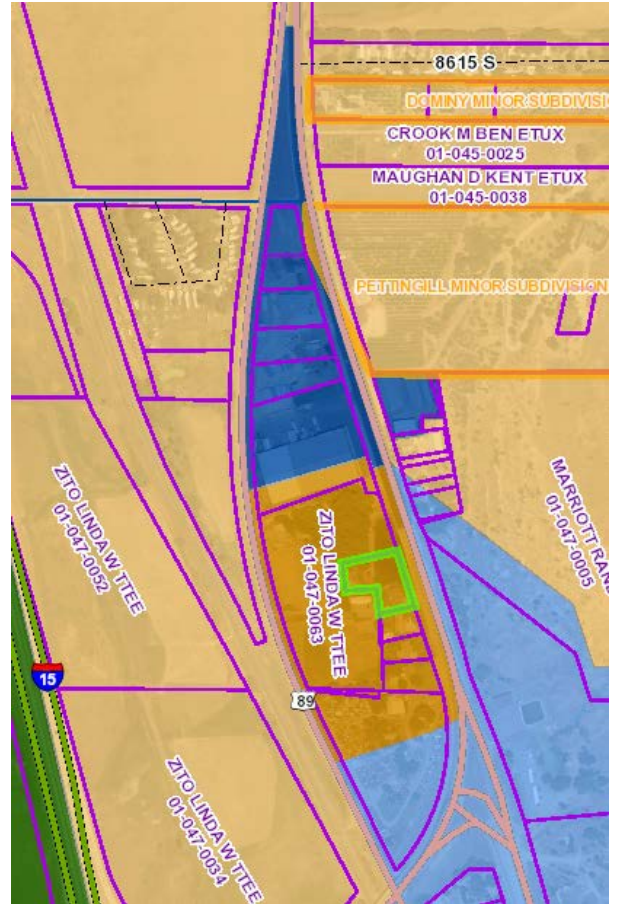


**3-2-080. Regulations for Uses.**

<b>3-2-080-1</b>	<b>AREA REGULATIONS</b>	
<b>3-2-080-1.1</b>	The minimum lot area in acres for any main use in the districts regulated by this Chapter shall be	<b>1</b>
<b>3-2-080-2</b>	<b>WIDTH AND FRONTAGE REGULATIONS</b>	
<b>3-2-080-2.1</b>	The minimum width in feet for any lot in the districts regulated by this Chapter, except as modified by planned unit development, shall be	<del>200</del> <b>145</b>
<b>3-2-080-3</b>	<b>FRONT YARD REGULATIONS</b>	
<b>3-2-080-3.1</b>	The minimum depth in feet for the front yard for main buildings and accessory buildings in districts regulated by this chapter shall be	<b>30</b>
<b>3-2-080-3.2</b>	Where the existing minimum right-of-way on which the lot front is less than 66 feet, the setback shall be measured from the center line and in feet shall be no less than	<b>63</b>
<b>3-2-080-3.3</b>	Where the proposed minimum right-of-way is more than 66 feet, the setback in feet shall be ½ proposed right-of-way plus 30 feet	<b>A</b>
		<b>RR 1</b>

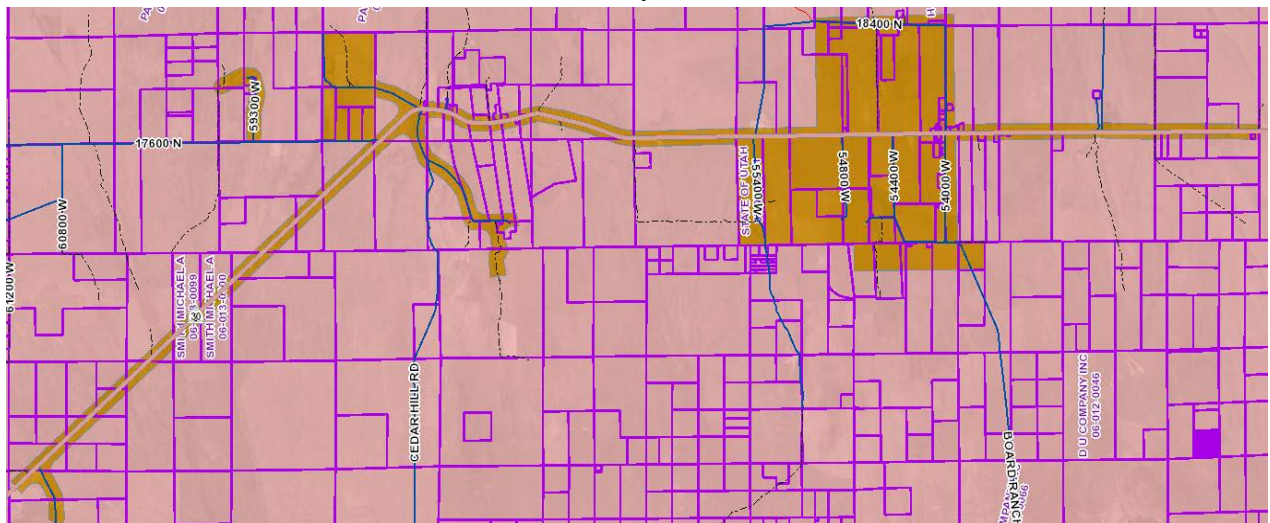


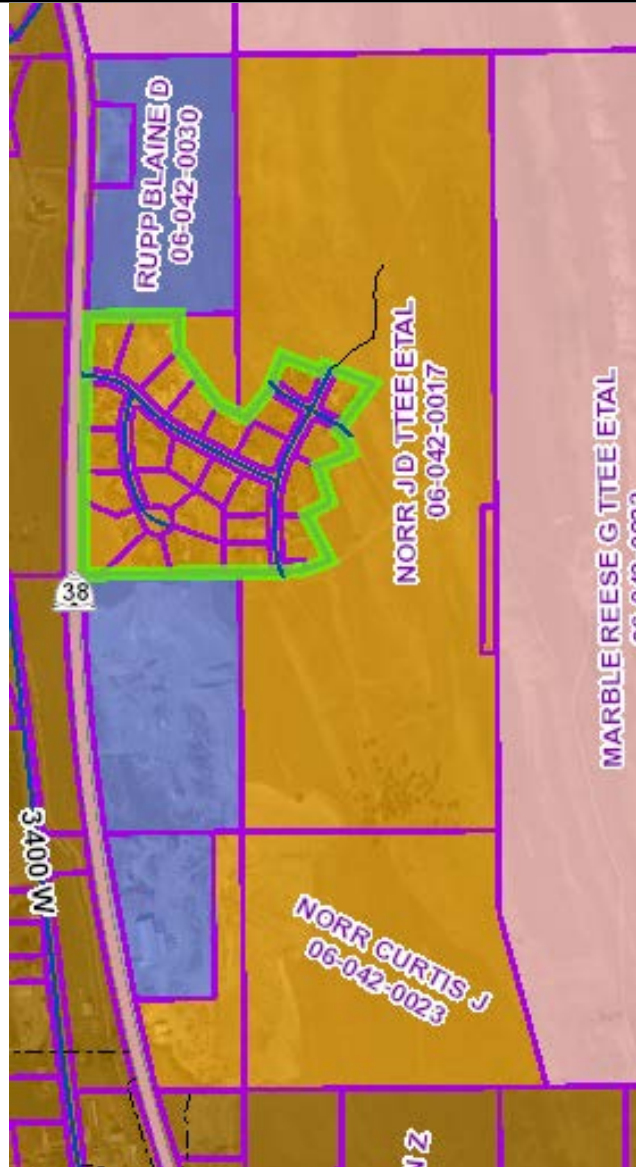
South of Bothwell-Thatcher/Penrose area



South Willard area

Park Valley area





Collinston area





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## PLANNING COMMISSION STAFF REPORT

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Meeting Date: November 17, 2016

Agenda Item #: 5b

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**Application Type:**

Ordinance Text Amendment

**APPLICANT(S):**

Box Elder County Staff

**PROJECT #:**

Z16-008

**ORDINANCE:**

Article 2; Chapter 2-2;  
various sections

**TYPE OF APPLICATION:**

Legislative

**REPORT BY:**

Scott Lyons,  
Comm. Dev. Director

**BACKGROUND**

The Box Elder County Planning Staff is requesting that a text amendment be made to various sections of Chapter 2-2: Administrative and Development Review Procedures. Primarily Section 2-2-050: Public Hearings and Meetings, but also various other sections that refer back to Section 2-2-050. We have found that Section 2-2-050 refers to portions of the state code that are not applicable to all or most applications. The changes would refer to the applicable portion of the state code. (See attachment for proposed language)

**ANALYSIS**

**County Code:**

Land Use Management & Development Code 2-2-080.C allows county staff 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 proposed amendment is consistent with the goals, objectives, and policies of the County's General Plan.

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

This text amendment does not affect any specific property.

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

The proposed amendment does not affect any specific property.

**D. The adequacy of facilities and services intended to serve the subject property, including, but not**



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

The proposed amendment does not affect any specific property.

### **FINDINGS:**

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

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. It is staff's opinion that the proposed text amendment meets all of the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.

### **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 to the County Commission, application number Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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 number Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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 Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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.



# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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### Chapter 2-2 – Administrative and Development Review Procedures

#### Sections.

- 2-2-010. Purpose.
- 2-2-020. Scope.
- 2-2-030. Definitions.
- 2-2-040. General Requirements.
- 2-2-050. Public Hearings and Meetings.
- 2-2-060. General Decision-Making Standards.
- 2-2-070. General Plan Amendment.
- 2-2-080. Zoning Map and Text Amendments. (Updated Ordinance 392)
- 2-2-090. Permitted Use Review.
- 2-2-100. Conditional Use Permit. (Updated Ordinance 310)
- 2-2-110. Administrative Conditional Use Permit. (Ordinance 405)
- 2-2-120. Site Plan Review. (Updated Ordinance 308)
- 2-2-130. Variances.
- 2-2-140. Building Permit.
- 2-2-150. Nonconformities.
- 2-2-160. Temporary Use Permit.
- 2-2-170. Special Event Permit.
- 2-2-180. Administrative Interpretation.
- 2-2-190. Appeal of Administrative Decision.
- 2-2-200. Temporary Land Use Regulations.
- 2-2-210. Procedural Irregularities.

#### **2-2-010. Purpose.**

The purpose of this Chapter is to set forth procedures and standards for considering various types of land use and development applications to ensure that applications of the same type will be processed on a uniform basis consistent with applicable law.

#### **2-2-020. Scope.**

A proposed land use, development, or other matter which is subject to a procedure set forth in this Chapter shall be submitted, reviewed, and acted upon as provided in this Chapter.

# Box Elder County Land Use Management & Development Code

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### 2-2-030. Definitions.

Certain words and phrases in this Chapter, including uses, are defined in Chapter 1-3 of this Code.

### 2-2-040. General Requirements.

The following requirements shall apply to a proposed land use, development, or other matter which is subject to procedures set forth in this Code.

- A. **Application Form.** An application shall be submitted on a form provided by the Zoning Administrator and in such numbers as reasonably required by the Zoning Administrator for a particular type of application. For those applications which need Planning Commission or Hearing Officer Approvals, the application shall be submitted by the third Thursday of the month and by appointment with the Zoning Administrator, or at least twenty (20) business days prior to the meetings of those bodies.
- B. **County Initiated Application.** The Planning Commission or County Commission may initiate any action under this Code without an application from a property owner. Notice, hearing and other procedural requirements of this Chapter shall apply to an application initiated by the County.
- C. **Development Review Sequence.** No subdivision, site plan or other development application shall be considered unless:
  - 1. The approval which is requested in the application is allowed by the zone existing on the subject property; or
  - 2. Where permitted by this Code, the application is submitted simultaneously with a proposed zoning map amendment that would allow the proposal.
- D. **Accurate Information.** All documents, plans, reports, studies and information provided to the County by an applicant in accordance with the requirements of this Code shall be accurate and complete.
- E. **Determination of Complete Application.** After receipt of an application, the Zoning Administrator shall determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant in writing and shall:
  - 1. Specify the deficiencies of the application;
  - 2. State the additional information which must be supplied; and
  - 3. Advise the applicant that no further action will be taken on the application until the deficiencies are corrected.

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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- F. Fees.** When an application is filed, the applicant shall pay to the County the fee associated with such application as provided in the fee schedule adopted by the County Commission. Any application not accompanied by a required fee shall be deemed incomplete.
1. Fees shall be non-refundable except as provided in Subsection (G) of this section.
  2. Fees shall not be required for applications initiated by the County.
- G. Remedy of Deficiencies.** If an applicant fails to correct specified deficiencies within thirty (30) days after notification thereof the County may deem the application to be withdrawn. If the application is deemed withdrawn, the application and any associated fee shall be returned to the applicant upon request; provided, however, the County may deduct from the application fee the cost of determining completeness of the application.
- H. Decision Date.** A decision or recommendation made under the provisions of this Code shall take effect on the date of the meeting or hearing in which the decision or recommendation is made by the decision-making body or official, unless a different time is designated in the decision-making body's rules, or at the time the decision is made.
- I. Extensions of Time.** Unless otherwise prohibited by this Code, upon written request and for good cause shown, any decision-making body or official having authority to grant approval of an application may, without any notice or hearing, grant an extension of any time limit imposed by this Code on such application, its approval, or the applicant. The total period of time granted by any one (1) or more extensions for a given application shall not exceed twice the length of the original time period.
- J. Pending Ordinance Amendments.**
1. When a proposed amendment to the zoning map or text of this Code is pending, a person who thereafter files an application which may be affected by the proposed amendment shall not be entitled to rely on the existing zoning map or text which may be amended.
    - a. A proposed zoning map or text amendment shall be deemed “pending” when the amendment proposal first appears on a Planning Commission or County Commission agenda, as the case may be, which has been noticed as required in this Chapter.
    - b. An application shall be deemed “filed” when all materials required for the application, as set forth in this Code, have been submitted.
  2. An application affected by a pending amendment to the zoning map or text of this Code shall be subject to the following requirements:

# Box Elder County Land Use Management & Development Code

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- a. The application shall not be acted upon until six (6) months from the date when the pending amendment to the zoning map or text of this Code was first noticed on a Planning Commission or County Commission agenda, as the case may be, unless: (1) The applicant voluntarily agrees to amend his or her application to conform to the requirements of the proposed amendment; or (2) The proposed amendment is sooner enacted or defeated, as the case may be.
  - b. If a pending amendment to the zoning map or text of this Code **is enacted** within six (6) months after being noticed on a Planning Commission or County Commission agenda, as the case may be, an affected application which was filed while the amendment was pending shall conform to the enacted amendment.
  - c. If a pending amendment to the zoning map or text of this Code **is not enacted** within six (6) months after being noticed on a Planning Commission or County Commission agenda, as the case may be, the amendment shall no longer be considered pending and any affected application may be approved without regard to the previously pending amendment.
3. The Zoning Administrator shall give an applicant affected by a pending amendment to the zoning map or text of this Code written notice that:
    - a. There is pending legislation;
    - b. The application may require changes to conform to a zoning map or text amendment which may be enacted; and
    - c. Copies of the pending legislation are available at the Community Development Office.
- K. Substantial Action Required.** If within six (6) months after an application has been filed the applicant has not taken substantial action to obtain approval thereof, the application shall expire and any vested rights accrued there under shall terminate.

### 2-2-050. Public Hearings and Meetings.

~~Any public hearing or meeting required under this Code, as the case may be, shall be scheduled and held subject to the requirements of this section and the Utah Open and Public Meetings Act (Utah Code Annotated 52-4-101 et. seq. as amended).~~

- A. Scheduling a Public Hearing or Meeting.** An application requiring a public hearing or meeting shall be scheduled within a reasonable time following receipt of a complete application. The amount of time between receipt of an application and holding a public hearing or meeting shall be considered in light of:

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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1. The complexity of the application submitted;
  2. The number of other applications received which require a public hearing or meeting;
  3. Available staff resources; and
  4. Applicable public notice requirements.
- B. Required Notice of Public Hearing or Meeting.** Notices for applicable public hearings shall comply with Title 17 Chapter 27a Part 2 of the Utah Code, ~~the Utah Open and Public Meetings Act and 17-27a-205 (Utah Code Annotated 52-4-101 et. seq. as amended)~~
- C. Required Notice of Public Meeting.** Notices for public meetings shall comply with the Utah Open and Public meetings Act (Utah Code Annotated 52-4-101 et. seq. as annotated).
- D. Challenge of Notice.** If notice required by this section is not challenged in accordance with applicable appeal procedures within thirty (30) days from the date of the hearing or meeting for which notice was given, the notice shall be considered adequate and proper.
- E. Public Hearing and Meeting Procedures.** An application shall be considered pursuant to policies and procedures established by the decision-making body or official for the conduct of its meetings.
- F. Withdrawal of Application.** An applicant may withdraw an application at any time prior to action on the application by the decision-making body or official. Application fees shall not be refundable if prior to withdrawal:
1. A staff review of the application has been undertaken; or
  2. Notice for a public hearing or meeting on the application has been mailed, posted or published.
- G. Record of Public Hearing or Meeting.** A record of the public hearing or meeting shall be made in accordance with the Utah Code Annotated 52-4-101 et. seq. and 17-27a-205 as amended.
- H. Notification.** Notice of a decision by the decision-making body or official shall be provided to an applicant within a reasonable time.

### 2-2-060. General Decision-Making Standards.

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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The decision-making standards set forth in this section are based on the fundamental distinction between legislative and administrative proceedings: legislative proceedings establish public law and policy which is applicable generally, while administrative proceedings apply such law and policy to factually distinct, individual circumstances.

### A. Legislative Proceedings.

1. The following types of applications are hereby declared to be legislative proceedings:
  - a. General Plan amendment;
  - b. Zoning map amendment;
  - c. Zoning text amendment; and
  - d. Temporary regulations.
2. Decisions regarding a legislative application shall be based on the "reasonably debatable" standard, as follows:
  - a. The decision-making authority shall determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare.
  - b. In making such determination, the decision-making authority may consider the following: (1) Testimony presented at a public hearing or meeting; and (2) personal knowledge of various conditions and activities bearing on the issue at hand, including, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the County.
  - c. The decision-making body should state on the record the basis for its decision.

### B. Administrative Proceedings.

1. The following types of applications are hereby declared to be administrative proceedings:
  - a. Permitted use review;
  - b. Conditional use permit;
  - c. Site plan review;
  - d. Variance;



# Box Elder County Land Use Management & Development Code

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- e. Building permit;
  - f. Nonconformity;
  - g. Sign permit;
  - h. Subdivision review;
  - i. Temporary use permit;
  - j. Administrative interpretation; and
  - k. Appeal of administrative decision.
2. Decisions regarding an administrative application shall be based on the "substantial evidence" standard including at least the following:
- a. A statement of the standards for approval applicable to the application;
  - b. A summary of evidence presented to the decision-making body or official;
  - c. A statement of findings of fact or other factors considered, including the basis upon which such facts were determined and specific references to applicable standards set forth in this Code or other provisions of the Box Elder County Code; and
  - d. A statement of approval, approval with conditions, or disapproval, as the case may be.

### 2-2-070. General Plan Amendment.

- A. Purpose.** This section sets forth procedures for amending the Box Elder County General Plan.
- B. Authority.** The County Commission may from time to time amend the General Plan as provided in this section. Such amendments may include any matter within the scope of the General Plan as provided in Section 1-2-030 of this Code.
- C. Initiation.** Proposed amendments to the General Plan may be initiated by any person, the County Commission, Planning Commission, or authorized County staff as provided in this section.
- D. Procedure.** General Plan amendments shall be considered and processed as provided in this subsection.
  - 1. An application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The County Commission, Planning Commission, or authorized County staff may initiate a General Plan amendment at any time without submittal of an application or payment of any fee.

# Box Elder County Land Use Management & Development Code

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2. A person proposing General Plan amendments shall do the survey and analysis work necessary to justify the proposed amendment. To ensure the Planning Commission and County Commission have sufficient information to evaluate a proposed amendment, an applicant shall submit at least the following information:
  - a. The name, address and telephone number of the applicant, the applicant's agent, if any, and the name and address of every person or company the applicant represents;
  - b. For map amendments:
    - 1) 8-1/2" x 11" map showing the area of the proposed amendment;
    - 2) Current copy of County Assessor's parcel map showing the area of the proposed amendment;
    - 3) Mapped inventory of existing land uses within the area of the proposed amendment and extending 1/2 mile beyond such area;
    - 4) Correct property addresses of parcels included within the area of the proposed amendment;
    - 5) Written statement specifying the potential use of property within the area of the proposed amendment;
    - 6) Written statement explaining why the existing General Plan designation for the area is no longer appropriate, desirable, or feasible; and
    - 7) Analysis of the potential impacts of the proposed amendment on existing infrastructure and public services such as traffic, streets, intersections, water and sewer, storm drains, electrical power, fire protection, garbage collection, and such other matters as the County may require from time to time; and
  - c. For text amendments:
    - 1) Written statement showing the desired language change;
    - 2) Written statement explaining why existing General Plan language is no longer appropriate or feasible;
    - 3) Analysis of the potential impacts of the proposed amendment; and
    - 4) Map showing affected areas if text changes will affect specific geographic areas.
3. After an application is determined to be complete, the Zoning Administrator may prepare a staff report evaluating the application.
4. The Planning Commission shall give notice and hold a public hearing on the proposed amendment as provided in Section 2-2-050 of this Code **and Utah Code**

# Box Elder County Land Use Management & Development Code

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17-27a-204 as amended. ~~and according to the *Utah Open and Public Meetings Act* (*Utah Code Annotated 52-4-101 et. seq. and 17-27a-205 as amended*).~~

5. After the public hearing, the Planning Commission may make changes to the proposed General Plan. The Planning Commission shall then forward the proposed General Plan amendment to the County Commission.
  6. The County Commission shall give notice and hold a public hearing on the proposed General Plan recommended to it by the Planning Commission and shall schedule and hold a public hearing on the proposed plan as provided in Section 2-2-050 of this Code and Utah Code 17-27a-204 as amended. ~~at least ten (10) days before the date of the hearing.~~
- E. Approval Standards.** A decision to amend the General Plan is a matter within the legislative discretion of the County Commission as described in Section 2-2-060(a) of this Chapter. After the public hearing described in Subsection (D) (5) of this section, the County Commission may make any modifications to the proposed General Plan that it considers appropriate. The County Commission may adopt the General Plan amendment as proposed; amend the proposal and adopt or reject it as amended; or reject the proposed General Plan amendment.
- F. Appeal.** Any person adversely affected by a final decision of the County Commission to amend the General Plan may appeal that decision to the district court as provided in *Utah Code Ann. §17-27a-801*, as amended.
- G. Effect of Approval.** Approval of an application to amend the General Plan shall not be deemed an approval of any zone, conditional use permit, site plan, or other permit. Approval of a particular zone or permits shall be obtained in accordance with applicable provisions of this Code.
- H. Effect of Disapproval.** County Commission denial of an application to amend the General Plan shall preclude a person from filing of another application covering substantially the same subject or property, or any portion thereof, for six (6) months from the date of the disapproval. This section shall not limit the County Commission, Planning Commission, or authorized County staff from initiating a General Plan amendment at any time.

### 2-2-080. Zoning Map and Text Amendments.

- A. Purpose.** This section sets forth procedures for amending the provisions of this Code and the zoning map.

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- B. Authority.** The County Commission may from time to time amend the text of this Code and the zoning map as provided in this section. Amendments may include changes in the number, shape, boundaries, or area of any zone, zone regulations, or any other provision of this Code. The provisions set forth herein shall not apply to temporary zoning regulations which may be enacted without public hearing in accordance with Section 2-2-190 of this Chapter.
- C. Initiation.** Proposed amendments to the text of this Code and the zoning map may be initiated by the County Commission, Planning Commission, authorized County Staff, or a property owner affected by a proposed amendment as provided in this section. An agent of a property owner shall provide an affidavit of authorization.
- D. Procedure.** Zoning text and map amendments shall be considered and processed as provided in this subsection.
1. An application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The names of all owners of the subject property;
    - c. The requested amendment and reasons supporting the request; and
    - d. If the proposed amendment requires a change in the zoning map, the application shall include:
      - 1) An accurate property map showing present and proposed zoning classifications; and all abutting properties showing present zoning classifications.
      - 2) An accurate legal description and an approximate common address of the area proposed to be rezoned.
    - e. If the proposed amendment requires a change in the text of this Code, the application shall include chapter and section references and a draft of the proposed text.
  2. After an application is determined to be complete, the Zoning Administrator may prepare a staff report evaluating the application.
  3. The Planning Commission shall **give notice and hold a public hearing on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205 as amended. Following the public hearing and review of the application and the Planning Commission** shall thereafter submit its recommendation for approval, approval with modifications, or denial thereof to the County Commission.

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4. Following receipt of a recommendation from the Planning Commission, the County Commission may hold a public hearing on the application as provided in Section 2-2-050 of this Chapter **and Utah Code 17-27a-205 as amended** ~~and in the *Utah Open and Public Meetings Act*~~. After due consideration the County Commission may approve, approve with modifications, or deny the proposed amendment. (Ordinance 392)
- E. Approval Standards.** A decision to amend the text of this Code or the zoning map is a matter within the legislative discretion of the County Commission as described in Section 2-2-060(A) of this Chapter. In making an amendment, the following factors should be considered:
1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;
  2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
  3. The extent to which the proposed amendment may adversely affect adjacent property; and
  4. 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.
- F. Appeal.** Any person adversely affected by a final decision of the County Commission to amend the text of this Code or the zoning map may appeal that decision to the district court as provided in *Utah Code Ann. §17-27a-801*, as amended.
- G. Effect of Approval.** Approval of an application to amend the provisions of this Code or the zoning map shall not be deemed an approval of any conditional use permit, site plan, subdivision, or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and other applicable Box Elder County ordinances.
- H. Effect of Disapproval.** County Commission denial of an application to amend the provisions of this Code or the zoning map shall preclude the filing of another application covering substantially the same subject or property, or any portion thereof, for six (6) months from the date of the disapproval, except as follows:
1. Another application may be sooner considered if:
    - a. The Planning Commission determines a substantial change in circumstances has occurred to merit consideration of the application; or

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- b. The application is for a change to a different zone.
2. The County Commission or Planning Commission may propose any text or zoning map amendment at any time.

### 2-2-090. Permitted Use Review.

- A. **Purpose.** This section sets forth procedures for reviewing permitted uses in all zones to determine compliance with applicable requirements of this Code.
- B. **Authority.** The Zoning Administrator is authorized to review and approve applications for permitted uses in all zones as set forth in this section.
- C. **Initiation.** A property owner or a lessee may request a permitted use review as provided in this section. An agent or lessee of a property owner shall provide an affidavit of authorization.
- D. **Procedure.** Permitted use applications shall be considered and processed as provided in this subsection.
  1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The address and parcel identification number of the subject property;
    - c. The zone, zone boundaries and present use of the subject property;
    - d. A plot plan (drawn to scale) showing the following:
      - 1) Applicant's name;
      - 2) Site address;
      - 3) Property boundaries and dimensions;
      - 4) Layout of existing and proposed buildings, parking, landscaping, and utilities;
      - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property;
    - e. A description of the proposed use; and
    - f. Other information needed to demonstrate the permitted use conforms to applicable provisions of this Code.



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2. After an application is determined to be complete, the Zoning Administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-090(e) below. Any conditions of approval shall be limited to conditions needed to conform the permitted use to approval standards.
3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
4. A record of all permitted use reviews shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to approval of a permitted use.

1. A permitted use shall:
  - a. Be allowed as a permitted use in the applicable zone;
  - b. Conform to development standards of the applicable zone;
  - c. Conform to applicable regulations of general applicability and regulations for specific uses set forth in this Code; and
  - d. Conform to any other applicable requirements of Box Elder County Ordinances.
2. Conditions may be imposed as necessary to achieve conformance with applicable code requirements.
3. If proposed development is located on a lot or parcel which has been subdivided without County approval:
  - a. A subdivision plat shall be approved and recorded as a condition of approval, and
  - b. Street improvements shall be provided as required by this Code and other applicable requirements of Box Elder County Ordinances.

**F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding a permitted use review may appeal that decision to the Hearing Officer as provided in Section 2-2-1890 of this Code.

**G. Effect of Approval.** Approval of a permitted use shall authorize an applicant to engage in the permitted use subject to any conditions of approval. Approval of a permitted use shall not be deemed an approval of any conditional use permit, site plan or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and to any other applicable requirements of Box Elder County Ordinances.

**H. Amendment.** The procedure for amending any permitted use approval shall be the same as the original procedure set forth in this section.

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- I. **Revocation.** A permitted use approval may be revoked as provided in Section 2-4-070 B of this Code.
- K. **Expiration.** Except as otherwise provided in this Code, a permitted use approval shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the approval is not commenced within one hundred eighty (180) days after approval or not substantially completed within two (2) years.

### 2-2-100. Conditional Use Permit.

- A. **Purpose.** This section sets forth procedures for considering and approving conditional use permits.
- B. **Definition.** Conditional use means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- C. **Authority.** The Planning Commission is authorized to issue conditional use permits as provided in this section.
- D. **Initiation.** A property owner may request a conditional use permit as provided in this section. An agent of a property owner shall provide a notarized authorization.
- E. **Procedure. (Ordinance 310)** An application for a conditional use permit shall be considered and processed as provided in this subsection.
  - 1. Subdivisions and planned unit developments meet the requirements for conditional use permit approval upon receiving final approval by County Commissioners and the recording of the subdivision plat or planned unit development plat.
  - 2. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The address and parcel identification of the subject property;
    - c. The zone, zone boundaries and present use of the subject property;

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- d. A description of the proposed conditional use;
  - e. A plot plan showing the following:
    - 1) Applicant's name;
    - 2) Site address;
    - 3) Property boundaries and dimensions;
    - 4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
    - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.
  - f. Traffic impact analysis, if required by the County Engineer, Zoning Administrator, or the Planning Commission;
  - g. A statement by the applicant demonstrating how the conditional use permit request meets the approval standards of Subsection 2-2-100(e) of this section;
  - h. Such other and further information or documentation as the Zoning Administrator may reasonably deem necessary for proper consideration and disposition of a particular application.
- 3. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in Section 2-2-050 of this Chapter.
  - 4. A staff report evaluating the application shall be prepared by the Zoning Administrator.
  - 5. The Planning Commission shall hold a public hearing **as provided in Section 2-2-050(A)** regarding an application. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-100(F) of this section.
  - 6. After the Planning Commission makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
  - 7. A record of all conditional use permits shall be maintained in the office of the Zoning Administrator.
- F. Approval Standards.** The following standards shall apply to the issuance of a conditional use permit.
- 1. A conditional use permit may be issued only when the proposed conditional use is allowed by the zone where the conditional use will be located, or by another provision of this Code.
  - 2. Conditions may be imposed as necessary to prevent or minimize adverse effects upon the character of the site, adjacent properties, surrounding neighborhoods, and other existing development; improvements in the vicinity of a conditional use, upon

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the County as a whole, or upon public facilities and services. Such conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, traffic impacts, parking, hours of operation, emission of odors, light, and noise, and other matters relating to the purposes and objectives of this Code. Such conditions shall be expressly set forth in the approval authorizing a conditional use permit.

3. No conditional use permit shall be authorized unless the evidence presented establishes:
  - a. 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;
  - b. 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;
  - c. 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.
4. The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements of this subsection can be met.
5. The following factors should be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
  - a. The proposed use will comply with the regulations and conditions specific in this Code for such use.
  - b. **Conditions relating to safety of persons and property**
    - 1) 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.
    - 2) The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area;
    - 3) Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
    - 4) Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.
    - 5) Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which

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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.

- c. **Conditions relating to the compatibility of the use.**
  - 1) The suitability of the specific property for the proposed use;
  - 2) The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity;
  - 3) Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity;
  - 4) The number of other similar conditional uses in the area and the public need for the proposed conditional use.
- d. Conditions relating to health and safety
- e. Conditions relating to environmental concerns
- f. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district
- g. The aesthetic impact of the proposed facility or use on the surrounding area;
- h. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area;
- i. 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;
- j. 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;

**G. Appeal.** Any person adversely affected by a final decision of the Planning Commission regarding the transfer, issuance or denial of a conditional use permit may appeal that decision to the Hearing Officer as provided in Section 2-1-1890 of this Code.

**H. Effect of Approval.** A conditional use permit shall not relieve an applicant from obtaining any other authorization or permit required under this Code or any other Code of the Box Elder County Code and other applicable provisions of the Box Elder County Code.

- 1. A conditional use permit may be transferred so long as the use conducted there under conforms to the terms of the permit.
- 2. Unless otherwise specified by the Planning Commission and subject to the provisions relating to amendment, revocation or expiration of a conditional use

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permit, a conditional use permit shall be of indefinite duration and shall run with the land so long as the use continues.

- I. Amendment.** The procedure for amending a conditional use permit shall be the same as the original procedure set forth in this section.
- J. Revocation.** A conditional use permit may be revoked as provided in Section 2-4-070 of this Code.
  - 1. In addition to the grounds set forth in Section 2-4-070 B of this Code, any of the following shall be grounds for revocation:
    - a. The use for which a permit was granted has ceased for one (1) year or more;
    - b. The holder or user of a permit has failed to comply with the conditions of approval or any County, State, or Federal law governing the conduct of the use;
    - c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan or map; or
    - d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.
  - 2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Revocation of a permit shall not limit the County's ability to initiate or complete other legal proceedings against the holder or user of the permit.
- L. Expiration.** A conditional use permit shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the permit is not commenced within one hundred eighty (180) days after approval, not substantially completed within two (2) years, or if abandoned.

### **2-2-110. Administrative Conditional Use Permit. (Ordinance 405)**

- A. Purpose.** This section sets forth procedures for considering and approving Administrative Conditional Use Permits.
- B. Authority.** The Zoning Administrator or a designee is authorized to issue Administrative Conditional Use Permits as provided in this section.



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- C. **Initiation.** A property owner may request an Administrative Conditional Use Permit as provided in this section. An Agent of a property owner shall provide a notarized authorization.
- D. **Procedure.** An application for an Administrative Conditional Use Permit shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at the least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The address and parcel identification of the subject property.
    - c. The Zone, Zone boundaries and present use of the subject property;
    - d. A description of the proposed Administrative Conditional Use;
    - e. A plot plan showing the following:
      - 1) Applicant's name;
      - 2) Site address;
      - 3) Property boundaries and dimensions;
      - 4) Layout of existing and proposed buildings, parking, and utilities; and
      - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.
    - f. Traffic impact analysis, if required by the County Engineer, Zoning Administrator, or the Planning Commission;
    - g. A statement by the applicant demonstrating how the Administrative Conditional Use Permit request meets the approval standards of Subsection 2-2-110 D of this Section;
    - h. Such other and further information or documentation as the Zoning Administrator may reasonably deem necessary for proper consideration and disposition of a particular application.
  2. After the application is determined to be complete, the Zoning Administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-110 E of this Section.
  3. A record of all Administrative Conditional Use Permits shall be maintained in the office of the Zoning Administrator.

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- E. **Approval Standards.** The following standards shall apply to the issuance of an Administrative Conditional Use Permit.
1. An Administrative Conditional Use Permit may be issued only when it is allowed for by a provision of the Box Elder County Land Use Management & Development Code.
  2. Conditions may be imposed as necessary to prevent or minimize adverse effects upon the character of the site, adjacent properties, surrounding neighborhoods, and other existing development; improvements in the vicinity of a conditional use, upon the County as a whole, or upon public facilities and services. Such conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, traffic impacts, parking, hours of operation, emission of odors, light, and noise, and other matters relating to the purposes and objectives of this Code. Such conditions shall be expressly set forth in the approval authorizing an Administrative Conditional Use Permit.
  3. No Administrative Conditional Use Permit shall be authorized unless the evidence presented establishes:
    - a. 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;
    - b. 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;
    - c. 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.
  4. The Zoning Administrator may request additional information as may be reasonably needed to determine whether the requirements of this subsection can be met.
  5. The following factors should be reviewed and considered in determining whether an Administrative Conditional Use Permit application should be approved, approved with conditions, or denied:
    - a. The proposed use will comply with the regulations and conditions specific in this code for such use.
    - b. Conditions relating to safety of persons and property:

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- 1) 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;
  - 2) The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area;
  - 3) Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding;
  - 4) Increased setback distances from lot lines where the Zoning Administrator determines it to be necessary to ensure the public safety;
  - 5) 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.
- c. Conditions relating to the compatibility of the use:
- 1) The suitability of the specific property for the proposed use;
  - 2) The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity;
  - 3) Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity;
  - 4) The number of other similar conditional uses in the area and the public need for the proposed conditional use.
- d. Conditions relating to health and safety
- e. Conditions relating to environmental concerns
- f. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district
- g. The aesthetic impact of the proposed facility or use on the surrounding area;
- h. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area;
- i. 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;
- j. 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;
- F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding the transfer, issuance or denial of an Administrative Conditional Use Permit, may appeal that decision to the Hearing Officer as provided in Section 2-1-1890 of this Code.
- G. Effect of Approval.** An Administrative Conditional Use Permit shall not relieve an applicant from obtaining any other authorization or permit required under this Code or

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any other Code of the Box Elder County Code and other applicable provisions of the Box Elder County Code.

1. An Administrative Conditional Use Permit may be transferred so long as the use conducted there under conforms to the terms of the permit.
2. Unless otherwise specified by the Zoning Administrator and subject to the provisions relating to amendment, revocation or expiration of an Administrative Conditional Use Permit, an Administrative Conditional Use Permit shall be of indefinite duration and shall run with the land so long as the use continues.

**H. Amendment.** The procedure for amending an Administrative Conditional Use Permit shall be the same as the original procedure set forth in this section.

**I. Revocation.** An Administrative Conditional Use Permit may be revoked as provided in Section 2-4-070 of this Code.

1. In addition to the grounds set forth in Section 2-4-070 B of this Code, any of the following shall be grounds for revocation:
  - a. The use for which a permit was granted has ceased for one (1) year or more;
  - b. The holder or user of a permit has failed to comply with the conditions of approval or any County, State, or Federal law governing the conduct of the use;
  - c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan or map; or
  - d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.
2. No Administrative Conditional Use Permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Zoning Administrator and show cause as to why the permit should not be amended or revoked. Revocation of a permit shall not limit the County's ability to initiate or complete other legal proceedings against the holder or user of the permit.

**J. Expiration.** A conditional use permit shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the permit is not commenced within one hundred eighty (180) days after approval, not substantially completed within two (2) years, or if abandoned.

### 2-2-120. Site Plan Review. (Ordinance 308)

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- A. **Purpose.** This section sets forth procedures for considering and approving a site plan. Such procedures are intended to provide for orderly, harmonious, safe and functionally efficient development consistent with the priorities, values, and guidelines found in various elements of the Box Elder County General Plan and this Code.
- B. **Authority.** The Planning Commission is authorized to approve site plans as provided in this section.
- C. **Exceptions.** For buildings and land uses requiring conditional use permits, site plan review shall be incorporated within such conditional use permits and need not be a separate application, provided the requirements of this Chapter are met.
- D. **Initiation.** A property owner may request approval of a site plan as provided in this section. An agent of a property owner shall provide an affidavit of authorization.
1. A conceptual site plan shall be required for any planned development within a Planned Development Overlay (PDO) zone and shall be submitted concurrently with an application for the PDO zone.
  2. A site plan shall be required for any of the following uses unless expressly exempted from such requirement by another provision of this Code.
    - a. Any multiple-family residential use;
    - b. Any public or civic use;
    - c. Any commercial use;
    - d. Any industrial use;
  3. When a conceptual site plan, or a site plan, approval is required, no building permit for the construction of any building, structure, or other improvement to the site shall be issued prior to approval of the required plan. No clearing, grubbing, grading, drainage work, parking lot construction or other site improvement shall be undertaken prior to site plan approval.
- E. **Procedure.** An application for site plan approval shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees.
  2. A conceptual site plan shall be drawn to scale and shall show a realistic layout reflecting how property reasonably could be developed considering existing and

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envisioned conditions on the subject property and adjoining property, and the development standards of the zone in which the property is located.

- a. A conceptual site plan application shall include at least the following information:
  - 6) The name, address and telephone number of the applicant and the applicant's agent, if any;
  - 7) Legal description of the property
  - 8) Lot or parcel dimensions, square footage, and orientation;
  - 9) Location, topography, and layout of proposed lots;
  - 10) Location, height, and setbacks of existing and proposed buildings on the subject property and immediately adjoining property.
  - 11) Proposed use of the buildings and site;
  - 12) Location and height of existing and proposed walls and fences;
  - 13) Height, bulk and preliminary elevations of proposed buildings;
  - 14) Location, arrangement and layout of landscaping and open space;
  - 15) Location, name and width of existing and proposed streets and sidewalks;
  - 16) Traffic and pedestrian circulation patterns, including proposed access to the property;
  - 17) Location, number, access points, and design of carports, garages and other off-street parking spaces and loading areas;
  - 18) Location, number, type and size of signs;
  - 19) Preliminary utility plans, including water, sewer or septic tank, and storm drainage plans, including availability of utilities;
  - 20) Proposed reservations for parks, playgrounds, school, and other public facility sites, if any;
  - 21) Relationship of the property to adjoining properties and uses;
  - 22) Tables showing the number of acres in the proposed development and a land use summary; and
  - 23) A development schedule indicating the approximate date when construction or its stages can be expected to begin and be completed.
  
- b. A conceptual site plan is not intended to permit actual development of property pursuant to such plan, but shall be prepared merely to represent how the property could be developed. Approval of a conceptual site plan authorizes the applicant to prepare a preliminary site plan. Submittal, review, and approval of an application for a conceptual site plan shall not create any vested rights to development.

3. A site plan application shall include at least the following information:



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- a. The names, address and telephone number of the applicant and the applicant's agent, if any;
- b. The uses for which site plan approval is requested;
- c. A set of development plans showing the information required in subsections (D) to (H) of this subsection. The information required by each subsection shall be shown on separate sheets. Plans shall be drawn at a scale no smaller than one (1) inch equals one hundred (100) feet on twenty-four (24) by thirty-six (36) inch sheets. Except for the landscaping plan, the plans shall be prepared, stamped and signed by a professional engineer licensed by the state of Utah. One (1) set of plans, reduced to fit on an eleven (11) by seventeen (17) inch paper, shall be provided.
- d. Site plan showing the following:
  - 1) All infrastructure and development facilities related to the project located within two hundred fifty (250) feet of the site boundary;
  - 2) Layout, dimensions, and names of existing and future road rights-of-way;
  - 3) Project name, North arrow, and tie to a section monument;
  - 4) The boundary lines of the project site with bearings and distances;
  - 5) Layout and dimensions of proposed streets, buildings, parking areas, and landscape areas;
  - 6) Location, dimensions, and labeling of other features such as bicycle racks, dumpsters, trash cans, fences, signage, and mechanical equipment;
  - 7) Location of man-made features including irrigation facilities, bridges, railroad tracks, and buildings;
  - 8) A tabulation table, showing total gross acreage, square footage of street rights of way, square footage of building footprint, square footage of total building floor area, square footage of landscaping, number of parking spaces, and if any, the number and type of dwellings, and the percentage devoted to each dwelling type and overall dwelling unit density; and
  - 9) Identification of property, if any, not proposed for development.
- e. Grading and drainage plan showing the following:
  - 1) North arrow and scale
  - 2) Topography contours at two (2) foot intervals
  - 3) Areas of substantial earth moving with an erosion control plan;
  - 4) Location of existing water courses, canals, ditches, springs, wells, culverts, and storm drains, and proposed method of dealing with all irrigation and waste water;
  - 5) Location of any designated flood plain and/or wetland boundaries;

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- 6) Direction of storm water flows, catch basins, inlets, outlets, waterways, culverts, detention basins, orifice plates, outlets to off-site facilities, and off-site drainage facilities when necessary based on adopted County requirement.
- f. Utility plan showing the following:
  - 1) North arrow and scale
  - 2) All existing and proposed utilities including, but not limited to, sewer, culinary water, secondary water, fire hydrants, storm drains, subsurface drains, gas lines, power lines, communications lines, cable television lines, and street lights;
  - 3) Minimum fire flow required by the building code for the proposed structures, and fire flow calculations at all hydrant locations;
  - 4) Location and dimensions of all utility easements; and
  - 5) A letter from sewer and water providers, addressing the feasibility and their requirements the serve the project.
- g. Building elevations for all buildings showing the following:
  - 1) Accurate front, rear, and side elevations drawn to scale;
  - 2) Exterior surfacing materials and colors, including roofing material and color;
  - 3) Outdoor lighting, furnishings and architectural accents; and
  - 4) Location and dimensions of signs proposed to be attached to the building or structure.
- h. Where one (1) or more conditions of unusual soil, vegetation, geology or slope exists, resulting in increased fire, flood or erosion hazards, traffic circulation problems, sewage disposal problems and potential property damage from extensive soil slippage and subsidence, an applicant shall, upon request of the Planning Commission or county engineer, provide contour and drainage plans, cut and fill specifications, and soil and geologic reports. The required details of such reports and plans may vary depending on the severity of the unusual conditions, but in any event such plans and reports shall be reviewed and approved by the County prior to final approval of a development project.
- i. Any necessary agreements with adjacent property owners regarding storm drainage or other pertinent matters.
- j. Evidence of compliance with applicable federal, state, and local laws and regulations, if requested by the Zoning Administrator.

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- k. A traffic impact analysis, if requested by the County Engineer or the Planning Commission.
  - l. Warranty deed and preliminary title report or other document showing the applicant has control of the property.
  - m. Parcel map(s) from the County Recorder's office showing the subject property and all property located within four hundred (400) feet thereof.
- 4. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission.
  - 5. A staff report evaluating the application may be prepared by the zoning Administrator.
  - 6. The Planning Commission shall hold a public meeting pursuant to Section 2-2-050 of this Code and after due consideration shall approve, approve with conditions, or deny the application pursuant to the standards set forth in below:
    - a. Any conditions of approval shall be limited to conditions needed to conform the site plan to approval standards.
    - b. In the case of a conceptual site plan for a planned development, Planning Commission approval shall not be effective unless and until a corresponding Planned Unit Development Overlay or the Planned Community Overlay zone is approved by the County Commission.
  - 7. After the Planning Commission makes a decision, the Zoning Administrator shall give the applicant written notice of the decision. Prior to the issuance of any building permit, the applicant shall provide the County a copy of the approved site plan which includes any required corrections or revisions. Once in final, approval form, a site plan shall be marked "Approved" by the County and shall be used as the basis for inspecting development and construction on the property subject to the site plan.
  - 8. A record of all site plan approvals shall be maintained in the office of the Zoning Administrator.

**K. Standards for Approval.** The following standards shall apply to the approval of a site plan.

- 1. A final site plan shall conform to its associated conceptual site plan.

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The entire site shall be developed at one time unless a phased development plan is approved by the approving authority. A phased development plan shall show:

- a. The planned development of the entire site; and
  - b. The timing and sequencing of improvements to be completed with each phase, particularly amenities, open space, and public improvements.
3. A site plan shall conform to applicable standards set forth in this Code and other applicable provisions of the Box Elder County ordinances. Conditions may be imposed as necessary to achieve compliance with applicable code requirements.
  4. In order to ensure that the development will be constructed to completion in an acceptable manner, the applicant shall enter into an agreement with the County and shall provide a satisfactory bond, letter of credit, or escrow deposit. The agreement and bond, letter of credit, or escrow deposit shall assure timely construction and installation of improvements required by an approved site plan.
  5. Individual uses in a planned commercial center shall be subject to the following requirements:
    - a. The overall planned commercial center shall have been approved as a conditional use which shall include an overall site plan, development guidelines, and a list of uses allowed in the center.
    - b. Development guidelines for a planned center shall, at a minimum, address the following topics:
      - 1) General site engineering (e.g. storm drainage, provision of utilities, erosion control, etc.);
      - 2) Architectural guidelines, including building setbacks, height, massing and scale, site coverage by buildings, materials, and colors;
      - 3) Landscaping and open space standards
      - 4) Signage;
      - 5) Exterior lighting
      - 6) Parking, pedestrian and vehicular circulation, and access to the site;
      - 7) Rights of access within the center (use of cross-easements, etc.);
      - 8) Outdoor sales, storage and equipment;
      - 9) Fencing and walls; and
      - 10) Maintenance standards and responsibilities.
    - c. After approval of a planned center, individual uses therein may be approved pursuant to a building permit.

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- d. Building permits for individual uses within an approved planned center shall be reviewed by the Zoning Administrator for compliance of the proposed use to the overall site plan, development guidelines, and approved use list for the planned center. The Zoning Administrator shall approve, approve with conditions, or deny the permit based on compliance with applicable conditions of the site plan and provisions of this Code.
- L. Appeal of Decision.** Any person adversely affected by a final decision of the Planning Commission or Zoning Administrator regarding approval or denial of a site plan may appeal that decision to the Hearing Officer as provided in Section 2-2-18~~90~~<sup>20</sup> of this Chapter.
- M. Effect of Approval.** Every site for which a site plan has been approval shall conform to such plan.
1. A building permit shall not be issued for any building or structure, external alterations thereto, or any sign or advertising structure until the provisions of this section have been met. No structures or improvements may be constructed unless shown on an approved site plan or required by law.
  2. Approval of a site plan shall not be deemed an approval of any conditional use permit or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and other applicable provisions of the Box Elder County Code.
- I. Amendment.** Except as may be provided elsewhere in this Code, no element of an approved site plan shall be changed or modified without first obtaining approval of an amended site plan as follows:
1. Alteration or expansion of an approved site plan may be permitted by the Zoning Administrator upon making the following findings:
    - a. The proposed amendment does not relate to a matter specifically required as a condition of approval by the approving authority.
    - b. Any proposed change of use is consistent with uses permitted on the site;
    - c. Existing uses were permitted when the site plan was approved, or have received a conditional use permit.
    - d. The proposed use and site will conform to applicable requirements of the Box Elder County Code;
    - e. The proposed alteration or expansion meets the approval standards of Subsection 2-2-18~~90~~<sup>20</sup>(E) of this section;

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- f. The architecture of the proposed alteration or expansion, and landscaping, site design and parking layout are compatible with facilities existing on the site; and
  - g. The site can accommodate any change in the number of employees on the site or any change in impact on surrounding infrastructure.
- 2. If the zoning Administrator cannot make the findings required in the foregoing subsection, a conditional use permit or amended site plan, as the case may be, shall be approved before any alteration or expansion occurs.
- 3. Except as provided in Subsection (1) of this section, the procedure for approval of an amended site plan shall be the same as the procedure for approval of an original site plan as set forth in this section.
- J. **Revocation.** A site plan approval may be revoked as provided in Section 2-1 of this Code.
- K. **Expiration.**
  - 1. A conceptual site plan approval shall expire and have no further force or effect if an application for final site plan approval is not submitted within one (1) year after the conceptual site plan is approved.
  - 2. A final site plan approval shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the approval is not commenced within one (1) year or not substantially completed within two (2) years.

### 2-2-130. Variances.

- A. **Purpose.** This section sets forth procedures for considering and approving a variance to the provisions of this Code. Variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from particular unforeseen applications of the provisions of this Code that create unreasonable hardships.
- B. **Authority.** The Hearing Officer is authorized to hear and decide variances to the provisions of this Code as provided in this section.
- C. **Initiation.** A property owner or the owner's lessee may request a variance to the provisions of this Code as provided in this section. An agent of a property owner shall provide an affidavit of authorization.
- D. **Procedure.** An application for a variance shall be considered and processed as provided in this subsection.



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1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
  - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
  - b. The address and parcel identification of the subject property;
  - c. The specific feature or features of the proposed use, construction or development that require a variance;
  - d. The specific provision of this Code from which a variance is sought;
  - e. A statement of the characteristics of the subject property that prevent compliance with the provisions of this Code and result in unnecessary hardship;
  - f. A statement of the amount of variation needed to allow the proposed use, construction or development;
  - g. An explanation of how the application satisfies the variance standards set forth in Section 2-2-130(E) of this section;
  - h. A plot plan showing the following:
    - 1) Applicant's name;
    - 2) Site address;
    - 3) Property boundaries and dimensions;
    - 4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
    - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.
  - i. An elevation plan drawn to scale showing elevations of existing and proposed structures;
  - j. When the variance involves building height, a streetscape plan showing the height of all buildings within one hundred fifty (150) feet of the subject property;
  - k. When a variance involves grade changes, a topographical drawing prepared by a licensed surveyor or civil engineer, showing existing topography in dashed lines at two (2) foot intervals and showing the proposed grade in solid lines at two (2) foot intervals;
  - l. When a variance involves retaining walls, a plan showing all retaining walls, including their height relative to proposed grades; and
  - m. Any other information reasonably determined by the Zoning Administrator to be pertinent to a requested variance.
2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Hearing Officer as provided in Section 2-2-050 of this Code.

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3. A staff report evaluating the application shall be prepared by the Zoning Administrator.
4. The Hearing Officer shall hold a public meeting and after due consideration shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-1230(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the variance to approval standards.
5. After the Hearing Officer makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
6. A record of all variances shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to a variance.

1. The Hearing Officer may grant a variance only if:
  - a. Literal enforcement of this Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Code;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
  - d. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
  - e. The spirit of this Code is observed and substantial justice done.
2. The Hearing Officer may find an unreasonable hardship exists only if the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The Hearing Officer may not find an unreasonable hardship exists if the hardship is self-imposed or economic.
3. The Hearing Officer may find that special circumstances are attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zoning district.
4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
5. A use variance may not be granted.
6. In granting a variance, the Hearing Officer may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.

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7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief, but not to the extent requested.
- F. **Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding a variance may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-701 and 17-27a-801*, as amended.
- G. **Effect of Approval.** A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Code and other applicable provisions of the Box Elder County ordinances.
- H. **Amendment.** The procedure for amending any variance decision shall be the same as the original procedure set forth in this Section.
- I. **Expiration.** Variances shall not expire but shall run with the land.

### 2-2-140. Building Permit.

- A. **Purpose.** This section sets forth procedures for determining zoning compliance of a building permit application. This section applies in addition to applicable requirements of the building codes and regulations adopted by the County.
- B. **Authority.** The Zoning Administrator is authorized to review building permits for zoning compliance as provided in this section.
- C. **Initiation.** Any property owner may apply for a building permit as provided in the building codes adopted by the County. An agent of a property owner shall provide an affidavit of authorization.
- D. **Procedure.** A building permit application shall be reviewed for zoning compliance as provided in this subsection.
  1. A complete building permit application shall be submitted to the Building Official in a form established by the Building Official along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any; and

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- b. A plot plan showing the following:
    - 1) Applicant's name;
    - 2) Site address;
    - 3) Parcel number;
    - 4) Property boundaries and dimensions;
    - 5) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
    - 6) Adjoining property lines and uses within one hundred (100) feet of the subject property.
  2. After an application is determined to be complete, the Building Official shall transmit the application to the Zoning Administrator. The Zoning Administrator shall approve, approve with conditions, or deny the zoning compliance request pursuant to the standards set forth in Section 2-2-1340(E) below. Any conditions of approval shall be limited to conditions needed to conform the permit to approval standards.
  3. After making a decision, the Zoning Administrator may give the Building Official written notice of the zoning compliance decision.
  4. A record of all zoning compliance reviews shall be maintained in the office of the building official.
- E. Approval Standards.** The following standards shall apply to determine zoning compliance of a building permit application.
1. No building permit shall be approved for zoning compliance unless the proposed building, structure or use when built and the land on which it is located will conform to applicable provisions of this Code and any applicable conditions of approval required under a permit applicable to the subject property. The use authorized in a building or structure authorized by a building permit shall:
    - a. Be allowed as a permitted or conditional use in the applicable zone;
    - b. Conform to development standards of the applicable zone;
    - c. Conform to applicable regulations of general applicability and regulations for specific uses set forth in this Code; and
    - d. Conform to any other applicable requirements of the Box Elder County Code.
  2. Conditions may be imposed as necessary to achieve conformance with applicable code requirements.
- F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding zoning compliance of a building permit may appeal that decision to the Hearing Officer as provided in Section 2-2-1890 of this Code.

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- G. Effect of Approval.** Approval of zoning compliance shall authorize an applicant to proceed with the building permit review process. The requirements of this section shall be in addition to any other requirements for the issuance of a building permit, as contained in this Code, and other applicable provisions of the Box Elder County Code.
- H. Amendment.** The procedure for amending any building permit zoning compliance decision shall be the same as the original procedure set forth in this Section.
- I. Expiration.** A building permit shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the permit is not commenced within the time provided by the adopted building code adopted by the County or not substantially completed within two (2) years.

### 2-2-150. Nonconformities.

- A. Purpose.** This section sets forth procedures for determining the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity.
- B. Authority.** The Zoning Administrator and Hearing Officer are authorized to make determinations regarding the existence, expansion or modification of a nonconformity use, non-complying structure, nonconforming lot, or other nonconformity as provided in this section and *Utah State Code Annotated 17-27a-510*.
- C. Initiation.** A property owner may request a determination regarding the existence, expansion or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity affecting the owner's property as provided in this section. An agent of a property owner shall provide an affidavit of authorization.
- D. Procedure.** An application for a determination of the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity shall be considered and processed as provided in this subsection.
  - 1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The nonconforming use, non-complying structure, nonconforming lot or parcel, or other nonconformity in question;
    - c. A description of the action requested by the applicant; and

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- d. Grounds for finding the use, non-complying structure, nonconforming lot or parcel, or other circumstance is nonconforming or for allowing expansion or modification of the nonconformity.
  2. After an application is determined to be complete, the Zoning Administrator shall determine the question presented under the application.
  3. If an applicant disagrees with a final determination of the Zoning Administrator regarding the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity, the matter may be appealed to the Hearing Officer as provided in Section 2-2-200 of this Chapter.
  4. A staff report evaluating the application may be prepared by the Zoning Administrator.
  5. The Hearing Officer shall hold a public meeting and after due consideration shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-1450(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the nonconformity, its expansion or modification to approval standards.
  6. After making a decision, the Hearing Officer shall give the applicant written notice of the decision.
  7. A record of all nonconforming use determinations shall be maintained in the office of the Zoning Administrator.
- E. Standard for Decision.** A determination regarding the existence, expansion or modification of a nonconforming use, non-complying structure, nonconforming lot or parcel, or other nonconformity shall be based on applicable provisions of Chapter 2-3 of this Code.
- F. Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-801, as amended*.
- G. Effect of Decision.** An applicant may continue, expand, or modify a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity as determined by the Zoning Administrator or Hearing Officer.
- H. Expiration.** Determinations regarding nonconformities shall not expire, but shall run with the land.

### 2-2-160. Temporary Use Permit.



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- A. Purpose.** This section sets forth procedures for considering and approving a temporary use permit.
- B. Authority.** The Planning Commission is authorized to approve temporary use permits as provided in this section.
- C. Initiation.** A property owner may apply for a temporary use permit as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a temporary use permit shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The name and address of the applicant and the name and address of every person or company the applicant represents;
    - c. The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer;
    - d. The requested temporary use;
    - e. The hours of operation of the proposed use;
    - f. A statement of the approximate number of persons, animals, and/or vehicles that will be generated by the temporary use, and an explanation of how such number was derived, (e.g., number of pre-sold tickets, available seating and/or parking, and past experience with similar activities);
    - g. The following maps, plans, routes, and documents evidencing sufficient measures to be taken to reasonably protect the health, safety, and welfare of patrons and the public in general; and a scale drawing of the area in which the temporary use will be conducted, showing the location of any existing non-complying structures and improvements on the site of the proposed temporary use, including, but not limited to, parking areas, utilities, curbs, gutter, sidewalks, and outside storage area.
  2. After the application is determined to be complete, the Zoning Administrator shall solicit recommendations from the County Fire Marshal, Sheriff, Health Department, Roads Department and/or County Engineer, as needed. Thereafter the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in Section 2-2-050 of this Chapter.
  3. A staff report evaluating the application shall be prepared by the Zoning Administrator.

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4. The Planning Commission shall hold a public hearing regarding the application pursuant to Section 2-2-050 of this Code. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-160(E) of this section.
5. After the Planning Commission has made a decision, the Zoning Administrator shall give the applicant written notice of the decision.
6. A record of all temporary use permits shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to the issuance of a temporary use permit.

1. A temporary use shall conform any recommendations received from the County Fire Marshal, Sheriff, Health Department, Roads Department, and County Engineer must tie to the standards under (E) (2) below.
2. No temporary use permit shall be issued unless the Planning Commission finds the proposed temporary use:
  - a. Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;
  - b. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the County;
  - c. Will not conflict with construction or development in the public right-of-way or at public facilities;
  - d. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the County;
  - e. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the temporary use is located; and
  - f. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the Box Elder County ordinances.

**F. Appeal.** Any person adversely affected by a final decision of the Planning Commission regarding a temporary use permit may appeal that decision to the Hearing Officer as provided in Section 2-2-1890 of this Code.

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- G. Effect of Approval.** Approval of a temporary use permit shall authorize an applicant to engage in the temporary use subject to conditions of approval as may be imposed by the Planning Commission.
- H. Amendment.** The procedure for amending a temporary use permit shall be the same as the original procedure set forth in this Section.
- I. Revocation.** A temporary use permit may be revoked as provided in Section 2-4-060 of this Code.

### 2-2-170. Special Event Permit.

- A. Purpose.** This section sets forth procedures for considering and approving a Special Event Permit.
- B. Authority.** The Zoning Administrator is authorized to issue Special Event Permits as provided in this section.
- C. Initiation.** A property owner may apply for a Special Event Permit as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a Special Event Permit shall be considered and processed as provided in this subsection.
  - 1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The name and address of the applicant and the name and address of every person or company the applicant represents;
    - c. The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer;
    - d. The requested special event;
    - e. The place, date, time of the event, and hours of operation of the event;
    - f. A statement of the approximate number of persons, animals, and/or vehicles that will participate in the event or be generated by the event, and an explanation of how such number was derived, (e.g., number of pre-sold tickets, available seating and/or parking, and past experience with similar activities);

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- g. The following maps, plans, routes, and documents evidencing sufficient measures to be taken to reasonably protect the health, safety, and welfare of patrons and the public in general; and a scale drawing of the area in which the event is to be held, showing the location of any existing non-complying structures and improvements on the site of the proposed event, including, but not limited to, parking areas, utilities, curbs, gutter, sidewalks, and outside storage area.
- h. A liability insurance certificate:
  - 1. Minimum coverage of \$1,000,000 per occurrence / \$2,000,000 aggregate.
  - 2. Box Elder County listed as a certificate holder or additional insured.
  - 3. The date(s) and title of the event must be clearly stated.
  - 4. The certificate must state that coverage cannot be cancelled or altered without written notification to the certificate holder (Box Elder County).
  - 5. Vendors/merchants must provide a certificate of insurance following the same guidelines as the applicant or the applicant's insurance coverage must clearly include liability coverage for vendors/merchants and the products they sell.
  - 6. If any work related to the event is sub-contracted to a separate entity, the sub-contractor must provide a separate certificate of insurance following the same guidelines as the applicant.
- 2. After the application is determined to be complete, the Zoning Administrator shall solicit recommendations from the County Fire Marshal, Sheriff, Health Department, Roads Department, and/or County Engineer, as needed. Thereafter the Zoning Administrator shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-1670(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the Special Event Permit to approval standards.
- 3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
- 4. A record of all Special Event Permits shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to the issuance of a Special Event Permit.

- 1. The event shall conform to any recommendations received from the County Fire Marshal, Sheriff, Health Department, Roads Department, and County Engineer must tie to the standards under (E) (2) below.
- 2. No Special Event Permit shall be issued unless the Zoning Administrator finds the proposed event:

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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- g. Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;
- h. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the County;
- i. Will not conflict with construction or development in the public right-of-way or at public facilities;
- j. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the County;
- k. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the event is located; and
- l. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the Box Elder County ordinances.

**F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding a Special Event Permit may appeal that decision to the Hearing Officer as provided in Section 2-2-1890 of this Code.

**G. Effect of Approval.** Approval of a Special Event Permit shall authorize an applicant to engage in the event subject to conditions of approval as may be imposed by the Zoning Administrator.

**H. Amendment.** The procedure for amending a Special Event Permit shall be the same as the original procedure set forth in this Section.

**I. Revocation.** A Special Event Permit may be revoked as provided in Section 2-4-060 of this Code.

### 2-2-180. Administrative Interpretation.

**A. Purpose.** The provisions of this Code, though detailed and extensive, cannot as a practical matter address every specific situation to which these provisions may be applied. This section allows the Zoning Administrator to interpret a provision of this Code in light of the general and specific purposes for which it was enacted and as applied to specific circumstances.

# Box Elder County Land Use Management & Development Code

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- B. Authority.** The Zoning Administrator is authorized to render interpretations of the provisions of this Code, and any rule or regulation adopted pursuant thereto, as provided in this section.
- C. Initiation.** Any person may request an administrative interpretation as provided in this section.
- D. Procedure.** An application for an administrative interpretation shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The specific provision or provisions of this Code for which an interpretation is requested;
    - c. Specific facts of the situation which illustrate the need for an administrative interpretation;
    - d. The interpretation claimed by the applicant to be correct; and
    - e. When a use interpretation is requested the application shall include:
      - 1) A statement explaining why the proposed use should be deemed as included within a use category allowed by the zone applicable to the property; and
      - 2) Documents, statements, and other evidence demonstrating that the proposed use will conform to all use limitations established by the zone applicable to the property.
  2. After an application is determined to be complete, the Zoning Administrator shall review the application and make an interpretation in accordance with the standards set forth in subsection 2-2-1780(e) of this section.
  3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
  4. A record of all administrative interpretations shall be maintained in the office of the Zoning Administrator.
- E. Standards for Making Administrative Interpretations.**

The following standards shall apply to administrative interpretations:

1. Administrative interpretations shall not add to or change the provisions of this Code.



# Box Elder County Land Use Management & Development Code

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2. Questions about the location of zone boundaries shall be resolved by applying the standards set forth in Section 3-1-050 of this Code.
  3. An administrative interpretation shall be consistent with:
    - a. The provisions of this Code; and
    - b. Any previously rendered interpretations based on similar facts.
  4. A use interpretation shall also be subject to the following standards:
    - a. A use defined in Chapter 1-3 of this Code shall be interpreted as provided therein;
    - b. Any use specifically listed as “not permitted” in a table of permitted and conditional uses for a particular zone shall not be allowed in that zone;
    - c. No use interpretation shall allow a use in a particular zone unless the use is substantially similar to a use allowed in the zone;
    - d. If a proposed use is most similar to a conditional use authorized in the zone in which it is proposed to be located, any interpretation allowing such use shall require that the use be approved only as a conditional use pursuant to Section 2-2-100 of this Chapter; and
    - e. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the zone in which it would be located.
- F. Appeal.** Any person adversely affected by a final administrative interpretation rendered by the Zoning Administrator may appeal that decision to the Planning Commission as provided in Section 2-2-1890 of this Chapter.
- G. Effect of Approval.** An administrative interpretation shall apply only to the property for which an interpretation is given.
1. A use interpretation finding a use to be a permitted or conditional use in a particular zone shall be deemed to authorize only that use on the subject property. A use interpretation shall not authorize another allegedly similar use for which a separate use interpretation has not been issued.
  2. A use interpretation finding a particular use to be a permitted or conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Code and other applicable provisions of the Box Elder County Code.

### 2-2-190. Appeal of Administrative Decision.

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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- A. Purpose.** This section sets forth procedures for appealing an administrative decision applying provisions of this Code.
- B. Authority.** The Hearing Officer shall hear and decide appeals from administrative decisions applying the provisions of this Code as provided in this section.
- C. Initiation.** Any person, or any officer, department, board or commission of the County, adversely affected by a decision made in the administration or interpretation of a provision of this Code may appeal to the Hearing Officer as provided in Subsection 2-2-1890(D)(1) of this section. A complete application for an appeal shall be filed within fourteen (14) days of the decision which is appealed.
1. Only administrative decisions applying this Code may be appealed to the Hearing Officer.
  2. A person may not appeal, and the Hearing Officer may not consider, any amendment to this Code. Appeals may not be used to waive or modify the terms or requirements of this Code.
- D. Procedure.** An appeal of an administrative decision to the Hearing Officer shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the County along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The decision being appealed;
    - c. Grounds for the appeal; and
    - d. A description of the action claimed by the applicant to be incorrect.
  2. After an application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Hearing Officer as provided in Section 2-2-050 of this Chapter. Prior to the meeting the Zoning Administrator shall transmit to the Hearing Officer all papers constituting the record of the action which is appealed.
  3. Upon receipt of a complete application for an appeal all further proceedings concerning the matter appealed shall be stayed as provided in Section 2-1-060(h) of this Code.
  4. The Hearing Officer shall review the record of decision and shall consider and decide the matter in accordance with the standard of review set forth in Subsection 2-2-200(e) of this Section.

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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5. After the Hearing Officer makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
6. A record of all appeals of administrative decisions shall be maintained in the office of the Zoning Administrator.

### **E. Standards for Decision.**

1. Only those decisions in which a land use authority or its representative have applied a land use ordinance to a particular application, person, or parcel may be appealed to the Hearing Officer.
2. The Hearing Officer may reverse or affirm, wholly or in part, or may remand the administrative decision to the officer or body from whom the appeal was taken.
3. The Hearing Officer shall review an administrative decision for correctness of an administrative decision in its interpretation and application of a land use ordinance.
4. The Hearing Officer may establish standards of review of factual matters. If no standards are established, the Hearing Officer shall review the matter de novo.
5. The person making an appeal shall have the burden of proving that an error has been made.
6. If a provision of this Code is ambiguous, it shall be construed in favor of the property owner.

**F. Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding an appeal of an administration decision may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-801 and 17-27a-808*, as amended.

### **2-2-200. Temporary Land Use Regulations.**

The County Commission may, without a public hearing, enact an ordinance establishing a temporary zoning regulation for any part or all of the area within the County if the Commission makes a finding of compelling, countervailing public interest; or the area is unregulated.

- A. A temporary land use regulation may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure, or subdivision approval.
- B. A temporary land use regulation shall not impose an impact fee or other financial requirement on building or development.
- C. A temporary zoning regulation shall not exceed six (6) months in duration.

### **2-2-210. Procedural Irregularities.**

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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- A. Validity of Action.** Notwithstanding any provision of this Code which sets forth a procedure for any matter herein, no action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to a petition, application, notice, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:
1. The procedure is required by state or federal law; and
  2. In an examination of the entire circumstances, including the evidence of record, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:
    - a. Had the error not occurred the decision made pursuant to the procedure would have been different, and
    - b. Because of the error the complainant suffered an injury for which relief must be given.
- B. Presumption of Validity.** The court shall presume that action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial or that an injury occurred. The complainant shall have the burden of the proof by a preponderance of the evidence to show that an error is prejudicial or that an injury occurred.
- C. Applicability.** All procedures within this Code shall be subject to this section.



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## PLANNING COMMISSION STAFF REPORT

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**Meeting Date: November 17, 2016**

**Agenda Item #: 5c**

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**Application Type:**

Ordinance Text Amendment

**APPLICANT(S):**

Box Elder County Staff

**PROJECT #:**

Z16-009

**ORDINANCE:**

Chapter 3-9 and Chapter 4-8;  
various sections

**TYPE OF APPLICATION:**

Legislative

**REPORT BY:**

Scott Lyons,  
Comm. Dev. Director

**BACKGROUND**

The Box Elder County Planning Staff is requesting that a text amendment be made to various sections of Chapters 3-9: Mining, Quarry, Sand & Gravel Excavation Zone (MG-EX) and 4-8: Landfill & Land Excavation Overlay. The current code puts a significant amount of review and control in the Planning Commission and Zoning Administrator's hands with regard to mining slopes, where neither body has significant expertise this leaves the county with unnecessary liability. The State Department of Oil, Gas and Mining oversee and permit gravel pit operations. They require core sampling with review by experts in the field to determine excavation and fill slopes. To staff it makes more sense to default to these experts when it comes to this aspect of the mining permit. The changes would default mining slopes to those deemed appropriate by the Division of Oil, Gas and Mining as part of the applicant's state permit. (See attachment for proposed language)

**ANALYSIS**

**County Code:**

Land Use Management & Development Code 2-2-080.C allows county staff 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 proposed amendment is consistent with the goals, objectives, and policies of the County's General Plan.

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

This text amendment does not affect any specific property.



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C. **The extent to which the proposed amendment may adversely affect adjacent property; and**  
The proposed amendment does not affect any specific 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.**  
The proposed amendment does not affect any specific property.

### **FINDINGS:**

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

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
2. It is staff's opinion that the proposed text amendment meets all of the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.

### **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 to the County Commission, application number Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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 number Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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 Z16-008, a text amendment to Chapter 2-2: Administrative and Development Review Procedures 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.

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# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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### **Chapter 3-9 Mining, Quarry, Sand & Gravel Excavation Zone (MG-EX)**

Box Elder Zoning Ordinance 318 as Adopted September 29, 2009

#### **Sections**

- 3-9-010. Purpose.
- 3-9-020. Permitted and conditional uses.
- 3-9-030. Application.
- 3-9-040. Operation categories.
- 3-9-050. Minimum Requirements.
- 3-9-060. Codes and symbols.
- 3-9-070. Uses.
- 3-9-080.1. Mining, quarry, sand, and gravel excavation and support uses table.
- 3-9-080.2. Manufacturing, curing, compounding, processing, packaging, production and treatment table.

#### **3-9-010. Purpose.**

- A. The mining, quarry, sand, and gravel excavation zone (MG-EX) is a zoning district which allows and protects the mining, quarry, sand, and gravel excavation industry while protecting the environment. This zone is to assure that the operations of such sites do not impact adjoining uses, and are not encroached upon by surrounding non-compatible land uses.
- B. This chapter regulates the location, operations and reclamation of mining, quarries, and gravel pits to provide safe conditions and protection of the environment in Box Elder County. These regulations are to protect the owner, employees and the public at large.

#### **3-9-020. Permitted and Conditional Uses.**

The conditional use permit required by this chapter shall be obtained prior to the commencement of use of any sand or gravel pit, mine or quarry within Box Elder County. No presumption of approval shall be made regarding an application. All applications for conditional use permits made to the Planning Department shall include all drawings, maps, specifications, statements and records as required by the Box Elder County Land Use Management & Development Code and this chapter. All applications that are incomplete upon submission shall be returned to the submitter. The landowner and operator shall be responsible to ensure all conditions are complied with.

#### **3-9-030 Operation categories.**

# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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All mining, quarry, sand, and gravel excavation operations shall fit into one of the three following categories:

- A. Commercial operations are those that supply materials to the public. A commercial operation may be approved by the Planning Commission with the minimum requirements listed in this ordinance. If it is determined by the Planning Commission that the minimum requirements do not adequately mitigate potential or actual impacts to surrounding properties, the Planning Commission may place other conditions on the proposed operation to do so. All commercial pit operations shall work under an approved five-year operation plan. Upon expiration of the previous plan, a new five-year plan shall be submitted; otherwise closure and reclamation operations shall begin within six months. The conditional use permit shall remain in effect until such time that full reclamation has been made on the site.
- B. Legal non-conforming or historic excavation used by the County Roads Department to maintain County Roads. Historic excavations may be reopened and used by the County Roads Department upon approval of the County's Engineer.
- C. Incidental excavations where a conditional use permit would not be required under Chapter 4-8: Landfill & Land Excavation Overlay, of this code shall continue to be regulated only as outlined in that chapter.

### **3-9-040. Application.**

- A. All applications for conditional use permits shall be accompanied by the following materials:
  - 1. application form for a conditional use permit;
  - 2. evidence of ownership or control over the land and a legal description of the property where the pit will be located;
  - 3. evidence of capability to complete the project, which includes:
    - a. a statement of the applicant's ability to post performance bonds or other financial assurance;
    - b. cost estimates for reclamation costs to include removal of roads, buildings, overburden, etc.;
    - c. liability insurance coverage;
  - 4. a site plan showing:
    - a. all prominent manmade and geologic features within the surrounding areas that will be affected by the operation;
    - b. dimensions;
    - c. locations, clearances, and rights-of ways, easements, utility lines; and

# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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- d. property lines and names of adjoining property owners;
  - e. ingress and egress;
  - f. general geologic and topsoil's data from a qualified source as approved by the County Engineer; and
  - g. a contour map in intervals of five feet showing existing water courses, drainage and calculations.
5. a reclamation plan addressing:
- a. types of existing dominant vegetation;
  - b. segregation and stockpiling of materials capable of supporting vegetation as determined by soils analysis or practical re-vegetation experience;
  - c. figures outlining depths of and volumes of topsoil to be stockpiled, measures to protect topsoil from wind and water erosion, and pollutants;
  - d. method of depths, volumes, removal and storage of other overburden, plus a description of the procedures to be used in overburden replacement and stabilization and high wall elimination, including:
    - (i) slope factors;
    - (ii) lift heights;
    - (iii) terracing; and
    - (iv) any testing procedures employed.
  - e. methods of processing and disposing of waste and reject material, including toxicity analysis explaining in detail means for containment and long range stability;
  - f. existing site and post-contour cross sections typical of regarding designs;
  - g. redistribution of topsoil and subsoil on the re-graded area, indicating final depth of soil cover;
  - h. re-seeding, types or species to be used, the rate of application per acre, the season planting will occur, fertilizers or soil amendments required to aid re-vegetation, providing, however, that seed types, rates of application and suitability of area to reseeded shall be based upon recommendations from the Soil Conservation District;
  - i. a description of the reclamation which shall include reasoning for the leaving of roads, pads or other similar structures and features; and
  - j. a list all parties responsible for various stages of reclamation.
6. an operations plan that outlines:
- a. proposed hours of operation;
  - b. traffic safety measures proposed on existing roads and streets adjoining the site;
  - c. the location, arrangement and dimensions of loading and processing facilities;
  - d. projected figures for quantities of materials to be removed from specified locations;
  - e. an open and closure plan stating the phasing, acreage and duration of the operation involved, with the maps and narratives that describe the expected sequence of disturbed areas, processing and material treatment;

# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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- f. the extent of the land previously disturbed as well as the proposed extent of land disturbance;
  - g. areas of overburden and/or topsoil removal and storage areas, also the location of disposal and stockpile areas for reject materials, waste, and useable materials;
  - h. information on known test drilling, locations and status. and plans for any future test drilling and areas where that will occur;
  - i. appropriation and use of necessary water rights;
  - j. the design, construction and maintenance of access and haul roads, including cross sections showing drainage, erosion control, and profiles of road grades, and
  - k. onsite control of surface and storm water drainage.
  - l. evidence that all required federal and state requirements for environmental health, occupational safety, and reclamation are completed and approved as required by each of the following entities:
    - (i) Box Elder County Health Department;
    - (ii) OSHA, State of Utah OGM, and MSHA;
    - (iii) Soil Conservation District;
    - (iv) Utah Department of Transportation; and
    - (v) the State archeologist and paleontologist.
  - m. A statement identifying mitigation of hazards to the public safety and welfare, including test hole closures, fencing, slopes, disposal of trash, scrap metal, wood, extraneous debris, waste oil, solvents, fuels, chemicals, explosives and sewage;
  - n. access to county or state road design, to include acceleration, deceleration and left turn lanes; and
  - o. methods of fugitive dust suppression for processing and site operations.
- B. Applications for conditional use permits shall have a design review by the County Engineer completed before being placed on the Planning Commission agenda. The applicant shall schedule a meeting with the County Engineer, roads, and planning department. The county planner may make a site visit with the applicant as part of the review.

### **3-9-050. Minimum Requirements.**

All operations shall comply with the following requirements:

- A. warning signs, fences, trees, and berms shall be placed on the perimeter of the property to protect the public and act as barriers to access, fugitive dust, noise, glare, and/or view shall be indicated;
- B. no adverse drainage which would create soil instability or erosion shall be permitted. All drainage shall be contained on site;
- C. maximum slopes shall be in accordance with the applicant's mining permit issued through the State Division of Oil, Gas and Mining as well as MSHA standards;

# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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- D. the applicant shall post a reclamation guarantee for the area of disturbance giving financial assurance in a form approved by Box Elder County, guaranteeing the satisfactory reclamation of all disturbed areas. The amount of reclamation for permanent commercial operations shall not be less than \$1,000.00 per acre, with a \$10,000.00 minimum and shall be adjusted upon the renewal of the operations plan to meet projected costs of reclamation based upon time, material and equipment needed to clean-up and remove structures, backfill, slopes (to include mine dumps) shall be graded to no greater than a 3:1 finished slope or in relation to the contour of adjacent undisturbed land, contour, redistribute and stabilize topsoil, re-vegetate, monitor, and reseed if necessary. The release of the financial assurance and obligations for reclamation shall not be made until the County Engineer, county planner, and County Attorney approves the release in writing.
- E. All facilities and activities shall comply with applicable land use, health, building, plumbing, mechanical, and electrical codes. All structures erected, placed, built, or installed shall have a building permit;
- F. All fuel tanks and flammable materials shall be located above ground, in such locations, with containment, and under such conditions as to conform to the requirements of the national fire codes (NFPA);
- G. All crossing of state and county roads shall be done in such a manner as to hold Box Elder County harmless from any and all legal proceedings as a result of the applicant's use of such roads. The applicant shall make provisions to place suitable road signs, restraints and flagging personnel at work-sites and road crossings as approved by the Manual on Uniform Traffic Control Devices and the Department of Engineering;
- H. All damage to state and county roads shall be repaired at the applicant's expense under the direction of the Department of Engineering;
- I. The applicant shall maintain on file, proof of liability insurance for the operation in the county planning office;
- J. Box Elder County reserves the right to limit and restrict the time activities of the operation should the Planning Commission deem those activities are a public nuisance;
- K. The owner or operator shall install such improvements to access county or state roads, to include acceleration, deceleration and left turn lanes as approved prior to operation;
- L. All activities shall be maintained and operated in such a way as to minimize fumes, dust, and smoke emissions;
- M. Sufficient restroom facilities shall be provided at each location for employee use; and

# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

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N. the applicant shall not begin operations until such time that they enter into a mitigation agreement with Box Elder County addressing the upgrade, construction and maintenance of infrastructure.

### 3-9-060. Codes and symbols.

- A. In this Part are tables describing uses of land or buildings that are allowed in the various districts as shown. Permitted uses are indicated by a “P” in the appropriate column. Uses that may be permitted by a conditional use permit issued by a Planning Commission are indicated by a “C” in the appropriate column. Uses that may be permitted by a conditional use permit issued by the zoning administrator are indicated by a “C1” in the appropriate column.
- B. If a use is not allowed in a given district, it is either not named in the use list or it is indicated in the appropriate column by a dash, "-".
- C. If a regulation applies in a given district, it is indicated in the appropriate column by an alphanumeric character that will show the linear feet or square feet or acres required or by the letter "A". If the regulation does not apply, it is indicated in the appropriate column by a dash, "-".

### 3-9-070. Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the commercial, industrial or hazardous industries zoning districts except as provided in this Part.

<b>Table 3-9-080.1</b> Mining, quarry, sand, and gravel excavation and support uses.		
	<b>USE</b>	<b>(MG-EX)</b>
a	Accessory uses buildings customarily incidental to conditional uses	C1
b	Agriculture, grazing of animals, raising of crops	P
c	Automobile and truck service station	C1
d	Cast stone, cement, cinder, terra cotta; tile, brick, synthetic cast stone, brick, block pumice stone and gypsum products	C1
e	Coffee shop	P
f	Construction equipment and supply trailer, temporary	C1
g	Construction filed office, temporary	C1



# Box Elder County Land Use Management & Development Code

## Article 3: Zoning Districts

h	Convenience store with gasoline sales	C1
i	Gravel and sand excavation	
	(1) Commercial operations	C1
	(2) Temporary project specific operations	C1
j	Machine shop	C1
k	Mines	C
	Non-hazardous landfill	C
l	Quarries	C
m	Parking lot incidental to a use conducted on the premises	C1
n	Parking lot not incidental to a use conducted on the premises	C1
o	Pottery, plaster, incidental plaster, plaster of Paris, ceramic, and clay	C1
p	Power generation (electrical) for on-site use	
	1. Solar	P
	2. Wind under 5.9 kva	P
	3. Auxiliary, temporary, wind, with more than 6 kva, but less than 10 kva output	C
	4. Fuel cells, steam, hydro, or reciprocating engine with more than 10.05 kva, but less than 150 kva output	C1
	5. Steam, hydro, or reciprocating engine with more than 150 kva	C1
q	Rock crusher/concrete batch plant	C1
r	Truck and freighting operation	C1
s	Truck and heavy equipment service station and repair facility	C1
t	Truck wash	C1

**Table 3-9-080.2.** Manufacturing, curing, compounding, processing, packaging, production and treatment. Such uses are to be located no closer than 1,300 feet from a zoning district boundary.

Use		(MG-EX)
a	Accessory uses buildings customarily incidental to conditional uses	C
b	Asphalt plant	C
e	Coal	C
f	Gasoline and petroleum	C
g	Iron	C
h	Lime	C
i	Lubricating grease, oil, oilcloth and oiled rubber goods	C
j	Ore smelting	C
l	Precious or semiprecious stones or metals	C
m	Tar	C

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Article 3: Zoning Districts

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# Box Elder County Land Use Development & Management Code

## Article 4: Special Purpose & Overlay Zones

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### Chapter 4-8 – Landfill & Land Excavation Overlay

Box Elder County Zoning Ordinance

#### Sections.

- 4-8-010. Purpose and Intent.
- 4-8-020. Permit Required – Exceptions.
- 4-8-030. Responsibility.
- 4-8-040. Retention of Plans.
- 4-8-050. Inspections.
- 4-8-060. Standards and Specific Requirements.

#### **4-8-010. Purpose and Intent.**

This section is adopted to promote public safety and the general public welfare; to protect property against loss from erosion, earth movement and flooding; to maintain a superior community environment; to provide for the continued orderly growth of the County; and to ensure the maximum preservation of the natural scenic character of major portions of the County by establishing minimum standards and requirements relating to land grading, excavations, and fills, and procedures by which these standards and requirements may be enforced. It is intended that this section be administered with the foregoing purposes in mind and specifically in an attempt to:

- A. Ensure that the development of each site occurs in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement and similar hazards.
- B. Ensure the public lands and places, water courses, streets, and all other lands in the County are protected from erosion, earth movement or drainage hazards.
- C. Ensure that the planning, design and construction of all development will be done in a manner which provides maximum safety and human enjoyment and except where specifically intended otherwise, makes such construction as unobtrusive in the natural terrain as possible.
- D. Ensure, insofar as practicable, the maximum retention of natural vegetation to aid in protection against erosion, earth movement and other hazards and to aid in preservation of the natural scenic qualities of the County.

# Box Elder County Land Use Development & Management Code

## Article 4: Special Purpose & Overlay Zones

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### 4-8-020. Permit Required – Exceptions.

- A. No person shall commence or perform any grading or excavation, including those in gravel pits and rock quarries, in excess of the limits specified below without first obtaining a conditional use permit for such grading or excavation. **(Also see the Conditional Use Permit section of this Code 2-2-100.)**
- B. In this section, all references to conditional use permit shall mean a conditional use permit for grading or excavation.
- C. A conditional use permit shall be required in all cases where development comes under any one or more of the following provisions unless such work is otherwise exempted elsewhere in this chapter:
  - 1. Excavation, fill or any combination thereof exceeding 1,000 cubic yards.
  - 2. Fill exceeding five (5) feet in vertical depth at its deepest point measured from the adjacent undisturbed ground surface.
  - 3. An excavation exceeding five (5) feet in vertical depth at its deepest point.
  - 4. An excavation, fill, or combination thereof exceeding an area of one (1) acre.
  - 5. Vegetation removal from an area in excess of one (1) acre.
- D. A conditional use permit **shall not be required** in the following cases:
  - 1. Excavations below finished grade for which a building permit is required and has been issued by the County, including, but not limited to, the following:
    - a. septic tanks and drain-fields,
    - b. tanks,
    - c. vaults,
    - d. tunnels
    - e. equipment basements,
    - f. swimming pools,
    - g. cellars, or
    - h. footings for buildings or structures.
  - 2. Excavation or removal of vegetation within property owned by public utility companies or within public utility easements by public utility companies.

# Box Elder County Land Use Development & Management Code

## Article 4: Special Purpose & Overlay Zones

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3. Removal of vegetation as a part of the work authorized by an approved building permit.
4. Tilling of soil or cutting of vegetation for agricultural or fire protection purposes.
5. Commercial quarries operating with valid conditional use permits and/or in appropriate industrial zones as provided for in this Code.
6. Engineered interior fills or surcharge on the property with respect to industrial development.
7. Items not covered by this Chapter which are exempted from required permits by this Code and the building codes adopted by the County.
8. Grading and/or excavation done pursuant to an approved final subdivision plan.

### **4-8-030. Responsibility.**

Failure of the County Officials to observe or recognize hazardous or unsightly conditions, or to recommend denial of the conditional use permit, or of the Planning Commission to deny said permit shall not relieve the permittee from responsibility for the condition or damages resulting therefrom.

### **4-8-040. Retention of Plans.**

Plans, specifications and reports for all excavation conditional use permit applications submitted to the County for approval shall be retained by the County for a minimum period of two (2) years.

### **4-8-050. Inspections.**

- A. The Zoning Administrator and Building Official, with assistance from the County Engineer, shall make the inspections hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the same fails to comply with this section. Where it is found by inspection that conditions are not substantially as stated or shown in the conditional use permit application, the inspector may stop further work until and unless approval is obtained for a revised grading plan conforming to the existing conditions.
- B. Plans for grading work, bearing the stamp of approval of the Planning Commission, shall be maintained at the site during the progress of the grading. Until the final inspection is made, a card issued by the County indicating

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permission to grade has been granted shall be prominently displayed near the front property line of the property involved so as to be visible from the street on which the property fronts.

- C. In order to obtain inspections, the permittee shall notify the County at least twenty-four (24) hours before said inspection is to be made.
- D. Inspections shall be made:
  - 1. Before commencement of grading operations and after required construction stakes have been set; and
  - 2. When all rough grading has been completed; and
  - 3. When all work, including installation of all drainage and other structures and required planting has been completed.

### 4-8-060. Standards and Specific Requirements.

- A. **Applicability.** All grading and excavation shall comply with the requirements set forth in this Chapter in addition to other requirements of this Code.
- B. **Hours of Operation.** All grading and excavation in or contiguous to residential neighborhoods shall be carried on between the hours of 7:00 a.m. to 5:30 p.m. The Zoning Administrator may waive this requirement if it is shown that restricting the hours of operation would unduly interfere with the development of the property and it is shown that other properties or neighborhood values would not be adversely affected.
- C. **Dust and Dirt Control.** All graded or disturbed surfaces of excavations, and all equipment materials and roadways on the site shall be dampened or suitably treated, managed, or contained to prevent the deposit of dust on neighboring properties; all materials transported to or from the site shall be so contained during transportation as to prevent spillage on streets or other property outside of the site.
- D. **Slopes.** Slopes for both excavations and fills shall meet standards set forth as part of the mining permit issued through the State Division of Oil, Gas and Mining. ~~The Zoning Administrator may require the percent of slope of a cut or fill to be reduced if it is found that the cut or fill is subject to unusual or excessive erosion, or if other conditions make such requirements necessary for stability. The Zoning~~

# Box Elder County Land Use Development & Management Code

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~~Administrator may permit steeper slopes where the material being cut is unusually stable.~~

- E. Fill Material.** All fill, except in publicly approved refuse disposal or other landfill operations, shall be earth, rock, or other inert materials free from organic material and free of metal, and except that topsoil spread on cut and fill surfaces may incorporate humus for desirable moisture retention and plant growth properties.
- F. Drainage.** Adequate provision shall be made to prevent any surface waters from damaging the cut face of an excavation or any portion of a fill. All drainage ways and structures shall carry surface waters without producing erosion to the nearest practical street, storm drain or natural water course acceptable to the County Engineer as a safe place to deposit and receive such waters. The County Engineer may require such drainage structures to be constructed or installed as necessary to prevent erosion damage or to prevent saturation of the fill or material behind cut slopes.
- G. Finished Cuts and Slopes.** The exposed or finished cuts or slopes of any fill or excavation shall be smoothly graded. All exposed slopes of any cut or fill shall be protected by approved planting, crib walls or walls and planting, terracing, or combination thereof.
- H. Back-Filling.** Any pipe trench or other trenching or excavation made in any slope of any excavation or filled site shall be back-filled and compacted to the level of the surrounding grade.
- I. Compaction of Fills.** Unless otherwise directed by the Zoning Administrator, all fills governed by this Code intended to support buildings, structures, or where otherwise required to be compacted for stability, shall be compacted, inspected and tested in accordance with the following provisions:

  - 1. The natural ground surface shall be prepared by removal of topsoil and vegetation and, if necessary, shall be graded to a series of terraces.
  - 2. The fill shall be spread in series of layers, each not exceeding six (6) inches in thickness, and shall be compacted by A sheeps foot @ roller compactor (after each layer is spread) or other method acceptable to the County Engineer.
  - 3. The moisture content of the fill material shall be controlled at the time of spreading and compaction to obtain required maximum density.



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4. The fill material after compaction shall have an average dry density of not less than ninety-five percent (95%) of maximum dry density and a minimum of ninety percent (90) % in all portions of the fill requiring compaction as determined by the AASHO Soil Compaction Test Method T99-57 or T180-57, or other testing method acceptable to the County Engineer and Zoning Administrator.
  5. A written report of the compaction, showing location and depth of test holes, materials used, moisture conditions, recommended soil-bearing pressures and relative density obtained from all tests, prepared by a civil engineer or soils engineer licensed by the State of Utah, shall be submitted to the Zoning Administrator or County Engineer.
  6. The Zoning Administrator may require additional tests or information if, in his/her opinion, the conditions or materials are such that additional information is necessary, and may modify or delete any of the above-listed requirements that in his/her opinion are unnecessary to further the purpose of this Code.
- J. Erosion Control and Landscaping.** All cut and fill surfaces created by grading except for firebreak purposes shall be planted with a ground cover that is compatible with the natural ground covers in the County. Topsoil is to be stockpiled during rough grading and used on cut and fill slopes. When slopes too steep to support continuous ground cover have been permitted and in lieu thereof niches and ledges provided for planting, such slopes need not be planted with a continuous ground cover, but may instead be screened with vines and plantings. Cuts and fills along public roads may be required to be landscaped so as to blend into the natural surroundings. All plant materials must be approved by the Planning Commission prior to issuance of a conditional use permit.
- K. Filling for Agricultural and Fire Protection Purposes.** Filling of the ground for agricultural or fire protection purposes shall be accomplished with such practices as will prevent erosion and damage to natural drainage channels.
- L. Final Inspection.** If upon final inspection of any grading it is found that the work authorized by the conditional use permit has been satisfactorily completed in accordance with the requirements of this Code and any other requirements imposed, the Zoning Administrator shall so record in the record.
1. The Zoning Administrator shall have the power to revoke any conditional use permit whenever it is found that the work covered by the certificate has been materially extended or altered without prior approval, or that any planting, retaining walls, cribbing, drainage structures, or other protective

# Box Elder County Land Use Development & Management Code

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devices as shown on the approved plans and specifications submitted with the application for a permit have not been maintained in good order and repair.

2. Before such revocation, the Zoning Administrator shall first give written notice to the owner of the property involved, specifying the defective condition and stating that unless such defective condition is remedied satisfactorily, the conditional use permit may be revoked. If the defective condition is remedied to the satisfaction of the Zoning Administrator, the certificate shall not be revoked.

**M. Special Precautions.** Special precautions shall be taken to preserve life, property values, stable soil conditions and aesthetics, including but not limited to the following:

1. Requiring a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and reports of a registered soils engineer and/or engineering geologist whose recommendation may be made a requirement for further work. Such requirement by the Zoning Administrator shall constitute a change order in the work.
2. Where it appears that storm damage may result from work performed hereunder, such work may be stopped and the permittee required to take such measures as may be necessary to protect adjoining property or the public safety. On large operations or where unusual site conditions prevail, the Zoning Administrator may specify the time at which grading may proceed and the time of completion or may require that the operation be conducted in specific stages so as to ensure completion of protective measure or devices prior to the advent of seasonal rains.

# Box Elder County Land Use Development & Management Code

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**N. Excavations.** All excavations shall be limited as follows:

1. No cut slope shall exceed a vertical height of one hundred (100) feet unless horizontal benches with a minimum width of thirty (30) feet are installed at each one hundred (100) feet of vertical height. ~~No excavation shall be made with a cut face steeper in slope than 2 horizontal to 1 vertical.~~
- ~~2. **EXCEPTION:** The Planning Commission, upon appeal, may permit the excavation to be made with a cut face steeper in slope than 2 horizontal to 1 vertical if the applicant can reasonably show the Zoning Administrator that the material making up the slope of the excavation and the underlying bedrock is capable of holding satisfactorily on a steeper gradient. No slopes shall be cut steeper than the bedding planes, fault or joint in any formation where the cut slope will lie on the dip side of the strike line of the fracture, bedding plane, fault or joint. No slopes shall be cut in an existing landslide, mud flow, or other form of naturally unstable slope except as recommended by a qualified geologic engineer. Where the excavation is exposed straight above the top of the cut which will permit the entry of water along bedding planes, this area shall be sealed with a compacted soil blanket having a minimum thickness of two feet. The soil for this blanket shall be relatively impervious and must be approved for such use by the soils engineering geologist. If the material of the slope is of such composition and character as to be unstable under the anticipated maximum moisture content, the slope angle shall be reduced to a stable value.~~
3. No excavation for construction of new utility and telephone lines shall be made in paved streets within five (5) years after paving. During said five (5) year period, tunneling under such streets may be authorized if otherwise in compliance with this Chapter, where to do so would facilitate construction of new utility and telephone lines, or maintenance.

**O. Fills.** All fills shall be limited as follows:

1. No fill slope shall exceed a vertical height of one hundred (100) feet unless horizontal benches with a minimum width of thirty (30) feet are installed at each one hundred (100) feet of vertical height.
- ~~2. No fill shall be made which creates an exposed surface steeper in slope than 2 horizontal to 1 vertical unless the fill material is of such a nature that a 1 to 1 slope may be permitted with the permission of the Zoning Administrator.~~
3. ~~**EXCEPTION:** The Planning Commission in case an appeal is made may permit a fill to be made which creates an exposed surface steeper in slope~~

# Box Elder County Land Use Development & Management Code

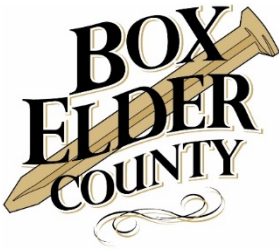
## Article 4: Special Purpose & Overlay Zones

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~~than 2 horizontal to 1 vertical if the applicant can reasonably show the Planning Commission that the strength characteristics of the material to be used in the fill are such as to produce an equivalent degree of slope stability and sufficient strength characteristics to support the fill within reasonable settlement values so as to produce an equivalent degree of safety.~~

### **P. Prohibited Activities.**

1. The provisions of this chapter shall not be construed as permitting the removal of topsoil solely for resale, or of permitting quarrying of any site within the limits of the County unless in a zoning district allowing such activities.
2. This chapter shall also not be construed as authorizing any person to maintain a private or public nuisance upon his or her property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such nuisance.



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# PLANNING COMMISSION

## STAFF REPORT

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Meeting Date: November 17, 2016

Agenda Item #: 5d

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**Application Type:**

Site Plan review for  
Lewis Cabinet

**APPLICANT(S):**

LCS Holding LLC.

**PROJECT #:**

CUP16-004

**ZONE:**

M-G (General Industrial)

**PARCEL #:**

05-105-0084

**TYPE OF ACTION:**

Administrative

**REPORT BY:**

Marcus Wager,  
County Planner

**BACKGROUND**

The applicant is requesting Conditional Use Permit approval for a building addition to the current buildings for the cabinet business located at approximately 11585 North Sagebrush Circle in the Thatcher Area on Parcel: 05-105-0084.

*Surrounding Land Use and Zoning:*

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Residential	R-1-8
South	Residential/Agriculture	R-1-8
East	Residential/Agriculture	R-1-8/Un-zoned
West	Agriculture	R-1-20

**ANALYSIS**

**County Code:**

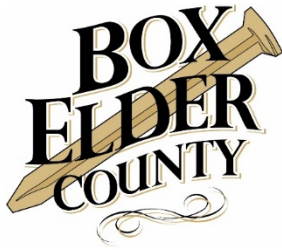
**Land Use Ordinance Standards Review:**

Box Elder County Land Use Management & Development Code Section 3-4-070-17.1 allows as a conditional use Millwork, Veneer, Plywood & Prefabricated Structural Wood Products. Section 2-2-100 outlines the following standards for review for Conditional Use Permits:

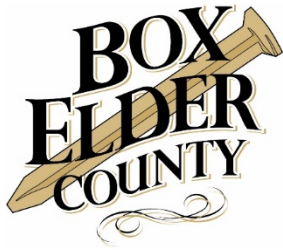
1. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
2. The proposed use of the particular location is necessary 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.  
*There should be no impact.*



- 
- b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.  
*Any adverse effects the Commission can think of should be addressed with the applicant.*
  - c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.  
*The county engineer has review the site plan and found the grading and drainage to be satisfactory.*
  - d. Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.  
*The new building will meet the setback requirements of the M-G zone.*
  - 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.*
2. Conditions relating to the compatibility of the use.
    - a. The suitability of the specific property for the proposed use.  
*Staff finds no health, safety, or welfare issues affecting the suitability of the proposed site.*
    - 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 Rural Residential or agricultural in nature.*
    - c. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.  
*Staff has no evidence of this.*
    - d. The number of other similar conditional uses in the area and the public need for the proposed conditional use.  
*To staff's knowledge there are no other approved CUPs in the area. There may be properties with a home business but nothing in the area to this magnitude.*
  3. Conditions relating to health and safety.  
*No impact.*
  4. Conditions relating to environmental concerns.  
*No impact.*
  5. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district.  
*None.*
  6. The aesthetic impact of the proposed facility or use on the surrounding area.  
*Staff has no evidence of this. This is subjective.*
  7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.  
*These are required as part of the building permit process.*
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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 are required as part of the building permit process.*
  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.  
N/A

**Setbacks:**

*The proposed building meets setbacks within the M-G Zone as long as two of the parcels get put into one.*

**Access:**

*Access to the property is obtained on HWY 102 (11600 North) on the East side of the property.*

**County Department Review:**

*All applicable County departments are currently in the review process for this application. Comments can be provided at the meeting.*

**FINDINGS:**

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

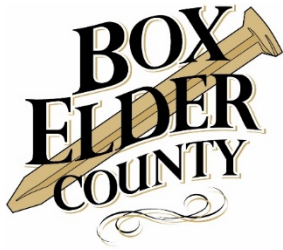
1. The Box Elder Land Use Management and Development Code does allow for millwork uses in the M-G (General Industrial) areas which are approved by the Planning Commission through a Conditional Use Permit review.
2. The Site Plan will conform to all requirements within the Box Elder Land Use Management and Development Code after all comments from staff have been satisfied.
3. There are parts of the Code that staff is looking into changing that will have a direct impact on the parking lot and fencing of this location.

**RECOMMENDATION**

Based on the information presented in this report, application materials submitted and the site review, **staff recommends the Planning Commission APPROVE the conditional use permit/site plan with the following conditions:**

1. Compliance with Section 2-2-100 of the BECLUMD Code.
2. Compliance with Article 5, Regulations of General Applicability, of the BECLUMD Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
4. Approval of the text amendment to remove the requirement for asphaltting the parking lot and fencing around the property.





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## **MODEL MOTIONS**

**Approval** – “I move the Planning Commission approve application number CUP16-004, a Conditional Use Permit/Site Plan for Lewis Cabinet, and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

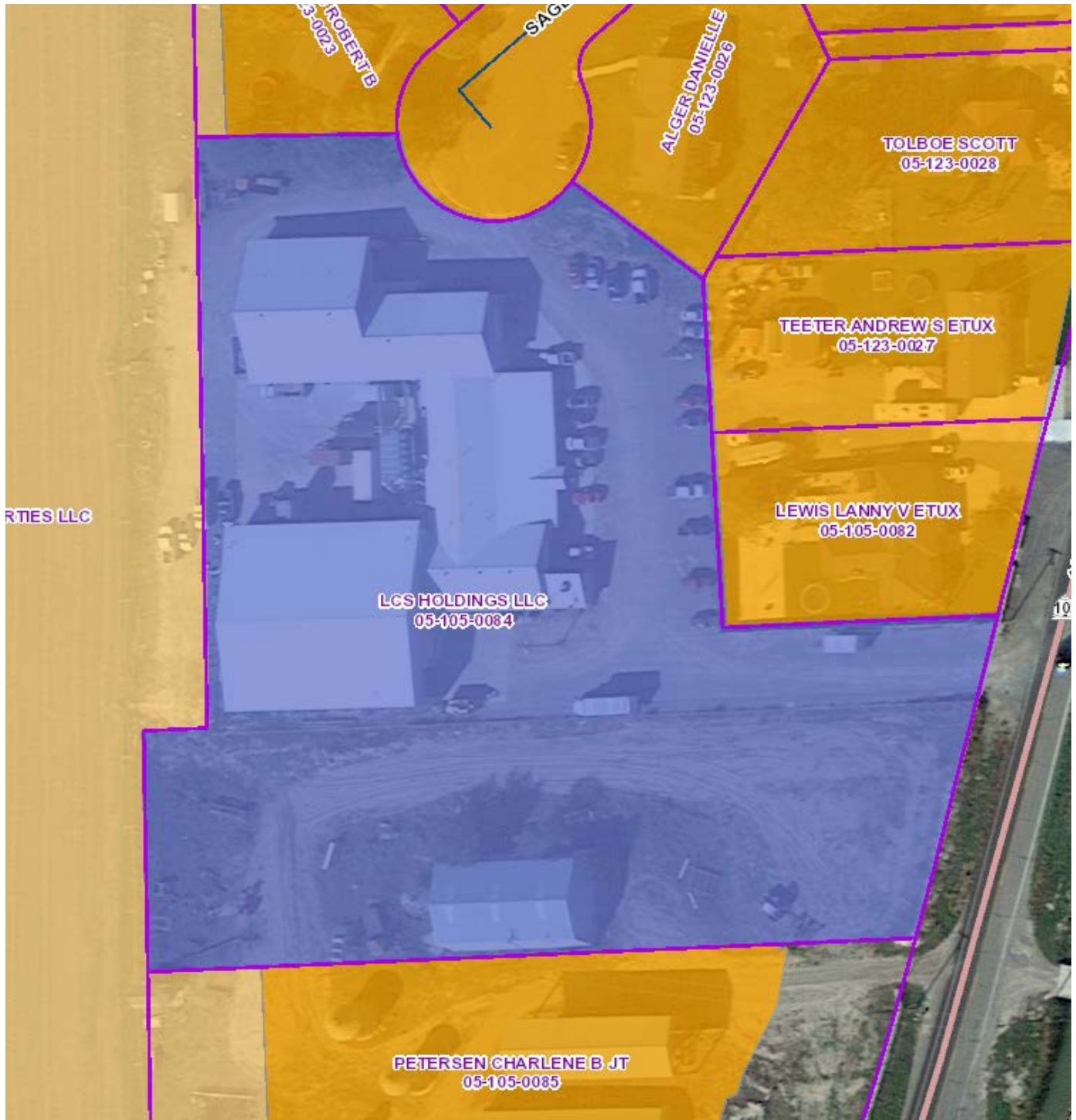
**Table** – “I move the Planning Commission table the review of application number CUP16-004, a Conditional Use Permit/Site Plan for Lewis Cabinet, to (give date), based on the following findings:”

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

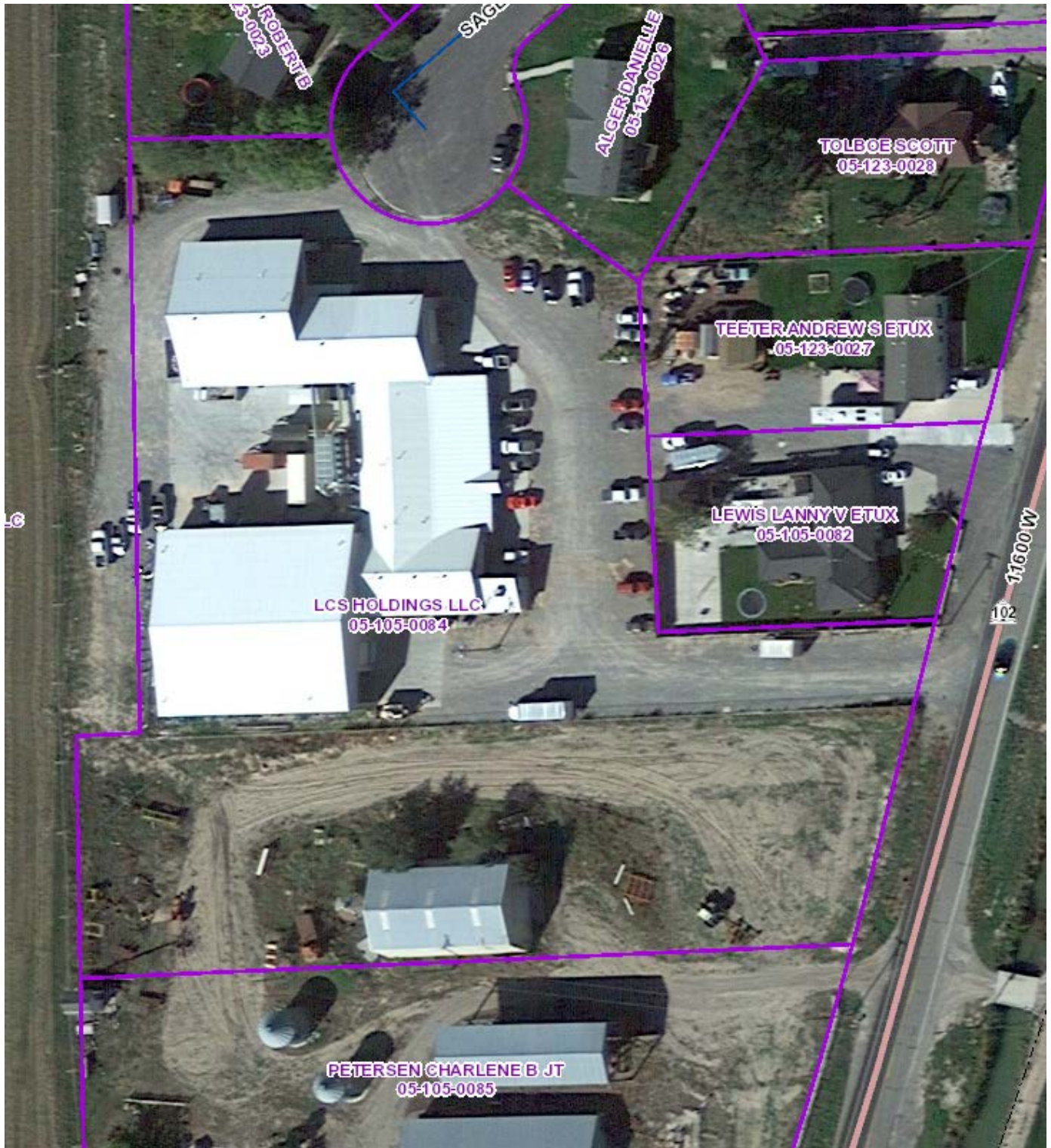
**Denial** – “I move the Planning Commission deny application number CUP16-004, a Conditional Use Permit/Site Plan for Lewis Cabinet, based on the following findings:”

1. List findings for denial...

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



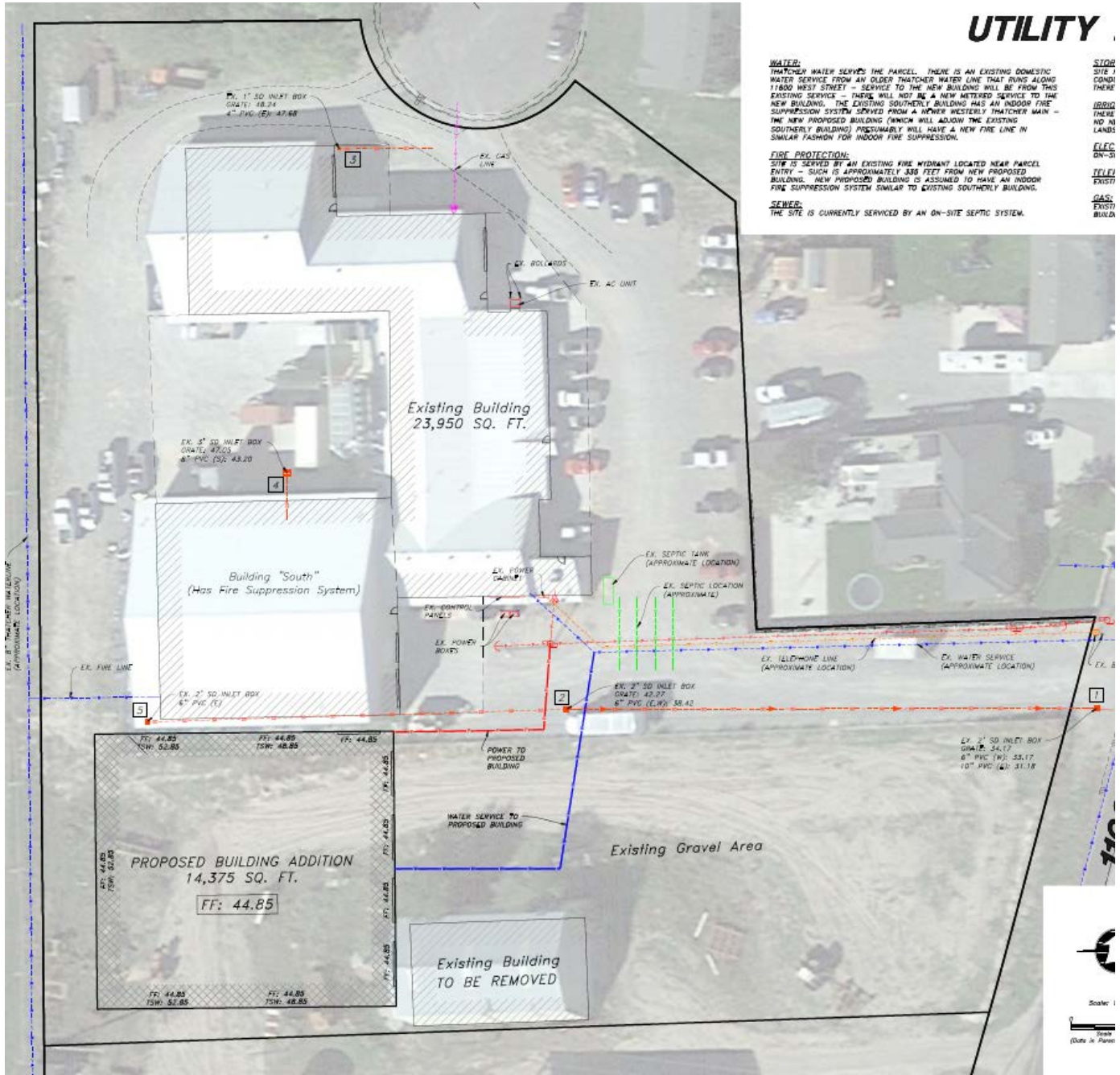








# UTILITY



**WATER:**  
 THATCHER WATER SERVES THE PARCEL. THERE IS AN EXISTING DOMESTIC WATER SERVICE FROM AN OLDER THATCHER WATER LINE THAT RUNS ALONG 11800 WEST STREET - SERVICE TO THE NEW BUILDING WILL BE FROM THIS EXISTING SERVICE - THERE WILL NOT BE A NEW METERS SERVICE TO THE NEW BUILDING. THE EXISTING SOUTHERLY BUILDING HAS AN INDOOR FIRE SUPPRESSION SYSTEM SERVED FROM A NEWER WESTERLY THATCHER MAIN - THE NEW PROPOSED BUILDING (WHICH WILL ADJOIN THE EXISTING SOUTHERLY BUILDING) PRESUMABLY WILL HAVE A NEW FIRE LINE IN SIMILAR FASHION FOR INDOOR FIRE SUPPRESSION.

**FIRE PROTECTION:**  
 SITE IS SERVED BY AN EXISTING FIRE HYDRANT LOCATED NEAR PARCEL ENTRY - SUCH IS APPROXIMATELY 388 FEET FROM NEW PROPOSED BUILDING. NEW PROPOSED BUILDING IS ASSUMED TO HAVE AN INDOOR FIRE SUPPRESSION SYSTEM SIMILAR TO EXISTING SOUTHERLY BUILDING.

**SEWER:**  
 THE SITE IS CURRENTLY SERVICED BY AN ON-SITE SEPTIC SYSTEM.

**SITE:**  
 SITE 3  
 CONDI  
 THESE  
 LANDS  
 ON-SI  
 EXIST  
 BUILA



## GRADING & DRAINAGE

